

1673. February 26.

The OWNERS of the Ship called the MARGARET *against* SEATON.

## No 25.

Connivance  
between con-  
fident per-  
sons.

THE Ship called the Margaret was found prize, upon these grounds, That she loosed from Amsterdam to France, and from thence returned, with salt, direct to Sweden, and had no pass for either voyage; and though she was bought from Hollanders, yet there was nothing aboard to instruct the alienation; but, now, there is produced an instrument of sale, dated the 14th day of March last, bearing the ship to have been bought by Henry Coal, merchant in Amsterdam, for the use of Margaret Coal his sister, residenter in Sweden; and nothing appearing under Margaret's hand that she gave commission to buy the ship, but that the same was bought by the said Henry, and out-rigged by him; and there was only produced a certificate, from a town in Sweden, before the voyage, that the said Margaret had declared the ship to belong to her, but without an oath; and two certificates, impetrate since the capture, bearing, that she and other owners deponed that the goods belonged to them; which the LORDS regarded not, the matter being carried on betwixt the brother, resident in Holland, and the sister, in Sweden; neither would the Lords admit of a probation to instruct the goods to belong to Swedes, not only because of the pregnancy of the evidences, but also that the ship being bought at Amsterdam, since the war, the probation behoved to be there, with which, being enemies, there can be no commission or communication.

*Stair, v. 2. p. 179.*

1673. February 27.

The OWNERS of the Ship called the K. DAVID, *against* DONALDSON:

## No 26.

Found that  
a ship taken  
in return, af-  
ter carrying  
contraband,  
was not prize.

CAPTAIN DONALDSON having taken and adjudged the ship called the K. David, the master raises reduction; the grounds of adjudication insisted on were, that this ship having loosed from Trallsound in May, after the war was known, had not aboard a sufficient pass, not only defective of the formula required by the Swedish treaty, but in the necessary requisites of a pass during war, viz. The oath of the skipper or owners, which is most necessary in the time of war; but here there was only a certificate from the town of Trallsound, without the oath, relating mainly to give the ship freedom at the Sound as a Swedish ship. *2do*, The ship was loaden with malt and other victual for Amsterdam, which she did disload there, and was taken as she came out. And, by the Swedish treaty, *in anno* 1661, and 1664, albeit pitch and tar being excepted from contraband, being the chief product of that country, yet victual is expressly enumerated amongst contraband in these treaties; and the LORDS found, in the last war, that contraband makes prize, not only when it is actually found