

Murder, Mutiny and the Military, British Court Martial Cases, 1940-1966

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This book is a collection of 21 British and colonial cases of murder and mutiny between 1940 and 1966. The cases concern army and air force courts martial but not naval courts martial. The collection begins with the prosecution of Capt Savage in 1940 for ordering the shooting of a German prisoner of war on board a ship. By way of contrast at about this time SS troops in France had, without any consequences, shot captured British soldiers. The book examines a number of murders that were alleged to have been committed by occupying British soldiers such as the MP who murdered his lover in Germany in 1947; the murder charge that was levied against Major Farran in Palestine in 1947; the charge against a private for killing a local policeman in Germany in 1950; the killing of a South Korean civilian by a military driver in 1951; and the drunken shooting of an Egyptian policeman in the Suez Canal Zone in 1954.

The book includes a number of cases which are a legacy of Empire. One such case is the controversial 1953 court martial of Captain Griffith for the murder of an African during the Mau Mau troubles. The Mau Mau troubles are still of contemporary interest. Recently some researchers have alleged that freedom of information legislation is still being used to protect the perpetrators of a war crime that took place fifty years ago.¹ The last case that the author analyses was the brutal killing of an Aden taxi driver by a guardsman that was dealt with by a colonial court (and not a court martial) in 1966. The latter case generated considerable publicity in the House of Commons as it occurred after the abolition of capital punishment in the United Kingdom in 1965.

Perhaps, somewhat surprisingly, there are a number of cases of mutiny. There were a number of incidents from World War II in South Africa and Christmas Island. Postwar mutiny incidents occurred in Cyprus, Germany and the Gurkha Mutiny during the Brunei Revolt in 1963. This collection of cases does not solely deal with the prosecution of members of the military. One case deals with the killing of a fellow prisoner of war by two German prisoners of war who considered the murdered prisoner as a traitor to the Fatherland.

The question of the application of military law to soldiers is a vexed question particularly where the tribunal can make an order for the execution of the military member. The fact that that member would not be entitled to a jury trial is one consideration. In the case of Capt Savage the defending counsel had unsuccessfully applied to the Divisional Court for a ruling that only the civil courts had jurisdiction to try a case of murder on a British ship. It is, however, pointed out that in some cases a military member might prefer a trial by court martial rather than a trial in the civil courts in the jurisdiction where the offence has allegedly occurred. Under treaties known as status of forces agreements a military member cannot be tried by legal regimes of the host nation. Trial by court martial would offer more procedural safeguards that might be offered by a civil court in the Gulf or Balkans. This consideration is relevant today considering the trial of allied soldiers for abuses that occurred in Iraq.

¹ See David Anderson, Huw Bennett and Daniel Branch, 'A Very British Massacre' (2006) 56(8) *History Today* 20.

Murder, Mutiny and the Military is an important collection that offers readers an understanding of the application of military disciplinary law. It is clear that the military justice system operates in an atmosphere sensitive to the concerns of the military authorities to preserve discipline. What is important is that the collection illustrates that the military justice system operates with procedural safeguards. As well as looking at past cases, the book contains a useful outline of contemporary courts martial procedure in the United Kingdom.

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