

in the German prize code and denied compensation in such cases. In the case of the *Rijn*,<sup>1</sup> a neutral vessel to which contraband goods had been trans-shipped from a German vessel and which goods were held to have become the property of enemy subjects at the time of seizure, Sir Samuel Evans decided that the claimants were not entitled to the protection of Article 43. Adverting to their contention that under Article 43 they were entitled to compensation he said:

"I think it is clear from the terms of the Article, and of the comment, that it was only intended to comprehend neutral ships and cargoes; i.e., it applies only to ships of neutrals innocently carrying cargo which turned out in fact to be contraband; and to cargo of neutrals which was in fact contraband and was innocently laden and carried on a neutral ship.

"If the cargo was contraband, both an enemy ship carrying it and the cargo to whomsoever it belonged, would be subject to capture and condemnation, and an enemy cargo on a neutral ship would also be similarly subject, notwithstanding the Declaration of Paris."

The judgment was affirmed by the Judicial Committee.<sup>2</sup> In the case of the *Sörfareren*<sup>3</sup> Sir Samuel discussed this point more at length. In this case a cargo of chrome, absolute contraband, belonging to a German company, was shipped on a neutral vessel chartered to the German company. Again Sir Samuel held that Article 43 was not intended to save from condemnation contraband belonging to an enemy. In the course of his judgment he said:

"If the Article were construed strictly, it might be contended with some reason that the only protection intended was in favour of neutral vessels against the consequences to them of the condemnation of the cargo or certain proportions of it. It is silent as to the effect of knowledge or want of knowledge of the contraband nature of the goods on the part of the owners of the goods. I express no final opinion on this point. But at the most, I think the Article was intended to give, and only does give, protection to neutrals whose goods were being carried at sea when their owners were unaware of the declaration of contraband, by awarding to them compensation on condemnation of their goods which were in fact, although not with their knowledge, contraband at the time of capture. This is an intelligible extension in favour of neutrals of the provisions in their favour in the Declaration of Paris. Having given the matter my best consideration, I decide that contraband belonging to the enemy remains liable to condemnation without compensation. It will be remembered that the report of the Drafting Committee to the Naval Conference, which consisted of Representatives of Germany, the United States of America,

<sup>1</sup> VI Lloyd 181; II Br. & Col. Pr. Cas. 507.

<sup>2</sup> VI, *ibid.*, 208; III, *ibid.*, 362.

<sup>3</sup> IV, *ibid.*, 174; I, *ibid.*, 589.

