

I. Case of the S.S. Wimbledon (PCIJ, Ser. A., No. 1, 1923)

II. Facts

- A. The British, French, Italian, and Japanese Governments filed an application with the registry of the court (PCIJ) on January 16, 1923 against the German Government for refusing a steamship right of passage. The PCIJ heard and decided the case on August 17, 1923.
- B. On March 21, 1921, the German government refused to let the English steamship *Wimbledon* (chartered by a French company “Les Affreteurs Reunis”) pass through the Kiel Canal. The ship picked up 4,200 tons of ammunition and artillery stores in Salonica, Greece, to be brought to the Polish Naval Base at Danzig, but when the ship arrived at the entrance to the Kiel Canal it was refused passage because of the German neutrality order in accordance with the Russo-Polish war. The French Ambassador in Berlin asked the Germans to allow the *S.S. Wimbledon* passage, and several days later the German Government responded that it couldn’t allow the vessel to pass because of the military cargo that it carried. The French company then told the ship to go to Danzig via the Danish Straits, resulting in the cargo arriving thirteen days late- eleven for detainment by the Germans and two for the extra time it took to go the alternate route. Diplomatic relations between the states did not end in a resolution, so the matter was then brought before the League of Nations and thus the Permanent Court of International Justice to hear the case.
- C. The plaintiffs in this case are the British, French, Japanese, and Italian governments who claim that Germany violated Articles 380 to 386 of the Treaty of Versailles, which, among other things, states that the Kiel Canal will remain “free and open to the vessels of commerce of war of all nations at peace with Germany on terms of entire equality.” The plaintiffs argue that despite the cargo on the ship, the nation chartering the ship was not at war with Germany and thus should have been allowed passage.
- D. The defendant in this case is the government of Germany who claims that despite the articles of the Treaty of Versailles, they were under no obligation to allow the passage of the *S.S. Wimbledon* because they issued a Neutrality Order for the Russo-Polish War, which would be broken by allowing weapons to be shipped to Poland.

III. Questions

- A. Is a state allowed to refuse free passage to a vessel of another state based on the cargo that it is holding if there is a treaty demanding free passage, but another order stating neutrality from military conflict?
- B. Can a state be obligated to allow free passage, even if this denies the state its right to neutrality in times of war?

IV. Decision

The Court ruled that Germany had no right to refuse entrance to the *S.S. Wimbledon* on behalf of the cargo that it was carrying. In addition, the Court claimed that the Kiel

Canal is no longer in the same category as normal internal waterways that are ruled at the discretion of the state they are housed in, but rather it should be considered an international waterway as laid out in the Treaty of Versailles. Thus, the Kiel Canal should be open to all vessels, regardless of state, as long as that state is at peace with Germany, because the point of the canal is to provide easier access to the Baltic. Since the Treaty of Versailles specifically said that the canal could deny access to states at war with Germany, it obviously was not a mistake that it did not include the closure of the canal if Germany was neutral in a war between two other states. Also, the intent of the writes of the Treaty of Versailles was to have the canal be an international waterway to the Baltic. In addition, the Court cited precedent from the Suez and Panama Canals as illustrations to the invalidity of Germany's claim. Finally, the Court dismissed Germany's claim that their Neutrality Order superseded the provisions of the Treaty of Versailles.

V. Principles

- A. A key international law issue in this case is that **a neutrality order issued by an individual state cannot hold more power than the provisions of an international treaty of peace.**
- B. This case asserts that the right of passage in internal waterways can become designated as not being considered internal waterways, and thus the state has limited rights over its control, whereas the international community has a much greater say.
- C. If a state's vessel is denied access to a waterway, it affects the commerce and rights of all states who may have vested interests in the area, and thus these states have the jurisdiction to bring a case against the state who is restricting the rights of free passage.

VI. Conclusion

The importance of this case lies in that it shows that despite a state having a waterway within its boundaries, it does not always have ultimate control over the right of passage of other states' vessels. This case put a limit on some state sovereignty and gave more power to international law in that it affirmed that international peace treaties hold more weight than individual Neutrality Orders of specific states. This decision showed that the PCIJ considered the Treaty of Versailles to be binding and not open to interpretation by individual states that signed the treaty.

VII. Bibliography

Case of the S.S. Wimbledon, Ser. A, No.1, Permanent Court of International Justice, Ser. A., No. 1, 1923).
Treaty of Versailles, Versailles, France. June 28, 1919.

Submitted by

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