

Office of the Attorney General
Washington, D.C.

June 17, 1942

MEMORANDUM FOR THE ATTORNEY GENERAL

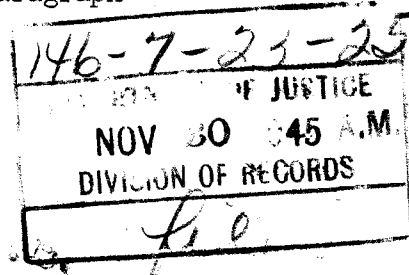
Re: Censorship of Articles Written by Press
Correspondents Permitted to Accompany
United States Armed Forces in Combatant
Areas.

My investigation of the Chicago Tribune article of June 7th about the recent engagement near Midway Island has plainly disclosed a situation which should be considered by the Navy Department and the Office of Censorship, and possibly the War Department. The Espionage Act, section 31 (d) makes it an offence to disclose information regarding the national defense "to any one not authorized to receive it."

Naturally the press looks to the "Code of Wartime Practices" issued by the Censor to ascertain whether a story is objectionable, and if the code does not ban the story, the press may assume it may be published and therefore the public "are authorized to receive it" within the meaning of the statute. On the other hand, when a newspaper correspondent is given special permission to be on a naval vessel in a combatant area, it is usual for the Navy to instruct him or require him to agree, that any article he writes while at sea or after his return to the United States about his observations, must be passed through Navy censorship, before publication.

The conduct of the Tribune in this case shows that its managing editor in passing on Johnston's article of June 7, assumed that the Censorship Office clearance was sufficient, and if the Code of Wartime Practices, in the paragraph on "ships" did not ban the article (and literally it did not as the Office of Censorship has conceded) that the Tribune was safe in publishing without even submitting the article to the Office of Censorship.

My point is that the Code of Wartime Practices, of which a new edition is now in preparation ought to have a paragraph



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explicitly stating, that the code is not intended to supersede special requirements as to Army or Navy censorship of articles obtained by press correspondents granted the privilege of accompanying the armed forces in combatant areas.

Whether in such case an article should be passed by both the Navy and the Censors Office is a matter of administrative detail. Judging from the Tribune case, only experts in the Navy Department are qualified to detect the objectionable features of such an article as Johnston's of June 7th and it would seem better that all articles by correspondents who have been allowed on ships of the United States in combatant areas should be cleared by the Navy, and such a clearance should be sufficient.

I also have noted that there seems to be no Navy regulation requiring press correspondents, who are allowed on war vessels, to submit their articles to Navy censorship. The practice is to require the correspondent to sign an "agreement" to that effect. In the case of Johnston of the Tribune, he was not required at Hawaii to sign such an agreement. Whether that was an oversight or intentional, I do not know. May I respectfully suggest that there ought to be a standing regulation on the subject, binding whether or not an agreement is signed. In that case, so as to give notice of the regulation, the correspondent should also be required to sign an agreement to abide by it or sign an admission that he is informed of the restriction. If there had been such a paragraph in the Code of Wartime Practices for the press, as I have suggested above, the Tribune would doubtless never have dared to publish the article of June 7 without Navy clearance. Furthermore as the case stands, the failure to have Johnston sign an agreement (Part 2) and the absence of any general Navy regulation about Navy censorship of articles by men privileged to sail with the fleet may defeat the case against the Tribune. I present this situation to you now because a new edition of the Code of Wartime Practices is to be issued June 22.



William D. Mitchell



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