

6 MAR 69

T.

Naval Law Expert Calls Seizure of Pueblo Illegal

By **BERNARD WEINRAUB**
Special to The New York Times

CORONADO, Calif., March 5

—A naval international law expert today termed the North Korean seizure of the Pueblo "illegal."

"Even if the Pueblo had been in their territorial waters the seizure would have been illegal," said the lawyer, Capt. John R. Brock, the Navy's deputy assistant judge advocate general in international law.

"She can be asked to leave, but there is no right to arrest or capture."

Captain Brock, 51 years old, was the key witness at this morning's court of inquiry investigating the seizure of the United States intelligence ship in the Sea of Japan on Jan. 23, 1968.

Private Meeting Held

This afternoon the five admirals on the court met privately to review the last seven weeks' 2,500 pages of testimony and prepare for the final sessions of the inquiry, which may end next week.

In summoning Captain Brock, the admirals were seeking to unravel some of the tangle of international law that governs the relations of most countries that send military ships onto the high seas.

Comdr. Lloyd M. Bucher, the captain of the Pueblo, has testified that the vessel had been seized in international waters, well outside the 12-mile territorial limit claimed by North Korea. The North Koreans forced the Pueblo crewmen to sign confessions that the ship had been engaged in espionage within 12 miles of the Korean coast.

Captain Brock said that the Pueblo's seizure had been a clear break with "very old and very basic" laws of the sea.

"The Pueblo was a warship on the high seas with complete immunity from the jurisdiction of any state other than the flag state," he said.

"The high seas are open to all nations," he added. "If a warship violates any doctrines, it is normal to use diplomatic channels to register protest or request action or in severe cases request that the ship leave."

A member of the court, Rear

Regardless of Where Vessel Was, He Says, 'There Is No Right to Arrest'

Adm. Edward E. Grimm, said to Captain Brock, "Technically, the Navy does not call the Pueblo a warship but an A.G.E.R."

An A.G.E.R., or auxiliary general electronics research ship, is the Navy's designation for a small, Pueblo-type of intelligence craft.

'Fits the Description'

"We may for our domestic uses call her something else," Captain Brock replied, "but she still fits the international description of a warship."

"A warship is a ship belonging to the naval forces of a state bearing external marks of its nationality, under the command of an officer commissioned by the government and manned by a crew who are under regular naval discipline," said Captain Brock, a Navy veteran of 27 years who holds a Master's degree in international affairs from George Washington University.

Admiral Grimm asked, "Couldn't we bring North Korea before the International Court of Justice for what she's done?"

"Yes, we could," Captain Brock said. "But there are two problems. She's got to come to be a party [to the case] and by doing this we would recognize her as a sovereign state."

"The answer then is no, is that correct?" Admiral Grimm said.

Practically Speaking

"Well, practically speaking," the witness answered.

Capt. William R. Newsome, the court's counsel, asked, "Did the fact that the Pueblo accept electronic intelligence subject it to seizure?"

Captain Brock shook his head.

"No," he said, "this is an accepted practice for collecting information of various kinds on the high seas. It is not an illegal practice."

He said that 40 countries claimed legal control 12 miles out to sea. These included most Communist countries.

The United States and 35

other countries observe a three-mile limit.

"We are not required to accept a territorial limit beyond three miles," Captain Brock said.

Commander Bucher testified that he had been ordered to remain at least 12 miles from the North Korean coast.

Rules of the Sea

Captain Brock referred repeatedly to the international rules of the sea, which were practiced for generations and codified in Geneva April 29, 1958, at the Convention of the High Seas. The provisions of the code had been worked out earlier that year by the United Nations Conference on the Law of the Sea.

Captain Brock indicated that the enforcement of the law of the sea was mostly a matter of "custom and public opinion and accepted practice."

"These are generally accepted principles codified over many generations," he said. "There are rules that the majority of nations follow: It's accepted as a rule of law."

"What classifies North Korea as a civilized nation?" Admiral Grimm asked.

"Well, North Korea is a national entity," Captain Brock said. "It has been recognized, when you have an organized government in being—that has been recognized by other nations in being—it means the normal rules have been followed."

Force of Public Opinion

"Is there any evidence that North Korea cares about public opinion?" asked Admiral Grimm, who is head of the United States Pacific Fleet's Training Command.

"Countries are forced to recognize public opinion for their own enlightened self-interest," Captain Brock said. "What determines enlightened self-interest for one country may not be enlightened self-interest for the other."

Another member of the court, Rear Adm. Allen A. Bergner, asked Captain Brock, "When was the last time the sovereignty of a United States warship was violated [in peacetime]?"

"It was the Chesapeake on 22 June 1807 by the H.M.S. Leopard," Captain Brock said. "The second ship was on Jan. 23, 1968."