

CHAPTER II

JURISDICTION OF PRIZE COURTS

I

SOURCES

Sec. 32. Jurisdiction Determined by Both International and Municipal Law. The general jurisdiction of a Prize Court results from the established principle of international law that the legality of maritime captures must be judicially determined and that mere seizure by a belligerent does not give title until the property seized has been brought into a Prize Court and condemned as a good and lawful prize.¹ However, the full extent and the precise limits of this jurisdiction are matters which are fixed by the national law of each belligerent state. Thus the German supreme Prize Court in the case of the *Eemland and Gaasterland*² said: "the material competence of Prize Courts is not fixed by the norms of international law, but by national law. The extent of this competence is therefore regulated according to a different manner in each country."

Sec. 33. National Regulations. In most countries it is determined in part by legislative act and in part by prize regulations promulgated by the proper executive authorities. Thus in Germany it is provided by the law of May 3, 1884,³ that the legality of captures in [maritime] war shall be determined by specially constituted tribunals (*prisengerichte*), but the extent and limits of their jurisdiction are determined in detail by the Prize Courts Ordinance (*Prisengerichtsordnung*) of April 15, 1911, promulgated August 3, 1914,⁴ in pursuance of section 2 of the law of 1884. By the terms of this ordinance the jurisdiction of the Prize Court includes the determination of the question as to whether the property seized is an object of lawful prize, whether it has been captured or merely arrested and detained

¹ See the cases cited, *supra*, Sec. 1.

² I *Entsch.* 388; Fauchille et De Visscher, *Jurispr. All.* 296.

³ *Reichsgesetzblatt*, 1884, p. 49. ⁴ *Ibid.*, 1914, p. 301.