

**In the Matter of Part Cargo *ex* Steamship "Canton"**

FROM

**THE HIGH COURT OF JUSTICE, PROBATE, DIVORCE, AND ADMIRALTY  
DIVISION (IN PRIZE).**

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REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL UPON PETITION FOR  
SPECIAL LEAVE TO APPEAL, DELIVERED THE 15TH NOVEMBER,  
1916.

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*Present at the Hearing:*

LORD PARKER OF WADDINGTON.  
LORD SUMNER.  
LORD WRENBURY.

[*Delivered by* LORD PARKER OF WADDINGTON.]

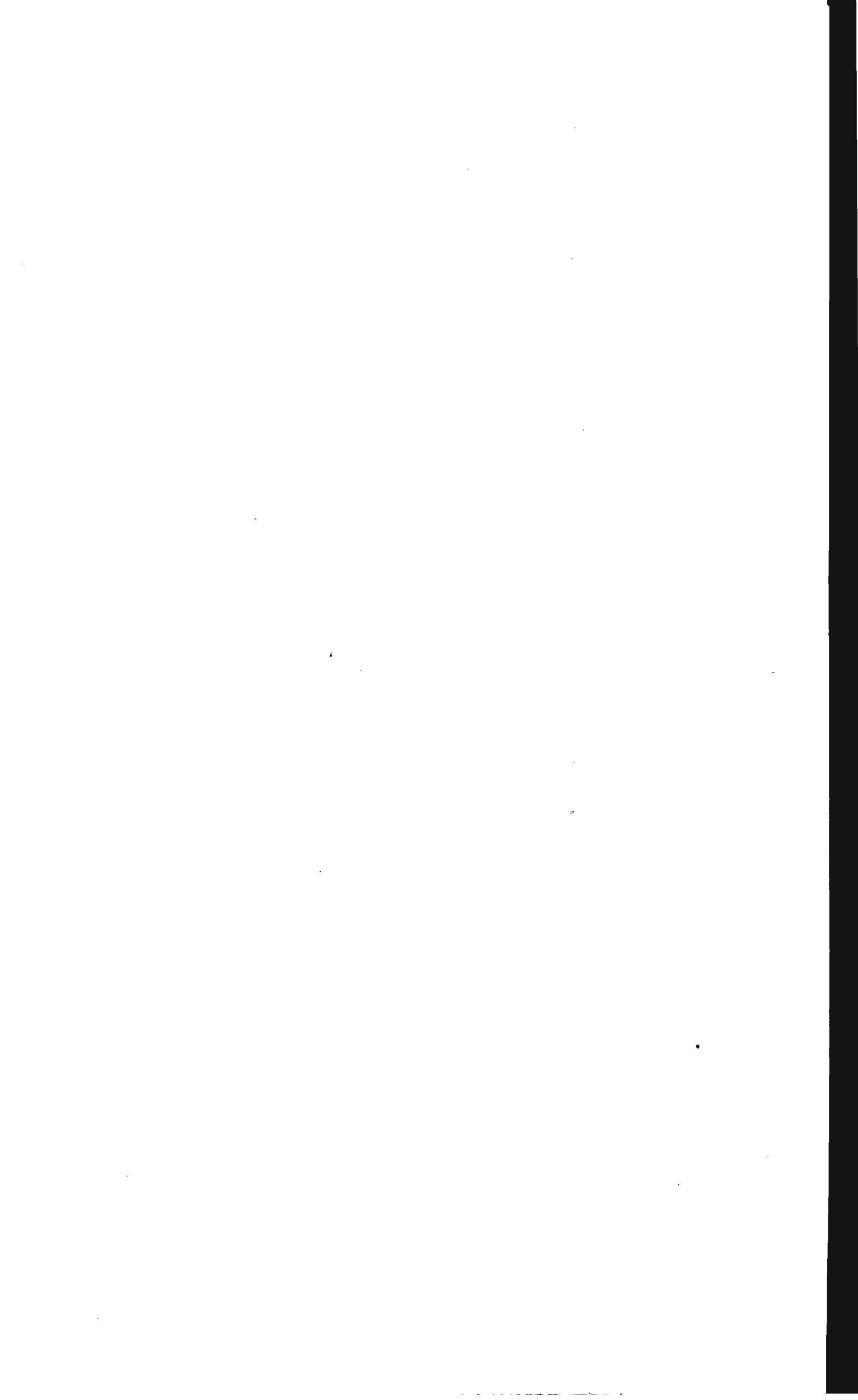
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This was an application by the owner of a parcel of copper *ex* the steamship "Canton" for special leave under the prerogative to appeal against an order of the President, whereby the Crown obtained leave to requisition it. The form of the application admitted that there was no appeal of right. Their Lordships refused to advise His Majesty to grant the application for the following reasons: The limits of the Crown's right to requisition goods the subject of proceedings for condemnation in prize were recently laid down by this Board in the case of the "Zamora" (1916, 2 A. C. 77). It was there decided that, in order to justify an exercise of the Crown's right, two conditions must be fulfilled. First, the goods in question must be urgently required for use in connection with the defence of the realm, the prosecution of the war, or other matters involving national security. Secondly, there must be a real question to be tried, so that it would be improper to order an immediate release. It was not disputed in the present case that the first condition was satisfied, but it was contended that there was no real case for investigation or trial, the facts being such that the goods ought to be immediately released. Their Lordships were of opinion that the question whether there be any case for investigation or trial is one which can be better determined by the Judge before whom the proceedings are pending than by this Board. They did not think they could advise an exercise of the prerogative unless they were of opinion that the Judge had proceeded on wrong principles, or had come to a conclusion which was obviously erroneous. It appeared that the applicant was before the war

an export agent for Swedish, English, French, and German firms engaged in the manufacture of engines and materials for electrical installations. He had at times sold copper to his Swedish principals, but had not theretofore been an importer of copper on his own account. He found that the business of the several firms for whom he acted as agent was adversely affected by the war, and he gives this as his reason (in their Lordships' opinion a somewhat doubtful reason) for himself commencing to import copper on a large scale. Copper was declared to be conditional contraband on the 21st September, and absolute contraband on the 29th October, 1914. The appellant purchased the copper in question in America in October 1914. He insured it with German underwriters, among others, and procured it to be shipped on board the steamship "Canton" under bills of lading, by which it was made deliverable to the order of himself and his assigns at Stockholm, or as near thereto as the vessel might safely get, the vessel being at liberty to call at any other port. He thus retained a complete power of disposition over the goods. The copper was seized on behalf of His Majesty, and proceedings for condemnation were commenced on the 1st January, 1915. In March 1915 the applicant sold the copper to the Telegraph Department of the Swedish Government, delivery to be effected before the 1st July, 1915. Nevertheless, he took no steps (as he might have done under Order V) to accelerate the trial of the action or to obtain a release on the ground of failure to prosecute it, so as to enable him to perform his contract. On the contrary, their Lordships were informed by the Attorney-General, without contradiction, that he failed to comply with requests on the part of the Crown for disclosure of documents, and he still remains in close business communication with German firms. Under these circumstances, their Lordships found it impossible to say that there was no reasonable cause for suspicion, or that the goods ought to be released without further investigation.

It may be desirable to add that their Lordships expressed no opinion as to whether the applicant could, under the circumstances, have appealed as of right.

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In the Privy Council.

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In the Matter of  
PART CARGO *EX* STEAMSHIP  
"CANTON."

*(Petition for special leave to appeal.)*

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DELIVERED BY LORD PARKER OF  
WADDINGTON