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OUTSTANDING

# NAVAL PRIZE MANUAL

SEPTEMBER 1928

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NAVAL PRIZE MANUAL,

BEING

A MANUAL FOR THE  
GUIDANCE OF NAVAL OFFICERS  
IN TIME OF WAR.

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September, 1923.

*(Reprinted with amendments promulgated to 1st October, 1939.)*

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This book supersedes C.B. 3, "Naval Prize Manual for H.M. Fleet," dated January, 1914, copies of which should be destroyed by fire and certificate of destruction forwarded.

ADMIRALTY.

**PREFATORY NOTE**

BY

PROFESSOR A. PEARCE HIGGINS, C.B.E., LL.D., M.A.

THIS Manual is issued for the use of Officers of His Majesty's Navy in time of war. Its purpose is to lay down, as far as possible, rules for the guidance of Naval Officers in such circumstances as may arise in the course of naval operations ; to point out the duties which it is incumbent on them to perform ; and to guard them, while they are prosecuting the war to the uttermost against the enemy and the aiders and abettors of the enemy, from the danger of overstepping those duties in such a manner as either to involve the Government in international complications, or to expose themselves to censure or to pecuniary liability.

The principles of the law of nations as they result from the usages established between civilised nations, from the rules embodied in international agreements, from the laws of humanity and the dictates of the public conscience of mankind have in the past always been a guide for the actions of Officers of His Majesty's Navy.

This book is not a manual of maritime international law, and does not deal with all the questions which may arise in the course of a naval war ; nor does it deal with exceptional methods which may be ordered by way of retaliation for breaches of the laws of war by the enemy, such as those which were found to be necessary during the late war.

The rules contained in this Manual deal primarily with naval operations having the three following objects : Firstly, to capture the merchant shipping of the enemy and to destroy his seaborne commerce. Secondly, to prevent the enemy from obtaining by sea supplies of any kind that can be of assistance to him in the prosecution of the war. Thirdly, to prevent neutrals from doing for the enemy that which, by reason of British sea power, he is unable to do for himself. These have, in the past, always been amongst the most important means by which naval pressure has been brought to bear on the enemy.

Such operations as the capture of enemy ships and goods and of neutral ships and goods which were rendering aid to the enemy have, for several centuries, been adjudicated on by a Prize Court, which is constituted by warrant from the Lords Commissioners of the Admiralty at the beginning of a war. It is, therefore, most important for the proper determination of such cases that the instructions contained in this Manual, especially those relating to the preparation of affidavits and

other documents having reference to a prize, should be strictly observed. By complying with these rules, and by placing captures in the Prize Court as quickly as possible, Officers will save themselves from subsequent loss of time by having to attend in London or at some other distant Prize Court to rectify omissions, and failure to conform to these instructions, and to supply the information required, may also result in pecuniary loss either to the whole Navy or to themselves.

All rights of Prize belong originally to the Crown, and the beneficial interest derived to others can proceed only from a grant of the Crown. A certain portion of these rights was assigned to maintain the dignity of the Lord High Admiral, from whence arose the distinction between Droits of the Crown and Droits of Admiralty.

In former times it was the practice of the Crown to grant its interests in prizes (with some slight exceptions) to the actual captors, subject to any rights of Flag Officers, after condemnation. The Navy, therefore, had an interest in the Droits of the Crown. But when the office of Lord High Admiral was placed in commission, Droits of Admiralty reverted to the Crown, and it has been the practice for the Sovereign on accession to surrender these rights under a Civil List Act, whereupon they pass to the Exchequer.

In practice the distinction between Droits of the Crown and Droits of Admiralty was broadly as follows: Captures made as the result of the operations of His Majesty's Naval forces at sea, or by reason of their pressure forcing vessels to come into port were Droits of the Crown, other seizures in port or by non-commissioned captors were Droits of Admiralty.

Under the Naval Prize Act, 1918, and the Royal Proclamations made thereunder, which regulated the distribution of Prize Money during the late war, the distinction between Droits of the Crown and Droits of Admiralty above noted were observed, and as many seizures in port were the result of vessels entering under pressure of British sea power, the vessels so seized were held to be Droits of the Crown by the Naval Prize Tribunal which was appointed by the Naval Prize Act to adjudicate on cases arising out of its interpretation; they thus passed to the Navy.

The rules contained in this Manual are believed to be "according to the course of Admiralty, and the Law of Nations, and the Statutes, Rules and Regulations for the time being in force," under which Judges of the Prize Courts proceed to the condemnation of prizes. But as all "captures, seizures, prizes and reprisals of all ships and goods" must be justified before a Court of Prize, that Court alone can determine whether any instruction given or act done is or is not in accordance with international law which it administers.

British Prize Law is based on the decisions of the Prize Courts, and its main principles were elaborated during the period of the French wars at the end of the eighteenth and the beginning of the nineteenth centuries. These principles have stood the strain of subsequent wars, and though to-day they represent an extension of this application due to new combinations of circumstances, the continuity of the original and established principles is preserved. This may be illustrated by reference to the modern practice of taking ships into port for the purpose of search, which modern conditions of shipping and of warfare have rendered necessary. The legitimacy of such procedure has been recognised by the Prize Courts of other nations.

The lists of contraband goods issued at the beginning of a war necessarily vary with the nature of the war and the geographical conditions under which it is being carried on; such lists are subject to alteration from time to time. The test of the contraband character of goods is the essentiality of the article to the prosecution of the war. Articles of a contraband nature are liable to capture if they are ultimately destined for the enemy, though their immediate destination may be a neutral country. The doctrine of "continuous voyage" or ultimate destination in relation to contraband can now be said to form a recognised part of international law.

It is important to note the distinction between Contraband and Blockade. In the former case only such goods as are included in the contraband lists are liable to capture, but after a blockade of a port or coast has been duly declared all ships and cargoes of whatever description attempting to enter or leave the blockaded area are liable to capture.

The rules as to blockade set forth in this Manual are those which have received the general acceptance of Naval Powers. Certain methods of restraining enemy commerce adopted by Great Britain during the late war, while they received the sanction of the Prize Court as being in accordance with international law in the circumstances, are not included in this Manual. They were popularly described as "Blockade," but they differed in important respects from that operation as it had hitherto been understood by Prize Courts and the Naval Service; they would be more correctly described as Economic Warfare. Should it be found necessary to resort to similar methods in future wars, special instructions will have to be issued.

An officer in charge of a prize should carefully note the proceedings which are to be adopted on taking her into port for adjudication (Articles 204 to 206). He will generally be able to get into communication with the Procurator-General or his agent attached to the nearest Prize Court and obtain advice and assistance as to the filling up of the necessary forms. The ship or goods must meanwhile be placed in the custody of the Marshal

of the Prize Court, or, in the absence of such officer or his substitute, in that of the principal officer of the Customs at the Port. On his filling up the necessary forms, in the majority of cases, the prize officer's work in connection with the prize proceedings is at an end, but where questions involving capture in territorial waters arise the personal attendance of the officer and other officers concerned in the navigation of the ship will be necessary when the case comes on for trial.

It will be seen from Appendix VI (page 94) that Prize Courts are established in nearly all the British Dominions in addition to the Prize Court which sits in London. Under the statutes governing this subject the jurisdiction of the London Prize Court is wider than, but also co-extensive or concurrent with, that of the Prize Courts in the Dominions, Colonies and Dependencies. The latter, for example, are required to enforce the orders of the former, for the Dominion and other Prize Courts are only competent to deal with ships and goods within their jurisdiction. There is therefore a wide difference in their powers. Overseas Prize Courts can only deal with ships and cargoes within their possession, whereas the London Prize Court is empowered to deal with captures in all parts of the world, and can, for this purpose, appoint officers in far distant places to act as deputy for the Admiralty Marshal. As an example, the case of the vessels captured in the Cameroons in 1914 may be cited; for several reasons it was found to be more convenient to deal with them in London.

There is an appeal from the decisions of all the Prize Courts, both in England and in the Dominions, to the Judicial Committee of the Privy Council; there is no appeal from the Dominion and other Prize Courts to the London Prize Court.

Appendix VIII (page 99) contains the texts of international agreements affecting naval warfare and the law of prize, and a list of the Powers who are bound by such agreements is given, together with any reservations which any of them made on ratifying the conventions.

The conventions and declarations above mentioned are only binding on the Powers which have agreed to them and have not subsequently denounced them, and then only in a war in which all the belligerent states engaged are parties to them. Similarly, if one Power had not agreed to a particular article or any convention, that article would not be binding on the other belligerents although they might have contracted to accept it.

## CONTENTS.

## PART I.

## GENERAL PRINCIPLES.

DEFINITIONS .. .. .	Page 1
POWERS OF OFFICER IN COMMAND :	Article
Powers enumerated and defined .. .. .	1
Rules as to Territorial waters .. .. .	2-4
Ships over which powers may be exercised .. .. .	5, 6
SHIPS LIABLE TO DETENTION OR SEIZURE :	
Liability of British, Allied, Neutral and Enemy ships respectively	7
Liability irrespective of national character or trade .. .. .	8
SHIPS EXEMPTED FROM DETENTION OR SEIZURE :	
Exempted ships enumerated .. .. .	9
Cartel ships defined .. .. .	9, note
EXEMPTION FOR POSTAL CORRESPONDENCE :	
General rule .. .. .	10

## PART II.

## CAUSES OF DETENTION OR SEIZURE.

ENEMY SHIPS AND ENEMY GOODS :	
Definition of Enemy ships .. .. .	11
Ships which may be treated as Enemy ships .. .. .	12
Definition of Enemy and Enemy goods .. .. .	13
Rules relating to Officers and crew of a captured Enemy ship .. .. .	14
ENEMY SHIPS TRANSFERRED TO ANOTHER FLAG :	
Circumstances under which the transfer of Enemy ships to another flag may be treated as void .. .. .	16
Points to which attention should be directed .. .. .	15, 17
BRITISH SHIPS AND SHIPS OF AN ALLY :	
Ships which may be treated as British or Allied ships .. .. .	18
When a British or Allied ship should be detained or seized .. .. .	19, 20
Trading with the Enemy .. .. .	21, 22
Enemy despatches .. .. .	23
BRITISH AND ALLIED SHIPS TRANSFERRED TO ANOTHER FLAG :	
Ships colourably transferred .. .. .	24
Ships transferred by an order of an Enemy Prize Court .. .. .	25



NEUTRAL SHIPS AND NEUTRAL GOODS :		Article
Definition of Neutral State .. .. .	.. .. .	26
Definition of Neutral and Neutral goods .. .. .	.. .. .	27
Definition of Neutral ship .. .. .	.. .. .	28
Causes for detaining or seizing Neutral ships .. .. .	.. .. .	29, 31
Duration of liability to detention or seizure .. .. .	.. .. .	30
CONTRABAND OF WAR :		
Definition of absolute and conditional contraband .. .. .	.. .. .	32
Occasions when a ship carrying goods of the nature of absolute contraband should be detained or seized .. .. .	.. .. .	33-35
Occasions when a ship carrying goods of the nature of conditional contraband should be detained or seized .. .. .	.. .. .	36
UNNEUTRAL SERVICE :		
Ships liable to detention and to be treated as Enemy ships .. .. .	.. .. .	37, 38
Carriage of diplomatic representatives no cause for detention .. .. .	.. .. .	39
Carriage of Enemy despatches .. .. .	.. .. .	40
BLOCKADE :		
Definition of blockade .. .. .	.. .. .	41
Seizure for a breach of blockade .. .. .	.. .. .	42
Nature of a blockade .. .. .	.. .. .	43
Declaration and notification of a blockade .. .. .	.. .. .	44-49
Raising, restriction, extension or re-establishment of a blockade .. .. .	.. .. .	50
Effective maintenance of a blockade .. .. .	.. .. .	51, 52
Blockades must be impartially enforced .. .. .	.. .. .	53
Permission given to warships .. .. .	.. .. .	54
Permission given to ships in distress .. .. .	.. .. .	55
Disposition of ships of the blockading force .. .. .	.. .. .	56
Duties of outlying ships .. .. .	.. .. .	57
Knowledge of the blockade a condition precedent to liability to detention .. .. .	.. .. .	58
When knowledge may be presumed .. .. .	.. .. .	59
Steps to be taken to ascertain whether a ship has knowledge of the blockade .. .. .	.. .. .	60
Breach of blockade .. .. .	.. .. .	61
Exemptions from detention or seizure .. .. .	.. .. .	62
Duration of liability to detention or seizure .. .. .	.. .. .	63, 64
CONVOY :		
Treatment of ships under neutral convoy .. .. .	.. .. .	65, 67
Procedure .. .. .	.. .. .	66

## PART III.

## DEALING WITH CAPTURED SHIPS AND GOODS.

GENERAL RULE .. .. .	.. .. .	68
CIRCUMSTANCES IN WHICH CAPTURED SHIPS OR CARGO MAY BE DESTROYED :		
Enemy ships .. .. .	.. .. .	69
Neutral ships .. .. .	.. .. .	70
British or Allied ships .. .. .	.. .. .	71
Contraband on board Neutral ships .. .. .	.. .. .	72, 73



## PART IV.

## PROCEDURE.

CHASE AND VISIT :		Article
Object of visit .. .. .		74
Rule as to false colours .. .. .		75
Time and place of capture to be carefully noted, particularly if close to territorial waters .. .. .		76
Steps to be taken with a view to claims for joint capture .. .. .		77
Bringing the chase to .. .. .		78, 79
Boarding the chase ; Visiting Officer .. .. .		80
Caution as to manner of conducting the visit .. .. .		81
Duties of Visiting Officer and Officer accompanying him .. .. .		82-93
Excuses to be disregarded .. .. .		94
Complaints by master of ship visited .. .. .		95
Memorandum of visit .. .. .		96
Duties of Visiting Officers on returning to their ship .. .. .		97, 98
Entry in logbook and boarding-book of the warship .. .. .		99
Report to Senior Officer and to the Admiralty .. .. .		100
SEARCH :		
When required .. .. .		101
Rules as to conduct of search .. .. .		102-105
SEIZURE :		
When seizure becomes necessary .. .. .		107
Case of ships previously visited .. .. .		108
Steps to be taken when a ship is seized .. .. .		109-113
Flag to be flown .. .. .		109
Release of a ship improperly seized .. .. .		114
DESTRUCTION OF SHIP OR CARGO :		
Enemy ships .. .. .		115-129
Neutral ships .. .. .		130
Destruction or removal of contraband on board neutral ship .. .. .		131-145
Handing over of contraband by the master of a neutral ship .. .. .		146-161
JOINT CAPTURE :		
Actual captor and joint captors .. .. .		162
Duties of Officer in command in cases of alleged joint capture .. .. .		163-165
RECAPTURE :		
Recapture of British, Neutral or Allied ships respectively .. .. .		166-169
SENDING IN PRIZES FOR ADJUDICATION :		
Ship to be sent into port .. .. .		170
Rules as to choice of a port .. .. .		171-172
Appointment of Prize Officer .. .. .		173
Navigation of Ship .. .. .		174, 175
Master and crew to be sent in if possible .. .. .		176
Removal of crew and selection of witnesses .. .. .		177
Sending papers into Court .. .. .		178
Case where cargo not fit to be sent in with the ship .. .. .		179-183
Case where ship not fit to be sent into a port of adjudication .. .. .		184-186
Rules as to sending prizes into neutral ports .. .. .		187-188

DUTIES OF THE PRIZE OFFICER :		Article
When the ship captured is sent into port .. .. .	.. .. .	189-197
When the ship is destroyed or allowed to proceed on her voyage but some cargo is taken on board the ship-of-war .. .. .	.. .. .	198-202
PROCEEDINGS IN PORT :		
Ship detained at sea and sent in for examination .. .. .	.. .. .	203
Duties as to ship and cargo .. .. .	.. .. .	204, 205
Communication with Procurator-General .. .. .	.. .. .	206

## APPENDICES.

### APPENDIX I.

FORMS.		Page
No. 1. Declaration of Blockade to be used ordinarily when a Blockade is Imposed or Re-established .. .. .	.. .. .	41
„ 2. Declaration of Blockade, when necessary to depart from the terms of a declaration issued by the Home Government .. .. .	.. .. .	42
„ 3. Declaration of the Extension of a Blockade .. .. .	.. .. .	43
„ 4. Declaration of Restriction of a Blockade .. .. .	.. .. .	44
„ 5. Declaration of the Voluntary Raising of a Blockade .. .. .	.. .. .	45
„ 6. Letter to British Diplomatic or Consular Representative .. .. .	.. .. .	45
„ 7. Notification to Local Authorities .. .. .	.. .. .	46
„ 8. Warning of Blockade .. .. .	.. .. .	46
„ 9. Authorisation to Pass to or from a Blockaded Place .. .. .	.. .. .	46
„ 10. Certificate as to Money and Valuables Found on Board .. .. .	.. .. .	47
„ 11. Undertaking by Master and Officers of a Captured Enemy Ship if Subjects of a Neutral State .. .. .	.. .. .	48
„ 12. Undertaking by Master, Officers, and Members of the Crew of a Captured Enemy Ship if Subjects of an Enemy State .. .. .	.. .. .	48
„ 13. Inventory of Stores, etc., of a Prize .. .. .	.. .. .	49

### APPENDIX II.

#### AFFIDAVITS.

General Instructions .. .. .	.. .. .	50
FORMS.		
No. 14. Affidavit as to Ship Papers .. .. .	.. .. .	55
„ 14A. Affidavit as to no Ship Papers .. .. .	.. .. .	55
„ 15. Affidavit as to Refusal of Master to Certify Copies .. .. .	.. .. .	56
„ 16. Affidavit as to Removal of Crew from Prize .. .. .	.. .. .	57
„ 17. Affidavit as to Sale of Cargo .. .. .	.. .. .	58
„ 18. Affidavit as to Sending a Prize into a Neutral Port .. .. .	.. .. .	59
„ 19. Affidavit as to Ship Papers delivered up subsequently to the capture .. .. .	.. .. .	61
„ 20. Affidavit as to Ship Papers thrown overboard subsequently to the capture .. .. .	.. .. .	61
„ 21. Affidavit as to Ship Papers found subsequently to the capture .. .. .	.. .. .	62
„ 22. Affidavit as to removal of Crew and Cargo .. .. .	.. .. .	63
„ 23. Affidavit by Commanding Officer when it has been found necessary to destroy a prize .. .. .	.. .. .	64

## APPENDIX III.

	Page
Naval Prize Act, 1864 .. .. .	65
Naval Prize Act, 1918 .. .. .	73
Naval Agency and Distribution Act, 1864.. .. .	76
Prize Courts (Procedure) Act, 1914.. .. .	80
Prize Courts (Egypt, Zanzibar and Cyprus) Act, 1914 .. .. .	81
Prize Courts Act, 1915 .. .. .	82

## APPENDIX IV.

Order in Council, dated 5th August, 1914, authorising issue of a commission to the Prize Court as regards capture of German ships, etc. ..	84
Order in Council, dated 2nd March, 1915, respecting grant of Prize Bounty .. .. .	85
Order in Council, dated 27th April, 1918, regulating the distribution of Prize Bounty, etc. .. .. .	86
Proclamation of 15th August, 1918, relating to the grant of Prize Money	89
Proclamation of 10th February, 1919, regulating the distribution of Prize Money .. .. .	89

## APPENDIX V.

Instructions for Naval Officers who are appointed to act as Deputies to the Admiralty Marshal .. .. .	93
-------------------------------------------------------------------------------------------------------	----

## APPENDIX VI.

List of British Prize Courts Oversea .. .. .	94
----------------------------------------------	----

## APPENDIX VII.

Extracts from 10th Cruiser Squadron Orders for Boarding and Examination of merchant vessels issued during the war of 1914-18 .. .. .	95
--------------------------------------------------------------------------------------------------------------------------------------	----

## APPENDIX VIII.

Declaration of Paris, 1856 .. .. .	99
Convention relative to opening of hostilities (No. III) .. .. .	99
Convention relative to status of enemy merchant ships at outbreak of hostilities (No. VI) .. .. .	99
Convention relative to the conversion of merchant ships into war-ships (No. VII) .. .. .	100
Convention relative to the laying of mines (No. VIII) .. .. .	101
Convention respecting bombardment by Naval Forces (No. IX) .. .. .	101
Convention for the adaptation of the principles of the Geneva Convention to maritime war (No. X) .. .. .	103
Convention relative to certain restrictions on the exercise of the right of capture in maritime war (No. XI) .. .. .	109

	Page
Convention respecting the rights and duties of Neutral Powers in war (No. XIII) .. .. .	110
Table showing signatures, ratifications, adhesions and reservations to the above Hague Conventions .. .. .	113
Postal Conventions with Holland and France—Articles relating to mail packets in time of war .. .. .	115
Geneva Protocol regarding the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare .. .. .	116

## APPENDIX IX.

Merchant Ships' Papers .. .. .	117
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INDEX .. .. .	120

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## **Restrictions on Use of Submarines.**

Submarines may only sink a merchant vessel or render her incapable of navigation under the same conditions as are applicable to such action on the part of surface vessels of war. Expressed recognition of this Rule of International Law is contained in Part IV of the London Naval Treaty 1930, which reads as follows :—

“ The following are accepted as established rules of International Law :—

- (i) In their action with regard to merchant ships, submarines must conform to the rules of International Law to which surface vessels are subject.
- (ii) In particular, except in the case of persistent refusal to stop on being duly summoned, or of active resistance to visit and search, a warship, whether surface vessel or submarine, may not sink or render incapable of navigation a merchant vessel without having first placed passengers, crew and ship's papers in a place of safety. For this purpose, the ship's boats are not regarded as a place of safety unless the safety of the passengers and crew is assured, in the existing sea and weather conditions, by the proximity of land, or the presence of another vessel which is in a position to take them on board.”

This Article has received the assent of all the important Naval Powers.

*Order in Council regulating the Distribution of Prize Bounty, etc.*

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AT THE COURT AT BUCKINGHAM PALACE, THE 27TH DAY OF APRIL, 1918.

PRESENT : THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Naval Agency and Distribution Act, 1864, it is provided that money distributable among the Officers and Crews of any of His Majesty's Ships of War in respect of Awards made in the several cases therein mentioned, so far as full provision respecting the distribution thereof is not made by or under any Act of Parliament other than that Act, shall be distributed under the direction of the Lords Commissioners of the Admiralty in the shares in that behalf specified in any Royal Proclamation or Order in Council.

And whereas His Majesty was pleased, by an Order in Council dated the 24th October, 1916, to authorize the distribution under the direction of the Lords Commissioners of the Admiralty of all Prize Bounty, also the net proceeds of captures and seizures under the several Acts of Parliament passed relating to the Revenues of Customs, and to Trade and Navigation, for the abolition of the Slave Trade, for the capture and destruction of Pirates and Piratical Vessels, and of the rewards conferred for the same, as also of the awards for all salvage granted to the Crews of His Majesty's Ships and Vessels of War, when not otherwise specially apportioned by the terms of the respective awards and allowances, and all other moneys whatsoever granted to be shared among the Officers and Crews of His Majesty's Ships and Vessels in the manner of Prize Money, except those arising from Prize of War, in the shares and under the Regulations set forth in the said Order :

And whereas it is considered expedient to amend the Scale of Distribution contained in the said Order in Council of 24th October, 1916, so as to provide for a fixed number of Shares to be allotted to Flag Officers and Commanding Officers in lieu of the proportions set forth in the said Order in Council of 24th October, 1916, and to make other adjustments :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to cancel the above-mentioned Order in Council of the 24th October, 1916, and to authorize the distribution under the direction of the Lords Commissioners of the Admiralty of all Prize Bounty, also the net proceeds of Captures and Seizures under the several Acts of Parliament passed relating to the Revenues of Customs, and to Trade and Navigation, for the Abolition of the Slave Trade, for the Capture and Destruction of Pirates and Piratical Vessels, and of the Rewards conferred for the same, and also when not otherwise specially apportioned by the Terms of respective Awards and Allowances, of the Awards for all salvage granted to the Crews

of His Majesty's Ships and Vessels of War, and all other Moneys whatsoever granted to be shared among the Officers and Crews of His Majesty's Ships and Vessels in the manner of Prize Money, except those arising from Prize of War, in the shares and under the Regulations set forth below.

" 1. The net amount distributable shall be distributed in Classes, so that each Officer, Man, and Boy composing the complements of His Majesty's Ships and Vessels of War, and actually present on board at the time of such Service and every person present and assisting shall receive shares according to his Class as set forth in the following scale, the relative Ranks mentioned being those laid down in the Regulations and Instructions for the Government of His Majesty's Naval Service, the Instructions for the Government of the Coast-guard Service, and the Regulations for the Government of the various classes of the Reserves, or if not so laid down, as determined by the Lords Commissioners of the Admiralty.

	Shares
<b>SPECIAL CLASSES.—</b> Commander-in-Chief, Grand Fleet ...	2,000
Admiral Commander-in-Chief ... ..	1,250
Admiral Commanding a Squadron... ..	1,000
Vice-Admiral Commander-in-Chief ... ..	1,000
Vice-Admiral Commanding a Squadron ... ..	750
Vice-Admiral ... ..	500
Rear-Admiral Commander-in-Chief ... ..	750
Rear-Admiral Commanding a Squadron ... ..	500
Rear-Admiral ... ..	300
Commodore 1st Class Commander-in-Chief ... ..	750
Commodore 1st Class Commanding a Squadron ... ..	500
Commodore 1st Class ... ..	250
Commodore 2nd Class Commanding a Squadron... ..	250
Commodore 2nd Class ... ..	180
Captain in Command, first 80 on list ... ..	160
Captain in Command, second 80 on list ... ..	130
Captain in Command, remainder on list ... ..	100
<b>FIRST CLASS.—</b> Commander in Command ... ..	60
<b>SECOND CLASS.—</b> Captain not in Command and Officers of equivalent Rank, Commander serving as Second in Command in a Ship commanded by a Captain, Engineer-Commander in charge of the engines of a ship commanded by a Captain, and Lieutenant-Commander in Command ... ..	40
<b>THIRD CLASS.—</b> Commander not in Command, and Officers of equivalent Rank, Lieutenant-Commander serving as Second in Command in a ship commanded by a Captain, Engineer Lieutenant-Commander in charge of the engines of a ship commanded by a Captain, and Lieutenant in Command ... ..	30
<b>FOURTH CLASS.—</b> Lieutenant-Commander not in Command, and Officers of equivalent Rank, and Lieutenant serving as Second in Command in a ship commanded by a Captain and Engineer-Lieutenant in charge of the engines of a ship commanded by a Captain ... ..	25
<b>FIFTH CLASS.—</b> Lieutenant not in Command, and Officers of equivalent rank and Sub-Lieutenant, Mate, or Commissioned Warrant Officer in Command... ..	20
<b>SIXTH CLASS.—</b> Sub-Lieutenant not in Command, Mate, Commissioned Warrant Officer and Officers of equivalent Rank, Warrant Officer in Command ... ..	15



	Shares
SEVENTH CLASS.—Warrant Officer, and equivalent Ranks and Royal Marine Gunner ... ..	12
EIGHTH CLASS.—Midshipman, Clerk, Chief Petty Officer, Warrant Officer of Marines, Staff and Colour-Sergeant of Marines, and equivalent Ranks and Ratings... ..	10
NINTH CLASS.—Naval Cadet, Assistant Clerk, Petty Officer, Petty Officer 1st Class (O.S.), Sergeant of Marines, and equivalent Ranks and Ratings ... ..	8
TENTH CLASS.—Petty Officer 2nd Class (O.S.), Leading Seaman, Corporal and Bombardier of Marines, and equivalent Ranks and Ratings ... ..	6
ELEVENTH CLASS.—Able Seaman, Private, Gunner and Bugler of Marines (after training), Second Head Krooman, Second Tindal, and equivalent Ranks and Ratings ... ..	5
TWELFTH CLASS.—Ordinary Seaman, Boy, Private Gunner and Bugler of Marines (before completion of training), and equivalent Ranks and Ratings; Native Seaman and Stoker... ..	3
THIRTEENTH CLASS. — Supernumeraries (except as provided in paragraph 4) and Canteen Staff... ..	2

" 2. Any Officer on board any of His Majesty's ships or Vessels of War actually present at the taking or destroying of any armed Ship of His Majesty's enemies or otherwise entitled to share in any award who shall have more Commissions than one shall be entitled only to participate according to the share allotted to him by the above-mentioned distribution in respect to his superior Commission or Office.

" 3. Officers serving as Chief of Staff or Captain of the Fleet shall share as in Command of a Squadron or Ship.

" 4. Supernumerary Officers and men doing duty in His Majesty's Ships and Vessels of War shall share according to the Ranks which they hold in the Service.

" 5. No Interpreter unless holding some Rank or Rating in the Service or otherwise forming part of the Officers and Crews of His Majesty's Ships of War shall share in any award.

" 6. Officers and others holding Acting Appointments superior to their Substantive Ranks or Ratings and who are in receipt of the pay of such Acting Appointments, shall share according to such Acting Rank.

" 7. All persons temporarily employed in His Majesty's Naval Forces shall share in the Classes to which the Ranks or Ratings to which they are temporarily appointed may belong or be deemed equivalent.

" 8. In the event of any difficulty arising with respect to any of these Rules, or if any case should occur not herein provided for, or not sufficiently provided for, the Lords Commissioners of the Admiralty shall be competent to issue such directions thereon as may appear just and expedient.

" 9. The distribution herein ordered shall take effect forthwith as regards money decreed as Prize Bounty, but the proceeds arising from all captures, seizures, salvage and other services as aforesaid, made or performed prior to the date of this Order shall be distributed in accordance with the Proclamation or Order in Council in force at the time of such captures, seizures, or services respectively, and applicable thereto."

ALMERIC FITZROY.

*Proclamation of 15th August, 1918, relating to the grant of  
Prize Money to the Fleet.*

Whereas Her Majesty Queen Victoria was graciously pleased by Her Royal Proclamation of the 17th September, 1900, to regulate, according to the Scheme set forth therein or recognized thereby, the distribution of the net proceeds of prizes captured from the enemy, &c. :

And whereas by an Order in Council, dated the 28th August, 1914, We were pleased to cancel the system of distribution described in the above-mentioned Proclamation as regards Prizes captured from the enemy, and to declare that in lieu thereof it was intended to substitute a system of Prize Bounties or Gratuities for more general distribution to the Officers and Men of Our Naval Forces :

And whereas by the Naval Prize Act, 1918, it is provided that if We are pleased to signify Our intention to make a grant of Prize Money to Our Fleet out of the proceeds of Prizes captured in the present War, such Prize Money shall be of such amounts and payable to such members of Our Naval and Marine Forces and in such manner as We by Proclamation or Order in Council may determine :

We do therefore now make known to all Our loving Subjects, and to all others whom it may concern, by this Our Proclamation, by and with the advice of Our Privy Council, that Our Royal Will and Pleasure is and We do hereby order and direct that the net produce of all such Prizes captured during the present War as shall be declared by the Tribunal appointed under the said Act to be Droits of the Crown, and of all other sums which under that Act shall be paid into the Naval Prize Fund, shall be for the entire benefit and encouragement of the Officers and Men of Our Naval and Marine Forces as defined in the above-mentioned Act, and shall be distributable in accordance with the said Act, and further, that when the Lords Commissioners of the Admiralty shall judge that there is sufficient sum standing to the credit of the Naval Prize Fund to warrant it, a distribution shall be made in the shares and proportions and in the manner and in accordance with the Regulations We may hereafter announce by Our Royal Proclamation to such members of Our Naval and Marine Forces as may be qualified to share therein, or in case of their death to their representatives.

Given at Our Court at Buckingham Palace, this Fifteenth day of August, in the year of our Lord One thousand nine hundred and eighteen, and in the Ninth year of Our Reign.

GOD SAVE THE KING.

*Proclamation of 10th February, 1919, regulating the Distribution of  
Prize Money to the Fleet.*

Whereas by the Naval Agency and Distribution Act, 1864, it is provided that money distributable among the Officers and Crews of any of Our Ships of War in respect of Awards made in the several cases therein mentioned, so far as full provision respecting the distribution thereof is not made by or under any Act of Parliament other than that Act, shall be distributed under the direction of the Lords Commissioners of the Admiralty in the shares in that behalf specified in any Royal Proclamation or Order in Council :