

## CHAPTER II.

## JURISDICTION OF PRIZE COURTS.

The question  
"prize or not  
prize"  
cognisable  
solely in the  
Admiralty  
Courts.

§ 28. As laid down in the leading case of *Le Caux v. Eden*,<sup>1</sup> the question "prize or not prize" and the consequences thereof are cognisable solely in the Admiralty Courts. The jurisdiction of the Courts of common law is expressly excluded. The same principle was affirmed by Dr. Lushington in *The Elize*,<sup>2</sup> that no other Court whatsoever within the United Kingdom, except the High Court of Admiralty, was entitled to exercise any jurisdiction at all in prize matters.

Prize is altogether a creature of the Crown,<sup>3</sup> and the right of the Crown consists in seizing and bringing to adjudication all enemy ships and all goods taken on the high seas *jure belli* out of the hands of the enemy.<sup>4</sup> This is the definition given by Lord Stowell, but it is essential to remember that prize jurisdiction is not confined to seizures of enemy property on the high seas. The jurisdiction extends to all maritime captures wherever effected,<sup>5</sup> and to property belonging not only to enemies, but also to neutrals and even to British

<sup>1</sup> (1781), 2 Dougl. 594, 602 (*per* Buller, J.), and Lord Mansfield in *Lindo v. Rodney* (1782), *ibid.*, 613, 614.

<sup>2</sup> (1854), Spinks, 88, 97; and Lord Merrivale in *The Oranje Nassau* [1921] 3 B & C. P. C. 915. Cf. *The Sommeldijk*, [1925] 23 Ll. L. R. 119, 120 (C. A.).

<sup>3</sup> *The Elsebe* (1804), 5 C. Rob. 174, 182.

<sup>4</sup> *The Two Friends* (1799), 1 *ibid.*, 271, 283.

<sup>5</sup> *Key and Hubbard v. Pearse*, (1742), (*per* Lee, C.J.), reported in *Le Caux v. Eden*, *supra*, at p. 608.