

attach to all rights of property which the alien had acquired before hostilities commenced, and after hostilities he is incapable of acquiring any rights, from this it necessarily follows that the plea of alien enemy would in all cases be in bar of the action and not merely in abatement; but, it seems that, according to modern opinion, the declaration or existence of a state of war does not *ipso facto* have the effect of vesting in the Crown all the property and rights of action in respect of property of alien enemies, but under the common law as modified by international law, although the Crown has now, as it always had, a right to confiscate the property of alien enemies within its territories, yet, except as regards ships and their cargoes, this is a right that is now rarely exercised by belligerents, and it would now seem that, unless some overt act of confiscation actually takes place, the rights of action of the alien enemy owner as to any property acquired before war are merely suspended and will revive on the restoration of peace.

That the right of confiscation of the property of alien enemies still exists, however, is admitted by modern writers on international law. In the latest edition of Hall on International Law, we find it stated that:—

“Property belonging to an enemy which is found by a belligerent within his own jurisdiction, except property entering territorial waters after the commencement of war, may be said to enjoy a practical immunity from confiscation; but its different kinds are not protected by customs of equal authority, and, although seizure would always now be looked upon with extreme disfavour, *it would be unsafe to declare that it is not generally within the bare rights of war*”: Hall's International Law (6th ed.), p. 431.

Money loaned to a belligerent state by an enemy and the interest thereon are said to be exempt from confiscation: *Ib.* 430. But the author goes on to say: “Real property, merchandise and other moveables and incorporeal property, other than debts due by the state itself, stand in a less favorable position. Although not appropriated under the usual modern practice, *they are probably not the subjects of a thoroughly authoritative custom of exemption*”: *Ib.* 432. The author goes on further