

the acknowledged law of nations, but he said that if the question should arise he was prepared to follow the doctrine laid down by the late Professor Westlake and to assume the standpoint of Lord Stowell in the *Fox* (cf. *infra*, pp. 215-16) and of Judge Story in *Maisennaire v. Keating* (1815, 2 Gallison, 325). The Court accordingly condemned the cargoes to which it considered the Order in Council of October 29 applied, because of the presumption of the requisite hostile destination raised by that Order.

With regard to the cargoes to which no Order in Council was deemed to apply, it was held that it was incumbent upon the captors in the first instance to prove facts from which a reasonable inference of a destination to the armed forces or a Government department of the enemy could be drawn. But, so far as it was necessary to establish that such a destination was intended on the part of the shippers, it could be shown by inferences from the surrounding circumstances relating to the shipment of and dealing with the goods (cf. Dana's opinion, *infra*, p. 123). In accordance with this principle the Court condemned the cargoes of conditional contraband on the following grounds: (1) Because some of the goods, such as canned beef, smoked bacon, &c., were specially adapted for military use, while others were adapted for immediate warlike purposes in the sense that they could be employed for the production of explosives. (2) Because it was inferred that they were destined for some of the nearest German ports, like Hamburg, Lubeck, and Stettin, where some of the forces were quartered or which were otherwise connected with the operations of war. (3) Because the state of things in Germany in relation to the military forces and the civil population and the methods adopted by the Government in order to procure supplies for the