

Privy Council Appeals Nos. 115—119 of 1918.

In the matter of Part Cargo ex Steamship "Hilding."	
Stollwerck Brothers, Incorporated	<i>Appellants</i>
<i>v.</i>	
His Majesty's Procurator-General	<i>Respondent.</i>
In the matter of Part Cargo ex Steamship "Cygnus."	
Same	<i>Appellants</i>
<i>v.</i>	
Same	<i>Respondent.</i>
In the matter of Part Cargo ex Steamship "Seaconnet."	
Same	<i>Appellants</i>
<i>v.</i>	
Same	<i>Respondent.</i>
In the matter of Part Cargo ex Steamship "Hellig Olav."	
Same	<i>Appellants</i>
<i>v.</i>	
Same	<i>Respondent.</i>
In the matter of Part Cargo ex Steamship "Frederick VIII."	
Same	<i>Appellants</i>
<i>v.</i>	
Same	<i>Respondent.</i>
<i>(Consolidated Appeals.)</i>	

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 25TH FEBRUARY, 1919.

Present at the Hearing :

LORD PARMOOR.
LORD WRENBURY.
LORD STERNDALE.

[*Delivered by* LORD WRENBURY.]

In these cases the late President, Sir Samuel Evans, by five orders of the 7th May, 1918, pronounced the part cargoes of certain five ships to have belonged to enemies of the Crown, and to have had an enemy destination, and condemned them as prize. The cargo owners appeal.

The facts in all five cases are the same.

The goods, at the time of seizure on the 21st April, 1915, were being carried on neutral vessels, from New York in three cases to Copenhagen, and in the other two cases to Stockholm. The goods were cocoa powder, cocoa beans, and cocoa butter, and were conditional contraband under the order of the 4th August, 1914. The consignees were in three cases a firm of Trojel and Meyer, of Copenhagen, and in two cases a firm of Otto Dahlstrom and Company, of Stockholm. The claimants are a company named "Stollwerck Bros., Incorporated," being a company incorporated under the laws of the State of Connecticut, in the United States of America. That company carried on business at Stamford, Connecticut.

The claimants' case was that the American company were the owners of the goods, and that to the best of their belief the goods were intended for consumption in Sweden and Denmark.

For some years before 1908 there had existed in Cologne a German company known as "Gebrüder Stollwerck Actien Gesellschaft." That company in 1908 procured the incorporation in America of "Stollwerck Bros., Incorporated." The members of the German company were Ludwig Stollwerck and four other Germans named Stollwerck. The German company held the large majority of the shares in the American company. Ludwig Stollwerck was President of the German company and Vice-President of the American company. Otto Dahlstrom and Company were a firm in Stockholm with whom the German company had long had a business connection. Trojel and Meyer were a firm in Copenhagen with whom the German company had a like connection. Both these firms were in the year 1916 proclaimed enemy firms under the Trading with the Enemy (Extension of Powers) Act 1915.

The evidence on the part of the Crown exhibited a number of letters, intercepted messages, and other documents, and amongst these their Lordships note the following by way of illustration: Ludwig Stollwerck writes of "the Stollwerck concern," dwells upon the wonderful leap in "our New York and Stamford Branch houses," and writes, "Stamford has thus helped—as have also the Austro-Hungarian factories in Vienna and Pressburg—the Cologne headquarters to make the sales and balance sheet of the 'Stollwerck concern' in 1915 an unexpected world record" (see letter 10th March, 1915). Again, on the 4th December, 1915, Cologne writes to New York to Mr. Merckens, the Secretary of the American company, speaking of "the confidence which we have placed in you as the head business official of our American house," and of "the Cologne owners," and begging Mr. Merckens earnestly to remember in the future "that the business (*i.e.*, the American business) is ours," and speaking of "the proper management of each of our branches." Again, on the 14th February, 1916, "Our branch house there—Stollwerck Bros., Incorporated, Stamford, Connecticut—will shortly assign to you," &c., and on the 22nd April,

1916, "placing at the disposal of our branch house—Stollwerck Bros., Incorporated, Stamford—a cash credit," &c. The American company were the nominal purchasers of the goods.

Further, the intercepted documents show that by means of credits between Cologne and America the German company were in fact the purchasers of the goods, and the most the appellants could say as to the destination of the goods was that the American company did not know that they were on their way for delivery to the German company at Cologne. Cologne was a fortified place or fortress of the enemy, and Germany was at the relevant time in great need of goods of this description.

Upon these and other like materials the late President found, as a fact, that the goods were really the goods of the parent company, Gebrüder Stollwerck, of Cologne, that the nominal consignees, Trojel and Meyer (who made no affidavit) and Otto Dahlstrom and Company, were merely intermediaries and names used as between the consignors and the real owners of the goods, and that the goods were ultimately destined for Germany. Their Lordships agree with these conclusions of fact, and will humbly advise His Majesty that these appeals should be dismissed with costs.

In the Privy Council.

IN THE MATTER OF PART CARGO EX STEAM-
SHIP "HILDING."
STOLLWERCK BROTHERS, INCORPORATED

^o.
HIS MAJESTY'S PROCURATOR-GENERAL.

IN THE MATTER OF PART CARGO EX STEAM-
SHIP "CYGNUS."

SAME

^o.

SAME.

IN THE MATTER OF PART CARGO EX STEAM-
SHIP "SEACONNET."

SAME

^o.

SAME.

IN THE MATTER OF PART CARGO EX STEAM-
SHIP "HELLIG OLAV."

SAME

^o.

SAME.

IN THE MATTER OF PART CARGO EX STEAM-
SHIP "FREDERICK VIII."

SAME

^o.

SAME.

DELIVERED BY LORD WENBURY.

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