

ACC

10000/142/378
(VOL. 1)

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10000/142/378
(VOL. 1)

MERCHANT SEAMEN CASES (POLICY)
AUG. 1943 - JUN. 1945

FILE CLOSED 28 June 1945

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4042/L.

/rip.
28 June 1945.

SUBJECT : Merchant Seamen.

TO : AFHQ, G-5.

1. In reply to your G-5; 250.1 of 23 June 45 the Italian legal advisors to the Legal Sub-Commission state that, for the purposes of Italian criminal law, a merchantship in an Italian harbor forms part of Italian territory regardless of the nationality of the vessel concerned.

2. Accordingly the merchant seamen involved in this case are subject to the jurisdiction of the Tribunale of Bari and the prosecution should be entrusted to the Procuratore del Regno, Bari.

For the Chief Commissioner;

W. E. REMBERT,
Colonel,
Chief Legal Advisor.

4042

Legal S/61A
3974ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

FTM/HYA/pc

G-5: 250-1

23 June 1945

SUBJECT: Trial of Merchant Seaman

TO: Headquarters, Allied Commission, APO 394.

1. Attached hereto is C - in - C Med's letter Med.45/927/2/7 dated 19 June, and accompanying papers, regarding possibility of trial by Italian courts of 8 members of the crew of a Norwegian ship for theft of Allied cargo from the ship. Six of the accused appear to be Spaniards, one an Irishman and one an Italian. The thefts took place between time of loading at Bari and arrival of the ship at Barletta.

2. It is requested that you should inform us whether the Italian courts have jurisdiction to try these men and if so to whom they should be handed over for trial.

3. It is believed that the Navy Sub-Commission and Italian Ministry of Marine have considered similar cases on previous occasions.

For the Assistant Chief of Staff, G-5:

F.T. HAMMOND, JR.
Colonel, G.S.C.
Legal Officer.

Encls:
as above.

LEGAL SUBCOMMISSION	
CLO	
ECLO	
Chief Counsel	
CID	
INVESTIGATION	
QUARTERS	
23 JUN 1945	

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HEADQUARTERS ALLIED COMMISSION

AFO 394

LEGAL SUB-COMMISSION

/rlp.
14 June 1945.

AC/4043/L.

SUBJECT : Legal Sub-Commission Monthly Report for May 1945.

TO : Chief Commissioner, Allied Commission.

ALLIED MILITARY COURTS

1. In the ports of Naples and Ancona, AMG Courts have continued on the same scale as in previous months. The type of crime remains unchanged; in Ancona the thefts of large quantities of sugar have caused the imposition of heavy punishments on convicted offenders.

In Naples the crimes arising from the activities of the port have continued at a high level. In addition, several cases of large scale counterfeiting of AMG lire have been heard. Some 16 accused have been tried and convicted; in view of the enormous scale on which the printing of these notes was being practised, sentences up to 15 years imprisonment were imposed.

2. In Toscana Region generally, and in Livorno in particular, the volume and type of crime remain reasonably constant but the reduction in military police in the area has led to fewer arrests, and reduction of legal personnel has involved the transfer to the Italian Courts of a number of cases which would previously have been heard by the AMG Courts. This practice causes delay but is unavoidable.

3. In the northern regions very few AMG Court cases have been held and these were mostly held during the early days of Allied occupation when curfew and travel restrictions were still being enforced. On the other hand, no attempt has yet been made to prosecute in AMG Courts persons who have failed to surrender their arms. The total number of cases tried by AMG Courts in the whole of North Italy is less than 300.

ITALIAN COURTS

4. In southern Italy the Italian Courts continue to function normally and there is nothing in particular to report.

5. In northern Italy the principal activity has been the establishment of Special Courts of Assize to try persons accused of collaboration with the enemy. A very large number of persons are at present awaiting trial on charges of this nature, the largest number being some 5000 in Milan. Courts have been established in every province, and in the larger capitals several sections have been set up.

In Naples the crimes arising from the activities of the port have continued at a high level. In addition, several cases of large scale counterfeiting of 100 lire have been heard. Some 16 accused have been tried and convicted; in view of the enormous scale on which the printing of these notes was being practiced, sentences up to 15 years imprisonment were imposed.

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6. The number of these Special Courts has created a problem of personnel both on the judicial side, since every court requires a president of grade 5, and on the side of the Public Ministry. In the main, north Italy is reluctant to accept judges imported from the south but there is an insufficiency of magistrates of the appropriate grade in the north and therefore a number of southern officials have already been imported and it is recognized that additional judges' importations are inevitable. So far as the Public Ministry is concerned, in Milan alone, 40 officials were required. It has accordingly been necessary to employ throughout northern Italy a large number of avvocati to assist in the work of the Ministry. By agreement with the Ministry of Justice, arrangements have been made for such avvocati to be paid as Sostituti Procuratori del Regno as officials of the 6th grade.

7. In the early stages, difficulty was caused by the fact that against many of the prisoners who had been arrested, there was no evidence available. Notices however were inserted in the press regarding such evidence which thereupon was rapidly forthcoming and the preparation of the cases was able to proceed.

Trials in court started in ~~not~~ ~~proceeding~~ ~~in due~~ ~~the~~ ~~last~~ ~~night~~ ~~of~~ ~~May~~ it is therefore too early to form any reliable judgment on the conduct of these courts but the number of death sentences awarded has been comparatively low. The prison sentences have been extremely heavy but it is unlikely that the prisoners will actually serve any substantial portion of the sentences imposed.

8. Many of the persons imprisoned have claimed that they are entitled to be treated as prisoners of war and in accordance with instructions received from AFHQ a directive has been issued to clarify this position.

9. In the early days of liberation from the enemy, irregular military courts were established by the Italians for the trial of collaborationists. These continued for a short time after the Allied occupation but have now been stopped and all persons accused of collaboration are being brought before the Special Courts of Lissio. Regular Military Tribunals have been set up to deal with military personnel guilty of current crimes.

10. Apart from the Special Courts of Assize, all ordinary Italian courts are functioning. Pending expiration proceedings, the greater part of the magistracy appears to be satisfactory and has been retained in office. There are a few shortages of personnel but provision has been made for every court to operate, if necessary with a reduced staff.

11. Special Section of the Court of Cassation has been established in Milan to hear appeals from the Special Courts of 1st size. No appeal actually reached this court during the month.

12. Arrangements have been made for safeguarding and transportation to Rome of the archives and documents found in the office of the Fascist Republican Ministry of Justice and Section of Supreme Court of Cassation in Brescia and Cremona. The position of personnel who took part in the operation of this Ministry and this court is under investigation with a view to emigration proceedings.

THE OFFICE

13. During the month, General Orders Nos. 45 and 46 have been issued.

General Order No. 45 provided for the relaxation of certain security measures contained in Proclamation No. 3.

General Order No. 46 established and regularized a form of epuration in private industry in the north. This order was required in order to protect employees in industry who are being subjected to threats and dismissals, superficially on the ground of alleged fascist activities but in reality as a means of private vengeance to repay old grudges.

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14. General Order No. 41 which was issued in April 1945 as an interim measure to stabilize economy for the north provided that changes in the price of certain commodities could be modified by further AMG order when this became necessary. Provincial Orders have accordingly been prepared permitting increases in the price of certain foodstuffs to accord with the conditions which are in existence locally.

ITALIAN LEGISLATION

15. Legislation enacted by the Italian Government from the 8th September 1943 to the present date has been implemented throughout the north of Italy (excluding the Provinces of Venezia Giulia) with a few exceptions. The legislative process, of delivery of this legislation involved the transmission of laws to each region, and even then the number of copies available for the many lawyers who wish to study legislation was not always adequate.

16. During the month, the Italian Government has passed the following principal legislation:

A decree enabling women to hold certain positions in educational institutions; an emergency measure re-introducing the recently abolished death penalty as a punishment for certain types of robbery and violence; a decree providing rules for the execution of the law restoring property rights to persons effected by the fascist racial laws; a decree exempting patriots from penal liability for certain acts performed in the fight against the enemy; a decree setting out rules for punishment of fascist activities in liberated Italy; a decree setting up the framework for the National Consultative Assembly.

W. E. EHRENS,
Colonel.
Chief Legal Adviser.

HEADQUARTERS
ALBANY CONTROL COMMISSION
REGION 6

20 July 1944

REF: MC/DO/99

FROM: Brigadier M. CARR, CBE, MC.

Recd 25/7/44

57A

Dear

With reference to your AGC/4042/L of 23rd June, I am writing demi-officially on the expression of opinion given in paragraph 7 of that letter but not with a view to prolonging the argument.

It was perhaps unfortunate that I used the word "under" in the last sentence of my letter of 13th June but as there is no chain of command within the staff the word "under" was used in the sense that the R.C. & M.G. Section is the co-ordinating branch from the point of view of Regions in respect of matters dealt with by the Administrative and Economic Sections and their various Sub-Commissions.

The latest chart of A.C.C. received only a few days ago shows quite clearly that matters coming from Regions go through R.C. & M.G. Section along the same level to the Administrative and Economic Sections. In the reverse direction matters proceeding from the Administrative and Economic Sections either ascend to the Chief Commissioner or descend to Regions through R.C. & M.G. Section.

I suggest that the analogy used in the opinion expressed is not a good one. The R.C. & M.G. Section in relation to Regions is not in the same position as a Commander of a formation and units under command. All instructions etc. from Headquarters, A.C.C. emanate in the name of the Chief Commissioner and there is no question of Regions being under command of R.C. & M.G. Section which might, for instance, be staffed by comparatively junior officers.

The fact remains however that paragraph 3 of your AGC/4042/L of 3rd June appears to advise disregard of Para. 8 of Executive Memorandum No. C.b. of 31st January where it is stated that Regional Commissioners will address themselves on all matters to the R.C. & M.G. Section. In this connection I have frequently been informed that the form of address used should be "R.C. & M.G. Section - Attention Legal (or other) Sub-Commission" which in my opinion in no way infers that Legal (or other) Sub-Commission is a part of R.C. & M.G. Section.

I never disputed the fact that C.L.O., H.Q., A.C.C. can

File
Confidential

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GAI/gai

584

ACC/102/L

27 Jun 44

SUBJECT: British Merchant Seamen.

TO : H.Q.I.C. Western Italy, Navy House Naples (Attn: Lieut. Commander Stanley Price).

Ref conversation Col. Upjohn-Lieut. Commander Stanley Price on 14 Jun I enclose copy letter from Region 6 dated 13 Jun and my reply thereto for your information and such action if any as you may deem appropriate.

G. R. HARRIS, Colonel
Chief Legal Officer.

EB

CONFIDENTIAL

(57A)

THE ITALIAN GOVERNMENT
ALLIED COMBAT COMMISSION
ITALY HQ - COMMISSION
APR 654

GIV/PA

100/4042/L

25 June 1944

SUBJECT: British Merchant Seamen

TO: Regional Commissioner, Region 6.

1. Ref your 1/1944 dated 13 June 1944. -56A

2. I have discussed your letter with a representative of M.O.I.C. Eastern Italy and he is taking the matter up with higher authority.

3. This matter has also been very fully discussed by the writer from time to time with interested parties and I enclose a copy of a letter dated 4 April 1944 and appendix thereto which may be of interest to you.

4. The real difficulty is the reluctance of H.M. Government to initiate at this juncture any legislation which appears to give greater powers over merchant seamen by masters or Naval Courts and thereby irritate some powerful unions. Thus the suggestions in para 2 and 6 of your letter, useful though they are, would, I fear, meet with scant success at the hands of the Foreign Office.

5. With regard to para. 7 it is pointed out that Allied Military Courts cannot be established in Sardinia as the decree permitting this is limited to areas hostile to the Allied Forces etc. and in any event I agree with your views as to its undesirability and impracticability. See generally on your paras 7 & 8, para 5 of App. to my a/m letter.

6. The attitude of masters and men indicated in para 3 of your letter is regrettable. The real answer is that if the master will carry on the accused to the next port where a Court is available the necessary evidence is nearly always available amongst the other members of the crew and the case can be tried expeditiously there.

7. In reference to para 10 of your letter the Staff Officer of the V.P. Adm asks me to reply as follows:

"With reference to the last paragraph of your letter the relative responsibilities of Adm, Econ., & RC & MD Secs are quite clearly laid down in paras 5, 7 & 8 of Exec. Mem. O.D. of 31 Jan (Page 5 of Part 1 the new hand-book). You will appreciate therefore that far from Adm & Econ Secs being under MD & RC the latter is the channel for passing on to Regions instructions implementing the policies formulated by Adm & Econ Secs, just as the CC a formation is the proper person to issue orders based on instructions he receives, to his subordinates.

G. R. URQUHART, Colonel,
Chief Legal Officer.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 5

13th June 1944.

To : Headquarters, Allied Control Commission (Rear)
Legal Sub-Commission.

Subject : British Mercantile Marine.

Reference : L/1024.

Reference your ACC/4042/L dated 3rd June 1944.

1. I have been informed that there is, in fact, a Naval Court functioning in Algiers which has power to enforce the relative provisions of the Merchant Shipping Act. I am awaiting confirmation of this. It is much more difficult to transfer personnel from here to Malta and Gibraltar than to Algiers. Sailings to the latter port are frequent and to the former spasmodic.

2. It now appears that the matter is even more difficult than was at first supposed. The Ministry of War Transport representative in Cagliari has been informed by his Headquarters in Algiers that the Naval Court there will not accept documentary evidence such as certified excerpts from ships logs etc. The Courts insist on parole evidence. This means that unless offenders are landed at Algiers (or at other ports where they can be tried) from the ships they were sailing in when their offences were committed, they are likely to go unpunished for lack of evidence.

3. There is, furthermore, a strong tendency for Masters of British ships to unload trouble/some members of their crews at the first available port irrespective of whether they can be tried there or not. Several instances of this have occurred at Cagliari recently. In one case members of the crew refused to sail if a seaman charged with theft was to be allowed to remain on board. In another Master refused to accept further responsibility for

the relative provisions of the law. It is much more difficult to obtain confirmation of this. It is much more difficult than to transfer personnel from here to Malta and Gibraltar than to Algiers. Sailings to the latter port are frequent and to the former sporadic.

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There is, furthermore, a strong tendency in Masters of British Ships to unload trouble/some members of their crews at the first available port irrespective of whether they can be tried there or not. Several instances of this have occurred at Cagliari recently. In one case members of the crew refused to sail if a seaman charged with theft was to be allowed to remain on board. In another Master refused to accept further responsibility for insubordinate member of his ship's company. It should be borne in mind that under war conditions no proper law exist in merchant ships for the confinement of seamen to arrest.

What happens in such cases at Cagliari is that arrested seamen who are disarmed by their ships are lodged in the U.S. Military Police Stockade in the town until such time as a ship can be found to convey them to Algiers or some other port for possible trial. If they are transferred to Algiers they join the pool of Merchant Seamen awaiting employment there and in the event of the Naval Court being unable to deal with them for lack of evidence, they simply start life afresh on other ships and their offences are apparently forgotten about. Failure to punish these offences naturally encourages their commission and there are signs that they are on the increase.

/Continued..

6. All this is obviously extremely unsatisfactory. Offences committed aboard ship are not, of course, the concern of A.C.C. but we are interested in offences committed ashore in Italian Territory. The real answer to the problem of dealing with offences (whether committed afloat or ashore) for which a fine is the appropriate penalty, seems to me to be to increase the powers of Masters in this respect. I am informed that at present the powers of Masters of British Ships are limited to imposing fines of 10 shillings for first offences and something like one pound for subsequent offences. Such paltry fines have no deterrent value with rates of pay at their present level. It is believed that American Masters have corresponding powers up to 500 dollars. If powers of British Masters could be increased correspondingly, it is considered that the problem would be half-way to solution.

7. As regards more serious offences, standing the inability of Naval Courts to accept documentary evidence, it would appear that nothing can be done at places like Cagliari to solve the problem short of establishing military courts. My own view is that this is not desirable and, in view of shortage of personnel, probably not practicable. I have little doubt that you will share this view.

8. Even if Military Courts were to be established in Cagliari there would remain the difficulty of dealing with men sentenced to detention. There are no custodial facilities on this island. The only available means of moving personnel would be by Italian Cruiser to Naples and it is not known whether custodial facilities exist in Italy. Furthermore it would be necessary to provide Allied Naval or Military guards for prisoners in transit and this would no doubt present great difficulties.

9. In the whole circumstances, as explained above no adequate solution presents itself apart from the issuance of amended regulations by the Board of Trade, the Ministry of War Transport or whatever is the competent authority. It will be seen that the problem is a very thorny one and it is felt that R.Q., A.C.C. should be put in possession of the facts in order that the necessary recommendations may be made to the proper authorities.

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9. In the whole circumstances, as explained above no adequate solution presents itself apart from the issuance of amended regulations by the Board of Trade, the Ministry of Air Transport or whatever is the competent authority. It will be seen that the problem is a very thorny one and it is felt that H.Q., A.C.C., should be put in possession of the facts in order that the necessary recommendations may be made to the proper authorities.

10. In regards the last paragraph of your letter under reference, this is not understated. There may have been some change of organization at H.Q., A.C.C. of which this Headquarters has not been informed but our present information is that both the Economic and Administrative Sections come under the H.Q. and H.C. Section for the purpose of matters concerning Regions and Army A.M.Gs and not as a channel of correspondence on these matters. It has frequently been stated by H.Q., A.C.C. that Regional correspondence should be channelled through the H.C. and H.Q. Section. This letter as an exceptional case is addressed direct to your Sub-Commission for various reasons.

as placed
to Technical
routes correspondence

McCam Pugadia

H. GALT,
Brigadier,
Regional Commissioner.

MC/ajp

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 594

55A
/rip.
3 June 1944.

ACC/1042/L.

SUBJECT : British Mercantile Marine.

TO : Regional Legal Officer (JEM: Regional Commissioner), Region VI.

1. Reference your He/1024 dated 29 May 1944.
2. I am of opinion that you would be better advised to have the seamen sent to Malta or Gibraltar as they can then be tried under the provisions of the Merchant Shipping Act.
3. Please note that Legal Sub-Commission should not be addressed as part of the HQ & MC Section as it forms part of the Administrative Section.

GERALD R. USJCH, 78
Colonel,
Chief Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 6

29th May 1944.

To : Headquarters, Allied Control Commission,
(R.C. and M.G. Section)
Legal Sub-Commission.

Subject : British Mercantile Marine.

Reference : HQ/1024.

1. Attached Report dated 25th May 1944 by Provincial Commissioner, Cagliari is forwarded for information.
2. This matter is covered by Art 6 of the new consolidated Instructions for Allied Military Courts.
3. The position in Sardinia is that N.O.I.C. Cagliari Port - which is the only Port where trouble has arisen - is a U.S. Officer who has, it is presumed, no jurisdiction over British Merchant Seamen. British N.O.I.C. at Maddalena is too far away and inaccessible to be applied to. There is no other Naval authority on the Island.

4. Mr. Thomas, the local representative of the Ministry of War Transport, informs me, that there are at present 7 British Merchant Seamen in the U.S. Military Stockade in Cagliari awaiting trial on charges of deserting their ships. I have advised him that these men should be transferred by first available ship to Algiers and handed over to the British Naval Authorities there.

5. Although it is thought that the above course is the right one the matter is reported to you in accordance with Art. 6, 1 (b) of Consolidated Instructions for Allied Military Courts.

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4042

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5. Although it is thought that the above course is the right one the matter is reported to you in accordance with Art. 6, 1 (b) of Consolidated Instructions for Allied Military Courts.

6. I take it that you would not advise the setting up of an ad hoc Summary Military Court here?

TO	SUB COMMISSIONER	Regional Commissioner.
FROM		
CC		
Chief Counsel		
CJO		
Italian Section		
CL RKS		

RGSA/ajp

R. G. S. Alexander
R.G.S. ALEXANDER.
Major.
Regional Legal Officer.

HEADQUARTERS
ALLIED CONTROL COMMISSION
SECTION 5

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For the Regional Commissioner.

A. G. S. Alexander

R. G. S. ALEXANDER,

Major,

Regional Legal Officer.

R3384/a.js.

ALLIED CONTROL COMMISSION FOR SARDINIA
HEADQUARTERS, CAGLIARI PROVINCE.

25 May 1944

TO : THE REGIONAL COMMISSIONER.

SUBJECT: BRITISH MERCANTILE MARINE.

The Garrison Police from time to time have a fair amount of trouble with men of this service. Recently there was a scene in a public bar where three mariners were involved. They were very drunk and suddenly one alleged he had lost his wallet. The three then insisted on closing the doors of the bar and searching everybody there. One man had a revolver. Eventually the Garrison Police arrived and tried to get the men to return to their ship. The men refused and kept on calling the Police and all Americans, by most abusive terms. Eventually the Police had to take strong action and lock them up for the night.

Last night a semi riot broke out on one of the Merchant ships in port and the Garrison Police were called in and collected three Merchant Marines who were quite out of hand.

The Masters of the ships have very little control because they are so short handed that they dare not get rid of them, and the only disciplinary action they can take is to "log them" and fine them, but as the pay these men are receiving is so large, and as they have very little opportunity of spending the money, they just laugh at the punishment awarded. It is only when the ship returns to a home port that real disciplinary action can be taken.

I have discussed this matter with Mr. Thomas of the Ministry of War Transport, and he would welcome any assistance we could give or any suggestion as to how men could be dealt with effectively.

It is, of course, a question of high policy as the men are protected by very strong Unions.

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The Masters of the ships have very little control because they are so short handed that they dare not get rid of them, and the only disciplinary action they can take is to "log them" and fine them, but as the pay these men are receiving is so large, and as they have very little opportunity of spending the money, they just laugh at the punishment awarded. It is only when the ship returns to a home port that real disciplinary action can be taken.

I have discussed this matter with Mr. Thomas of the Ministry of War Transport, and he would welcome any assistance we could give or any suggestion as to how men could be dealt with effectively.

It is, of course, a question of high policy as the men are protected by very strong Unions.

It is thought, perhaps, the Commissioner may be able to discuss the matter when next at A.C.C., H.Q.

E. POWELL PRICE,
MAJOR, R.W.F.
PROVINCIAL COMMISSIONER.

AC 250.1 BFGAG

14 May 1944

Subject: Persons Subject to Military Law.

To : All Unit Commanders, Peninsular Base Section.

HEADQUARTERS

PENINSULAR BASE SECTION

A. P. O. 732

1. Under Article of War 2, "all persons accompanying or serving with the Armies of the United States in the field" are subject to military law and may be tried by court-martial.

2. Under international law, when enemy territory is occupied by an invading power, it is the duty of the invading power to establish and maintain a government for the control and protection of the civilian population. The native civil population is subject to military law, but it is customarily tried not by courts-martial but by provost courts or military tribunals set up and operated by the invading powers.

3. In Italy, therefore, not only the military forces, but all persons accompanying or serving with the Armies of the United States will be tried by court-martial for offenses properly brought before such courts. This will include military personnel, U.S.O. and Red Cross personnel, merchant seamen, loose-lord personnel, and all others serving directly with or under the Armies in the field, but will exclude naval, coast-guard, and diplomatic personnel of the United States.

4. Native inhabitants, whether citizens of Italy or citizens of other countries, will be tried for their offenses by the courts established by Allied Military Government. Which is the agency established by the invading powers for the government and control of the occupied territory. All offenses committed by native inhabitants will be vigorously prosecuted, and unit commanders are directed to lend every reasonable assistance to the Allied Military Government in the apprehension, prosecution and confinement of such offenders.

5. The foregoing will be brought to the attention of all military personnel of this command and all civilians who are in the PBC territory.

/s/ Arthur R. Wilson
ARTHUR R. WILSON
Major General, U.S. Army
Commanding.

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the crimes of the United States in the past and may be tried by court-martial.

2. Under international law, when enemy territory is occupied by an invading power, it is the duty of the invading power to establish and maintain a government for the control and protection of the civilian population. The native civil population is subject to military law, but it is customarily tried not by courts-martial but by provost courts or military tribunals set up and operated by the invading powers.

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5. The foregoing will be brought to the attention of all military personnel of this command and all civilians who are in the IAB territory.

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1st Ind

EMC/afp

REAR HEADQUARTERS, ALLIED CONTROL COMMISSION, APO 394, 15 May 1944

TO: All Heads, Sections, Sub-Commissions, and Departments, this HQ.

To be brought to the attention of all concerned in your command.

By command of Lieut General MASON MASON (LMD):

E. J. Chertea
E. J. CHERTEA
WFOC, USA
Asst Adjutant

DISTRIBUTION:
"A"

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

11 April, 1944.

REFERENCE : ACC/4042/L.
SUBJECT : British Merchant Seamen.
TO : Executive Commissioner.

1. Referring to the conversation between Colonel Upjohn and Colonel Shipp yesterday on the "Madagascar Agreement" I have looked up the matter in our files and according to Colonel Rowe, then D.C.L.O., who had been in Madagascar the arrangement reached in Madagascar was merely that Merchant Seamen should be tried in A.M.G. Courts.

2. In this country we have assumed such jurisdiction and the sole difficulty that arises, which was also the difficulty in Madagascar, is with regard to the imprisonment of offenders.

3. It appears, therefore, that the arrangements made at the conference on the 17th March 1944 - see my ACC/4042/L dated 4 April 1944 are far more complete and go far further to meet the problem than was the case under the "Madagascar Agreement" and I shall be glad if the Executive Commissioner may be informed of this fact.

GERALD R. UPJOHN,
Colonel,
Chief Legal Officer.

GRU/wov.

52

71

RESTRICTED

NEAR NEAR NEAR
ALLIED CONTROL COMMISSION
Legal Subcommittee
AIO 594

CAU/gmf

ACC/4042/L

4 April 1944

SUBJECT: Merchant Seamen.

TO : Mr. Makins - C/O Mr. Gaccia
 Mr. Gaccia - HQ ACC
 Mr. Dean - British E.O. C/O Mr. Gaccia
 Col. Willmer KC - Region 4 ACC
 Mr. Hutcheon - British E.O.
 Mr. Fogarty - PMT (Navy House)
 Mr. Ioker - PMT (Naples)
 Major - HQ MAI (A)
 Major Rowbottom - HQ MAI (AMM)

1. I refer to the meeting (at which all of the above addressees were present), convened by me at the Provincia Building, Naples on 17 March to discuss problems that arise in connection with the trial of Merchant Seamen for offences committed on shore.

2. When draft minutes of the meeting were prepared it was found that one or two small points (e.g. as to the exact status of dominion personnel) remained to be cleared up and Mr. Dean asked for and has received further instructions from the Foreign Office on the matter.

3. In these circumstances I do not propose to circulate minutes but to circulate as an Appendix to this letter the conclusions reached by the meeting, expanded in the light of the above mentioned instructions.

4. If you have any queries hereon or desire any amendments to be made, please let me know as soon as possible.

G. R. Upjohn

G. R. UPJOHN, Colonel
Chief Legal Officer.

Mr. Dean
 Col. Wilmer KC
 Mr. Hutchinson
 Mr. Hogarth
 Mr. Loker
 Major
 Major Rowbottom

- British F.O. c/o Mr. Caccia
 - Region 4 AGC
 - British F.O.
 - WPT (New House)
 - WPT (Naples)
 - HQ AAT (A)
 - HQ AAT (ARM)

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G. R. Upjohn

G. R. UPJOHN, Colonel
 Chief Legal Officer.

Copy to: Administrative V.P.
 Executive Commissioner (M.D. the substance of Agor. will be included in Allied Military Courts handbook now in course of preparation).

RESTRICTED

R E S T R I C T E D

APPENDIX TO LETTER AGO/4042/L
DATED 28 March 1944

4 April 1944

MERCHANT SEAMEN1. Ambit of Discussion.

(a) The meeting was concerned solely with offences committed on shore in Sicily or Italy by persons who were the master or members of the crew of merchant ships.

(b) The meeting did not consider the case of persons who were the master or members of the crew of U.S. merchant ships who, it was understood, could be tried by U.S. Courts Martial.

(c) Furthermore, the meeting did not consider special cases e.g. of a seaman committing a crime of sabotage or other war crime which would deserve special consideration but only ordinary civil crimes e.g. drunkenness, rape, wounding, murder, etc.

2. Extension of Legislation.

In view of the very few serious cases that had arisen either in Italy or Sicily it was agreed that no case could be made for inviting the appropriate Government Department to ask Parliament to extend any existing legislation or regulations on the subject and the meeting proceeded to consider the best machinery to be adopted within the present legislative framework.

3. Trial by Naval Courts under Defence Reg. 47 AAB.

(a) Procedure under this regulation will always be carried out where it is applicable and in this connection it should be noted:

(i) Persons who may be tried hereunder extend to all British and British protected personnel including Dominion personnel who are serving on a U.K. ship.

(ii) Persons serving on a Dominion ship may not be tried hereunder even if they are U.K. personnel.

(iii) This regulation is equally applicable in occupied or unoccupied territory.

4. Dominion Regulations.

The Dominions have no regulations corresponding to 47 AAB. Present

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- (ii) Persons serving on a Dominion ship may not be tried hereunder even if they are U.K. personnel.
- (iii) This regulation is equally applicable in occupied or unoccupied territory.

4. Dominion Regulations.

The Dominions have no regulations corresponding to 47 A.B. Present policy of the Foreign Office is against making any extension to 47 A.B in this respect even if it were legally possible.

5. Trial in other cases of British Merchant Seamen.

In the following cases:

- (i) Where British or British protected personnel (including Dominion personnel) serving on a U.K. ship are involved in crimes too serious to be tried under 47 A.B.
- (ii) Where British or British protected personnel (including Dominion personnel) serving on a ship other than a U.K. ship are involved in any crimes, the procedure set out below will be adopted:
- (a) Investigation by a Naval Court followed by a trial in Malta, Gibraltar or the U.K. See Secs. 687, 665(1)(c) & 689 of Merchant Shipping Act, 1895.

R E S T R I C T E D

R E S T R I C T E D

(b) The procedure in (a) above involves procuring the attendance of witnesses at the place of trial and if in any case this proves impossible the following procedure will be followed.

(1) In Occupied Territory.

If the crime is committed in occupied territory, the authority concerned will ask the Chief Legal Officer HQ ACC to convene an Allied Military Court for trial of the accused. HQ ACC will ask the Military Governor to authorize the detention of the accused if found guilty in an Army prison in occupied territory and if such authority is forthcoming the trial will proceed and the accused if found guilty will serve his sentence in an Army prison in occupied territory until the termination of occupation. If occupation ceases before the accused has finished serving his sentence and it proves impracticable to continue his imprisonment in an Army camp, instructions will be sought from AFHQ as to his release or continued detention in an Italian jail. This is an admittedly cumbersome procedure and only to be resorted to if trial under (a) above is out of the question. If the aforesaid consent of the Military Governor is not forthcoming, the procedure will be as in the next sub-paragraph.

(2) In Unoccupied Territory.

Where the crime is committed in unoccupied territory (e.g. Bari, Brindisi), as it is politically undesirable at the present time to imprison the personnel mentioned at the beginning of this para to an Italian jail, then if trial under sub-para (a) is out of the question it will be necessary to ask AFHQ for special instructions if and when any such case arises, as there appears no other method of trying the case except in the Italian Courts.

6. Trial of Foreign Merchant Seamen.

Where the accused merchant seaman is a national of one of the United Nations or a neutral nation, he will be tried in the appropriate Italian Court or if none are functioning in the locality, in an Allied Military Court, and in either event, if found guilty he will be imprisoned in an Italian jail. It was agreed that there was no objection to this on political grounds.

any camp, insubordinate, continued detention in an Italian jail. This is an admittedly cumbersome procedure and only to be resorted to if trial under (a) above is out of the question. If the aforesaid consent of the Military Governor is not forthcoming, the procedure will be as in the next sub-paragraph.

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Where the crime is committed in unoccupied territory (e.g. Bari, Brindisi), as it is politically undesirable at the present time to imprison the personnel mentioned at the beginning of this para to an Italian jail, then if trial under sub-para (a) is out of the question it will be necessary to ask I.M.G. for special instructions if and when any such case arises, as there appears no other method of trying the case except in the Italian Courts.

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Where the accused merchant seaman is a national of one of the United Nations or a neutral nation, he will be tried in the appropriate Italian Court or if none are functioning in the locality, in an Allied Military Court, and in either event, if found guilty he will be imprisoned in an Italian jail. It was agreed that there was no objection to this on political grounds.

R E S T R I C T E D

CONF.OUTWARD TELEGRAM

To: - Foreign Office

CyberImportant

Telegram No. 26 March 20th '44.

Following for Stewart from Dean:

Please find out from Backett and Honour (M W T) answers to

following :-

- (1) If a British (non-Dominion) merchant seaman commits on shore a crime triable on indictment only in (a) ALLIED area (e.g. Naples), or (b) area handed back to Italian administration (e.g. Trieste), can he be arrested by Provost Marshal and sent with witnesses to Malta or other British territory for trial under Merchant Shipping Act and Defence Regulations? If answer to (b) is "no", what can be done, since no ALLIED courts exist and trial in Italian court is out of question for political reasons?
- (2) Is it correct that a Dominion subject serving on a U K ship can be tried under Defence Regulation 47 AAB, but not repeat not a U K subject serving on a Dominion ship? Have any of the Dominions passed anything similar to D R 47 AAB? Could D R 47 AAB be easily extended to cover offences committed by British (including Dominion) crews of Dominion ships?
- (3) Is it correct that in no respect no circumstances can a seaman of Allied nationality be tried under D R 47 AAB or arrested under D R 43 AC, even if he is serving on a U K ship?

2. There have been a few odd cases in Italy, which makes it desirable to have replies to the above questions, which please send as soon as possible.

48
C O P Y

Following for Dean from Stewart:

If such an offence is committed in either territory - by any seaman who was then or within three months before, master or member of crew of a British (non-Dominion) ship and the offence was against person or property, he can be arrested by Provost Marshal and sent under Merchant Shipping Act (Section 687) by a Naval Court ((See Section 683 (1) (G))) or a Consul (See Section 689 for trial to U.K. or British Possession provided that the offence would be within Admiralty jurisdiction if committed on the High Seas. In the U.K. jurisdiction of court exercising Admiralty jurisdiction (i.e., Central Criminal Court) would cover practically all offences of this kind. In the Colonies jurisdiction of Admiralty Court may be more limited but would certainly cover all serious offences of this kind. It would be as well to make certain that there is a court with the necessary jurisdiction in the particular Colony.

2. (a) A Dominion subject serving on a U.K. ship can repeat can be tried under D.R. 47 AAB.

(b) A U.K. subject serving on a Dominion ship can not repeat not be tried under this regulation.

(c) No Dominion has passed anything similar to D.R. 47 AAB.

(d) This regulation could not repeat not be extended to cover offences committed by crews of Dominion ships. It is very doubtful whether it would be possible under Emergency Powers Act and in any case the policy is strongly against it.

M.W.T. point out in connection with (b), (c) and (d) above that for purposes of defence regulations a Dominion ship is a ship

-2-

registered in the Dominions "not being a ship for the time being placed at the disposal of or chartered by or on behalf of H.M. Government in the U.K." Possibly ships in question are not Dominion ships in this sense.

3. An Allied seaman belonging to a U.K. ship can be arrested under D.R. 48 C for an offence against Merchant Shipping Act or offence against person or property. He can be tried by Naval Court for former offence ((see in particular Sections 486 and 483 (1) (H) of Merchant Shipping Act)) and sent for trial for the latter offence in circumstances set out in (1) of this telegram.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/gmf

46

ACC/4042/L

4 April
~~28 March~~ 1944.

SUBJECT: Discipline of British Merchant Seamen.

TO : AFHQ MGS (Attention Lt. Col. Fairman).

1. I refer to your letter dated 25 Jan 44 (no ref) on the a/m subject.
2. The matter has been fully considered by HQ ACC and I enclose for your information copy of a letter and appendix written by me today, which relate to a meeting of interested parties on 17 March 44.
3. Dealing specifically with para 2 of your letter:
 - (1) Trials at Palermo, Licata and Empodocole can be dealt with under Reg. 47 MAB if applicable, otherwise under para 5(a) and if this is impracticable, under para 5(b)(2) of Appendix to my letter.
 - (2) Para 10 on page 5 of meeting on 29 Dec. 1943: See paras 2, 4 & 6 of App. to my letter.
4. With regard to para 5 (b)(2) of App. to my letter, this HQ regrets having no other solution to offer. It is only fair to state, however, that it is believed that no such case has yet arisen in practice. Your advance instructions thereon would be appreciated.

G. R. UPJOHN, Colonel
Chief Legal Officer.

REAR ADMIRALTY
ALLIED CONTROL COMMISSION
Legal Subcommittee
APC 294

CHU/CMF

100/4042/L

20 March 1944.

Dear Dean:

I enclose draft minutes which do not now claim to be an account of what took place but a begin for you to work on. The following points arise:

(1) With regard to offences too serious to be tried under 47 AB you will remember we wanted to trace out what exactly was the authority which empowered Courts in Malta or U.K. to try cases, even against British subjects, where there had been offences on land. I have no books on the subject but from some notes in my file I think you may derive comfort from Secs. 385 and 389 of the Merchant Shipping Act, 1894.

(2) Assuming some jurisdiction to exist under the Merchant Shipping Act that is the extent of such jurisdiction as regards ships and persons. Does it extend to all British subjects and British protected persons or only to persons born in the British Isles? Does it extend to all ships other than Dominion ships or only to ships registered in U.K.? What is the position of dominion and colonial seamen thereunder? Para 3(a) of the draft minutes may want expansion.

(3) Referring to the wording under 47 AB(3) is any member of the British Commonwealth included on a ship of any nationality except a Dominion ship? *Endy*

(4) I am going to be in Naples on Friday afternoon. Please let me know (before 60) if you would like to discuss the *last* & any other points.

(5) You are quoted as saying that the Allied Forces are by virtue of occupation entitled to take custody of German property in occupied territory although it is in use and no suggestion is made that it is being put to improper use.

Surely this goes much too far. An occupying force cannot under International Law exercise the rights that a belligerent does with regard to enemy property situated within the boundaries of its own jurisdiction, that being a matter of municipal law, but only the rights of an occupant in accordance with arts 46 of the Hague Convention.

(1) With regard to offences too serious to be tried under L7, AR you will remember we wanted to trace out what exactly was the authority which empowered Courts in Malta or U.K. to try cases, even against British subjects, where there had been offences on land. I have no basis on the subject but from some notes in my file I think you may derive comfort from Secs. 985 and 669 of the Merchant Shipping Act, 1894.

(2) Assuming some jurisdiction to exist under the Merchant Shipping Act what is the extent of such jurisdiction as regards ships and persons. Does it extend to all British subjects and British protected persons or only to persons born in the British Isles? Does it extend to all ships other than Dominion ships or only to ships registered in U.K.? What is the position of dominion and colonial seamen thereunder? Part 3(a) of the draft minutes may want expansion.

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G. R. UPTON
Colonel
Chief Legal Officer.

100/4042/L

44
CNU/smf

Draft Minutes of Meeting held at HQ ACC Friday, 17 March 44 - 1430 Hrs.

Present: Col. Upjohn XO
Col. Willmer XO
Mr. Dean
Mr. Hutchison
Mr. Hoyerth
Mr. Loker
Major
Major Newbottam
and later Mr. P. Watkins
Mr. R. Gacoin

HQ ACC
Region 4 ACC
British P.O.
HVT
MOT (Naples)
HQ MAL (A)
HQ MAL (ARM)

1. Col. Upjohn explained that he had convened the conference to take advantage of Mr. Dean's temporary presence in Naples for the discussion of two outstanding matters with regard to offences committed by British Merchant Seamen ashore in Italy, namely (a) the question of the prosecution of serious cases which could not be dealt with under Defence Reg. 182AB & (b) the question of trial of non-British subjects serving in British ships - para 10 of the Minutes of a meeting held on 29 Dec. 1942 at AFHQ was referred to.

2. With regard to offences committed by British subjects or British protected persons too serious to be dealt with under 47 AB it was reported that no such cases had arisen at Naples in the 4 1/2 months of our occupation there, though one or two had arisen at Bari. It was therefore agreed that no case could be made out for asking Parliament to enact any statute or to supplement in any way existing regulations and resort must be had to existing procedures which were as follows:

- (a) Investigation by a Naval Court followed by a trial in Malta or the U.K. which involved the difficulty of sending witnesses to the place of trial.
- (b) Trial by an AMB Court if the offence was committed in occupied territory. Normally offenders tried in AMB Courts were confined to Italian jails but it was agreed that such procedure would be politically very undesirable in the case of British seamen. It was pointed out by Col. Willmer that the Military Governor could by order validly direct duly sentenced British seamen to be incarcerated in Army prisons or detention camps and it was confirmed that the Army authorities would not object to such procedure and would be prepared to receive such seamen. The difficulty which arose however was that as the area of occupied territory moved northwards the prisoners would also have to be moved so as to be retained in occupied territory and finally might have to be released long before serving their term if and when no territory was any longer occupied. It was agreed that this was administratively cumbersome and unsatisfactory.

1. Col. Oppen explained that he had convened the conference to take advantage of Mr. Dean's temporary presence in Naples for the discussion of two outstanding matters with regard to offences committed by British Merchant Seamen ashore in Italy, namely (a) the question of the prosecution of serious cases which could not be dealt with under Defence Reg. 17/AB & (b) the question of trial of non-British subjects serving in British ships - pure is of the minutes of a meeting held on 29 Dec. 1943 at ABHQ was referred to.

2. With regard to offences committed by British subjects or British protected persons too serious to be dealt with under 17 AB it was reported that no such cases had arisen at Naples in the 46 months of our occupation there, though one or two had arisen at Bari. It was therefore agreed that no case could be made out for asking Parliament to enact any statute or to supplement in any way existing regulations and report must be laid to existing procedures which were as follows:

(a) Investigation by a Naval Court followed by a trial in Malta or the U.K. which involved the difficulty of sending witnesses to the place of trial.

(b) Trial by an AM Court if the offence was committed in occupied territory. Normally offenders tried in AM Courts were confined to Italian jails but it was agreed that such procedure would be politically very undesirable in the case of British seamen. It was pointed out by Col. Oppen that the Military Governor could by order validly direct only sentenced British seamen to be incarcerated in Army prisons or detention camps and it was confirmed that the Army authorities could not object to such procedure and would be prepared to receive such seamen. The difficulty which arose however was that as the area of occupied territory moved northwards the prisoners would also have to be moved so as to be retained in occupied territory and finally might have to be released long before serving their term if and when no territory was any longer occupied. It was agreed that this was administratively cumbersome and unsatisfactory.

It was finally agreed that in respect of British seamen accused of offences too serious to be tried under 17 AB the procedure of investigation by a Naval Court and subsequent trial in Malta or the U.K. must be followed. However, if in any particular case witnesses could not be made available in Malta or the U.K. and the offence was committed in occupied territory then as a last resort the Military Governor would be asked to authorize the detention of the accused if found guilty in an Army prison and if this authorization was forthcoming the accused would be tried in an AM Court and would serve his sentence until the termination of occupation. If the Naval authorities decided in any particular case that the Allied Central Commission should try British seamen in an AM Court they would notify the Chief Legal Officer HQ ACC direct.

3. With regard to the trial of persons not covered by 17 AB, it was stated by Mr. Dean that 17 AB could not be extended to a person not a British

(43)
 subject or British protected person or (probably) to Dominion ships without an Act of Parliament and it was agreed that no case could be made out for suggesting that any such act should be passed at present. It was agreed that in occupied territory there was however no objection to trying all such cases before an Allied Military Court except N.F. German who could be tried by a U.S. Court Martial, but the difficulty again arose with regard to imprisonment.

Mr. McKins stated that he saw no objection to the imprisonment of members of the United Nations who might happen to be serving on British ships being imprisoned in Italian jails but there was every objection to members of the British Commonwealth doing so.

It was ultimately agreed:

(a) Offences committed by any member of the British Commonwealth (where there was no jurisdiction to try them in Naval Courts in Malta or U.K.) would in occupied territory be tried in Military Courts if the prior consent of the Military Governor to the serving of sentences in any prisons was obtained and these sentences served along as any territory remained occupied. In unoccupied territory no method of trying such persons appeared possible, it being out of the question to have them tried before Italian Courts.

(b) Neutral persons and members of the United Nations, other than British and Americans, would be handed over to the local Italian courts, both in occupied and non-occupied territory.

and these sentences served along as any territory remained occupied. In unoccupied territory no method of trying such persons appeared possible, it being out of the question to have them tried before Italian Courts.

(b) Neutral seamen and masters of the United Nations, other than British and Americans, would be handed over to the local Italian courts, both in occupied and non-occupied territory.

Ministry of War Transport.

Naval Courts Circular No. 4.

SUPPLEMENTARY NOTES ON THE PROCEEDINGS
OF NAVAL COURTS.

Issued by the Minister of War Transport with the approval of the Secretary of State for Foreign Affairs and the Lords Commissioners of the Admiralty.

1. **Summoning a Naval Court.**—Arrangements are being made for the appointment of persons with legal qualifications to Consular rank to be available in a number of places as members of Naval Courts. In all cases, therefore, before summoning a Court, the Summoning Officer should ascertain whether a legal officer with Consular rank will be available to act as a member of the Court. If so, that officer should be the Consular Officer appointed to be a member of the Court.

2. Regulation 48c of the Defence (General) Regulations, 1939 (see Appendix 1), provides for the arrest and detention by a provost marshal (in any foreign country where there is a provost marshal) of any person suspected of having committed an offence for which he can be dealt with by a Naval Court. The Regulation however requires the provost marshal forthwith to report the circumstances of the case to a person authorised in that behalf by the competent authority, who is then not only authorised to make a complaint to an Officer who has power to summon a Naval Court, but is bound forthwith to do so, and that Officer must forthwith inform the provost marshal either—

- (a) that he is taking all practicable steps to summon a Naval Court as soon as possible; or
 - (b) that he does not propose to summon such a court;
- and in the former case, he must forthwith take those steps.

The persons who have been authorised by the Minister of War Transport to be the persons to whom the provost marshal may report in accordance with the Regulation are specified in an instrument issued by the Minister of War Transport on the 30th September, 1943 (see Appendix II). In any case therefore which is reported to such a person by a provost marshal under the Regulation, a Naval Court may be summoned upon the complaint of that person, as well as on the complaint of any person on whose complaint a Naval Court may otherwise be summoned. In no case however may the person making the complaint himself act as the Summoning Officer.

It is to be noted that the powers conferred by the Regulation provide the necessary authority to those concerned under English law. It may be however that the Government of a particular foreign country may object to the exercise of the powers in that country. In practice, therefore, the extent to which the powers will be exercisable in any particular country will depend upon the attitude adopted by the Government of that country in regard to the exercise of the powers conferred by the Regulation. The same remarks apply to the exercise by Naval Courts of any jurisdiction conferred upon them by English law and in particular, to the exercise of jurisdiction in respect of offences against Regulation 47AAB (see paragraphs 3 to 5 of these Notes). If, in any case, some responsible foreign authority in a particular country should object to the exercise by

a Naval Court of its jurisdiction in that country, the objection should be reported forthwith by cable to the Foreign Office (or to the nearest British Consul if he has not already been informed) and all further proceedings in the case should be adjourned until further instructions are issued by the Foreign Office.

3. Discipline of seafaring persons in certain foreign countries.—Regulation 47AAB of the Defence (General) Regulations, 1939 (see Appendix I), makes it an offence against that Regulation for a British subject or British protected person, who is for the time being the master or a member of the crew of any ship, British or foreign (other than a Dominion ship), or whose occupation, though he is not for the time being so employed, is as master or member of the crew of such a ship (e.g. a distressed seaman, a member of a Manning Pool abroad), to do an act in a country to which the Regulation is applied by order of the Minister of War Transport, which, if done by him in England, could be punished by a Court of Summary Jurisdiction, exclusive of acts which would only constitute offences against Defence Regulations.

So far the Regulation has been applied to the countries or parts of countries specified in an Order of the Minister of War Transport dated the 30th September, 1943 (see Appendix III).

4. A Naval Court may be summoned to deal with offences against Regulation 47AAB and also with offences against Regulation 3 (see Appendix I) upon the complaint of a person authorised in that behalf by Regulation 48A which has been amended accordingly [see Appendix I for the amended Regulation which should be substituted for the Regulation as shewn in Appendix I to the Supplementary Notes on the Proceedings of Naval Courts (Naval Courts Circular No. 2)], as well as on the complaint of an authorised person to whom the circumstances may have been reported by a provost marshal in accordance with Regulation 48C (see paragraph 2 of these Notes). These Regulations are therefore to be included amongst the Regulations referred to in paragraph 1, subparagraph (c) of paragraph 2 and paragraph 4 of the Supplementary Notes on the Proceedings of Naval Courts (Naval Courts Circular No. 2).

The jurisdiction of Naval Courts is normally confined by virtue of Section 486 of the Merchant Shipping Act, 1894, to cases where British ships and the owners, masters and crews thereof are concerned. This jurisdiction was, as regards certain offences against the Defence (General) Regulations, 1939, extended by Regulation 48A to include persons who would not necessarily come within this class [see paragraph 3 of the Supplementary Notes on the Proceedings of Naval Courts (Naval Courts Circular No. 2)]. As a result of the amendments now made in Regulation 48A, the jurisdiction of Naval Courts has been further extended as regards offences against Regulations 3 and 47AAB, to include all persons to whom Regulation 47AAB applies (see paragraph 3 of these Notes).

Attention is drawn to certain modifications made by Regulation 104A as regards the construction of certain Regulations (amongst which is Regulation 3) with respect to allied powers and associated authorities (see Appendix I).

5. A Naval Court is the only Court competent to deal with an offence against Regulation 47AAB. It is to be remembered that, apart from this Regulation which makes them offences against the

Regulation, offences which, if committed in England, are punishable on summary conviction, do not, if committed abroad, necessarily constitute offences against English law. There are some forms of conduct, however (e.g. any offence against person or property by any master, seaman or apprentice who at the time when the offence was committed was or within three months previously had been employed in a British ship) which apart from the Regulation constitute offences against English law even when committed in a foreign country. Moreover, such cases, in which the acts complained of constitute an offence other than against the Regulation, may be punishable as such more severely by another Court with greater powers than those possessed by a Naval Court. The Court should, therefore, be careful to satisfy itself in every case that its powers of punishment [see paragraph 4 of the Supplementary Notes on the Proceedings of Naval Courts (Naval Courts Circular No. 2)] are adequate having regard to the gravity of the offence. If, in any case, the Court considers its powers inadequate, and the offence is one which constitutes an offence against English law apart from the Regulation though committed in a foreign country, and that offence is punishable more severely by another Court with wider powers, it would be better for the Court to send the offender for trial to the United Kingdom under paragraph (g) of Section 483 (1) of the Merchant Shipping Act, 1894, if there are no insurmountable difficulties in sending the witnesses to the United Kingdom.

It is to be noted that the Regulation does not apply to an offence which, when committed in England, is punishable only on indictment, e.g. homicide, buggery, rape, housebreaking, arson, forgery when the amount involved exceeds £20, robbery and assaults with intent to rob, sedition, etc., and attempts to commit such offences.

6. Forms.—The offences referred to in Regulation 47AAB are offences which, when committed in England, are punishable on summary conviction. When referring in any summons or other document to an alleged offence against this Regulation, some reference should also be made to the particular offence under English law which the alleged offence constitutes [see paragraph 5 of the Notes on the Proceedings of Naval Courts (Naval Courts Circular No. 1)]. Subject to this, the Forms now in use in connection with the proceedings of Naval Courts are readily adapted to cases of offences against Regulations 3 and 47AAB, and the only amendment which it would seem desirable to refer to specifically is in the Forms shown in paragraph 2 of Appendix IV to the Supplementary Notes on the Proceedings of Naval Courts (Naval Courts Circular No. 2). In these Forms the following paragraph should be used in place of C:—

"a (British Subject) (British protected person) (employed as (master) (member of the crew) of the (British, Dutch or as the case may be) ship registered at [whose occupation is as master or member of the crew of a ship other than a Dominion ship])."

In the paragraph following C, the offence should be stated in the words of the relevant Regulation (Regulation 3 or Regulation 47AAB) and in the case of an offence against Regulation 47AAB, the complaint should be stated as far as possible in the words of the relevant English statute constituting the offence when committed in England.

The Forms are also readily adapted to cases where the complaint is made by a person authorised in that behalf by Regulation 48C.

APPENDIX 1.

REGULATIONS AND EXTRACTS FROM REGULATIONS OF THE DEFENCE
(GENERAL) REGULATIONS, 1939.

General
provisions
for
safeguarding
information.

3.—(1) Subject to the provisions of this paragraph, no person shall—

- (1) obtain,
- (2) record, communicate to any other person or publish, or
- (3) have in his possession any document containing, or other record whatsoever of,

any information being, or purporting to be, information with respect to any of the following matters, that is to say:—

(a) the number, description, armament, equipment, disposition, movement or condition of any of His Majesty's forces, vessels or aircraft;

(b) any operations or projected operations of any of His Majesty's forces, vessels or aircraft;

(c) any measures for the defence or fortification of any place on behalf of His Majesty;

(d) the number, description or location of any prisoners of war;

(e) munitions of war;

(f) any other matter whatsoever information as to which would or might be directly or indirectly useful to an enemy.

Provided that this paragraph shall not apply to anything done by any servant of His Majesty or constable acting in the course of his duty as such, or to anything done for the purpose of the performance of a contract with His Majesty; and a person shall not be guilty of a contravention of this paragraph in respect of anything done by him if he proves that it was done under any authority or permission granted by or on behalf of His Majesty, or that the doing of that thing was not likely to prejudice the defence of the realm or the efficient prosecution of the war.

(2) If either House of Parliament in pursuance of a resolution passed by that House holds a secret session, it shall not be lawful for any person in any newspaper, periodical, circular or other publication, or in any public speech, to publish any report of, or to purport to describe the proceedings at, that session, except such report or description thereof as may be officially communicated through the Press and Censorship Bureau.

[S.R. & O. 1939 No. 927; as amended by S.R. & O. 1939 No. 1762 and S.R. & O. 1940 No. 384.]

Discipline of
seafaring
persons in
certain
foreign
countries.

47A.—(1) If, in any foreign country or part of a foreign country to which this Regulation is applied by order of the competent authority, any person to whom this Regulation applies commits either ashore or afloat an offence which, when committed in England, is punishable on summary conviction otherwise than as an offence against Defence Regulations, he shall be guilty of an offence against this Regulation.

(2) Notwithstanding anything in Regulation ninety-three of these Regulations, proceedings in respect of an offence alleged to have been committed by a person against this Regulation shall be taken before a naval court under Part VI of the Merchant Shipping Act, 1894, and not otherwise.

The persons to whom this Regulation applies are all British subjects and British protected persons who are for the time being employed as master or member of the crew of any ship other than a Dominion ship or whose occupation, though they are not for the time being so employed, is that of master or member of the crew of a ship other than a Dominion ship.

[Regulation inserted by S.R. & O. 1943 No. 1373.]

48A.—(1) The provisions of this Regulation shall have effect for the purpose of enabling naval courts to be summoned under Part VI of the Merchant Shipping Act, 1894, to deal with offences to which this Regulation applies.

Jurisdiction
of Naval
Courts in
certain cases.

(2) The offences to which this Regulation applies are any offence against Regulation three, forty-four B, forty-seven A, forty-seven AA, forty-seven AAB, or forty-seven AB of these Regulations, other than an offence consisting of a contravention of paragraph (6) of the said Regulation forty-seven AB.

(3) Part VI of the said Act shall have effect, as amended by the Merchant Shipping Act, 1906, as if—

(a) at the end of section four hundred and eighty (which relates to the summoning of naval courts) there were added the following paragraph:—

“(iv) Whenever any complaint is made to that officer by a person authorised in that behalf by Regulation forty-eight A of the Defence (General) Regulations, 1939, with respect to an offence to which that Regulation applies”;

and

(b) in paragraph (b) of subsection (1) of section four hundred and eighty-three (which relates to the punishment by naval courts of offences against the said Act) there were inserted after the words “punishable on summary conviction” the words “and may punish persons respecting whose conduct a complaint is brought before them for an offence to which Regulation forty-eight A of the Defence (General) Regulations, 1939, applies” and after the words “United Kingdom” the words “or, in the case of an offence against Regulation forty-seven AAB of the said Regulations, the same powers as a court of summary jurisdiction would have under Regulation ninety-two of those Regulations if the offence were triable by such a court in the United Kingdom.”

(4) The provisions of the said Part VI with regard to naval courts on the high seas and abroad—

(a) in relation to an offence against the said Regulation forty-four B, shall not apply to Dominion ships but, where they apply to a ship, shall apply to the persons having the management of the ship as well as to the owners, master and crew thereof;

(b) in relation to an offence against the said Regulation forty-seven A, shall not apply to Dominion ships;

(c) in relation to an offence against the said Regulation forty-seven AA or forty-seven AB, shall apply to any British subject or British protected person, whether or not they apply to a ship of which he is an owner, the master or a member of the crew;

(d) in relation to an offence against the said Regulation three or forty-seven AAB, shall apply to any person to whom the said Regulation forty-seven AAB applies, whether or not they apply to a ship of which he is an owner, the master or a member of the crew.

(5) The persons authorised by this Regulation to make complaints for the purposes of the said section four hundred and eighty are—

(a) in relation to offences against the said Regulations forty-four B and forty-seven AB, the persons authorised to act under those Regulations respectively;

(b) in relation to any other offence, such persons as may be authorised by the competent authority to act for the purposes of this Regulation.

[Regulation inserted by S.R. & O. 1943 No. 374; as amended by S.R. & O. 1943 No. 1373.]

Detention in foreign countries pending trial by naval court.

48c.—(1) In any foreign country a provost marshal may arrest any person whom he has reasonable grounds for suspecting to have committed any offence for which that person may be dealt with by a naval court under paragraph (g) or (h) of subsection (1) of section four hundred and eighty-three of the Merchant Shipping Act, 1894, as amended by these Regulations and detain that person with a view to his being brought before such a court.

The powers conferred on a provost marshal by this paragraph shall be exercisable also by any officer, seaman, marine, soldier or airman exercising authority under or on behalf of a provost marshal.

(2) Where a person is arrested and detained under paragraph (1) of this Regulation the following provisions shall apply:—

(a) the provost marshal shall forthwith report the circumstances of the case to a person authorised in that behalf by the competent authority;

(b) the person so authorised shall have power to make a complaint with respect to the case, under section four hundred and eighty of the said Act as so amended, to a person empowered under that section to summon a naval court (hereafter referred to as "the convener"), and shall forthwith make such a complaint;

(c) on receipt of the complaint the convener shall forthwith either inform the provost marshal that he is taking all practicable steps to summon a naval court as soon as possible and take such steps accordingly, or inform the provost marshal that he does not propose to summon such a court;

(d) if the convener informs the provost marshal that he does not propose to summon a naval court, the provost marshal shall forthwith discharge the person detained from custody;

(e) if the convener informs the provost marshal that he is taking all practicable steps to summon a naval court, the provost marshal shall keep the person arrested in custody until he can be brought before that court.

(3) Any person detained in pursuance of this Regulation shall be deemed to be in lawful custody.

(4) In this Regulation the expression "provost marshal" means a naval, army or air force provost marshal or any assistant of such a provost marshal.

[Regulation inserted by S.R. & O. 1943 No. 1373.]

Special modifications with respect to allied powers and associated authorities.

104a.—(1) For the purpose of extending to allied powers and associated authorities, to persons in the service of any such power or authority and to the property of any such power or authority certain provisions of these Regulations relating to His Majesty, to persons in His Majesty's services, and to the property of His Majesty, these Regulations shall have effect subject to the modifications hereafter mentioned in this Regulation.

(a) In Part I (except Regulation eighteen D), in Part II, in Regulations fifty-two, seventy-two, seventy-three and seventy-six and in Part V (except Regulation eighty-eight C) of these Regulations the expressions—

(a) "His Majesty's forces," "the armed forces of the Crown," "naval, military and air forces," "naval, military or air force operations," "naval purposes," "purposes of His Majesty's navy," "military purposes," "air force purposes," and "a military officer";

(b) "His Majesty's service," "a servant of His Majesty," and "person acting on behalf of His Majesty";

(c) "His Majesty's vessels or aircraft";

(d) "contract with His Majesty," and "measures on behalf of His Majesty";

shall be construed as respectively including—

(i) the naval, military and air forces of any allied power or associated authority, the operations and purposes of any such forces, and an officer of any such military forces;

(ii) the service of any such power or authority, a servant of any such power or authority, and a person acting on behalf of the government of any such power or on behalf of any such authority;

(iii) vessels or aircraft in the service of any such power or authority;

(iv) contracts with the government of any such power or with any such authority and measures on behalf of any such government or authority.

(8) In this Regulation, the expression "allied power" means a foreign power engaged, in alliance with His Majesty, in any war in which His Majesty is also engaged, and the expression "associated authority" means a foreign authority recognised by His Majesty as competent to maintain naval, military or air forces for service in association with His Majesty's forces.

[Regulation inserted by S.R. & O. 1942 No. 2561.]

APPENDIX II.

INSTRUMENT DEFINING THE PERSONS AUTHORISED TO BE THE PERSONS TO WHOM REPORTS ARE REQUIRED TO BE MADE BY PROVOST MARSHALS UNDER REGULATION 48C OF THE DEFENCE (GENERAL) REGULATIONS, 1939.

The Defence (General) Regulations, 1939.

I, the Right Honourable Frederick James, Baron Leathers of Purfleet, C.H., the Minister of War Transport, do hereby authorise every British commissioned Naval Officer and every British Consular Officer as defined in the Interpretation Act, 1889, to be a person to whom a Provost Marshal may, in accordance with paragraph (2) of Regulation 48C of the Defence (General) Regulations, 1939, report the circumstances in which any person suspected of having committed an offence which may be dealt with by a naval court, has been arrested and detained by him.

Given under the Seal of the Minister of War Transport this thirtieth day of September, 1943.

L. S.

LEATHERS,

The Minister of War Transport.

APPENDIX III.

ORDER OF THE MINISTER OF WAR TRANSPORT APPLYING REGULATION 47AAB OF THE DEFENCE (GENERAL) REGULATIONS, 1939, TO CERTAIN COUNTRIES.

STATUTORY RULES AND ORDERS.

1943, No. 1464.

EMERGENCY POWERS (DEFENCE).

Merchant Shipping.

THE BRITISH SEAMEN (OFFENCES IN FOREIGN COUNTRIES) ORDER, 1943. DATED SEPTEMBER 30TH, 1943.

The Minister of War Transport in exercise of the powers conferred upon him by Regulation 47AAB of the Defence (General) Regulations, 1939 (which provides for the trial of British Seamen by naval courts summoned under Part VI of the Merchant Shipping Act, 1804(a) for certain offences committed in any foreign country or part of a foreign country to which the Regulation is applied by order of the competent authority) and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. Regulation 47AAB of the Defence (General) Regulations, 1939, shall apply to every foreign country specified in the Schedule to this Order exclusive of any area which is for the time being in the occupation of a Power with whom His Majesty is at war.
2. The said Regulation 47AAB shall likewise apply to every foreign country which on the 1st September, 1939, was a colony, overseas territory, protectorate or territory under suzerainty or mandate of a country specified in the Schedule to this Order exclusive of any area which is for the time being in the occupation of a Power with whom His Majesty is at war.
3. This Order shall come into force on the thirtieth day of September, 1943, and may be cited as the British Seamen (Offences in Foreign Countries) Order, 1943.

Signed by authority of the Minister of War Transport this thirtieth day of September, 1943.

T. G. JENKINS.

A Deputy Director General of
the Ministry of War Transport.

SCHEDULE.

Egypt	Italy
France	Persia
Iceland	Union of Soviet Socialist Republics
Iraq	

(a) 57 & 58 Vict. C. 60.

MINISTRY OF WAR TRANSPORT.
26th OCTOBER, 1943.

M. 10435/43.

(10479) Wt. 36413-3269, 850 10/43 D.L. G. 373

On 28 February, 1942, I discuss matters in connection with the discipline of British and Allied (other than U.S.) Merchant

Seamen.

1. *Copy to be made*
 2. *THIS MATERIAL*
 3. *FLAG OFFICER, EASTERN ITALY* 5.9

DISTRIBUTION:

Chief Legal Officer, Allied Control Commission.
 Chief Legal Officer, Penitentiary Bureau Section.
 Chief Legal Officer, Allied Military Government, Region III.
 Naval Officer-in-Charge, Naples.
 Commanding Officer, U.S.S. 2123.
 Deputy Attorney of War Transport Representative (Naples) Naples.
 Deputy Attorney of War Transport Representative, Naples.
 Deputy J. A.G. 57 Area.
 Assistant Provost Marshall, 57 Area.
 Port Provost Marshall, U.S. Army, Naples.
 Office of British Resident Historian, 57 Area 63, Harris Hotel, Naples.
 Naval Provost Marshall, Naples.
 Divisional Sea Transport Officer, Naples.
 Naval Control Service Officer, Naples.
 Officer Commanding 61 Sp. Investigation Section, C.I.P.
 " 69 Sp. Investigation Section, C.I.P.
 Naval Officer-in-Charge, Salerno.
 Naval Officer-in-Charge, Ischia.
 Resident Naval Officer, Castellammare.
 Resident Naval Officer, 70th Antisubmarine.

(Copy to: - Commander-in-Chief, Mediterranean.
 Vice Admiral Delta.
 Flag Officer Tarento, Adriatic Division.
 Naval Officer-in-Charge, Maddalena.
 Senior Officer Italian Squadron.)

Minutes of a meeting held at Combined Headquarters,
Naples, on 8th February, 1944 to discuss matters
in connection with the discipline of
British and Allied (other than U.S.)
Merchant Seamen.

Present :

Captain R.M.Q. Mackenzie, R.N.	Naval Officer in Charge, Naples Area. In the Chair.
Captain R.H.T. Hubbard, R.N.	H.M.S. Lucia
Colonel Lomer, U.S.A.	Peninsular Base Section
Colonel J.K. Webber, U.S.A.	Allied Military Government, Region III.
Captain J.C. Colvill, R.N.	Deputy Naval Officer in Charge, Naples Area.
Mr. I.D. Campbell.	Deputy Director of War Transport, Representative, (Mediterranean)
Commander Lord Anstruthill, R.N.	Staff of Command-in-Chief, Mediterranean
Commander J.D. Walters, R.N.	President of Naval Courts, Naples.
Major W.M. Carruthers.	Assistant Provost Marshal, 57 Army
Major Dillard, U.S.A.	Port Provost Marshal, U.S. Army,
Major H.O. Griffiths, R.M.	Naval Provost Marshal, Naples.
Mr. R.J. Garnett.	British Resident Minister's Office
Lieutenant-Commander R. Joyce, R.N.	Naval Control Services, Naples.
Lieutenant-Commander R.K. Earl, R.N.	Sea Transport Liaison Officer, Naples.
Paymaster Lieutenant P. Stacey-	Staff of Flag Officer,
Price, R.N.V.R.	Western Italy.
Captain N.E. Middleton.	64 Special Investigation Section, C.M.P.
Mr. W.A. Loker.	Deputy Ministry of War Transport Representative, (Naples).

4. The meeting agreed the following Procedure for reporting and
trial by Naval Court of offences by British and Allied (other

- (ii) Naval Officer in Charge makes formal complaint to Commanding Officer, H.M.S. FLYING, who decides whether Naval Court is to be held, and either convenes Court or orders release of offender.
- (iii) Finding and order of Naval Court to be submitted to Flag Officer, Western Italy for review
- (iv) If Flag Officer, Western Italy, confirms sentence, WYSA to send offender, under escort, with signed copy of finding and order, to Military Detention as arranged by Naval Provost Marshal. The place of detention will be named in WYSA'S Reviewing Order.
- (v) Officer Commanding Military Detention Camp to inform Ministry of War Transport Representative (Naples) and WYSA (N. Harveys) 24 hours before offenders are due for release.
- (vi) Offenders on release to be sent to Deputy Ministry of War Transport Representative, Dock House, Naples, with their own kit.

B. ARRANGEMENTS IN NAPLES AREA

At Salerno, Torre Annunziata, Castellammare, Ischia and Pozzuoli Bay Ports, Naval Officers in Charge 57 or Resident Naval Officers are to forward their own or the Master's complaint together with relevant documents to Naval Officer in Charge, Naples Area, who will proceed as in A above.

At Salerno, offenders can be lodged in 94 Sub-area Guard Room for detention pending trial. Offenders from the other places above, who are to be put in detention pending trial, should be delivered to Naval Provost Marshal, Naples, to be dealt with as at A. above.

(i) Officer Commanding Military Detention Camp to inform Ministry of War Transport Representative (Naples) and MRSA (A.N.B. rocks) 24 hours before offenders are due for release.

(vi) offenders on release to be sent to Deputy Ministry of War Transport Representative, Dock House, Naples, with their own kits.

PROCEEDINGS IN NAPLES AREA

At Salerno, Torre Annunziata, Castellammare, Ischia and Pozzuoli Bay Ports, Naval Officers in Charge of Resident Naval Offices are to forward their own or the Master's complaint together with relevant documents to Naval Officer in Charge, Naples Area, who will proceed as in 3 above.

At Salerno, offenders can be lodged in 94 Sub-area Guard Room for detention pending trial. Offenders from the other places above, who are to be put in detention pending trial, should be delivered to Naval Provost Marshal, Naples, to be dealt with as at 3. above.

ARREST AND REPORTING

(i) All Provost personnel should be made aware of their power of arresting Merchant Seamen, as instructed by Regulations 47AAB, 48 and 100A of the Defence (General) Regulations 1939.

(ii) U.S. Military Police arresting merchant seamen, other than American, will continue to hand them over to British Military Police.

(iii) In Naples British Military Police should report merchant seamen arrested by them to Naval Provost in their own Military Police, to Naval Provost Marshal, for him to take action as at 3. (i) above.

(iv) This report should be made at the earliest opportunity and should if possible be accompanied or followed by copies of the statements of witnesses and the accused, if he volunteers or if witnesses are formally required to attend the trial.

Page 3.

EQUIPMENT AND CLOTHING

- (i) All personal clothing and kit should be collected from offender's ship, as soon as possible after arrest or conviction, by Ministry of War Transport Representative (Naples). It must accompany the offender into guard room or detention.
- (ii) Additional clothing, blankets, mess traps, etc. required in prison will be supplied by Military authorities.

IMPRISONMENT

- (i) It is not necessary to lay down any provisions about places of detention. Every punishment is reviewed and the Reviewing Authority has to approve or appoint the place of imprisonment as a proper place for the purpose. The usual place of detention for sentences of the length which Naval Courts can impose is likely to be the S. Elia Prison, Naples.
- (ii) The Commander-in-Chief, Mediterranean, has stated that sentences can be served in any British Military field punishment camp or detention quarters.
- (iii) Offenders should not be lodged in Italian jails unless taken over by Allied authorities.
- (iv) The normal regulation rules should apply to merchant seamen sentenced to imprisonment.

RECOMMENDATION

The meeting agreed to the issue of the attached poster to all Merchant Ships arriving in the Naples Area.

SERIOUS CRIMES

It was agreed that in the case of offences which are

- (i) It is not necessary to lay down any provisions about places of detention. Every punishment is reviewed and the reviewing authority has to approve or appoint the place of imprisonment as a proper place for the purpose. The usual place of detention for sentence of the length which Naval Courts can impose is likely to be the S. Piramo Prison, Naples.
- (ii) The Commander-in-Chief, Mediterranean, has stated that sentences can be served in any British Military field punishment camp or detention quarters.
- (iii) Offenders should not be lodged in Italian jails unless taken over by Allied authorities.
- (iv) The normal remission rules should apply to merchant seamen sentenced to imprisonment.

5. PROSECUTION

The meeting agreed to the issue of the attached poster to all Merchant Ships arriving in the Naples area.

6. SERIOUS CRIMES

It was agreed that in the case of offences which a Naval Court had not the power to try, the only practicable course open was investigation by a Naval Court and commitment for trial to Malta, Gibraltar or the United Kingdom.

It is unlikely that the Military Authorities could agree to sending Military personnel to the United Kingdom to give evidence, so it was decided that further information should be obtained of the Civil Courts in Malta to which offenders could be committed.

7. APPEALS

The right of appeal against the decisions of Naval Courts given by Section 68 of the Merchant Shipping Act 1906, applies to a question as to wages, fines, or forfeiture.

In the case of an order of committal, the question of liability for detention is a result of a Court order which is accordingly an appeal against the

Page 4.

Page 4.

8. PRESENTATION OF CASE TO COURT

The President of Naval Court, pointed out the disadvantage of Naval Courts in having no prosecutors. If the Master of the Ship, who has no knowledge of the procedure, presents the case, it is possible that the material evidence may not be put before the court, and unlikely that there will be any effective cross-examination of the accused's evidence; if the court asks the necessary questions, it virtually appears to prosecute.

Assistant Provost Marshal, 57 Area, was willing, subject to legal approval that an officer of his staff would present cases in which Military Police were concerned and the possibility was considered of Naval Provost Marshal prosecuting in other cases.

53

Office of Flag Officer,
Western Italy,
Naples.

2nd February, 1944.

No. FOWIT 927.

DISCIPLINE OF MERCHANT SEAMEN

It is intended to hold a meeting in the Conference Room, Navy House, at 1030 on 8th February, 1944, to discuss matters in connection with the discipline of merchant seamen, other than United States citizens, and in particular to form an agreed procedure, which can then be widely promulgated, on such matters as:-

- Arrest and detention of merchant seamen.
- To whom complaints or requests for a Naval Court should be made.
- Places of imprisonment after sentence.
- Responsibility for kit and equipment of merchant seamen sent to imprisonment.
- Procedure on release.
- Procedure at other ports than Naples.
- Limitations of Naval Courts in serious cases.
- and any other questions in this connection which it is desired to raise.

It is requested that addressees will be present or represented. The Naval Officer-in-Charge, Naples, will be in the chair.

Sp. M. A. L.

REAR ADMIRAL.

DISTRIBUTION:

40

*Handy reference
in 10.30*

connection with the discipline of merchant seamen, other than United States citizens, and in particular to form an agreed procedure, which can be widely promulgated, on such matters as:-

Arrest and detention of merchant seamen.
To whom complaints or requests for a Naval Court should be made.
Places of imprisonment after sentence.
Responsibility for kit and equipment of merchant seamen sent to imprisonment.
Procedure on release.
Procedure at other ports than Naples.
Limitations of Naval Courts in serious cases.
and any other questions in this connection which it is desired to raise.

It is requested that addressees will be present or represented. The Naval Officer-in-Charge, Naples, will be in the chair.

REAR ADMIRAL.

DISTRIBUTION:

The Naval Officer-in-Charge, Naples.
The Commanding Officer, H.M.S. DYRSA.
Ministry of War Transport Representative (Med.)
Divisional Sea Transport Officer, Naples.
Naval Control Service Officer, Naples.
Naval Provost Marshal, Naples.
President of Naval Courts, Naples.
Commander the Lord Amphill, R.N., c/o A.F.H.Q., Advanced Administrative Echelon.
Port Provost Marshal, United States Army, Naples.
Legal Officer, Peninsular Base Section.
A.F.M. 57 Area.
Legal Officer, 57 Area.
Officer Commanding, 61 Special Investigation Section.
(Copy to:- Commander-in-Chief, Mediterranean,
Flag Officer, Terrete, Adriatic & Liaison,
Commanding General, Peninsular Base Section,
Commander, 57 Area,
Port Commandant, Naples.)

27 JAN 1944

2870

ALLIED FORCE HEADQUARTERS
Military Government Section

25 January 1944

Subject: Discipline of British Merchant Seamen.

To : Headquarters, Allied Control Commission.
Attention: Chief Legal Officer.

1. Inclosed is a document entitled "Minutes of a Meeting held at Allied Force Headquarters, Algiers on 29th December, 1943, to Discuss Matters In Connection with the Discipline of British Merchant Seamen". This is communicated for your information and for any appropriate action.

2. Attention is drawn to the foot of page 3 and paragraph 10 on page 5, where the Military Government Section undertakes that certain investigations will be made. It is requested in this connection that the necessary study be given and the results transmitted to this Headquarters.

FOR THE CHIEF OF SECTION:

Charles Fairman
Charles Fairman,
Lieutenant Colonel, J.A.G.D.,
Legal Advisor.

MINUTES OF A MEETING HELD AT ALLIED FORCE HEADQUARTERS,
ALGIERS ON 29TH DECEMBER, 1943, TO DISCUSS MATTERS IN
CONNECTION WITH THE DISCIPLINE OF BRITISH MERCHANT SEAMEN.

Present:-

Commander Lord Amthill, R.N.

J. S. V. Carvell, Esquire.

H. L. Robins, Esquire, C.M.G., O.B.E.

Captain A. D. M. Cherry, R.N.

Captain R. A. Trever, R.N.

X Lieutenant Colonel Jackling.

Lieutenant Colonel G. G. Baker.

Lieutenant Colonel J. McE. Gordon

Lieutenant Colonel Blair

J. M. Addis, Esquire

Paymaster Lieutenant Commander

I. Dunlop.

Major J. R. D. Orlenton

Major R. N. Glanville

Major L. D. Caffyn, R.N.

Major G. D. Lockett

Ian D. Campbell, Esquire.

Temporary Paymaster Lieutenant

S. Gowans, R.N. V.R.

Temporary Lieutenant C. I. Browne,

R.N. V.R.

Lieutenant (Sp) A. H. Iudkin,

R.N. V.R.

Captain W. J. Goutts

Lieutenant H. B. Sloane

Flight Lieutenant A. S. Coupe, R.A.F.

Staff of Commander-in-Chief,
Mediterranean. - In the chair.

Consul General, Algiers.

One of His Majesty's Consuls

General in North Africa.

HAMMUDA.

Staff of Principal Sea Transport

Officer, Mediterranean.

Military Government Section,

Allied Force Headquarters.

G.I. British.

Commandant Field Punishment

Camp Group.

Deputy Provost Marshal, North

Africa District.

Resident Minister's Office.

Staff of Commander-in-Chief,

Mediterranean.

Deputy Judge Advocate General.

G.I. British

Naval Provost Marshal, Algiers.

Deputy Provost Marshal's Staff.

Ministry of War Transport

Representative, Mediterranean.

Secretary to Comdops, Algeria.

HAMMUDA.

Ministry of War Transport

Representative, Mediterranean.

Officer Commanding 60 Section,

Special Investigation Branch.

Officer Commanding 69 Section

Special Investigation Branch.

R.A.F. Assistant Provost Marshal,

Algiers.

It was agreed that the procedure for reporting offences
liable to result in trial by Naval

Lieutenant Colonel G. C. Baker.

Lieutenant Colonel J. McK. Gordon.

Lieutenant Colonel Blair

J. M. Laddie, Esquire

Paymaster Lieutenant Commander
L. Lumley.

Major J. H. L. Orlinton

Major P. A. Plazebrook

Major L. D. Coffyn, R. N.

Major G. D. Lockett

Mr. E. Campbell, Esquire.

Temporary Paymaster Lieutenant

S. Gowans, R. N. V. R.

Temporary Lieutenant C. T. Brown,
R. N. V. R.

Lieutenant (Sp) A. H. Larkin,

R. N. V. R.

Captain W. J. Condit

Lieutenant H. B. Sloan

Pilot Lieutenant A. S. Cowpe, R. N. V. R.

It was agreed that the procedure for reporting offences against Defences Regulations and liable to result in trial by Naval Court should be as follows:-

Algers.

- (a) Provost Marshal notifies Consul General of arrest and turns offender over to HANIBAL for detention pending trial.
- (b) Consul General makes formal complaint to Commanding Officer, H.M.S. HANIBAL.
- (c) HANIBAL decides whether case shall be tried by Naval Court, informing Provost Marshal of his decision.
- (d) HANIBAL either convenes a Naval Court or releases offender if no trial is to be held.

(e).....Contd.

Commandant Field Punishment

Camp Group.

Deputy Provost Marshal, North

Africa District.

Resident Minister's Office.

Staff of Commander-in-Chief,

Mediterranean.

Deputy Judge Advocate General.

G.I. British

Naval Provost Marshal, Algiers.

Deputy Provost Marshal's Staff.

Ministry of War Transport

Representative, Mediterranean.

Secretary to Commodore, Algiers.

HANIBAL.

Ministry of War Transport

Representative, Mediterranean.

Officer Commanding 60 Section,

Special Investigation Branch.

Officer Commanding 62 Section

Special Investigation Branch.

R. N. V. R. Assistant Provost Marshal,

Algiers.

2.

- (e) Findings and Orders of Naval Courts to be submitted to Commander-in-Chief, Mediterranean for review.
 - (f) If Commander-in-Chief confirms sentence of imprisonment, he shall send offender with signed copy of finding and order, under escort, to No. 1 Field Punishment and Detention Camp, Air Tayn.
 - (g) Officer Commanding No. 1 Field Punishment and Detention Camp, Air Tayn to inform Consulate and Maritime of date offenders are due for release 24 hours before sentence expires.
 - (h) Offenders on release to be sent to the Shipping Department of the Consulate, together with any kit or equipment which may have been lent to them (see paragraph 5 below).
- Bona:
- (a) Provost Marshal notifies Vice Consul and turns offender over to Naval Officer-in-Charge, Bona for detention pending trial.
 - (b) Vice Consul makes formal complaint to Naval Officer-in-Charge, Bona.
 - (c) Naval Officer-in-Charge decides whether case shall be tried by Naval Court, informing Provost Marshal of his decision.
 - (d) Naval Officer-in-Charge either convenes a Naval Court or releases offender if no trial is to be held.
 - (e) Senior Naval Officer reviews findings and orders of Naval Courts or if he himself was a member of the Court forwards them to Commander-in-Chief, Mediterranean for review.
 - (f) If on review sentence of imprisonment is confirmed Naval Officer-in-Charge sends offender accompanied by signed copy of finding and order under escort to Military Prison at Bona.
 - (g) Officer Commanding Military Prison to notify Vice Consul 24 hours before offender is due for release.
 - (h) Offenders on release to be instructed to report to Vice Consul.

Philippineville:

- (a) Provost Marshal notifies Vice Consul and turns offender over to Naval Officer-in-Charge, Bone for detention pending trial.
- (b) Vice Consul makes formal complaint to Naval Officer-in-Charge, Bone.
- (c) Naval Officer-in-Charge decides whether case shall be tried by Naval Court, informing Provost Marshal of his decision.
- (d) Naval Officer-in-Charge either convenes a Naval Court or releases offender if no trial is to be held.
- (e) Senior Naval Officer reviews findings and orders of Naval Courts or if he himself was a member of the Court forwards them to Commander-in-Chief, Mediterranean for review.
- (f) If on review sentence of imprisonment is confirmed Naval Officer-in-Charge sends offender accompanied by signed copy of finding and order under escort to Military Prison at Bone.
- (g) Officer Commanding Military Prison to notify Vice Consul 24 hours before offender is due for release.
- (h) Offenders on release to be instructed to report to Vice Consul.

Philippeville:

- (a) Provost Marshal to report matter to an officer of or above Lieutenant's rank on staff of Naval Officer-in-Charge, Bone and Philippeville (to be detailed by Naval Officer-in-Charge) who is to make formal complaint to Naval Officer-in-Charge, Naval Officer-in-Charge, Bone and Philippeville to inform local Army and Royal Air Force Provosts Marshal of name of officer to whom reports are to be made.
- (b) Offenders are to be turned over to the naval authorities at Philippeville for detention pending trial, being transferred to Bone if necessary.
- (c) Procedure then as for (a)(d)(e)(f)(g) and (h) above for Bone.

Bougie and Djidjelli.

- (a) Provost Marshal to report matter to an officer of or above

Contd/.....

3.

Lieutenant's rank on staff of Naval Officer-in-Charge, Bone and Philippeville (to be detailed by Naval Officer-in-Charge) who is to make formal complaint to Naval Officer-in-Charge, Naval Officer-in-Charge, Bone and Philippeville to inform local Army and Royal Air Force provosts marshal of name of officer to whom reports are to be made.

- (b) Offenders to be turned over to naval authorities for detention pending trial by Naval Court.
- (c) As at (a) (d) and (e) above under Bone.
- (d) If on review sentence of imprisonment is confirmed, Naval Officer-in-Charge sends offender accompanied by signed copy of finding and order, under escort, to No. 1 Field Punishment and Detention Camp, Air Force, Algiers.
- (e) As at (a) and (d) above under Algiers.

Sousse and Sfax.

Provost Marshal to notify Wing Officer, Tunisia at Bizerta of any cases; Wing Officer Tunisia to arrange for their collection and any subsequent trial.

Oren.

- (a) G. I. British agreed to undertake to arrange for the Garrison Adjutant to be appointed as a member of the Provost Marshal's staff.
- (b) The Garrison Adjutant to report offenders to the British Naval Liaison Officer, Oren.
- (c) U.S. authorities to be requested to detain offenders pending trial.
- (d) British Naval Liaison Officer, Oren makes formal complaint to Vice Consul.
- (e) Vice Consul convenes Naval Court if necessary, Mr. Robin and/or Captain Cherry to be co-opted as members of the Court if necessary.
- (f) Findings and orders to be forwarded to Commander-in-Chief, Mediterranean for review.
- (g) If Commander-in-Chief confirms sentence of imprisonment, British Naval Liaison Officer to arrange for transfer of prisoner

(a) As at (g) and (h) above under Algiers.

Sousse and Ouff.

Provost Marshal to certify Flag Officer, Tunis, at Sousse of any cases; Flag Officer Tunis to arrange for their collection and any subsequent trial.

Oran.

(a) G.I. British agreed to endeavor to arrange for the Garrison Adjutant to be appointed as a member of the Provost Marshal's staff.

(b) The Garrison Adjutant to report offenders to the British Naval Liaison Officer, Oran.

(c) U.S. authorities to be requested to detain offenders pending trial.

(d) British Naval Liaison Officer, Oran makes formal complaint to Vice Consul.

(e) Vice Consul convenes Naval Court if necessary, Mr. Pabian and/or Captain Cherry to be co-opted as member of the Court if necessary.

(f) Findings and orders to be forwarded to Commander-in-Chief, Mediterranean for review.

(g) If Commander-in-Chief confirms sentence of imprisonment, British Naval Liaison Officer to arrange for transfer of prisoner under escort, accompanied by signed copy of finding and order, to No. 1 Field Postment and Detention Camp, Ain Taya, Algiers.

(h) As at (g) and (h) above under Algiers.

Chababou.

Provost Marshal to certify vessel who will convey court as necessary.

Palermo, Libata, Maddaola.

Military Government Section agreed to investigate the question of trial of British merchant seamen, observing there are no British naval military or consular authorities at those ports.

Contd/.....

4.

Other ports in Italy or elsewhere British consular officers are stationed.

- (a) Provost Marshal notifies arrest to Senior Naval Officer present, who is to arrange for detention of offender pending trial.
- (b) Formal complaint to be made by a British commissioned Naval Officer (who may not be the convenor) to the Commanding Officer of one of H.M. Ships present in port.
- (c) Commanding Officer convenes Naval Court or releases offender if no trial is to be held.
- (d) Finding and order of Court to be reviewed by Senior Naval Officer present, or if he was a member of the Court, by the Flag Officer within whose command the place is situated, or the Commander-in-Chief, Mediterranean.
- (e) Reviewing officer approves (or otherwise) place of imprisonment.
- (f) If sentence of imprisonment is confirmed, Senior Naval Officer to arrange for transfer of prisoner under escort, accompanied by signed copy of finding and order, to place of imprisonment specified.
- (g) On release, offender to be sent to nearest Ministry of War Transport representative for disposal.

2. C.I. British agreed to arrange for the issue of the necessary instructions through provost channels so that all provosts would be aware of the correct procedure to adopt when British merchant seamen are arrested.

3. Signed statements by witnesses and the accused if after being cautioned he volunteers one, should be taken at the earliest opportunity and copies of them forwarded by the Provost Marshal to the officer to whom he reported the case. Witnesses will usually be required to give evidence at any subsequent trial.

4. It was agreed that the no venue authority should be informed by the provost marshal of an arrest at the first opportunity.

5. Equipment for merchant seamen in prison.

All personal clothing and kit should be collected from the offender's ship as soon as possible after arrest. Naval authorities are to supply the necessary blankets and mess utensils if possible. Otherwise, these will be supplied by the prison authorities.

(c) Reviewing officer approves (or otherwise) place of imprisonment.

(f) If sentence of imprisonment is confirmed, Senior Naval Officer to arrange for transfer of prisoner under escort, accompanied by signed copy of finding and order, to place of imprisonment specified.

(g) On release, offender to be sent to nearest Ministry of War Transport representative for disposal.

2. C.I. British agreed to arrange for the issue of the necessary instructions through provost channels so that all provosts concerned will be aware of the correct procedure to adopt when British merchant seamen are arrested.

3. Signed statements by witnesses and the accused if after being cautioned by witnesses, etc., should be taken at the earliest opportunity and copies of them forwarded by the Provost Marshal to the officer to whom he reported the case. Witnesses will normally be required to give evidence at any subsequent trial.

4. It was agreed that the convening authority should be informed by the provost marshal of an arrest at the first opportunity.

5. Equipment for merchant seamen in prison.

All personal clothing and kit should be collected from the offender's ship as soon as possible after arrest. Naval authorities are to supply the necessary blankets and mess utensils if possible. Otherwise these will be supplied by the prison authorities.

In the case of merchant seamen at Algiers, the Ministry of War Transport Representative will supply kit with a small stock of clothing for issue on loan to seamen whose personal kit is inadequate.

Prisoners should take a change of underclothing with them to prison.

6. It was agreed that any claims in respect of costs and maintenance of seamen in prison or detention barracks in North Africa should be forwarded to the nearest British consulate for payment and the consulate would recover the costs from the Ministry of War Transport.

Contd/....

Claims in respect of imprisonment in military prisons or detention barracks in Italy should be forwarded to the nearest representative of the Ministry of War Transport in Italy for settlement.

7. It was considered unnecessary to issue any special orders re detention barracks or military prisons or camps thereof. The reviewing officer has to approve the place of imprisonment as a proper place for the purpose (Defence Regulation 40B refers). It was agreed that sentences of imprisonment could be served in any British military field punishment or detention camp.

8. Specimen charges suitable for use in cases of pilfering on docks or in ships are given in the appendix to these minutes.

The maximum punishment which may be awarded for such an offence when tried under Defence Regulation 47A(3) is 3 months imprisonment and/or a fine of £100 (paragraph 17 and 21 of Naval Courts Circular No. 1 also refers).

9. The Consul General stated that item 9 of the appendix (Procedure under Defence Regulation 47A(3) - power to require performance of services in ships) had been inserted in error.

10. The Consul General stated that the question of the application of Defence Regulation 47A(3) to non British subjects serving in British ships had been referred to the Foreign Office.

The Military Government Section will investigate the capacity of Military Government Courts to try offences committed in Italy by non British subjects.

11. It was agreed that civil offences too serious to be dealt with under Defence Regulation 47A(3) should be investigated by a local court and the offender sent to Malta, Gibraltar or the United Kingdom as most convenient for trial. It will be necessary for the witnesses to attend the trial.

12. At ports where there is no consular officer, any offences of which an offender is sentenced to imprisonment should be paid to the local Ministry of War Transport representative.

13. It was agreed that the normal punishment rules should apply to persons sentenced to imprisonment.

14. With reference to H.C. & E.'s message dated 20/9/44 of 11th

Can't find
app. 17
page 11

9. The Consul General stated that item 9 of the agenda (Procedure under Defence Regulation 47AB - power to remove performance of services in ships) had been inserted in error.

10. The Consul General stated that the question of the application of Defence Regulation 47AB to non British subjects serving in British ships had been referred to the Foreign Office.

The Military Government Section will investigate the capacity of Military Government Courts to try offences committed in Italy by non British subjects.

11. It was agreed that civil offences too serious to be dealt with under Defence Regulation 47AB should be investigated by a local court and the offender sent to Malta, Gibraltar or the United Kingdom as most convenient for trial. It will be necessary for the witnesses to attend the trial.

12. At ports where there is no consular officer, any balance of wages due to seamen concerned to imprisonment should be paid to the local Ministry of War Transport representative.

13. It was agreed that the normal commission system should apply to seamen sentenced to imprisonment.

14. With reference to H.O. 45, it was agreed that 2039A of 11th January, 1943, Mr. Addie stated that the question of the status of British merchant seamen in North Africa was under consideration. The Consul General stated that the allied commander-in-chief has power to request the French authorities to prosecute any case in the local courts and that such a course is sometimes taken where French property has been damaged. All cases involving damage to French property, etc. should be referred to the nearest consular officer. Subsequent offences committed on shore by British merchant seamen should normally be dealt with by Naval Court.

15. Offences committed on board ship in harbour.

Under Defence Regulation 490 provost marshal or any officer, seaman, sailor, soldier or alien possessing authority under or on behalf of a provost marshal may board ships to arrest any person suspected to have committed an offence triable by Naval Court. If they wish to go on board ships for any other purpose - e.g. to remove cut a search for suspected stolen property, - they must first obtain the consent of the master.

Contd./.....

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off 1/1
page 1/1

16. The question was raised whether Defense Regulation 104A applied to Defense Regulation 486, then authorizing U.S. and French authorities to take arrests. In Defense Regulation 487 is not in Part I of the Defense Regulations, Defense Regulation 104A does not apply to it.

17. The Consul General inquired whether a British ship in a foreign port was regarded as "in any foreign country" for the purpose of Defense Regulation 487. It would appear from pages 253 - 255 of Hall's International Law that this is so. Section 697 of the Merchant Shipping Act states that offenses committed ashore or afloat by British merchant vessels at foreign ports are within Admiralty jurisdiction.

Note: In the above minutes the expression "Provost Marshal" means a paid, army or air force provost marshal or any assistant of such a provost marshal.

Ref. Report on Question

CAPTAIN OF THE PENAL.

DISTRIBUTION:

Resident Minister.
 Consul General, Algiers (6)
 Consulate, Algeria (2)
 Principal and Transport Officer, Mediterranean (2).
 Minister of War Transport Representative, Mediterranean (2).
 The Commanding Officer, F.L.S. Military.
 Deputy Provost Marshal, North Africa District.
 Deputy Judge, Provost Marshal (British), Allied Force Headquarters.
 Military Governor of Section, Allied Force Headquarters.
 C.I. (British), Allied Force Headquarters (2).
 Commandant, Field Punishment Camp Group.
 Naval Provost Marshal, Algiers.
 Officer Commanding 60 Section, Special Investigation Branch.
 Officer Commanding 69 Section, Special Investigation Branch.
 R.A.S. Assistant Provost Marshal, Algiers.
 Deputy Provost Marshal, (British) Allied Force Headquarters.

APPENDIX

Preamble.

(to investigate the following complaint made by His
Consul at via that a (British Subject
person)(employed as (master)(member of the crew) of the British,
Be) ship registered at)(whose occupation is
crew of a ship other than a Dominion ship) on the day of
(at
(on board the British steamship lying in the port of

Charge for theft.

stole the property of in contravention
Regulation 47AAB of the Defence (General) Regulations 1939, and
the Larceny Act 1916.

Charges for receiving.

did receive a bag, the property of J. K., knowing the same to be
contravention of paragraph 1 of Regulation 47AAB of the Defence
and contrary to Section 53 (1) of the Larceny Act 1916.

did receive a silver tankard the property of J. K., knowing the
by false pretences, in contravention of paragraph 1 of Regulation
(General) Regulations 1939 and contrary to section 33 (1)(b) of

Specimen charges under Section 156(1) of the Army Act and 156(1) of the Air Force Act.

Note:-

This section is only applicable to arms, ammunition, equipments, instruments, regiment
case of army only), service necessaries (in case of R.A.F. only), clothing and provisions
the Army or Air Force, or furniture, bedding, blankets, sheets, utensils, stores in use
to a unit of the R.A.F. It does not apply to E.F.I. stores.

Contd/....

APPENDIX.

to investigate the following complaint made by His Britannic Majesty's Vice Consul at via that a (British Subject)(British protected person)(employed as (master)(member of the crew) of the British, Dutch or as the case may be) ship registered at (whose occupation is as master or member of the crew of a ship other than a Dominion ship) on the day of 194 ,
(at
(on board the British steamship lying in the port of s

stole the property of in contravention of paragraph 1 of Regulation 47AAB of the Defence (General) Regulations 1939, and contrary to Section 2 of the Larceny Act 1916.

did receive a bag, the property of J. N., knowing the same to have been stolen, in contravention of paragraph 1 of Regulation 47AAB of the Defence (General) Regulations 1939 and contrary to Section 33 (1) of the Larceny Act 1916.

did receive a silver tankard the property of J.N., knowing the same to have been obtained by false pretences, in contravention of paragraph 1 of Regulation 47AAB of the Defence (General) Regulations 1939 and contrary to section 33 (1)(b) of the Larceny Act 1916.

56(1) of the Army Act and 156(1) of the Air Force Act.

ly applicable to arms, ammunition, equipments, instruments, regimental necessities (in the service necessities (in case of R.A.F. only), clothing and provisions issued for the use of force, or furniture, bedding, blankets, sheets, utensils, stores in regimental charge or on charge A.F. It does not apply to R.F.I. stores.

Contd/.....

2.

Appendix (Contd).

Bought	{ from with }	{ a rifle	{ issued for the use
exchanged		{ three rounds of ball	
took in pawn		{ ammunition	
detained		{ a shirt	
received		{ a towel	
		{ a case of corned beef, etc.	
		{ a table	{ on charge to 1 Batt
		{ a mattress	{ on charge to 69 Sq
		{ 2 blankets, etc.	

in contravention of paragraph 1 of Regulation 47A-B of the Defence (General) Regulations 1939
to Section 156 subsection (1) of the (Army Act.
(Air Force Act.

solicited enticed.)	A.P. to	{ sell exchange taken in pawn give away	{ a rifle three rounds of ball ammunition a shirt a towel a case of corned beef, etc.	{ issued for the use
			{ a table a mattress 2 blankets, etc.	{ on charge to 1 Batt on charge to 69 Sq

in contravention of paragraph 1 of Regulation 47A-B of the Defence (General) Regulations 1939
to Section 156 subsection (1) of the (Army Act.
(Air Force Act.

Contd/

2.

Appendix (Contd).

{ from with	{ a rifle	{ issued for the use of	{ (officers)
	{ three rounds of ball		{ (soldiers)
	{ ammunition		
	{ a shirt		{ (officers)
	{ a towel		{ (airmen)
	{ a case of corned beef, etc.		
	{ a table		{ (on charge to 1 Battalion Berkshire Regiment)
	{ a mattress		{ (on charge to 69 Squadron, Royal Air Force.)
	{ 2 blankets, etc.		

paragraph 1 of Regulation 47A-B of the Defence (General) Regulations 1939, contrary
section (1) of the Army Act.
(Air Force Act.

{ (sell (exchange (taken in pawn (give away	{ a rifle	{ issued for the use of	{ (officers)
	{ three rounds of ball		{ (soldiers)
	{ ammunition		
	{ a shirt		{ (officers)
	{ a towel		{ (airmen)
	{ a case of corned beef, etc.		
	{ a table		{ (on charge to 1 Battalion Berkshire Regiment)
	{ a mattress		{ (on charge to 69 Squadron Royal Air Force)
	{ 2 blankets, etc.		

paragraph 1 of Regulation 47A-B of the Defence (General) Regulations 1939, and contrary
section (1) of the Army Act.
(Air Force Act.

Contd/.....

104
CJ

3.
Appendix (Contd).

assisted)
 acted for)

A.B. in

{ selling
 { exchanging
 { taking in pawn
 { making away with.

{ a rifle
 { three rounds of ball
 { ammunition
 { a shirt
 { a towel
 { a case of corned beef, etc.
 {
 { a table
 { a mattress
 { 2 blankets, etc.

issued for

{ on charge to
 { on charge to

in contravention of paragraph 1 of Regulation 474AB of the Defence (General) Regulations,
 to Section 156 subsection (1) of the Army Act.
 (Air Force Act.

3.
Appendix (Contd).

{ selling exchanging taking in pawn taking away with	{ a rifle	{ issued for the use of { officers soldiers
	{ three rounds of ball ammunition	
	{ a shirt	{ officers sergeants
	{ a towel	
	{ a case of corned beef, etc.	
	{ a table	{ on charge to 1 Battalion Blankshire Regiment.
	{ a mattress	{ on charge to 69 Squadron Royal Air Force.
	{ 2 blankets, etc.	

tion of paragraph 1 of Regulation 474B of the Defence (General) Regulations, 1939, and contrary
156 subsection (1) of the Army Act.
(Air Force Act.

LEGAL ATTACHE OFFICE
Legal Subordination

26 December 1943

03742: British Merchant Seamen.

TO: 1. 110 Region I (then 10/0)
110 Region II (" ")

3. A.M.M. are proposing an order to give effect to a new series of British Regulations which require Naval Courts, established under the Merchant Shipping Act 1894, to try British merchant seamen for certain offenses committed either on board in foreign countries,

pending receipt of this order, the following directives in regard to the guidance of all concerned.

2. No British merchant seaman may be tried for any offense in an Allied Military Court, and any cases referred to an officer of ~~the~~ will be referred to the Naval Officer in charge of the port concerned.

3. For information the Defense Regulations in effect under the following are:

(a) By Regulation 140 the lowest level of any officer, sailor, or other, soldier or airman exercising authority under or on behalf of the British Government, may arrest and detain any person whom he has reasonable grounds for supposing has committed an offense for which he may be brought before a Naval Court. The person arrested is responsible for seeing that such person is dealt with speedily.

(b) Under Regulation 140 a Naval Court convened under Art VI of the Merchant Shipping Act 1894, may try any British subject who is for the time being employed on board or member of the crew of any ship other than a merchant ship, or whose occupation is master or member of the crew of a ship other than a merchant ship. For any offense which has been committed in regard to which a summary conviction.

(c) For any serious offenses the existing procedure laid down in Sections 201 and 202 of the Merchant Shipping Act 1894 will be followed i.e. a Naval Court will investigate the case and the accused will be sent in safe custody to the United Kingdom or to any British possession (i.e. Malta) which has a suitable Court for trial of the offense.

(37)

“Remember the 30 seconds and 10 minutes of earthquake drill time for school children, the following directions are for parents of earthquake drill time for school children.”

Acc

3. How in turn the Defense Regulations in effect confer the following points:

(2) By Resolution No. the Board of Directors or any officer named, or any committee or officer exercising authority under or on behalf of the Board of Directors, may arrest and detain any person whom he has reasonable grounds for suspecting has committed an offense for which he may be brought before a Board of Directors. The Board of Directors is responsible for seeing that each person is dealt with accordingly.

(b) Under Regulation 17(4)(d) a third Court assumed that part VI of the Merchant Shipping Act 1894 may say any British subject who is for the time being employed as master or member of the crew of any ship other than a British ship, or whose occupation is master or member of the crew of a ship other than a British ship, for any offence which was committed in England is punishable on summary conviction.

(c) For two reasons of course the existing procedure laid down in Sections 505 and 509 of the Merchant Shipping Act 1894 will be followed i.e. a vessel cannot validly arrest for the owner and the arrested ship be sent in such custody to the High Court or to any British Consular (i.e. Malta) which has a suitable port for trial of the offence.

Do it to 2.5 very close to 1.5

0.000000

PLANNING

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My dear Sir,

1393

CWC

CONFIDENTIAL
RE 196CONFIDENTIAL
EQUALS BRITISH CONFIDENTIAL

ADDRESSED FOR ACTION TO: FANGO RTD PATINA FOR
 INFORMATION TO :
 FROM : FISHON FOR AND FOR NOW3
 IN ENGLI REFER TO : FA 357

IRRE : 4690
 TIME SENT : 030030A
 TIME RCVD : 040905A
 PRECEDENCE: ROUTINE

Reference Signal cite 930 of 1st December from FANGO 3RD BRITISH Seaman.

Have contacted NOIC. Arrangement made that NOIC will take future necessary action.

DIST:

ADD (ACTION)

GO

JAG

CONFIDENTIAL
EQUALS BRITISH CONFIDENTIAL

0-937

GWB

HEADQUARTERS
1705
4-DEC 1943
40-42
AMG.

ORIGINAL
ACTION COPY

RESTRICTED

NR: 1233

RESTRICTED

(35)

Adm. Div 1362

ADDRESSED FOR ACTION TO: FILPOT FOR AMG, PERMOON FOR MGS, 1854 : 4747
FARGO
INFORM INFORMATION TO : TIME SENT : 021236A
FROM : FATIMA SIGNED JOYON TIME RECD : 031057A
IN REPLY REFER TO : 1233 PRECEDENCE: ROUTINE

P.29

Allied Control Commission concurs in procedure set out in telegram from CIRC MHD as to trial of 2 British Merchant Seamen arrested in Bari for stabbing Italian under provisions of Merchant Shipping Act. Please ask Headquarters Number 2 District to deal with case in accordance with above mentioned telegram. Suggest you contact Captain Cooper, Cio Bari who has been in charge of the case.

DISTRIBUTION:

ACC(ACTION)

CO

Action of Filpotelet as he
when Capt Cooper is there discuss
the action plan to do at the moment
5 Dec 43. Wray

RESTRICTED
NO 40-42-100-RESTRICTED

HEADQUARTERS

1-DEC 1943

AMG

CONFIDENTIAL

CONFIDENTIAL

1211

34

(Info) Legal

ADDRESSED FOR ACTION TO: YARDG

INFORMATION TO

: FREEDOM FOR MGS, FATIMA FOR THACKER

FROM

: REPORT FROM AMG

IN REPLY REFER TO

: PH 33 PUA (51)

IDS # : 4593

TIME SENT : 30 MPT

TIME RCVD : 010900A

PRIORITY: PRIORITY

28

Your LHO of 27/11. Letter in hand of Major THACKER, ACC. There are no Allied Military Courts in the provinces of OPIA since no proclamations were issued there. Moreover doubts have been expressed whether Allied Military Courts have jurisdiction over British Merchant Seaman. Consult correspondence on subject yours.

DIST:

ACC (ACTY 2)

CC

JLG

(Action) Adm. L.

Approved by the Admiralty
 12/12/43

CONFIDENTIAL
EQUALS BRITISH CONFIDENTIAL

PARGO - 980

33

DEARS FOR PARGO - 980

1st December 1945

URGENT

URGENT

MATTER FOR TRACKING REPTD FILM

BRITISH SEAMAN X PARKER TO EXAMINE FOR TRACKING REPTD FILM FROM DEARS FOR
PARGO CITE PARGO REPTD NIGHT BOUGHT PARKER X REFERENCE ONE TWO BOUGHT REPTD
REPTD THIRTY NOVEMBER X OLD ALLIED CONTROL COMMISSION OFFICERS

32

33

Originator: Lt. Col. R.H. Silver
A/Deputy Chief Legal Officer.
LEGAL SUB-COMMISSION.

SECRET.32A
ASAC HQ.,
15 Army Group,
C.M.F.Ref. AG/206/20.
30 November 42.4042
Colonel G. Upjohn.,
Deputy Chief Legal Officer,
Legal Sub-Commission,
Hq. Allied Military Government, Palermo.

Dear General,

Bari Court of Appeal.

I duly received your letter of 24 November on the above subject. I have discussed the question of the establishment of a section of the Bari Court of Appeal at Poggia with Major Thackrah and later with U.C.A.O. As you no doubt know, the evacuation of civilians from Poggia town is under consideration and until a decision is reached the proposal will have to wait in abeyance. I have a note to bring up the subject again in two weeks' time.

Italian Legislation.

2. I was very pleased to note your remarks about the review of fascist and discriminatory legislation. The legal situation at present is obscure and I shall be very interested to receive a copy of the memorandum to which you refer. Meanwhile, I have given instructions that if any objectionable laws come to light in any of our territories, I am to be informed so that I can let you know of them.

Merchant Seamen.

3. I have discussed with Major Thackrah the case of the two seamen under arrest at Bari. He asked my advice and I told him that I thought (a) it would be very bad policy to allow trial by an Italian Court, (b) that an Allied Military Court had no jurisdiction at present in unoccupied territory, (c) that the men should be tried for the offence, and (d) that under one of the Merchant Shipping Acts I was fairly certain trial could take place at a British Court outside the territory (e.g. Malta) and that this would probably be the easiest course. The subject of the trial of British Merchant Seamen must be cleared up, and, although I have no doubt that legally an Allied Military Court in occupied territory has power to deal with cases occurring within such territory, Rennell tells me that different views were expressed to him when he was last in London. There is also the question of imprisonment which I discussed some time ago with Colonel Pollock and we agreed that instructions ought to be obtained. Major Thackrah is dealing with the Bari case and I told him that whilst the above represented my views, he should get definite instructions from you. (At this stage of writing this letter Major Thackrah has just telephoned and told me that a signal has come to him from C-in-C, Mediterranean, that the seamen should be sent for trial at Malta under Merchant Shipping Act I have mentioned. I have not yet received a copy of the signal but shall do so later as I understand it is repeated here. I have advised Major Thackrah to obtain your concurrence to C-in-C's request

.....by signal

- 2 -

by signal repeated here and then I will assist him to take the necessary action if he cannot get up here again at once.)

Yours very sincerely,

Robert H. Lee

Copy to file 209.

*File no acknowledgment
A. H. Lee*

1215

RECEIVED AT
ISLAND CASE SECTION

ORIGINAL

HEADQUARTERS

1-DEC 1943

AMG.

SECRET

URGENT

301515

301743

301755

MSG NR 1209

MSG CEN NR

TO SEARS

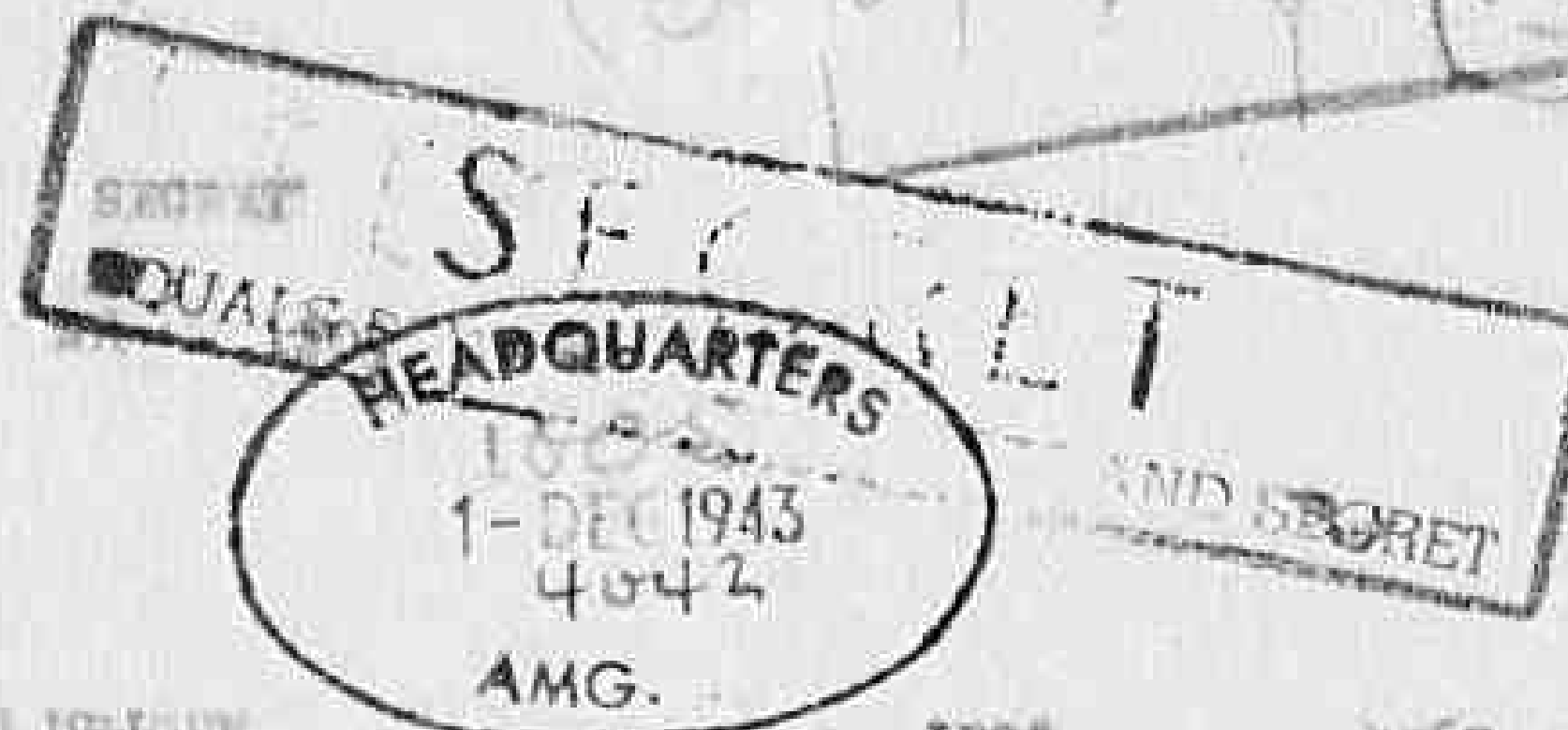
FARGO FOR UPJOHN

RECEIVED FOLLOWING MESSAGE FROM C IN C RPT C IN C MEDITERRANEAN
 QUOTE UNDERSTAND TWO BRITISH MERCHANT SEAMEN ARRESTED BARI FOR
 STABBING ITALIAN WHO IS EXPECTED TO DIE (PD TO SEARS FOR FARGO
 FOR UPJOHN FROM FATIMA FROM THACKRAH SIGNED JOYCE PD) SUBJECT TO
 CONCURRENCE OF ALLIED CONTROL COMMISSION CASE SHOULD BE INVESTI-
 GATED BY NAVAL COURT UNDER SECTION FOUR EIGHT THREE PARAGRAPH
 PAREN I RPT ITEM PAREN C RPT GEORGE AND SIX EIGHT NINE OF MERCHANT
 SHIPPING ACT AND ACCUSED SENT MALTA FOR TRIAL CMA ACCOMPANIED BY
 DEPOSITIONS AND NECESSARY WITNESSES PD UNQUOTE PD CLO RPT CLO FILPOT
 CONCURS PD PLEASE SIGNAL YOUR AGREEMENT AND REPEAT FILPOT

37

RECEIVED IN CLO

368



ADDRESSED FOR ACTION TO : FARGO FOR UPJOURN

1833 : 4557

INFORMATION TO :

TIME UNIT : 301535A

FROM :

: FATIMA FROM THACKER
SIGNED JOYCE

TIME REGD : 030802A

IN REPLY REFER TO :

: NR-1209

P. NUMBER : URGENT

Received following message from CINC Mediterranean. "Understand two British Merchant Seamen arrested Bari for stabbing Italian who is expected to die. Subject to concurrence of Allied Control Commission case should be investigated by Naval Court under section 483, paragraph (1) B and 689 of Merchant Shipping Act and accused sent Malta for trial, accompanied by depositions and necessary witnesses." CLO FILPOT concurs. Please signal your agreement and report FILPOT.

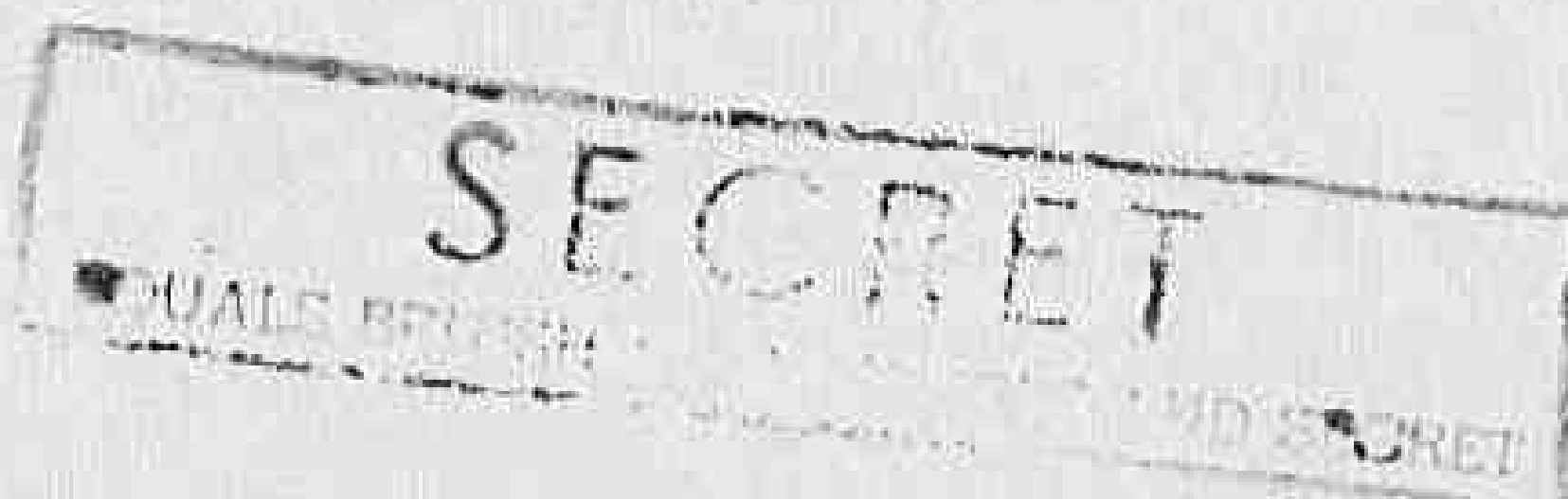
DISTRIBUTION:

AOC (ACTION)

GO

JAG

Dist : Adm Div (Action) 26
Legal (info)
File



0944

27

ORIGINAL

1123

CONFIDENTIAL

NR - 1142.

CONFIDENTIAL

HEADQUARTERS

28 NOV 1943

AMG

(30)

2/12/47

ADDRESSED FOR ACTION TO : FILPOT FOR AMG, FREEDOM FOR
INFO, STARS FOR F-ROO

INFORMATION TO :

FROM :

IN REPLY REFER TO :

: FATIMA, THACKERAY, SIGNED
JOYCE
NR 1142

ISS : 4400

TIME SENT : 260947A

TIME BROD : 281300A

PRECEDENCE: ROUTINE

Please hold seamen in custody of Military Police pending further
instructions. Major THACKERAY investigating details.

DISTRIBUTION:

ACC (ACTION)

GO

CONFIDENTIAL
COPIES BEING CONFIDENTIAL

280

OK



RESTRICTED

ORIGINAL COPY

1133

29

ADDRESSED FOR ACTION TO: NOIC HARI

TIME : 1409

INFORMATION TO : FOYALI, VAM, FILLOT HOB
MR., DEARS FOR FARGO *

TIME SENT : 271949A

FROM : CINGHED

TIME RCVD : 281502A

IN REPLY REFER TO :

PRECEDENCE: MONTINA

* FALINA FOR JOYCE FOR THACKRAH

Understand 2 British Merchant Seamen arrested Hari for stabbing Italian who is expected to die. Subject to concurrence of AGC case should be investigated by Naval Court under Section 483 Paragraph (1) (3) and 659 of Merchant Shipping Act in accused affair Malta for trial, accompanied by depositions and necessary witnesses.

DISTRIBUTION:

AGC (ACTION)

GO

JAG

RESTRICTED

SEARS FOR PARGO - 890

RESTRICTED

26 November 1943

ROUTINE

FILPOT RPTD FREEDOM RPTD FATIMA

25
TWO BRITISH MERCHANT SEAMEN PAREN FROM SEARS FOR PARGO TO FILPOT RPTD
FREEDOM RPTD FATIMA CITE YOUR MR THREE THREE EIGHT CITE PARGO EIGHT
EIGHT ZERO PAREN SHOULD BE TRIED IN ALLIED GENERAL MILITARY COURT FOR
APPROPRIATE OFFENSE UNDER ITALIAN LAW

Lt. Col. R.R.Cripps

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.F.O. 512
LEGAL SUB-COMMISSION

(27)

ACC/4042/1

Subject:- Merchant Seamen cases

To: Lt. Col. Cripps, Administrative Director.

26th Novr. 43.

Will you please have the following telegram sent to MILMO in reply to their message Nr. 338 of 25th November, repeated to FREEDOM and FATIMA:-

TWO BRITISH MERCHANT SEAMEN SHOULD BE TRIED IN ALLIED
GENERAL MILITARY COURT FOR APPROPRIATE OFFENCE UNDER
ITALIAN LAW.

This reply should also be repeated to Freedom & Fatima

Ly. Pollock
GEORGE POLLOCK
Colonel,
Chief Judicial Officer.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
A.P.O. 312
LEGAL SUB-COMMISSION

AMS/1012/L

Subject:- Merchant Seamen cases

To: Lt.Col.Grippe, Administrative Director.

25th Novr. 43.

Will you please have the following telegram sent to WILSON in reply to their message Nr. 335 of 25th November, repeated to FREEDOM and FATIMA:-

TWO BRITISH MERCHANT SEAMEN SHOULD BE TRIED IN ALLIED
GENERAL MILITARY COURT FOR APPROPRIATE OFFENSES UNDER
ITALIAN LAW.

This reply should also be repeated to Freedom & Fatima

by
GEORGE POLLOCK
Colonel,
Chief Judicial Officer.

HEAD 1020

RECEIVED AT
ISLAND BASE SECTION

MSG NR 336
MSG CEN NR
TO SEARS - FARGO

CLASSIFICATION OP
TIME OF ORIGIN 251635
TIME OF RECEIPT 252130
TIME DECODED 252135

(PAREN TO SEARS FOR FARGO BPTD FREEDOM FOR MIKE GEORGE SUGAR FATIMA
FOR THACKRAH AND CACCIA FROM FILPOT FROM AMG CITE FOX ABLE TWO SEVEN
SIX PAREN) TWO BRITISH MERCHANT SEAMEN ARRESTED BARI CHARGED WITH
STABBING ITALIAN PD BELIEVED ITALIAN WILL DIE PD REQUEST YOUR IMMEDIATE
INSTRUCTIONS PD MILITARY POLICE ARE HOLDING ACCUSED

CONFIDENTIAL

RECEIVED IN CODE

20

ONE COPY ONLY RECEIVED

0 40430 24
INS FOR PARCO - 714

17th November 1943

URGENT

PRIORITY

URGENT FOR MR. FOR FAIRMAN
URGENT BEARING IN MIND TO URGENT FOR MR. FOR FAIRMAN FROM INS FOR PARCO
FROM CHAIRMAN CITE AND SEVEN ONE FOUR PARCO & THIS IS ASK SIX SIX TWO DATED
FOURTH DECEMBER IN HENRY CAMERON & MATTER IN UNDER FURTHER INVESTIGATION

0951

4642/1
23

HQ. AIR - 662

12th November, 1945.

RESTRICTED

ROUTINE

TO: AFHQ FOR MES FOR FAIRMAN

DIFFICULTIES HAVE ARISEN AS TO METHOD OF DEALING WITH BRITISH MERCHANT NAVY OFFENDERS x /PARENT TO AFHQ FOR MES FOR FAIRMAN FROM IBS FOR PARCO FROM POLLOCK CITE HQ AND SIX SIX TWO PARENT x IT APPEARS THAT ALLIED MILITARY COURTS AT PRESENT HAVE JURISDICTION TO TRY THEM BUT ITALIAN JAILS ARE GENERALLY CONSIDERED UNSUITABLE FOR DETENTION OF BRITISH OFFENDERS x SUGGEST ALLIED MILITARY COURTS BE AUTHORIZED TO COMEIT TO MOST CONVENIENT BRITISH JAIL THAT SHIPS CAPTAINS BE INSTRUCTED TO HAND OVER PRISONERS AT APPROPRIATE PORT AND THAT GOVERNORS OF BRITISH JAILS BE EMPOWERED AND INSTRUCTED TO ACCEPT COMMITTEALS x ALTERNATIVE SUGGESTION IS THAT IN CONFORMITY WITH US PRACTICE OFFENDERS BE TRIED BY COURTS MARTIAL BUT DISADVANTAGES OF THIS ARE UNLIKELIHOOD OF BEING ABLE TO CONVEGE COURTMARTIAL NEAR WHERE OFFENSE IS COMMITTED AND MILITARY PUNISHMENT SYSTEM IS NOT SUITABLE FOR MERCHANT SEAFARERS x LATTER COULD BE OVERCOME BY GIVING COURTMARTIAL POWER TO COMEIT TO MOST CONVENIENT BRITISH JAIL x PLEASE CONSULT AGWAN AS MATTER URGENT GOING TO BEHAVIOUR OF SEAFARERS AND POPULACE

Cancelled
See folio 24

28

3.2%b 1994-1995, 1995-1996.

ORIGINAL

BUCK SLIP

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ry ✓

X

NEMAPRO

Office of the Commander-in-Chief,
Mediterranean Station,
Allied Force Headquarters,
ALGIERS.

30th November, 1943.

No. Med. 927/2/7.

THE MILITARY GOVERNMENT HEADQUARTERS, PALERMO

(Copies to: The Flag Officer, Western Italy;
The Flag Officer, Taranto Area;
The Military Government Section, Allied Force Headquarters;
The Principal Sea Transport Officer, Mediterranean.)

OFFENCES COMMITTED BY MERCHANT SEAMEN ON SHORE IN ITALY.

The attached correspondence regarding the trial of merchant service personnel accused of committing offences on shore in Italy is forwarded for information.

2. British naval authorities are only entitled to try, by Naval Court, offences against the Merchant Shipping Act and Defence Regulations 44B, 47A, 47 AA and 47AB (other than paragraph (6).) These cover a very limited range of disciplinary offences, and naval authorities have no powers to try offences committed on shore or such cases as looting or theft of ships stores, assaulting merchant service petty officers, etc.

3. Although Naval Courts are competent to hold investigations into such matters and take depositions on oath with a view to the trial of offenders on arrival in a British possession, this is a lengthy and unsatisfactory process especially as the attendance of the witnesses is usually essential at the subsequent trial. Moreover as the attendance of witnesses cannot, for operational reasons, often be obtained, trial is often impossible.

4. It seems doubtful whether Italian civil courts would prosecute or in fact are entitled to try such cases, and it is obviously undesirable that they should do so.

5. What is desired is some allied tribunal which could try British merchant seamen who could make out self and exemplary punishment. It would appear desirable that a British naval officer should be appointed either as a member of the court or as an adviser. However British merchant seamen are on shore in Sicily and it is

The Principal See Transit Office, Kediterranea.

OPINIONS COMITTED BY MERCHANT SEAMEN ON SHORE IN ITALY.

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5. Although Jural Courts are competent to hold investigations into such matters and take depositions on oath with a view to the trial of offenders on arrival in a British possession, this is a lengthy and unsatisfactory process especially as the attendance of the witnesses is usually essential at the subsequent trial. Moreover as the attendance of witnesses cannot, for operational reasons, often be obtained, trial is often impossible.

4. It seems doubtful whether Italian civil courts would prosecute or in fact are entitled to try such cases, and it is obviously undesirable that they should do so.

5. What is desired is some allied tribunal which could try British merchant seamen which could mete out swift and exemplary punishment. It would appear desirable that a British naval officer should be appointed either as a member of the court or as an adviser whenever British merchant seamen are on trial. It is understood that such courts already exist in Sicily and it is recommended that similar courts be set up on the mainland of Italy at a very early date. Taranto, Brindisi, Bari, Naples, Castellammare and Salerno are the ports at present affected.

DIRTY

File Location:

1. Divisional See Transport Officer, Southern Italy's Letter No. 175/2164 of 7th October, 1943.
2. Principal See Transport Officer, Mediterranean's Letter No. 4364/10347 of 16th October, 1943.

Enclosure No. 1 to Commander-in-Chief, Mediterranean's letter No. Med.927/2/7
of 8th November, 1943.

FROM: DIVISIONAL SEA TRANSPORT OFFICER, SOUTHERN ITALY.

DATE: 7th October, 1943. 175/116A

TO: PRINCIPAL SEA TRANSPORT OFFICER, MEDITERRANEAN.

(Copy to: Allied Force Headquarters, Algiers.
Commander-in-Chief, Mediterranean Station;
H.Q. No. 1 District, Fortbase,
Flag Officer, Italy.
H.Q., A.M.G.O.T.
A.W.R. Representative, Algiers.)

SUBJECT: Merchant Navy Delinquents

Guidance is sought as to the proper procedure to adopt in dealing with Merchant Navy personnel who commit offences against the Civil Law while ashore in Italian ports.

2. The position before the capitulation of Italy was simple, as A.M.G.O.T. Courts were sitting and cases were dealt with by these courts, the Superintending Sea Transport Officer at the port sitting as an assessor to assist the Court and ensure that no action was taken which would delay the ship from sailing. Now that there are no courts set up by A.M.G.O.T., there only remain the Italian Civil Courts or Naval Courts convened by the Senior British Naval Officer. It is not known whether Naval Courts have power to try a delinquent for an offence committed ashore, or if these Courts have the power to compel the attendance of civilian witnesses. No copies of Instructions for Naval Courts vide Art. 491 K.R. and A.I. appear to be held by any R.N. Authority with whom I have been in touch, and a supply of this book is urgently required for use in Italian ports.

3. In an endeavour to avoid going wrong on this question the procedure at present being used is based on the principle that Italian ports are to be regarded as operational ports under Military Control. It has therefore been arranged that Merchant Navy delinquents if arrested by the Civil Power are handed over to Military police for custody pending decision as to how the case shall be dealt with. But this is only a measure to prevent any further action by the Italian Civil authorities and still leaves open the question

H.Q.; A.M.C.O.T.
A.W.T. Representative, Algiers.)

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4. It is requested that this matter may be regarded as urgent, as the behaviour of both merchant seamen ashore and certain elements of the civil populace leave much to be desired and serious incidents are liable to occur any day.

(sgd.) Cdr. R.N.V.R.
for CAPTAIN, R.N.
DIVISIONAL SEA TRANSPORT OFFICER,
S. ITALY.

Enclosure No. 2 to Commander-in-Chief, Mediterranean's letter No. Med.
927/2/7 of 3th November, 1943.

COPY

From: Principal Sea Transport Officer, Mediterranean.

Date: 16th October, 1943. Ref. No. 4031/132/47.

To: Commander-in-Chief, Mediterranean Station.

With reference to No. 175/116A from Divisional Sea Transport
Officer, Southern Italy, addressed to me and copy to you.

It is requested that I may be given guidance as to the
procedure to be followed. As the matter is of some urgency and such
questions when placed before the legal authorities take months before
an answer is obtained, it is suggested that a ruling should be given
that such offenders are to be brought before a Naval Court, and
instructions given accordingly to Flag Officers and Naval Officers in
charge.

The legal question can be considered later - in any case
the offender will have been tried and the desired result obtained.

It is further considered that with close co-operation with²
the Italian authorities, civilian witnesses could be compelled to attend
the Court.

(Sgd.) G.F.Denby

REAR ADMIRAL
Principal Sea Transport Officer,
Mediterranean.

1101

FROM: DIVISIONAL SEA TRANSPORT OFFICER, SOUTHERN ITALY.

DATE: 7th October, 1943,

175/116A

TO : PRINCIPAL SEA TRANSPORT OFFICER, MEDITERRANEAN.

(Copy to:--Allied Force Headquarters, Algiers
Commander-in-Chief, Mediterranean Station.
H.Q. No.1. District, Portbase.
Flag Officer, Italy.
H.Q., A.M.G.O.F.
M.F.T. Representative, Algiers)

SUBJECT: MERCHANT NAVY DELINQUENTS.

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s/ ?

CAPTAIN, R.N.
DIVISIONAL SEA TRANSPORT OFFICER,
S. ITALY.

20
 AMTOT/4042/L
 AMTOT HQ., SICILY
 September 1943

SUBJECT: Trial and Imprisonment of Merchant Seamen for offences committed in Allied Occupied Territory.

TO : Military Government Section, A.F.H.Q.
 It is requested that the following be transmitted to the combined Chiefs of Staff.

1. A directive is required urgently on the above subject. Cases have arisen, and are likely to arise frequently in the future, of British merchant seamen committing ordinary crimes and offences against the Proclamations and Orders of the Military Governor. It is therefore desired that a policy may be laid down with regard to the trial of such British merchant seamen and with regard to the penalties which may be inflicted after convictions.

2. It is desirable that the system of justice for British and American merchant seamen applied in the occupied territory should be similar so far as possible. The position which exists, as I am advised, with regard to American merchant seamen is therefore set out below.

3. The advice that I have received with regard to American merchant seamen is that they are, when in occupied territory (including territorial waters), liable to trial for offences against the Articles of War of the United States, and that this trial may be conducted by a Court Martial or Military Commission. I am also advised that American merchant seamen are liable to trial by Military Commission for offences committed against the Proclamations and Orders of the Military Governor of the occupied territory. Further, I am advised that an Allied Military Court established under Proclamation of the Military Governor would be considered to be a Military Commission for this purpose. The Proclamations of the Military Governor in Sicily provide that Allied Military Courts shall have jurisdiction over persons who are not members of the Allied Forces, and if any such person commits an offence against the laws of Italy, or against the Proclamations, he may be tried in an Allied Military Court. I am advised that an American merchant seaman is not a member of the "Allied Forces" and that he is therefore subject to such jurisdiction.

4. Under the foregoing advice, the position with regard to American merchant seamen is that:

- (a) American merchant seamen may be tried for offences against the Articles of War by Court Martial.
- (b) American merchant seamen may be tried for ordinary crimes either under the Articles of War by Court Martial, or under Italian Law by an Allied Military Court.
- (c) American merchant seamen may be tried for offences against Proclamations and Orders of the Military Governor by an Allied Military Court.

deemed to be persons serving with the armed forces of the United States, and as such, subject to military law.
Accordingly, they are

with the American forces

under Italian Law

2. It is desirable that the system of justice for British and American merchant seamen applied in the occupied territory should be similar so far as possible. The position which exists, as I am advised, with regard to American merchant seamen is therefore set out below.

3. The advice that I have received with regard to American merchant seamen is that they are, when in occupied territory (including territorial waters), liable to trial for offences against the Articles of War of the United States, and that this trial may be conducted by a Court Martial or Military Commission. I am also advised that American merchant seamen are liable to trial by Military Commission for offences committed against the Proclamations and Orders of the Military Governor of the occupied territory. Further, I am advised that an Allied Military Court established under Proclamation of the Military Governor would be considered to be a Military Commission for this purpose. The Proclamations of the Military Governor in Sicily provide that Allied Military Courts shall have jurisdiction over persons who are not members of the Allied Forces, and if any such person commits an offence against the laws of Italy, or against the Proclamations, he may be tried in an Allied Military Court. I am advised that an American merchant seaman is not a member of the "Allied Forces" and that he is therefore subject to such jurisdiction.

4. Under the foregoing advice, the position with regard to American merchant seamen is that:

- (a) American merchant seamen may be tried for offences against the Articles of War by Court Martial.
 - (b) American merchant seamen may be tried for ordinary crimes either under the Articles of War by Court Martial, or under Italian Law by an Allied Military Court.
 - (c) American merchant seamen may be tried for offences against Proclamations and Orders of the Military Governor by an Allied Military Court.
5. Next with regard to imprisonment of American merchant seamen. I am advised that an American merchant seaman who is convicted and sentenced to imprisonment by either a Court Martial or an Allied Military Court may be made to serve his sentence in an American military prison. I am also advised that if convicted by an Allied Military Court, he could be made to serve his sentence in an American Military Prison or alternatively in a local gaol of the occupied territory.

6. The position with regard to British merchant seamen is that, in occupied territory (including territorial waters):

- (a) British merchant seamen may NOT be tried for offences under the Army Act.
- (b) British merchant seamen may be tried for ordinary crimes under Italian law by an Allied Military Court or sent to a court in British territory for trial. They may NOT be tried by a Martial.

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(c) British merchant seamen may be tried for offences against Proclamations and Orders of the Military Governor by an Allied Military Court.

7. With regard to imprisonment, a British merchant seaman cannot be a "Military Prisoner" within the meaning of the Army Act, and he therefore can only be imprisoned after a conviction by an Allied Military Court in an Italian Gaol.

8. It will be noted that whereas American merchant seamen can be tried by Court Martial for ordinary offences in accordance with the law of their own country, British merchant seamen cannot be so tried. It will also be noted that whereas American merchant seamen can be imprisoned for ordinary crimes or Proclamation offences in an American military gaol, British merchant seamen can only be imprisoned for such crimes or offences in an Italian gaol.

9. With regard to the question of trial in accordance with the law of the merchant seaman's own country, I am of the opinion that the procedure adopted in Madagascar (under the Madagascar Agreement) and in Tripolitania (under Proclamation) should be followed in occupied Italian Metropolitan territory. Under this procedure a British merchant seaman could be tried by an Allied Military Court for any offence which was an offence against the law of England. This procedure is analogous to trial by Court Martial of persons subject to Military Law under Section 41 of the Army Act.

10. If approval is given to this course, the necessary provision can be made by Proclamation of the Military Governor.

11. Greater difficulty exists, however, with regard to the imprisonment of British merchant seamen. In my opinion, the conditions of Italian gaols (even after amelioration under the Allied Military Government) are not suitable for British subjects. Also, putting British subjects into gaol with people of a different language and under warders of a conquered power is clearly not good policy or just.

12. The number of British merchant seamen likely to be serving sentences at any one time would not justify the expenditure of British personnel required to maintain a separate gaol and the only other two courses which appear to be open are either

- (a) to send such British merchant seamen to a British military prison or
- (b) to a civil prison in British territory, to serve their sentences.

13. I am aware that either course suggested in the last paragraph would probably necessitate an Act of Parliament, either to amend the Army Act with regard to military prisons or to enact new legislation somewhat on the lines of the Colonial Prisoners Removal Act. There is now a very large area of British and Allied occupied territory in which British merchant seamen, and possibly other classes of British civilian subjects, will need to be tried from time to

clamation offences in an Italian gaol only be imprisoned for such crimes or offences in an Italian gaol.

9. With regard to the question of trial in accordance with the law of the merchant seaman's own country, I am of the opinion that the procedure adopted in Madagascar (under the Madagascar Agreement) and in Tripolitania (under Proclamation) should be followed in occupied Italian Metropolitan territory. Under this procedure a British merchant seaman could be tried by an Allied Military Court for any offence which was an offence against the law of England. This procedure is analogous to trial by Court Martial of persons subject to Military Law under Section 41 of the Army Act.

10. If approval is given to this course, the necessary provision can be made by Proclamation of the Military Governor.

11. Greater difficulty exists, however, with regard to the imprisonment of British merchant seamen. In my opinion, the conditions of Italian gaols (even after amelioration under the Allied Military Government) are not suitable for British subjects. Also, putting British subjects into gaol with people of a different language and under warders of a conquered power is clearly not good policy or just.

12. The number of British merchant seamen likely to be serving sentences at any one time would not justify the expenditure of British personnel required to maintain a separate gaol and the only other two courses which appear to be open are either

- (a) to send such British merchant seamen to a British military prison or
- (b) to a civil prison in British territory, to serve their sentences.

13. I am aware that either course suggested in the last paragraph would probably necessitate an Act of Parliament, either to amend the Army Act with regard to military prisons or to enact new legislation somewhat on the lines of the Colonial Prisoners Removal Act. There is now a very large area of British and Allied occupied territory in which British merchant seamen, and possibly other classes of British civilian subjects, will need to be tried from time to time for ordinary crimes as well as for Proclamation offences. With the anticipation of further large scale occupations, including numbers of sea ports, the situation appears to require some definite and early decision on policy. If legislation is considered, the question of fines might well at the same time be dealt with. The grant of power to a Military Court to make an order against the master of a ship for payment of a fine up to a limited amount, and to the master of a ship to deduct such fine from the seaman's pay, would be very valuable.

14. It is desired that a directive on the above matters may be issued as soon as possible.

DRAFT.

AMCOT/4042/L

AMCOT HQ. - SICILY

Sept. 43.

Subject: Trial and Imprisonment of Merchant Seamen for offences committed in Allied Occupied Territory.

To : Combined Chiefs of Staff. Military Government Section.

It is requested that the following be transmitted to the Combined Chiefs of Staff:

1. A directive is required urgently on the above subject. Cases have

arisen, and are likely to arise frequently in the future, ~~where~~ British Merchant

Seamen ~~who commit~~ ^{committing} ordinary crimes ~~and~~ ^{and} offences against the Proclamations and

Orders of the Military Governor. ~~and~~ ^{therefore desired} It is ~~requested~~ that a policy may be

laid down with regard to the trial of such British Merchant Seamen and with

regard to penalties which may be inflicted ~~on~~ ^{aff.} ~~a~~ ^{system of justice for} convictions.

2. ~~It is desirable that the treatment of~~ ^{It is desirable that the treatment of} British and American

~~Merchant Seamen in the occupied territory should be as nearly the same as~~ ^{Merchant Seamen} as

possible. The position which exists, as I am advised, with regard to American Merchant Seamen is ~~set out below.~~ ^{therefore}

3. The advice that I have received with regard to American Merchant

Seamen is that they are, when in occupied territory (including territorial

waters), liable to trial for offences against the Articles of War of the United

States, and that this trial may be conducted by a Court Martial or Military

Commission. I am also advised that American Merchant Seamen are liable to

trial by Military Commission for offences committed against the Proclamations

and Orders of the Military Governor of the occupied territory. Further, I am

advised that an Allied Military Court ^{for this purpose} established under Proclamation of

the Military Governor would be considered to be a Military Commission. The

Proclamations of the Military Governor in Sicily provide that Allied Military

Courts have jurisdiction over persons who are not members of the Allied

Committing ordinary crimes ^{and} offences against the Proclamations and Orders of the Military Governor. ^{Therefore decided} It is ~~recommended~~ that a policy may be laid down with regard to the trial of such British Merchant Seamen and with regard to penalties which may be inflicted ^{off} ~~on~~ convictions.

2. ^{It is desirable} that the treatment ^{of} British and American Merchant Seamen in the occupied territory should be ^{similar to that} ~~as nearly as possible~~ as possible. The position which exists, as I am advised, with regard to American Merchant Seamen is ^{therefore} set out below.

3. The advice that I have received with regard to American Merchant Seamen is that they are, when in occupied territory (including territorial waters), liable to trial for offences against the Articles of War of the United States, and that this trial may be conducted by a Court Martial or Military Commission. I am also advised that American Merchant Seamen are liable to trial by Military Commission for offences committed against the Proclamations and Orders of the Military Governor of the occupied territory. Further, I am advised that an Allied Military Court ^{for this purpose} established under Proclamation of the Military Governor would be considered to be a Military Commission. The Proclamations of the Military Governor in Sicily provide that Allied Military Courts ^{shall} have jurisdiction over persons who are not members of the Allied Forces, and if any such person ^{is} commits/offences against the laws of Italy, or against the Proclamations, he may be tried in an Allied Military Court. I am advised that an American Merchant Seaman is not a member of the ~~British~~ "Allied Forces" and that he is therefore subject to such jurisdiction. ^{when we frequently advise, the} ~~is that:-~~

4. ^{The} position with regard to American Merchant Seamen ~~therefore appears~~

the above

(a) American Merchant Seamen may be tried for offences against the

(2)

Articles of War by Court Martial.

(b) American merchant seamen may be tried for ordinary crimes ^{under} either in the Articles of War by Court Martial, or ~~in~~ Italian law by an

Allied Military Court.

(c) American merchant seamen may be tried for offences against Proclamations and Orders of the Military Governor by an Allied Military Court.

5. Next with regard to imprisonment of American Merchant Seamen.

I am advised that an American Merchant Seaman who is convicted and sentenced to imprisonment by either a Court Martial or an Allied Military Court may be made to serve his sentence in an American military prison. I am also advised that if convicted by an Allied Military Court, he could ~~alternatively~~ be made ^{either in an American military prison or alternatively in a} to serve his sentence ~~in the~~ local gaol of the occupied territory.

6. The position with regard to British merchant seamen ~~is that they~~ ^{is that they are not} ~~are only~~ subject in occupied territory (including territorial waters) ~~to the~~ ^{to the} (a) British merchant seamen may ~~NOT~~ be tried for offences under the Army Act, Proclamations and Orders of the Military Governor, ~~except that they may also~~ ^{be tried for ordinary crimes under} (b) British merchant seamen may be tried for ordinary crimes under ~~in sent to a court in British Territory for trial for ordinary crimes.~~ ^{in sent to a court in British Territory for trial for ordinary crimes.} ~~The Italian law by which a British~~ ^{is sent to a court in British Territory for trial for ordinary crimes.} ~~with regard to ordinary crimes, they would only be charged in~~ ^{is sent to a court in British Territory for trial for ordinary crimes.} occupied territory at the present time with an offence against Italian law and they could be tried for such offences by an Allied Military Court.

g. 7. With regard to imprisonment, a ^{British} ~~merchant~~ ^{seaman} ~~may~~ be a "Military Prisoner" within the meaning of the Army Act, and he therefore can only be imprisoned after ~~after~~ a conviction by an Allied Military Court in an Italian gaol.

It will be noted ~~at once~~ that whereas American Merchant Seamen can be tried, for ordinary offences in accordance with the law of their own country,

I am advised that an American Merchant Seaman who is convicted and sentenced to imprisonment by either a Court Martial or an Allied Military Court may be made to serve his sentence in an American military prison. I am also advised that if convicted by an Allied Military Court, he could ~~alternatively~~ be made ~~serve in an American military prison or alternatively in a~~ to serve his sentence ~~in the~~ local gaol of the occupied territory.

6. The position with regard to British merchant seamen ~~is that they are only subject~~ in occupied territory (including territorial waters) ~~to the~~ ^{to British territorial waters} (a) British Merchant Seamen may ~~not~~ be tried for offences under the Army Act, Regulations and Orders of the Military Government, except that they may also (b) British Merchant Seamen may be tried for ordinary crimes under ~~be sent to a court in British Territory for trial for ordinary crimes.~~ ^{in Italian Law by an Allied Military Court or sent to a court in British Territory} ~~with regard to ordinary crimes, they could only be charged in~~

occupied territory at the present time with an offence against Italian law and they could be tried for such offences by an Allied Military Court.

8.7 With regard to imprisonment, a merchant seaman ~~can~~ ^{British Merchant Seaman} be a "Military Prisoner" within the meaning of the Army Act, and he therefore can only be imprisoned after ~~after~~ a conviction by an Allied Military Court in an Italian gaol.

8.8 It will be noted ~~at once~~ ^{by Court-Martial} that whereas American Merchant Seamen can be tried for ordinary offences in accordance with the law of their own country, British Merchant Seamen can not be so tried. It will also be noted that whereas American Merchant Seamen can be imprisoned in ^{for ordinary crimes or Proclamations of Forces} ~~in the~~ American Military gaol ^{for such crimes or offences} ~~in an Italian gaol.~~

8.9 With regard to ^{the question} trial in accordance with the law of the merchant seaman's own country, I am ~~strongly~~ of the opinion that the procedure adopted in Madagascar ^{under} (in the Madagascar Agreement) and in Tripolitania ^{under} (by Proclamation) should be followed in occupied Italian Metropolitan territory. Under this

(3)

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procedure a British merchant seaman ^{could} be tried in an Allied Military Court for any offence which was an offence against the law of England. This procedure is analagous to ~~the~~ ^{by court martial} trial of persons subject to Military Law ~~in~~ ^{under} Section 41 of the Army Act.

10. If approval is given to this course the necessary provision can be made by Proclamation of the Military Governor.

11. Greater difficulty exists, however, with regard to the imprisonment of British merchant seamen. In my opinion, the conditions of Italian gaols even after amelioration under the Allied Military Government are not suitable for British subjects. Also, putting British ^{subjects} ~~subjects~~ into gaol with people of a different language and under warders of a conquered power is clearly not good policy or just, ~~to convicted British prisoners.~~

12. The number of British merchant seamen likely to be serving sentences at any one time would not justify ^{the} ~~an~~ expenditure of British personnel required to maintain a separate gaol and the only other two courses which appear to be open are ^{either} (a) to send such British merchant seamen to a British military prison, or (b) to a civil prison in British territory, to serve their sentences.

13. I am aware that either course ^{suggested in the last paragraph} ~~suggests that the imprisonment in the~~ last paragraph would probably necessitate an Act of Parliament, either to amend the Army Act with regard to military prisons or to enact new legislation somewhat on the lines of the Colonial Prisoners Removal Act. There is now a very large area of British and Allied occupied territory in which British merchant ~~seamen~~ ^{and possibly other classes of British} civilian subjects will need to be tried from time to time for ordinary crimes as well as for Proclamation offences. With the anticipation of further

large scale occupations including numbers of sea ports, the situation appears

(2)

Articles of War by Court Martial.

(b) American merchant seamen may be tried for ordinary crimes either in the Articles of War by Court Martial, or ^{under} ~~by~~ Italian Law by an Allied Military Court.

(c) American merchant seamen may be tried for offences against Proclamations and Orders of the Military Governor by an Allied Military Court.

5. Next with regard to imprisonment of American Merchant Seamen.

I am advised that an American Merchant Seaman who is convicted and sentenced to imprisonment by either a Court Martial or an Allied Military Court may be made to serve his sentence in an American military prison. I am also advised that if convicted by an Allied Military Court, he could ~~alternatively~~ be made ^{either in an American Military Prison or alternatively in a} to serve his sentence ~~in the~~ local gaol of the occupied territory.

6. The position with regard to British merchant seamen ~~is that they~~ ^{is that they are} ~~are only subject~~ in occupied territory (including territorial waters) ~~to the~~ ^{to the} ~~proclamations and orders of the Military Governor, except that they may also~~ ^{be tried for offences under the Army Act, be sent to a court in British Territory for trial for ordinary crimes.} ^{by Italian Law by a court in British} ~~with regard to ordinary crimes, they could only be charged in~~

occupied territory at the present time with an offence against Italian Law and they could be tried for such offences by an Allied Military Court.

8. 7. With regard to imprisonment, a ^{British} ~~seaman~~ ^{seaman} ~~can~~ ^{can} be a "Military Prisoner" within the meaning of the Army Act, and he therefore can only be imprisoned after ~~after~~ a conviction by an Allied Military Court in an Italian gaol.

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6. The position with regard to British merchant seamen ~~is that they~~

~~are only subject in occupied territory (including territorial waters) to the~~ ^{to that of their own country}
 (a) British merchant seamen may ~~NOT~~ be tried for offences under the Army Act, Regulations and Orders of the Military Government, ~~except that they may also~~
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 The Italian Law by which a Military Court is sent to a Court in British Territory with regard to ordinary crimes, they could only be charged in

occupied territory at the present time with an offence against Italian law and they could be tried for such offences by an Allied Military Court.

3.7. With regard to imprisonment, a ^{British} merchant seaman ~~can~~ ^{can} be a "Military Prisoner" within the meaning of the Army Act, and he therefore can only be imprisoned after a conviction by an Allied Military Court in an Italian gaol.

3.8. It will be noted ~~at once~~ that whereas American Merchant Seamen can be tried for ordinary offences in accordance with the law of their own country, British Merchant Seamen can not be so tried. It will also be noted that whereas American Merchant Seamen can be imprisoned in the American Military gaol ^{for such crimes as offences} a British Merchant Seaman can only be imprisoned ^{in the question} in an Italian gaol.

3.9. With regard to trial in accordance with the law of the merchant seaman's own country, I am ~~strongly~~ of the opinion that the procedure adopted in Madagascar ^{under} (in the Madagascar Agreement) and in Tripolitania ^{under} (by Proclamation) should be followed in occupied Italian Metropolitan territory. Under this

④ Privilege for trial. They may NOT be tried by Court-Martial.

(C) British Merchant Seamen may be tried for offences against Proclamations and Orders of the Military Governor by an armed Military Court.

(2)

procedure a British merchant seaman ^{could} be tried in an Allied Military

Court for any offence which was an offence against the law of England.

This procedure is analogous to ~~the~~ ^{by court martial} trial of persons subject to Military

Law ^{under} Section 41 of the Army Act.

12. 10. If approval is given to this course the necessary provision can be made by Proclamation of the Military Governor.

12. 11. Greater difficulty exists, however, with regard to the imprisonment of British merchant seamen. In my opinion, the conditions of Italian gaols (even after amelioration under the Allied Military Government) are not suitable for British subjects. Also, putting British ^{subjects} ~~seamen~~ into gaol with people of a different language and under warders of a conquered power is clearly not good policy or just, ~~to court-martial British seamen.~~

12. 12. The number of British merchant seamen likely to be serving sentences at any one time would not justify ^{the} ~~an~~ expenditure of British personnel required to maintain a separate gaol and the only other two courses which appear to be open are ^{either} (a) to send such British merchant seamen to a British Military prison, or (b) to a civil prison in British territory, to serve their sentences.

12. 13. I am aware that either course ^{suggested in the last paragraph} ~~suggests that the imprisonment in the~~ last paragraph would probably necessitate an Act of Parliament, either to amend the Army Act with regard to military prisons or to enact new legislation somewhat on the lines of the Colonial Prisoner Removal Act. There is now a very large area of British and Allied occupied territory in which British merchant seamen and ^{possibly other classes of British} civilian subjects, will need to be tried from time to time for ordinary crimes as well as for Proclamation offences. With the anticipation of further large scale occupations including numbers of sea ports, the situation appears

of British merchant seamen. In my opinion, the conditions of Italian gaols even after amelioration under the Allied Military Government) are not suitable for British subjects. Also, putting British ^{subjects} ~~subjects~~ into gaol with people of a different language and under wardens of a conquered power is clearly not good policy or just, ~~to convicted British persons.~~

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large scale occupations, including numbers of sea ports, the situation appears to require some definite and early decision on policy. If legislation is being considered, the question of fines might well at the same time be dealt with. The ^{power of} ~~power~~ ^{to} ~~to a Military Court to make an order against the master of a ship for payment of a fine up to a limited amount, and ^{to} ~~enable~~ the master of the ship to deduct such fine from the seaman's pay, would be very valuable.~~

14. Is it desired that a directive on the ^{above matters} ~~trial of British merchant seamen~~ ^{may be issued as soon as possible} ~~in the total of all British civilian~~ ^{seamen particularly, and if possible}

*Col. Rowe to see**File Merchant
Seaman*359 (A.W.2.) Persons subject to military law. 15

Sec 1, Ch. II, act of June 4 1920 (41 Stat 787); 10 U.S. 1473.

(d) GROUP RETAINERS AND PERSONS SERVING WITH ARMIES OF THE UNITED STATES.

(11) Employees of Army transports and mine planters.— Accused, a civilian was a mess steward on a Government-owned ship being operated in the Army Transport Service. The ship carried a cargo of war materials and one army officer, and it moved in a convoy with other vessels. The accused was found guilty by a general court-martial of an assault against the master of his ship, and of other offenses, in violation of the Articles of War (W.A.96). Held: The accused was subject to military jurisdiction by virtue of A.W.2. (d). This statute specifically provides that in time of war civilians accompanying or serving with the army in the field are subject to the Articles of War. The constitutionality of the statute has been upheld by the federal courts. *Ex parte GELIACH*, 247 Fed. 616; *Ex parte FALLS*, 251 Fed 415. Persons in the Army Transport Service engaged in transporting war equipment and supplies are "serving with the armies of the United States in the field". Since the accused was subject to military jurisdiction, the locale of the offense is immaterial, and it does not matter that the offense took place on the high seas. The fact that accused may have been unaware of his amenability to military law is no defense.

CS 231998 (1943)

C.E.A.O.

Merchant Seamen

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This file was last considered by you at p. 6 and the

Subsequent pages are new.

2. The position regarding American Merchant Seamen presents no real difficulties, but I am concerned over British Merchant Seamen in the following two main

aspects -

- (a) whether they should be tried, as at present, for ordinary crime under Italian Law, and
- (b) whether they should be confined to Italian

Quota.

Question (b) is really the more important.

3. I should be much obliged if you would let me know what policy you ~~can~~ ^{do} decide should be pursued in regard to British Merchant Seamen.

A summary of the legal position is at page 7.

0973
This file was last considered by you at p. 6 and the

Subsequent pages are new.

2. The position regarding American Merchant Seamen presents two real difficulties, but I am concerned over British Merchant Seamen in the following two main

aspects -

- (a) Whether they should be tried, as at present, for ordinary crime under Italian Law, and
- (b) whether they should be confined to Italian

Quota.

Question (b) is really the more important.

- 3. I should be much obliged if you would let me know what policy you ~~will~~ ^{should} ~~desire~~ ^{desire} should be pursued in regard to British Merchant Seamen.
- A summary of the legal position is at page 7.

16 Sep 43.

H. J. [Signature]
D.C.H.O.

for Major [Signature]

C.C.A.O. desires despatch the subject of para 9 Page 12
1943

BEST COPY POSSIBLE

13
 AGOT/4042/1
 AGOT HQ SICILY
 13 September 1943

SUBJECT: Merchant Seamen

TO: Chief Legal Officer

1. I have read the minutes of Lt. Col. Jordan and Major Corman attached to this file with regard to American Merchant Seamen and I have the following comments to make, additional to my minute at page 7.

2. The object of the discussion is to provide for the trial of American and British Merchant Seamen for offences against the Proclamations and Orders of the Allied Military Government and for ordinary crimes when committed within the jurisdiction of the Allied Military Government.

3. The questions which arise are:

(1) Whether Allied Military Courts can properly be granted jurisdiction over all merchant seamen committing either Proclamation Offences or ordinary crimes within the Occupied Territory;

(2) If so, whether this jurisdiction already exists;

(3) Whether, in respect of serious crimes by American Merchant Seamen, it will be the policy to try the offenders by Allied Military Courts (assuming it is agreed jurisdiction has or will be granted to such Courts) or whether the policy will be to deal with such cases by Court Martial, under the concurrent jurisdiction which, it has been held in American Law, American Courts - Martial possess;

(4) If the policy for the trial of American Merchant Seamen for serious crimes is to be by Court - Martial under American Law, whether jurisdiction should be granted to Allied Military Courts to try British Merchant Seamen for similar crimes under the laws of England, as British Merchant Seamen are not liable to trial by British Court - Martial; and

(5) Policy with regard to imprisonment of seamen. The above questions are dealt with below serially.

4. Lt. Col. Jordan advises that American Merchant Seamen are not subject exclusively to trial by American Court Martial and I understand from his minute that Major Corman does not dispute this. In fact, Article 15 of the American Articles of War appears to make it quite clear that there is nothing in the Articles of War which would make it illegal or improper for an American Merchant

3. The questions which arise are:

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(2) If so, whether this jurisdiction already exists;

(3) Whether, in respect of serious crimes by American Merchant Seamen, it will be the policy to try the offenders by Allied Military Courts (assuming it is agreed jurisdiction has or will be granted to such Courts) or whether the policy will be to deal with such cases by Court Martial, under the concurrent jurisdiction which, it has been held in American Law, American Courts - Martial possess;

(4) If the policy for the trial of American Merchant Seamen for serious crimes is to be by Court - Martial under American Law, whether jurisdiction should be granted to Allied Military Courts to try British Merchant Seamen for similar crimes under the laws of England, as British Merchant Seamen are not liable to trial by British Court - Martial; and

(5) Policy with regard to imprisonment of seamen. The above questions are dealt with below seriatim.

4. Lt. Col. Jordan advises that American Merchant Seamen are not subject exclusively to trial by American Court Martial and I understand from his minutes that Major Gorman does not dispute this. In fact, Article 15 of the American Articles of War appears to make it quite clear that there is nothing in the Articles of War which would make it illegal or improper for an American Merchant Seamen to be dealt with by an Allied Military Court.

5. The next question is whether jurisdiction is already possessed by Allied Military Courts. This question is dealt with at length by the minutes of Lt. Col. Jordan and Major Gorman and many arguments for and against the proposition are advanced. The answer to the question must, in my opinion, be answered by construing the words "Allied Forces" in their natural meaning in accordance with ordinary rules of construction of legal documents. Merchant Seamen are not a "Force" at all, I think. They have, as Major Gorman points out, certain rights in International Law to defend themselves of attack on the high seas, but that does not make them a "Force". Further they are not recognized as "Armed Forces" within the definitions of that term contained in the American Rules of Land Warfare and the British Manual of Military Law. In my opinion, therefore, use of the term "Allied Forces" in Article II of Proclamation No. 4 does not exclude Merchant Seamen from the jurisdiction conferred on Allied Military Courts by that Proclamation.

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6. If a seamen is tried at present under Proclamation No. 4 for an ordinary crime, as distinct from Proclamation Offences, it must be in accordance with Italian Law. If the seamen is an American, he can be tried alternatively by American Court - Martial in accordance with the American Articles of War. If the seamen is British, no such alternative exists. American and British Law is very similar but there are very considerable differences in Italian Law and it would be unwise, in my view, for American seamen to be tried for crimes in accordance with American Law and for British Seamen to be tried in accordance with Italian Law. It is therefore, desirable that the American Policy on the subject be formulated at an early date so that British Policy can then be considered.

7. If, as may occur, the American Policy is that serious crimes by American Merchant Seamen will be dealt with under the Articles of War, then I recommend that Allied Military Courts be given jurisdiction by Proclamation to try British Merchant Seamen in accordance with the Law of England. This Policy has been adopted in Madagascar and Tripolitania, but prior approval through the Combined Chiefs of Staff is probably desirable.

8. Finally the question of imprisonment arises. As regards American Merchant Seamen who are tried by Court Martial, they are no doubt confined in American Military prisons, and no difficulty arises. With regard to American Merchant Seamen who are tried by Allied Military Court, I understand from C.L.O. that an order could be made in American Law for them to serve sentences in American military prisons. The only difficulty is therefore, with regard to British Merchant Seamen. Military Prisons are only able to take "military prisoners". A "Military Prisoner" is defined in the Army Act as "a person under sentence of imprisonment passed by a Court - Martial". To enable British Merchant Seamen to be imprisoned in a military prison would therefore need an Act of Parliament. The only alternative provision existing at present is an Italian Gaol and I am of opinion that the nature in which Italian Gaols are conducted, their sanitary and health conditions and language difficulties would make it a matter for the most adverse comment if a British Merchant Seamen were sentenced to serve a term of imprisonment in one.

9. In all Military Government legislation in British Occupied Territory, the question of imprisonment of British subjects offending in the Occupied Territory has been avoided as presenting too many difficulties, but with the extension of occupations and particularly occupation of many European ports into which civilians will come, the question should be firmly dealt with. The most satisfactory solution is probably that any British civilian subjects (convicted in Occupied Territory by a Military Court) might be removed to civil prisons in British territory to serve their sentences. This would need an Act of Parliament on the lines of the Colonial Prisoners Removal Act, but it would be fully justified. I advise that a despatch be sent to the War Office through the Combined Chiefs of Staff on the subject.

Hillman

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Lieut. Colonel,
Deputy Chief Legal
Officer.

SUBJECT : Jurisdiction of ARMY Courts over American Merchant Seamen.

AFM/AGC/L.
AFM/AGC/L.
11 September, 1945.

TO : Lt. Col. W. C. Chandler.

1. At Hawaii several American Merchant Seamen were arrested, pleaded guilty and fined for being in the boat, it having been declared off limits. The question arises whether or not ARMY Courts have jurisdiction to try such cases whether in combat phases or thereafter.

2. Investigation shows that the merchant seamen were under the Army Transport Command and carrying troops. It must be presumed that in case of attack by the enemy by air or water they would fall upon the enemy, being under the Army command.

3. The ARMY Courts do not have jurisdiction over "(a) members of the Allied Forces; and (b) persons who are treated as prisoners of war under the Geneva Convention of July 27, 1929." Explanation No. 4, Art. II, Section 2. The sole question is whether these particular American Merchant Seamen are members of the Allied Forces.

4. At the outset it must be noted that such merchant seamen under AF 2 are subject to military court-martial clearly as "persons accompanying or serving with the armies of the United States." Likewise if captured they would be entitled to be treated as prisoners of war under International Law. The difficulty arises solely because the British Merchant Seamen are not subject to court-martial while Americans are. Consequently, the British Seamen may escape any punishment for infractions if ARMY Courts were deprived of jurisdiction. However, the American Merchant Seamen would be subject to military court-martial the same as any other soldier who might be off limits. The sole question is whether the merchant man is subject to ARMY jurisdiction. If he is a member of the "Allied Forces" he is not. If not, he is so subject.

5. Whether one is subject to military law or can be treated as a prisoner of war seems irrelevant to the question. In fact AF 2 seems to classify persons as those of the Armed Forces "and all persons accompanying or serving with the armies of the United States." This would ordinarily lead to the result that merchant seamen are not members of the Armed Forces but rather just accompanying them.

6. The British and American view has been that merchant-men armed defensively were not military craft, even though carrying ammunition for the purpose of defending themselves. See Oppenheim II, p. 362-5, Hyde: International Law, II, 469. Martini, a German writer, holds to the contrary stating that such ships can be sunk without warning just as any battleship. Modern practice seems to support the latter view over American and British protests. This is significant because from a German standpoint, merchant seamen are considered part of the Armed Forces.

10

7. There may be considerable doubt whether an ordinary American Merchant Seaman under British and American law would be a member of the Armed Forces. Considering, however, that these particularly, merchant seamen, were engaged in transporting troops and ammunition and were directly under the military command, on that mission they were actually members of the Armed Forces. Whether in every case they would be so treated is another question.

8. Finally, it should be noted that the proclamation does not limit exemptions to "Armed Forces" but "Allied Forces." While exceptions as a rule are to be strictly construed, nevertheless the facts in this case would clearly justify the view that while in the harbor of Licata awaiting further military orders they were actually members of the Allied Forces. This is in accord with Article 3 of the Hague Convention which provides that "the armed forces of the belligerent parties may consist of combatants and non-combatants."

9. Since they were subject to military discipline by the military commander the cases in the particular instance might be upheld on the ground the action of the Summary Military Court in the combat zone was a delegated administrative action by Major General Truscott. This would be a question for Major General Truscott to determine as it would be within his power to set up methods of discipline for merchant seamen provided such punishments do not exceed his authorization granted by AW 104.



ROBERT N. CORBETT,
Major, GMP.

11

SUBJECT : Merchant Seamen.

AFOT/1042/L.
AFOT HQ SICILY
11 September, 1943.

TO : Lt. Col. W. C. Chanler.

From the excellent discussion by Major Gorman of his question of trying American Merchant Seamen in AFOT Courts, I dissent for the following reasons:

1. AFOT Courts are denied jurisdiction to try (a) members of the Allied Forces and (b) persons who are treated as prisoners of war under the Geneva Convention of July 27, 1929, Proclamation No. 2, Article II, Section 2.
2. The question, therefore, is whether or not American Merchant Seamen are members of "the Allied Forces" within the meaning of Proclamation No. 2.
3. The term "Armed Forces" is defined in "Manual of Military Law, 1929 (British), Chapter XIV, Section III, subsection 20 and D.F.M. "Rules of Land Warfare" 27-10 (American), Chapter 2, Section 9 in substance as follows, quoting from H.R. Arts. 1, 2, 3:
"Lawful belligerents.--a. Armies, militia, and volunteer corps.--
The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:
1. To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly." x x x
4. If it be regarded that American Merchant Seamen are not members of the "Armed Forces" under the Hague Rules, we are confronted with the problem that they might not be members of the "Armed Forces" and yet might be regarded as members of "the Allied Forces."
5. The legislative intent of the framers of Proclamation No. 2 must have been to prepare a coordinated, consistent program for uniform enforcement of law and order upon all inhabitants of occupied territory, not lawful belligerents, whether British, American or Italian.
6. It seems to be conceded, and is doubtless true, that British Merchant Seamen are neither members of "The Armed Forces" or "The Allied Forces" under the Hague Rules. British Merchant Seamen are not subject to court-martial. American Merchant Seamen have been held to be subject to court-martial jurisdic-

*Put out
Section 9*

tion under AW 2 4, which is as follows:

"Art. 2. Persons Subject to Military Law.--

a. All retainers to the camp and all persons accompanying or serving with the armies of the United States without the territorial jurisdiction of the United States, and in time of war all such retainers and persons accompanying or serving with the armies of the United States in the field, both within and without the territorial jurisdiction of the United States, though not otherwise subject to these articles."

Jurisdiction. This jurisdiction, of American Merchant Seamen, by court-martial is only concurrent with Military Commissions, Provost Courts or other Military Tribunals, so far as violations of statute or the law of war, are concerned. AW 15.

A.W.

"Art. 15. Jurisdiction not Exclusive.--That provisions of these articles conferring jurisdiction upon courts-martial shall not be construed as depriving military commissions, provost courts, or other military tribunals of concurrent jurisdiction in respect of offenders or offenses that by statute or by the law of war be triable by such military commissions, provost courts, or other military tribunals."

7. The only way that a uniform system of law and order can be imposed equally upon British and American Merchant Seamen is to interpret the term "The Allied Forces" to mean "The Allied Armed Forces." Otherwise the American Merchant Seaman should be tried by court-martial and the British Merchant Seaman under A&BCF law.
8. It is therefore my conclusion that the legislative intent of the framers of Proclamation No. 2 must have been to intend that "Allied Forces" to mean "Allied Armed Forces" and therefore placed both American and British Merchant Seamen under the jurisdiction of A&BCF Courts for violations of statutes and the law of war.

William E. Jordan
WILLIAM E. JORDAN,
Lt. Col., GAC.

SUBJECT: Merchant Seamen.

AMGOT/4042/L.

AMGOT HQ. SICILY.

TO: C.L.O.

8th September, 1943.

1. I have read papers on attached file and agree that British Merchant Seamen are in this Occupied Territory ^(whether on board ship or in harbour) subject to both the laws of that Territory and the Proclamations of the Military Government. I confirm that they are not subject to the military law of any Army or to trial by court-martial.

2. I am afraid para. 4 of your minute at page 5 was not quite correct so far as the quotation of my views is concerned. The points I have raised in regard to British Merchant Seamen are :-

- (1) British Merchant Seamen cannot be tried by any Court in Sicily for disciplinary offences committed on board ship in harbour or for any offence committed at sea. Such offences may only be dealt with by the Master of the ship, so far as he has jurisdiction, or by a British Court in British Territory having jurisdiction under the Merchant Shipping Act.
- (2) The C.C.A.O.'s approval to British Merchant Seamen serving sentences of imprisonment in Italian gaols should be obtained.

3. I shall be obliged if this minute may be put before C.C.A.O. in view of his remarks at page 6.

H. E. Howe
H. E. HOWE,
Lieut. Colonel,
D. C. L. O.

C.C.A.O.

Please see

*W.C.O.
C.L.O.*

Minute (File AMCOI/1042/L)

C.L.O.

Thank you for your minute, with which I am in agreement except on a small point in section 4. I am not very happy about the proceeding by which fines were paid by the master of the ship "to be deducted by him from the pay of the defendants." I think it is bad practice when a man is fined that his employer pay the fine. When a man is fined, he has to pay the fine himself, and I think there can be no intermediary between the culprit and the Court.

With respect, I do not think Colonel Rowe is right about British merchant seamen having to be taken to the nearest Consular Court, at any rate in respect of offences committed in harbour. When an offence is committed in harbour, the guilty party is amenable to the law of the land. A Consular Court only intervenes where capitulations are in force.

6th September 1945.

C.C.A.O.

Subject:- Merchant Seamen

To:- C.C.A.O.

AMGOT/4042/L

5th September 1943

Reference your memo of 2 September, 1943.

1. I think there is no question as to the jurisdiction of Allied Military Courts over British merchant seamen, for offenses committed within the occupied territory, including acts done on board ship located in a harbor within the occupied territory.

Proclamation No.4, Article II, Section 2, provides as follows :-

"Jurisdiction of every Allied Military Court shall extend to all persons in the territory, except (a) members of the Allied Forces and (b) persons who are treated as Prisoners of War under the Geneva Convention July 27, 1929".

I understand from Col. Rowe that it has been held that British merchant seamen are not members of the Armed Forces and are not subject to Courts Martial. They are, therefore, "persons in the territory" who are not exempted from the jurisdiction of Allied Military Courts.

2. The situation as to American merchant seamen is a little more complicated. It was held last March that an American merchant seaman on board a government owned cargo vessel carrying war materials and operating under the Army Transport Service, was subject to "military jurisdiction" under the Articles of War and could be tried by Courts Martial for an offense committed on board ship in the harbour of Casablanca. It was held that this merchant seaman was a person "serving with the Armies of the United States in the Field" within the meaning of the Second Article of War. Casablanca was at that time in a theater of operations. The defendant was found guilty by a General Court Martial on a charge of assault against the master of his vessel.

3. I do not believe, however, that this decision deprives Allied Military Courts of jurisdiction. In my opinion Courts Martial and Military Courts have concurrent jurisdiction in such cases, but I am seeking to get a confirmation of this view from the American J.A.G. *Case No 1*

4. Regarding the sentence in the OLSEN case, that "he forfeit 50 dollars of his pay", I do not believe the court is necessarily without power to give such a sentence, and as it was agreed to by the master of the vessel, the only one having any reason to object, I recommend it be allowed to stand. However, I think a better practice in such cases is that adopted in the five cases emanating from Syracuse, referred to in document

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I should add, in regard to British merchant seamen, that Colonel Rowe was disturbed because of the rights of British merchant seamen to trial in special courts under British law. American merchant seamen have similar rights under American law. My recollection is that they must be taken to the nearest "Consular Court" for trial.

This point was raised in the American case above referred to, but it was held that in a theater of operations in war time, the military commander of the theater had jurisdiction over all persons within the territory. I am quite sure that the same view would be taken by British Courts, but in any event, in an Allied undertaking, it must be that all persons within the occupied territory are under the jurisdiction of the Military Governor. He is charged by the Combined Chiefs of Staff with the duty of maintaining law and order within the territory, and it is

(con'd./unthinkable.....)

Page - 2 -

4

unthinkable that any person or class of persons could be permitted to claim to be beyond his jurisdiction, because of a particular statute, whether, British or American, giving them extraterritorial rights under normal conditions.

I do not think it is necessary to bring these cases first in the local Italian Courts. As you point out, merchant seamen can be tried before a local court if they have violated the laws of the country in which they are. The law of the occupied territory is the law of the Military Government, and they are amenable to its courts, just as any other person not excepted by the Proclamation. I propose to send a directive on this subject as soon as I have consulted with the U.S. J.A.G.

A new file on Merchant Seamen Cases has been opened.

W. C. Chandler
Wm. C. CHANDLER.
Lieut. Col. (AUS).
Chief Legal Officer.

ALBION HQ.
15 Army Group.

At document 7 I mentioned that I have spoken to Major Hamaford, saying that I wanted to see the papers connected with the proceedings against five British merchant seamen brought before the ANGOT Court and referred to in document 6. I see in the file only one case of a British merchant seaman having been brought before an ANGOT Court at documents 8 to 10, and of one American merchant seaman at documents 11 and 12.

I notice that Colonel Jordan, at document 13, raises the question of jurisdiction. I have also, having discussed the subject with S.C.A.O., Syracuse Province, some doubts on the matter of jurisdiction.

It appears to me in the case of Gilmore, documents 8 to 10, that the ANGOT Court in Syracuse had jurisdiction, inasmuch as the crime, namely, stealing tobacco, took place when the ship was in Syracuse harbour. Subject to correction by the Chief Legal Adviser, I suggest that the sentence of the Court was *intra vires*. Moreover, the indictment arose out of Article 2, Section 39, of Proclamation No. 2. Moreover, the crime was committed in a harbour of Sicily, and not at sea.

The case of Olsen, at documents 11 and 12, is that of being out of bounds and of being intoxicated in the city of Licata. I do not know that the second is a Proclamation offence. The charge should have been framed on a Proclamation or on the Italian Penal Code.

Moreover, in the case of Olsen, the sentence of the Court was that the accused do forfeit 50 dollars of his pay. I do not think the Court can exercise this sentence. The Court can fine the guilty party, when the money is brought into Court. If this is what the sentence means, well and good. If, however, the sentence means that the seaman forfeits 50 dollars of his pay, which is not paid into Court, I consider the sentence improper, and should be quashed.

I would still like to see the charges against the other merchant seamen referred to in document 6. I had understood from Colonel French that there was at least an attempt on the part of a master of a British ship in Syracuse to bring before an ANGOT Court persons accused of having committed a crime at sea. I do not think that such crimes can properly be brought before an ANGOT Court. I should like to be advised about this.

As my legal officers will know, jurisdiction regarding merchant seamen is a somewhat tricky and delicate subject. It is only when they have committed a crime against the laws of the country in which they are - viz. at shore or in harbour, that they can be charged before a local court. When they are so charged they can be charged before a local native court, namely, Italian Magistrates' Court, and the case transferred, under the powers we have, to an ANGOT Court.

If an ANGOT Court exercises jurisdiction ~~ext~~ *extra vires* there may be

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If an ANGOT Court exercises jurisdiction *extra vires* there may be trouble, but I do not quite see how the offended party can seek redress. Nevertheless, it would be a pity to create trouble if it can be avoided.

I think a separate file should be started on "Merchant Seamen's Cases." I foresee that the subject is likely to be thorny. This subject may be one which it would be profitable to refer to such authority as Colonel H. A. Smith and M.C.F. Section, A.F.H.Q. for opinion.

2nd September 1943.

M.C.F.A.O.

P.S. Let me know if Gilmore, who was convicted and sentenced to three days imprisonment, served his sentence in the local town jail. I should also like to know if he was found guilty of theft and assuming that the Court was *intra vires*, why the sentence was only three days.

8/20/43.

Col Chandler

This case involves
prosecution of a British
Seaman. Found guilty.

Recommend approval
see letter.

Jordan

Case No 18

Subject. Conviction of American and British
Merchant Seamen.

To: Col Chandler:

Case No. 1

1. Herewith are his records in a case from District Summary Court involving his conviction of a British Merchant Seaman of having stolen two tons of tobacco from his cargo of S.S. Fort Ray.
2. Also attached are his records of his conviction of an American Merchant Seaman of being off-limits and intoxication from his District Summary Court.
3. These cases raise a question of the jurisdiction of the District Court to pass upon offenses by Merchant Seamen.
4. During the month of July his

Aug 25 1943

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2. Also attached are his records of his conviction of an American Merchant Seaman of being off-limits and intoxication from his District Summary Court.
3. These cases raise a question of the jurisdiction of the Court to pass upon offenses by Merchant Seamen.
4. During the month of July his District Summary Court of District 13 other American Merchant Seamen were convicted of being off limits and were each fined his sum of \$25.00
5. You may desire to receive information from the C.C.A.C. on these matters.

Goodman

Subject: Summary Military Court - Syracuse.

Chief Legal Officer.,
A.M.C.O.T.
Palmer

1. Enclosed herewith are the records in the cases heard during the last week by the Summary Military Court in Syracuse.
2. The case against Munoz, Sebastian (Sp. Sm. No 20) was referred to the General Military Court for determination at its sitting in Syracuse on Monday August 23. Telegraphed advice of the reference was sent to the Chief Legal Officer on August 17, and no disapproval of that reference having been received it is assumed that the General Court may assume jurisdiction.
3. You will notice that five British merchant seamen were once more brought before the Court, again with the consent of the Master of the vessel. Four of the accused were Officers. Commander Cheeseman of the Merchant Marine sat as assessor and approved of the sentences which were imposed.

Syracuse.,
23 Aug 43.
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Ward K. H. H. H.
Senior Legal Officer.,
A.M.C.O.T.

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