

Sir William Scott's definition of the elements of contraband is stated with a precision not always followed and perhaps not always appreciated, that "goods going to a neutral port cannot come under the description of contraband." Sir Wm. Harcourt's remark when quoting this, "in a question of contraband, the destination of the ship is everything," must be taken as intended to relate to a case where no question of ulterior destination arises. M. Thouvenel in his despatch on the Trent affair is clear:—"She (the Trent) was carrying to a neutral country her cargo and her passengers, and, moreover, it was to a neutral port that they were taken." To quote Sir Wm. Harcourt again, there appears in his letters on the affair of the Trent (1863) the opinion that in order to constitute contraband of war it is absolutely essential that two elements should concur, viz., a hostile quality and a hostile destination, and that hostile goods, such as munitions of war, going to a neutral port, are not contraband. He points out by way of illustration (which, however striking, only confuses the point) that a different principle would, assuming that the Confederate delegates were contraband of war, have justified Captain Wilkes in seizing the Dover Packet boat in case Messrs. Mason and Slidell had taken a through ticket from London to Paris. But Lord Russell, replying to Mr. Seward's despatch, accurately quotes Lord Stowell in the *Inima* case: "Goods going to a neutral port cannot come under the description of contraband, all goods going there being equally lawful."

In 1810, the rule laid down in 1808, that despatches were contraband was modified so as not to include despatches to enemy officials in a neutral country, and the reason given was because the destination was not necessarily hostile. In 1870 Great Britain acted on the principle that destination was the determining factor, and declined to permit coal to be supplied to the French fleet in the North Sea.

Prof. Bernard in writing on the Trent affair says:—"The fact that the voyage is to end at a neutral port is not conclusive against condemnation, but is a strong argument against it" (v). Walker, in his work on the Science of International Law says:—"The obnoxiousness of contraband trading consisting in the union of

(v) *Neutrality of Great Britain during American Civil War*, p. 224.