

conferred by the Prize Court Act of 1894. Lord Parker pointed out in the case of the *Zamora* that the Prize Court rules, so far as they relate to procedure and practice have, therefore, statutory force and it is from the statute and not from the executive that they derive their validity.¹ As such they are binding upon the Prize Court. But an order issued by the Crown in Council may deal with other matters than rules of procedure or practice; its prescriptions can only be regarded as rules of procedure when they prescribe the course to be followed by the judge; if the effect is not merely to give directions but to alter the substantive law administered by the Prize Court it is not binding upon the Court since the Court "must deal judicially with all questions which come before it for determination and it would be impossible for it to act judicially if it were bound to take its orders from one of the parties to the proceedings."²

In the case of the *Kim and other vessels* the contention was put forward by the claimants that the Order in Council of October 29, 1914, modifying Article 36 of the Declaration of London relative to continuous voyage, introduced not merely a new rule of procedure but a modification of the substantive law and as such was not binding upon the Prize Court. Sir Samuel Evans admitted that if the Order had affected the substantive rights of neutrals it would not be binding upon the Prize Court; but, in his opinion, it had no such effect, its purpose being merely to alter the practice as to evidence and methods of proof by adding certain presumptions contained in Article 34 of the Declaration of London. It was not therefore in violation of any rule or principle of international law. In the case of the *Zamora* Sir Samuel stated that matters of procedure and practice were "a domestic affair, in which no foreign neutral or enemy has any voice or right to interfere." If his Lordship meant to affirm that the substantive rights of claimants are not affected by rules of procedure and evidence his view cannot be accepted.³

Order 45 of the Prize Court Rules of 1914 declares that in all cases not provided for by the rules "the practice of the late High Court of Admiralty of England in prize proceedings shall be followed, or such other practice as the president [of the Prize Court] may direct." In pursuance of this order Sir Samuel Evans

¹ See also the observations of Sir Samuel Evans in the same case (IV Lloyd at p. 50) to the effect that the Prize Court Rules have the force of an Act of Parliament, since they are made "under statutory powers."

² Lord Parker in the *Zamora* (*ibid.*, at p. 89).

³ Compare Pyke, 32 *Law Quar. Review*, 64, 166.