

It was decided that, in the absence of reciprocal agreement, there is no right under international law for enemy ships found in the ports of a belligerent to depart freely within a given period.

The *Marie Leonhardt* did not come within the terms of Article 244 of the Treaty of Versailles, by which vessels over 1,600 tons gross were ceded to the Allied and Associated Governments. On her fate, then, depended the destination of all the small German vessels taken under similar circumstances in our ports in August, 1914.

The questions before the Court were: (1) Was there in, say, July, 1914, a rule of international law whereby an enemy merchant ship, found in the port of a belligerent at the outbreak of hostilities, was entitled to depart? (2) Was such a right *prima facie* conceded to owners of German shipping either by Convention VI of the Second Hague Conference or by diplomatic communications which took place at the outbreak of war? Precedents for giving days of grace were quoted from the Crimean, Franco-Prussian, Spanish-American, and Russo-Japanese Wars. There was no doubt that the Hague Conference of 1907 had tried to abstract a principle from the varying practices, but Convention VI only stated "it is desirable" that days of grace should be conceded. In 1914 His Majesty's Government offered enemy shipping leave to withdraw during days of grace, subject to reciprocal concessions on the part of the enemy States concerned. Austria-Hungary accepted the offer; Germany did not.

The *Marie Leonhardt* was condemned as good and lawful prize.

A. E. R.

CAPTURE OF ENEMY SHIP IN NEUTRAL WATERS.

THE VALERIA. [1921] 1 A. C. 477.

THIS was an appeal from the Prize Court (England) to the Judicial Committee of the Privy Council.

In March, 1918, a British cruiser captured the *Valeria*, a German steamship, at a spot which was proved to be a few yards within the territorial waters of Norway. This, of course, rendered the capture unlawful (*The Lokken* [1918]; *The Dusseldorf* [1920] A. C. 1034). While the ship was being escorted back to a British base she had to be abandoned owing to bad weather, and was sunk by gunfire to prevent her becoming a derelict. Norway, the neutral whose territorial rights had been infringed by the capture, claimed the value of the ship and damages.

Lord Sumner, in delivering the judgment of the Privy Council, held that, although a neutral Government was entitled to restitution in the case of a ship of a belligerent captured by another belligerent within its neutral waters, the captors did not thereby become insurers of the ship for all purposes. The *Valeria* must be considered as being lost from natural causes, for restitution, if ordered, would have constituted a source of profit to Norway for the loss of a German ship.

It is necessary to distinguish this case from one where there has been a wrongful capture of a neutral ship on the high seas, when the injured neutral would undoubtedly be entitled to full restitution for a subsequent loss from natural causes.

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