

CHAPTER II

Agreements with Enemies during War

Transactions with enemies during a period of war are void *ab initio*, and so when peace returns they are still void and of no effect. [*Willison v. Patteson*, 1817, 7 Taunt 439]. Such transactions are sometimes loosely referred to as "contracts", but they never pass beyond the stage of unlawful agreements, and so it is incorrect to term such agreements "contracts". On the principles of the English law it is not competent to any subject to enter into a contract to do anything which may be detrimental to the interest of his own country, and such a contract is as much forbidden as if it had been expressly forbidden by Act of Parliament. [*Furtado v. Rogers*, 3 B. & P. 196.] Indeed a declaration of war imports a prohibition of commercial intercourse and even correspondence with the inhabitants of an enemy's country. [*Esposito v. Bowden*, 7 Ell. & B. at p. 779.] Lord Stowell has pointed out the reason why even correspondence is unlawful with the country's enemies in these terms:—"Who can be insensible to the consequences that might follow if every person in time of war had a right to carry on a commercial intercourse with the enemy, and under colour of that had the means of carrying on *any other* species of intercourse he might think fit?" [*The Hoop*, 1799, 1 Ch. Rob. 196 at p. 200.]

General Rule

Such agreements are void