

of belligerents might, by means of defensive armament, exercise their right (and their duty, according to Chief Justice Marshall) to defend themselves from capture by these converted merchantmen, whereas they would not have been able to offer resistance to heavily armed men-of-war built solely for offensive purposes.

The question, therefore, as to the right of merchant vessels to arm became a subject of discussion and a matter of moment to those nations which might wish to use converted merchant vessels as commerce destroyers.

The question of the right of merchant vessels to arm and to defend themselves was carefully considered just a year before the outbreak of the war of 1914, in the session of the Institute of International Law, composed of distinguished publicists of the different countries, which, meeting at Oxford, England, in August, 1913, adopted a Manual of the Laws of Maritime Warfare. Article 13 of the project of the Commission charged with the preparation of the Manual reads as follows:

Privateering, Private vessels, Public vessels not vessels of war.—Privateering is forbidden.

In addition to the conditions laid down in Articles 3 and following, public vessels and vessels belonging to private persons, as well as their personnel, cannot commit acts of hostility against the enemy.

It is permitted, however, to vessels of each of these two classes to employ force to defend themselves against the attack of an enemy vessel.

The discussion of the meeting turned entirely upon the last paragraph. Dr. Triepel of Germany asked its suppression, saying: "A ship of commerce never has the right of defending herself even if the attack of which it is the object is illegitimate. It is not for her to make herself the judge on this point." His point of view was opposed by Dr. Fiore, of Italy, who said that if private ships can never attack it is at least legal for them to defend themselves, and even make legitimately a prize under this hypothesis if they find they have the material and force necessary. He congratulated himself at seeing in the text of the commission the confirmation of this rule of Italian legislation, and later on he said: "The question is at bottom very simple. Force should be able to be repulsed by force in whatever manner this manifests itself," and asked the vote on Article 13 just as it stood. Lord Reay, of Great Britain, supported Dr. Fiore's view of voting Article 13 just as it was written in the *projet*, and he mentioned that the legitimacy of the permission given by the Admiralty to certain large liners to have four guns on board has been contested,