

from the sphere of the Laws of War, because other parties—the neutral merchants—are affected, who are unconcerned with the war. The issue then takes this form: whether those parties have commercial rights which are paramount to the right of the belligerent to annihilate his enemy. It is not easy to disentangle the two questions—Whether the neutral merchant has a right to trade with the enemy? Whether the enemy has a right to trade with the neutral merchant? The discussion of the principle “free ships free goods” is infected with this difficulty. But, war being what it is, in the absence of any support from the Laws of War, it is obvious that, if the enemy has any such right, it must be derived (in the absence of a treaty) from the right, if any, of the neutral merchant, and from the impossibility of severing the rights of the two parties to the contracts of which all commerce is composed.

The argument in favour of the enemy cannot be put higher than this: that his commerce cannot be interfered with, because the right of the neutral merchant would also be interfered with. And this argument is no stronger than its converse—the neutral merchant can have no right to trade with the enemy, because any rights which the enemy has are at the mercy of the belligerent.

The solution of the difficulty either way must depend on some sounder process of reasoning.

The position assumed by England may be stated very simply. Interference with neutral trade is justified whenever the premiss on which the neutral claim rests—unconcern with the war—is negatived by the facts. When the neutral has established relations with the enemy his claim of absolute right is vitiated. To this fundamental principle England's action has been at all times referable. It was not until the pressure of her power upon the sea became so great as practically to annihilate those relations that the neutrals had recourse to the formula “Freedom of the Seas” to destroy it. The enemy followed his lead. In