

presumptive ground of confiscation ~~of ships & goods~~ Star Ibid. §22. against Vessels or Houses
 are not allowed to prove the contrary. But those engaged in War are allowed to show the
 presumption lying against them from false or cross documents by a contrary positive proof
 of the true owners. Because the latter cannot safely trade without colourable documents;
 whereas Vessels being free to trade with both parties are under no necessity to contrive
 such documents 14 November 1673 Mr of the Libbery contra Middleton 13 November 1673
 Clerk contra Smolton. But two papers from the same Government varying in some
 things not material were not found to make the ship prize, 13 June 1673 Windesore
 contra Owners of the St Andrew. And when the ships of Neutrals have counterband goods
 aboard, or double or colourable documents to cover them will not incur confiscation
 if it be proved, that those goods belong to free Men & were not directed to an Enemy's
 port: Because in such cases Neutrals are forced to use colourable documents. But
 those being under no necessity, to use such shifts to instruct the property of the
 ship or other goods therein not counterband, contrary proofs not required to take
 off the ordinary presumption arising from want of documents, or from forging concea-
 ling or destroying them, or using double documents Star Ibid. §26. The having
 aboard double bills to be made use of on divers occasions, imports that the ship
 or loading or some part thereof belongs to Enemies, Star Ibid. §20. 3^o Destroying
 papers or documents or throwing ^{them} overboard at the time of the capture, is a
 most pregnant ground of confiscation; it being thence presumed, that those papers
 would have instructed the Enemies Right to the ship or goods which is presumptio
 juris et de jure, Star Inst Lib. 2. Tit. 2 §23. That fact of throwing over papers, tho'
 sworn by one witness only, joined to the masters acknowledging upon oath that the
 had not made fault as the pass bore, was sustained relevant to declare a ship
 prize 9 July 1673 Gillies contra Owners of the Bounden. And the oath of one
 witness that papers were thrown overboard, subjects to the Burden of proving
 that the ship and loading belong'd to Friends 28 February 1673 Mr of the
 while Dobo qua Alexander. 4^o Ships have oft Times been declared prize
 upon a concurrence of several evidences of a contrivance under colourable docu-
 = ments: As when a pass did not mention the port the ship was directed to, which
 a Toll Book bore to be Rome, and the Master acknowledged upon oath to be Am-
 = sterdam, and discharged the body of the pass as to the place of his own Residence,
 and the Names of the owners, against whose oath a contrary proof was not admitted
 23 January 1673 The owners the Crown of Dantzick contra Lyon. A ship was
 confiscated because instructed with a pass which the Skipper acknowledged had been obtained for
 another ship, and both he and the Stevedore deposed, that they knew not to whom the goods
 belong'd having orders from a Merchant in Amsterdam to consign them in the port House
 of Stockholm to be delivered to persons bringing such Macks 10 July 1673 Traror contra
 Mr of the Flying Hart a Swedish ships Cargo of Counterband Goods was declared prize. In
 respect 1^o It was declared upon oath that Samuel Sutton Englishman residing in
 Sweden had bargained with the Tar company in Stockholm, that if the Loading came
 safe to Scotland or England it should belong to him, and if taken by the Hollanders then
 in war with Britain should belong to the Tar company. 2^o There were papers &
 thrown overboard the time of capture. 3^o The ship was insured at Amsterdam
 which was an Argument of an unwarrantable contrivance 22 July 1673 Captain
 contra Master of the Fortino of Trailand. But Insurance by the Enemy of ship
 and goods is not proper a sufficient ground of confiscation, Ibid. 8 July 1673
 Master of the Golden Falcon contra Buchanan. Because that doth not change the
 property, and stals in the Insurer, but is only a personal obligation in him to
 make

makes up the loss of the property by sea hazard, or otherwise in the time of the Insurance: -
 Neither was it found a just ground to confiscate a ship or loading, that the same belonged to
 the subjects of a prince holding his Estate of the Kings Enemy, unless he had contributed to
 the War. 9 January 1667 L. Lidquharen contra Soutor. Nor was a ship in possession of
 a goods adjudged prize, for being bought in the Enemies Country, and taken at sea before
 she touched any other ground, albeit there was no writ clear to instruct the Subj. In
 respect ships may be alienated by verbal Bargains and possession, from the property
 of ships, as of other movables is presumed. 26 July 1673 Harnden contra Mestrop,
 the of Stalin. 29 February 1673 owners of the prince of East Frizeland contra
 Binning. If adjudication of prizes by the Admiral be after they are captured and still
 reduced by the Lords, the owners of the vessel are liable in payment for the
 whole price; and not each several one for his share ascribed in June 1660 the
 Anna of Christiana contra Mestrop, when the ship was for sale on sufficient grounds
 of suspicion 9 February 1675 Praris contra Martin & Co. nothing being
 furnished and put out the vessel, more Authors or an Ascent to an unwarlike
 seizure of a free ship. And the Captain had his commission from the Admiral and found
 caution at Mayence. Cautelam, nothing hinders with him his customers and the owners to the
 liable in solutio, and to restore the ship and loading which is factum indivisibile. Now
 as these persons so obliged could not free themselves by offering a part of the ship and
 loading; neither can they do it by offering a part of the price, which is, siro galum in
 place thereof. For if it were otherwise, strangers need not labor to reclaim ships
 unjustly adjudged to be prize, because they could not know all the owners, and if any
 of them were insolvent could not recover their share. Therefore the owners ought
 rather to seek Relief among themselves, and still important that they entered in part:
 = nor ship with insolvent owners. But if the ship and loading be orderly seized
 by the Admirals Warrant, or sold by his Decree before the same be questioned in
 a Reduction, and the Lords find that the ship and loading are first and ought not to
 be made prize, they decree the owners of the prize to pay only the price got
 at the Roup or sale bona fide; by the Admirals Warrant or Decree, Stat. Inst.
 Lib. 2 Tit. 2 § 26. Thus a privateer clothed with the Kings Commission to make
 prize of all ships carrying Goods to the Danes, having executed the same against
 a ship of Hamburg before proclaiming of the War, was found to have sold bona
 fide, and liable only to restore what profit he made of the ship and Goods taken;
 unless he had been in culpa by spoiling or misapprehending thereof 25 February 1668
 Merchants of Hamburg contra distinguishon. Again, the Admiral having adjudged a
 ship and Goods prizes belonging to the Enemy, and the Decree being reduced
 by the Lords, as to a parcel of these Goods belonging to a London Merchant, who had
 been ignorant of the Enemies Interest: The Lords found the privateer who had sold
 that parcel by virtue of the Decree of adjudication, before he was summoned in the
 Reduction liable only for the price ascribed 13 December 1673 Clark contra
 Smolton. Where a Decree of the Admiral adjudging a prize taken upon probable
 grounds was reduced after the Goods were sold, and a fifth part paid to the King and
 a Tenth to the Admiral; The Captain and owners of the privateer got no Allowance
 of the said Fifth and Tenth parts: Without prejudice to them to seek Repetition
 thereof 24 February 1668 Masterton contra Strangers of Ostend. But in a like
 case the Lords allowed Deduction to the privateer of the Fifth and Tenth parts,
 which he had paid by virtue of a standing Decree for the time referring Action
 against the Admiral for the one, and Application to the Exchequer for the other:
 upon which Application to the Fifth and Tenth was repaid, and by Action the Tenth
 was