

**THE IMMUNITY OF  
PRIVATE PROPERTY  
FROM CAPTURE AT SEA**

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The Immunity of Private Property from Capture at Sea by Harold Scott Quigley

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**HAROLD SCOTT QUIGLEY**

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**THE IMMUNITY OF PRIVATE PROPERTY FROM  
CAPTURE AT SEA**

**BY**

**HAROLD SCOTT QUIGLEY**

**A THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF PHILOSOPHY  
THE UNIVERSITY OF WISCONSIN**

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## INTRODUCTION

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A proposal of immunity from capture at sea for all private property not subject to the law of contraband or blockade was seriously debated by a Commission of the Second Hague Conference. The proposal originated with the Government of the United States which has, from its foundation, advocated complete inviolability for commerce in time of war. Contemporary publicists have given considerable attention to the question, and various bodies, both public and private, have within recent years passed resolutions in favor of immunity. The war now in progress furnishes an unparalleled criterion of the value of existing legal limitations upon the right of capture and an index of the prospect for complete immunity.

This conjunction of circumstances favorable to an investigation of the status of private property in maritime warfare occurs at a time when no historical presentation of the subject in English exists. The treatise of Professor Charles de Boeck, *De la propriété privée ennemie sous pavillon ennemi*, published at Paris in 1882, is an exhaustive exposition of the material available up to that date. The rarity of this scholarly work as well as the valuable store of fact and opinion which it contains have appeared to justify a considerable number of references to it. The majority of writers, however, tend to treat the subject either theoretically or from the viewpoint of the present advantage of immunity to a particular country. Both methods of approach lack the essential background of history. Considerations of theory, history and policy all enter into any sound conclusions upon the present question.

Immunity means the freedom of enemy ships and of enemy goods on board from liability to confiscation. The significance of the problem which is involved in the effort to establish im-