

line constitutes a blockading line, and that a ship can only be captured when she is practically passing or just about to pass that line—and it *has* been contended that effective blockade must be by stationary guards, rendering it physically impossible to pass.

It may be assumed that the British Government would not in any case have assented to either of these views being recorded as the law to be administered by the International Prize Court, but equally it should be remembered that the States which held those views have gone very far towards the adoption of the British principles—so far, in fact, that for practical purposes the power of blockade is not materially diminished by the apparent concession made as to the places where capture is legitimate.

A careful examination of the reported cases shows that, although in some of the judgments the principle that a vessel sailing towards a blockaded port with knowledge of the blockade is *in delicto* from the moment of starting is laid down, in *fact* the cases do not furnish a single clear instance of the condemnation of a ship found in a position consistent with an innocent destination.

This is the result of the examination of eighty-eight cases, which are believed to comprise all those which have any bearing on the question under consideration. It should perhaps be said that in four cases of condemnation the locality of capture does not appear in the report.

Further, the British rule relieved a ship from condemnation if it appeared that, even though she had originally started for the blockaded port or coast, she had, before she was sighted and visited, definitely abandoned the destination.

Thus, in modern times, when land transit to a blockaded port is nearly everywhere available, it is almost certain that vessels will have an alternative destination, and it would in most cases be impossible to show that the blockaded port and not the neutral port was the real destination, unless the ship was in such a situation as to preclude that possibility. In that event, looking to the great elasticity of the definition of the “area of operations,” she would in almost every conceivable case be in a position where she might be captured and condemned.

Looking, therefore, to history, to the limitation of our theoretical rule, and its working in practice, as well as to the wide limits which may be included in the “area of operations of the war-ships detailed to render the blockade effective,” the result is that Clause 17 in effect means, if not all that *might* be covered by the old principle, all that it was found in practice could be effectually put in force thereunder, and that in this respect Great Britain has in no sense weakened her effective power of blockade, while she has obtained almost complete acceptance of her principles, and complete abandonment of the French rule of notification and of the Continental theory of definite lines of blockade.

So far as it would be a deterrent to attempts to commit breach of blockade, it must be conceded that we have given away something by abandoning the right to seize a blockade-runner on her return voyage unless pursued from the area of blockade.

In practice the opportunity of doing this would not often arise, and it is not likely that a war-vessel would be detached from more important duties for the purpose of seizing a vessel which at the time was not engaged in any operations injuring the belligerent—merely for punitive purposes or prize money.

It would be going too far to say that there could be no occasion on which it might be advisable to exercise this power, but such occasions would be rare, and the claim to exercise it would not afford any real deterrent to those who were prepared to incur the risks of blockade-running in consideration of the profits to be gained thereby in the event of success.

Some comment has been made on the fact that the Declaration contains no provision as to what is termed “*pacific blockade*.”

Any such provisions would have been out of place, for “*pacific blockade*” is in theory not an act of war, and the International Prize Court is only created to deal with capture during war in relation to the matters enumerated in Article 3 of the Prize Court Convention.

CONTRABAND.

The chapter of the Declaration dealing with this subject has been much criticised, both from the point of view of neutral traders and from that of belligerents. I propose to examine it, in the light of those criticisms, as to its effect on the interest of Great Britain when neutral and when belligerent.