

matters in respect of the right of exclusive use shall be made by Imperial Ordinance.

Article 6. A trade mark, identical with, or similar to any trade mark of which registration has been cancelled under the provision of Art. 4, and intended to be used for the same merchandise, shall not be registered.

Article 7. The provisions of the preceding 6 Articles apply mutatis mutandis to an application, a demand, an action, a patent right of a trade mark right belonging to other than an enemy national, of which the interests are dominantly attributable to an enemy national.

Article 8. Provisions relating to the necessary matters at the end of war shall be made by Imperial Ordinance.

Article 9. Any person who has infringed the right of exclusive use specified in this Law shall be punished with penal servitude for a period not exceeding five years or a fine not exceeding one thousand yen.

Supplementary Provision

The date of enforcement of this Law shall be fixed by Imperial Ordinance.

ANNEX II.

List of Industrial Property registered in the Names of Foreign Nationals
as of December 7, 1941 (Submitted to G.H.Q. in compliance with
13-July-1946 and 28-August-1947 Directives)

Nationality	Patents	Utility models	Designs	Trade marks	Total
* Argentine	9	1		3	13
Armenia				2	2
* Australia	9			16	25
Austria	30	2	1	70	103
* Belgium	18	5		38	61
* Brazil	1				1
* Canada	30	2		50	82
* China	11	3	10	86	110
* Cuba	1			8	9
* Czechoslovakia	43	3		131	177
* Denmark	63	5		38	106
Estonia				2	2
Finland	2			1	3
* France	244	22	2	972	1,240
* England	477	81	26	3,445	4,029
* Greece				4	4
Germany	4,522	1,173	26	4,291	10,012
* Holland	162	6	4	512	684
Hungary	7	2		10	19
* India			1	33	34
* Iraq				1	1
* Iran			1	2	3
Italy	104	13	1	119	237
Latvia	1			3	4
Liechtenstein	2				2
* Luxemburg	5	2		2	9

* Mexico	1			1	2
* New Zealand				8	8
* Norway	32	3		19	54
* Poland	10			3	13
Portugal				1	1
* Philippines				4	4
Rumania	2	2		1	5
Spain	5	3	1	39	48
* Sweden	183	24		151	363
Switzerland	561	30	2	864	1,457
* Syria				8	8
Trinidad				2	2
* Turkey	1				1
* U. S. A.	1,982	562	20	4,730	7,294
* Soviet Union	5			1	6
* Yugoslavia	2				2
Total	8,530	1,944	95	15,671	25,249

(* United Nations member)

FOREIGN COPYRIGHT PROBLEMS

FOREIGN OFFICE
JAPANESE GOVERNMENT

APRIL 1948

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FOREWORD

The problems of copyright dealt in the present Report concern the use of the copyrights owned by foreigners, more particularly United Nations nationals. They hinge upon the proprietary protection of copyright.

These problems fall into two categories—namely those concerning the *ex post facto* disposition of the use that was made of foreign-owned copyrights during the war, and those concerning the new status of such copyrights in Japan under the Allied occupation. Today after nearly three years since the war's end the question of the use of foreign copyrights has come to assume increasing importance and urgency as one having a direct bearing upon the cultural progress and political enlightenment of the nation.

I. COPYRIGHT PROTECTION BEFORE THE WAR

(a) Protection under the Domestic Law

In Japan copyright has been recognized extensively in all fields of literature, science, art and music by the Copyright Law of 1899, under which the right of reproduction, translation or performance of a literary work belongs exclusively to the author.

The duration of this copyright protection is in principle limited to the life time of the author and 30 years after his death. However, the term is fixed at 10 years for photographic works. The translation right expires also after 10 years from the date of the publication of the original work.

Such protection is afforded to all works first published in Japan, regardless of the nationality of the author. A work published abroad by a Japanese is also protected by this law, but a foreigner's work published in a foreign country is not properly entitled to protection without a special treaty stipulation (Copyright Law, Article 28).

In order to re-enforce the protection under domestic law and to facilitate the cultural utilization of copyrighted works a law was enacted in April 1937 relating to copyright agency business. This is a business of acting as legal representative or intermediary for copyright owners concerning their works for publication, translation, performance, broadcasting, filming, recording, or any other form of utilization. On the basis of this law there was organized the Japan Music Copyright Association in October of the same year, and also the Japan Literary Copyright Protection Alliance in the following December. The former has now a total membership of nearly one thousand, while the latter has only a few members. Both organizations especially the latter, failed to make satisfactory progress, owing to the lack of interest on the part of the authors as well as to the nationalistic cultural controls which were imposed upon them before and during the war.

(b) Protection by Treaty

Unless protected by treaty the works of foreign authors published in foreign countries possess no legal status in Japan, and they may consequently be freely reproduced, translated, or put on the stage. However, for the

protection of foreign copyrights there exist the bilateral treaties Japan has concluded with other nations, and also the Berne Convention relating to "Protection of Literary and Artistic Works" of 1886, of which Japan has been a signatory since 1899.

(1) The Berne Convention

"It is under this Convention that there has been formed the International Copyright Union. A national of a country which is a member of the Union is afforded protection in all the member countries under the domestic laws of the respective countries as well as under the provisions of the Convention. A national of a non-member country who publishes his work in a member country is afforded in principle the same protection as is given authors of the said country. The term of copyright protection is 50 years from the time of the author's death. However, the Convention with due regard for the discrepancies in the laws of various nations on this point, allows any member country to regulate the protection period according to its own domestic law.

In Japan the term is fixed at 30 years. China and Switzerland have also adopted a 30 year period. But most countries follow a 50 year system, e.g. France, Germany, Italy, Netherlands, Denmark, Finland, Czechoslovakia and Yugoslavia. England also belongs to the 50 year group, but differentiates the degree of protection between the first 25 years and the latter 25 years. The shortest term is the Soviet Union's 16 years, while the longer ones include the United States' 56 years (divided also into two 28 year periods with different degrees of protection), Brazil's 60 years, and Morocco's 80 years.

In this connection it should be noted that on the Berne Convention Japan has a reservation, limiting the period for protection of translation rights to 10 years as far as Japan is concerned.* This reservation

* Declaration of the Japanese Government

Conformément aux stipulations de l'article 27 (2) de la Convention de Berne pour la protection des œuvres littéraires et artistiques du 9 septembre 1886 révisés à Berlin le 13 novembre 1908 et à Rome le 2 juin 1928, le soussigné, dûment autorisé à cet effet, déclare que le Gouvernement japonais entend conserver le bénéfice de la réserve qu'il a formulée antérieurement, c'est-à-dire entend rester lié, en ce qui concerne le droit exclusif des auteurs de faire ou d'autoriser la traduction de leurs œuvres qui est visé à l'article 8 de ladite Convention, par les dispositions de l'article 5 de la Convention de Berne du 9 septembre

was made because translation of foreign works—especially of European and American works, is of the paramount importance to Japan, and the government has always pleaded freedom of translation for Japan on the ground of the radical differences between Japan and Western nations in the origin of language and the pattern of culture.

The Berne Convention is adhered to by principal nations of Europe and of the world, excepting the United States (and other American countries), China, New Zealand, the Soviet Union and Turkey.

Copyright relations between Japan and other Powers are governed in principle by the Berne Convention and by the Copyright Law of Japan drawn up in line with the Convention. Consequently Japan has no obligation of extending international copyright protection to non-participating Powers to that Convention. The United Nations countries, as defined by 4-August-1947 SCAP Memorandum on Definition of United, Neutral, Enemy, Special Status and Undetermined Status Nations, which are signatories to the Berne Convention are: Belgium, Brazil, Denmark, France, Britain, Greece, Norway, Holland, Poland, Siam, Sweden, Czechoslovakia and Yugoslavia.

(2) Bilateral Treaties

Of the bilateral treaties Japan has concluded with other Powers relating to copyright, the most important one is the 1905 American Japanese Treaty. Besides, there are the American-Japanese Treaty (1908) and the Franco-Japanese Treaty (1909) concluded for the reciprocal protection in China of inventions, designs, trade marks and copyrights, having in view the special condition of China. Japan's treaties

1886, amendé par le n° 3 de l'article premier de l'Acte Additionnel signé à Paris de 4 mai 1896.

Fait à Rome, le 10 juillet, 6 Showa (1931).

The Article V of the original Berne Convention of 1886

V. Les auteurs ressortissant à l'un des pays de l'Union, ou leurs ayants cause, jouissent, dans les autres pays, du droit exclusif de faire ou d'autoriser la traduction de leurs ouvrages jusqu'à l'expiration de dix années à partir de la publication de l'oeuvre originale dans l'un des pays de l'Union.

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of commerce and navigation containing provisions for mutual copyright protection, are those concluded with China (1903), with Latvia (1928), and with Siam (1937). Again there are the Franco-Japanese Agreement of 1929 providing for mutual procedural facilities in the use of copyrights (Agreement between the Japan Writers Society and the French Writers Society), and the German-Japanese Agreement of 1944.

The above-mentioned 1905 American-Japanese Treaty on Copyright provides for mutual protection of the reproduction right under the domestic laws of the respective countries and for freedom of translation.

II. FOREIGN COPYRIGHTS DURING THE WAR

During the war the Japanese government, apart from the question of the effects of war on treaties but from the standpoint of respecting intellectual property rights, paid special attention to foreign copyrights protected by prewar treaties. Instead of such wartime measures as were applied to industrial property rights, it was decided as a temporary expedient to invoke Article 27 of the Copyright Law in the case of the copyright of enemy nationals or of the neutral nationals who could not be contacted. Paragraph 2 of the said Article reads: "In the case where the copyright owner cannot be consulted because of the uncertainty of his whereabouts or because of such circumstances as are stipulated by Regulation, his work may be published or performed by putting up an appropriate deposit fixed by the competent minister concerned as provided for by Regulation." Article 26 of the Regulation relating to Copyright Law Execution specifies the circumstances under which the above Article is applicable as when "1) the copyright owner's whereabouts is unknown; 2) the copyright owner cannot be identified because of non-registration of his work; 3) the copyright owner does not reside in Japan, and his representative cannot be found." This deposit procedure, though originally it has not been devised for wartime purposes, rendered possible the use of foreign copyrighted works during the war while paying due regards to the interest of their authors.

The procedure was thus applied to the copyrighted works of enemy countries such as Britain and the United States (reproduction only) and Holland; of France and Italy (enemy country later), Germany and Hungary (Allies) after communications with them were cut off; and of Switzerland

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and Sweden which were neutral. Germany accounted for the greatest number of the works so used, France and Italy coming next in order. It appears some American and British works were used as enemy property without the observance of this deposit procedure. (For fixed deposits, see Annex I.)

III. COPYRIGHT PROTECTION UNDER ALLIED CONTROL

(a) SCAP Memoranda and the Government Measures

Soon after the Allied occupation of Japan the Japanese government was directed by the 13-Sept.-1945 SCAP Memorandum on "Preservation of United Nations and Axis Property" to investigate and maintain in good condition the property owned by the United Nations and their nationals at the commencement of the war and to report thereon, while another Memorandum of September 22 on "Control of Financial Transactions" prohibited transactions involving the external assets owned by any person residing in Japan, or the property belonging to any person resident in Japan. The Japanese government issued accordingly an order (Finance Ministry Ordinance No. 80) under the date of September 28, 1945 relating to "Preservation of United Nations Property," which was enforced throughout the country.

The copyrights of United Nations nationals came under the above-mentioned SCAP Memoranda and Japanese ministerial ordinance. The Japanese government was also directed by the 13-Sept. Memorandum to impound and report on the property of Axis nations and their nationals. Later the 10-June-1947 Memorandum on "Application of Directives to Patents, Utility Models, Trade Marks, Designs and Copyrights," directed the government to take the necessary steps to ensure the inclusion of copyright within the scope of the measures taken in accordance with the various memoranda concerned. The Ministry of Justice accordingly issued an instruction to that effect on July 14.

As copyrights have like patents a special legal character as incorporeal property and require special treatment in their investigation, protection, recovery, restitution, or indemnification, a number of Directives continued to be issued demanding investigations on copyrights.

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(1) Memorandum of 17-Oct.-1946 concerning "Foreign-owned Copyrights in Japan."

The Memorandum required the Japanese government to furnish a complete list of foreign-owned copyrights registered in Japan as of December 7, 1941, with full information concerning each copyright, giving the name, nationality, and address of the owner, date the right was granted, details of royalty agreements, method of payment, etc. This directive was implemented by 20-Jan.-1947 Home Ministry Ordinance No. 4 concerning "Investigation of Copyrights owned by Foreign Nationals." (For the number of foreign-owned copyrights reported in compliance with this Memorandum, see Annex II.)

(2) Memorandum of 30-Nov.-1946 concerning "Bank Deposits from Royalty Payments on Patents and Copyrights of United Nations Nationals."

The memorandum called for a report on all bank deposits made since December 7, 1941, as royalties on the patents and copyrights owned by United Nations nationals, covering "the name of depositor, the name and owner of the account to which deposit was made and the present total in the account." It should be noted that while the memorandum (1) above pertained to foreigners in general, the memorandum (2) is concerned solely with United Nations nationals. (For the totals in the deposit accounts for United Nations nationals, see Annex III.)

(3) Memorandum of 17-Dec.-1946 concerning "Use of United Nations Patents, Utility Models, Designs, Trade Marks and Copyrights."

In contrast to the Memorandum (1) which called for investigation as to the existence of copyrights, this one aims at the investigation regarding their use, although the scope is also confined to United Nations nationals. The memorandum required a report on "Nature of use made," "Extent of use," as well as the "Title or description" and "Name and address of user." Home Ministry Ordinance No. 7 of February 6, 1947, concerning "Investigation of the Use of United Nations Copyrights" was issued to implement this memorandum (See Annex IV).

(b) Use of Foreign-owned Copyrights

After the war's end the copyrights owned by nationals of the non-

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treaty Powers continued to be used freely for some time, while in the case of the foreign copyrights recognized by treaty they were used through the deposit procedure under the provision of Article 27 of the Copyright Law in view of the impossibility of establishing contact. Meanwhile the deposit rate on royalty as fixed under the procedure was raised to 5 per cent from the wartime 1 per cent.

But this use of foreign copyrights through the deposit procedure was, by order of the Allied Headquarters, drastically modified and finally suspended after the end of 1946. The present status of foreign-owned copyrights in Japan is quite ambiguous. There exists no general directive concerning the use of foreign copyrights, although informal discussions have been frequently held between Japanese publishers and the Allied authorities concerned, and the views of the latter have been made public.

On January 7, 1946 the G.H.Q. spokesman issued a statement to the effect that the reprinting or translation (including condensation) of the articles in U.S. newspapers and magazines is free up to 150 words in the case where the articles contain 400 or less than 400 words in the original text (excepting the reprinting or translation of an entire text), but any reprinting or translation beyond these limits, would involve the question of copyright and require the permission of the newspaper or magazine which owns the copyright; and also that this permission may be obtained by direct negotiation in the case of U.S. newspapers and magazines, whose representatives are stationed in Japan. The communique issued by the Newspapers Division of the C.I.E. Section set forth the rules on the use of U.S. books in general, making it clear that any Japanese wishing to obtain a translation right should apply to the C.I.E. through the Publishers Association for liaison with the copyright owner in the United States (The 8-Oct.-1946 Memorandum concerning Approval of Book Publication shows a typical instance of this procedure), and at the same time pointed out that copyright in the United States continues for 56 years after publication.

From the above statement and communique it became clear that the use of U.S. copyrights is no longer allowed. Later it was also ascertained that G.H.Q. was not in a position to grant permission for the use of a copyright, and that only in exceptional cases a copyright owner in the United States may be reached through G.H.Q. (In the case where a valid contract or license exists, use of a foreign copyright has always been permitted after confirmation of the same by G.H.Q.) This ruling means a

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with departure from the old treaty arrangement with the United States under which freedom of translation was recognized.

All in all, the door has been closed to the use of foreign-owned copyrights through the deposit procedure under the domestic law, so that it is no longer possible to use the copyrights of even non-treaty nations. That is to say, Japan is debarred in principle from the use of the copyrights of any other country, regardless of whether she has treaty relations with it or not, or she is in a state of war with it or not. Nor is it any longer possible to republish those works of which reproduction or translation has been legally permitted before.

IV. FILM EXHIBITION

The question of the foreign film copyright is one that touches intimately the daily life of the nation. Throughout these years past even after the war, the Japanese people cut off from overseas communications have been denied free access to foreign motion pictures. This is partly due to the various problems connected with the exhibition of foreign films.

There are problems concerned with the old foreign films that had been imported before the war's end, and there are problems concerned with those films that have been imported since then under a definite plan as part of Occupation policy.

(a) The Old Films

Concerning the old films, the following two basic directives were issued for the purpose to investigate whether or not they are stolen or looted property; they are rightfully owned; or their exhibition is properly authorized; and to impound all films, not legally possessed, or to restore them to their rightful owners.

(i) Memorandum of July 8, 1946 concerning "Census of Foreign Films in Japan."

(ii) Memorandum of Nov. 19, 1946 concerning "Illegally Possessed Foreign Films in Japan."

In conformity to the above Directive (i), all foreign films were investigated and tabulated, as of August 1, 1946, under the Home Ministry Ordinance 31 of the same date; while in pursuance of Directive (ii) the legality or illegality of their possession by Japanese was

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examined and determined, and all illegally-possessed films have been impounded by prefectural governors and turned over to the Home Ministry (now Ministry of Education). More recently the G.H.Q. criteria for judging the legality of Japanese ownership have been rendered considerably more stringent (14-Feb.-1948 Memorandum) so that no other evidence than the existence of a valid original contract itself between the foreign producer of a film and the Japanese possessor or distributor thereof for its exhibition in Japan is admitted for establishing the legality of ownership. In all cases of inability to produce such a contract, the films are ordered impounded as illegally possessed. (207 such films were impounded up to the end of December, 1947.)

The owners of foreign films subject to the above directive are mostly importers or distributors, who are now barely carrying on their enterprises by showing what foreign films they have on hand, pending the restoration of normal trade. It is feared that some of them as the result of above measure may be compelled to suspend or even liquidate their business.

(b) Newly Imported Films

The rules governing the procedure for the exhibition of the foreign films newly imported since the termination of hostilities are set forth in the G.H.Q. Circular No. 12 of December 5, 1946, according to which:

(1) The motion picture companies of the United Nations may acquire the license to distribute their films in Japan only by joining the organizations representing the industry of their respective countries in Japan; (2) a licensed company may entrust its exhibition business to a Japanese individual or corporation, but the latter is given no right enjoyed by an operator; (3) the charges for exhibition right are collected in yen, but the yen funds so collected are to be used only for the disbursements indispensable to the licensed business, and not to be used for investments in Japan, nor can they be converted into foreign currencies for the time being.

It is under these rules that shortly after the end of war the Motion Picture Export Association—an export control organ of the so-called "Big 8" U.S. motion picture companies—established its Japanese

branch called the Central Motion Picture Exchange, which now handles the distribution of American films in Japan. The following are the notable features that mark the operation of the Exchange:

(i) No Japanese company is allowed to participate in the distribution of films.

(ii) The number of theatres under special contract has reached 600 (as of July 1947).

(iii) The charge for the exhibition right is fixed at 50 per cent of the admission fee (20-30% before the war).

(iv) The exhibition charges average ¥15-20 million per month, and the aggregate total since the war's end is believed to reach an enormous sum.

V. CONCLUSION

As further recedes the prospect of the peace treaty, the stronger grows the desire on the part of the intellectual segment of the Japanese public to see the channels opened for the use of foreign copyrights. It is ardently hoped that a *modus vivendi*, along the lines of the Berne Convention and the American-Japanese Treaty, will be devised permitting in one way or another the use, as in prewar days, of foreign copyrights and freedom of translation of western books into Japanese.

Such a measure should go far to help democratize Japan, and to lay the foundation for Japan's intellectual cooperation with the rest of the world and her resurgence as a nation of culture. The 1899 Copyright Law of Japan is now being examined with a view to making a thorough revision thereof and rectifying whatever defects it may contain. The Japanese government is prepared to exercise proper control and see that foreign copyrights are fully respected and protected in Japan.

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ANNEX I

Table of Deposits under the Copyright Law, Article 27

Tabulated according to the year of government decision on deposit procedure, and not to the year of deposit.
 Figures show the amount of accounts in yen; figures in parenthesis the number of cases.
 No cases for 1944.

Country	1940	1941	1942	1943	1945	1946	Total
China						130 (2)	130 (2)
Denmark			130 (1)				130 (1)
France		50 (1)	605 (9)	2,096 (20)	4,560 (3)	36,640 (26)	43,951 (59)
Indo-China			40 (1)				40 (1)
Germany	1,500 (1)	3,515 (20)	12,386 (166)	15,671 (106)		20,100 (7)	53,172 (300)
Holland						4,620 (2)	4,620 (2)
Hungary			144 (2)	80 (2)			224 (4)
Iran			27 (1)				27 (1)
Ireland						80 (1)	80 (1)
Italy	36 (2)		360 (5)	545 (4)			927 (11)
Poland						70 (1)	70 (1)
Sweden			178 (2)	152 (1)			330 (3)
Switzerland			217 (3)	100 (1)		250 (1)	567 (5)
Britain		441 (7)			40 (1)	1,050 (6)	1,531 (14)
U.S.A.			38 (1)	76 (1)	130 (2)	1,078 (11)	1,322 (15)
Soviet Union						320 (2)	320 (2)
Total	1,536 (3)	4,006 (28)	14,125 (191)	18,720 (135)	4,730 (6)	64,338 (59)	107,455 (422)

ANNEX II

Foreign-owned Copyrights
under Home Ministry Order No. 4 of January 20, 1947.

Nationality	Number	Nationality	Number
Austria	1	Korea	1
Belgium	2	New Zealand	2
Brazil	1	Norway	1
Canada	6	Poland	1
China	5	Portugal	1
Czechoslovakia	2	Siam	2
Denmark	2	Spain	3
Finland	1	Sweden	5
France	61	Switzerland	3
Germany	77	Britain	172
Holland	2	U.S.A.	89
Hungary	2	Soviet Union	4
India	1	Unknown	42
Italy	1		
		Total	490

ANNEX III

Royalty Deposits on United Nations Copyrights
(As of December 1946)

(unit: yen)

Nationality	Tokyo Deposit Office		The Other Deposit Office		Total	
	Case	Amount of deposit	Case	Amount of deposit	Case	Amount of deposit
China	2	130.00			2	130.00
Denmark	1	130.00			1	130.00
France	48	40,604.06	19	29,147.00	67	69,751.06
Holland	1	120.00	1	4,500.00	2	4,620.00
Ireland	1	80.00			1	80.00
Poland	1	70.00			1	70.00
Britain	9	1,480.00	3	154.00	12	1,634.00
U.S.A.	15	1,322.00			15	1,322.00
U.S.S.R.	2	320.00			2	320.00
Unknown	1	92.00			1	92.00
Total	81	44,348.06	23	33,801.00	104	78,149.06

ANNEX IV

United Nations Copyrights under Home Ministry Order No. 7
of February 6, 1947.

Nationality	Number
Australia	1
Brazil	1
China	16
Czechoslovakia	1
France	69
India	1
Norway	1
Philippines	1
Britain	68
U.S.A.	117
Soviet Union	63
Yugoslavia	1
Unknown	20
Total	360

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0206

PRIZE ADJUDICATION

MINISTRY OF FOREIGN AFFAIRS
JAPANESE GOVERNMENT

February 1949

0207

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I. ESTABLISHMENT OF PRIZE COURTS FOLLOWING
THE OUTBREAK OF WAR

Soon after the outbreak of the Pacific War, the Prize Courts of Sasebo and Yokosuka, and the Supreme Prize Court of Tokyo were established, by Imperial Ordinance No. 1143 of December 17, 1941 (See Annex I), as agencies to adjudicate prize causes.

The organization, functions and procedures of such Courts followed the "Prize Adjudication Ordinance," Imperial Ordinance, No. 149 of 1894 (See Annex II) and competent judges were appointed (See Annex III).

The law applied by the prize courts was the "Rules of Naval War," Naval Ordinance of 1914 (See Annex IV).

The above mentioned "Rules of Naval War" were formulated on the basis of the London Declaration of 1909 and in the light of various international laws and practices.

The London Declaration is the outcome of agreement between principal maritime powers of the World concerning the rules of maritime war. It is recognized as having most adequate provisions, though it was never carried into effect. Japan's Rules of Naval War adopted fifty articles, almost without modification, of the sixty four of the Declaration, omitting its annexed articles.

In the First World War, Great Britain extended widely the right of maritime war in reprisal to German action though she observed the London Declaration at the outset. In the Second World War, Britain made clear from the beginning her intention to abide not always by the London Declaration and actually ignored many of its provisions. The United States' Rules of Maritime War also generally followed the London Declaration, though throughout the whole period of the recent war America acted in line with Great Britain.

Japan revised a part of her Rules of Naval War to cope with the aforesaid attitude taken by the Anglo-American side. This revision was based on the Rules of Naval War, Article 6, providing that "if an enemy takes such measures as are different from the present rules, the Minister of Marine may at his discretion not apply a part or the whole of the present rules, and may make such special rules as are necessary"; and it was put into effect by Naval Notification No. 76 of March 20, 1942 concerning "the Application of Provisions Which are in Part Modifications of the Rules of Naval War (Naval Ordinance No. 8, 1914), in the War of Greater East Asia" (See Annex V). Of the revisions effected under this Notification, the provisions directly related to prize adjudication may be summarized as follows:

A. Enemy character of vessels (Article 18)

The ownership doctrine was adopted in addition to the nationality doctrine. This was intended to cope with the British action in the War. Great Britain first began by the Privy Council Ordinance of October 20, 1915 to determine the enemy character of vessels by the criterions of both nationality and ownership. France also took action along the same line.

B. Blockade (Articles 46, 53)

The doctrine of continuous voyage was newly introduced to meet British action. Great Britain had already adhered to that doctrine in the First World War by the Privy Council Ordinance of July 7, 1916.

C. Contraband of war

(a) Items of contraband (Articles 55, 56)

Items of contraband, originally limited to those specified in the London Declaration, were increased in number owing to the notable expansion of the scope of war materials as well as to the various measures taken by the belligerents in the last war.

The London Declaration itself anticipated in Articles 23 and 25 that list of contrabands might be subject to modification or addition at any time in case of necessity. When the recent war occurred, the British and French contraband lists, which cited comprehensive categories, tended to permit such construction as would include an extensive variety of articles, giving rise to complaints and protests on the part of the nations which had not yet been involved in the war. Japan asked for clarification of the scope of contraband covered by the lists. The Netherlands demanded the scope of items not to be unduly enlarged. The Soviet Government reserved the right to demand reparations for the loss and damage, inflicted on Russian corporations and citizens through the listing of civilian consumer goods. Cuba declared its intention not to recognize food and clothing materials for civilian use as contraband.

(b) Route for supplying goods (Article 59 bis)

The original Rules of Naval War contained a provision to the same effect as the London Declaration concerning the method of proof for the destination in the case of transportation of absolute contraband. Those Rules, however, had no provision for such special cases as when the ultimate assignee of goods is unascertainable and the goods is discharged at a neutral port which is on a route commonly used for supplying goods to an enemy state. An additional regulation was therefore inserted, under which the goods in such a case was presumed to be destined to territory belonging to or occupied by the enemy, or to the armed force of the enemy. This principle which has since been adopted by most nations, was practiced by Great Britain in the First World War under the Privy Council Ordinance of December 29, 1914.

(c) Articles put by an enemy state into general requisition or conditional contraband placed under distribution control (Article 62 bis)

The same treatment concerning destination as in the case of absolute contraband was stipulated for these categories of goods. This step was taken partly as a counter-measure against the actions of Great Britain and other powers and partly owing to extended scope of war materials which marks a characteristic of modern war.

D. Revisions were also introduced concerning the following articles:

Article 82 (Military aid); Articles 87, 88, 89, 91, 91 bis, 91 ter, 92, 92 bis, 92 ter, 93 (release communication); Article 102 (convoy); Article 119 (passengers on board); Articles 143, 140 (visit and search); Articles 160, 171, 171 bis (procedures to take a prize to port)

II. PRIZE ADJUDICATION DURING THE WAR

The cases handled by the Prize Courts are tabulated in Annexes VI, VII, VIII. They are classified under the categories of vessels and cargoes and according to the result of adjudication (confiscation or release), with sub-divisions giving: case number; name and kind of vessel; tonnage; owner (nationality and name); date of capture; place of capture; name of article; quantity; reason for confiscation. Not a few cases were dismissed, while some cases were pending at the war's end.

The following is a summary of the cases disposed of by the respective Courts:

Yokosuka Prize Court

- (1) vessels:
- (a) released 0
 - (b) confiscated 336
 - (c) case dismissed 40

- (2) cargoes:
- (a) released 0
 - (b) confiscated 2

Sasebo Prize Court

- (1) vessels:
- (a) released 10
 - (b) confiscated 732
 - (c) case pending 15
 - (d) case dismissed 16

- (2) cargoes:
- (a) released 9
 - (b) confiscated 36
 - (c) partly released and partly confiscated 6
 - (d) case pending 4
 - (e) case dismissed 1

Supreme Prize Court

- (1) vessels:
- (a) original decision sustained 43
 - (b) newly adjudged 0
- (2) cargoes 0

The list of vessels classified by nationality is as follows:

Confiscated		Released		Case pending	
Britain	624	Denmark	3	Norway	14

United States	335	Portugal	2	Greece	1
Netherlands	27	Japan	1		
Japan	24	France	1		
Panama	17	Soviet Russia	1		
China	7	Sweden	1		
Greece	2	Iraq	1		
Poland	1				
Iraq	1				
unascertained	30				
Total	1,068	10		15	

III. MEASURES TAKEN AFTER WAR'S END

(1) Measures taken by Japan

Immediately following Japan's surrender on September 2, 1945, the Sasebo Prize Court before which some cases were pending stayed further action. The other Courts suspended their function.

By Naval Ordinance No. 10 dated December 1, 1945, the Japanese Government abolished the Rules of Naval War and by Imperial Ordinance No. 261 of May 4, 1946, the Prize Adjudication Ordinance as well as Imperial Ordinance No. 1143 of 1941 (the Ordinance concerning the Establishment of Prize Courts and the Supreme Prize Court as mentioned before). Our prize adjudication was thus brought to an end. It was by reason of the demilitarization of Japan that these permanent statutes were rescinded.

(2) Directives from the Allied Headquarters

The Supreme Commander for the Allied Powers directed the Japanese Government, by Directive No. 1 paragraph 11 dated September 2, 1945, to furnish complete information inclusive of "Lists of all Japanese and Japanese-controlled Merchant Ships of over 100 gross tons, in and out of commission and under construction, including Merchant Ships formerly belonging to any of the United Nations which are now in Japanese hands, giving their positions, condition and movement," and by paragraph IV of the same Directive, to maintain without damage "Japanese or Japanese-controlled Naval or Merchant vessels of all types."

The Allied Memorandum dated January 19, 1946, required an extensive information concerning all foreign ships which had come into the possession of the Japanese. Furthermore, the Memorandum dated October 5, 1946, directed the repair and refitting of "ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of acquisition, seizure or sinking by the Japanese or their agents," notifying that "separate directives for each ship will be delivered to the Japanese Government directing the overhaul, repair, salvage and refitting necessary to permit the return of the vessels in a condition substantially similar to that at the time they came into Japanese hands."

The number of vessels identified as falling under these directives reached 87 by the end of 1948, which are classified by nationality as follows:

British	24
Chinese	25
American, including the Philippines	6
Norwegian	2
the Netherlands	3
Panama's	5
French	3
Italian	5
Danish	1
Honduras	1
Finnish	1
Portuguese	1
German	1
Peru's	1
Nationality not identified	8

Of the 87 vessels, 20 (including 9 ordered to be confiscated) were covered by separate directives. The nationalities of the 20 are: Britain (9); China (5); America (2); the Netherlands (1); Panama (2); and France (1). Of the 20, the restitution of 15, including 6 whose confiscation had been ordered by Prize Courts (Note), was completed by January 5, 1949.

The Far Eastern Commission made, on July 17, 1946, the decision that restitution of all Allied ships captured by Japan during the war should be completed not later than December 31, 1946.

The Allied Memorandum of June 16, 1947 called for information concerning seized ships belonging to countries other than the Allied Powers. Furthermore, all documents related to prize adjudication cases were submitted to the Allied Headquarters in compliance with the Memoranda of February 21, May 2 and May 28, 1947.

IV. CONCLUSION

The peace treaty to be concluded in future will presumably include provisions concern-

(Note)

Of the vessels already returned, those whose confiscation had been decided by Prize Courts were as under:

Name (original name in parenthesis)	Nationality	Tonnage (in gross tons)
Tsukumo-maru (Edith Moller)	Britain	643
The Choko-maru (Hsin Yangtze)	"	1,108
Daiichi-ami-maru (Carmen Moller)	"	263
Kyokuto-maru (King Tang)	"	516
Gyonan-maru (Hirondelle)	the Philippines	1,243
Zenshu-maru (Jessie Moller)	Britain	516

in the prize adjudications made by Japan during the war. In the case of Italy, while she was first required by the Armistice to return all vessels in Italian possession which had previously belonged to any of the United Nations, including those whose confiscation was ordered by Italian Prize Courts, the Peace Treaty made provisions for captured vessels in Annex XVII A, which runs as follows:

"Each of the Allied and Associated Powers reserves the right to examine, according to a procedure to be established by it, all decisions and orders of the Italian Prize Courts in cases involving ownership rights of its nationals, and to recommend to the Italian Government that revision shall be undertaken of such of those decisions or orders as may not be in conformity with international law.

"The Italian Government undertakes to supply copies of all documents comprising the records of these cases, including the decisions taken and orders issued, and to accept all recommendations made as a result of the examination of the said cases, and to give effect to such recommendations."

Since the signature of the Surrender Instrument, Japan has executed and is now executing, in compliance with a series of directives of the Allied Headquarters, the restitution of Allied vessels in Japanese hands, inclusive of those, which were formally confiscated by adjudication of Prize Courts.

It should be stated that Japanese Prize Courts reached decisions and issued orders on captured vessels strictly according to the Japanese Rules of Naval War, which conform as stated before to international law and usage. While all cases are expected to be subject to review by the Allied Powers concerned, it may be added that the adjudication in each case was conducted scrupulously and judicially by judges thoroughly conversant with the law of nations.

ANNEX I

IMPERIAL ORDINANCE NO. 1143 OF THE YEAR 1941

(Regarding the establishment of prize courts and a supreme prize court)

December 17, 1941

Imperial Ordinance No. 1143

We, Emperor of Japan, sanction the establishment of prize courts and a supreme prize court and have it promulgated. (counter signed by the Prime Minister, and the Minister of Navy)

Prize courts and a supreme prize court are established.

Prize courts are stationed at Yokosuka and Sasebo.

Annex

This Ordinance is put into effect on the day of its promulgation.

ANNEX II

PRIZE ADJUDICATION ORDINANCE

CHAPTER I
CONSTITUTION AND COMPETENCE OF PRIZE COURT
AND SUPREME PRIZE COURT

Article 1

Prize cases shall be adjudicated in the first instance by the Prize Court and in the second instance by the Supreme Prize Court.

Article 2

Each Prize Court shall be provided with one President and eight judges; in case of need, however, not more than four judges may be provided in addition.

The President shall be appointed from among judges of *chokunin* rank.

The judges shall be appointed from among the following:

- 1) Judges;
- 2) Naval Officers;
- 3) Naval judicial officers and Secretaries of the Department of Navy;
- 4) Councillors of the Bureau of Legislation;
- 5) Secretaries and Administrative Officials of the Department of Foreign Affairs, Diplomatic Officials and Consular Officials.

Article 3

The Supreme Prize Court shall be provided with one President and twelve judges.

The President shall be appointed from among members of the Privy Council.

One of the judges shall be a member of the Privy Council, two Naval Officers of the rank of Rear-Admiral or above, one the Chief of the Bureau of Judicial Affairs of the Department of Navy, three Judges of the Supreme Court, one the President of the Bureau of Legislation, one the Director of the Treaty Bureau of the Department of Foreign Affairs, two appointed from among other senior administrative officials and one from among men of scholarship and experience.

If a person other than a senior official has been appointed a judge, he shall be treated as of *chokunin* rank, and to his service shall be applied mutatis mutandis the Regulations Governing the Service of Public Officials.

Article 4

The Presidents of the Prize Courts and the Supreme Prize Court shall generally direct the affairs of their respective Courts and preside over the adjudication; but in case of their inability to attend, they may order any of the judges of their respective Courts to preside in their place.

Article 5

Each Prize Court shall be provided with three prosecutors and the Supreme Prize Court with two; in case of need, however, each Prize Court may be provided with not more than two additional prosecutors.

The prosecutors shall be appointed from among the Naval judicial officers, public procurators and senior administrative officials.

Article 5-2

The Supreme Prize Court shall be provided with two secretaries appointed solely for the post.

The said secretaries shall be of *sonin* rank; and their official ranks and salaries shall correspond to those of the secretaries of the various ministries.

Article 5-3

Each Prize Court shall be provided with one commissioner (*riji-kan*) appointed solely for the post.

The said commissioner shall be of *sonin* rank; and his official rank and salary shall be the same as those of the officials listed in Article 15 of the Senior Officials Rank and Salary Regulations.

Article 6

Appointment of presidents, judges and prosecutors of the Prize Courts and the Supreme Prize Court shall be effected by the Prime Minister's memorial to the Throne.

Article 7

The Prize Courts and the Supreme Prize Court together shall be provided with nine clerks appointed solely for the post, who shall be of *hamin* rank and whose appointment and dismissal shall be at the discretion of the respective Presidents.

Each president may appoint clerks, in addition to those mentioned in the preceding paragraph, from among junior officials or others.

Article 8

The adjudication of each Prize Court shall require the attendance and consultation of not less than five judges including the presiding judge; two of them, however, shall be those appointed from among judges.

The adjudication of the Supreme Prize Court shall require the attendance and consultation of not less than seven judges including the presiding judge.

Article 9

The inauguration and abolition of the Prize Courts and the Supreme Prize Court shall be decided by an extraordinary Imperial Ordinance.

The Supreme Prize Court shall be located in Tokyo. The location of the Prize Courts shall be as determined by Imperial Ordinance.

CHAPTER II PROCEDURE OF PRIZE ADJUDICATION

Article 10

The Commander of the Navy squadron which has captured a vessel shall take it to a port where a Prize Court is located, or to the vicinity of such port, or shall order an officer or some other person acting as his representative to embark therein and to take it to the said port; and upon arrival, shall deliver to the Prize Court the note of transfer and a report setting forth the reasons for the capture and facts proving the rightfulness thereof, together with all documents seized. If there is difficulty in sending the vessel to the destination abovementioned or any other special circumstance, however, the documents alone may be submitted.

Article 11

The President of the Prize Court shall, upon receipt of the documents mentioned in the preceding Article, nominate one of the judges to take charge of the case.

The judge in charge shall forthwith open the seized documents in the presence of the commander or his representative and of the master of the captured vessel or a seaman acting in his place and make a list thereof.

The judge in charge shall, upon completion of the aforesaid procedure, inspect the captured vessel and the goods on board and make a detailed inventory thereof in the presence of the master or a seaman acting in his place.

In the case of the proviso of the preceding Article, the procedure mentioned in the preceding two paragraphs may be dispensed with.

Article 12

The judge in charge shall, except in case of special circumstances, hear a statement from the master of the captured vessel or from a seaman acting in his place and, if deemed necessary, also a statement from a member of the crew of the Navy vessel which effected the capture, or from a seaman or a passenger of the captured vessel, and shall cause a clerk to take note thereof.

Article 12-2

The judge in charge may, if deemed necessary, appoint an expert and have him make a survey of any matter specified by him.

Article 13

The judge in charge shall, upon completion of the investigation of the facts considered necessary for deciding whether the whole or a part of a thing captured should be treated as a prize or whether it should be released, make out a report thereon and send it to the prosecutor of the Prize Court together with the documents mentioned in Article 10 and all other documents relating thereto.

Article 14

The prosecutor shall prepare a statement of his opinion concerning the decision and shall

submit it, together with all the documents that have been delivered to him, to the Prize Court.

The prosecutor may, if necessary for preparing the statement of opinion, specify any particulars and request the judge in charge to make an investigation thereof.

Article 15

In case the prosecutor in his statement of opinion advocates the immediate release of the things captured, and the Prize Court recognizes the justice of such view, the Prize Court shall draw up its decision in writing ordering immediate release and shall send it to the prosecutor.

Article 16

In case the prosecutor in his statement of opinion advocates adjudication as a prize, as well as where the Prize Court considers the prosecutor's statement of opinion advocating immediate release to be improper, the Prize Court shall take procedure to give public notice.

In the public notice mentioned in the preceding paragraph it shall be stated that any person interested may submit a petition in writing within thirty days from the day following the date of the notice in the official gazette; and the notice shall be inserted in the official gazette as well as in at least one newspaper published in a foreign language within the Empire.

If no petition is submitted within the period mentioned in the preceding paragraph, the Prize Court shall forthwith proceed with the adjudication. Upon application by the prosecutor, however, the Prize Court shall render a decision forthwith without taking any procedure for a hearing and shall send the decision in writing to the prosecutor.

Article 16-2

Any person claiming to have been directly damaged by an unlawful capture may petition to the Prize Court for compensation for such damage.

The petition mentioned in the preceding paragraph shall be submitted, in case a decision ordering immediate release has been rendered, within thirty days from the day following the date of the notice of the gist of the decision in the official gazette; and in other cases, within the period stipulated in Article 16, paragraph 2.

Article 17

In the written petition shall be set forth the gist of the petition, and the documents which are to serve as evidence shall be attached thereto.

The petitioner may appoint a representative, provided that he is a lawyer of the Empire.

Article 17-2

The Prize Court shall reject a petition which differs from the prescribed form or in respect of which the period has expired.

In case there is a difference as to form, the Prize Court may order correction so far as data, addresses or other unimportant matters are concerned.

Article 17-3

The petitioner or his representative shall, when neither has his domicile in the locality where the Prize Court is situated, establish a provisional residence in such locality in order to have the documents delivered thereto, and shall give notice thereof to the Prize Court.

If the notice mentioned in the preceding paragraph is not given, the delivery of documents shall be made by post; in which case the periods stipulated in this Ordinance shall be computed from the dates stamped on the mail.

Article 18

If a petition has been submitted within the period provided therefor, the Prize Court shall open the verbal hearing on the date designated by it and cause the prosecutor and the petitioner to present their cases. Should the petitioner be absent without permission, however, the hearing may be held in his absence.

Upon completion of the verbal hearing the Court shall draw up its decision, which it shall pronounce either forthwith or on a certain date designated by it; it is not necessary, however, for the petitioner to appear.

Article 19

If the Prize Court considers further examination of evidence necessary prior to arriving at a decision, it may order the judge in charge to carry out such examination.

The prosecutor and the petitioner may submit new facts and evidences before a decision is reached.

In the cases mentioned in the preceding two paragraphs, the Prize Court may, if deemed necessary, hold another verbal hearing.

Article 20

All rules governing procedure for adjudication by the Prize Court, other than those provided in the preceding several Articles, shall be made by the Prize Court concerned.

Article 21

The prosecutor and the petitioner may make a protest to the Supreme Prize Court against the decision of the Prize Court.

Article 22

The period within which a protest may be made shall be twenty days from the day following the date of the pronouncement of the decision or of the despatch of the decision in writing.

Article 23

A protest shall be made by submitting a letter of protest to the Prize Court.

In the letter of protest shall be set forth the gist of the protest, and the reason therefor in detail.

The letter of protest by the petitioner requires the signature of a lawyer of the Empire.

Article 23-2

The Prize Court shall reject a protest which differs from the prescribed form or in respect of which the period has expired.

In case there is a difference as to form, the Prize Court may order correction so far as dates, addresses, or other unimportant matters are concerned.

Article 24

Except where a protest must be rejected by reason of the preceding Article, the Prize Court shall deliver a copy of the prosecutor's letter of protest to the petitioner and show the petitioner's letter of protest to the prosecutor, and shall cause them to submit their replies in writing within a period of ten days.

The written reply from the petitioner mentioned in the preceding paragraph requires the signature of a lawyer of the Empire.

Article 24-2

The Prize Court may, if deemed necessary, extend the periods mentioned in Articles 16, 16-2, 22 and 24.

Article 25

Upon expiration of the period fixed for the replies the Prize Court shall transfer the documents relating to the protest to the Supreme Prize Court.

The Supreme Prize Court shall, if it deems it necessary to make further examination of the facts or of the evidence, return the documents mentioned in the preceding paragraph to the Prize Court and order it to carry out such examination.

The Prize Court shall cause the judge in charge to carry out the examination mentioned in the preceding paragraph, and shall show the documents relating thereto to the prosecutor and the petitioner before submitting them to the Supreme Prize Court.

Article 26

The Supreme Prize Court shall render its decision upon basis of the documents, and shall send a copy of the decision to the prosecutor of the Prize Court which rendered the original decision, as well as to the petitioner.

Article 26-2

When the decisions of the Prize Court and the Supreme Prize Court have become finally binding, the gist thereof shall be published in the official gazette.

Article 26-3

In the Prize Court and the Supreme Prize Court shall be used the Japanese language.

In the examination of a person who has no knowledge of the Japanese language, an interpreter may be employed.

Article 27

Rules governing procedure for adjudication by the Supreme Prize Court shall be made by the said Court.

Article 28

Any thing adjudged a prize shall belong to the State.

Article 29

The Prize Court shall entrust the Naval Authorities with the custody of the captured vessel and cargo until the execution of the decision.

The Naval Authorities shall keep custody of the vessel and cargo mentioned in the preceding paragraph in accordance with the provisions made therefor by the Navy Minister.

Article 30

The decision shall be executed by the prosecutor of the Prize Court.

The prosecutor of the Prize Court may, in connection with the execution of the decision, request assistance from the Naval Authorities and employ police officials.

Article 31

In so far as they are enforceable, the rules laid down in this Chapter shall be applied *mutatis mutandis* even in cases where, by reason of special circumstances, a vessel is not sent to Court.

SUPPLEMENTARY RULE

Article 32

This Ordinance shall come into force as from the day of its promulgation.

ANNEX III

LIST OF THE PRESIDENTS, THE JUDGES AND THE PROCURATORS
OF THE SUPREME PRIZE COURT AND THE YOKOSUKA AND
SASEBO PRIZE COURTS

Remarks

1. This List indicates the Names, the Terms and the Concurrent Official Positions of the persons appointed to the Presidents, the Judges and the Procurators of the Prize Courts.
2. In case their Concurrent Official Positions are unascertainable, the Official Positions during or around the Terms are indicated.
3. (a) Owing to the fact that the documents regarding the Officials of the Yokosuka Prize Court were burnt, their list was compiled according to *the lists of government officials* made by the Cabinet in 1942 and 1943.
(b) As the said *lists of government officials* only show the actual officials on 1st July in the respective years, in the part of this list which was compiled therefrom the officials having no positions at the said date are not indicated, while the terms of the officials set forth therein were unascertainable.

CONTENTS

- (1) President of the Supreme Prize Court
- (2) Judge of the Supreme Prize Court
- (3) Procurator of the Supreme Prize Court
- (4) President of the Yokosuka Prize Court
- (5) Judge of the Yokosuka Prize Court
- (6) Procurator of the Yokosuka Prize Court
- (7) President of the Sasebo Prize Court
- (8) Judge of the Sasebo Prize Court
- (9) Procurator of the Sasebo Prize Court

(1) President of the Supreme Prize Court

Name	Term	Concurrent Official Position
SHIMIZU Cho	Dec. 17, 1941 - Aug. 10, 1944	Privy Counsellor
MATSUMOTO Kenshiro	Sept. 5, 1944 - May 5, 1945	Privy Counsellor

(2) Judge of the Supreme Prize Court

Name	Term	Concurrent Official Position
ENO OTTO Junji	Dec. 17, 1941 - May 1, 1946	Naval professor and concurrent Councillor of the Naval Ministry
FUJIMASU Hiroshi	Dec. 17, 1941 - Nov. 19, 1945	Privy Counsellor
MIYAJI Shiro	Dec. 17, 1941 - Oct. 18, 1945	Chief of a Division in the Supreme Court
SATO Motoi	Dec. 17, 1941 - Sept. 5, 1945	Councillor of the Board of Legis- lation
KUJIKAWA Miei	Dec. 17, 1941 - Apr. 1, 1945	Judge of the Disciplinary Court for the Official Auditors
YABE Katsumi	Dec. 17, 1941 - Mar. 5, 1945	Chief of a Division in the Supreme Court
OBATA Yoshizumi	Dec. 17, 1941 - Nov. 1, 1944	Director of the Judicial Bureau of the Naval Ministry
OKA Takazumi	Dec. 17, 1941 - Sept. 16, 1944	Director of the Naval Affairs Bureau of the Naval Ministry
MORIYAMA Eiichi	Dec. 17, 1941 - July 22, 1944	President of the Board of Legis- lation
SOEJIMA Daisuke	Dec. 17, 1941 - June 21, 1943	Vice-Admiral, Director of the Naval Hydrographic Bureau

TACHI Sakutaro	Dec. 17, 1941 - May 13, 1943	Judge of the Permanent Court of Arbitration
MATSUMOTO Shunichi	Dec. 17, 1941 - Nov. 1, 1942	Director of the Treaties Bureau of the Foreign Office
ANDO Giryo	Nov. 18, 1942 - Aug. 23, 1944	Director of the Treaties Bureau of the Foreign Office
MIURA Kazuo	Aug. 1, 1944 - Apr. 7, 1945	President of the Board of Legis- lation
TADA Takeo	Sept. 16, 1944 - May 15, 1945	Vice-Admiral
SHIMADA Kiyoshi	Nov. 29, 1944 - unascertainable	Judicial Rear-Admiral
INOUE Noboru	July 21, 1945 - May 5, 1946	Judge of the Supreme Court
SHIIMA Taniotsu	July 24, 1945 - May 4, 1946	Chief of the Tokyo District Court for Criminal Affairs
MURASE Naokai	July 24, 1945 - Oct. 9, 1945	President of the Board of Legis- lation
SHIBUZAWA Shinichi	July 21, 1945 - Sept. 28, 1945	Director of the Treaties Bureau of the Foreign Office
KIMURA Susumu	July 24, 1945 - unascertainable	Vice-Admiral

(3) Procurator of the Supreme Prize Court

Name	Term	Concurrent Official Position
HORIE Suetō	Dec. 17, 1941 - Aug. 3, 1945	Chief Secretary of the Privy Council
OMORI Kota	Dec. 17, 1941 - Sept. 15, 1944	Vice Justice Minister
KUROKAWA Wataru	July 24, 1945 - Sept. 8, 1945	Public-Procurator of the Supreme Court
ISHIGURO Takeshige	Sept. 19, 1945 - Jan. 13, 1946	President of the Board of Legis- lation

(4) President of the Yokosuka Prize Court

Name	Term	Concurrent Official Position (As of July 1 in the respective years)
SHIMOYAMA Seiichi	1942-1943	Presiding Judge of the Tokyo Court of Appeal

(5) Judge of the Yokosuka Prize Court

Name	Term	Concurrent Official Position (As of July 1 in the respective years)
SATO Tatsuo	1942-1943	Councillor of the Board of Legis- lation
NISHIMURA Kumao	1942	Chief of the 1st Section of the Treaties Bureau of the Foreign Office

KAWAI Shigeru	1942	Captain
ABE Shigeru	1942—1943	Commander
IMAI Shigeo	1942	Judicial Commander
SUGITA Shume	1942—1943	Secretary of the Naval Ministry
OTSUKA Imahiko	1942	Chief of a Division in the Tokyo Court of Appeal
OKUNO Kenichi	1942	Chief of a Division in the Tokyo Court of Appeal
MATSUDAIRA Koto	1943	Chief of the 1st Section of the Treaties Bureau of the Foreign Office
ONO Ryojiro	1943	Captain
BAHA Tosaku	1943	Judicial Lieutenant-Commander
SAITO Yusuke	1943	Chief of a Division in the Tokyo Court of Appeal
SHIKAKATA Hajime	1943	Judge in the Tokyo Court of Appeal, in the Capacity of the Chief of a Division thereof

(6) Procurator of the Yokosuka Prize Court

Name	Term	Concurrent Official Position (As of July 1 in the respective years)
YAMADA Kamenosuke	1942	Judicial Commander
AKIYAMA Kaname	1942—1943	Presiding Public-Procurator of the Tokyo Court of Appeal
YOSHIE Tomoyasu	1942—1943	Public-Procurator of the Tokyo Court of Appeal
TAKIGAWA Masazumi	1943	Judicial Lieutenant-Commander

(7) President of the Sasebo Prize Court

Name	Term	Concurrent Official Position
KUSANO Hyoichiro	Dec. 17, 1941—Mar. 27, 1943	Presiding Judge of the Nagasaki Court of Appeal
SUGIURA Tadao	Mar. 27, 1943—May 2, 1945	Presiding Judge of the Miyagi Court of Appeal
KAJITA Minoru	May 2, 1945—Feb. 9, 1946	Presiding Judge of the Nagasaki Court of Appeal

(8) Judge of the Sasebo Prize Court

Name	Term	Concurrent Official Position
MIYAUCHI Inui	Dec. 17, 1941—May 4, 1946	Councillor of the Board of Legislation

NAKAJIMA Takeo	Dec. 17, 1941—Dec. 15, 1944	Member of the Judicial Bureau of the Naval Ministry
MORI Shizuo	Dec. 17, 1941—July 13, 1943	Judge of the Sasebo Sub-district Court and Concurrent Chief of the Sasebo Branch of the Nagasaki District Court
NOMURA Tomekichi	Dec. 17, 1941—Apr. 20, 1943	Captain
SATO Shintaro	Dec. 17, 1941—Jan. 30, 1943	Chief of the 2nd Section of the Treaties Bureau of the Foreign Office
OKA Iwao	Dec. 17, 1941—Sept. 1, 1942	Member of the Naval Affairs Bureau of the Naval Ministry
KOMORI Takesuke	Dec. 17, 1941—June 4, 1942	Judicial Official of the Court Martial in the Sasebo Naval Station
HONGO Masahiro	Dec. 17, 1941—Apr. 30, 1942	Chief of a Division in the Nagasaki Court of Appeal
INADA Kaoru	Apr. 30, 1942—May 6, 1944	Chief of a Division in the Nagasaki Court of Appeal
ONO Kenjiro	June 4, 1942—May 4, 1946	Chief of a Division in the Nagasaki Court of Appeal
MANNEN Naoya	June 4, 1942—Oct. 5, 1943	Judicial Official of the Court Martial in the Sasebo Naval Station
TAKETOMI Yoshio	June 4, 1942—July 13, 1943	Chief of a Division in the Nagasaki Court of Appeal
TODA Tadataka	June 4, 1942—Nov. 11, 1942	Chief of the Judicial Officials of the Sasebo Naval Station
KUWABARA Haruo	Sept. 1, 1942—May 13, 1944	Member of the Naval Affairs Bureau of the Naval Ministry
HIGUCHI Yoshikane	Dec. 9, 1942—Jan. 12, 1945	Judicial Official of the Court Martial in the Sasebo Naval Station and Concurrent Chief of the Judicial Officials of the Sasebo Naval Station
SAITO Kyuro	Jan. 30, 1943—Mar. 21, 1943	Chief of the 2nd Section of the Treaties Bureau of the Foreign Office
SHIBUYA Yasuo	Feb. 24, 1943—June 29, 1945	Judge of the Nagasaki Court of Appeal
DOI Yoshiji	Apr. 20, 1943—May 4, 1946	Captain
NISHIMURA Kumao	May 17, 1943—Nov. 19, 1943	Secretary of the Foreign Office
FUJIYAMA Tomichi	July 13, 1943—Aug. 15, 1945	Chief of a Division in the Nagasaki Court of Appeal
NISHINA Tsunehiko	July 13, 1943—Jan. 12, 1945	Judge of the Sasebo Sub-district Court and Concurrent Chief of the Sasebo Branch of the Nagasaki District Court
YUKAWA Morio	Nov. 9, 1943—May 4, 1946	Chief of the 2nd Section of the Treaties Bureau of the Foreign Office

NAGAMINE Masatsugu	May 6, 1944—May 4, 1946	Chief of a Division in the Nagasaki Court of Appeal
ITAGAKI Kanenobu	May 13, 1944—May 4, 1946	Captain
ITO Ichiro	Dec. 15, 1944—May 4, 1946	Member of the Judicial Bureau of the Naval Ministry
KO Raiji	Jan. 2, 1945—May 4, 1946	Judicial Official of the Court Martial in the Sasebo Naval Station and Concurrent Chief of the Judicial Officials of the Sasebo Naval Station
HONDA Masamitsu	Jan. 12, 1945—Mar. 25, 1946	Judge of the Sasebo Sub-district Court and Concurrent Chief of the Sasebo Branch of the Nagasaki District Court
YAMAGUCHI Kanco	Aug. 15, 1945—Feb. 20, 1946	Chief of a Division in the Fukuoka Court of Appeal

(9) Procurator of the Sasebo Prize Court

Name	Term	Concurrent Official Position
TOIUNAGA Eikichi	Dec. 17, 1941—May 30, 1945	Presiding Public-Procurator of the Nagasaki Court of Appeal
NAKAMURA Morio	Dec. 17, 1941—May 6, 1944	Public-Procurator of the Sasebo Sub-district Court and Concurrent Public-Procurator of the Sasebo Branch of the Nagasaki District Court
TACHIZAKI Ei	Dec. 17, 1941—June 12, 1942	Judicial Official of the Court Martial in the Sasebo Naval Station
TAKEUCHI Jiro	June 4, 1942—Oct. 5, 1943	Public-Procurator of the Nagasaki Court of Appeal
ONO Keichoku	June 12, 1942—June 10, 1943	Attendance at office in the Sasebo Naval Station and Concurrent Judicial Official of the Court Martial in the Sasebo Naval Station
KONISHI Takeo	June 10, 1943—June 7, 1944	Procurator and Concurrent Preparatory Examiner of the Court Martial in the Sasebo Naval Station
MIYACHI Kenzo	Oct. 5, 1943—May 6, 1944	Public-Procurator of the Nagasaki Court of Appeal
KOGA Toshio	May 6, 1944—May 4, 1946	Judge of the Nagasaki Court of Appeal
NAGATOMI Hisashi	May 6, 1944—May 4, 1946	Public-Procurator of the Nagasaki Court of Appeal
KUWADA Hideo	June 7, 1944—May 4, 1946	Judicial Official of the Court Martial in the Sasebo Naval Station

ANNEX IV

RULES OF NAVAL WAR
(Naval Ordinance No. 8, 1914)

Chapter I. General Rules

Art. 1. H. I. J. M. warships are empowered to effect captures at sea, to carry out hostile actions, or to take all other measures that are necessary in accomplishing the object of war, in compliance with the present rules or other law or conventions. With regard to matters for which no provision is made in aforesaid rules, law, or conventions, principles of international law shall be complied with.

Art. 2. Captures at sea and all other hostile actions must not be carried out in neutral waters.

Art. 3. In the event of any enemy violating the law and customs of war, such offenders being outside of the power of the Commander of H. I. J. M. warship or squadron and full compensation not having made for the damage done, the said Commander is, in case of absolute necessity, authorized to resort to reprisal, provided that such reprisals are not contrary to humanity, and do not exceed the amount of damage done by the enemy.

Art. 4. With regard to captures at sea, merchant vessels belonging to a power which is co-operating with the Japanese Empire in warlike operations, shall be treated in the same manner as those belonging to the Empire.

Art. 5. The provisions of international conventions concerning war shall apply only to such Powers as are parties to such conventions, and attention is called to the fact that those Powers that have ratified or become parties to such convention reserving certain provisions are not bound by such provisions.

Art. 6. If an enemy takes such measures as are different from the present rules, the Minister of Marine may at his discretion not apply a part or the whole of the present rules, and make such special rules as are necessary.

Chapter II. Bombardment of Undefended Ports, Towns, Villages,
Dwellings or Buildings

Art. 7. With regard to the Bombardment of Undefended Ports, Towns, Villages, Dwellings, or Buildings, Treaty No. 9 of the 45th year of Meiji (No. 9, Hague Conventions, 1907) shall be complied with.

Art. 8. The second paragraph of Article 1 of aforesaid Convention shall not apply.

Chapter III. Use of Submarine Mines

Art. 9. With regard to Submarine Mines, Treaty No. 8 of the 45th year of Meiji (No.

8, Hague Conventions, 1907) shall be complied with.

Art. 10. The foregoing Article shall apply only to those Powers that have ratified or adhered to the aforesaid Convention.

In case of Powers that have reserved certain provisions of the aforesaid Convention, such provision shall not apply.

Chapter IV. Submarine Cables

Art. 11. Submarine cables connecting a part of enemy territory with another may be destroyed or disposed of as the necessity of war may require at any place other than neutral territorial waters.

The same rule shall apply to submarine cables between the Japanese Empire and enemy territory in the case of military necessity.

Art. 12. In the case of absolute necessity submarine cables connecting enemy territory with neutral territory or those that start and terminate in neutral territories but pass through enemy territory may be destroyed or disposed of as the necessity of war may require at any place other than neutral territorial waters.

Art. 13. Submarine cables connecting a neutral territory with another shall be respected.

Art. 14. The three preceding Articles shall apply no matter who are the owners of the cables.

Chapter V. Conversion of Merchant Ships into Warships

Art. 15. With regard to the Conversion of Merchant Ships into Warships, the Treaty No. 7 of the 45th year of Meiji (No. 7, Hague Conventions, 1907) shall be complied with.

Chapter VI. Hospital Ships

Art. 16. With regard to Hospital Ships, Treaty No. 10 of the 45th year of Meiji, the Convention for the Adaptation of the Principles of the Geneva Convention to Maritime Warfare (No. 10, Hague Conventions, 1907) shall be complied with.

Chapter VII. Laws and Customs of War on Land

Art. 17. When carrying out warlike operation on Land, Treaty No. 4 of the 45th year of Meiji, Convention concerning the Laws and Customs of War on Land (No. 4, Hague Convention, 1907) and its Annex and Treaty No. 1 of the 41st year of Meiji, Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field shall be complied with.

Chapter VIII. Enemy

Art. 18. The neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

When a neutral vessel is engaged, under the licence of an Enemy Government, in a trade which the enemy state forbids to foreign vessels in time of peace, she is presumed to be enemy vessel.

Art. 19. The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the nationality of the owner. In a case where he has double nationalities, the neutral or enemy character of his domicile (see Art. 58 of Declaration of London).

Note:—The Declaration of London has omitted to mention the criterion of the enemy character of a cargo-owner, but it is clearly laid down in the Japanese rules. With regard to enemy character, Japan hitherto adopted the British principle, but in the present rules she has adopted the French principle, the British principle, being appreciable only when a cargo-owner has double nationalities.

Art. 20. In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods. (Art. 59 of D. of L.)

Art. 21. Enemy goods on board an enemy vessel retain their enemy character until they reach their destination; notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character. (Art. 60 of D. of L.)

Chapter IX. Transfer to a Neutral Flag

Art. 22. The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of, the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages. (Art. 55 of D. of L.)

Art. 23. The transfer of an enemy vessel to a neutral flag, effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void—

(1) If the transfer has been made during a voyage or in a blockaded port.

- (2) If a right to repurchase or recover the vessel is reserved to the vendor.
- (3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled. (Art. 56 of D. of L.)

Chapter X. Enemy Ships

Art. 24. Enemy ships are liable to capture.

Art. 25. Enemy boats solely intended for coast fishing or for petty local navigation are exempt from capture, as well as their appliances, rigging, fitting, and cargo.

This exemption ceases to apply to them whenever they in any way take part in the hostilities (See Art. 3 of No. 11, Hague Conventions, 1907).

Art. 26. The Captain may, as necessary, allow coast fishing or petty local navigation along the coast of enemy territory in the daytime only. If they are considered likely to take advantage of aforesaid exemption, against the operation of Imperial Army and Navy, the Captain may absolutely prohibit them from using these waters.

Art. 27. A vessel which violates the rule mentioned in the foregoing Article with the actual or presumptive knowledge thereof, shall be regarded as having taken part in the hostilities.

Art. 28. Enemy vessels, charged with religious, scientific, or philanthropic missions, are exempt from capture, if it is clearly shown that they are exclusively engaged to the aforesaid missions.

Art. 29. Enemy ships and enemy goods found on board them are liable to condemnation.

Chapter XI. Japanese Vessels

Art. 30. In the following cases a Japanese vessel is considered to be trading with an enemy:—

- (1) When she comes from enemy territory or from a place where the armed forces of the enemy are present.
- (2) When she calls at or is destined for enemy territory or a place where the armed forces of the enemy are present.

Art. 31. The foregoing Article will not apply to Japanese vessels coming under the following items:—

- (1) When they have received special permission of the Japanese Government or the Commander of a squadron or warship belonging to Japan.
- (2) When they have been permitted to leave enemy territory or have escaped from it at the commencement of war.
- (3) When they have been obliged to enter an enemy port on account of stress of weather, etc.

Art. 32. Japanese vessels trading with an enemy are liable to capture excepting those that have no knowledge of the commencement of war.

Art. 33. A Japanese vessel trading with an enemy is liable to condemnation, and goods belonging to the owner, the charterer, or the master of vessel as well as enemy goods found on board her are liable to condemnation.

Chapter XII. Blockade

Art. 34. A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy. (Art. 1. of D. of L.)

Art. 35. In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coastline. (Art. 2 of D. of L.)

Art. 36. A blockade is not regarded as raised if the blockading force is temporarily withdrawn on account of stress of weather. (Art. 4 of D. of L.)

Art. 37. A blockade must be applied impartially to the ships of all nations. (Art. 5 of D. of L.)

Art. 38. A blockade, in order to be binding, must be declared in accordance with Article 39, and notified in accordance with Articles 40 and 45.

Art. 39. The Commander of a squadron may, at his discretion, declare blockade even if R. I. J. M. Government has not already done so:

The declaration of blockade must specify:—

- (1) The day and hour when the blockade begins;
- (2) The geographical limits of the coast under blockade;
- (3) The period within which neutral vessels may leave port.

Art. 40. The Commander of a squadron, when he has declared blockade, shall:—

- (1) Immediately inform the Minister of Marine of the declaration and all measures he has taken in connection with it;
- (2) Notify the local authorities and at least one of the consuls of neutral Powers by an envoy under a flag of truce, but should the enemy refuse to receive the envoy or circumstances prevent his being sent, they are to be notified by some other suitable means.

Art. 41. The rules as to declaration and notification of blockade apply to cases where the limits of a blockade are extended, or where a blockade is re-established after having been raised. (Art. 12 of D. of L.)

Art. 42. The voluntary raising of a blockade, as also any restriction in the limits of a blockade, must be notified in the manner prescribed by Article 40. (Art. 13 of D. of L.)

Art. 43. The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade. (Art. 14 of D. of L.)

Art. 44. Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade to the Power to which such port belongs, provided that such notification was made in sufficient time.

Knowledge of the blockade is likewise presumed if the vessel left an enemy port sub-

sequently to the notification of the blockade to the local authorities within the limits of the blockade, provided that such notification was made in sufficient time, or if left a port belonging to the Japanese Empire or her ally after the declaration of the blockade. (See Art. 15 of D. of L.)

Art. 45. If a vessel approaching a blockade ports has no knowledge, actual or presumptive, of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. This notification should be entered in the vessel's log-book, and must state the day and hour, and the geographical position of vessel at the time. (See Art. 16 of D. of L.)

Art. 46. The blockading forces must not bar access to neutral ports or coasts. (Art. 18 of D. of L.)

Art. 47. The Commander of a blockading force may give permission to a foreign warship to enter, and subsequently to leave, a blockaded port. (See Art. 6 of D. of L.)

Art. 48. In circumstances of distress, acknowledged by an officer of the blockading force, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there. (Art. 7 of D. of L.)

Art. 49. A vessel which attempts to leave or enter the limits of a blockade is liable to capture for breach of blockade, irrespective of her nationality.

Art. 50. Vessels that attempt to break blockade may not be captured for breach of blockade except within the area of operations of the squadron detailed to render the blockade effective.

Art. 51. A vessel which attempts to break blockade is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected. (See Art. 20 of D. of L.)

Art. 52. A vessel which wanders about within the area of operations of the squadron detailed to render the blockade effective, is liable to capture, irrespective of the destination mentioned in her papers.

Art. 53. Whatever may be the ulterior destination of her cargo, she cannot be captured for breach of blockade, if, at the moment, she is on her way to a non-blockaded port. (See Art. 19 of D. of L.)

Art. 54. A vessel found guilty of breach of blockade is liable to condemnation. The cargo is also condemned, unless it is proved that at the time of the shipment of the goods the owner neither knew nor could have known of the intention to break the blockade. (Art. 21 of D. of L.)

Chapter XIII. Contraband of War

Art. 55. The following articles are absolute contraband of war unless otherwise provided for:—

- (1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
- (2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
- (3) Powder and explosives especially prepared for use in war.
- (4) Gun-mountings, limber boxes, limbers, military waggons, field forges, and their distinctive component parts.
- (5) Clothing and equipment of a distinctively military character.
- (6) All kinds of harness of a distinctively military character.
- (7) Implements and material for engineers specially prepared for use in war.
- (8) Saddle, draught, and pack animals suitable for use in war.
- (9) Articles of camp equipment, and their distinctive component parts.
- (10) Armour plates.
- (11) Warships, boats for combatant use and their distinctive component parts of such a nature that they can only be used on a vessel of war.
- (12) Aeroplanes, airships, balloons and their distinctive component parts, together with accessories and articles recognisable as intended for use in connection with airplanes, airships and balloons.
- (13) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea. (See Art. 22 of D. of L.)

Art. 56. The following articles are conditional contraband of war unless otherwise provided for:—

- (1) Foodstuffs.
- (2) Forage and grain, suitable for feeding animals.
- (3) Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war, and their component parts.
- (6) Vessels, craft, and boats of all kind; floating docks, parts of docks and their component parts.
- (7) Railway material both fixed and rolling stock, and material for telegraphs, wireless telegraphs and telephones.
- (8) Fuel, lubricants.
- (9) Powder and explosive not specially prepared for use in war.
- (10) Barbed wire and implements for fixing and cutting the same.
- (11) Horsehouse and shoeing materials.
- (12) Harness and saddlery.
- (13) Field glasses, telescopes, chronometers and all kinds of nautical instruments. (See Art. 24 of D. of L.)

Art. 57. Despite the provision of the two preceding Articles the following may not be treated as contraband of war:—

- (1) Articles serving exclusively to aid the sick and wounded. They can, however, in