

before the outbreak of war between Great Britain and Turkey and before the proclamation of the British protectorate over Egypt, Lord Wrenbury, speaking for the Privy Council, said: "The question has been argued whether Port Said was, within the meaning of the Hague Convention, an 'enemy port,'" that is, a port enemy to Germany. Having regard to the relations between Great Britain and Egypt, to the anomalous position of Turkey, and to the military occupation of Egypt by Great Britain, their Lordships do not doubt that it was. In Hall's *International Law*, sixth edition, p. 505, the learned author writes: "When a place is militarily occupied by an enemy, the fact that it is under his control, and that he consequently can use it for the purposes of his war, outweighs all considerations founded on the bare legal ownership of the soil. Their Lordships think this to be right."

This decision was followed by the Privy Council in the case of the *Achaia*, a German vessel seized in the port of Alexandria in August, 1914,<sup>1</sup> and in the case of the *Marquis Bacquehem*, an Austrian steamship which entered the port of Suez in the same month.<sup>2</sup>

The Austro-Hungarian Prize Court also considered Alexandria and Port Said as enemy ports, at least in December, 1914, after the proclamation of the British Protectorate.<sup>3</sup>

ent.' It might perhaps be urged that the treaties with Turkey regarding capitulations (which by the way Turkey has abolished without the consent of the other contracting parties) would give the right to Great Britain to establish a prize court in Egypt; but for various reasons I am of opinion that they would not, and only mention it in order that it may not be suggested that this point has not been considered by me. We now have the evidence of both States before us; that of the Regent and Ministers of Egypt, who declare that all ships captured in Egyptian ports shall be handed over for judgment to the British prize court; and we have the Act of Parliament instituting the prize court in Egypt, which they had no power to do, unless Egypt was either an ally or co-belligerent in possession. I cannot, therefore, on the evidence which is at present before me, avoid finding that Port Said at the period in question was not a neutral port. I do not know that it is necessary to go further than that, but if necessary I am prepared to find that it was a port of an ally."

<sup>1</sup> V. Lloyd, 63; II, Br. & Col. Pr. Cas., 63.

<sup>2</sup> V. Lloyd, 79; II, Br. & Col. Pr. Cas., 58.

<sup>3</sup> See the cases of the *Dante* and the *Colenso*, cited by Verzijl, *op. cit.*, p. 284.