

the question of continuous voyage under the rule of war of 1756, was decided by the Lords Commissioners in Appeal in prize cases on the basis that the true question of the importation of goods into a neutral country was whether it was real or pretended only, and not whether the pretence was carried out by the entry and payment of duty to the neutral State, that is, whether the cargo was from the beginning intended for an enemy port. Sir Wm. Grant in the judgment says (s):—"The truth may not always be discernable but when it is discovered it is according to the truth and not according to the fiction that we are to give the transaction its character and denomination." After the case of *Hobbs v. Henning* had been decided an action was brought on another policy of insurance on goods on the *Peterhoff* (t), in which policy it was warranted that there was no contraband of war. The goods in question included artillery harness, and the Court inferred that they were intended for the Confederate States. In deciding that the underwriters were not liable, Willes, J., discusses the judgment in the case of *Hobbs v. Henning* and the question of destination and says (u):—"The design and intention from the beginning. . . was that the goods should go, and they were bound from the time they left England to go, into the Confederate States." After discussing the American Prize Court decisions he proceeds:—"This is a case . . . in which there was an entire adventure which was to be completed in the country into which the goods were to go. . . . I take it to be clear that a neutral can no more rightly import arms of war into a belligerent country without being liable to have his goods seized on the way, than his government, being neutral, can import a cargo of arms into a belligerent country without creating a casus belli. That is the true character in which contraband can be seized. . . . It is an act which is in its character hostile by reason of the destination of the goods." The judgment is also instructive in explaining that Sir Wm. Scott in the *Inima*, when speaking of a "voyage to an enemy's port" meant "destination of the goods to an enemy's port," and that his expression must be construed as equivalent to "the course of procedure to the place where the goods were bound to in the beginning." In that case, however,

(s) p. 396.

(t) *Seymour v. London & Provincial Ins. Co.* 41 L.J.N.S. C.P. 193.

(u) pp. 194, 196.