

**WHAT IS CONTRABAND OF WAR,
AND WHAT IS NOT. COMPRISING
ALL THE AMERICAN AND
ENGLISH AUTHORITIES ON THE
SUBJECT**

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What is Contraband of War, and What is Not. Comprising All the American and English Authorities on the Subject by Joseph Moseley

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JOSEPH MOSELEY

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BY

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PREFACE.

WHAT is contraband of war and what is not are always questions of great legal importance and interest. And with the large trade which continues to be carried on by the States of North America, now unhappily engaged in civil war, with our chief mercantile communities, and West Indian and Canadian colonies, it is manifest that they must soon thrust themselves prominently upon the commercial world, and so upon the legal community. It may not be amiss, therefore, to institute a few inquiries in this somewhat difficult question of jurisprudence, not only with a view of collecting the cases, and arranging and evolving out the principles of the authorities on it, for the use of the profession, but also to afford practical information for those more immediately interested. For since all vessels sailing for the ports of belligerent states are liable at any moment to be overhauled and confiscated for having goods contraband of war

on board; and since the catalogue of what articles are contraband is so large, and embraces many matters the least of all suspected to be such, and since the circumstances under which even these will or will not be contraband are so capricious, it is clearly of importance to the commercial circles to know what matters are forbidden to traffic by the laws of war and what are not.

With the object of making the work as practical as possible, I have kept as clear as was compatible with my task of the learned *opinions* of the Jurisprudentists, and have adhered closely to the *decisions* of judges, especially those of Sir William Scott, and the writings of such men as Story, Kent and Wheaton. Those only who have looked into the learned and ingenious writers of the seventeenth century on International Law, who all, as to the question of contraband of war, were influenced by the prejudices of the times and country in which they wrote, can form any idea of the stupendous state of doubt and difficulty legal science can attain to. They only can appreciate the difficult task which Sir William Scott performed when, in view and contemplation of all these, he delivered those remarkable

decisions contained in Robinson's Admiralty Reports, which reduced to principle, order and authority what had theretofore been a confused mass and of conflicting wisdom and ill-digested learning.

My work has been a simple one, namely, of arranging those decisions in their natural and proper order, and, when thus prepared, of squeezing out of them such further corollaries, inferences, axioms, deductions and maxims as they could be fairly made to yield; and by the aid of these, both as in themselves and in combination with the original decisions, in solving all such other questions as presented themselves during the investigation of the subject. With what success it is for others to decide.

To better effectuate this I have adopted, in addition to the ordinary method of legal treatises, a somewhat novel plan of reducing the principle of the various cases on any given point into the form of a legal aphorism, and of placing it at the commencement of each chapter, to serve alike as a guide to, and as a reduction within the narrowest limits of, its contents. Legal maxims were much in vogue in former times, both as a means of inculcating as well as of expounding the principles of law. And as

the analytical results or primary elements of things are always more portable, and capable of a more universal application, than the things themselves, and as it has appeared to me that this principle might be applied to law, and the use of proverbial philosophy advantageously restored to it, I have adopted it systematically throughout the whole of this work.

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