

JURISDICTION OVER PRIZES

Exchange of notes at Wellington November 3, 1942, and January 28, 1943

*Reciprocity proclaimed by the President of the United States April 1, 1943*¹

Entered into force April 1, 1943

Expired at conclusion of World War II

59 Stat. 1301; Executive Agreement Series 454

The American Chargé d'Affaires ad interim to the Prime Minister

LEGATION OF THE
UNITED STATES OF AMERICA
Wellington, New Zealand
November 3, 1942

SIR:

I have the honor to refer to my note dated February 21, 1942 and to your note dated April 13, 1942 in reply with regard to changes under consideration by my Government concerning vessels taken as prizes by United States Naval forces in foreign waters far from a United States port.

The changes in prize court procedure proposed by my Government are contained in Public Law 704—77th Congress, an Act to facilitate the disposition of prizes captured by the United States during the present war, and for other purposes, which was approved on August 18, 1942. A copy of the Act is enclosed.²

Section 3 of the Act provides that the authority contained in the Act shall not be exercised over prizes brought into the territorial waters of a cobelligerent, and that prizes shall not be taken or appropriated within such territorial waters for the use of the United States unless the government having jurisdiction over such territorial waters consents thereto.

Section 5 of the Act provides for the exercise abroad by special prize commissioners of the duties prescribed for such commissioners and such

¹ 57 Stat. 736.

² See 56 Stat. 746; not printed here.

additional duties as the district courts of the United States may deem necessary or proper for carrying out the purposes of the Act. The duties of prize commissioners are set out in Title 34, U.S.C., Section 1138, which reads as follows:

“§ 1138. Duties of prize commissioners. The prize commissioners, or one of them, shall receive from the prize master the documents and papers, and inventory thereof, and shall take the affidavit of the prize master required by section 1134 of this title, and shall forthwith take the testimony of the witnesses sent in, separate from each other, on interrogatories prescribed by the Court, in the manner usual in prize courts; and the witnesses shall not be permitted to see the interrogatories, documents, or papers, or to consult with counsel, or with any persons interested without special authority from the court; and witnesses who have the rights of neutrals shall be discharged as soon as practicable. The prize commissioners shall also take depositions de bene esse of the prize crew and others, at the request of the district attorney, on interrogatories prescribed by the court. They shall also, as soon as any prize property comes within the district for adjudication, examine the same, and make an inventory thereof, founded on an actual examination, and report to the court whether any part of it is in a condition requiring immediate sale for the interests of all parties, and notify the district attorney thereof; and if it be necessary to the examination or making of the inventory that the cargo be unladen, they shall apply to the court for an order to the marshal to unlade the same, and shall, from time to time, report to the court anything relating to the condition of the property, or its custody or disposal, which may require any action by the court, but the custody of the property shall be in the marshal only. They shall also seasonably return into court, sealed and secured from inspection, the documents and papers which shall come to their hands, duly scheduled and numbered, and the other preparatory evidence, and the evidence taken de bene esse, and their own inventory of the prize property; and if the captured vessel, or any of its cargo or stores, are such as in their judgment may be useful to the United States in war, they shall report the same to the Secretary of the Navy.”

I have been instructed by my Government to request the Government of New Zealand, in view of the above provisions of law, to give its consent to the exercise within its jurisdiction of the authority contained in the Act. Upon the receipt of such consent, appropriate measures will be taken by my Government in accordance with Section 7 of the Act to accord reciprocal privileges in prize matters to the Government of New Zealand. I would therefore be grateful to have the reply of the Government of New Zealand

in this matter at as early a moment as possible for communication to my Government.

I have the honor to be, Sir
Your obedient servant,

RAYMOND E. COX
Chargé d'Affaires a.i.

Enclosure—cited.

The Right Honorable
PETER FRASER,
*Prime Minister of the Dominion of New Zealand,
Wellington.*

The Prime Minister to the American Chargé d'Affaires ad interim

DOMINION OF NEW ZEALAND
PRIME MINISTER'S OFFICE
WELLINGTON
28th January, 1943

SIR,

I have the honour to acknowledge the receipt of your note of November 3rd requesting the consent of the New Zealand Government to the exercise within its jurisdiction of the authority contained in the cited Public Law 704—77th Congress and offering, upon receipt of such consent, reciprocal privileges in prize matters.

I note that the cited Act is described as “an act to facilitate the disposition of prizes captured by the United States during the present war, and for other purposes”. I take it that the arrangement will, therefore, apply for the period of the co-belligerency of the United States of America and of the Dominion of New Zealand, and for such period thereafter as may be necessary to conclude current cases.

I have to advise that consent is given, as requested, to the exercise in the Dominion of New Zealand and its dependencies, including Territorial Waters, of the authority contained in the Act, and to advise that the reciprocal privileges offered would be appreciated.

I have the honour to be, Sir,
Your obedient servant,

P. FRASER
Prime Minister

RAYMOND E. COX Esq.,
*Chargé d'Affaires a.i.,
Legation of the United States of America,
Wellington, C.I.*