

**REQUEST FOR AUTHORITY
 TO DISPOSE OF RECORDS**

(See Instructions on Reverse)

TO: GENERAL SERVICES ADMINISTRATION,
 NATIONAL ARCHIVES AND RECORDS SERVICE, WASHINGTON 25, D. C.

1. FROM (AGENCY OR ESTABLISHMENT)

Department of Justice

2. MAJOR SUBDIVISION

Civil Division

3. MINOR SUBDIVISION

Admiralty and Shipping Section

4. NAME OF PERSON WITH WHOM TO CONFER

Harry Kulick

5. TEL. EXT.

187-3128

6. CERTIFICATE OF AGENCY REPRESENTATIVE:

I hereby certify that I am authorized to act for the head of this agency in matters pertaining to the disposal of records, and that the records described in this list or schedule of 1 pages are proposed for disposal for the reason indicated: ("X" only one)

A The records have ceased to have sufficient value to warrant further retention.

B The records will cease to have sufficient value to warrant further retention on the expiration of the period of time indicated or on the occurrence of the event specified.

August 11, 1971

(Date)

Harry Kulick
 (Signature of Agency Representative)

Director, Office of
 Records Operations
 and Management

(Title)

2 of 0

LEAVE BLANK	
DATE RECEIVED AUG 13 1971	JOB NO.
DATE APPROVED	NN-172-22

NOTIFICATION TO AGENCY

IN ACCORDANCE WITH THE PROVISIONS OF PUBLIC LAW 91-287 DISPOSAL OF ITEMS MARKED "DISPOSAL APPROVED" IS AUTHORIZED.

1-8-73 *James B. Rhoads*
 DATE ARCHIVIST OF THE UNITED STATES

7. ITEM NO.	8. DESCRIPTION OF ITEM (WITH INCLUSIVE DATES OR RETENTION PERIODS)	9. SAMPLE OR JOB NO.	10. ACTION TAKEN
1.	<u>Headquarters and Field Offices (New York & San Francisco)</u> Case files of the Admiralty Section of the Civil Division - Field Office. Full case files and Seat of Government files, which are approximate counterparts of the field office files. These files contain all legal proceedings by and against the United States relating to ships and shipping, navigable waters and workmen's compensation. Admiralty litigation includes suits for personal injury and property damage involving vessels, shore installations and maritime personnel, equipment and cargoes; suits arising out of contracts involving shipping, chartering of vessels; proceedings to enforce navigation and shipping laws; and litigation based on National Maritime agreements. The field office files contain full case records. The Washington counterparts of these files approximately duplicate the field office files.	By 12/29/72	DISPOSAL APPROVED
2.	Destroy closed cases over 10 years old except for cases handled prior to 1870, cases appealed and cases cited in the Annual Reports of the Attorney General of the United States. Admiralty pending case files - classified 61-017-Judicial District Number (cases to be developed).	By 12/29/72	DISPOSAL APPROVED
	Destroy all Sections with section closing dates that are over 6 years old.		DISPOSAL APPROVED

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION



DATE January 24, 1973

National Archives and Records Service
Washington, DC 20408

REPLY TO
ATTN OF:

SUBJECT: Disposal Job No. NN-172-22

The Admiralty jurisdiction, international in character, apparently grew out of consular courts, the courts of merchants and sea-going persons, established in the principal maritime cities on the revival of commerce after the fall of the Western Empire, to supply tribunals that might hear and decide causes arising out of maritime commerce and questions of prize.
1.

There were admiralty courts in the seaport cities among the British colonies in North America as early as 1696.
2. Prize cases comprised more than one-third of the litigation before the American vice-admiralty courts in the years 1702 to 1763.
3.

Article III, Section 2, Clause I of our Constitution provides that "The judicial Power shall extend . . . to all cases of admiralty and maritime jurisdiction ;" The history of the expansion of American shipping and navigation is reflected in decisions handed down in the many and complex cases arising under this provision.
4.

Up until about 1914 most of the admiralty and shipping law of the United States was built upon and dealt with conditions arising out of the old clipper ship days. For some fifty years before World War I the American flag did not appear upon the seas.
5. With the building of the American Merchant Fleet of World War I, admiralty and shipping law again became important. Further, an act of March 9, 1920 "Authorized suits against the

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United States in Admiralty." Since then, the number of admiralty claims has multiplied.

Documentation relating to admiralty and shipping law, available for research and study, since about 1920, is centered in three areas:

- 1). The constitutionality of state legislation or the jurisdiction of State courts as distinguished from the exclusive jurisdiction of the Federal district courts.
- 2). In the field of international business, different national tendencies, often explained on political and historical grounds, of the jurisdictional immunity of foreign public vessels and goods.
- 3). In the course of international relationship and commerce, and, by implication, custom, treaty, or comity, the jurisdiction of the courts of one country over private merchant vessels and seamen of another country.

The Admiralty and Shipping Section of the Civil Division of the Department of Justice, with some twenty-five trial lawyers in Washington, New York and San Francisco, handles all maritime jurisdiction cases by and against the United States, representing the interests of the United States as the world's largest shipowner supporting world-wide military and economic obligations of the United States. The Section's cases vary from ship collisions to minor mishaps of seamen and includes both contract (e.g. water transportation of cargoes or passengers, dredging, vessel mortgages, vessel repairs, ^{of} war₁fare, seamen's wages, etc.) and tort actions (accidents occurring or consum^mated upon navigable waters), workmen's compensation cases (whether under Federal or State law), and questions of prize.

Certain categories of cases involving civil penalties and forfeitures for violation of laws relating to inspection and registration of vessels and

to obstruction and pollution of navigable waters; interference or damage to aids to navigation, and many similar matters are referred directly (for handling) to U.S. Attorneys in the States by the local offices of the Coast Guard, the Bureau of Customs, and the Army Engineers.

The San Francisco office of the Admiralty and Shipping Section handles matters in California, Oregon, Washington, Alaska, and Hawaii, and proceedings as to prizes captured on the Pacific or Indian Oceans or the connecting waters of either. The New York office handles matters in the Southern and Eastern districts of New York and the District of New Jersey and proceedings as to prizes captured in the Atlantic or Arctic Oceans or the connecting waters of either.

The majority of all shipping and maritime cases, except direct reference cases cited above, are tried by trial attorneys of the Admiralty and Shipping Section. Detailed instructions are furnished the concerned U.S. Attorney if he is to handle the trial of a case or the briefing and argument of an appeal.

Most of the Admiralty and Shipping Section cases document routine litigation, with very few documents. There may be mutual waivers of claims between governments, but these usually appear in involved cases which should be mentioned in the Annual Report of the Attorney General. Minor collisions, shore damage, salvage, general average, carriage of goods under charter or bill of lading, marine and war risk insurance, war requisition of vessels, violations of navigation and shipping laws, and litigation under reciprocal-aid war agreements with foreign governments do not normally contain documentation of research value.

Because of the great number of routine cases, admiralty has not had the same

published treatment accorded other branches of the law. Admiralty articles do not bulk large in the law review journals nor are there many admiralty "notes" published there.

None of the countries in which prize jurisdiction was organized during World War I has published a complete official collection of decisions rendered by Prize courts. Some unofficial, incomplete collections have been made and published. In some cases only decisions rendered by the courts of appeal have been published in collected form. In still other countries reports on such cases are published in scattered issues of the official gazettes or other government publications.

Because of the lack of research value of admiralty and shipping cases the number of cases of this type mentioned in the Annual Reports of the Attorney General in the last eighteen years (or since 1953) has averaged ^{less than} six cases per year, with 12 mentioned in 1959, 11 in 1955, 10 in 1954, and none in 1958, 1960 and 1969. The cases mentioned are involved, landmark, test, or precedent cases, most of which are appealed to a higher court, primarily because of the large sums involved.

Case files for the same case maintained at the Department of Justice and at the New York or San Francisco offices presumably document the policy decisions regarding the handling of the case in the field offices but I found little of this type of information in either of the matching files of those I reviewed from the Washington Office and the New York Office. Minor case files are apparently handled routinely with little need for instruction. More papers are in the Headquarters file but nothing of significance is in ~~either~~ ^{either} file. San Francisco is believed to be even more independent of the Headquarters Office.

In both field offices the largest single category of cases handled arise out of personal injuries sustained on board government vessels by seamen, long-shoremen, and other shore workers, quite frequently in circumstances which entitle the United States to reimbursement and indemnity from a contractor whose performance of the work was responsible for the injury. Such cases have little research value except for any interest in the person injured. The collision case files, if important, costly, or involved with a foreign nation, are usually mentioned in the Annual Reports of the Attorney General and will therefore be retained as a result of the modification added to this disposal job covering admiralty case files.

D. M. Kelly

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1. Bouvier's Law Dictionary. 1934. p.48
 2. Robinson, G.H. Handbook of Admiralty Law in the United States. 1939. p.6.
 3. Ubbelohde, Carl. The Vice-Admiralty Courts and the American Revolution. 1960. pp.5, 17.
 4. Fell, E.T. Recent Problems in Admiralty Jurisdiction. 1922. p.11.
 5. Ibid. p.ix.

~~New York Office~~ - Admiralty and Shipping Section

New York Office

Hdqtrs.
629 cu, ft.

In FRC - Reg. 2
1945-67 500 cu. ft.
In Headquarters - Dept. of Justice
1961-70 74 cu. ft.
In N.Y. office
1971-date Amt. unknown- 142 cu. ft. est.

FRC suggests these be treated
like U.S. Attorney's cases

Nature of action noted on the case file cover
of cases shipped in to Headquarters - D.C.

Historical and/or precedent-type files are not
identified.

Most files relate to
vessel collisions
forfeitures
demurrage
cargo damage
enforcement
personal injury to seamen
breach of charter
marine contract
deserter seamen

comparison of N.Y. and Hdqtrters files
reveals there is more material in
Hdqtrters files. None of those I
compared had and material of research
value as they documented minor cases.

U.S. Attorneys files are scheduled to retain:

Case files for cases listed in Annual Report
of the Attorney General of the United States
Case files maintained in "precedent files."
Case files initiated prior to 1889
Case files of U.S. Attorneys' offices for the
territorial ~~period~~ period, located in former
territories in continental U.S.

~~San Francisco Office~~

San Francisco Office

In S. F. Office:
1956-date 100 cu. ft.
1947-55 62 " "

No separate file of
Precedent cases, est. $\frac{1}{4}$.

Dept. suggests files be
destroyed after closed
4 months (120 days).
Review case files in Feb.
and Aug. each year.

Most files relate to
recovery of damages to
cargo
property
person (injuries)

Each file folder cover
carries the name of the
vessel (or plaintiff),
case title (as U.S. vs _____
type of case (as collision
salvage, etc.)

court case number
Dept. of Justice file
No. (61-)

Each document carries
the Dept. file No.

None of the closed case
files have been retired
to FRC -Reg. 9.

Dept. would like closed
case files shipped in
each Feb. and Aug.

Dept. instructed that cases
closed six months can be
destroyed (those prior to
2-1-71) although no disposa
request submitted prior to
this job. S.F. office may

copy any documents to be
retained by the Attorney

Pre-1870 Admiralty opinions of several of the Attorney Generals are of historic interest:

<u>Opinion & Date</u>	<u>Attorney General</u>	<u>Submitted to Department</u>
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1 Op. 32 14 May 1793	Edmund Randolph	Secretary of State
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"Seizure of a foreign ship in neutral waters was unlawful and restitution should be made."

1 OP. 196 30 Dec. 1816	Richard Rush	Secretary of State
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"In regard to the piratical actions of Algerian seamen in troubles between the U. S. and Algiers in War of 1812: Recommended method to be pursued in seeking the release of American prisoners in Algiers and advised that action by Congress would be necessary."

8 Op. 73 9 Sept. 1856	Caleb Cushing	Secretary of State
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"Discussed American ships in foreign ports, saying that ships of war enjoyed full rights of extraterritoriality in foreign ports and territorial waters. Merchant ships were part of the territory of their country on the high seas but not wholly so in waters of a foreign country. Crimes committed on the high seas were triable in the country to which the ship belongs. Local authority had jurisdiction of acts committed on board a foreign merchant ship in port, when such acts affected the peace of the port, but not otherwise."

U.S. Supreme Court, Prize Cases Decided . . . 1789-1918, including also cases on the instance side in which questions of Prize Law were involved. Prepared in the Division of International Law of the Carnegie Endowment for International Peace under the supervision of James Brown Scott, director. 3 v. Oxford, Clarendon Press, 1923.

(Supreme Court of the United States has considered and decided many questions of Prize Law. These decisions are scattered through some 250 volumes of the Reported Cases of the Supreme Court, have had great influence in shaping International Law and in bringing it to its present stage of development. Some of these decisions have been violently opposed but have secured the approval of the Naval profession and of intelligent jurists throughout the world.

The famous case of the Sloop Betsey (3 Dallas 6) - first prize case of the Supreme Court - decided in 1794, held that the district court of the U.S. were courts of prize without being specifically constituted as such. From this date the inferior courts of the U.S. have passed upon questions of prize in first instance, and, in appropriate cases, the Supreme Court in final instance. Each lower federal court may exercise jurisdiction with one supreme court of prize, the Supreme Court of the United States. (See The United States of America; a Study in International Organization (N. Y., 1920, pp.215 et seq. and Davis, J.C. Bancroft and J. Franklin Jameson, The Predecessor of the Supreme Court in Essays, the Constitutional History of the United States in the Formative Period. 1775-1789. 1899, pp. 1-45)

The first prize court was established in Massachusetts. Elbridge Gerry moved in June 1775 establishment of a court, in June 1775, for the trial and condemnation of prizes. On Nov. 10 (1), 1775. Act was passed. Washington wrote to John Hancock Nov. 11, 1775 regarding act passed by Council and House of Representatives of the Massachusetts Province. (Ford Writings of George Washington; Sparks, v. 3, 154-55.

The second Prize case, Penhallow, et al. v. Doane's Administrators. 3 Dallas 54 (1795)

The third Prize case was U.S. v. Richard Peters, District Judge (3 Dallas 121) 1795

This selection from the 250 volumes of Reported Cases call attention to the vast stores of International Law, of which the Law of Prize is but a small although an important part, to be found in the Official Reports of the Supreme Court of the United States.

The 198 cases cited were decided in 1794 (1); 1795 (3); 1796 (6); 1800 (2); 1801 (2); 1804 (1); 1806 (1); 1807 (1); 1808 (4); 1809 (1); 1810 (1); 1812 (1); 1813 (3); 1814 (23); 1815 (12); 1816 (15); 1817 (10); 1818 (8); 1819 (7); 1820 (4); 1821 (4); 1822 (5); 1823 (2); 1824 (2); 1825 (1); 1826 (1); 1827 (1); 1834 (1); 1850 (1); 1851 (1); 1855 (1); 1862 (1); 1864 (5); 1865 (8); 1866 (15); 1867 (7); 1868 (3); 1870 (1); 1871 (1); 1872 (1); 1878 (1); 1879 (1); 1882 (3); 1899 (5); 1900 (6); 1903 (2); 1917 (1).

See also James W. Garner's Prize Law During the World War a Study of the Jurisprudence of the Prize Courts, 1914-1924, 1927. 212p covers other countries.

Admiralty Jurisdiction

When the Department of Justice was established July 1, 1870 (16 Stat.1620), as successor to the Office of Attorney General, it had few attorneys. Outside counsel, often a lawyer of national reputation, handled important cases for a fee.¹ Provision was made for certain statistics to be included in the annual reports of the Attorney General by an act of March 3, 1873 (17 Stat.578). House Resolutions of March 23, 1840 and July 24, 1850 provided for the publication of opinions of the Attorney General, 1789 to date.² The first 16 volumes were published on a private basis. Beginning with volume 17 the opinions have been published by the Government Printing Office.³

As early as 1859 Congress authorized an assistant, "learned in the law," for the Attorney General (11 Stat. 420). In 1861, in connection with the act giving the Attorney General superintendence and direction of Attorneys and marshals in all districts of the United States, the Attorney's Office was allowed two additional clerks.⁴ In 1866 Congress authorized the Attorney General to appoint a law clerk (14 Stat. 207). This Office of Assistant to the Attorney General was abolished in 1868. On June 25, 1868 (15 Stat.75) Congress provided for two assistant Attorneys General, one of whom was to deal with litigation related to claims, especially defense suits against the Government, a function then carried by the Claims Division.

By the mid-twenties the Admiralty Division was handling most suits in 12 civil areas in which the United States was interested.⁵ It was known as the Admiralty and Civil Division when it was abolished by Departmental Order 2507, dated December 30, 1933. This same order created the Claims Division, effective January 1, 1934, and made it responsible for admiralty and shipping matters among other suits and claims for and against the government, not otherwise specifically assigned. The present Civil Division operates in much the same frame work, with nine sections, one of which is the Admiralty and Shipping Section.

1. Langeluttig, Albert. The Department of Justice of the United States. Baltimore, Md., Johns Hopkins Press, 1927. pp.7-8.
Huston, Luther B. The Departmet of Justice. New York, N.Y., Prager Press, 1967. p.123.
2. 26 Cong. 2 Sess., H.Doc. 123 (Serial 387).
31 Cong. 2 Sess., H.Doc. 55 (Serials 602 and 603).
3. Langeluttig, pp.6-7
4. Dodge, Arthur J. "Origin and Development of the Office of Attorney General" 1929 (70th Cong., 2d Sess., H.Doc. 510), p.11.
5. Langeluttig, pp.4446.
6. Huston, pp.123-124.

Admiralty Cases Handled

<u>Year</u>	<u>Cases mentioned (Annual Report of AG)</u>	<u>Total Cases Considered for year</u>		<u>Admiralty Cases Terminated</u>
		<u>Admiralty Only</u>	<u>Total Civil</u>	
1971	1	2891		1039
1970	4	3136		1148
1969	0	3092		1028
1968	3	2700		878
1967	9	-		742
1966	7	1815	20833	578
1965	8	1802	19162	688
1964	8	2480	23445	1166
1963	5	2485	29138	817
1962	8	2512	25361	895
1961	7	1279	21641	325
1960	0			
1959	12	1547	23686	375
1958	0			
1957	7	2585	43358	901
1956	6	3497	52627	1539
1955	11	3764	52402	969
1954	10	Not given	51122	Not given
1953	2	Not given	91699	Not given

108

5.68 per yr average

2-18-52
**Soviet Ships
Leave Port
Captainless**

Special to The Washington Post

ANCHORAGE, Feb. 18—Two Soviet ships left a U.S. Navy base at Adak Island today and were escorted to international waters by the Coast Guard cutter Balsam half an hour before three Russian ship officers, freed after their government paid \$250,000 in fishery fines, could board their ships.

But while the Russians were left on a dock 1,200 miles southwest of Anchorage, they had company.

A U.S. marshal accompanied them to the remote Aleutian island to serve an attachment order on either vessel in a \$21,738 admiralty suit filed against the Soviet Union by Sea Spray Fisheries, Inc., of Seattle. The company alleged that a Russian trawler destroyed \$12,000 worth of crab pots off the coast of Unimak Island last March despite warnings from the Sea Spray crew.

The suit, filed Thursday in U.S. District Court in Anchorage, further claims that the Washington state fishermen lost more than \$9,000 worth of crabs.

The three Russians, their government having paid \$80,000 in personal fines and \$170,000 levies against the factory ship Lamut and the stern-trawler Kolyvan for illegally transferring fish inside the U.S. contiguous fishery zone, were faced with the new charge as they prepared to board a commercial fisher at Adak.

*Onassis is major
at overhaul of
North American Shipping Co.
Stavros Niarchos is
his rival in Greece*