

United States, likewise delivered by Chief Justice Marshall. In speaking of the slave trade, which was at that time lawful, Chief Justice Marshall said, in the case of the *Antelope* (10 Wheaton 66, 122), decided in 1825:

In this commerce thus sanctioned by universal assent, every nation had an equal right to engage. How is this right to be lost? Each may renounce it for its own people; but can this renunciation affect others?

No principle of general law is more universally acknowledged, than the perfect equality of nations. Russia and Geneva have equal rights. It results from this equality, that no one can rightfully impose a rule on another. Each legislates for itself, but its legislation can operate on itself alone. A right, then, which is vested in all, by the consent of all, can be divested only by consent; and this trade, in which all have participated, must remain lawful to those who can not be induced to relinquish it. As no nation can prescribe a rule for others, none can make a law of nations; and this traffic remains lawful to those whose governments have not forbidden it.

A careful examination fails to disclose any action taken to question the lawfulness of belligerent merchant vessels to arm in self-defense. The abolition of privateering by the Declaration of Paris—to which, however, the United States was not and is not now a party—did not affect the right of a private merchant vessel to carry and to use arms in self-defense, because the Declaration of Paris abolished merely the right of privateering, and did not directly or indirectly affect the rights or duties or the privileges of private merchant vessels, as such. The right, therefore, of merchant vessels to arm in self-defense was unaffected by the Declaration of Paris and there is no other international convention or international act to be found questioning the existence of that right.

In some quarters the claim has been advanced that merchant vessels armed for defense are practically privateers. This claim has no basis in fact. A privateer was a private vessel, admittedly armed for offense and acting under a letter of marque or other government commission which removed it from the class of merchant vessels. By the fact of the government commissions, privateers were authorized to act offensively without committing a breach of the laws of warfare, and the captain and owners of the privateer were further placed under a measure of government responsibility to which the owner and captain of an ordinary merchant vessel are not subject. A merchant vessel armed for defense only is one whose status is entirely unchanged except for her armament. She does not operate under any commission of the government and her captain and owners are not in