

PRESS RELEASE

USS Pueblo

COMMAND INFORMATION BUREAU

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PROCEEDINGS OF COURT OF INQUIRY
WEDNESDAY 5 MARCH 1968 A.M.

The court convened at 9 a.m. with Captain J. R. Brock, who stated he is an international law specialist and deputy assistant for international law in the office of the Judge Advocate General of the Navy. He described his legal education, experience and qualifications in detail, mentioning 11 years aggregate in several tours as an international law specialist in the office of the Judge Advocate General, that he was legal advisor to an assistant Secretary of Defense for negotiations with the Philippine Government, and to Comblant during the Dominican Crisis.

While it historically evolved over the centuries, the concept of freedom of the sea as we know it was first conceptualized and written down in 1609. These written concepts for the most part were fully accepted by civilized nations by the end of the Napoleonic Era.

Great Britain opened the way for actualization of freedom of the sea throughout the world, but the United States was involved, from its infancy, in that concept. It boasts an even more accepted pattern of action with the growth of the Navies of the world's sovereign states, and by 1925 "was practiced not only in theory, but in fact as well."

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On April 29, 1958, the already accepted concepts were codified in the "Convention of the High Seas" between the U.S. and other governments at Geneva. Captain Brock quoted from the articles of that code, stating that "High Seas" is therein defined as "all parts of the sea that are not included in the territorial sea or in the internal waters of a state." He further quoted from article Two of the convention, "the high seas being open to all nations, no state may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law" in the following specific freedoms: "Freedom of Navigation; Freedom of Fishing; Freedom to Lay submarine cables and pipelines; Freedom to fly over the high seas."

Discussing the concept of sovereign immunity of warships on the high seas, he quoted from article 8 of the convention: "Warships on the high seas have complete immunity from the jurisdiction of any state other than the flag state." For the purposes of these articles, the term 'warship' means a ship belonging to the naval forces of a state and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy list, and manned by a crew who are under regular naval discipline." While codified in 1958, he said the concept was nevertheless "very old and very basic," citing an 1812 court case in which Chief Justice Marshall formed the quoted concept of a warship. In that same era, the British went even further in codifying a doctrine of sovereign immunity of warships by defining it as "a floating portion of the flag state."

He briefly referred to articles 13 and 14 of the convention, concerning the admission to all states to prevent "slave trading" and "acts of piracy" on the high seas.

Referring to the "convention on the territorial sea and the contiguous zone," codified along with the aforementioned convention, he quoted concerning the 12-mile contiguous zone: "The coastal state may exercise the control necessary to prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea..."

He stated that, unlike a merchant vessel, there cannot legally be any boarding, control, or seizure of a warship, and even in territorial waters, a state has the right only "to require a warship to leave the territorial seas." Even if a state grants passage through its territorial waters, a warship is still not subject to inspections, boarding or any interference, including public, private or legal process. If a warship violates any doctrines of the state in its passage through territorial waters of that state, it is normal to use diplomatic channels to register protest or request action, or in severe cases to request that the ship leave. He said innumerable sources can be cited which subscribe to the doctrine of immunity.

He defined the term "territorial seas" stating that the right of passage remains an exception to the sovereignty of a state's rights in the "belt of territorial seas," but that it is a "margin of sea" where a state can carry on functions essential to its welfare.

A country need not have signed any of the codifications mentioned in order to be subject to or required by all nations to abide by those doctrines because they are "generally accepted principles or concepts codified over many generations." He did not believe North Korea had signed the two conventions cited.

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The United States subscribes to the three-mile limit, and has since 1793 when Thomas Jefferson stated "any greater breadth is a violation of traditionally accepted concepts." Some lesser maritime nations guard a 12-mile limit, which the United States does not recognize.

International Law does not require that the U. S. respect territorial sea claims in excess of three miles, and in the 1958 Law of the Sea Conference, Geneva, Ambassador Arthur Dean reflected U. S. policy, stating in part "we have made it clear from the beginning that in our view the three-mile rule is and will continue to be established international law, to which we adhere. . . we have made it clear that in our view there is no obligation on the part of states adhering to the three-mile rule to recognize claims on the part of other states to a greater breadth of territorial sea and on that we stand." Thus the U. S. has always made its position crystal clear to other nations.

He said no communist state claims more than a 12-mile limit, that North Korea claims 12 miles, and while no record has been found of any official North Korean claim to any particular breadth, the weight of evidence places its claim at 12-miles.

He cited Article II, Paragraph 15, of the Military Armistice in Korea, 1953, and stated the negotiating history of that provision indicates contiguous waters as far as North Korea was concerned extended 12 miles.

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Also, the 1965 "Manual of International Maritime Law" published in Moscow lists North Korea's claim as 12 miles.

In 1968 Ambassador Goldberg at the United Nations, in protesting the Pueblo seizure, stated in part "the ship was under orders to stay well clear of the 12-mile limit which the North Korean authorities have by long practice followed. . ."

Captain Brock described the various procedures for measuring the boundaries of territorial seas and contiguous zones out from the land boundaries of a state, and said the North Koreans follow the sinuosity concept except for an application of the baseline concept for severe indentations in the coastline.

No matter what procedure the North Koreans followed in drawing the boundaries of their territorial waters, however, the Pueblo could not have been in North Korean territorial waters at the time of the incident. Furthermore, as a warship, she was not subject to seizure, and the seizure was therefore illegal, and would have been illegal even had Pueblo been in territorial waters. That she was an intelligence gathering ship had no bearing on her immunity, for the practice of deploying ships for that purpose has been accepted by the major maritime nations of the world.

He felt the only means of enforcement of international law on the high seas, albeit a powerful means, was "public opinion," and the "international court of justice."

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Concerning the application of enforcement on North Korea, he said she was construed as a "civilized nation" within the meaning of the words of the codified law, by virtue of "having an organized government and basically following an accepted pattern of actions towards other nations. He also felt North Korea did consider "public opinion" but would have to agree to come to the International Court of Justice, and in so doing, with the U. S. as an agreeing party, would therefore be recognized by the U. S. as a government. He thought her agreement, and our recognition of her was unlikely.

From the evidence, he did not think Pueblo could have been construed as other than a "warship," reminding the Court that the burden of accurate identification rests with the state taking action against a ship on the high seas or in territorial waters.

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The next witness was Engineman Third Class Michael A. O'Bannon. He described his duties aboard the USS Pueblo as a member of the engineering "gang." When the ship first came under harassment O'Bannon was sleeping in his bunk. He was awakened by Engineman Third Class Richard E. Arnold, and then proceeded to his general quarters station, as starboard throttles.

O'Bannon answered only one emergency backing bell while the ship was under attack, but in the course of the capture there were at least five backing bells. He also stated that most of the time the ship was at ahead one-third speed.

He stated that his understanding of the Code was that he was not to make any damaging statements or sign any documents.

He filled out his history card two weeks after the crew's detention began, but only after he had been beaten and kicked by the communists. Prior to signing he saw service records of other crewmen.

O'Bannon told his captors of his duties aboard the Pueblo but noted that since his interrogators were Army-oriented, they didn't understand him.

O'Bannon described his mistreatment as beatings given by guards for no apparent reason. Once he was taken to the officer's mess hall and beaten there. During "Hell Week" a guard named "Psycho" beat him because he moved when he wasn't supposed to.

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The crew was given physical examinations and he was one of those crewmen considered unfit for mess cook duty.

During meal periods the crew sat together by rooms. This seemed to cut down on the number of beatings inflicted on the crew.

He stated he wrote two confessions, the first on the alleged intrusion into North Korean territorial waters and the second on "crimes he had committed during detention." In the latter confession O'Bannon noted things which his captors weren't aware of.

O'Bannon wrote a number of letters home to his mother, sister, wife and one to the people of the United States. He was instructed to write three copies of each letter to insure that at least one letter would get through the CIA. He signed the joint letter to the President and also participated in one press conference, in which he gave an answer concerning the number of letters he had received from home.

He was taken to the Gypsy Tea Room and was asked there what he would do when he returned home.

His observations of the crew were that all "did real good" during captivity. He felt that the beatings were the largest factor causing him to sign the North Korean propaganda documents.

The next witness called was Commissaryman Second Class Ralph E. Reed. He was on duty when the attack started and did not report to his general quarters station because of its exposed position. He stayed on the messdeck and assisted Hospital Corpsman First Class Herman P.

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Baldrige with the wounded. He applied battle dressings on Sergeant Robert J. Chicca's and Engineman Second Class Steven E. Woolk's wounds and treated them for shock. He and Baldrige stayed in the wardroom after the capture and continued to treat the wounded. Fireman Duane Pedgas died about 3 p.m.

Reed stated he received indoctrination in the Code of Conduct on several of his previous ships and that he believed he understood its meaning.

Reed filled out his personal history card after four or five days in detention but left out a lot of information. He was never interrogated on his duties aboard the Pueblo and "felt they were more interested in the CI's (communications technicians) than they were in the CS's (commissaryman)."

After six weeks in prison he wrote a confession but was later forced to rewrite it because he was not truthful. He also signed the joint letter to the President.

Reed was assigned to be a messcook by Quartermaster First Class Charles Law. His impression of the food was that it "wasn't anything you would want to have second-helpings of."

Reed stated that at first the crewmen were allowed to sit anywhere they wanted during meals but after several tablecloths were out, the guards made them sit at the same tables, according to room assignments, so that the culprits could be found.

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Read said he was not as badly mistreated as many, but that during "Hell Week" he was given the "rubber band treatment." He described this "treatment" by the North Koreans by saying a rubber band was placed between the eyes and then snapped by the guards.

He said that some of the men were "pretty severely beaten" because they were instigators and particularly because of the finger sign.

Read did not see anyone receive special treatment and believed the crew was outstanding in their efforts under the circumstances.

Read wrote letters to the Governor of Pennsylvania, a newspaper, his former wife and his foster mother.

He was taken to the Gypsy Tea Room once, where he was asked what he would do when he got home.

In response to questions from the court, he stated that he had been in the research spaces during the attack when he went to get a stretcher. At this time he stated he saw a number of bags of paper lying in the passageway. When he was taken from the ship after the capture he noted that the bags were still there.

Read estimated that the caloric content of an average days food was about 500 calories.

He believed he violated the Code, but only out of fear of further punishment.

Read said Commander Eucher did a fine job on January 23rd and that he would proudly serve with him again.

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The next witness called was Machinists Mate Third Class William T. Massie. He stated that on January 23, 1968, his duty was general watch standing in the engine room and proceeded to his general quarters station in repair FIVE, where he broke out some fire fighting equipment.

Massie did not assist in the destruction of classified materials.

He heard Chief Warrant Officer Lacy remind the crew of the Code of Conduct during boarding and recalls the Code from boot camp indoctrination.

Massie was not interrogated on the Pueblo's mission nor did he possess any knowledge of classified materials. He did fill out a personal history form about one week after capture.

During recreation periods given to the crew, information was passed among themselves during huddles. Football was finally discontinued and prohibited during the recreation periods by the North Koreans, because they wanted to stop information being passed during the game.

Massie doesn't recall any attempts to bribe the guards. He did not mistrust any of his shipmates. He signed a confession during hell week since he was told by crewmembers to sign.

He wrote two letters to his parents, one to a girl friend and another to a congressman. He was told what to put in the letter to the congressman.

At the Gypsy Tea Room, Massie told the civilians that he would accept a visitor in his home. He was recalled to the room again, where he was asked similar questions.

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Massie did not participate in a news conference, and although the conference were "humorous," Cdr. Bucher had passed the word for the crew not to express any emotion, to be as straight faced as possible. The crew was able to keep themselves under control during these sessions.

Massie departed from the spirit of the Code because he believed they "would beat him until he did what they wanted." Life was made easier on the crew after the North Koreans were satisfied the crew was providing the information they wanted.

Massie considered escape impossible because "the crew didn't know where they were and the entire country was military."

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