

The “Awakening” of the Naval Prize Act 1864 By the Haifa Maritime Court

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Prize

According to the traditional law, all merchant ships, whether enemy or neutral, may be stopped, visited and searched. An enemy merchant ships can always be seized and captured as a prize.



London Declaration Concerning the Laws of Naval War 1909



San Remo Manual on International Law Applicable to Armed Conflicts at Sea

“SECTION VI : CAPTURE OF NEUTRAL MERCHANT VESSELS AND GOODS

146. Neutral merchant vessels are subject to capture outside neutral waters....Capture of a neutral merchant vessel is exercised by taking such vessel as prize for adjudication.”



October 2012

The M/V Estelle



Vs.



Ten Months Later...

***Folio No 26861-08-13 Haifa Maritime Court
State of Israel Vs. M/V Estelle***



The British Mandate over Palestine - Israel

(July 1st 1920 – May 14th 1948)

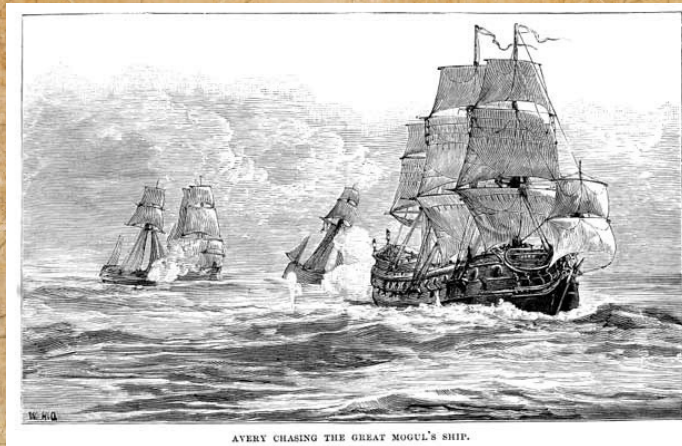


Admiralty Court Act, 1840
Admiralty Court Act, 1861
Colonial Courts of Admiralty act, 1890



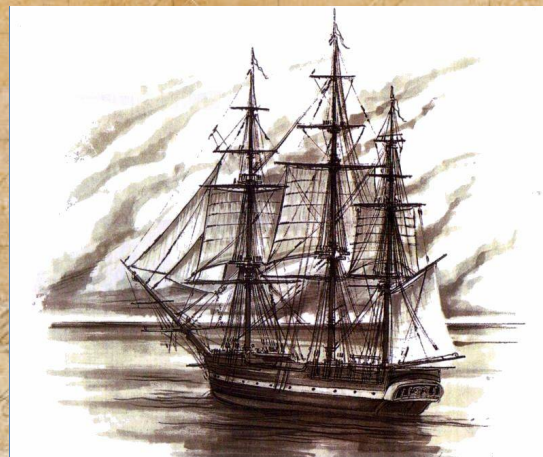
Admiralty Court Act, 1840

“An act to improve the Practice and extend the Jurisdiction of the High Court of Admiralty of England.”



Admiralty Court Act, 1861

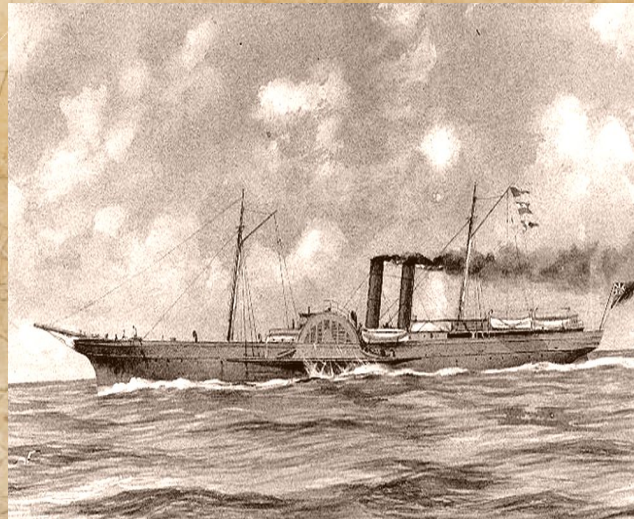
“An Act to Extend the Jurisdiction and Improve the Practice of the High Court of Admiralty.”



The Naval Prize Act, 1864

“Every ship taken as a prize and brought into port within the jurisdiction of a Prize Court, shall forthwith and without bulk broken, be delivered to the marshal of the Court.”

(The Naval Prize Act, 1864, Clause 16)



The Naval Prize Act, 1864

“After the return of the monition, the court shall..., proceed with all convenient speed either to condemn or to release the captured ship.”

(The Naval Prize Act, 1864, Clause 20)



Colonial Courts of Admiralty Act, 1890

Clause 2(3)(b) of the Colonial Act – “A Colonial Court of Admiralty shall have under the Naval Prize Act, 1864, and under the Slave Trade Act, 1873,..., the jurisdiction thereby conferred on a Vice-Admiralty Court and not the jurisdiction thereby conferred exclusively on the High Court of Admiralty or the High Court of Justice; but unless for the time being duly authorized, shall not by virtue of this act exercise any jurisdiction under the naval prize act, 1864...”

King's Order-in-Council 1937

***“The Supreme Court of
Palestine shall be a
Court of Admiralty and
shall exercise***

***Admiralty Jurisdiction
in all matters arising
upon the high seas or
elsewhere...”***



On October 10th, 1939, an announcement was published by the official newspaper in Palestine (Israel):

“When an announcement is made in Palestine (Israel) stating a war has commenced between her Majesty’s and any foreign country, to pay attention to all kinds of captures and prizes of all kinds of ships, vesselswill be brought before the Supreme Court of Palestine (Israel) ... according to the Law of Admiralty ... For this purpose this order is your writ of authority until cancelled or dismissed.”

The M/V Estelle

The state of Israel: The authority to act as a Prize Court was triggered by the order given on 10th October 1939.



The M/V Estelle Case

Haifa Maritime Court



***Has jurisdiction
to act like prize
court***

***Has no
authorization to
act like prize
court***

The Decision Made by Haifa Maritime Court

Haifa Maritime Court is authorized to act as a prize court.

However, under that circumstances, where the Israeli navy has delayed the filing of the proceedings 10 months period, the vessel Estelle should be released immediately.



Supreme Court in Jerusalem

7307/14

“Every ship taken as prize, and brought into port within the jurisdiction of a prize court, shall forthwith, ... , be delivered up to the marshal of the court.” (Clause 16, The Naval Prize Act, 1864)

“The captors shall with all practicable speed after the ship is brought into port, or the aircraft is brought to a place within the jurisdiction of a prize court...” (Clause 16, The Naval Prize Act, 1864)



The Marianne

7961-07-15

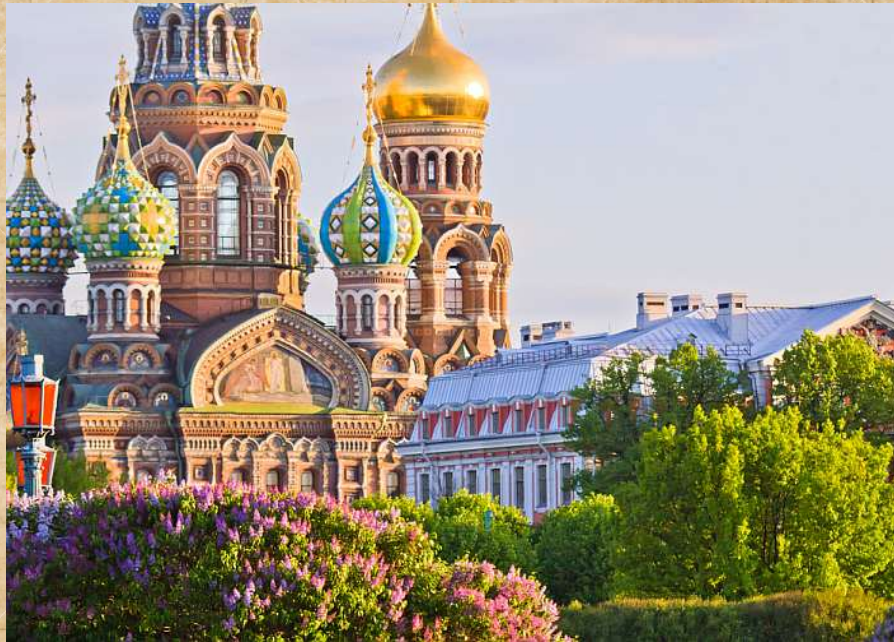
The request to take the ship as a prize was submitted to the Maritime Court in Haifa promptly. In this case the court approved the ship's arrest.



The background is a detailed nautical chart or map. It features a grid of latitude and longitude lines. In the top right corner, there is a ship's steering wheel. In the bottom left corner, there is a compass rose showing cardinal and intercardinal directions, with degree markings. The text "To be continued..." is centered in a large, bold, italicized black font. There are several faint, repeating watermarks of a camera icon and the text "123RF" across the map.

To be continued...

Thank You, Saint Petersburg



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Maritime Law-Group***