

and *alleged*, That supposing the letter found aboard could instruct the ship to belong to Lubec, and that the skippers' oath did acknowledge the loading to belong to the King's enemies, yet the loading could only be confiscate and not the ship, for neuters cannot be hindered by a war falling in between any princes or states to continue commerce, and if enemies' goods be found aboard, these goods may be confiscate; but the neuters, who freely might serve the enemies in any thing but in the war, and so might take their goods in fraught upon their own peril, yet could not thereby confiscate their ships. It was *answered*, That by the law and custom of nations, allies and neuters may continue their trade, so that they do not partake with enemies, which they may do, either by carrying arms, ammunition, and other contraband goods to them, or by covering or carrying on the enemies' proper trade by carrying of enemies' goods; and therefore enemies' goods have been found by the LORDS, not only to confiscate themselves, but the ships; and albeit, by the treaty of Breda, it be accorded, that neither enemies' goods, nor contraband goods, shall confiscate the ship, but themselves; yet the King, by his answer to the Lords, hath declared that treaty void, as to all parties, and that enemies' goods, and contraband goods, make themselves and the ship prize, neither had Lubec the benefit of that treaty; and whatever may be pretended, when enemies' goods are loaded, by their fraud, pretending the name of freemen, without the knowledge of the skipper or owners, yet here the owners gave warrant to the skipper to take in this fraught, as is instructed by their letter aboard.

THE LORDS found this ship prize, not only upon the falsehood of the pass, but found that enemies' goods did make the ships of neuters, having no privilege for that purpose by a treaty, to be prize.

*Stair, v. 2. p. 194. & 212.*

1673. July 9.

The OWNERS of the Privateer called the Catharine *against* the MASTER of the KING DAVID.

THIS day the LORDS advocated this cause from the Admiral, because he granted probation before answer, whereas there were present grounds of adjudication.

*Stair, v. 2. p. 207.*

1673. July 10. FRAZER *against* the MASTER of the FLYING HART.

CAPTAIN FRAZER having pursued an adjudication of the ship, called the Flying Hart, before the Admiral, he, before answer, gave commission to try the 66 B. 2.

No 35.  
falsehood of  
the pass, and  
that enemies'  
goods were  
aboard.

No 36.

No 37.  
False docu-  
ments.