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International Law Decisions and Notes

U.S. Naval War College (Editor)

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*queror*²⁴ and the *Mashona*,²⁵ and the Journal of Comparative Legislation, 1900, page 326. See also *The Cargo ex Emulous*,²⁶ sub nomine *Brown v. The United States*,²⁷ for the opinion of Story J. in similar cases.

As to the suggestion that the right of seizure or capture of enemy property carried as cargoes in British ships no longer exists after the declaration of Paris, it is obvious that the declaration only modified or limited the right in favor of neutrals for the benefit and protection of the commerce of neutrals and in the interest of international comities, and did not in any other respect weaken or destroy the general right.

It is well known that the United States of America ^{American doctrine.} refrained from acceding to the declaration of Paris because they desired that all property of private persons should be exempted from capture at sea—to which most other States have always refused to agree.

And in practice what would become of such cargoes? A British ship could not, in times of war, carry it or hand it over to the enemy either directly or through any intermediary, as it is not permitted to her to have any intercourse with the enemy.

In my view it is abundantly clear that enemy goods carried in British vessels are subject to seizure in port and capture at sea in times of war.

As the cargo has been sold, the order of the court will be for the payment out of the proceeds to the claimants.

The ATTORNEY GENERAL. I ask for a reasonable time for appealing.

The PRESIDENT. Certainly. Stay of proceedings for three weeks, and, if notice is given for appeal, stay of proceedings will be till the hearing of the appeal.

THE "MARIA."

IN H. B. M. PRIZE COURT FOR EGYPT.

March 17, 1915.

1 Trehern, British and Colonial Prize Cases, 259.

Claim for condemnation of the Turkish sailing ship *Maria*, a vessel of 27 tons engaged in general coasting ^{Statement of the case.}

²⁴ (1800) 2 C. Rob. 303.

²⁵ (1900) 10 Cape Times L. R. 163.

²⁶ (1813) 1 Gallison, 563.

²⁷ (1814) 8 Cranch, 110.

trade, which was seized at Alexandria shortly after the outbreak of war between Great Britain and Turkey on November 5, 1914.

Hague Conventions VI and XI.

GRAIN, J.: I am of opinion that counsel who appears on behalf of the master and owner of this vessel, the sailing ship *Maria*, has not been able to show any cause why she should not be condemned. He admits that she does not come under Convention VI or XI of The Hague Conference, 1907, as although Turkey was a party to that conference, and the conventions were signed by her diplomatic representative, they were never ratified by the Sultan of Turkey. But he submits that she comes under an established rule of law that small coasting vessels are exempt from capture and confiscation, and he quotes the judgment of Sir Samuel Evans in *The Berlin* (ante, p. 29; [1914] p. 265), in which he states his opinion "that it has become a sufficiently settled doctrine and practice of the law of nations that fishing vessels plying their industry near or about the coast * * * are not properly subjects of capture in war so long as they confine themselves to the peaceful work which the industry properly involves."

Decision.

I am of opinion that this dictum applies merely to small fishing boats belonging to men who are earning their livelihood and supplying the food of the small communities on the coasts. The vessel now before me is a general trading vessel of 27 tons, carrying on the general trade of the country, and, as The Hague conventions do not apply, is liable to capture and confiscation. This ship is therefore an enemy ship lawfully captured, and the order of the court is that she be confiscated and sold.²³

THE "PAKLAT."

Supreme Court of Hong-Kong. In prize, April 14, 15, 1915.

1 Trehern, *British and Colonial Prize Cases*, 515.

CAUSE FOR CONDEMNATION OF ENEMY SHIP AS PRIZE.

On August 21, 1914, the *Paklat*, a German steamship of 1,657 tons belonging to the Norddeutscher Lloyd Linie, whilst bound from Tsingtau to Tientsin with women and children refugees, was captured by H. M. S. *Yarmouth* and brought to Hong-Kong as prize. The blockade of

²³ See note, ante, p. 122.