

FILE
5.1.42*General*

Headquarters would advise in policy in case 8 May, 1939.
 strike of avoiding any action to create friction between the
 Government and either party. In this case, no such action should be
 taken, except in case of extreme emergency, without referring the matter

MEMORANDUM TO ASSISTANT SECRETARY GIBBONS:

In another case on the 13th of October, 1936, in the case of a
 sit-down strike.
 With reference to your memorandum of May 8, 1939, submitting for
 my information and comment a letter dated May 8, 1939, from Mr. Gardner
 Jackson inclosing the memorandum entitled "Hiring of Personnel on Govern-
 ment Owned and Operated Ships", signed by Bruce Hannon, the only state-
 ment contained in that memorandum upon which I feel fully competent to
 comment is as follows:

"We are aware of the fact that at different times in the past
 the Coast Guard has been used to facilitate strikebreaking efforts of
 the shipowners by transporting strikebreaking crews to vessels in harbors
 and carrying supplies from strike-bound ports to vessels manned by strike-
 breaking crews."

This statement is entirely in error as the Coast Guard has never
 been used to facilitate strikebreaking efforts of the ship owners and no
 Coast Guard vessel has ever transported strikebreaking crews to merchant
 vessels. I realize that the impression has gained ground in labor circles
 that the Coast Guard at one time or another has used its equipment for
 this purpose as it has been brought to my attention by labor leaders on
 several occasions. This erroneous impression, I feel sure, is the re-
 sult of the case of the INDEPENDENCE HALL, a merchant vessel owned by
 the United States Government and leased to a private company. I am at-
 taching hereto a copy of a memorandum to Secretary Morgenthau dated the
 17th of March, 1938, covering this case. I am also inclosing a copy of
 our instructions to the New York Division as a result of this case,
 copies of which letter were furnished to all division commanders. It
 will be noted in these instructions that Headquarters took the following
 position:

"In the absence of pertinent court decisions or definite advice
 from a responsible legal authority of the Government, however, Headquarters
 is not prepared at this time to authorize Service action on the assumption
 that a seaman's strike in port is a Federal offense." Also, "-- In the
 absence of necessity of immediate action by the division commander to pro-
 tect life or property, he should refer each such case to Headquarters for
 decision."

Previous to the case of the INDEPENDENCE HALL, Headquarters issued
 instructions to certain Coast Guard officers on the West Coast when the
 West Coast strike was in progress as follows:

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"Headquarters would emphasize its policy in connection with the strike of avoiding any action tending to create friction between the Government and either party. To this end, no such action should be taken, except in case of extreme emergency, without referring the matter to Headquarters for decision."

In another case on the 13th of October, 1936, in the case of a sit-down strike on the Steamship TANANA at Kodiak, Alaska, Headquarters issued the following instructions to the Commanding Officer of the cutter in the vicinity:

"REFERENCE MORRIS DISPATCH 9912 2200 TAKE NO ACTION WITHOUT HEADQUARTERS DIRECTION EXCEPT PRESERVE LIFE AND PROPERTY IN IMMEDIATE DANGER PERIOD MAINTAIN CLOSE CONTACT WITH SITUATION ON TANANA BY MEANS OF COMMUNICATION OR BY PRESENCE OF CUTTER PERIOD REPORT DAILY POSITION OF TANANA AND ANY INFORMATION PERTAINING SITUATION ON THAT VESSEL".

In none of the cases above referred to, nor in any other case, has the Coast Guard ever taken any action inimical to the interests of striking seamen.

R. R. WAESCHE,
Commandant.

In view of this situation and the lack of specific information, I felt it undesirable for me to comment officially on the way the Army Service or any other Government agency outside of the Coast Guard selects its men or conducts its labor policies.

RRW:flz

JKY
sent by messenger
5/9/39.

R. R. WAESCHE.

JKY
sent by messenger
5/9/39.

MS-601

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FILE
F. L. Z.

8 May, 1939.

MEMORANDUM TO SECRETARY GIBBONS:

I am attaching hereto a memorandum covering the points raised, affecting the Coast Guard, by Bruce Harmon in his memorandum submitted to you with Gardner Jackson's letter of May 8th.

You will note that I would not go into the matter of the method used by the Army Transport Service in hiring seamen. To confirm the information, I gave you over the phone, I got in touch by telephone with the Army Officer in charge of the Army Transport Service who stated that the officers and higher ratings of the crew, such as pursers, baggage masters and chief stewards were under Civil Service but that the lower ratings such as seamen and firemen were not. As to the method employed in procuring these crews, the headquarters of the Army Transport Service here in Washington was not sure of the methods used as that is a matter handled by the local officers. They have wired to their superintendents at Brooklyn and San Francisco to determine how such crews are selected, presumably to be prepared for the hearing on the Wallgren Bill this week.

In view of this situation and the absence of specific information, I felt it undesirable for me to comment officially on the way the Army Transport Service or any other Government agency outside of the Coast Guard selects its men or conducts its labor policies.

R. R. WAESCHE.

RRW:flz

Hy
sent by messenger
5/9/39.

FILE
F. L. Z.

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TREASURY DEPARTMENT
UNITED STATES COAST GUARD

General

May 8, 1939.

FILE
M. O. N.

From: *Assistant Secretary*
To: MEMORANDUM FOR ADMIRAL WAESCHE:

Subject: *Jurisdiction of Coast Guard.*

Will you please have prepared for my signature any comments on the attached memorandum prepared by Bruce Hannon, Secretary of the Maritime Federation of the Pacific, which was sent to me by Gardner Jackson.

1. A committee representing the Pacific Maritime workers called on me on Friday and among other things they mentioned as a fact that the Army Transport Service hires replacements for their crews through the regular union hiring halls. My recollection is that you advised me that the crews of the Army Transport Service are regular Government employees.

Another statement made on page two relates how the Coast Guard in the past has been used as a strike-breaking agency. Will you please incorporate in your reply your comments on this statement?
Reference (c) might be construed to make refusal to comply with orders of the master an offense even though such refusal were incident to a strike. In the absence of pertinent court decisions or definite advice from a responsible legal authority of the government, however, Headquarters is not prepared at this time to authorize Service action on the assumption that a seaman's strike in port is a Federal offense within the scope of reference (c).

Assistant Secretary.

3. Headquarters approves of cooperating with other Federal agencies in the service of any process issued by a competent Federal court. Such action would normally be taken.
P.S. Please return both Mr. Jackson's letter and the memorandum with your reply.

4. In view of the fact that there has been no clear cut judicial determination covering the application of the existing statutes in the case of a crew of a member of a vessel while in port, the handling of such matters in the absence of necessity should refer to Headquarters for decision. Life or property is at stake.

Enclosure.

This memo. and Jackson's letter (with Bruce Hannon memo) returned to Sec. G. Johnson 9 May, 1939 (H. T. Jewell.)

SBC/hm

X. E. WAESCHE

MAIL ROOM

Handwritten initials and scribbles at bottom left.



OFFICE OF
THE DIVISION COMMANDER
NEW YORK DIVISION
NEW YORK, N. Y.

TREASURY DEPARTMENT

UNITED STATES COAST GUARD

NEW YORK, N. Y.

General

25 March, 1938

FILE
M. O'N

~~601-64~~

From: Commandant
To: Commander, New York Division.

21 March, 1938.

Subject: From: Jurisdiction of Coast Guard. Division.
To: Commandant.

Reference: (a) New York Division letter 21 March 1938 (601-64).
Subject: (b) U.S.C. Title 14, Secs. 45, 46.
(c) U.S.C. Title 18, Secs. 483 and 484.

Reference: (a) Title 14, Section 45 and 46, U. S. Code of Laws.

1. Headquarters is gratified with the excellent handling of the sit-down strike on the INDEPENDENCE HALL, as reported by reference (a), by personnel of the New York Division under the immediate supervision of Commander C. H. Jones and Commander J. S. Baylis.

2. Paragraph 5 of reference (a) states, "In the absence of any instructions from Headquarters otherwise, the Division Commander will be governed by references (a) and (b)." While Headquarters cannot take any exception to the Division Commander acting within the legal jurisdiction of the Coast Guard to take appropriate action in case of a clear violation of a federal statute, it cannot give approval to the implied intention of the Division Commander to remove sit down strikers forcibly from a vessel safely moored in an American port. Reference (c) might be construed to make refusal to comply with orders of the master an offense even though such refusal were incident to a strike. In the absence of pertinent court decisions or definite advice from a responsible legal authority of the Government, however, Headquarters is not prepared at this time to authorize Service action on the assumption that a seaman's strike in port is a federal offense within the scope of reference (c).

3. Headquarters approves of cooperation with other federal agencies in the service of any process issued by a competent federal court. Such action would normally be in cooperation with a United States Marshal.

4. In view of the fact that there has been no clear cut judicial determination covering the application of the mutiny statutes to the action of a crew or a member of a crew of a vessel while in port, the determination of such matters is beyond the discretion of the Division Commander. In the absence of necessity for immediate action by the Division Commander to protect life or property, he should refer each such case to Headquarters for decision.

and happily, because of the patience exhibited, no force was necessary. Commander C. H. Jones, Aide to the Captain of the Port, and Commander J. S. Baylis, Chief of Staff of the New York Division, were present

MAR 25 1938

R. R. WAESCHE

MAIL DESK

WND/VAF

[Handwritten signatures and initials]



OFFICE OF
THE DIVISION COMMANDER
NEW YORK DIVISION
307-311 CUSTOMHOUSE
NEW YORK, N. Y.

TREASURY DEPARTMENT

UNITED STATES COAST GUARD

NEW YORK, N. Y.

21 March, 1938.

COAST GUARD (2)
MAR 22 1938 By

From: Commander, New York Division.
To: Commandant.

Subject: United States Coast Guard; jurisdiction.

Reference: (a) Title 14, Section 45 and 46, U. S. Code of Laws.
(b) Title 18, Section 483 and 484, U. S. Code of Laws.

1. Recently the crew of the INDEPENDENCE HALL, a vessel of United States registry, owned by the United States Government and leased to a private company, was prevented from sailing for several hours because of a so-called "sit down strike" by that vessel's crew. The crew of the INDEPENDENCE HALL are members of The Committee for Industrial Organization, a labor union ordinarily designated by the short title of "C.I.O." This crew refused to take the lines from a tugboat which arrived alongside, because the owning company of the tugboat was in controversy with the C.I.O. union. The tugboat was to haul the INDEPENDENCE HALL out into the river so that the latter might proceed on its voyage to Philadelphia and Baltimore. The crew of the INDEPENDENCE HALL refused to leave the ship even after they had been proffered their pay up to date, including a full day's pay for the day upon which they sat down.

2. The local representative of the United States Maritime Commission called upon the Coast Guard for assistance, and later a representative from the United States Attorney's Office. The Coast Guard force arrived on one of our tugs, but were kept out of sight in order not to complicate matters during negotiations. During the conference a new crew arrived on a Dalzell tug, the Dalzell Company being the one which was at logger-heads with the C.I.O. This new crew were members of a union belonging to the American Federation of Labor, or "A.F.L."; there being an intense rivalry at New York between the C.I.O. and A.F.L. After several hours conference, the C.I.O. sit-down crew left the vessel. One of the important things to avoid in this case was the use of force, and happily, because of the patience exhibited, no force was necessary. Commander C. H. Jones, Aide to the Captain of the Port, and Commander J. S. Baylis, Chief of Staff of the New York Division, were present

601-64 21 March, 1938.
Commandant - United States Coast Guard; jurisdiction.

at the conference, the Division Commander being absent on official duty in the Fourth District.

3. While engaged in this work it was necessary for the Coast Guard to be sure of its ground in case arrests were to be made or force used by the Coast Guard. In this connection the Division Commander has studied the U. S. Code of Laws and finds therein, reference (a), authority for taking action in a case like that of the INDEPENDENCE HALL. It will be noted that Section 45 of Title 14 gives the Coast Guard authority for the suppression of violations of laws of the United States and for their prevention, but limits such action to waters other than inland waters. In Section 48 of the same title, inland waters are defined so as to include harbors, bays, sounds, roadsteads, and ~~light~~ ^{like} bodies of water along the coast of the United States, etc. In order to act the Coast Guard must be sure that a law of the United States is being violated. In the case above mentioned, it would seem that the law that was violated in the INDEPENDENCE HALL case is contained in Section 483 and 484, Title 18 of the United States Code of Laws. Another element before taking action is for the Coast Guard boarding officer to determine if the crew are really the crew of the vessel. Then this being established, we have the elements necessary to take action: we have a crew, we have a law being violated, and that violation taking place in the presence of the Coast Guard officer, it would seem that he has the authority to act. It would seem to the writer that inland waters would mean the rivers of the United States; but how far up rivers, such as the Mississippi, would be a question to be decided. In the present case, New York would not be an inland water in a fair interpretation of Section 45 and 48.

4. The INDEPENDENCE HALL will return from its coastal voyage to this port in the near future, preparatory to leaving on a regular run to Europe. We look for another demonstration on her arrival at this port.

5. In the absence of any instructions from Headquarters otherwise, the Division Commander will be governed by References (a) and (b).

6. The undersigned realizes that the whole subject of labor relations is not one to be handled off-hand and in an arbitrary manner, and that violence is to be avoided as far as possible. He will be prepared to spend much time and exercise the greatest patience in arriving at a peaceful solution.

RECEIVED MAR 22 1938 By

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601-64 21 March, 1938.

Commandant - United States Coast Guard; jurisdiction.

A few hours delay in the sailing of a vessel will not be considered as paramount to a peaceful adjustment.

7. The Division Commander wishes Headquarters to know that he highly commends the intelligent action in the INDEPENDENCE HALL case displayed by Commander C. H. Jones and Commander J. S. Baylis.

Thos. M. Molloy
THOS. M. MOLLOY.

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General

7. Coast Guard headquarters first heard of the trouble shortly after 4:00 p. m. Commander Baylis reported conditions from New York, and Mr. Basil ... of the Personnel ... 17 March, 1938 ... Maritime Commission in Washington, requested our assistance in removing the sit down strikers.

MEMORANDUM FOR SECRETARY MORGENTHAU:

Subject: S. S. INDEPENDENCE HALL, sit down strike.

1. The INDEPENDENCE HALL is a freight steamer owned by the Maritime Commission and operated for the Commission by the Cosmopolitan Shipping Company. The officers and crew are employed and paid by the United States Government.

2. The vessel left Havre on March 3d and berthed at Hoboken, New Jersey. On March 16th the vessel prepared to leave Hoboken for Philadelphia. To assist in getting the ship clear of the dock a tug of the Fred B. Dalzell Towing Company was employed. Because the tug was manned by an AF of L crew, the CIO crew of the INDEPENDENCE HALL refused to handle lines to the tug.

3. The master of the freighter warned his men individually and then entered their offense in the ship's log. Acting on advice from the Maritime Commission, the master notified the strikers they were discharged and offered to pay them off. The strikers refused to accept their pay and refused to leave the vessel.

4. The master then applied to the United States Attorney Harrington at Newark for warrants to arrest the strikers. Mr. Harrington issued the necessary warrants but was unable to locate the United States Marshal to serve them. The warrants were to be served on board the ship by local police, backed by a force from the CHAMPLAIN. The District Attorney, the New York representative of the Maritime Commission (Captain Granville Conway), and Commander Baylis went aboard. The Coast Guard men remained on the dock.

5. Acting under orders from the Maritime Commission, Captain Conway at about 8:00 p. m. notified the strikers that they had until 8:30 p. m. to leave the ship. The men left peaceably on time; the warrants were not served.

6. The Maritime Commission immediately sent aboard a new crew, obtained through the U. S. Shipping Commissioner, and at 11:30 p. m. the vessel departed. Commander Baylis stood by with the Coast Guard tug MANHATTAN until the departure.

W. H. S.

7. Coast Guard Headquarters first heard of the trouble shortly after 4:00 p. m. Commander Baylis reported conditions from New York, and Mr. Daniel Ring, head of the Personnel Division of the Maritime Commission in Washington, requested our assistance in removing the sit down strikers.

8. I directed Commander Baylis to assemble a suitable force, but not to arrest the strikers except in accordance with a court order. I told him to have his force at the ship to assist the United States Marshal or the local police in serving any legal process, but not to participate in the removal of strikers except in case of rioting or other conduct which could reasonably be construed as a violation of a U. S. Statute. The presence of the Coast Guard force was to be primarily as a moral support to the civil authorities.

9. I then informed Mr. Oliphant of the situation and asked for an opinion on the legality of direct Coast Guard action under any federal statute. Mr. Bernard was assigned as advisor and remained in touch with Headquarters until 7:30 p. m. Commander Baylis received final instructions from Commander Derby at Headquarters at 6:30 p. m., just before leaving his office to board the MANHATTAN to proceed to Hoboken.

10. This morning Mr. Ring of the Maritime Commission expressed his complete satisfaction with the cooperation of the Coast Guard. He stated that the only action contemplated against the striking seamen was to apply to the Bureau of Marine Inspection and Navigation for revocation of their certificates, without which they cannot serve on vessels of the United States.

11. No precedent exists for determining Coast Guard action to be taken in case of a sit down strike on an American vessel safely moored in an American port. No federal statute clearly covers such a case. The nearest approach is contained in the incitement to mutiny statute, Title 18, Section 483 of the U. S. Code.

R. R. WAESCHE
Rear Admiral, U. S. Coast Guard
Commandant

Extract from telephone conversation between Captain Covell and Commander Baylis at 435 p. m., 16 March, 1938. 17 March, 1938

Commander Baylis had request from Captain Conway, Maritime Commission, in connection with Maritime vessel INDEPENDENCE HALL and sit-down strike on that vessel and crew refusing to leave after being paid off. Conway called the Maritime Commission in New York and asked that police force and remove them if possible. Captain Conway has applied to the United States Attorney Harrington at Newark, N. J. and Harrington has given an order to the United States Marshal to remove the crew if they refuse to get off. The section he quoted to Commander Baylis was Title 46, Section 655.

Captain McKensie (INDEPENDENCE FALLS) went up to United States Attorney and swore out (on) complaint with the United States Commissioner at Newark and United States District Attorney Harrington came to the ship last night with Captain Conway of the Maritime Commission. The police from Hoboken and with them were Commander Baylis, Commander Jones, Lieut. Short and Lieutenant Mills of the Coast Guard, and Baylis had some men on the pier (about 20 men). Our men were brought up in two harbor cutters from the CHAMPLAIN. Captain Conway had orders from Maritime Commission not to serve the warrants unless it was absolutely necessary, but to give the men another chance to go off the ship without force, so they called a conference with the men about 810 p. m. and gave them until 8:30 p. m. to leave the ship. By that time they had all left the ship, and shortly after that they were replaced by a new crew and these new men were signed on by the United States Commissioner on board ship and examined by the doctor; all papers were considered satisfactory and the ship left about 11:30 p. m.

Commander Baylis stood by with the MANHATTAN until the sailing of the ship; the Coast Guard men were sent back to the CHAMPLAIN about 9:30 p. m., there being no need for them. Commander Baylis thinks the moral effect was very good although the Coast Guard took no prominent part; still the appearance of the officers in uniform and in the conference -----

Off the records: Commander Baylis asked the United States Attorney Harrington why he didn't serve the papers through the United States Marshal (he had served it through the State police officer). He said he didn't get the call until about 4:30 p. m. and from that time on he tried several times but could not locate the United States Marshal and as the Maritime Commission was very desirous of the ship sailing, Baylis suggested he might get the police to serve the warrant, which they agreed to do and sent one police officer aboard the ship with the United States Attorney and other officials.

Extract from telephone conversation between Captain Covell and Commander Baylis at 435 p. m., 16 March, 1938.

Commander Baylis had request from Captain Conway, Maritime Commission, in connection with Maritime vessel INDEPENDENCE HALL and sit-down strike on that vessel and crew refusing to leave after being paid off. Conway called the Maritime Commission in Washington and they told him to use the local police force and remove them if possible. Captain Conway has applied to the United States Attorney Harrington at Newark, N. J. and Harrington has given an order to the United States Marshal to remove the crew if they refuse to get off. The section he quoted to Commander Baylis was Title 46, Section 655.

Baylis is putting in a call for the United States District Attorney at Newark to see what he is going to do.

Mail

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U. S. Dist. Attorney

Harrington - Newark

Hoboken jail

Arrest

Rector 2-2686

Hoboken

Conway

U. S. COAST GUARD
OFFICIAL DISPATCH
U. S. COAST GUARD
OFFICIAL DISPATCH

*Strike Barr
File*

DATE **24 MAY, 1938**

24 MAY, 1938.

FROM COAST GUARD HEADQUARTERS	INCOMING HEADING	CODE
TO (FOR ACTION) COMMANDER, SAN FRANCISCO DIVISION		CIPHER
UNLESS DESIGNATED OTHERWISE TRANSMIT THIS DISPATCH AS NITE.		ACKNOWLEDGE
TO (FOR INFORMATION) HEADQUARTERS		PRIORITY
		<input checked="" type="checkbox"/> ROUTINE
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TELEPHONE TO		
MESSANGER TO	OUTGOING HEADING	
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TEXT

6024 HAWAIIAN SECTION REPORTS IMMINENCE OF STRIKE INTERISLAND
BOATS AND POSTOFFICE REQUESTS ASSISTANCE IN TRANSPORTATION MAIL
6024 YOUR 6024 0956 AFFIRMATIVE BETWEEN ISLANDS IF STRIKE CALLED PERIOD SHALL SECTION COMPLY
TO EXTENT PRACTICABLE 0956

REF: "6024 Hawaiian Section reports imminence of strike interisland boats and Postoffice requests assistance in transportation mail between islands if strike called period Shall section comply to extent practicable 0956"

TOR 1314 NAVY 25 KE

OPERATOR'S RECORD.

OFFICIAL BUSINESS.

INITIALS OF "RELEASING" OFFICER.

M. O'N.

U. S. COAST GUARD

OFFICIAL DISPATCH

24 MAY, 1938.

UNIT HEADQUARTERS

DATE

CG25 Z QUAH V QUAC GR 29 **INCOMING HEADING**

7 January, 1938

FROM SAN FRANCISCO DIV.

TO (FOR ACTION) **HEADQUARTERS**

My dear Mr. Moad:

I have your letter of January 5th, requesting that you be advised of any information the Coast Guard may have relative to the conduct of coastwise commercial vessels.

While we have followed the proper regulations in the merchant marine with the utmost attention we have, I regret to say, no recent first-hand information on this subject.

TEXT

6024 HAWAIIAN SECTION REPORTS IMMINENCE OF STRIKE INTERISLAND BOATS AND POSTOFFICE REQUESTS ASSISTANCE IN TRANSPORTATION MAIL BETWEEN ISLANDS IF STRIKE CALLED PERIOD SHALL SECTION COMPLY TO EXTENT PRACTICABLE 0956

Honorable S. C. Moad
Chairman, Committee on Merchant Marine & Fisheries
House of Representatives
Washington, D. C.

TOR 1314 NAVY 25 KE

Operator's record.

Initials of "ACTION" officer.

7 January, 1938

My dear Mr. Eland:

I have your letter of January 6th, requesting that you be advised of any information the Coast Guard may have relative to the conduct of seamen on American merchant vessels.

While we have followed the labor difficulties in the merchant marine with the closest attention we have, I regret to say, no recent first-hand information on this subject.

Sincerely yours,

R. R. WAESCHE
Rear Admiral, U. S. Coast Guard
Commandant.

Honorable S. O. Eland
Chairman, Committee on Merchant Marine & Fisheries
House of Representatives
Washington, D. C.