

Privy Council Appeal No. 57 of 1915.

In the matter of the Steamship "Achaia."

FROM

**HIS BRITANNIC MAJESTY'S SUPREME COURT FOR EGYPT
(IN PRIZE).**

**JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 7TH APRIL, 1916.**

Present at the Hearing :

LORD PARKER OF WADDINGTON.
LORD SUMNER.
LORD PARMOOR.
LORD WRENBURY.
SIR SAMUEL EVANS.

[*Delivered* by LORD PARKER OF WADDINGTON.]

The "Achaia" was a German steamship of 2,732 tons, belonging to the Deutsche Levante Linie, of Hamburg. She arrived at the Port of Alexandria on the 31st July, 1914, in the course of a voyage from Bremen to Alexandria, and thence to certain Syrian ports. She carried a general cargo, part of which was consigned to Alexandria. She had discharged this part of her cargo by 4 P.M. on the 4th August. Upon the outbreak of war between Germany and this country she was, under the Egyptian Decision of the 5th August, allowed till sunset on the 14th August to leave the Port of Alexandria. On the 12th August she was offered a pass for the Piræus available till sunset on the 14th August, signed by Lieutenant Grogan Bey, Inspector of Marine of the Egyptian Ports and Lights Administration. According to the evidence of Max Stross, the ship's agent (p. 53 of the joint appendix), she made all arrangements to leave, but at the last moment came to the conclusion that it would be too dangerous unless the pass were viséd by the French consul. Moreover, she believed that all Egyptian ports were neutral. She accordingly elected to remain where she was. The port authorities thereupon seized the ship and disabled her engines. Subsequently on the 19th October, 1914, the captain and crew were made prisoners of war, and the

ship placed in the custody of the Marshal of the Prize Court. There can be no doubt that what happened amounted to a seizure as prize.

Their Lordships have already decided in the case of the "Gutenfels" that Egyptian ports must be treated as enemy ports within the meaning of the VIth Hague Convention. Under the circumstances, however, they are of opinion that the recommendation contained in the 1st Article of that Convention was fully complied with. The vessel was given sufficient time to leave the Port of Alexandria. She was offered a pass to a neutral port, and there is no reason to suppose that such pass was insufficient, or would not have been recognised as valid by any belligerent Power. The fact that the vessel did not leave Alexandria under this pass was not due to *force majeure*, but to her own deliberate election not to do so. She cannot, therefore, rely on the provisions of Article 2 of the Convention. Even if Alexandria could be regarded as a neutral port, the fact would be immaterial. The seizure of an enemy vessel in a neutral port, though a breach of neutrality, would not in a Court of Prize afford any ground for its release.

The case is, in their Lordships' opinion, a clear one. The appeal should be dismissed, and the appellants will pay the costs. Their Lordships will humbly advise His Majesty accordingly.

In the Privy Council.

IN THE MATTER OF
THE STEAMSHIP "ACHAIA."

DELIVERED BY
LORD PARKER OF WADDINGTON.

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