

their ultimate destination determines the character of the trade, which is not at all varied by the interposition of the neutral port. In every such case the outward voyage is illegal at its inception. The goods shipped are liable to seizure the instant it commences" (f). Dr. Holland, Professor of International Law at Oxford, has, it is stated, recently given his opinion that the present seizures made by British cruisers are justified by the American civil war cases.

But the English view has not at any time been clearly favorable to the underlying principle of those cases, which disregard the interposition of the neutral destination of the vessel. This is very well set out in *Hobbs v. Henning* (g), a case brought by an owner of part of the cargo of the *Peterhoff* on his insurance policy against the underwriters. Erle, C.J., and Byles, J., who gave judgment, declined to follow the findings of facts of the Judge in the American Prize Court, and after quoting Sir W. Scott's judgment in the *Inima* (h), affirmed that the right of capture only attaches when a ship with contraband of war is passing on the high seas to an enemy port and that it must be taken in delicto, that is, in actual prosecution of a voyage to an enemy's port. Strange to say in the most recent edition of Phillimore's Commentaries upon International Law (i) it is stated that Lord Chief Justice Erle is in accordance with the decision in the *Peterhoff* case in the Supreme Court, although that Court had affirmed the Prize Court Judge as to the contraband goods, and forfeited them. Dr. Phillimore's view is not that of other law writers nor of the Court in a subsequent insurance case, also on a policy on goods carried in the *Peterhoff* (j).

Wheaton points out the difference between the English and American decisions, and says that it cannot be foreseen which of

(f) Lecture VI., §13.

(g) 17 C. B.N.S. 791.

(h) 3 Rob. 167.

(i) (1885) 3rd Ed. p. 397.

(j) *Seymour v. L. & P. Insurance Company*, 41 L.J.N.S.C.P. 193, 42 L.J.N.S.C.P., 111 note. It is somewhat singular that Sir William Harcourt in his celebrated lectures on International Law should have said in 1863 that the validity or invalidity of an insurance on a contraband voyage had not then been absolutely decided by the English Courts, principally, he observes, because the insurance companies have been too honest or too prudent to dispute the force of liabilities from which they have derived large profits.