

C.S.

Secret

WAR/PRI/1#32

1939

No.

5/32/39

86

S. of S.

SUBJECT.

1939.
3rd Septh

Previous Paper.

See 1914
Files.

Seizure in prize of enemy
merchant ships.

Seizure of enemy civil
aircraft.

Prize Court

MINUTES.

1. Telegram from S. of S. of 3/9/39
do. - do - do - do -

2.

3. Telegram from S. of S. No. 57 of 7. 9. 39.

4. " " " " " 76 " "

V.E.

Submitted.

Met

ed.

8. 9. 39.

5.

Telegram from S. of S. 11/9/39

Minutes from H.E. the Governor.

Subsequent Paper.

5/32/39

Part II.

File submitted.


WCH
C.S.
11.9.59.

ON HIS MAJESTY'S SERVICE.

I do not know where the
Proclamation put up came
from but under inst (2) and
the Act of 1894 the Proclamation
must be issued by me in the
capacity as Vice Admiral.
After Dependence is here of the
might be printed and Vice Admiral
thereof.

After I _____ would come
1st - 1st - 1st K.C. V.A of
the Colony of the F.I. and its Dep.

As the Printer cannot print
this now the addition should be
typed in

 11/9/59

NATIONAL ECONOMY.—In order that envelopes may be
used several times over, the address should be written on this label, which should
be affixed across the back of the envelope, instead of using a return
S. Ltd.

NATIONAL ECONOMY.—In order that envelopes may be
used several times over, the address should be written on this label, which should
then be affixed across the back of the envelope, instead of using the
W. & S. Ltd.

ON HIS MAJESTY'S SERVICE.

C.S.O. No. S/32/39

Inside Minute Paper.

Sheet No. 1

Proper officer of the Crown
required.

Procedure in Prize the same
as in 1914 - 1918. Registrar
Supreme Court has got the
various files and understands
what is required.

MCH
Ed.

12. 9. 59.

R.

Proclamation submitted,
no duplicate, for signature.
The draft did not follow
that of 1914 which had
been Admiral in it.

2. A Proper officer of
the Crown will require to be
appointed. I suggest Mr.

Howe.

MCH

Ed.

12. 9. 59.

Signed
Mr. Howe to be the Proper Officer
of the Crown

MCH 12/9

in day. u.
Copy on Gazette Board, re.
Copy to Registrar Supreme Court

Copy placed in office file.
MCH.

Telegram from S. of S. of 9. 9. 39. 6.
Letter to Hon. A.R. Hoare of 12. 9. 39. 7.
Proclamation No. 8 of 1939. (8)
Government Notice No. 61 of 13. 9. 39. (9)
Telegrams from S. of S. of 9. 9. 39. (10)

Circular to Registrar-General of 14. 9. 39. (11)
Telegram from S. of S. No. 63 of 13. 9. 39. 12.
Telegram to S. of S. of 13. 9. 39. 13.
Telegram from S. of S. No. 64 of 13. 9. 39. 14.

The Submitted. Registrar
Supreme Court to see!
MCH.
15. 9. 39.

Registrar S.C. Will 16/9
To see.
MCH.
18. 9. 39.

Hon. Sec.
W.D.
19/9/39.

C.S.O. No.....5/32/39

Inside Minute Paper.

Sheet No.....2

- 15 Telegram from S. of S. 20/9/39
16 Telegram from S. of S. 23/9/39.
17 Telegram to S. of S. 25/9/39.

(15) Secret Despatch to S. of S. of 8. 11. 39.

Yh.

Despatch submitted for
Signature.

mcH
es.

8. 11. 39.

8/11

- 19-20 Telegram from S. of S. of 28/11/39.
21-22 S. of S. Despatch No. 87 of 18/9/39.
23-24 " " 86 of 18/9/39.
25-26 S. of S. Circular Note (2) of 20/9/39.
27 S. of S. Despatch No. 99 of 16/10/39.

Registrar Price Court
To note above and
withdraw for Court file
Share copies of -

1. Price Act 1939.
2. Provisional Rules and Orders 1939.

The instructions contained
in red 27 should be specially
noted.

MEH
CS.
21. XII. 39.

Hence

Noted Thank you & one
copy of ^{each of} the under-noted provisions with-
drawn.

Prize Act 1939
Provisional Rules & Orders 1939.

W. J. P.
Kept.
28/12/39

Registrar S.C.

To note red 28 see
also red 15. Rules should
be drafted on the lines
of other S.C. Rules regarding
fees. The scale shown in
Appendix B of 21 should
thence be followed. In 1914-18
the fees shown in the Pro-
v. Rules of the Wk. were
followed here.

MEH
CS.
10. I. 40

Hence

Submitted.

① I suggest that the scale of fees
referred to in Order XLIII 2(a) (page 36 of
Red 21) should be adopted in its entirety.

② Section 1 (2)(a) of Red 21 indicates
that subject to the proviso to Rule XLIII 2(a),
the Rules became operative in this Colony
on the date of the Order, viz 2nd Sept 1939

③ Section 7(1) of the Colonial Courts of Admiralty Act 1890 (Red 28 refers) provides for the making of Rules including fees & costs "by the same authority and in the same manner as Rules touching the practice &c..... in the said Court in the exercise of its ordinary civil jurisdiction". This would appear to indicate that the authority is vested in His Excellency the Governor in Council. After in 1914 the Prize Court Rules (including fees & costs) were brought into operation by Proclamation (vide page 230 of 1914 Gazette). It will be noted that the Orders-in-Council of 1914 & 1939 respectively differ in that the latter expressly defines the scope of operation.

It is suggested that the course followed in 1914 is easy of application, but in this connection I would seek your advice, please.

W.D.P.
20/1/40

Red ⑮ States "I trust it will be found possible to adopt locally the scale provided in Order 43 Rule 2 (a)" - See page 36 of ②①

Red ②⑤ asks that Rules of Court be made for fees in Prize matters

Submitted. I consider that the scale of fees shown in Appendix B page 86 of vol 21 should be adopted by the Prize Court here. Under the Order of HM. in Council vol 21 the Rules 1939 are applicable to the Colonies but under Order 43 page 36 it would appear that a Colonial Court of Admiralty such as the Falkland Is. Court can make its own fees. This seems unnecessary here.

2. The Prize Court was set up by Proclamation and it may be possible to adapt Appendix B in the same way, or by Rules made under Section 33 of the Administration of Justice Act 1907.

MCH
22.1.40

Draft Rule put up. If you agree in its terms please have it prepared for the next meeting of Ex C

MCH 23/1/40

Registrar S.C.

This covers what is required?

MCH
23.1.40

C.S.O. No. S 3729.

Inside Minute Paper.

Sheet No. H

Hones

Noted. Thank you.

W.D. Regal
28/1/40

(29)

Order for Fees in Prize Court Cases of 26/1/40.

Hon. S.M.O. ¹⁰⁰ 21/1/40

Hon. D.S.A. War

Hon. A.R. House M.B. 2. 2. 40

Hon. J.A. Woodgate. 3. 2. 40.

MCH
CS

26. 1. 40

(30)

Despatch No. 102 from S.O.S. of 19. 10. 39.

31-32.

— 118 — 24. 11. 39.

33-34.

— 128 — 12. 12. 39.

Proper Officer of the (own
(Hon. A.R. House M.B.)

To note the above despatches
reos 31 - 34.

MCH
CS
28. 1. 40

Hon. Col. See.

Noted.

2. The telegram referred to in
para 1 of red 32 does not appear to be
in the paper.

3. Can I see copies of the books
referred to in para 4 of red 32?

ann.
P.O.C
29. 1. 40

Copy of Tele: 93 of 13th Nov^r 1939.....35

Registrar S.C.

Have you got the books
asked for by the Proper Officer of
the Crown.

MCH
CS
7.3.40

Hance

The only Volume in my possession
is "A Treatise on the Law of Prize" compiled
by G. J. Colombos. This publication is at
Mr. Hance's disposal whenever he may
desire it, please

W.D. Hughes
8/3/40

Proper Officer.

Copy of telegram per wh.

2. I do not know if the book
mentioned above has any of the
references required.

W.H.
CS
11.3.40

Hance Col Rec.

Telegram seen. Book received

am

P. O.

19 Mar. 40

C.S.O. No...5/32/39...

Inside Minute Paper.

Sheet No. 5.....

- 36-37. S. of S. Saving Telegram No. 1 of 8/1/40.
38. S. of S. Despatch, No. 4 of 17/1/40.
39-41. S. of S. Despatch, No. 5 of 19/1/40.
42. S. of S. Circular Telegram of 17/3/40.

Proper officer of Crown

To see

met

19. 3. 40

Recalled
A.S.
3/4/40

43-44

Conf. Circular Saving Telegram of 23/2/40

Proper officer of the Crown

Reas 43-44 misera and m.p.
returned.

A.S.
for
3/4/40

1 hr. ev. res.

Seen

ann.

P.H.
4/4/40

P.O.

+ am. 40

45. S. of S. Circular Telegram of 10/4/40.

A.C.S.

Telegraph 45 no to May. P.G.

15/4/40

Telegram No. 42 to Cbag. S.G. of 16/4/40. (46)

S. of S. Secret Circ. Telegram of 16/4/40. 47.

Telegram to Cbag. S.G. No. 45 of 18/4/40. 48.

S. of S. Telegram No. 37 of 20/4/40. 49

Telegram to S. of S. of 20/4/40. 50

S. of S. despatch No. B of 17/1/40 51-55.

Proper Office of the Crown.

To see Reas 51-55.

C. J. Forster
23/4/40.

Hon Col. See

Seen again.

P.O.

23 April 40

Hon. L.S.

P. H.
23/4/40

Rea (29) circulated for consideration
at next meeting of Examiners.

C. J. Forster
6/5/40.

Examiners.

S. S. 7. 5. 80.

S. of S. Saving Yel. No. 2 of 24/2/40.

56-57.

" Circ. Yel. Saving of 26/2/40.

58.

" Circ. desp. of 2/4/40.

59-60.

Extract from minutes of meeting of the Executive Council
held on the 11th of May, 1940.

The Order in Council was approved.

C. J. [Signature]

Clerk of the Executive Council.

Proper office of the Crown

*to note Reas 56-60 and
withdraw copy of Statutory Rules and
Orders.*

*C. J. [Signature]
14/5/40*

Hon. Col. Sec.

*Noted. Copy of Statutory
Rules & Orders withdrawn.*

am.

P.O.C.

14 May 40

61.

S. of S. Telegram Acc. No. 93 of 10/6/40

62.

S. of S. Telegram of 11/6/40.

63.

" " " 11/6/40.

64.

" " " 12/6/40.

65.

" " " 12/6/40.

66.

67.

Proclamation, No. 4 of 1940.

Obtained to Registrar-General of 15/6/40.

Y.E.

*In accordance with (65) proclamation submitted
to your department. 17/6/40*

15/6/40

Y.E. Will Your Excellency kindly sign the other copy of the Proclamation?

C. J. S.
18/6/40.

Will 18/6

Rules made by His Excellency the Governor in Council with reference to fees in Police Court Cases of 11/5/40. (68.)

Y.E. For your signature, please.

Will 25/11/40

Will

25/6

Minute to Registrar-General of 27/6/40.
Despatch No. 81 to S. of S. of 27.6.40.

(69.)

(70.)

Y.E. Despatch for your signature, please.

Will 29/VI/40

Will 2/7

S. of S. Circ. note of 24/4/40.

71-72.

C.S.O. No. S/32/39.

Inside Minute Paper.

Sheet No. ^M.....

Proper Officer of the Bureau,

to see.

G. J. Ford
18/7/40

Hon. Col. Sec.

Seen

a.m.

P.O.C.

73. Despatch No. 92 to S. of S. of 23. 7. 40. 18 July 40

Y.E.

For your signature, please.

W. J. Ford
24/11/40

24/7

74-76.

77-78.

S. of S. Circular Despatch of 9. 5. 40.

Note of 3. 6. 40. ✓

Proper Officer,

to note.

G. J. Ford
19/8/40

Hon. Col. Sec.

noted

a.m.

Proper Officer

20 Aug 40

S. of S. Circular Note of 15/3/40 79-80.

Despatch No. 55 of 18/10/40. 81-83.

Government Notice No. 10. of 21/1/41. 84-85.

Proper Officer.

To note of
C. J. S. Ld.
27/1/41

Item Col. Sec.

Notice

Ann.

Proper Officer

Copy of Government Notice, No. 41 of 31.3.41.

note 41

86A. 11/

S. of S. Conf. Cir. Same telegram of 11/6/41.

86-88

Y/E.

Submitted as requested.

C. J. S. Ld.
24/8/41

S. of S. Circular Note of 15. 4. 41.

89-90.

Proper Officer.

To note of
C. J. S. Ld.
26/8/41

W. S. Ld.
27.8.41

Circular telegram No. 232 from S. of S. of 15/9/41.

(91)

Proper Officer &
Chief Censor.

To note of
C. J. S. Ld.
18/9/41

W. S. Ld.
19.12.41

Y/E. Proclamation submitted for signature.

C. J. S. Ld.
15/11/41

- 92-94 Circular Despatch from S. of S. of 5/7/41.
 Proper officer.
 No note.
 A.C.S.
 N.S.S.
 1680.
 P. O. S. 41
 6-11-41
 G. J. for C.
 2/10/41.
95. Circular telegram from S. of S. of 12.12.41.
96. Proclamation No 12 of 1941 of 15/12/41.
97. Minute to Registrar-General of 16/12/41.
98. Despatch No. 107 to S. of S. of 16.12.41.
99. Unnumbered Circular telegram from S. of S. of 3/1/42.
 of C.
 for Proclamation please.
 G. J. for C.
 8/1/42.
100. Proclamation - Institution of Prize Court of 12.1.42.
101. Unnumbered circ. telegram from S. of S. of 10/2/42.
102. Proclamation - Institution of Prize Court of 12/2/42.
- 103-104. Minute to Registrar-General of 25/2/42.
105. Despatch No. 23 to S. of S. of 25.2.42.
- 106-108. S. of S. Circular Note of 16/2/42.
 Proper Officer
 No note pl.
 G. J. for C.
 15/4/42.
109. Despatch No. 40 to S. of S. of 21.4.42.
110. S. of S. Circ. tel. Saving of 8/9/42.
 (11).

G. J. Hamilton.

(110) calls for quite a lot of action. Perhaps
 you would care to discuss?

KB

3/12

Minutes from. Proper Officer of Crown of 13/1/43

112.

A/c Treasury

(113)

For your observations on (110), pl.

W.B.
13/1/43

Honble Sec.

(114)

Re (110) As to Hamilton's still
in Red 112, so far, during this was
that has been the sitting of a Prize Court.
I think that the S.O.S. should be
informed in reply, that note of
the Circular Saving Telegrams has been
taken and that in the event of
any Prize Court actions arising up
in the future, that the instruction
contained therein is published, will be
concurrent.

Red

Dec 15 1943

(115)

G.F.

from (110). his returns are not asked for.

Draft submitted.

W.B.
13/1

Confidential Saving Telegram No. 2. to S.O.S of 16.1.43.

(116)

SEE PART II
CLOSE S.

DECODE.

TELEGRAM.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched : 3rd September, 19 39 *Time :* ...

Received : 3rd September. 19 39. *Time :* 1428.

See Preface to Defence Scheme seize all enemy civil aircraft.

No Order in Council is being issued seizure should be
effected under prerogative..

SECRETARY OF STATE.

DECODE.

TELEGRAM.

2.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched: 3rd September, 19 39. *Time:* 1145.

Received: 3rd September, 19 39. *Time:* 1145.

See Preface to Defence Scheme: seize in prize enemy merchant ships and bring before Prize Court for adjudication.

SECRETARY OF STATE.

S 32/39.

3
DECODE.

TELEGRAM.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched : 7th September, 19 39. *Time* : 0615.

Received : 7th September, 19 39. *Time* :

No. 57. Warrant constituting Prize Courts should be made effective by issue by you as Vice Admiral of Proclamation under section No. 2 subsection 2 of Prize Courts Acts, 1894.

SECRETARY OF STATE.

DECODE.

TELEGRAM.

From His Excellency the Governor,

To Secretary of State for the Colonies.

Despatched: 7th September, 19 39. Time: ...

Received: ... 19 ... Time: ...

Red 3.
No. 76. Reference your telegram No. 57 I have not been appointed Vice Admiral of the Colony as far as I am aware and I have therefore no powers under Prize Courts Act, 1894.

GOVERNOR.

(5)

No 67 from London Words 13 Line 0836 11/9/39

To H E The Governor Falkland Islands

No 60 In reply to your telegram No 46 you are ex officio
Vice Admiral by Colonial Court of Admiralty Act 1890
Section 10

S of S.

HCS
... I have looked this up and find
that the Act is conclusive
Please let me have the file and also
the Prize Court Books I think that some
were recently sent at ~~11/11/39~~ 11/9

DECODE.

TELEGRAM

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched : 9th September, 1939. *Time* : 1843.

Received : 9th September, 1939. *Time* :

See Preface Defence Scheme Aircraft Prize Act Passed.

SECRETARY OF STATE.

S/32/39.

12th September, 39.

Sir,

I am directed by the Governor to inform you that His Excellency has been pleased to appoint you to be the Proper Officer of the Crown, and, as such, Agent for the Crown, to conduct Prize proceedings on behalf of the Crown within the jurisdiction of the Supreme Court of the Falkland Islands.

I am,

Sir,

Your obedient servant,

Colonial Secretary.

The Honourable
A. R. Hoare, M.B.E., J.P.,
STANLEY.

INSTITUTION OF PRIZE COURT.

IN THE NAME of His Majesty GEORGE VI., by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

(L.S.)

By His Excellency SIR HERBERT
HEMINKER HEATON, Knight Commander
of the Most Distinguished Order of
Saint Michael and Saint George,
Governor and Commander-in-Chief in
and over the Colony of the Falkland
Islands and its Dependencies and
Vice Admiral thereof.

(Sgd.) H. HEMINKER HEATON

I, SIR HERBERT HEMINKER HEATON, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Vice Admiral of the Colony of the Falkland Islands and its Dependencies, do hereby proclaim that a state of war exists between His Majesty the King and Germany, and do hereby notify, declare and make known that the Supreme Court of the Falkland Islands is a Prize Court to take cognizance of and judicially to proceed upon all and all manner of Captures, Recaptures, Seizures, Prizes and reprisals of all Ships, Vessels and Goods seized and taken which are or shall be brought within the limits of the said Court.

G O D S A V E T H E K I N G.

Given under my hand and the Public Seal of the Colony at Government House, Stanley, this Eleventh day of September, in the Year of Our Lord One thousand Nine hundred and Thirty-nine.

By Command,

(Sgd.) M. G. Craigie-Halkett.

Colonial Secretary.

No. 61.

GOVERNMENT NOTICE.

Colonial Secretary's Office,
Stanley, Falkland Islands.
13th September, 1939.

His Excellency the Governor has been pleased to
appoint

THE HONOURABLE A. R. HOARE, M.B.E., J.P.,

to be Proper Officer of the Crown, and, as such, Agent
for the Crown, to conduct Prize proceedings on behalf
of the Crown within the jurisdiction of the Supreme
Court of the Falkland Islands.

By Command,

MCH

Colonial Secretary.

10

DECODE.

TELEGRAM.

From His Excellency the Governor,

To Secretary of State for the Colonies.

Despatched: 9th September, 1939. *Time:* 2140.

Received: 19... *Time:*

TIBIT

GOVERNOR.

Aircraft (Pugs) Act

No. S/32/39.

(It is requested that, in any reference to this minute, the above Number and the date may be quoted).

MINUTE.

14th September, 19 39.

From The Colonial Secretary,

To The Registrar-General,

STANLEY.

Stanley, Falkland Islands.

I am directed to forward herewith, for insertion in the files
of the Registrar-General, a copy of Proclamation No. 8 of 1939.

McH
Colonial Secretary.

DECODE.

TELEGRAM.

From.....Secretary of State for the Colonies,

To.....His Excellency the Governor.

Despatched: 13th September, 19 39. Time: 1305.

Received: 13th September, 19 39. Time:

No. 63. Why have I not received acknowledgement of my
aircraft seizure telegram of 3rd September,

SECRETARY OF STATE.

Redl

DECODE.

TELEGRAM.

From His Excellency the Governor,

To Secretary of State for the Colonies.

Despatched: 13th September, 1939. Time: 1542.

Received: 13th September 19... Time:

With reference to your telegram dated 13th September No. 63 enemy aircraft. I regret omission to acknowledge your telegram of 3rd September.

GOVERNOR.

Red 12.

DECODE.

TELEGRAM.

From Secretary of State for the Colonies.

To His Excellency the Governor.

Despatched : 13th September, 19 39. *Time :* 2315.

Received : 13th September, 19 39. *Time :*

No. 64. Order in Council dated 2nd September, 1939.

Replace Prize Court Rules 1914 by Prize Court Rules 1939
copies of which are being forwarded by the first
opportunity.

SECRETARY OF STATE.

DECODE.

TELEGRAM.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched: 20th September, 19 39. *Time:* 1730.

Received: 20th September, 19 39. *Time:*

No. 71. When copy of Prize Court Rules 1939 are received I would wish prompt consideration be given to questions of local application order number 43 Rule 2.

It is clearly desirable that scale of fees to be taken in Prize matter by Court and its Officers should be uniform in all British Prize Courts and I trust it will be found possible to adapt locally the scale provided for in Order 43 Rule 2 (a).

SECRETARY OF STATE.

DECODE.

TELEGRAM.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched: 23rd September, 19 39. *Time:* 1445.

Received: 23rd September, 19 39. *Time:* 1200.

No. 72. Please telegraph whether Prize Court has been proclaimed and who has been authorised to act as proper Officer of the Crown. As and when Prize proceedings are instituted I would wish to be informed by telegram giving:-
(1) date of writ (2) number and title of cause.

SECRETARY OF STATE.

DECODE.

TELEGRAM.

From Governor

To Secretary of State.

Despatched : September 25th 1939 Time :

Received : 19 Time :

No. 90. Your telegram No. 72 Prize Court was proclaimed
on the 11th September stop Hoare Magistrate has been
appointed to act as proper Officer of the Crown.

Governor.

FALKLAND ISLANDS.

S E C R E T.

GOVERNMENT HOUSE,

STANLEY,

8th November, 1939.

Sir,

Red3
With reference to your telegram No. 57 of
7th of September, 1939, I have the honour to
transmit six copies of Proclamation, No. 3 of 1939,
made by me on the 11th of September, under Section
2, Subsection 2 of the Prize Courts Act, 1894.

I have the honour to be,

Sir,

Your most obedient,
humble servant

(Sgd.) H. HENNINGSEN

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES.

DECODE.

TELEGRAM.

No. 326

From Secretary of State, London,

To His Excellency The Governor, Falkland Islands.

Despatched: 28th November 19 39 Time: 16.10.

Received: 19 Time:

Circular Unnumbered. On 21st November the Prime Minister made a statement referring to Germany's recent breaches of International Law and announcing the intention of His Majesty's Government to take reprisals by action against enemy exports. The following is text of operative part of the Order in Council made on 27th November begins.

(1) Every merchant vessel which sailed from any enemy port, including any port in territory under enemy occupation or control, after the fourth day of December, 1939, may be required to discharge in a British or allied port any goods on board laden in such enemy ports.

(2) Enemy merchant vessel which sailed from a port other than an enemy port after 4th December, 1939, having on board goods which are of enemy origin or are enemy property may be required to discharge such goods in a British or allied port.

(3) Goods discharged in a British port under either of the preceding articles shall be placed in custody of the Prize Court, and, unless the Court orders them to be requisitioned for use of His Majesty, shall be detained or sold under direction of the Court.

Any proceeds of goods so sold shall be paid into the Court. At the conclusion of peace such proceeds and any goods detained by the Court shall be dealt with in such manner as the Court may in the circumstances deem just; provided that nothing herein shall prevent payment of Court of any such proceeds or release of any goods at any time.

(a) if it be shown to the satisfaction of the Court that the goods had become neutral property before the date of this Order, with the consent of the proper officer of the Crown.

(4) The law and practice in prizes shall, as far as possible, be followed in all cases arising under this Order.

(5) Nothing in this Order shall affect the power of the Crown or goods to seizure or condemnation.

DECODE.

TELEGRAM.

No. 326

From

To

Despatched :

19

Time :

Received :

19

Time :

2.

(6) For the purpose of this Order the words "Goods which are of enemy origin" shall include goods having their origin in any territory under enemy occupation or control the words "Goods which are enemy property" shall include goods belonging to any person in any such territory.

(7) Proceedings under this Order may be taken in any Prize Court having jurisdiction to which Prize Court Rules, 1939, apply.

(8) For the purpose of this Order the words "British Port" mean any port within the jurisdiction of Prize Courts to which Prize Court Rules, 1939, apply ends.

Copies of this Order including the preamble will follow by mail.

Merchants who are wishing to ensure that their exports from European countries are not delayed or detained are to be advised to obtain Certificates of Origin and Interest from a British or French Consular Officer in the European countries concerned, and arrange for these Certificates to accompany the goods on board the vessel.

Further telegram will be sent shortly.

FALKLAND ISLANDS.

No. _____

87

GOV. H. H. H. H.

18 September, 1939.



Sir,

I have the honour to transmit to you the accompanying copies of an Order in Council dated the end of September, 1939, introducing the Prize Court Rules, 1939, in place of the Prize Court Rules, 1934, as amended by the Orders in Council dated the 19th of November, 1934, the 2nd of February, 1935, the 10th of April, 1935, and the 12th of December, 1937.

A separate communication will be sent with regard to Order XIII, Rule B, respecting the scale of fees to be taken in prize matters.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Signed) MALCOLM MacDONALD

GOVERNOR,

SIR HENRY HENRY HENRY, B.C.S.I.,

cc., cc., cc.



24

NO. 86

Downing Street,

18 September, 1939.

Sir,

I have the honour to transmit to you
herewith copies of the Prize Act, 1939 (2 and 3,
Geo. 6. Ch. 65), applying prize law to aircraft,
amending and explaining the enactments relating
to prize, and providing for purposes connected with
the matters aforesaid.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

GUYVERSON

SIR HERBERT HENNIKER HEATON, K.C.M.G.,

etc., etc., etc.

FALKLAND ISLANDS.

NO. 99.



Colonial Office,

Downing Street,

16 October, 1939.

Sir,

2ed16 I have the honour to refer to my telegram No. 72 of the 23rd of September, and to state that prompt and full information is desired by His Majesty's Government of all events of importance in connection with the proceedings in the Prize Court in the Falkland Islands.

2. Whenever Writs are issued and served, I would wish to be informed at once by telegram, giving a description of the property under arrest, an indication of the reason for the seizure, the date of the service of the Writ, and the number and title of the Cause.

3. From time to time thereafter I would wish to be notified briefly by telegraph of Orders or Decrees for the condemnation, release, requisition, sale or other disposal of the property, or for the transfer of the proceedings to another Court; and I would wish copies of the Orders or Decrees to be sent to me by an early mail.

4. Where any of the property under arrest is perishable, prompt consideration will no doubt be given to measures for its disposal in advance of adjudication.

5. In cases where proceedings instituted in the Prize Court in the Falkland Islands are remitted to the Prize Court in this country, the Record intended for the Admiralty Registrar should be forwarded through me.

I have the honour to be,

Sir,

Your most obedient, humble servant,

GOVERNOR

(Sd/-) MALCOLM MacDONALD

SIR HERBERT HENNIKER HEATON, K.C.M.G.

etc., etc., etc.

DECODE.

TELEGRAM.

No. 148 From Secretary of State, London,

To His Excellency The Governor, Falkland Islands.

Despatched: 9th January 19 40 Time: 21.15.

Received: 10th January 19 40 Time: 10.00.

Rw 15
No. 4 Mt telegram No. 71. It is very desirable that rules of Court should be made providing for fees in prize matters as requested in my previous telegram and that the rules should be submitted to me for approval by 30th July as required by section 7 (1) of the Colonial Court Admiralty Act 1890. Please therefore ensure that rules are first made and then sent to me as soon as possible. It is desirable that rules should be sent to me in a form which will enable them to be dealt with by reference in Order in Council and will avoid necessity of setting them out textually. It should be shown that they have been made by the proper authority as required by section 7 (1) and source of that authority's powers.

Made by the Governor in Council on the

1940.

Fees in Prize Court Cases.

Governor.

WHEREAS by virtue of section 7 (i) of the Colonial Courts of Admiralty Act, 1890, the Supreme Court is authorised to make rules touching the practice and procedure on fees and costs of the said Court in its Prize Court Jurisdiction.

AND WHEREAS the Governor in Council may by virtue of the provisions of section 33 of the Administration of Justice Ordinance, 1901, may make rules with reference to Fees of Court and costs, it is hereby ordered that :-

1. The fees to be taken in prize matters in the Supreme Court by the Court and its Officers shall be those laid down in Appendix B of the Statutory Rules and Orders, 1939, made by Order in Council dated October 19th, 1939, by the King's Most Excellent Majesty in Council.

By Command,

Colonial Secretary.

5/32/39

30

FALKLAND ISLANDS.

N.O. 102.

Downing Street,

19 October, 1939.



Sir,

I have the honour to inform you that it has been decided that no insurance shall be taken out in respect of ships, aircraft or goods while awaiting adjudication before the Prize Court in the Falkland Islands.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Sd.) MALCOLM MacDONALD

GOVERNOR

SIR HERBERT HENRIER BRATON, K.C.M.G.

etc., etc., etc.



FALKLAND ISLANDS.

NO. 118

Colonial Office,

Downing Street,

24 November, 1939.

Sir,

I have the honour to confirm my telegram No. 93 of the 13th of November, concerning the policy to be adopted towards enemy owned goods.

2. As regards (a) in my telegram, the attention of the Proper Officer of the Crown in Prize cases might be drawn to the cases of the "Aldworth" (I Lloyds Reports of Prize Cases, 137), the "Miramichi" (ibid. 157; 1 Br. & Col. Pr. Cases 137) and the "Gothland" (V Lloyd 39; 2 B & C.P.C. 293).

3. In connection with (b) in the telegram, his attention might be drawn to the cases of the "Jeanne" (V Lloyd, 293; 2 B & C. 227), the "Bawean" (VII Lloyd, 113; 2 B & C. 116), the "Dandolo" (2 B & C. 339) and the "Batavier II" and "Batavier VI" (VI Lloyd, 392; 3 B & C. 432).

4. Summaries of the cases cited are given in the "Digest of Cases decided in British Prize Courts", compiled by H.Hull, and in "A Treatise on
the

GOVERNOR

SIR HERBERT HENNIKER HEATON, K.C.M.G.,

&c.,

&c.,

&c.

on the Law of Prize", compiled by C.J. Colombos.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Signed) MALCOLM MacDONALD.

5/32/39.

34

COLONIAL SECRETARY'S OFFICE
8-FEB-1940
FALKLAND ISLANDS

FALKLAND ISLANDS.

NO. 128

Colonial Office,

Downing Street,

12 December, 1939.

Sir,

In connection with Order XIII of the Prize Court Rules, 1939, I have the honour to ask that the Proper Officer of the Crown in prize cases may be informed that, when application is made to His Majesty's Procurator General for the release of goods before the Prize Court in this country, the applicant is often informed that the Procurator General will be prepared to consider whether he can consent to an Order being made for the release of the goods, without requiring the applicant to prosecute his claim in the Prize Court, if and when there are furnished to the Procurator General for his examination all the documents in the possession or control of the applicant relating in any way to the purchase, shipment or sale of the goods.

2. The applicant is also told that it will expedite the investigation of the claim if the following suggestions are adopted when the documents are forwarded for examination:-

(1) The documents should include:-

Full sets of Bills of Lading;

Any Policies of Insurance;

All

GOVERNOR

SIR HERBERT HENNIKER HEATON, K.C.M.G.,

&c.,

&c.,

&c.

All Invoices and appropriations;

All Contracts of Purchase;

All Contracts of Sale;

All correspondence necessary for a proper understanding of the transactions;

Any correspondence with the Ministry of Economic Warfare, the Custodian of Enemy Property, or any other Government Department.

(2) Original documents (or in the case of outward correspondence) original carbon copies should be produced.

(3) Documents in languages other than English or French should be accompanied by translations into English.

(4) The documents should be numbered and accompanied by a list in duplicate.

(5) The documents should be accompanied by a short statement setting out the history of the goods.

(6) The documents themselves (but not the list of documents or statement) should be securely fastened together.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Signed) MALCOLM MACDONALD.

COPY FROM ORIGINAL IN S/4/29 CONTRABAND CONTROL.

TELEGRAM

From Secretary of State.

to H.E.the Governor.

Date 13th November 1939.

.....

No.63 in
S/4/29

No.93. Reference my telegram No.86 (a) Article II of the Declaration of Paris does not protect enemy property on a British or Allied vessel.

(b) It affords no protection to enemy property on neutral ships when it has been transhipped from enemy vessels sheltering in neutral ports. The same also applies to such goods transhipped into lighters or warehouses in port.

(c) Contraband goods with enemy destination would be liable to seizure on a neutral ship in any event. If however the goods were not in their nature contraband, or although in their nature contraband, had a neutral despatching, they could not be seized as contraband. Possibility of seizing them as enemy property would depend on their being a sufficient Prima Facie presumption of ownership by an enemy national and (2) on goods not being on board a neutral vessel unless transhipped therefrom an enemy vessel.

(d) In case of doubt reference might be made to me by telegraph.

.....

5/82/39
Saving.



From the Secretary of State for the Colonies.

To the Officer Administering the Government of the Malkland Islands.

Date 8 - JAN 1940

No. 1 Saving.

When offer is made by Proper Officer of the Crown to consent to Order being made for release of goods seized as prize, provision should be made for terms indicated below and for acceptance to be in full and final settlement of all claims against the Crown or against any servant of the Crown.

Terms referred to are:-

(a) Subject to such rights (if any) over the goods as the shipowners had at date of seizure thereof. (In order to comply with this term it is advisable that there should be delivered to Customs Officer, or other officer to be specified, upon application for delivery of the goods, a statement in writing by the shipowners that

Saving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of.....

Date.....

No.....Saving.

that all their claims, whether for freight or otherwise in respect of the goods, have been satisfied.)

(b) That on application to Customs Officer, or other officer to be specified, for delivery of the goods (1) there shall be surrendered to him a negotiable copy of the Bill of Lading and (2) there shall be paid to him the amount of whatever expenses have been incurred in connection with the detention of the goods, including the release fee of £2 prescribed by Prize Court Rules.

(c) That the goods shall not be re-exported except under such permission as the circumstances require.

Secer.



38

Colonial Office,

Downing Street,

17 January, 1940. .

FALKLAND ISLANDS.

NO. 4

Sir,

I have the honour to ask that, if possible, printed reports may be supplied of Judgments delivered in the Prize Court in the Falkland Islands as are likely to be of general importance.

2. I would wish to be provided with seventy-five copies of each print, and it will be a convenience if the copies can be sent with a covering despatch, or note, giving a reference to this despatch.

3. I am informed that Messrs. Stevens and Sons, in conjunction with Messrs. Sweet and Maxwell, are proposing to publish in due course a series of Reports of British and Colonial Prize Cases. Material received from the Colonial Dependencies is to be made available for such a compilation.

I have the honour to be,

Sir,

Your most obedient

humble servant,

GOVERNOR

SIR HERBERT HENNIKER HEATON, K.C.M.G.

etc., etc., etc.

5/32/39

(41)



FALKLAND ISLANDS.

NO. _____

5

Colonial Office,

Downing Street.

12 January, 1940.

Sir,

I have the honour to transmit to you, for the use of the Prize Court and the Proper Officer of the Crown, the accompanying copies of prints of judgments delivered in the Prize Court in this country in connection with the M.V. "Pomona" (Motion for Requisition of Vessel for use of the Crown) and Part Cargo ex S.S. "Ben Macdhui" (Cause for condemnation of certain unclaimed consignments).

2. Prints are to be made from time to time of other judgments as seem to be of general importance, and arrangements will be made for copies to be forwarded to you as and when they become available.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Sd.) MALCOLM MacDONALD

39. M.V. "Pomona" 2/11/39.

40. Part Cargo ex S.S. "Ben Macdhui" 12/12/39. Handed to Legal Adviser 9/5/44.

GOVERNOR

SIR HERBERT HEINIKER HEATON, K.C.M.G.,

etc., etc., etc..

DECODE.

TELEGRAM.

(H2)

No. 196

From Secretary of State, London,

To His Excellency The Governor, Falkland Islands.

Despatched: 17th March 19 40 Time: 01.0011.

Received: 19 Time:

Unnumbered Circular Telegram. Prize Court Rule embodied in Order-in-Council October 19th 1939 supersedes provisional rule to like effect approved by Order-in-Council September 2nd 1939 despatch follows.

Saving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of Falkland Islands

Date 23 February, 1940.

No. Circular Saving. Telegram.

CONFIDENTIAL

Where goods are seized in prize, no claim for damages either by the ship owner or the cargo owner can succeed unless it be shown that there were no reasonable grounds for the detention of the ship and the seizure and subsequent detention of part of the cargo.

The decision in the case of the "Sorfareren" may be treated as establishing the principle that goods of a contraband nature are liable to be condemned although they were shipped before the outbreak of War.

If goods so condemned as contraband are at the time of seizure, the property of a British or neutral subject, compensation is payable upon such condemnation.

In consequence of the principle stated in the preceding paragraph, it is the practice in this country not to seek decrees of condemnation in the case of cargoes shown at the time of seizure to have been the property of

British

oving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of.....

Date.....

No.....Saving.

British or neutral subjects, but to consent to the release of such goods if the subject concerned is willing to accept their release in full and final settlement of claims.

Where consent is given to the release of goods, the consent should be given subject to whatever rights thereover the ship owners may have had at the date of seizure.

SECEP.

DECODE.

TELEGRAM.

No. 133 *From* Secretary of State, London, 1940

To His Excellency the Governor, Falkland Islands.

Despatched : 10th April 19 40 *Time :* 17.00.

Received : 19 *Time :*

Circular Unnumbered (2). See preface Defence Scheme. Seize in prize Danish merchant ships (and goods laden therein) and bring before Prize Court for adjudication. This is not however to apply to Danish ships chartered United States of America Italy or Japan particulars of which should be reported for further instructions.

I.D.

DECODE.

TELEGRAM.

From Colonial Secretary,

To Magistrate, South Georgia.

Despatched: 16th April, 1940. Time: ...

Received: 19 ... Time: ...

No. 42. Danish Merchant Ships (and goods laden therein)
should be seized and brought before Prize Court for
adjudication. This does not however apply to Danish
Ships chartered United States of America, Italy or Japan
particulars of which should be reported for further
instructions.

COLONIAL SECRETARY.

46

DECODE.

TELEGRAM.

From Colonial Secretary,

To Magistrate, South Georgia.

Despatched : 18th April, 19 40. Time : ...

Received : 19 ... Time : ...

No. 45. My telegram No. 42 all Danish Ships should be
seized in prize irrespective of charter to neutrals.

COLONIAL SECRETARY.

Red H6.

48

5/37/39.
50
DECODE.

TELEGRAM. SENT.

From His Excellency the Governor, Falkland Islands.

To Secretary of State, London.

Despatched : 20th April

19 40 *Time* :

Received :

19 *Time* :

BISTO.

Reply to
Red. 45

S/32/39



(57)

Saving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of ~~THE FALKLAND ISLANDS.~~

Date 24 FEB 1940

No. 7 Saving.

My telegram 8th January No. 1 Saving.

Considerable importance is attached by Procurator General to requirement that persons in whose favour he consents to a release Order should produce and surrender sometimes one negotiable copy and sometimes the full set of negotiable copies of the Bill of Lading. The fact that a person is in possession of a Bill of Lading, endorsed either generally or specially to him, is prima facie proof that he is entitled to possession of the goods referred to therein

Proper Officer should insist upon (a) the production of Bills of Lading; or (b) undertaking in writing from releasee to indemnify the Crown against any claims arising out of the delivery of the goods to him without the production by him of a negotiable Bill of Lading.

Alternative

aving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of.....

Date

No.....Saving.

Alternative (b) should only be allowed when
Proper Officer is satisfied beyond doubt that person
to whom goods are to be released is the legal owner
thereof or the authorised agent of such legal owner.

Secer.

S/32/39



From the Secretary of State for the Colonies.
To the Officer Administering the Government of
Circular Telegram Saving.
26th March, 1940.

ANN

Please inform Proper Officer of the Crown
that an affidavit as to ship papers is considered
necessary when prize proceedings are instituted against
cargo only.

~~SECRET~~

CIRCULAR

Downing Street,

2nd April, 1940.

Sir,

With reference to my circular telegram of the 17th of March, I have the honour to transmit to you the accompanying copies of an Order in Council dated the 19th of October, 1939, Statutory Rules and Orders 1939 (No. 1466) embodying the Prize Court Rules, 1939.

2. These Rules supersede Provisional Rules to like effect which were approved by the Order in Council of the 2nd of September, 1939.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Malcolm MacDonald

The Officer Administering
the Government of

DECODE.

TELEGRAM.

61

No. 121

From Secretary of State, London,

To His Excellency the Governor, Falkland Islands.

Despatched : 10th June 19 40 *Time* : 22.40.

Received : 19 *Time* :

Immediate.

Red ① No. 93 Circular. Circular My circular telegram No. 37 September 3rd.

In view of the entry of Italy into the war you should consider in the light of local circumstances what further restrictions if any on civil aviation are now necessary.

C.O.1.

DECODE.

TELEGRAM.

62

No. 127

From.....Secretary of State, London,.....

To.....His Excellency the Governor, Falkland Islands.

Despatched : 11th June 19 40 Time : 08.10.

Received : 19 Time :

Most Immediate.

See Preface Defence Scheme: Seize in prize enemy merchant ships and
bring before prize court for adjudication.

C.O.1.

Reply sent 11/6/40

EISTO

DECODE.

TELEGRAM.

63

No. 129

From.....Secretary of State, London,.....

To.....His Excellency the Governor, Falkland Islands.

Despatched : 11th June

1940 *Time* : 08.20

Received :

19 *Time* :

Most Immediate.

See Preface Defence Scheme: Seize all enemy civil aircraft.

C.O.1.

Reply sent 11/6/40

VIXEN

DECODE.

64

TELEGRAM.

No. 143

From Secretary of State, London,

To His Excellency the Governor, Falkland Islands,

Despatched : 12th June 19 40 Time : 08.55.

Received : 19 Time :

Circular Maritime No.24. Please report by telegraph name of any Italian ship seized in prize already or in the future, saying whether laden or in ballast, and if former, nature of cargo with schedule ports discharge.

G.T.C.

DECODE.

TELEGRAM.

65

No. 148

From Secretary of State, London,

To His Excellency the Governor, Falkland Islands.

Despatched : 12th June

19 40 *Time* : 13.55.

Received :

19 *Time* :

Unnumbered Circular My telegram No. 57 Further proclamation should be issued making Prize Court Warrants effective as regards Italy.

G. T. C.

66

No. 4.

Proclamation.

1940.

Institution of Prize Court.

IN THE NAME of His Majesty GEORGE VI., by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

By His Excellency SIR HERBERT HERWINER HEATON,
Knight Commander of the Most Distinguished
Order of Saint Michael and Saint
George, Governor and Commander-in-
Chief in and over the Colony of the Falkland
Islands and its Dependencies, &c., &c., &c. and
Vice Admiral thereof.

(D.S.)

(Sgd.) H. H. HEATON

I, SIR HERBERT HERWINER HEATON, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Vice Admiral of the Colony of the Falkland Islands and its Dependencies do hereby proclaim that a state of war exists between His Majesty the King and Italy, and do hereby notify, declare and make known that the Supreme Court of the Falkland Islands is a Prize Court to take cognizance of and judicially to proceed upon all and all manner of Captures, Recaptures, Seizures, Prizes and reprisals of all Ships, Vessels and Goods seized and taken which are or shall be brought within the limits of the said Court.

GOD SAVE THE KING.

Given under my hand and the Public Seal of the Colony at Government House, Stanley, this 15th day of June in the Year of Our Lord One thousand Nine hundred and forty.

By Command,

(Sgd.) W. A. Cardinall,

Colonial Secretary.

67

No. 3/32/39.

(It is requested that, in any reference to this minute, the above Number and the date may be quoted.)

MINUTE.

15th June, 19 40.

From

To The Registrar-General,

The Colonial Secretary,

STANLEY.

Stanley, Falkland Islands.

I have the honour to forward herewith, for insertion in the files of the Registrar-General, an authenticated copy of Proclamation No. 4 of 1940.

Colonial Secretary.

65.

Rules made by His Excellency the Governor in Council
with reference to Fees in Prize Court Cases.

Governor.

WHEREAS by virtue of section 7 (i) of the Colonial Courts of Admiralty Act, 1890, the Supreme Court is authorized to make rules touching the practice and procedure on fees and costs of the said Court in its Prize Court Jurisdiction.

AND WHEREAS the Governor in Council may by virtue of the provisions of section 33 of the Administration of Justice Ordinance, 1901, make rules with reference to Fees of Court and costs, it is hereby ordered that :-

1. The fees to be taken in prize matters in the Supreme Court by the Court and its Officers shall be those laid down in Appendix B of the Statutory Rules and Orders, 1939, made by Order in Council dated October 19th, 1939, by the King's Most Excellent Majesty in Council.

By Command,

(Sgd.) A. W. Cardinall,
Colonial Secretary.

Stanley,

11th May, 1940.

M.P. S/32/39.

69.

No. S/32/39.

(It is requested that, in any reference to this minute, the above Number and the date may be quoted.)

MINUTE.

27th June, 19 40.

From

The Colonial Secretary,

Stanley, Falkland Islands.

To The Registrar-General,

STANLEY.

I have the honour to forward herewith, for insertion in the files of the Registrar-General, an authenticated copy of Rules made by His Excellency the Governor in Council with reference to Fees in Prize Court Cases.

J. C. S.
Colonial Secretary.

FALKLAND ISLANDS.

No. 81.

GOVERNMENT HOUSE,
STANLEY,

27th June, 1940.

My Lord,

2nd 28

With reference to your telegram, No. 4 of the 9th of January, 1940, I have the honour to transmit herewith six copies of Rules made by me on 11th of May, 1940, with reference to Fees in Prize Court Cases.

I have the honour to be,

My Lord,

Your Lordship's most
obedient, humble servant,

(Sd) R. H. HENDERSON

THE RIGHT HONOURABLE
LORD LLOYD, G.C.S.I., ETC.,
SECRETARY OF STATE FOR THE COLONIES.

PAKLAND MEMOS.

No. 92.

GOVERNMENT HOUSE,

STANLEY,

23rd July, 1940.

My Lord,

2nd 65'
With reference to your Circular telegram of the 12th of June, I have the honour to transmit 6 copies of Proclamation, No. 4 of 1940, made by me on the 15th of June, instituting a Prize Court as regards Italy.

I have the honour to be,

My Lord,

Your Lordship's most
obedient, humble servant,

THE RIGHT HONOURABLE

LORD LLOYD, G.C.S.I., ETC.,

SECRETARY OF STATE FOR THE COLONIES.

5/32/39
CIRCULAR

(76)

Downing Street,

9th May, 1940.

Sir,

I have the honour to transmit to you a copy of a Memorandum setting out in general detail the principles which are to be adopted with regard to the recognition of equitable third party claims in connection with Prize seizures made during the present war. With the Memorandum are two annexes, especially directed to the cases of claims by pledgees and by unpaid vendors.

2. Payments arising on claims of this kind are ultimately to be met from the proceeds of Prize.

3. Each claim arising in connection with a Prize Court in the Colonial Dependencies will need to be considered individually in the light of its particular circumstances, and must be submitted to me. With a view to securing the greatest possible uniformity in administration, it has been arranged for His Majesty's Procurator General in the United Kingdom to advise me upon these claims. In the case of claims connected with the Prize Court in the territory with which you are concerned, it is requested that the Proper Officer of the Crown be invited to investigate and report fully upon each particular claim, and to submit a detailed recommendation. The views of the Procurator General would then be obtained before a decision is taken.

The Officer Administering,
the Government of

4. It is hoped that the Memorandum will provide sufficient guidance to the Proper Officer as to the claims which, generally speaking, may be received and as to the nature of the information necessary for the due consideration of claims.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Malcolm MacDonald

FALKLAND ISLANDS.no. 55

DOWNING STREET.

18 October, 1940.

Sir,

Red 70

I have the honour to refer to your despatch No. 81 of the 27th of June, and to transmit to you one sealed and six plain copies of the Falkland Islands Prize Court (Fees) Order in Council, 1940, approving the Rules made on the 11th of May, 1940, and published in the Falkland Islands Gazette dated the 1st of June, 1940, providing for the fees to be taken in the Supreme Court of the Colony of the Falkland Islands when exercising prize jurisdiction.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

(Signed) LLOYD

GOVERNOR

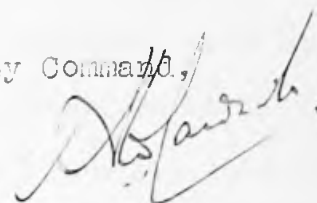
SIR HERBERT HENNIGER LEATON, K.C.M.G.,
etc., etc., etc.

Colonial Secretary's Office,
Stanley, Falkland Islands.

21st January, 1941.

His Excellency the Governor directs the publication for general information of the following Falkland Islands Prize Court (Fees) Order in Council, 1940 :-

By Command,



Colonial Secretary.

M.P. S/32/39.

AT THE COURT AT BUCKINGHAM PALACE

The 27th day of September, 1940

Present

THE KING'S MOST EXCELLENT MAJESTY

Lord Privy Seal	Lord Snell
Viscount Caldecote	Mr. Chancellor of the Exchequer.

WHEREAS by section three of the Prize Courts Act, 1894, it is provided that if any Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, is authorised under the Prize Courts Act, 1894, or otherwise to act as a prize court, all fees arising in respect of prize business transacted in the court shall be fixed, collected, and applied in like manner as the fees arising in respect of the Admiralty business of the court under the Colonial Courts of Admiralty Act, 1890:

84.

AND WHEREAS the Supreme Court of the Colony of the Falkland Islands (hereinafter called the Court) is a Colonial Court of Admiralty authorised to act as a prize court:

AND WHEREAS by virtue of section seven of the Colonial Courts of Admiralty Act, 1890, the fees arising in respect of the Admiralty business of the Court under that Act are regulated by rules of court made by the same authority and in the same manner as rules touching the fees in the said Court in the exercise of its ordinary civil jurisdiction are made, provided that such rules may not, save as provided by that section, come into operation until they have been approved by His Majesty in Council, but on coming into operation are to have full effect as if enacted in the Act:

AND WHEREAS the Rules of Court mentioned in the Schedule hereto, providing for the fees to be taken in prize matters in the Court, have been made by the proper authority and in the proper manner in accordance with the above mentioned provisions:

NOW THEREFORE, His Majesty, by virtue of the powers by the Prize Courts Act, 1894, and the Colonial Courts of Admiralty Act, 1890, or otherwise in Him vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :-

1. This Order may be cited as the Falkland Islands Prize Court (Fees) Order in Council, 1940.
2. The Rules of Court mentioned in the Schedule hereto are approved.

Rupert B. Howorth.

SCHEDULE.

Rules made by the Governor of the Falkland Islands in Council on the 11th day of May, 1940, and published in the Falkland Islands Gazette dated the 1st of June, 1940.

No. 41.

GOVERNMENT NOTICE.

868

Colonial Secretary's Office,
Stanley, Falkland Islands,
31st March, 1941.

His Excellency the Governor has been pleased to appoint

DR. J. E. HAMILTON, D.Sc., F.L.S., F.Z.S., F.R.G.S.,

Government Naturalist, to act as Magistrate, Registrar-General and Coroner and to be Chairman, Public Assistance Committee, Proper Officer of the Crown and Custodian of Enemy Property, with effect from the 1st of April, 1941.

By Command,

(Sgd.) A. I. Fleuret,

for Colonial Secretary.

S/32/39

(88)



From the Secretary of State for the Colonies.

To the Officer Administering the Government of

Circular Telegram Saving.

FALELAND ISLANDS

11th June, 1941.

CONFIDENTIAL.

There are some financial issues in connection with prize proceedings before oversea Prize Courts which cannot at present be determined finally and which may have to be left undecided until the end of the War.

2. In the meantime receipts and expenses connected with prize proceedings before Prize Courts in the Colonial Dependencies are to be accounted for on the basis that the rights and liabilities **attach** to His Majesty's Government in the United Kingdom, and that the Government of the Dependency has no interest as of right in any prize or earnings of prize, whether droit of the Crown or droit of Admiralty.

3. On this basis, the following arrangements are sanctioned for the payment of fees leviable upon the Crown and for the payment of remuneration to officers of Prize Courts and other officers performing services in connection with matters of prize:-

Red 59 (a) Fees leviable upon the Crown as a litigant under the Prize Court Rules, 1939 should be met from the proceeds of prize, and to accrue to local revenue in like manner as fees arising in respect of the Admiralty business of the Court.

Red 59 (b) The Proper Officer of the Crown (who represents the Crown as captor and, in the Colonies, acts for it both as solicitor and as counsel) should be paid remuneration on the scale laid down in Appendix C to the Prize Court Rules, 1939, including reasonable fees for appearances in Court, with a proviso that the total remuneration (including salary, any allowances in the nature of a duty allowance and fees, but excluding repayment of out-of-pocket expenses) to any Proper Officer of the Crown shall in no case exceed the rate of £2,250 a year in all.

(c) With regard to officers other than the Proper Officer of the Crown, it should be left to the local Government in consultation with the Secretary of State to decide what remuneration, if any, in addition to the salaries

87 86

salaries received by them out of Colonial revenues, is to be paid to the Judges or to officers of, or employed by, the Court who are also salaried officers of the Colonial Government, and to provide such additional remuneration out of Colonial revenues.

4. The foregoing paragraph should not be taken as a suggestion that extra remuneration should be paid to the Proper Officer of the Crown, Judges or other public servants, if you consider that such payment is inadvisable. As a general principle the policy is that public servants should not be paid extra for additional work arising out of the war: and it is appreciated that many Governors may see objection to singling out these particular public servants for special remuneration when, in other spheres, other servants of Government are receiving no monetary recognition of the extra work and responsibility placed upon them by the war.

Red 59

5. If the Proper Officer is to receive additional remuneration, his bills of costs should be prepared so as not to include any charge by way of retainer or any disbursements which would in the ordinary course appear in the accounts of the Marshal, such as expenses of maintenance of ships, pilotage, etc. The amounts due by way of additional remuneration on the scale laid down in Appendix C to the Prize Court Rules, 1939, including reasonable fees for appearances in Court and also the amounts due for disbursements, should be taxed by the Registrar of the Court, the taxed bills being sent to me in due course and my assent awaited before any issue is made to the officer for his own benefit. Should local conditions render local taxation undesirable, the bills of costs of the Proper Officer are to be forwarded to me with a view to taxation by the Registrar of the Prize Court in this country. When bills of costs of the Proper Officer are transmitted to me, whether after taxation locally or for the purpose of taxation in this country, they should be accompanied by a statement of the remuneration payable from other sources to the officer concerned.

6. For officers other than the Proper Officer of the Crown the rate of remuneration must vary according to the circumstances of each case. When submitting your initial recommendations under paragraph 3 (c) above, say for the period to the 31st December 1940 inclusive, I should wish to be informed whether, by the terms of appointment or otherwise, any officer is entitled to take any of the fees personally. An indication should also be given of the approximate total of the Prize Court fees expected to accrue to local revenue for the period. As at present advised, and subject to any special considerations which may be advanced in

in particular cases, I am disposed to think that the recommendations for grants to Judges should not exceed 25 per cent of the fees payable into local revenue.

7. A Central Colonial Prize Account has been set up in the Colonial Office, into which will be paid the proceeds of Colonial Prize, and from which will be paid any expenditure connected with prize proceedings, which cannot be recovered from charges against claimants or from proceeds of sale. A further communication with regard to the Colonial Prize Account will be sent shortly.

Circular Note

FALKLAND ISLANDS

5/2/39



Transmitted with the compliments of the
 Secretary of State for the Colonies, for information and
 distribution, with reference to his circular note of the 15 AUG 1940

Red 80.

89. s.s. "Prins Knud" 11/2/41. Handed to Legal
 Adviser 9/5/44.

Colonial Office,

Downing Street,

15 APR 1941

91
DECODE.

TELEGRAM.

No. 190. *From* Secretary of State for the Colonies.

To His Excellency the Governor.

Despatched : 15th September, 19 41. *Time :* 1930.

Received : 17th September, 19 41. *Time :* 10.30.

Circular No. 232 Following from the Ministry of Economic Warfare begins. It has been found that German goods which had become neutral property and had left Germany before September 3rd 1939 and therefore qualified for and obtained certificate of origin and interest have been detained or placed in prize on their journey (principally by oversea stations) owing to bearing marks showing their enemy origin. The detaining authorities naturally inferred that the certificate had been wrongly issued.

2. In order to avoid similar mistakes in the future Export Passes and not certificates of origin and interest will be required for German goods which became neutral property and actually left Germany before Sept. 3rd 1939 where such goods are consigned to non British destination. This will indicate to all concerned that issuing Consulate appreciate origin goods.

3. For the purpose of this telegram the expression "German Goods" is meant to include Italian goods and goods from countries which from time to time may be under enemy occupation or control with necessary adjustments of the date. Please inform Censorship stations under your control.

G.T.C.

Secretary of State.

DECODE.

TELEGRAM.

No. 184. *From* SECRETARY OF STATE FOR THE COLONIES.

To HIS EXCELLENCY THE GOVERNOR.

Despatched : 13th December, 19 41. *Time :* 0105.

Received : 13th December, 19 41. *Time :* 1030.

Rea 165' Unnumbered circular of December 12th my telegram of the 11th June
unnumbered circular 1940. Further proclamation should be issued making
Prize Court warrant effective as regards Finland Hungary Roumania and
Japan.

SECRETARY OF STATE.

G. T. C.

No. 12.

Proclamation.

1941.

Institution of Prize Court.

IN THE NAME of His Majesty GEORGE VI., by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

(I.S.)

By His Excellency ALLAN WOLSEY CARDINALL,
ESQUIRE, Companion of the Most Distinguish-
ed Order of Saint Michael and Saint
George, Governor and Commander-in-
Chief in and over the Colony of the Falkland
Islands and its Dependencies, &c., &c., &c. and
Vice Admiral thereof.

(Sgd.) A. W. CARDINALL

ALLAN WOLSEY CARDINALL, ESQUIRE, Companion of the Most Distinguish-
ed Order of Saint Michael and Saint George, Vice Admiral of the
Colony of the Falkland Islands and its Dependencies do hereby proclaim that a state of
war exists between His Majesty the King and Finland, Hungary,
Roumania and Japan, and do hereby notify, declare and make known that the
Supreme Court of the Falkland Islands is a Prize Court to take cognizance of and judicially
to proceed upon all and all manner of Captures, Recaptures, Seizures, Prizes and reprisals of
all Ships, Vessels and Goods seized and taken which are or shall be brought within the limits
of the said Court.

GOD SAVE THE KING.

Given under my hand and the Public Seal of the Colony at Government House,
Stanley, this 15th day of December, in the Year of Our Lord One thousand
Nine hundred and forty-one.

By Command,

(Sgd.) A. I. Fleuret.

Colonial Secretary.

No. 9/32/39.

(It is requested that, in any reference to this minute, the above Number and the date may be quoted.)

MINUTE.

(97)

16th December, 1941.

From


The Colonial Secretary,

Stanley, Falkland Islands.

To The Registrar-General,

STANLEY.

I am directed to forward herewith, for insertion in the files
of the Registrar-General, an authenticated copy of Proclamation No.
12 of 1941.



For Colonial Secretary.

GOVERNMENT HOUSE,

STANLEY,

16th December, 1941.

FALKLAND ISLANDS.

No. 107.

My Lord,

Reel 95

With reference to your unnumbered circular telegram of 12th December, 1941, I have the honour to transmit herewith, six copies of Proclamation, No. 12 of 1941, made by me on the 15th of December, instituting a Prize Court as regards Finland, Hungary, Roumania and Japan.

I have the honour to be,

My Lord,

Your Lordship's most
obedient, humble servant,

(Sgd.) A. W. CARDINALL

THE RIGHT HONOURABLE
LORD MOYNE, P.C., D.S.O.,
SECRETARY OF STATE FOR THE COLONIES.

DECODE.

TELEGRAM.

5/32/39.

(99)

No. 46.

From SECRETARY OF STATE FOR THE COLONIES.

To HIS EXCELLENCY THE GOVERNOR.

Despatched : 3rd January, 19 42. *Time :* 22.45.

Received : 4th January, 19 42. *Time :* 10.30.

Unnumbered Circular January 3rd my telegram circular unnumbered December 12th further proclamation should be issued making Prize Courts Warrants effective as regards Bulgaria.

G.T.C.

SECRETARY OF STATE.

Red 95

INSTITUTION OF PRIZE COURT.

IN THE NAME of His Majesty GEORGE VI., by the +Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

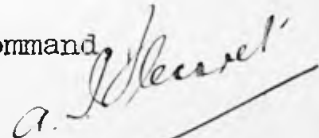
By His Excellency ALLAN WOLSEY
CARDINALL, ESQUIRE, Companion
of the Most Distinguished Order
of Saint Michael and Saint George
Governor and Commander-in-Chief
in and over the Colony of the
Falkland Islands and its Depend-
encies, and Vice Admiral thereof.

I, ALLAN WOLSEY CARDINALL, ESQUIRE, Companion of the Most Distinguished Order of Saint Michael and Saint George, Vice Admiral of the Colony of the Falkland Islands and its Dependencies do hereby proclaim that a state of war exists between His Majesty the King and Bulgaria, and do hereby notify, declare and make known that the Supreme Court of the Falkland Islands is a Prize Court to take cognizance of and judicially to proceed upon all and all manner of Captures, Recaptures, Seizures, Prizes and reprisals of all Ships, Vessels and Goods seized and taken which are or shall be brought within the limits of the said Court.

G O D S A V E T H E K I N G .

Given under my hand and the Public Seal of the Colony at Government House, Stanley, this 12th day of January, in the Year of Our Lord One thousand Nine hundred and Forty-two.

By Command



for Colonial Secretary.

DECODE.

101

TELEGRAM.

From SECRETARY OF STATE FOR THE COLONIES.

To HIS EXCELLENCY THE GOVERNOR.

Despatched : 10th February, 19 42. *Time :* 2128.

Received : 11th February, 19 42. *Time :* 1030.

Red 99

Unnumbered circular February 10th. With reference to my telegram of January 3rd unnumbered circular. Further proclamation should be issued making Prize Courts Warrants effective as regards Thailand.

G.T.C.

SECRETARY OF STATE.

INSTITUTION OF PRIZE COURT.

IN THE NAME of His Majesty GEORGE VI., by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

By His Excellency ALLAN WOLSEY
CARDINALL, ESQUIRE, Companion
of the Most Distinguished Order
of Saint Michael and Saint George
Governor and Commander-in-Chief
in and over the Colony of the
Falkland Islands and its Depend-
encies, and Vice Admiral thereof.

I, ALLAN WOLSEY CARDINALL, ESQUIRE, Companion of the Most Distinguished Order of Saint Michael and Saint George, Vice Admiral of the Colony of the Falkland Islands and its Dependencies do hereby proclaim that a state of war exists between His Majesty the King and Thailand, and do hereby notify, declare and make known that the Supreme Court of the Falkland Islands is a Prize Court to take cognizance of and judicially to proceed upon all and all manner of Captures, Recaptures, Seizures, Prizes and reprisals of all Ships, Vessels and Goods seized and taken which are or shall be brought within the limits of the said Court.

G O D S A V E T H E K I N G .

Given under my hand and the Public Seal of the Colony at Government House, Stanley, this 12th day of February, in the Year of Our Lord One thousand Nine hundred and Forty-two.

His Excellency's
By/Command.

J. Stewart
for Colonial Secretary.

S/32/39.

No.

(It is requested that, in any reference to this minute, the above Number and the date may be quoted.)

MINUTE.

25th February,

42.
19

From The Colonial Secretary.

To The Registrar-General,

STANLEY.

Stanley, Falkland Islands.

I am directed to enclose herewith, for insertion in the files of the Registrar-General, an authenticated copy of Proclamation No, 2 of 1942, Institution of Prize Court.

for Colonial Secretary.

GOVERNMENT HOUSE,

STANLEY,

25th February, 1942.

FALKLAND ISLANDS.

No. 23.

My Lord,

With reference to your Circular telegram No. 306 of 27th December, 1941, and your unnumbered Circular telegram of 10th February, 1942, I have the honour to enclose herewith six copies each of Proclamation No. 1 of 1942 of 3rd January, 1942, declaring that a state of war exists between His Majesty the King and Bulgaria, and Proclamation No. 2 of 1942 of 12th January, 1942, Institution of Prize Court.

I have the honour to be,

My Lord,

Your Lordship's most
obedient, humble servant,

(Signed) A. W. CARDINALL

RIGHT HONOURABLE
THE VISCOUNT CRANBORTH,
SECRETARY OF STATE FOR THE COLONIES.

Red 5 in 114/41
+ Red 101.

GOVERNMENT HOUSE,

STANLEY,

21st April, 1942.

FALKLAND ISLANDS.

No. 40.

My Lord,

I have the honour to forward herewith six copies each of Proclamation, No. 3 of 1942, proclaiming the existence of a state of war between His Majesty the King and Thailand; Proclamation, No. 4 of 1942 instituting a Prize Court in the Falkland Islands; Proclamation, No. 5 of 1942 appointing J. G. Gibbs, Esq., to be a member of the Executive Council for a period of one year with effect from the 18th of February, 1942; and Order made by His Excellency the Governor ascending the Defence Regulations, 1939; and the Trading with the Enemy (Specified Persons) (Amendment) (No. 3) Order, 1942.

I have the honour to be,

My Lord,

Your Lordship's most
obedient, humble servant,

THE RIGHT HONOURABLE
THE VISCOUNT CRANBORNE,
SECRETARY OF STATE FOR THE COLONIES.

MINUTE.

No. _____

13th January, 1943.

From

Proper Officer of the Crown,
~~THE COLONIAL SECRETARY,~~

Stanley, Falkland Islands.

To The Honourable

The Colonial Secretary,

Stanley.

This is purely theoretical. There has not been a Prize Court sitting here during this war.

para.
2 - 3

In such an event I suggest it would be desirable to open an account file which would show the position of an account in a form approved by the Financial Secretary, with a corresponding Deposit account in the Treasury.

para.
4

Property could be recorded in a manner comparable to a Stores account, that is by catalogue annotated to show the state or disposal of stocks.

para.
5 - 8
para.
8

? Audit. There is of course no Auditor here.
1941 - nil.

J. H. Hamilton

Proper Officer of the Crown.

I hope this is some use. It is a bit outside my line of country.
J.H.H.

SAVING.

FROM THE OFFICER ADMINISTERING THE GOVERNMENT OF THE PAUILLAND ISLANDS.
TO THE SECRETARY OF STATE FOR THE COLONIES.

DATE 16th January, 1943.

No. 2 SAVING.

CONFIDENTIAL.

Red no.
With reference to your Confidential Circular Saving Telegram of the 6th September, 1942, there have been no proceedings in the Prize Court of this Colony since the outbreak of war, but note has been taken of your instructions in regard to accounting and, should any cases arise, there will be no difficulty in adhering to the desired procedure.

GVN:R.