

POOR PRINT
Epreuve illisible

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ENEMY PROPERTY

From Oppenheim - International Law

1935 edition. Vol. II, p. 270-3:

(other authorities would take slightly different positions):-

Position
of Belligerents'
Property
in the
Enemy
State.

102. In former times belligerents could confiscate all private and public enemy property, immoveable or moveable, on each other's territory at the outbreak of war, and also enemy debts; and the treaties concluded between many States for the withdrawal of their subjects at the outbreak of war provided likewise for the unrestrained withdrawal of the private property of their subjects. Through the influence of such treaties, and of Municipal Laws and decrees enacting the same, an international usage and practice grew up that belligerents should neither confiscate private enemy property on their territory nor annul debts due to enemy subjects. The last case of confiscation of private property was that of 1793, at the outbreak of war between France and Great Britain. No case occurred during the nineteenth century; and although several writers maintain that, according to strict law, the old rule, in contradistinction to the usage which they do not deny, is still valid, it may safely be maintained that it is obsolete, and that there is now a customary rule of International Law in existence prohibiting the confiscation of private enemy property on the territory of a belligerent and the annulment of debts due to enemy subjects. This rule, however, does not prevent a belligerent from seizing public enemy property on his territory, such as funds, ammunition, provisions, rolling stock of enemy State railways, and other valuables; from preventing the withdrawal of private enemy property which may be made use of by the enemy for military operations, such as arms and munitions; from seizing and using rolling stock belonging to private enemy railway companies, and other means of transporting persons or goods, and appliances for the transmission of news, although they are private enemy property, provided all these articles are restored, and indemnities are paid for them, after the conclusion of peace; or from suspending the payment of debts due to enemy subjects till after the conclusion of peace in order to prevent the increase of the resources of the enemy.

The rule that private property on land is not liable to confiscation guided the policy of the belligerents in the early stages of the World War. Thus the British