

Privy Council Appeal No. 13 of 1916.

In the matter of Cargo *ex* "Bolivar"

FROM

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

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 17TH MAY, 1916.

Present at the Hearing :

LORD PARKER OF WADDINGTON.

LORD SUMNER.

LORD PARMOOR.

SIR ARTHUR CHANNELL.

[*Delivered by* LORD PARKER OF WADDINGTON.]

Where substantial injustice would otherwise result, the Court has, in their Lordships' opinion, an inherent power to set aside its own judgments of condemnation so as to let in *bonâ fide* claims by third parties who have not in fact been heard, and who have had no opportunity of appearing. This power is discretionary, and should not be exercised, except where there would be substantial injustice if the judgment in question were allowed to stand, and where the application for relief has been promptly made. In the present case the learned President has refused the relief on the ground of delay, apparently under the impression that the appellants invoked the assistance of the Prize Claims Committee, whereas in fact the papers were sent to such Committee by the Procurator-General. It was not, under the circumstances, unreasonable for the appellants to have awaited the result of what the Procurator-General was doing before instituting further proceedings in the matter.

Their Lordships therefore think that the proper order would be to allow the appeal, and remit the summons to the Court below, with leave to the appellants to amend it in such manner as they may be advised, and file the proper evidence in support thereof.

With regard to the costs of this appeal, their Lordships are of opinion that no costs should be allowed on either side. The costs below will be dealt with by the President on the further hearing of the summons.

Their Lordships will humbly advise His Majesty accordingly.

In the Privy Council.

IN THE MATTER OF CARGO

ex "BOLIVAR."

DELIVERED BY

LORD PARKER OF WADDINGTON.

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