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‘File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait’

Holding Institution	British Library: India Office Records and Private Papers
Reference	IOR/R/15/2/704
Date(s)	21 Oct 1939-13 Oct 1940 (CE, Gregorian)
Written in	English in Latin
Extent and Format	1 file (36 folios)
Copyright for document	<u>Unknown</u>



About this record

The file comprises copies of correspondence, instructions and other papers relating to questions of jurisdiction over foreign (neutral) vessels in Bahrain and Kuwait waters, and British officials' legal powers over the crew of such vessels. The correspondence was provoked by a specific incident in which a German national was found to be amongst the crew of a Scandinavian tanker, the *Aase Maersk*, due to call at Bahrain. The file's principal correspondents include: the Political Resident in the Persian Gulf (Lieutenant-Colonel Charles Geoffrey Prior); Admiralty officials; and officials at the India Office, including the India Office's legal adviser.

The file includes:

- a copy of signals from the Admiralty, dated 13 October 1939, outlining the action that can be taken against 'enemy aliens' on board foreign vessels, travelling as either passengers or crew members (ff 21-22);
- secret instructions, issued by the Foreign Office in July 1940, regarding the circumstances under which enemy subjects may be removed from neutral ships (ff 30-31);
- a copy of amended paragraphs (numbers 42 and 43) of the Detaining Officers' War Instructions (India), 1935 (ff 34-35).

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [front] (1/76)

①

File No. 28/16
19 . Collection No.

CONFIDENTIAL

10R:R|15|2|704

PROS. NOS.
Serial

Subject.

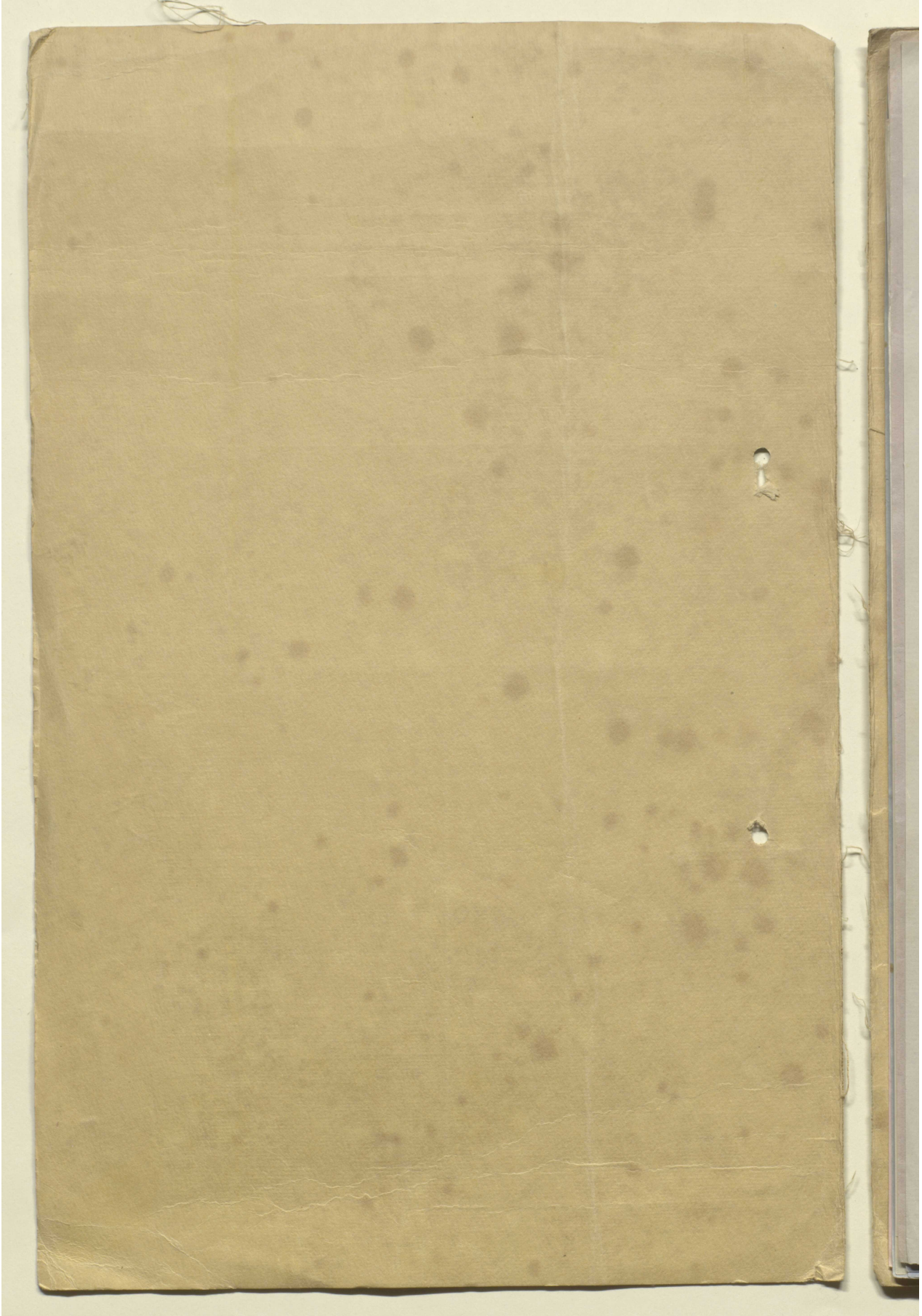
*Jurisdiction over Neutral Ships
in Bahrain & Kuwait*
— x —

Previous References. Later References.

28/16

8. 97.
MGIPC—87—870: S&P) MFP—(M-801)—29-9-36—60,000.

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [front-i]
(2/76)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [2r] (3/76)

Telegram "S"

From Political Agent, Bahrain.
To Political Resident, Kuwait.
No. 225
Dated 21st October 1939.

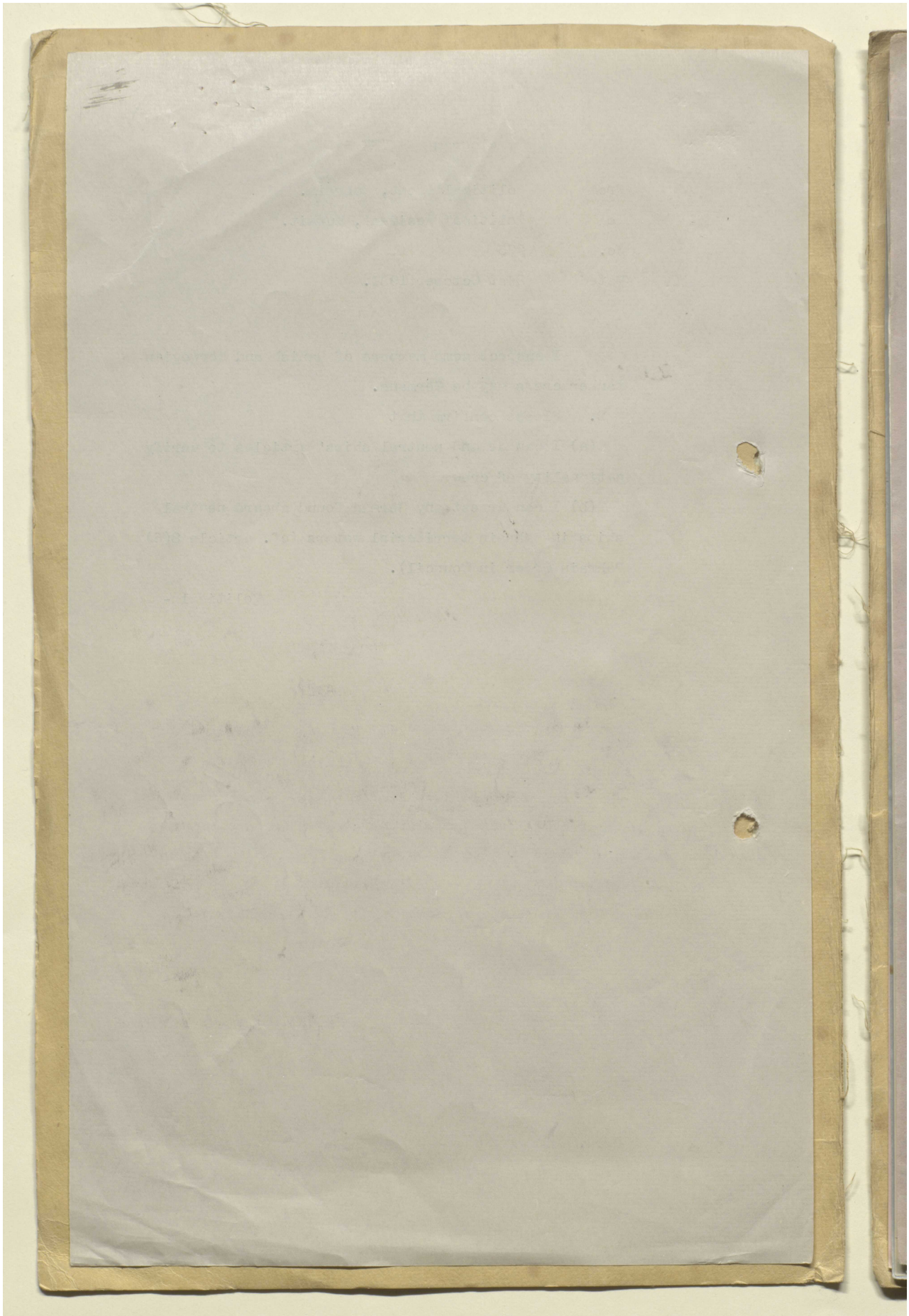
I suspect some members of Danish and Norwegian
tanker crews may be Germans.

2. Please confirm that

(a) I can demand neutral ships' articles to verify
nationality of crew

(b) I can arrest any German found aboard neutral
ships in Bahrain territorial waters (cf. article 8(6)
Bahrain Order in Council).

- Political -



SECRET.

29/1
PA
21/11/39
L
21/11/39
Office of the Political Resident in the
Persian Gulf, Camp, KUWAIT.

GOVERNMENT OF INDIA.

Department.

EXPRESS LETTER (AIR MAIL).

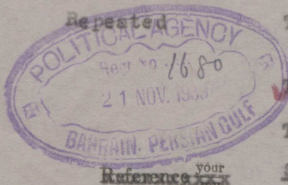
[N.B.—This is an ORIGINAL message sent by AIR MAIL which provides a means of communication more expeditious than the ordinary mail and is cheaper than the telegraph. It is intended to be treated, on receipt, with the same expedition as if it had been telegraphed. To save time and to obviate formalities it is drafted in the form of a telegram. It is authenticated by the signature of a responsible officer of the Department.]

No. C/751

Dated ~~Simlax~~ ~~Namchak~~, the 16th November 1939. X⁹

To

His Majesty's Secretary of State for India, London.



The Secretary to the Government of India,
External Affairs Department, New Delhi.

The Political Agent, Bahrain.

The Political Agent, Kuwait.

Subject :- Jurisdiction over neutral ships
in Bahrain and Kuwait.

A copy of a telegram No. 225 dated the 21st October 1939, from the Political Agent, Bahrain, on the subject mentioned above is enclosed.

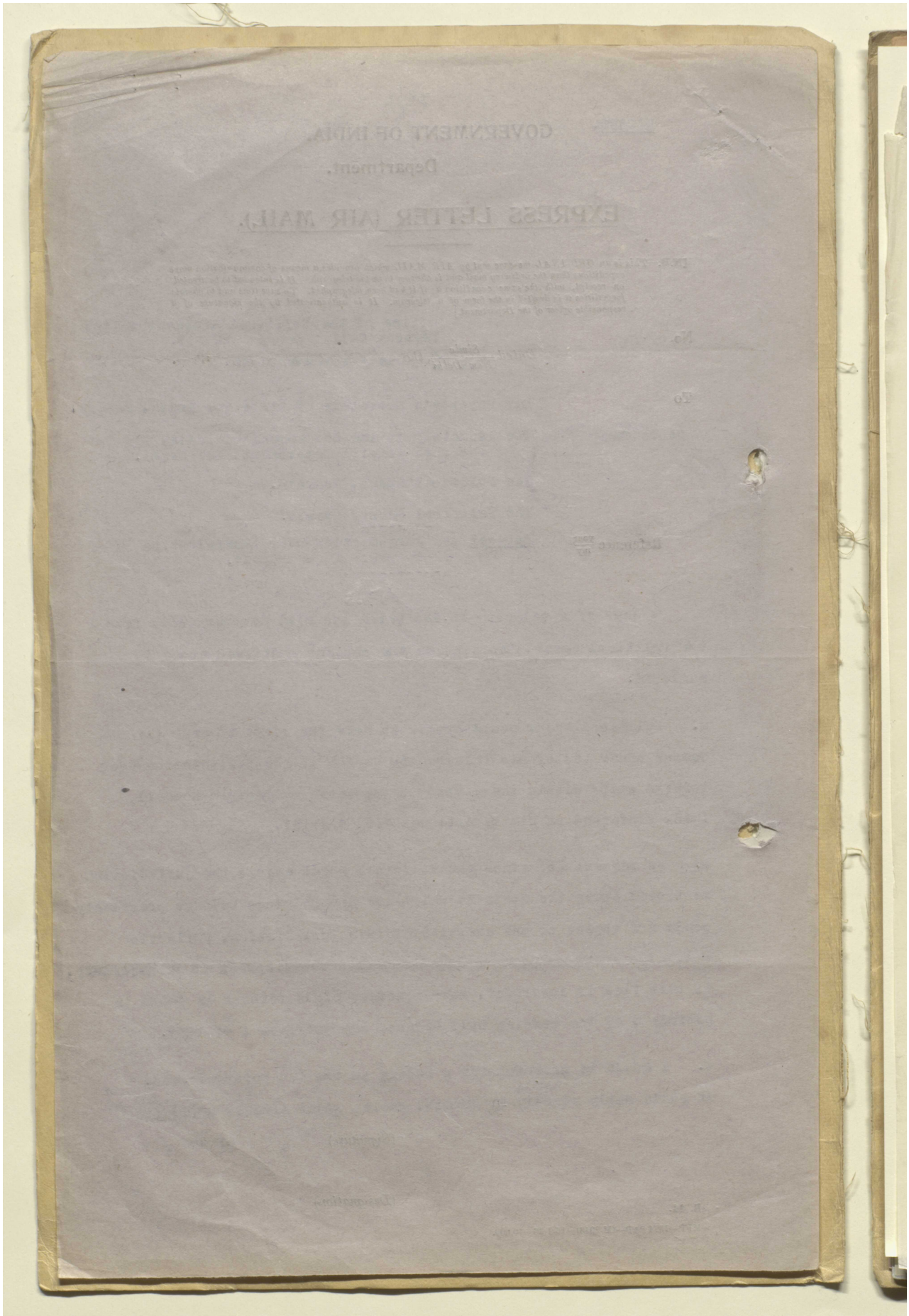
- Political Agent would appear to have the right to make the demand under (a) of his telegram by virtue of the jurisdiction over foreign ships within the limits of the Bahrain Order-in-Council, 1913, conferred on him by Article 8 (6) thereof.
- As regards (b) since the Political Agent enjoys the jurisdiction mentioned above the State to which the neutral ship belongs presumably could not object to the exercise of such jurisdiction, while vis a vis the enemy subject no legal sanction would appear to be necessary. If this view is incorrect, such sanction could perhaps be found in Article 6 of the Persian Gulf Defence Regulations, 1 of 1939.
- I would be grateful for a ruling on the two points raised. It would apply equally in Kuwait, where, under Article 8 (1) (v)

(Signature) of the

(Designation)

S. 44.

MFP-1374 S&P-(M-2043)-15-1-36-10,000.



-2-

of the Kuwait Order-in-Council, 1935, the Political Agent's jurisdiction over foreign ships within the limits of the Order is similar to that of the Political Agent in Bahrain. (In Muscat the Political Agent's jurisdiction does not extend over foreign ships).

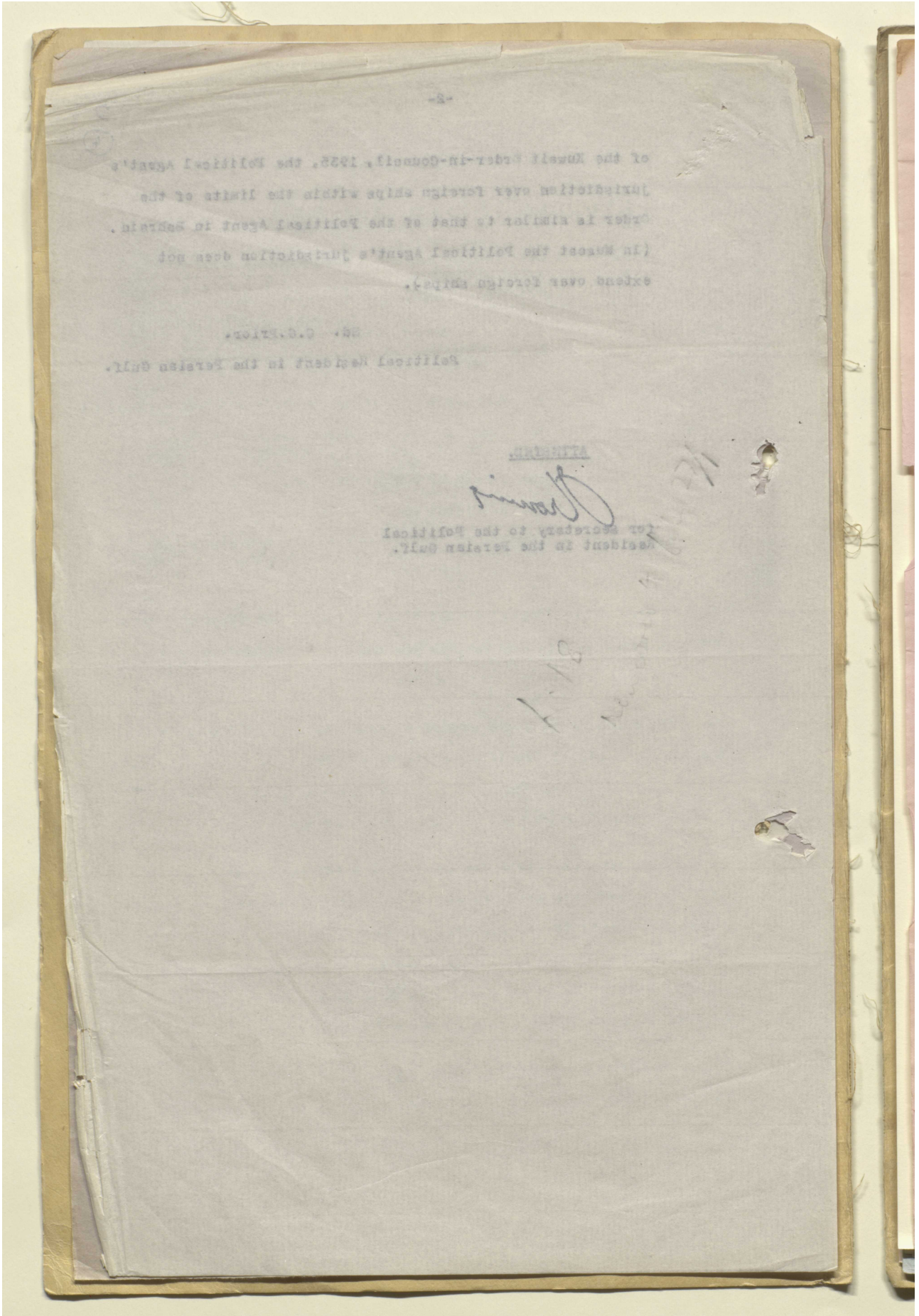
Sd. C.G.Prior.

Political Resident in the Persian Gulf.

ATTESTED.

Kroning
for Secretary to the Political
Resident in the Persian Gulf.

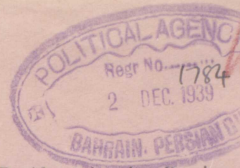
'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [4v] (8/76)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [5r] (9/76)

~~XXXXXXXXXXXX~~ Secret.

No. C/800 of 1939.



43

The Hon'ble the Political Resident in the Persian Gulf presents his compliments to

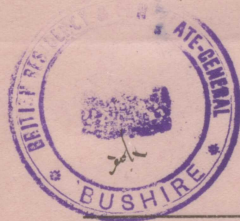
1. The Political Agent, Bahrain. ✓
2. His Majesty's Vice Consul, Khorramshahr. ✓

and has the honour to transmit to him a copy of the undermentioned documents.

British Consulate-General, BUSHIRE.
L.T.Nearchus at Ajman.

Dated... 28th November 1939.

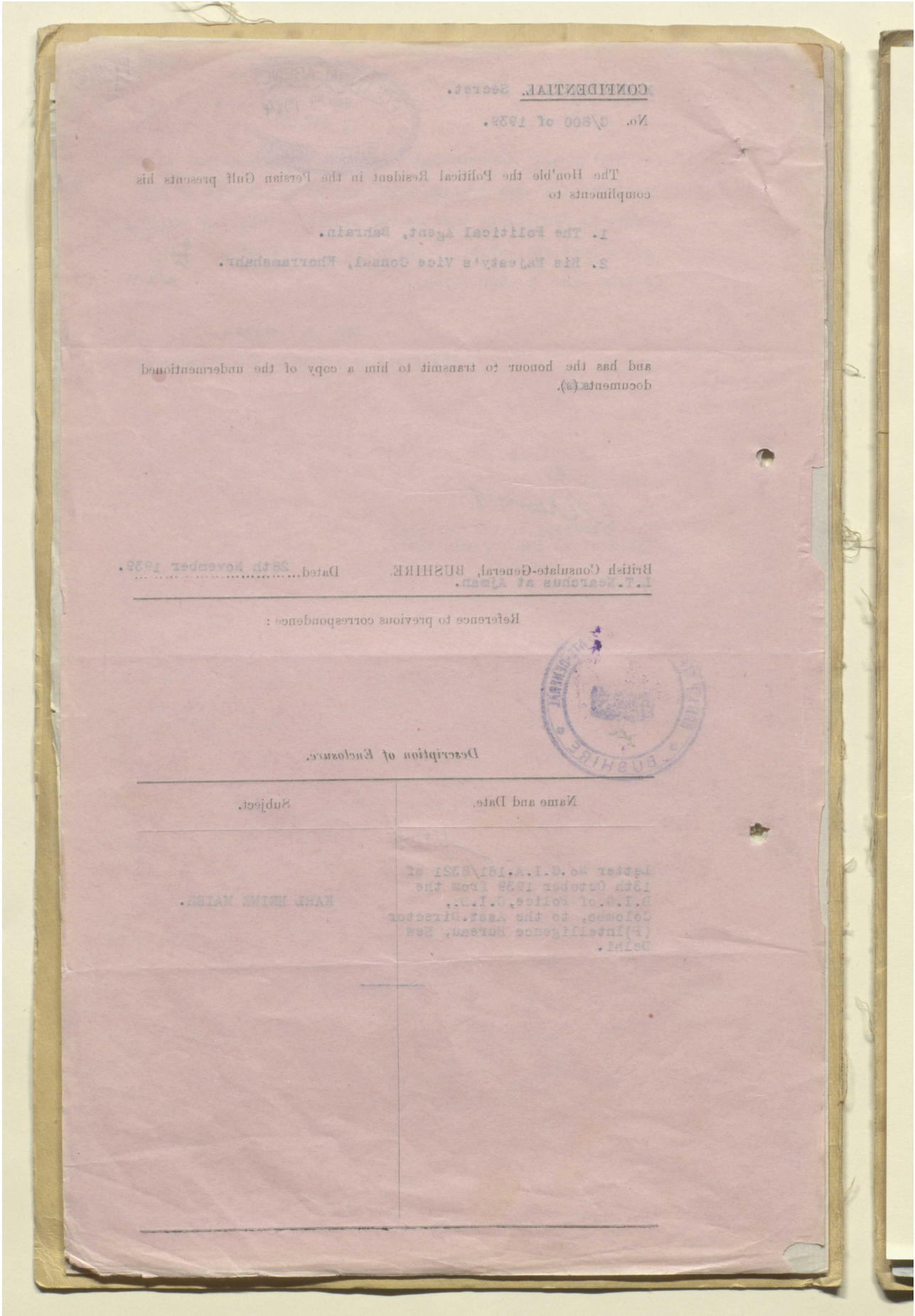
Reference to previous correspondence :



Description of Enclosure.

Name and Date.	Subject.
Letter No.C.I.A.161/8321 of 13th October 1939 from the D.I.G.of Police,C.I.D., Colombo, to the Asst.Director (P)Intelligence Bureau, New Delhi.	KARL HEINZ MAIER.

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [5v] (10/76)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [6r] (11/76)

30

(Received under Director, Intelligence Bureau (Home Department), Government of India, letter No.84/For/39-1, dated the 8th November, 1939).

Copy of demi-official letter No.C.I.A.161/8321, dated October 13, 1939, from D.I.G. of Police, C.I.D., Colombo, Ceylon, to Asst. Director (P) Intelligence Bureau, New Delhi.

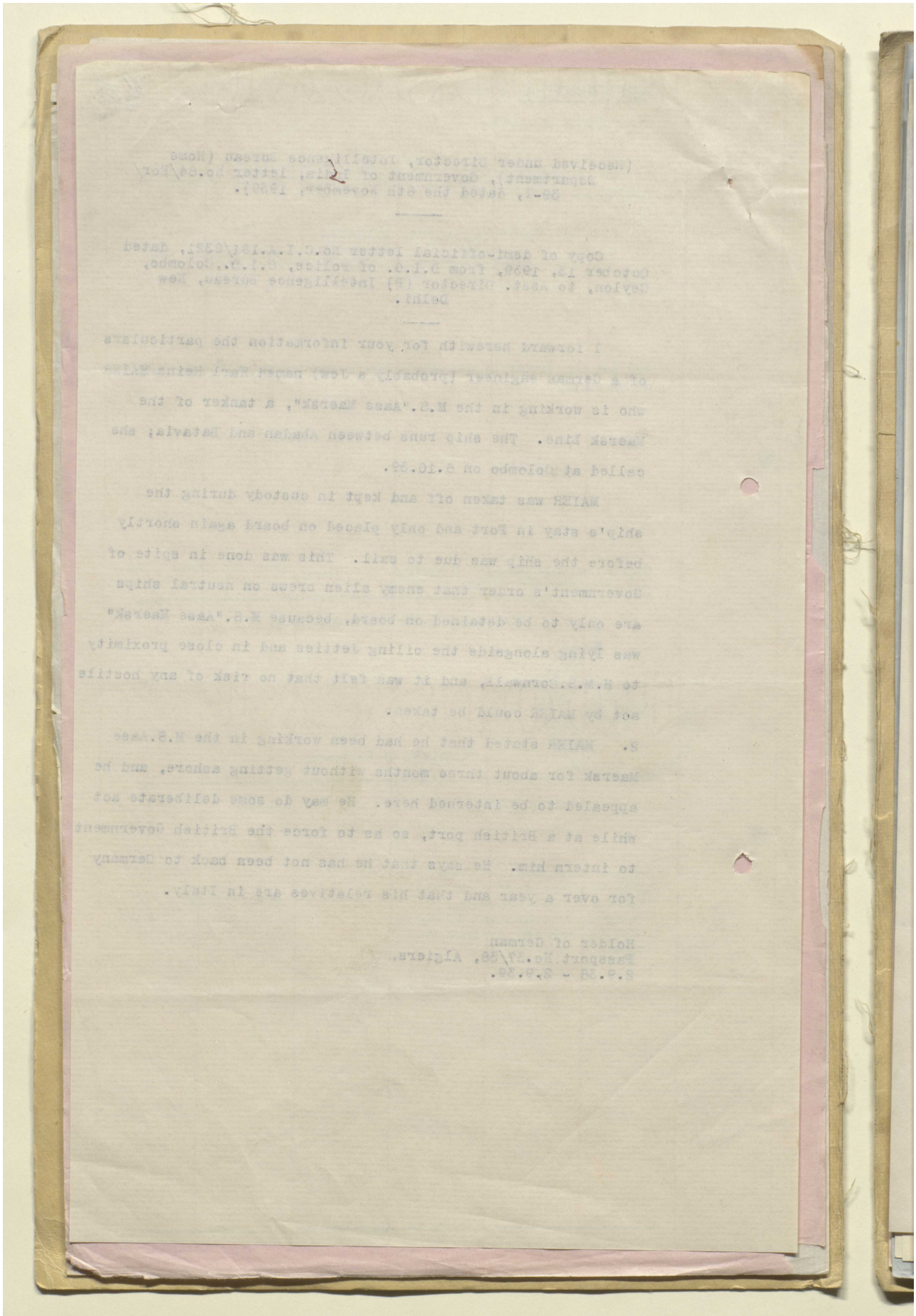
I forward herewith for your information the particulars of a German engineer (probably a Jew) named Karl Heinz MAIER who is working in the M.S."Aase Maersk", a tanker of the Maersk Line. The ship runs between Abadan and Batavia; she called at Colombo on 6.10.39.

MAIER was taken off and kept in custody during the ship's stay in Port and only placed on board again shortly before the ship was due to sail. This was done in spite of Government's order that enemy alien crews on neutral ships are only to be detained on board, because M.S."Aase Maersk" was lying alongside the oiling Jetties and in close proximity to H.M.S.Cornwall, and it was felt that no risk of any hostile act by MAIER could be taken.

2. MAIER stated that he had been working in the M.S.Aase Maersk for about three months without getting ashore, and he appealed to be interned here. He may do some deliberate act while at a British port, so as to force the British Government to intern him. He says that he has not been back to Germany for over a year and that his relatives are in Italy.

Holder of German
Passport No.37/38, Algiers,
2.9.38 - 2.9.39.

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [6v] (12/76)



Confidential

D.O. No. C/818-28/1

Dated the 10th December 1939.

As you know there is a German named Karl H. Maier
aboard the M.S. "Aase Maersk" which is due here shortly.

2. Could your Mooring Master inform the Captain of
the tanker that this man must be kept in his cabin while
he is in port here ? If the Captain agrees to do this
I will not cause any inconvenience *by* having a police
guard aboard but if he refuses I am afraid I shall have
to do so.

Yours sincerely,

h

etc

Rob

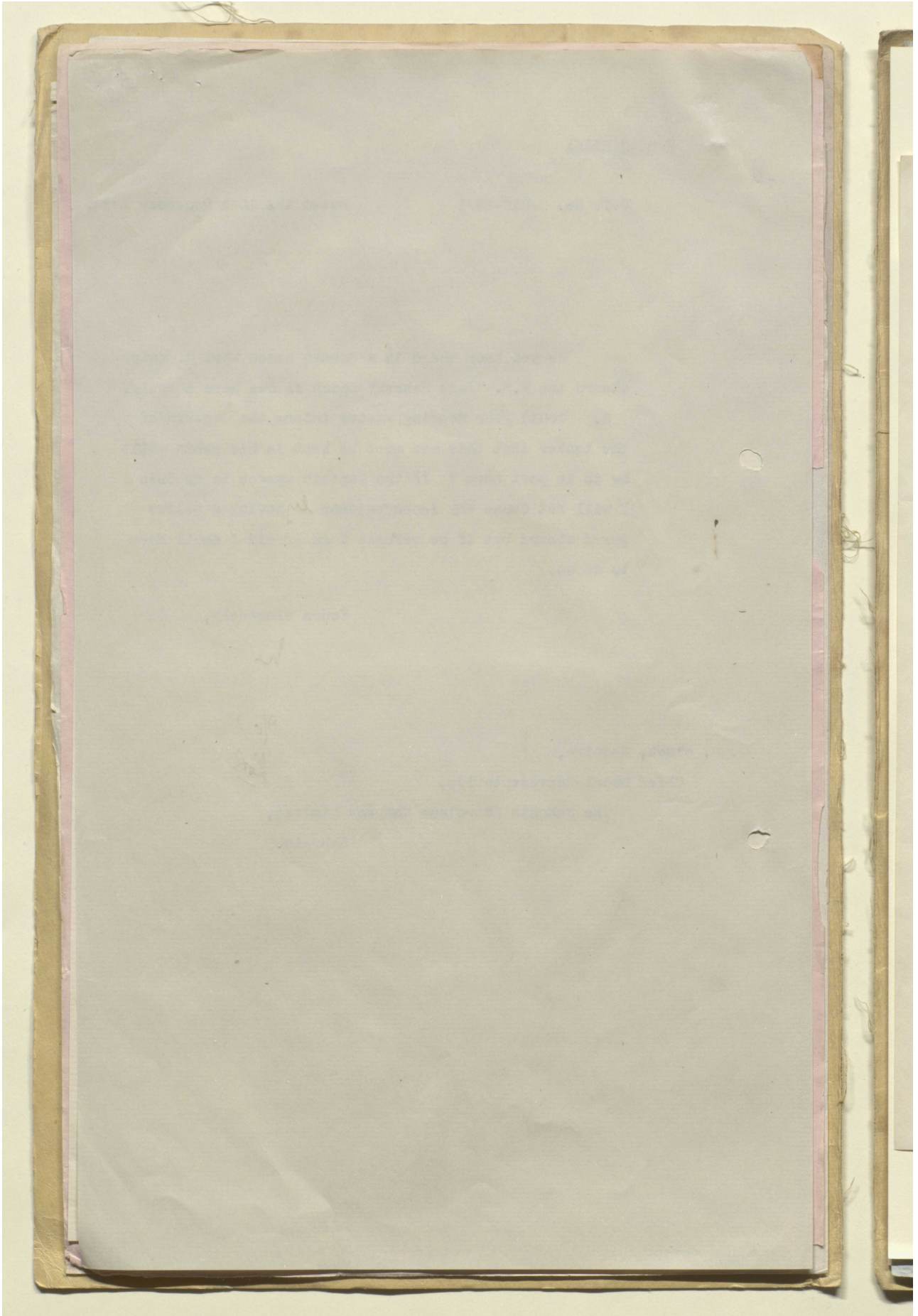
J. S. Black, Esquire,

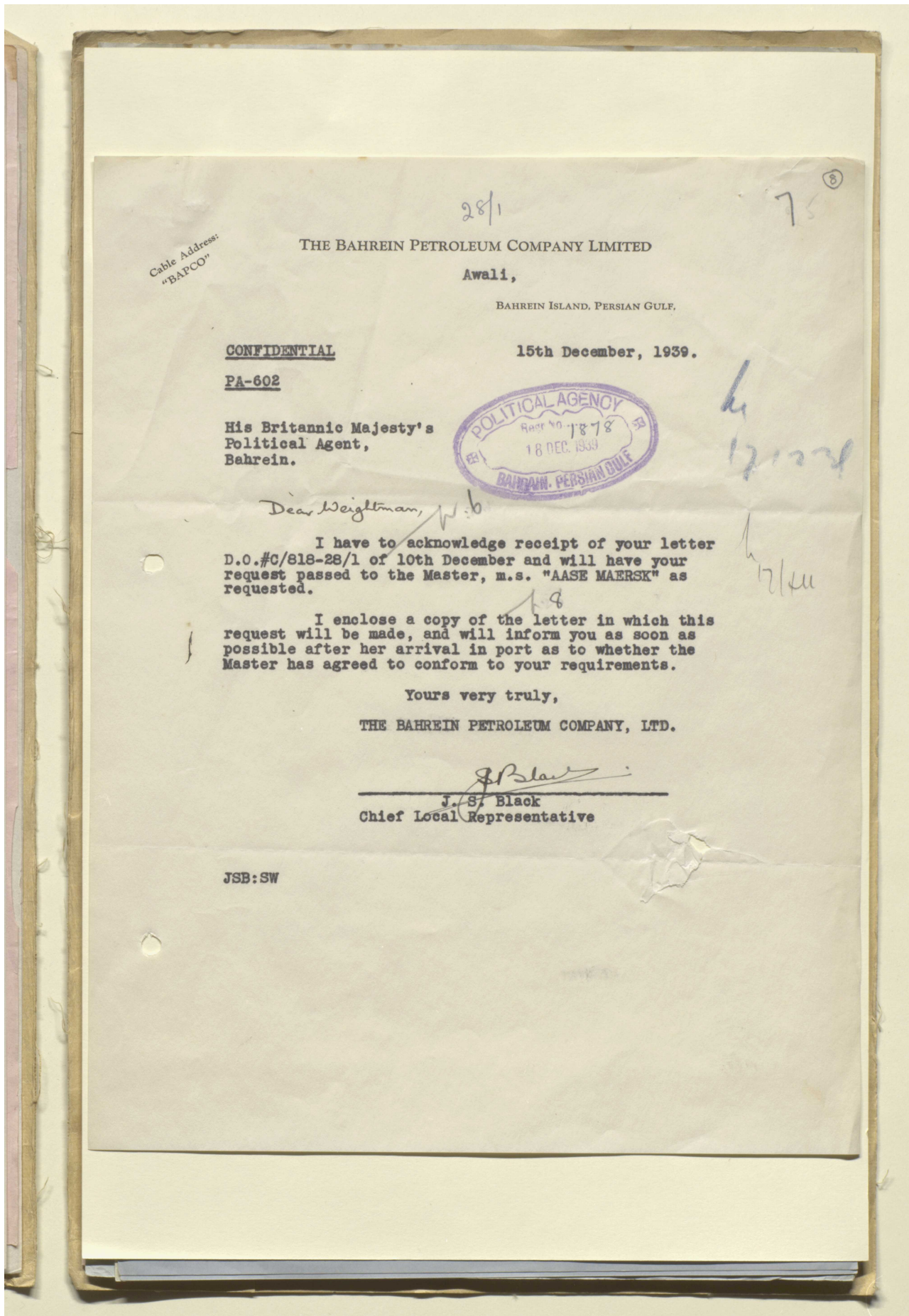
Chief Local Representative,

The Bahrain Petroleum Company Limited,

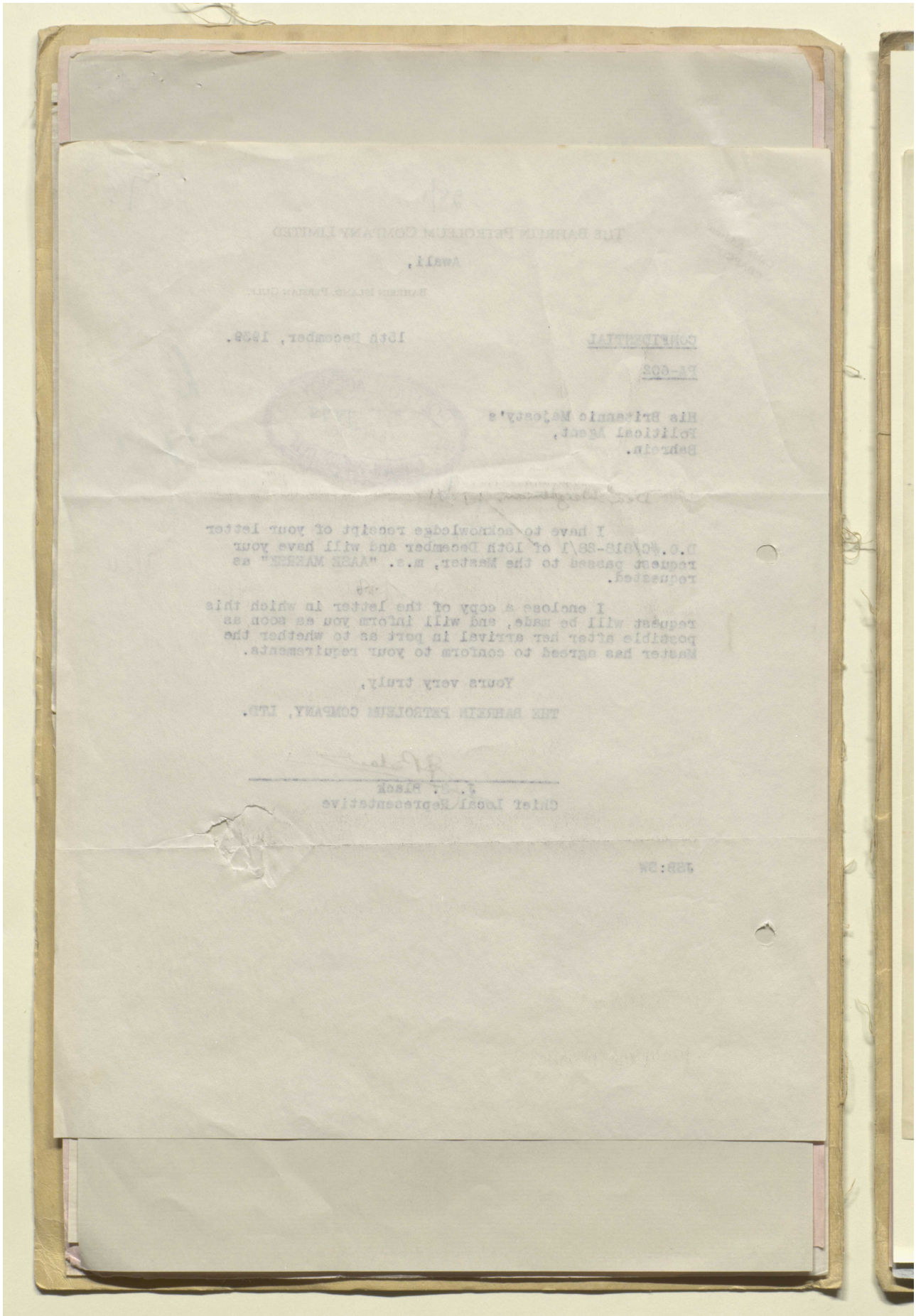
Bahrain.

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [7v] (14/76)





'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [8v] (16/76)



Awali,

CONFIDENTIAL

15th December, 1939.

The Master,
m.s. "AASE MAERSK".

Dear Sir,

We have been directed by His Britannic Majesty's Political Agent, Bahrein, to request you to keep one of your crew, Karl H. Maier, confined to his cabin while your vessel is in port in Bahrein and, if you are agreeable to do this, would request you to state so by signing the attached copy of this letter returning it to us by our Mooring Master.

His Britannic Majesty's Political Agent also informs us that should you not agree to this, he will be forced to place an armed guard on board your ship during her stay in port, which, however, he is reluctant to do.

Yours faithfully,
THE BAHREIN PETROLEUM COMPANY, LTD.

By _____

J. B. Clark

I, _____, Master of
m.s. "AASE MAERSK", hereby agree to confine Mr. K.
H. Maier, a member of my crew, to his cabin during
stay of my vessel in port at Sitra, Bahrein.

Date

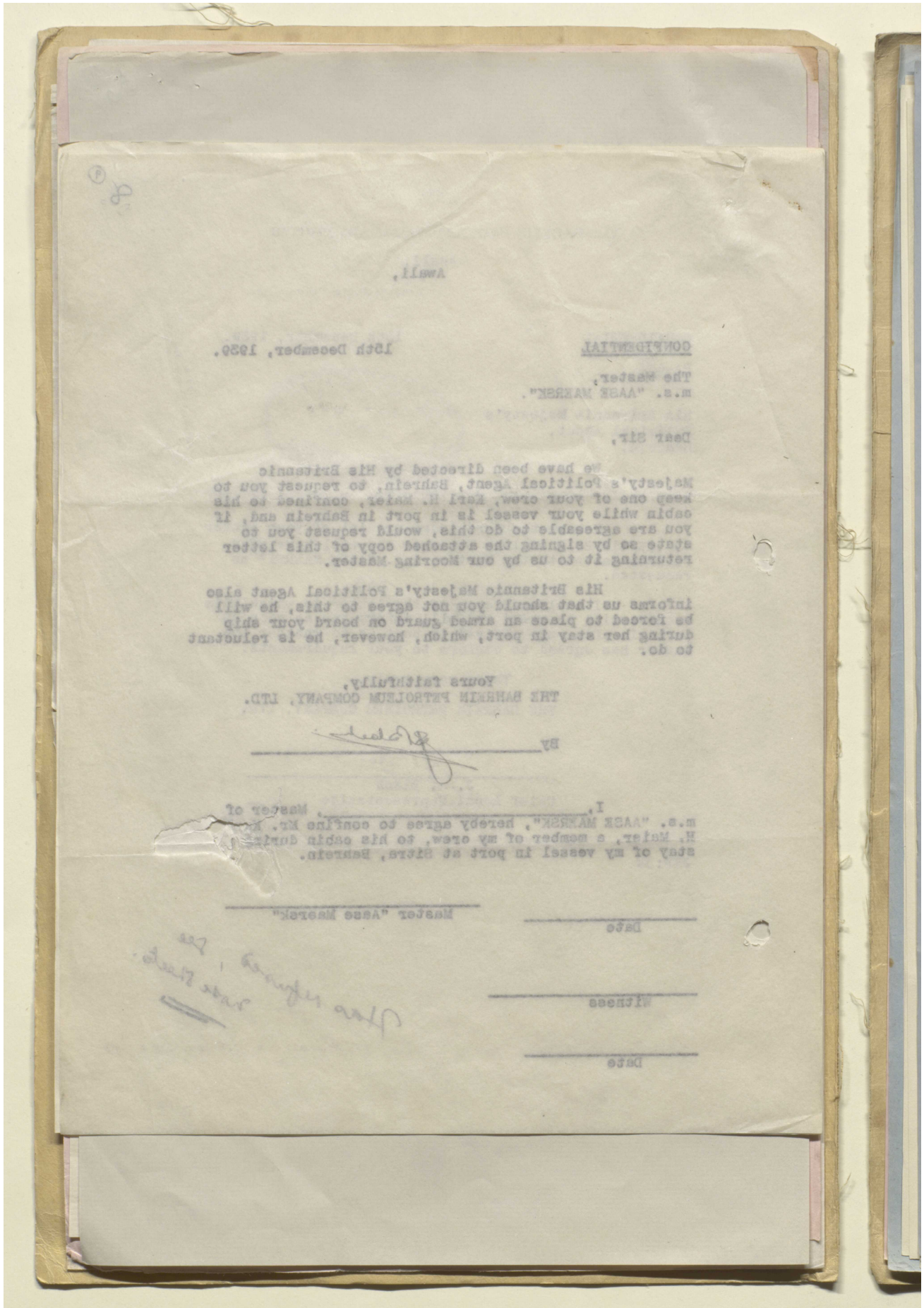
Master "Aase Maersk"

Witness

Date

*Has refused, see
rose sheets.*

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [9v] (18/76)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [10r] (19/76)

7471 Wt 23481/P 215 2000 8.38

INDIA OFFICE,

28/ Political DEPARTMENT.

SECRET.

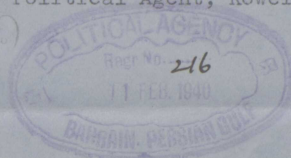
EXPRESS LETTER (AIR MAIL).

(N.B.—This is an original message, sent by air mail to save telegraphic expense, but intended to be treated on receipt with the same expedition as if it had been telegraphed. It has been drafted as if it were so despatched.)

From Secretary of State to Political Resident in the Persian Gulf repeated to Government of India, External Affairs Department, Political Agent, Bahrein, and Political Agent, Kuwait.

Dated 29th January, 1940.

No. P. Z. 402/40.



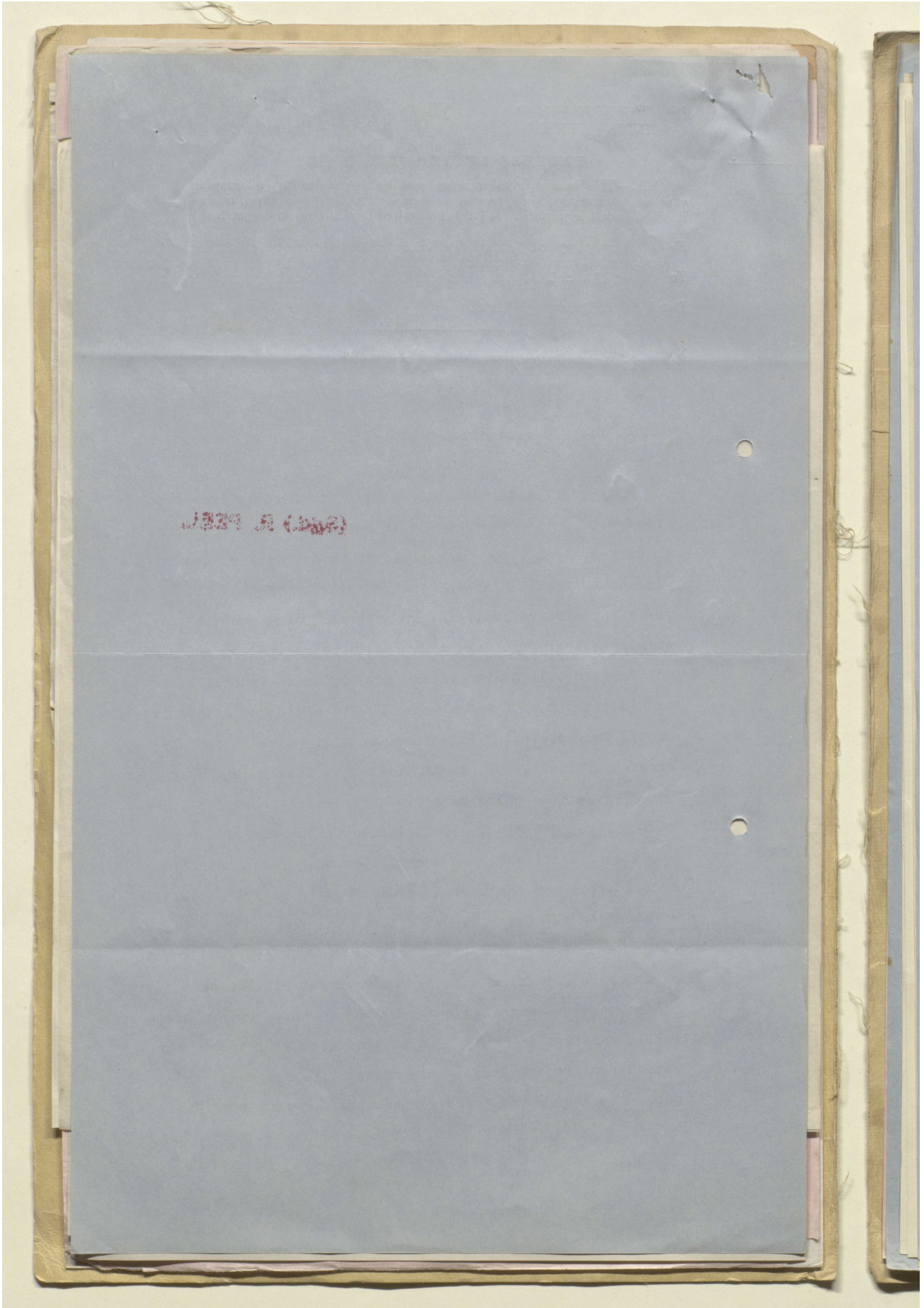
Reference your express letter of the 16th November, No. C/751. Jurisdiction over neutral ships in Bahrein and Kuwait.

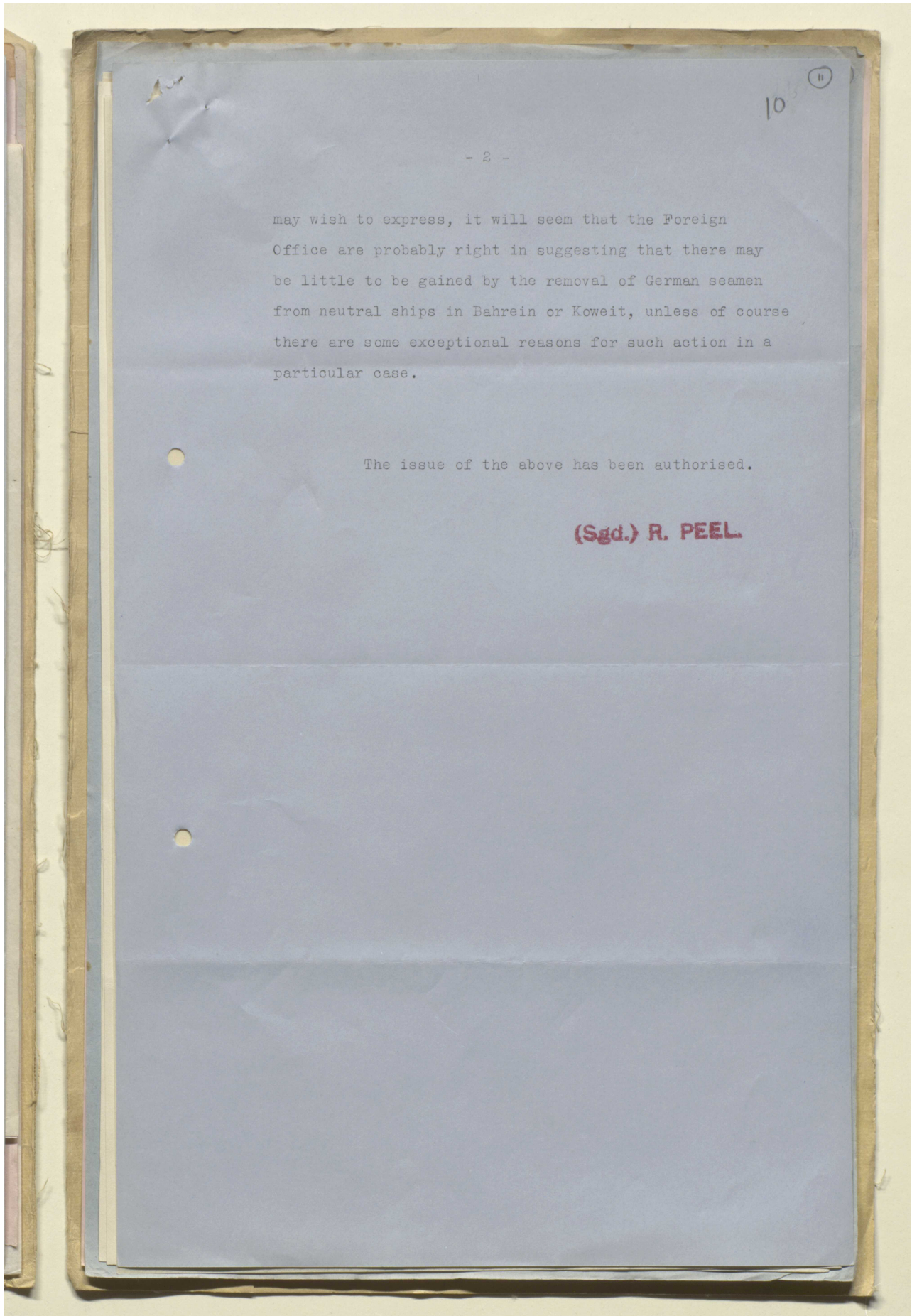
2. A copy of correspondence with the Foreign Office on To Foreign Office, 14th December, with enclosure, from Foreign Office, 19th January, with enclosure. } the subject is enclosed for your information. 3. The reply to both points raised by the Political Agent, Bahrein, in his telegram of the 21st October

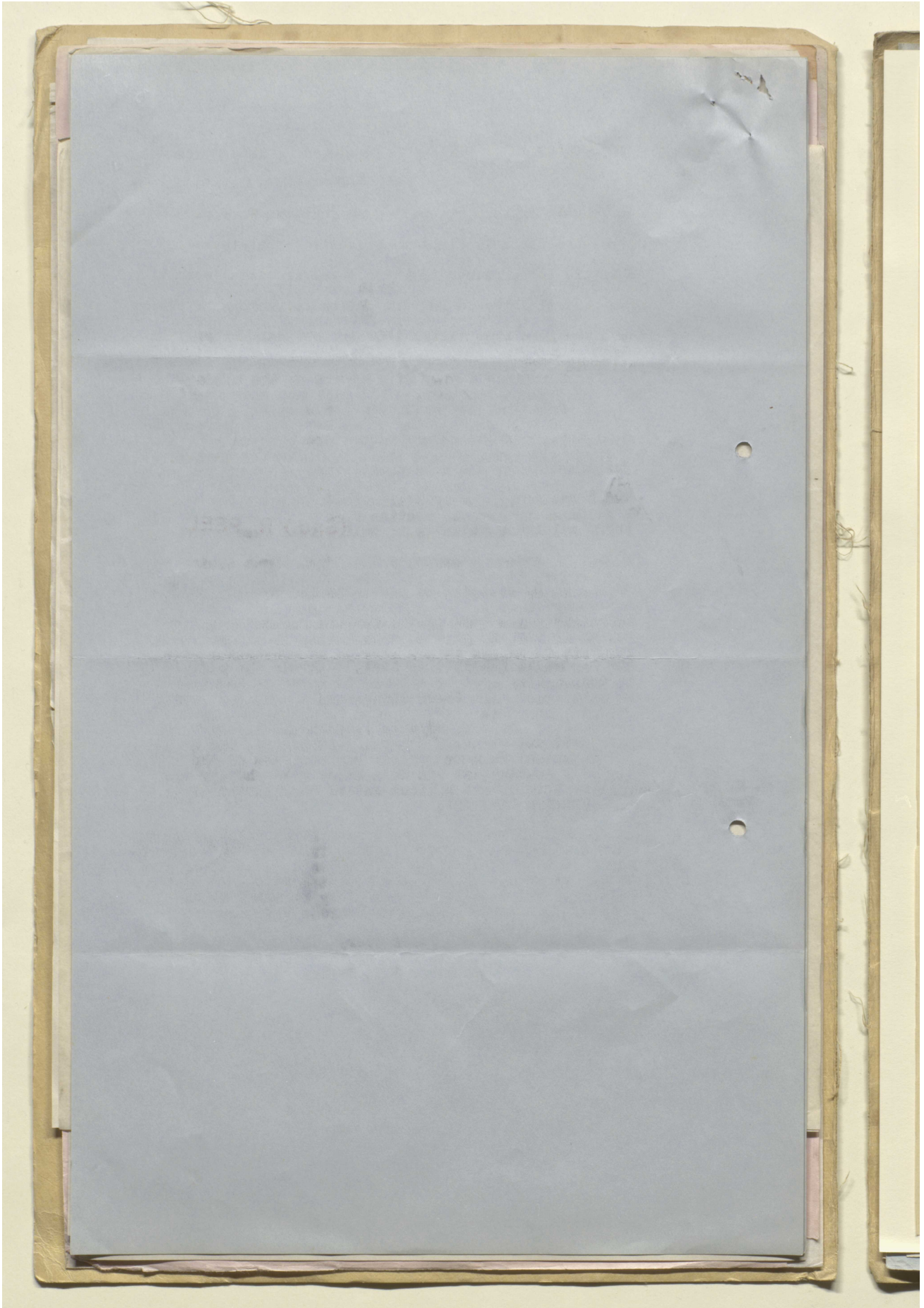
is in the affirmative. It is true that some doubt exists with regard to point (b) which could be removed by amending the Persian Gulf States (Emergency) Order in Council so as to make Section 9 of the Emergency Powers (Defence) Act applicable to the Gulf States. But since, as will be seen from the Foreign Office letter, legal opinion is fairly confident that the prerogative powers of arrest and detention persist, and having regard to the legal obstacles in the way of any proceedings instituted by an enemy alien to quash a detention order, it is not considered necessary to pursue the question of amending the Order in Council.

4. Attention is invited, however, to paragraphs 3 and 4 of the Foreign Office letter from which it will be seen that it is open to a detained enemy seaman to take certain steps which, under at any rate British practice, will secure his release and repatriation. In these, circumstances, and subject to any views which you and the Government of India

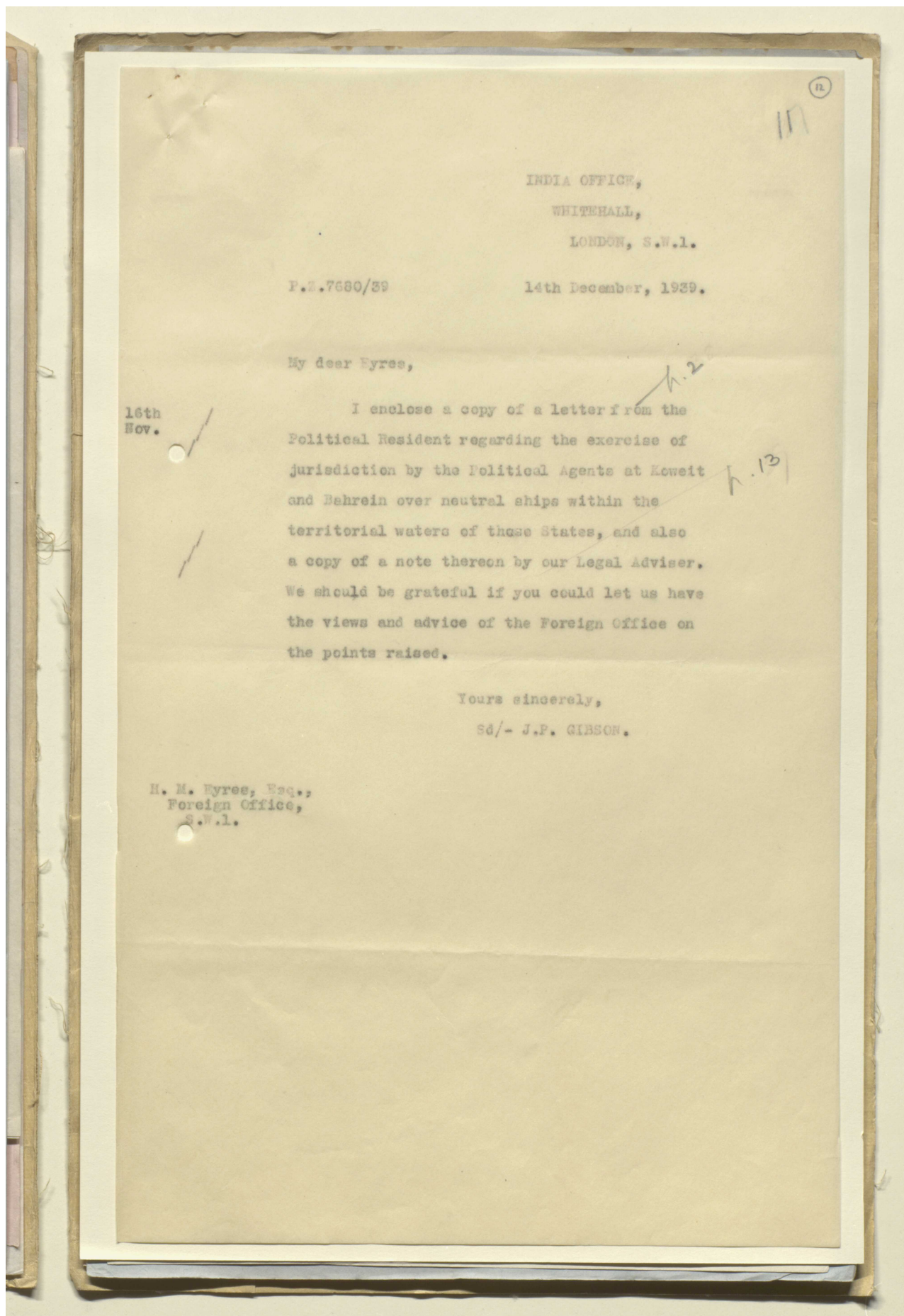
may/







'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [12r] (23/76)



INDIA OFFICE,
WHITEHALL,
LONDON, S.W.1.

P.S. 7680/39

14th December, 1939.

My dear Eyres,

16th
Nov.

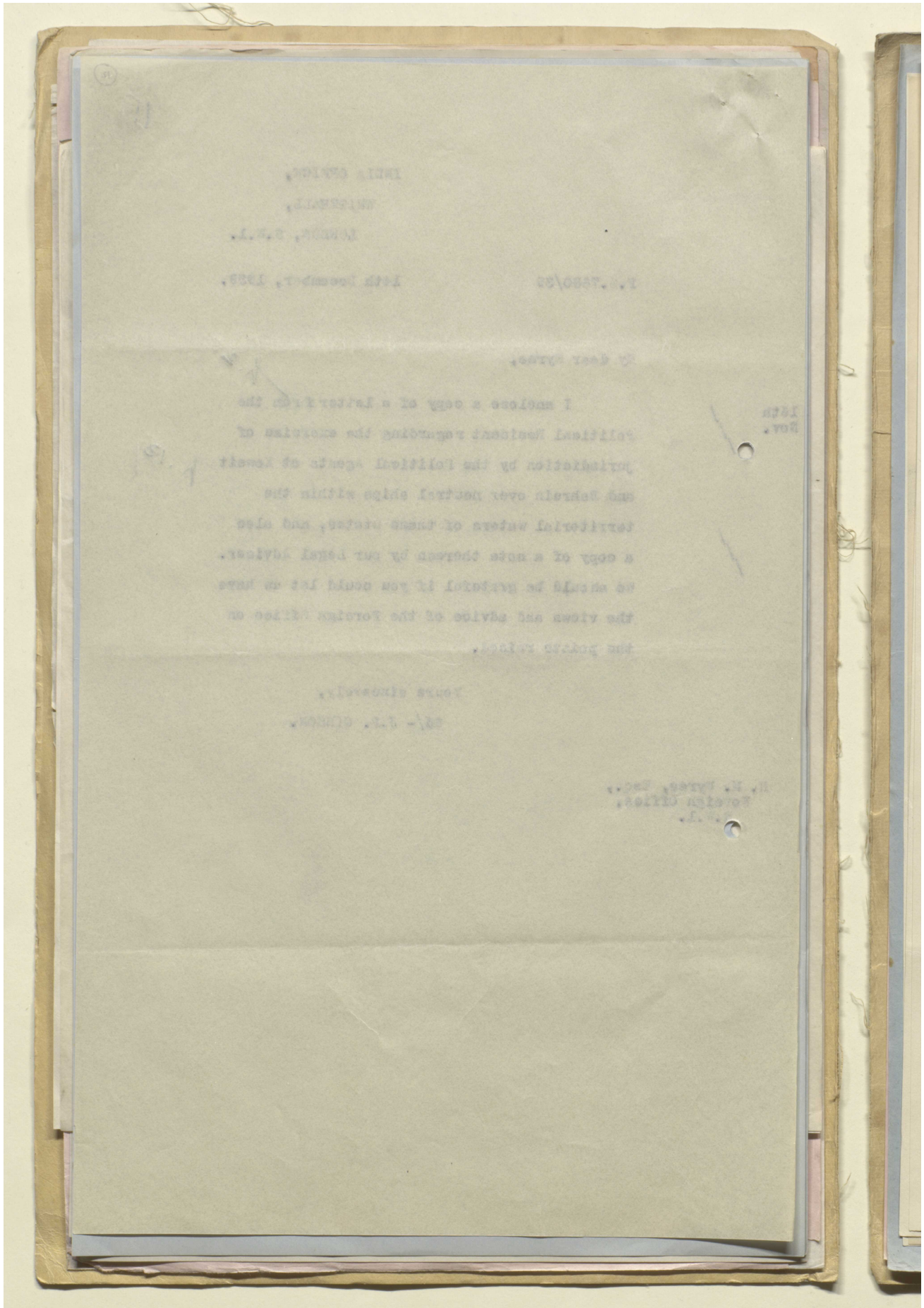
I enclose a copy of a letter from the Political Resident regarding the exercise of jurisdiction by the Political Agents at Kuwait and Bahrain over neutral ships within the territorial waters of those States, and also a copy of a note thereon by our Legal Adviser. We should be grateful if you could let us have the views and advice of the Foreign Office on the points raised.

Yours sincerely,

Sd/- J.P. GIBSON.

H. M. Eyres, Esq.,
Foreign Office,
S.W.1.

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [12v] (24/76)



P.Z. 7680/39

SECRET.

GOVERNMENT OF INDIA

EXPRESS LETTER (AIR MAIL).

Office of the Political Resident in
the Persian Gulf, Camp, Kuwait.

No. C/751.

Dated the 16th November 1939.

To His Majesty's Secretary of State for India, London.

Repeated The Secretary to the Government of India,
External Affairs Department, New Delhi.

The Political Agent, Bahrain.

The Political Agent, Kuwait.

Subject:- Jurisdiction over neutral ships in
Bahrain and Kuwait.

A copy of a telegram No. 225 dated the 21st October 1939,
from the Political Agent, Bahrain, on the subject mentioned
above is enclosed.

2. Political Agent would appear to have the right to make the
demand under (a) of his telegram by virtue of the jurisdiction
over foreign ships within the limits of the Bahrain Order-in-
Council, 1913, conferred on him by Article 8(6) thereof.

3. As regards (b) since the Political Agent enjoys the
jurisdiction mentioned above the State to which the neutral
ship belongs presumably could not object to the exercise of
such jurisdiction, while vis à vis the enemy subject no legal
sanction would appear to be necessary. If this view is
incorrect, such sanction could perhaps be found in Article 6
of the Persian Gulf Defence Regulations, 1 of 1939.

4. I would be grateful for a ruling on the two points raised.
It would apply equally in Kuwait, where, under Article 8(1)(v)
of the Kuwait Order-in-Council, 1935, the Political Agent's
jurisdiction over foreign ships within the limits of the Order
is similar to that of the Political Agent in Bahrain. (In
Muscat the Political Agent's jurisdiction does not extend
over foreign ships.)

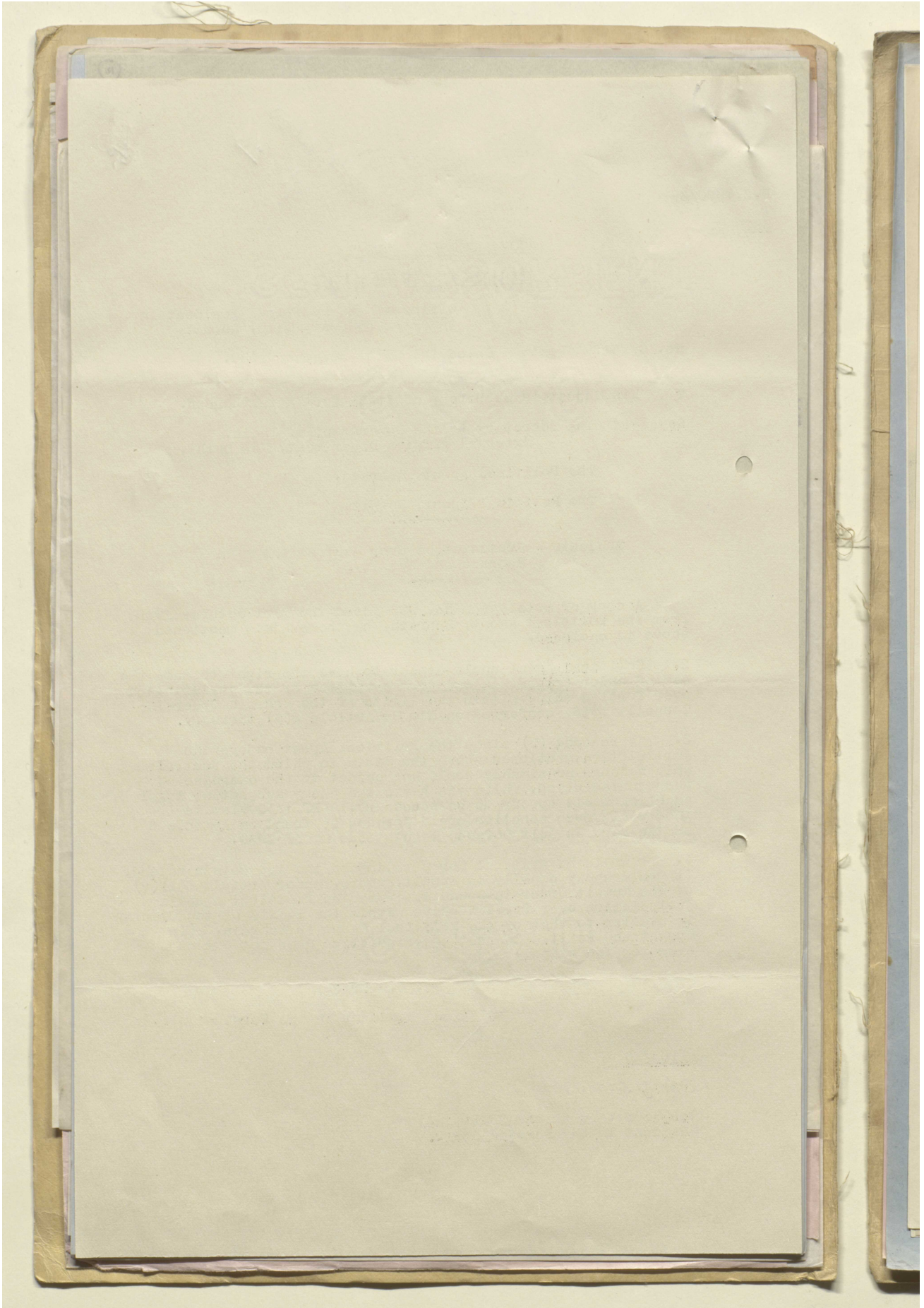
Sd. C.G. Prior,

Political Resident in the Persian Gulf.

ATTESTED.

(Sd) J. Croning

For Secretary to the Political
Resident in the Persian Gulf.



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [14r] (27/76)

13/14
P.Z. 7680/39.

Note by Legal Adviser, India Office.

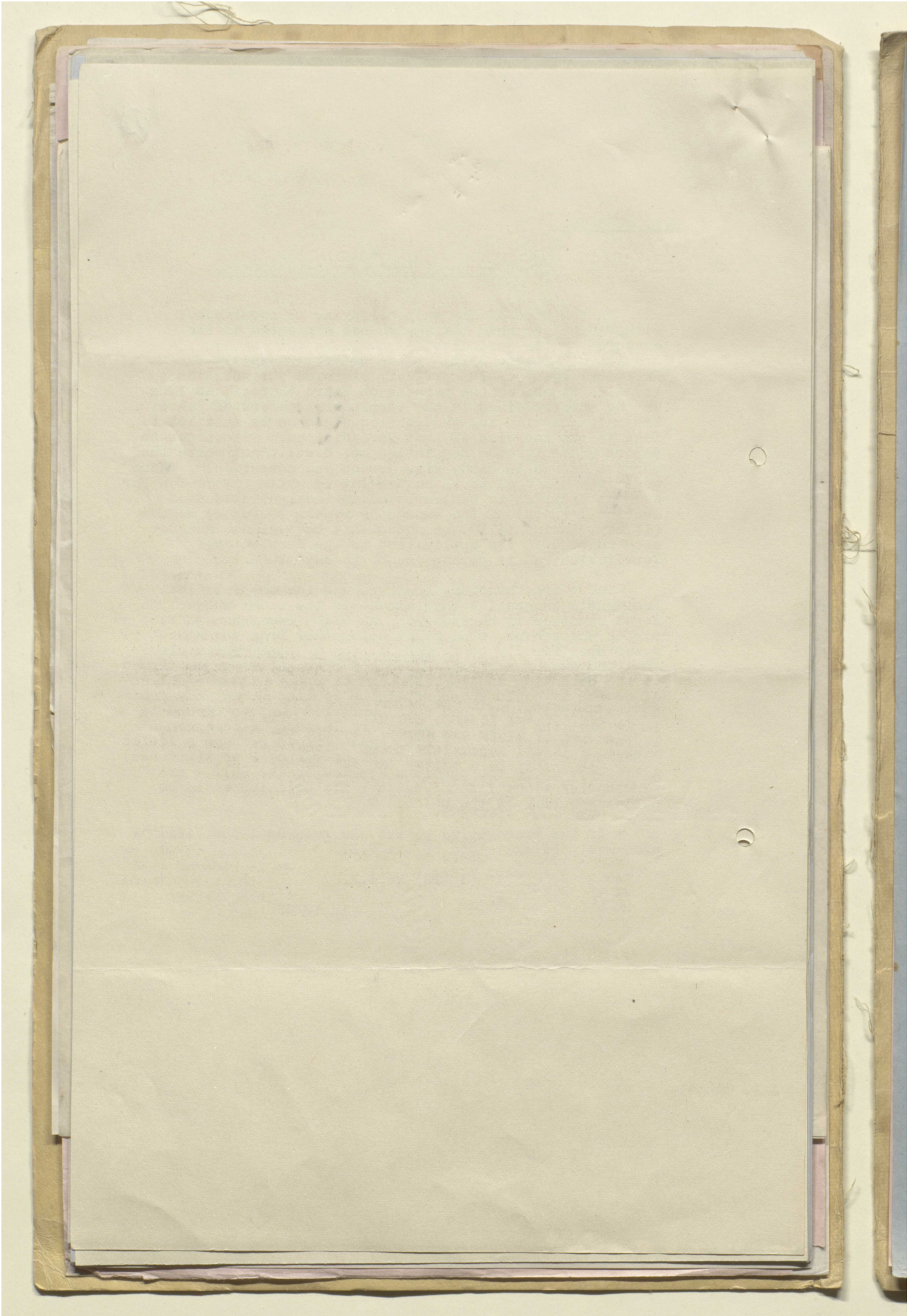
In the case of any ship belonging to foreigners, with respect to whom the Sheikh has consented to the exercise of the jurisdiction of His Majesty within the meaning of Article 8 (2) of the Order in Council, the Political Agent could certainly exercise jurisdiction in relation to any of the persons on board thereof, as long as the ship remained in the territorial waters of Bahrein. The only question is, what action would he be entitled to take in the exercise of that jurisdiction. The power to deport under Defence Regulation No. 6 would not serve the purpose he has in mind, viz. arrest and detention. There would seem in fact to be no Regulation making provision for such an order as is contemplated in the last clause of Section 1 (2)(a) of the Emergency Powers (Defence) Act. (It may, incidentally, be noted that that clause has not been adapted in its application to the Persian Gulf Territories, as it perhaps ought to have been.)

There are, however, good grounds for the Political Resident's suggestion that vis-a-vis the enemy subject no legal sanction is necessary. An alien enemy has in fact no rights whatsoever, and, apart altogether from any statutory power specifically conferred, it is, I think, quite clear that the exercise of His Majesty's prerogative would extend to the detention and imprisonment of enemy aliens - unless of course it could successfully be contended that the fact that specific powers had been conferred must be deemed to imply that the Crown's prerogative in such matters can no longer be exercised. (Here, again, it is perhaps a little unfortunate that Section 9 of the Emergency Powers (Defence) Act is not among the sections applied to the Gulf territories - but I doubt whether its omission would be held conclusive on the point.)

If the prerogative powers are retained, they will presumably be exercised by the P.D?

(Intld) Mc.I.K.

13/12/39



P.Z.402/40

FOREIGN OFFICE,

P.Z. 402/40.

WHITEHALL, S.W.1.

COPY (S 7998/37/91)

19th January, 1940.

(S 7998/37/91).

Dear Gibson,

Many thanks for your letter P.Z.7680/39 of the 14th December regarding the exercise of jurisdiction by the Political Agents at Koweit and Bahrein over neutral ships.

The only point on which I feel any doubt is that
2. I enclose a copy of a minute on the subject by our Third Legal Adviser. You will see that Dean feels fairly sure that the statutory power to deport would not be held to exclude the undoubted prerogative power to intern. Nevertheless, there may be some doubt about the question, and if you think it desirable that the Political Agent should exercise these powers, you may wish to consider whether it would be worth while to amend the Persian Gulf States (Emergency) Order in Council so as to make Section 9 of the Emergency Powers (Defence) Act applicable to Gulf territories.

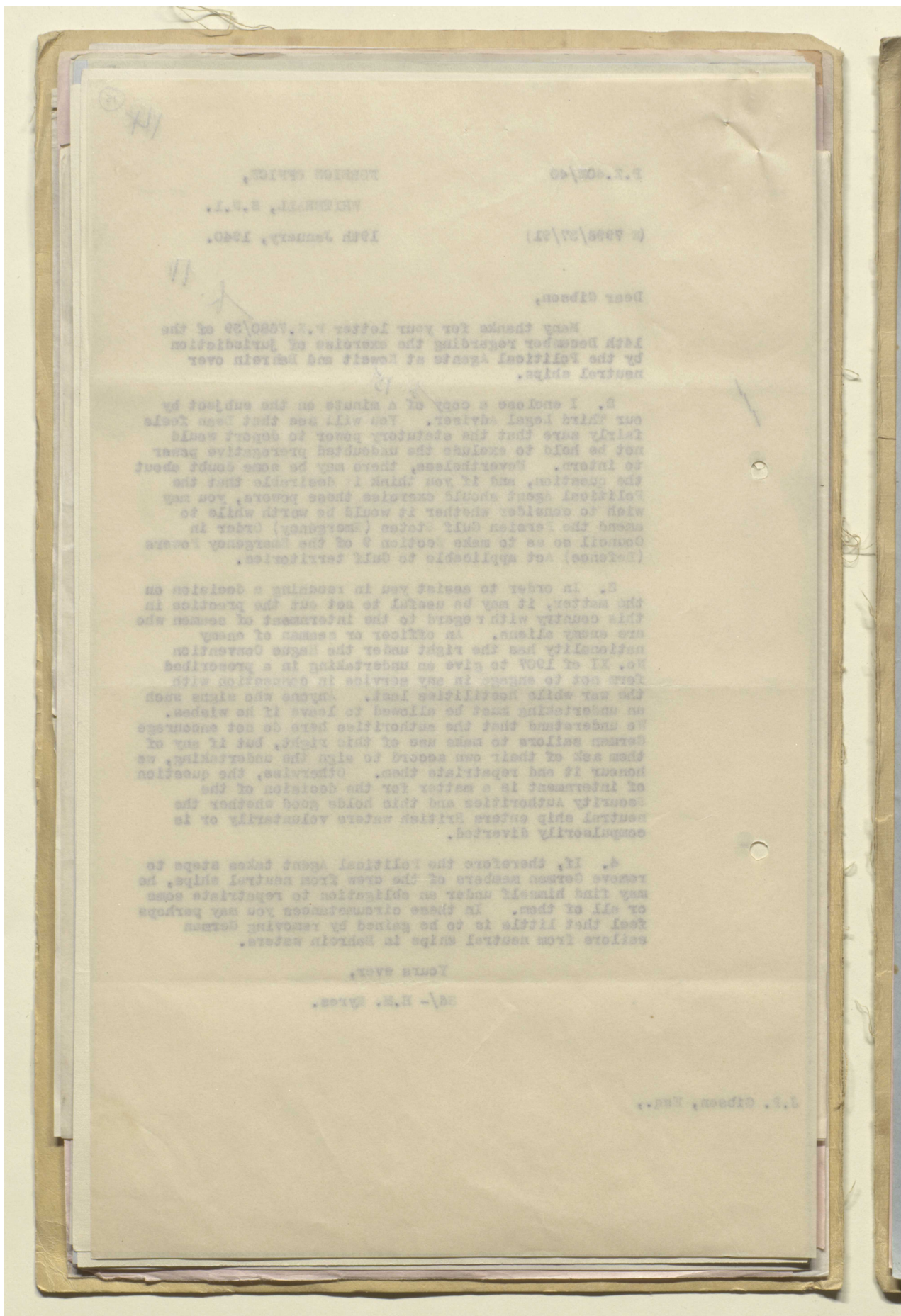
3. In order to assist you in reaching a decision on the matter, it may be useful to set out the practice in this country with regard to the internment of seamen who are enemy aliens. An officer or seaman of enemy nationality has the right under the Hague Convention No. XI of 1907 to give an undertaking in a prescribed form not to engage in any service in connection with the war while hostilities last. Anyone who signs such an undertaking must be allowed to leave if he wishes. We understand that the authorities here do not encourage German sailors to make use of this right, but if any of them ask of their own accord to sign the undertaking, we honour it and repatriate them. Otherwise, the question of internment is a matter for the decision of the Security Authorities and this holds good whether the neutral ship enters British waters voluntarily or is compulsorily diverted.

4. If, therefore the Political Agent takes steps to remove German members of the crew from neutral ships, he may find himself under an obligation to repatriate some or all of them. In these circumstances you may perhaps feel that little is to be gained by removing German sailors from neutral ships in Bahrein waters.

Yours ever,

Sd/- H.M. Byres.

J.P. Gibson, Esq.,



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [16r] (31/76)

P.Z. 402/40.

COPY

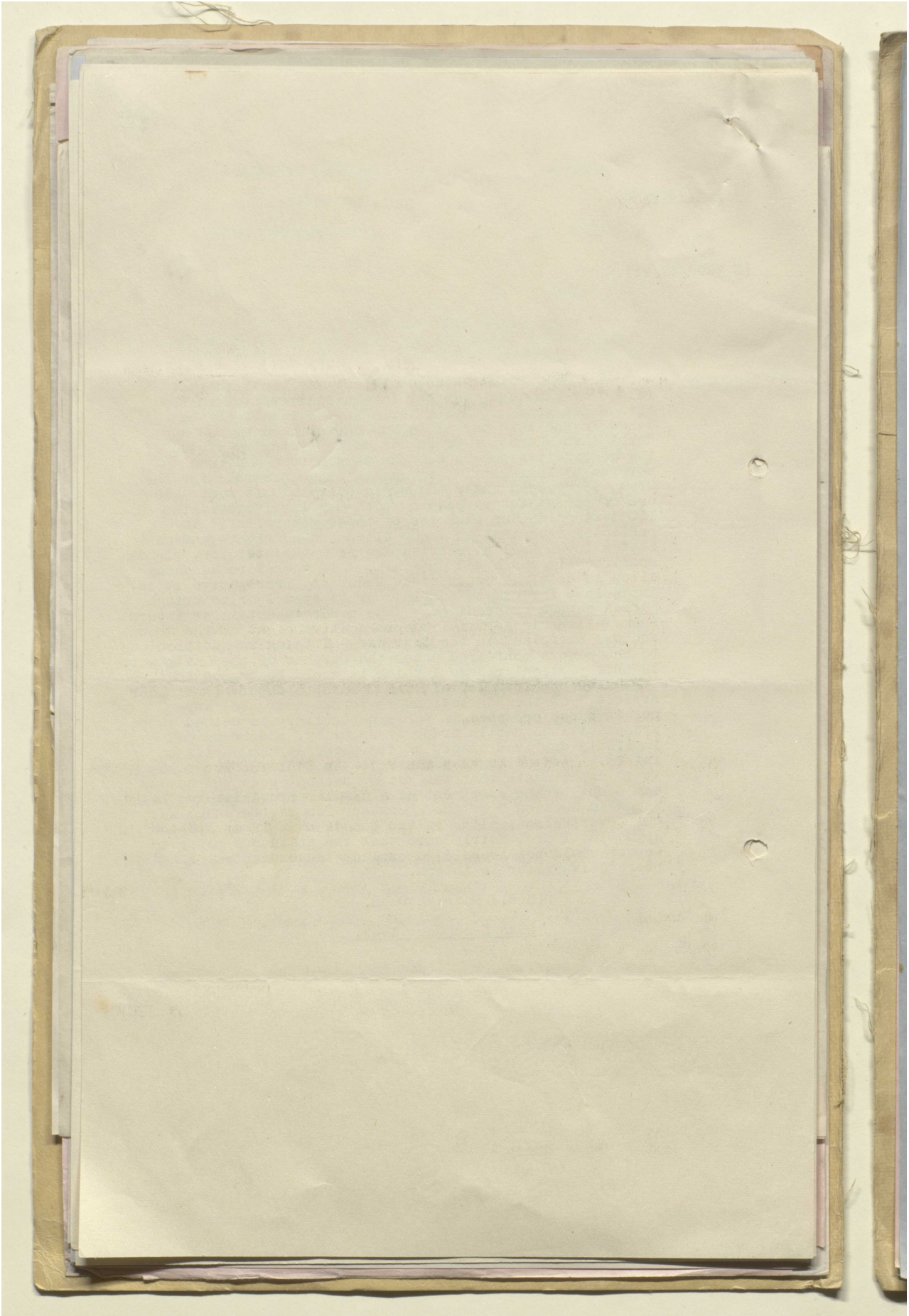
(E 7998/37/91).

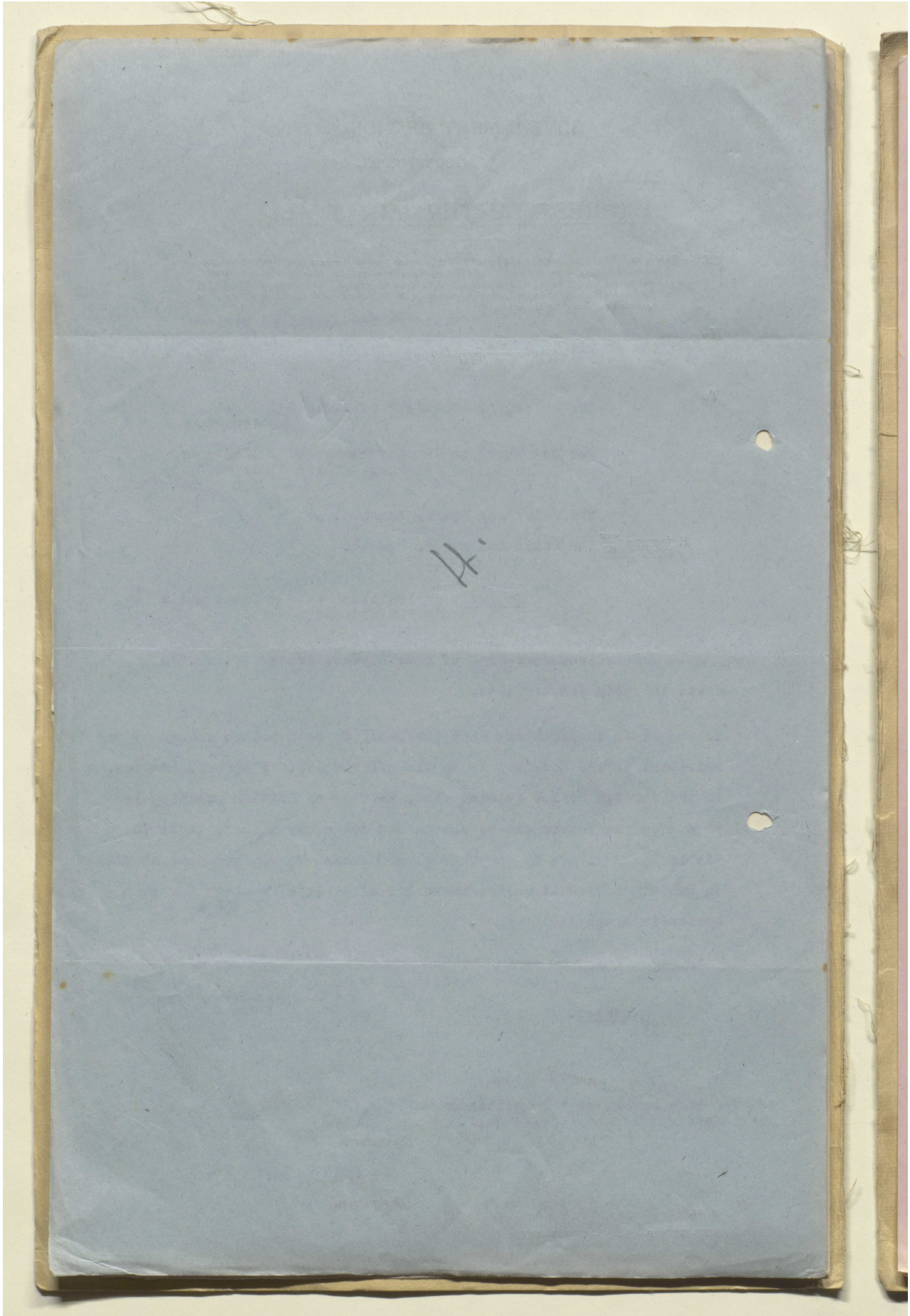
15 (16)

The only point on which I feel any doubt is that raised by the legal adviser to the India Office in the second paragraph of his note. As the result of the cases in the last war it is now established beyond any doubt that where the Crown can do something by virtue of its prerogative powers but the same matter has been covered by legislation, it is no longer possible for the Crown to proceed under the prerogative but it must make use of the statutory powers which may involve certain limitations on the exercise of those powers. It is perfectly true that an enemy alien has no rights and no status in an English court apart from any statutory rights specifically conferred upon him. If therefore an enemy alien is detained or interned under the prerogative it is impossible for him to complain or to appeal or to bring habeas corpus proceedings. The power to detain or intern enemy aliens is certainly a prerogative right of the Crown and was exercised in the last war - I think in addition to the powers conferred under the Defence of the Realm Act. In this particular case I think it could be argued that, by taking specific legislative powers to deport (and under Article 7 of the Regulations to refuse entry to) any person whose presence in Bahrein territory is deemed to be prejudicial to public order or security, the Crown has impliedly deprived itself of its power at common law to intern. As the legal adviser to the India Office says, it is unfortunate that the matter has not been put beyond any doubt by the enactment of a similar provision to that found in Section 9 of the Emergency Powers (Defence) Act, but nevertheless, although the question is in my opinion arguable, I feel fairly sure that the statutory power to deport would not be held to exclude the undoubted prerogative power to intern.

(Sgd.) Patrick Dean.

29th December, 1939.





'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [18r] (35/76)

~~CONFIDENTIAL~~. Secret.

No. 409-S of 1940.

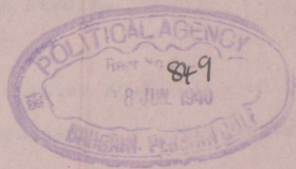
28/16 h 14 17 18

The Hon'ble the Political Resident in the Persian Gulf presents his compliments to

1. The Political Agent, Bahrain.
2. The Political Agent, Kuwait,

h/16

and has the honour to transmit to him a copy of the undermentioned document (s). for information.



British Consulate-General, BUSHIRE.

Dated... 15th June 1940...

Reference to previous correspondence :

Residency Express Letter No.C/135 of the 20th February 1940.

h-16

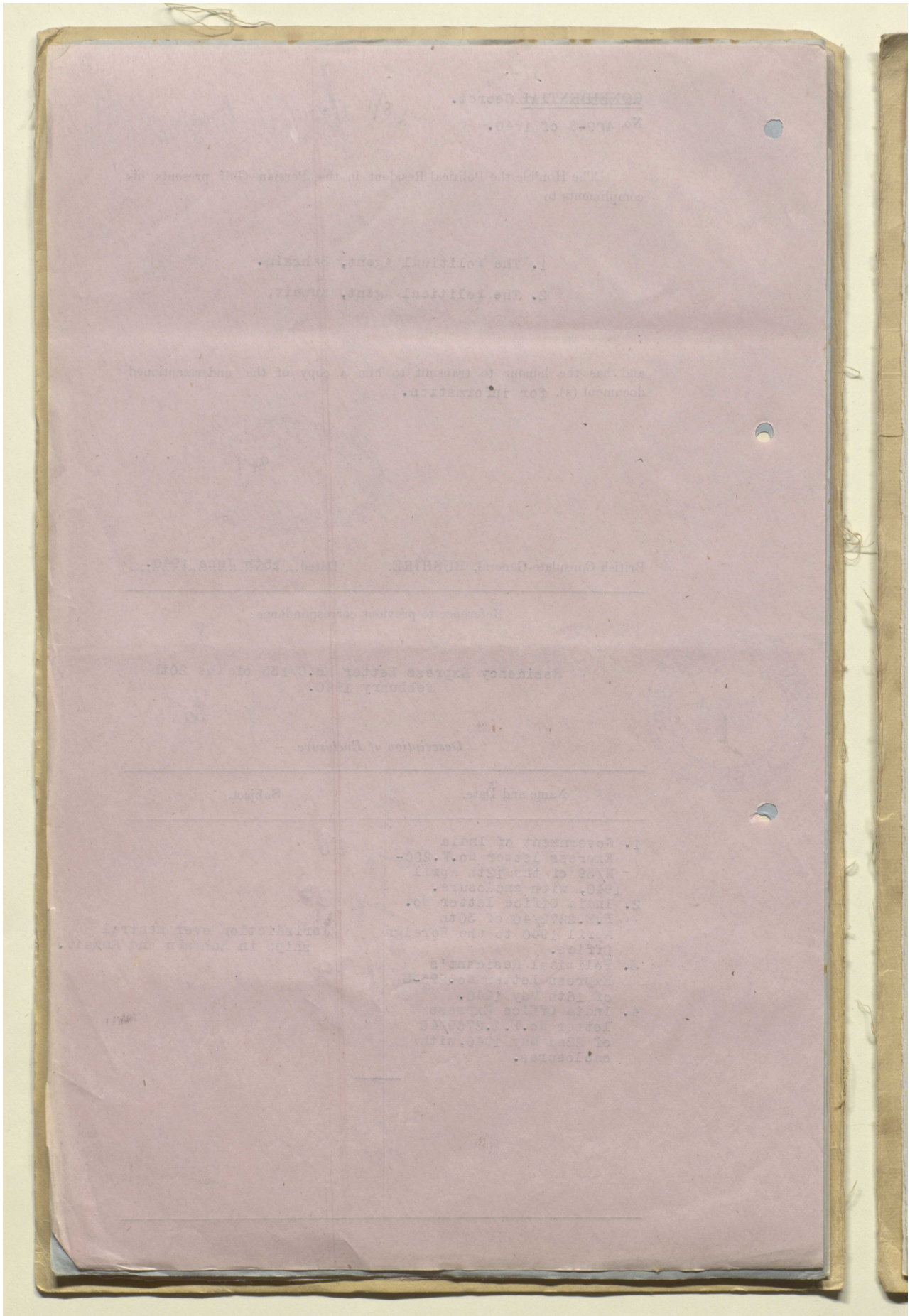


Description of Enclosure.

Name and Date.	Subject.
1. Government of India Express letter No.F.200-N/39 of the 12th April 1940, with enclosure.	Jurisdiction over neutral ships in Bahrain and Kuwait.
2. India Office letter No. P.Z.2272/40 of 30th April 1940 to the Foreign Office.	
3. Political Resident's Express Letter No.295-S of 16th May 1940.	
4. India Office Express letter No.P.Z.2769/40 of 22nd May 1940, with enclosures.	

k.18
k.22
k.24
k.25

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [18v] (36/76)



Confidential.

Government of India.
External Affairs Department.

EXPRESS LETTER.

To
The Secretary of State for India, London.

(Repeated to the Political Resident
in the Persian Gulf).

No.F.200-M/39.

Dated the 12th April 1940.

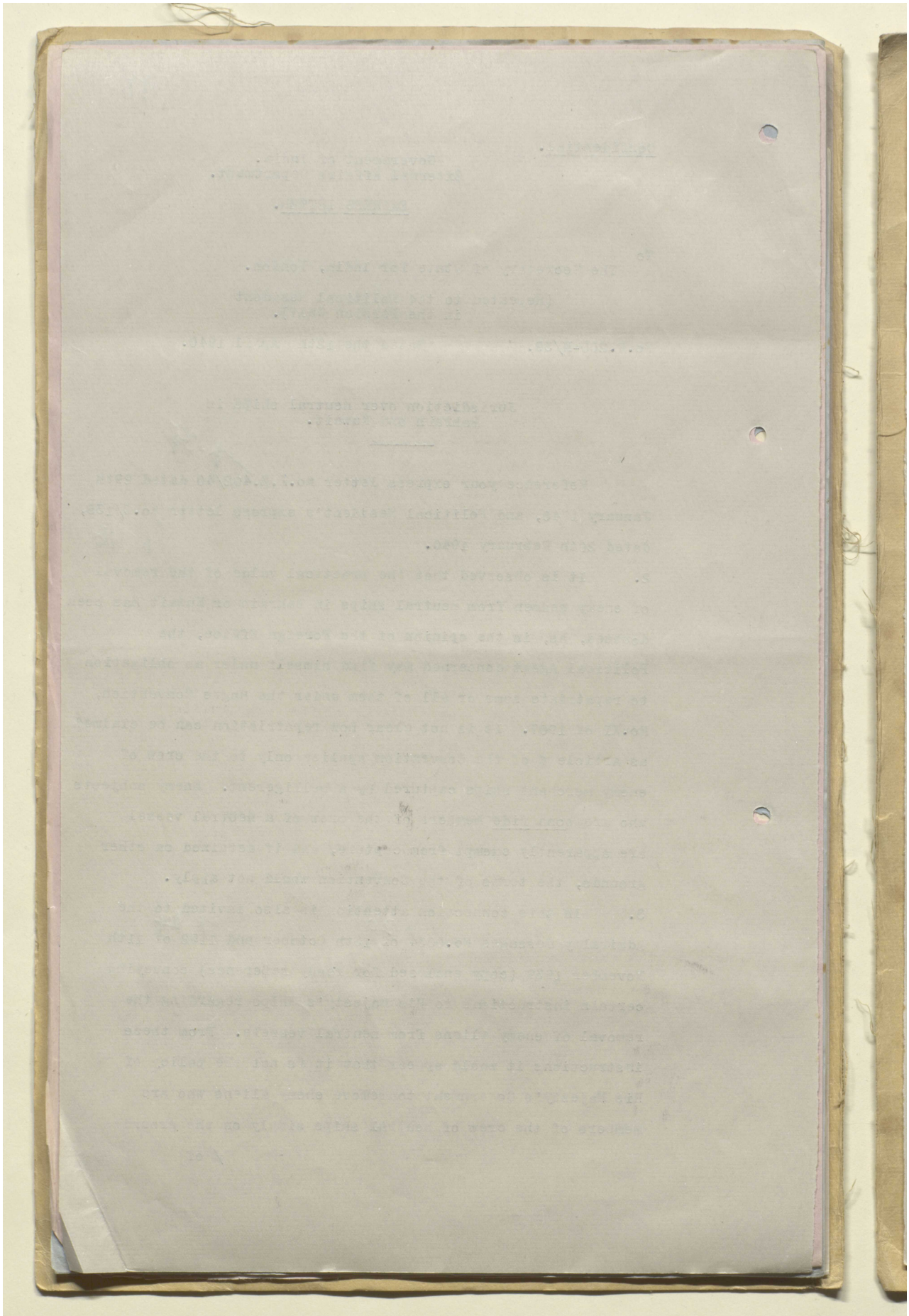
Jurisdiction over neutral ships in
Bahrain and Kuwait.

Reference your express letter No.P.Z.402/40 dated 29th
January 1940, and Political Resident's express letter No.C/135,
dated 20th February 1940.

2. It is observed that the practical value of the removal
of enemy seamen from neutral ships in Bahrain or Kuwait has been
doubted, as, in the opinion of the Foreign Office, the
Political Agent concerned may find himself under an obligation
to repatriate some or all of them under the Hague Convention,
No.XI of 1907. It is not clear how repatriation can be claimed
as Article 6 of the Convention applies only to the crew of
enemy merchant ships captured by a belligerent. Enemy subjects
who are bona fide members of the crew of a neutral vessel
are apparently exempt from capture, and if detained on other
grounds, the terms of the Convention would not apply.

3. In this connection attention is also invited to the
Admiralty messages No.0034 of 13th October and 1152 of 11th
November 1939 (copy enclosed for ready reference) conveying
certain instructions to His Majesty's Ships regarding the
removal of enemy aliens from neutral vessels. From these
instructions it would appear that it is not the policy of
His Majesty's Government to remove enemy aliens who are
members of the crew of neutral ships simply on the ground

/ of



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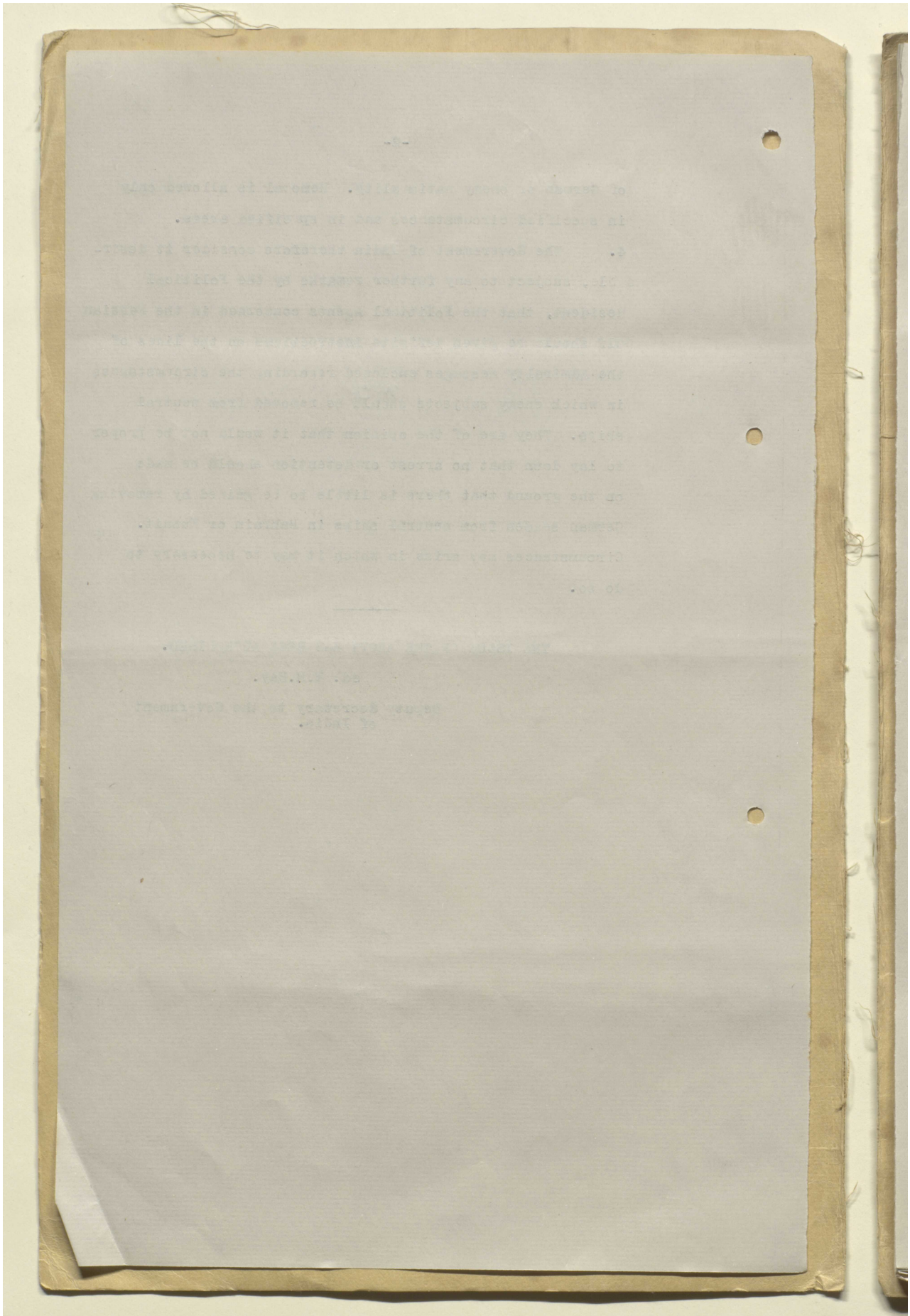
of German or enemy nationality. Removal is allowed only in specified circumstances and in specified areas.

4. The Government of India therefore consider it desirable, subject to any further remarks by the Political Resident, that the Political Agents concerned in the Persian Gulf should be given definite instructions on the lines of the Admiralty messages enclosed regarding the circumstances in which enemy subjects ^{may. (see p 26)} should be removed from neutral ships. They are of the opinion that it would not be proper to lay down that no arrest or detention should be made on the ground that there is little to be gained by removing German seamen from neutral ships in Bahrain or Kuwait. Circumstances may arise in which it may be necessary to do so.

THE ISSUE OF THE ABOVE HAS BEEN AUTHORISED.

sd. W.R.Hay.

Deputy Secretary to the Government
of India.



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [21r] (41/76)

Secret.

Copy of signals.

ToAll Senior Officers, Ships, Establishments, etc., at Home and Abroad. FromAdmiralty.

Reference C.B.1993 Article 52, it has now been decided enemy aliens of the following categories, travelling as passengers, may be removed from neutral ships, subject to restrictions described in paragraph 4 below :-

- (a) Officers and Non-Commissioned Officers on Active or Reserve lists of Enemy Army and corresponding ranks and ratings of his Naval and Air Forces provided they are capable of useful service.
- (b) Enemy agents of either sex or any age.
- (c) Technicians who can be shown to be taking part in enemy war effort or intending to do so. This category includes scientists, engineers, skilled workers, Mercantile Marine officers and trained Civil Service or Police staff whose activities can be reasonably shown to be of importance to enemy war effort, but excludes Diplomatic and Consular Officers.

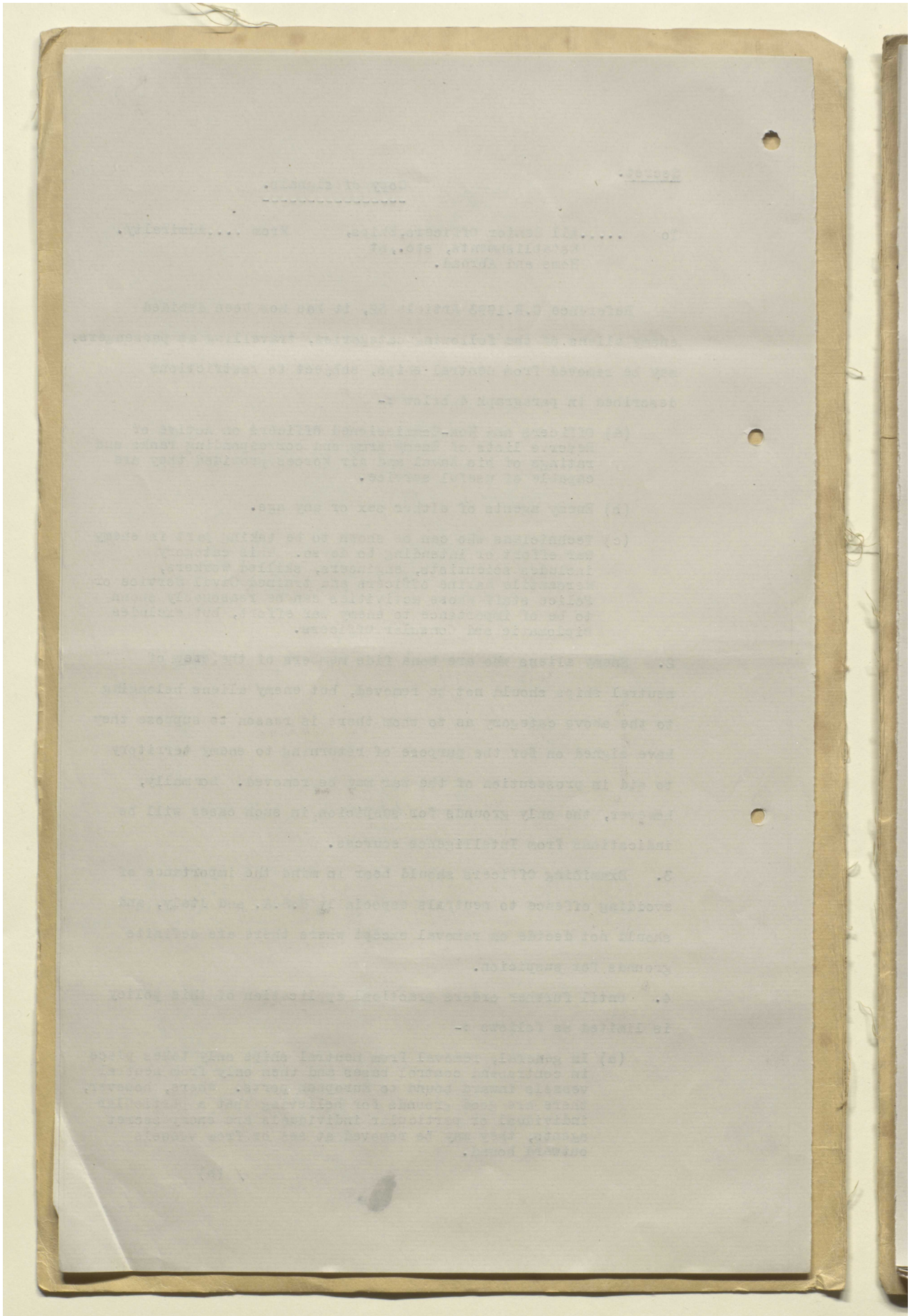
2. Enemy aliens who are bona fide members of the crew of neutral ships should not be removed, but enemy aliens belonging to the above category as to whom there is reason to suppose they have signed on for the purpose of returning to enemy territory to aid in prosecution of the war may be removed. Normally, however, the only grounds for suspicion in such cases will be indications from Intelligence sources.

3. Examining Officers should bear in mind the importance of avoiding offence to neutrals especially U.S.A. and Italy, and should not decide on removal except where there are definite grounds for suspicion.

4. Until further orders practical application of this policy is limited as follows :-

- (a) In general, removal from neutral ships only takes place in contraband control bases and then only from neutral vessels inward bound to European ports. Where, however, there are good grounds for believing that a particular individual or particular individuals are enemy secret agents, they may be removed at sea or from vessels outward bound.

/ (b)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [22r] (43/76)

21-22
-2-

(b) Ships of American States should NOT be stopped for any reason in Western half of Atlantic or in Eastern Pacific without special instructions.

5. Persons proved to belong to categories described in 1 and 2 should be handed over to the Military as prisoners of war. Persons who, after questioning on board while ship is in contra-band control base, are reasonably free of suspicion by the time the ship sails should be allowed to proceed in her. Persons who remain subject to considerable suspicion when ship sails should be handed over to local Military for further investigation.

0034/13th October 1939.

Naval Cypher "C".

Secret.

ToAll Senior Officers, Ships, FromAdmiralty.
Establishments, Etc., at
Home and Abroad. p.20

My 0034 13th October. With reference to paragraph 1 (c) no technicians should be removed who are under 18 or over 55 years of age.

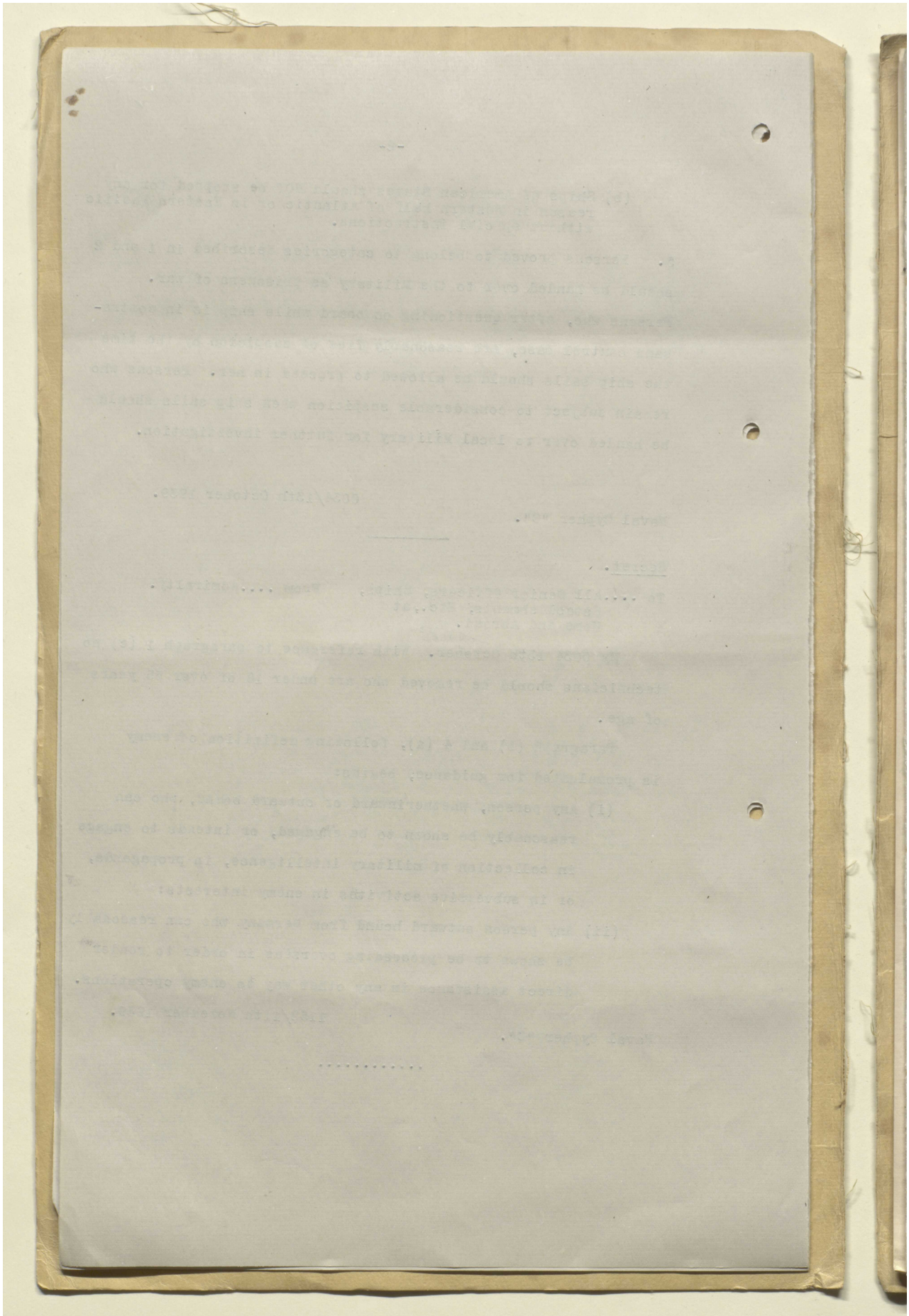
Paragraph (b) and 4 (a), following definition of enemy is promulgated for guidance, begins:

- (i) Any person, whether inward or outward bound, who can reasonably be shown to be engaged, or intends to engage in collection of military intelligence, in propaganda, or in subversive activities in enemy interests:
- (ii) Any person outward bound from Germany who can reasonably be shown to be proceeding overseas in order to render direct assistance in any other way to enemy operations.

1152/11th November 1939.

Naval Cypher "C".

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'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [23r] (45/76)

P.Z.2272/40.

India Office,
Whitehall, S.W.1.

30th April, 1940.

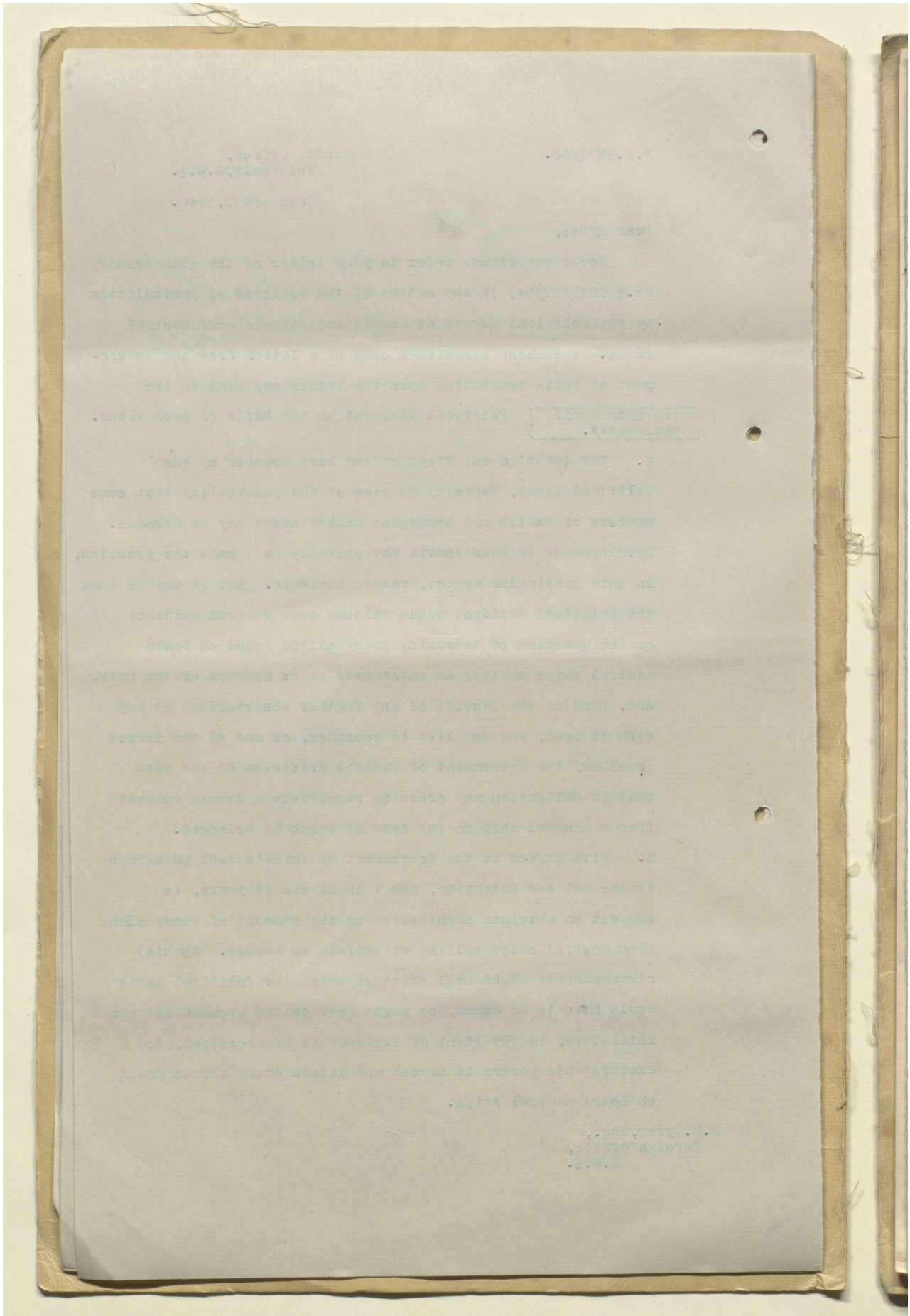
Dear Eyres,

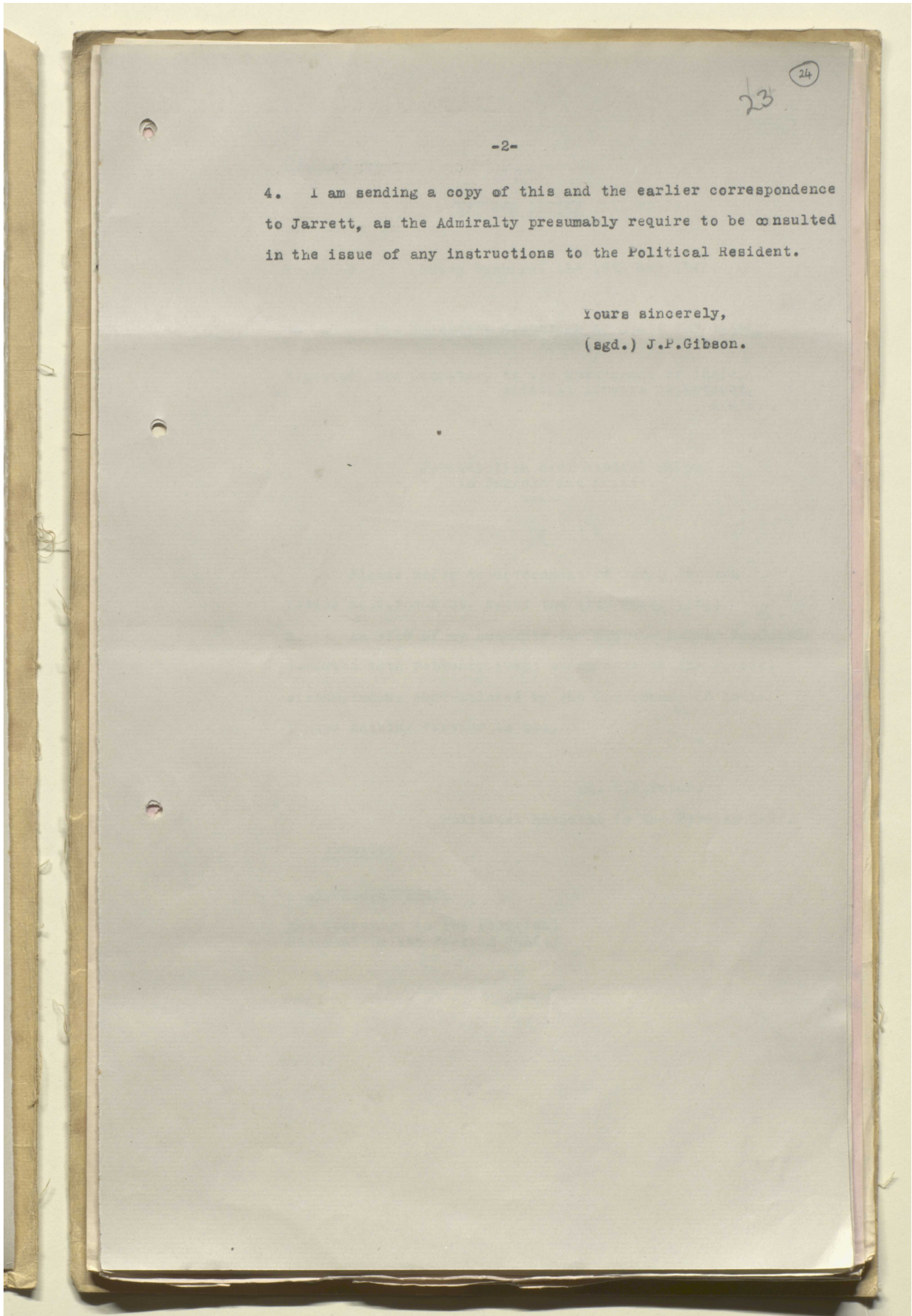
Would you please refer to your letter of the 19th January No.E 7998/37/91, in the matter of the exercise of jurisdiction by the Political Agents at Kuwait and Bahrain over neutral ships. I enclose herewith a copy of a letter from the Government of India commenting upon the letter we^{T.18} sent to the dated 12th April & enclosures. Political Resident on the basis of your views.

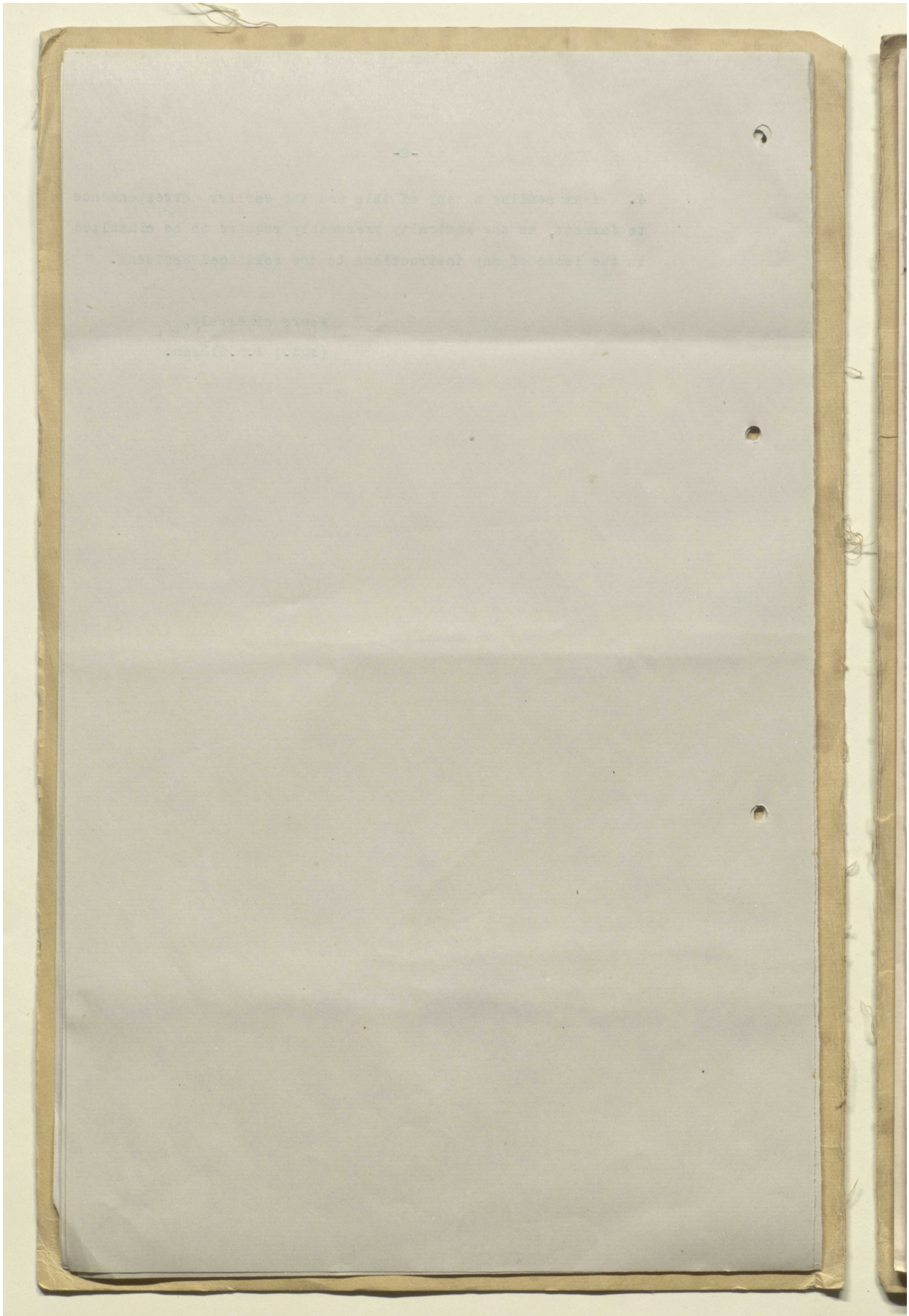
2. The question was first raised last October ^{P.1} by the Political Agent, Bahrain, in view of the possibility that some members of Danish and Norwegian tanker crews may be Germans. Developments in Scandinavia may possibly have made the question, in this particular aspect, rather academic. But it may be that the Political Resident would welcome some general guidance on the question of detaining enemy aliens found on board neutral ships whether as passengers or as members of the crew, and, pending the receipt of any further observations he may wish to send, you may like to consider, as one of the issues involved, the Government of India's criticism of the view that an obligation may arise to repatriate a German removed from a neutral ship to the crew of which he belonged.

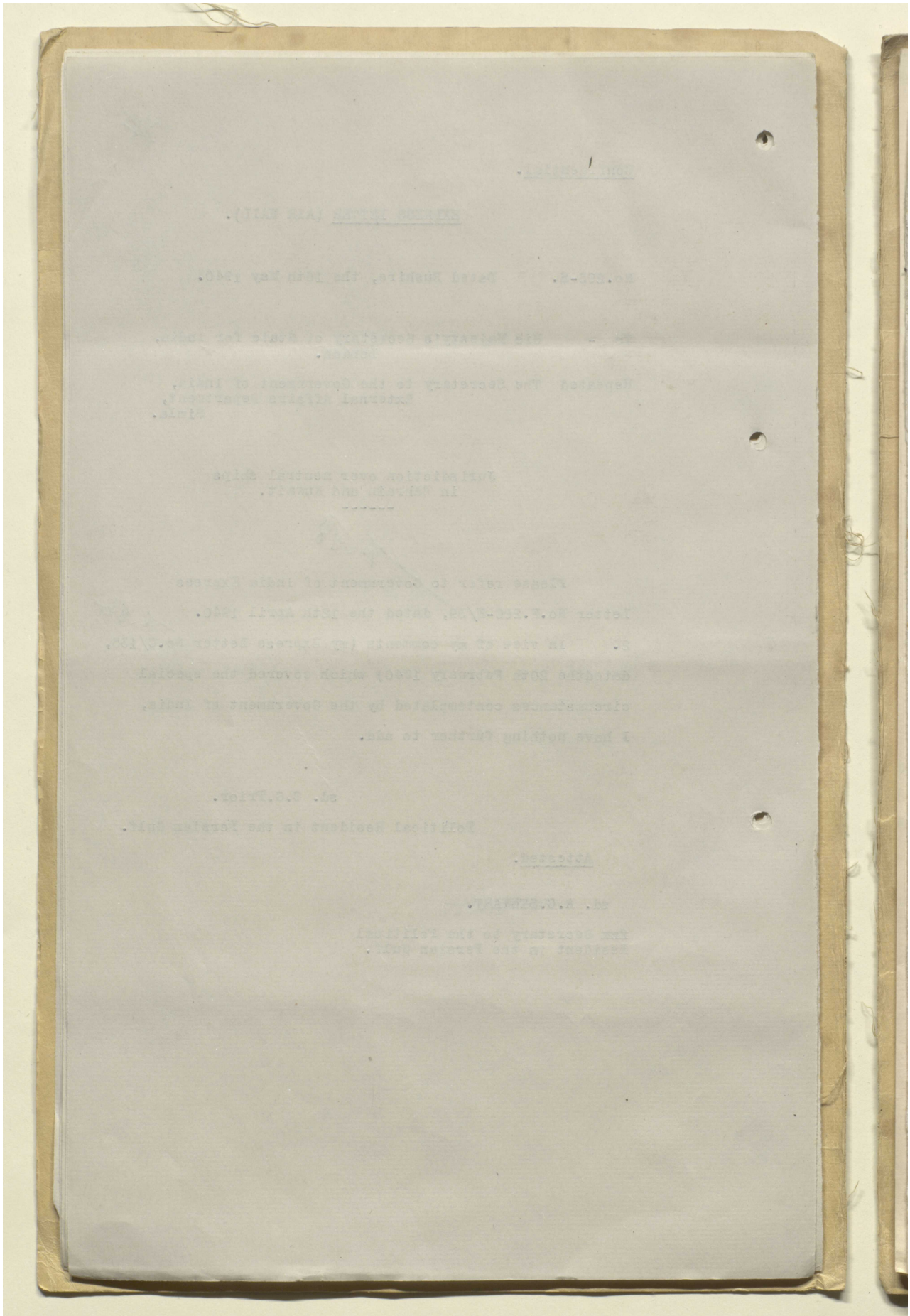
3. With regard to the Government of India's last paragraph it was not our intention, nor I think was it yours, to suggest an absolute prohibition on the removal of enemy aliens from neutral ships calling at Bahrain or Kuwait. Special circumstances might well arise in which the Political Agent would have to be asked, or might feel called upon on his own initiative, in the light of evidence he had received, to exercise his powers to arrest and detain enemy aliens found on board neutral ships.

H.M.Eyres, Esq.,
Foreign Office,
S.W.1.









'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [26r] (51/76)

EXPRESS LETTER (AIR MAIL)

From - Secretary of State for India.
To - Government of India, External Affairs Department,
Repeated to Political Resident in the Persian Gulf.
Dated - 22nd May, 1940.
No. P.Z.2769/40.

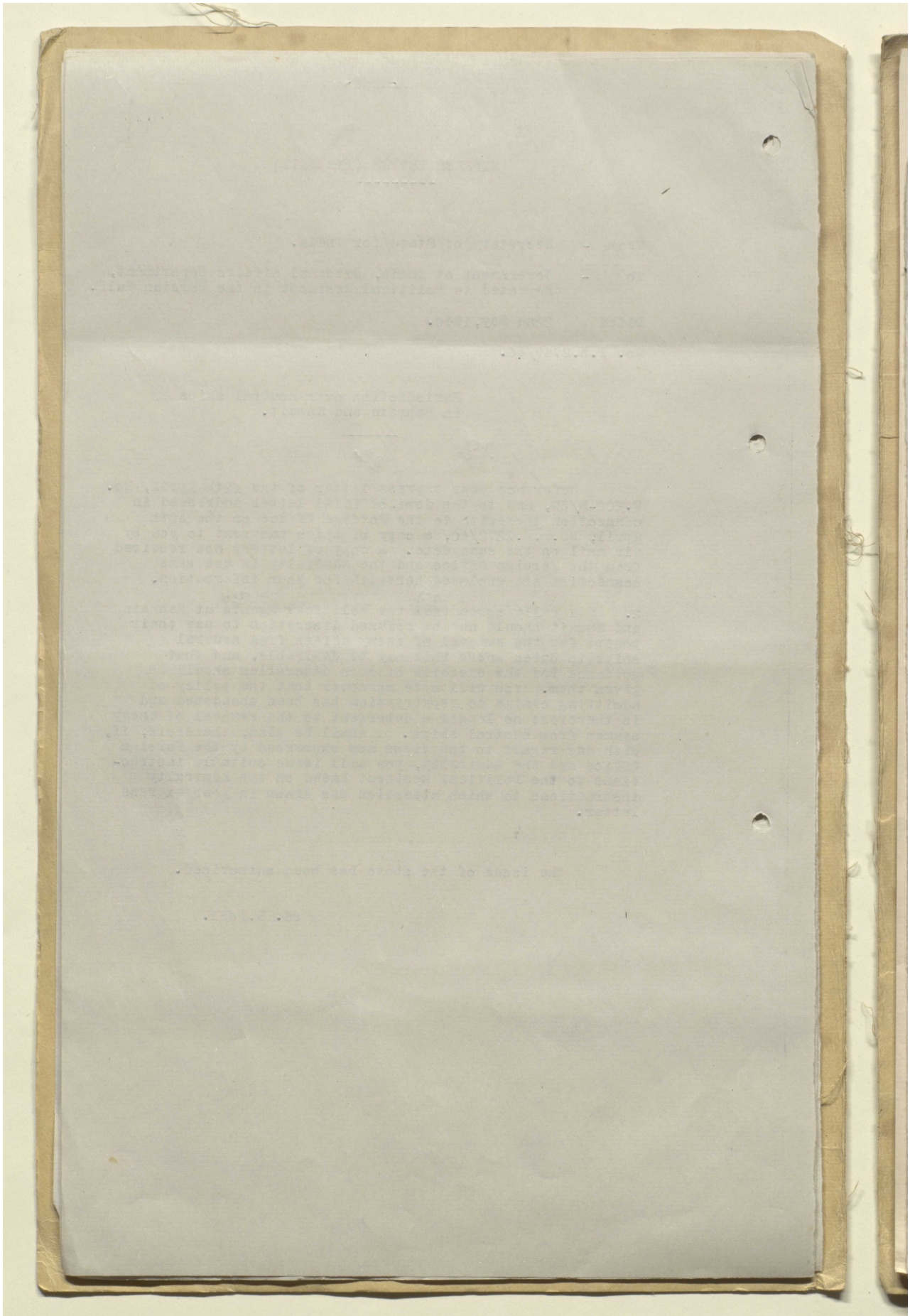
Jurisdiction over neutral ships
in Bahrain and Kuwait.

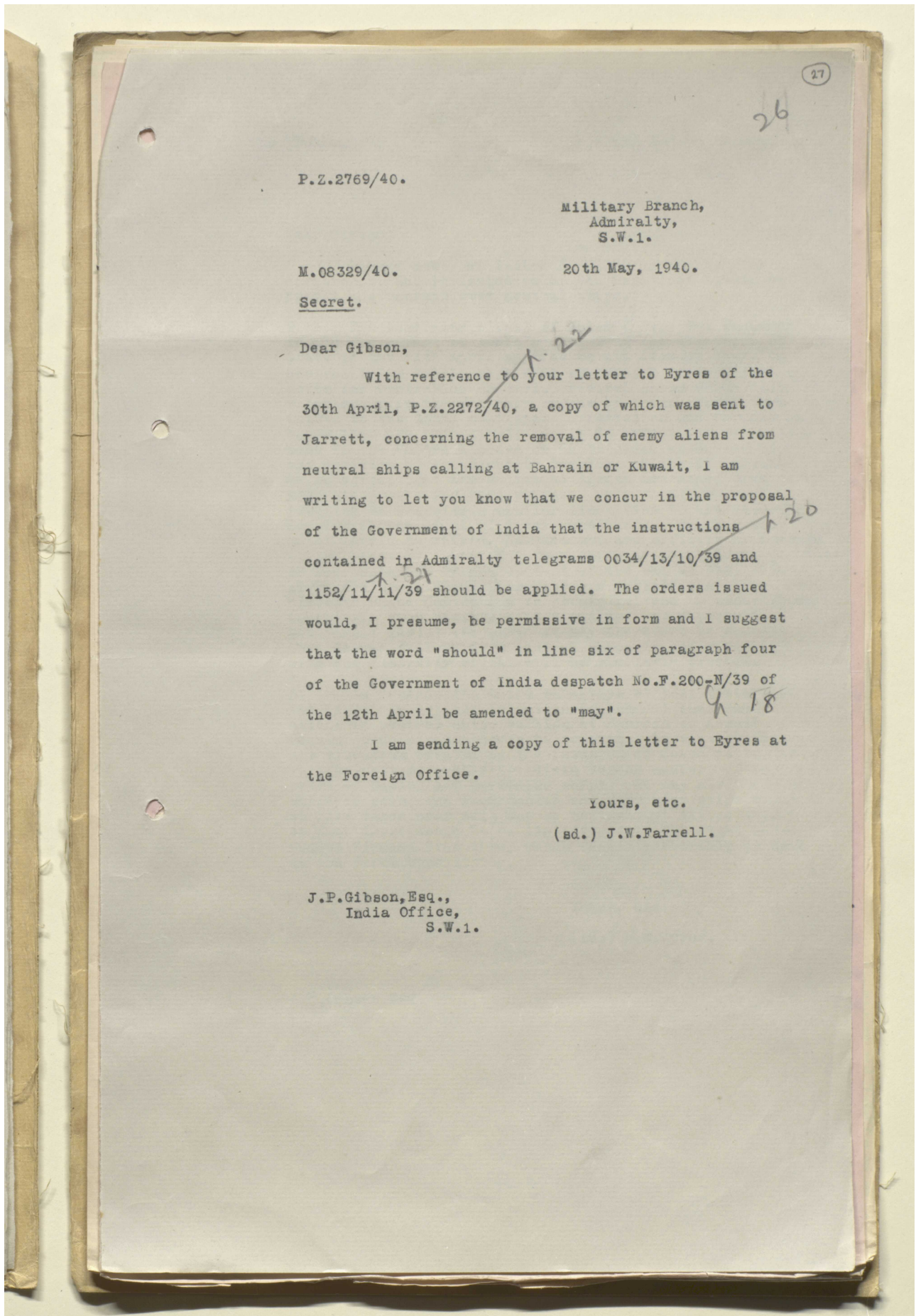
Reference your express letter of the 12th April, No. F.200-N/39, and to the demi-official letter addressed in connection therewith to the Foreign Office on the 30th April, No.P.Z.2272/40, a copy of which was sent to you by air mail on the same date. A copy of letters now received from the Foreign Office and the Admiralty in the same connection are enclosed herewith for your information.

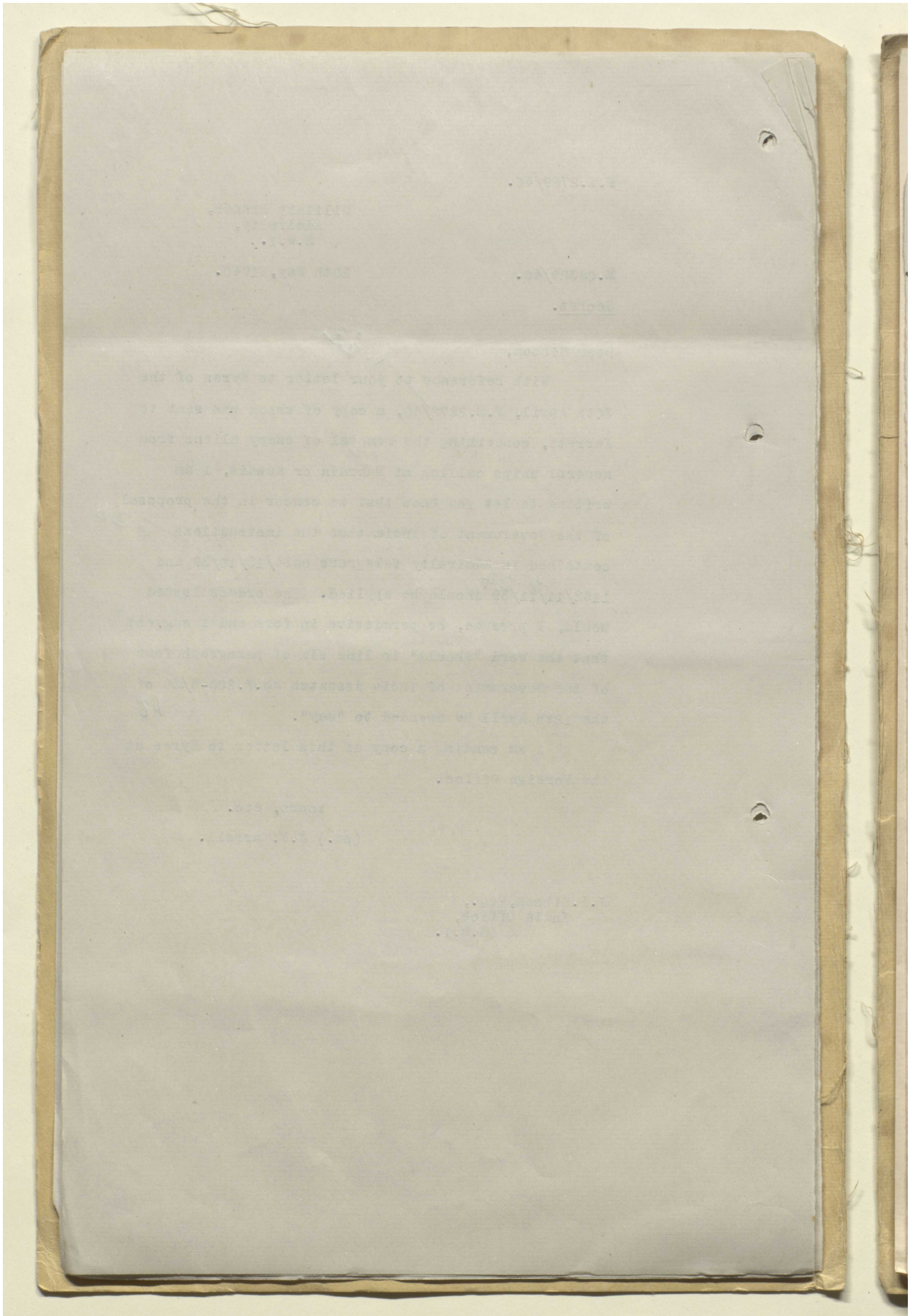
2. I fully agree that the Political Agents at Bahrain and Kuwait should not be refused discretion to use their powers for the removal of enemy aliens from neutral ships in cases where this may be desirable, and that guidance for the exercise of such discretion should be given them. You will note moreover that the policy of admitting claims to repatriation has been abandoned and is therefore no longer a deterrent to the removal of enemy seamen from neutral ships. I shall be glad, therefore, if, with due regard to the views now expressed by the Foreign Office and the Admiralty, you will issue suitable instructions to the Political Resident based on the Admiralty instructions to which attention was drawn in your express letter.

The issue of the above has been authorised.

sd. R.Peel.







'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [28r] (55/76)

(E 1922/428/91).

FOREIGN OFFICE, S.W.Y.

15th May, 1940.

Dear Gibson,

Please see your letter P.Z.2272/40 of the 30th April about the jurisdiction of the Political Agents at Kuwait and Bahrain over neutral ships.

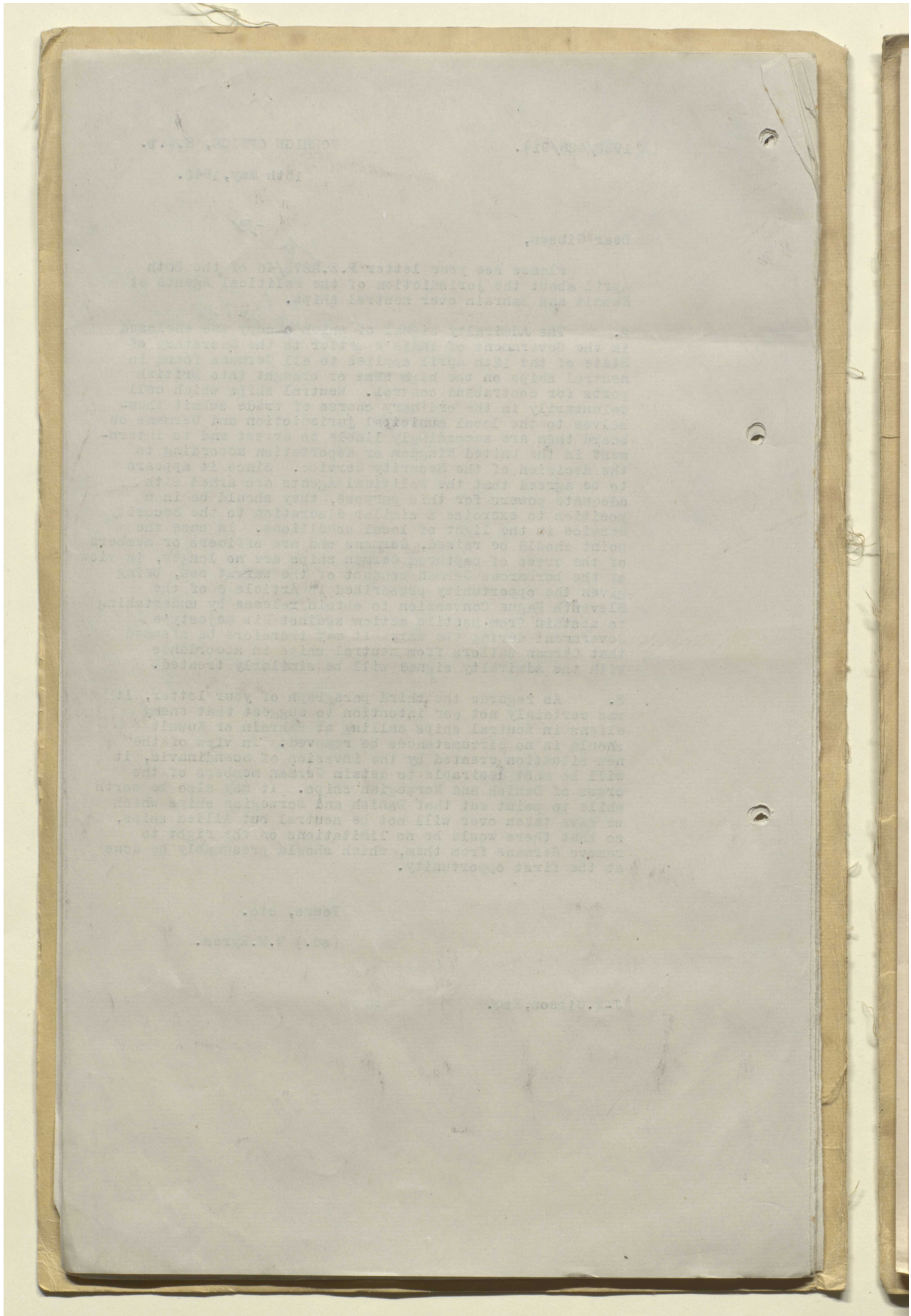
2. The Admiralty signal of which a copy was enclosed in the Government of India's letter to the Secretary of State of the 12th April applies to all Germans found in neutral ships on the high seas or brought into British ports for contraband control. Neutral ships which call voluntarily in the ordinary course of trade submit themselves to the local municipal jurisdiction and Germans on board them are accordingly liable to arrest and to internment in the United Kingdom or deportation according to the decision of the Security Service. Since it appears to be agreed that the Political Agents are armed with adequate powers for this purpose, they should be in a position to exercise a similar discretion to the Security Service in the light of local conditions. In case the point should be raised, Germans who are officers or members of the crews of captured German ships are no longer, in view of the barbarous German conduct of the war at sea, being given the opportunity prescribed in Article 6 of the Eleventh Hague Convention to obtain release by undertaking to abstain from hostile action against His Majesty's Government during the war. It may therefore be assumed that German sailors from neutral ships in accordance with the Admiralty signal will be similarly treated.

3. As regards the third paragraph of your letter, it was certainly not our intention to suggest that enemy aliens in neutral ships calling at Bahrain or Kuwait should in no circumstances be removed. In view of the new situation created by the invasion of Scandinavia, it will be most desirable to detain German members of the crews of Danish and Norwegian ships. It may also be worth while to point out that Danish and Norwegian ships which we have taken over will not be neutral but Allied ships, so that there would be no limitations on the right to remove Germans from them, which should presumably be done at the first opportunity.

Yours, etc.

(sd.) H.M.Eyres.

J.-P.Gibson, Esq.



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [29r] (57/76)

~~CONFIDENTIAL~~. Secret.
No. C/281 of 1940.

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The Hon'ble the Political Resident in the Persian Gulf presents his compliments to

1. The Political Agent, Bahrain. ✓
2. The Political Agent, Kuwait,

and has the honour to transmit to him a copy of the undermentioned document(s) for general guidance.

British Consulate-General, BUSHIRE.
Camp, Shiraz.

Dated... 11th August, 1940.

Reference to previous correspondence:

Residency Printed letter No.409-S of the 15th June 1940.

4-17

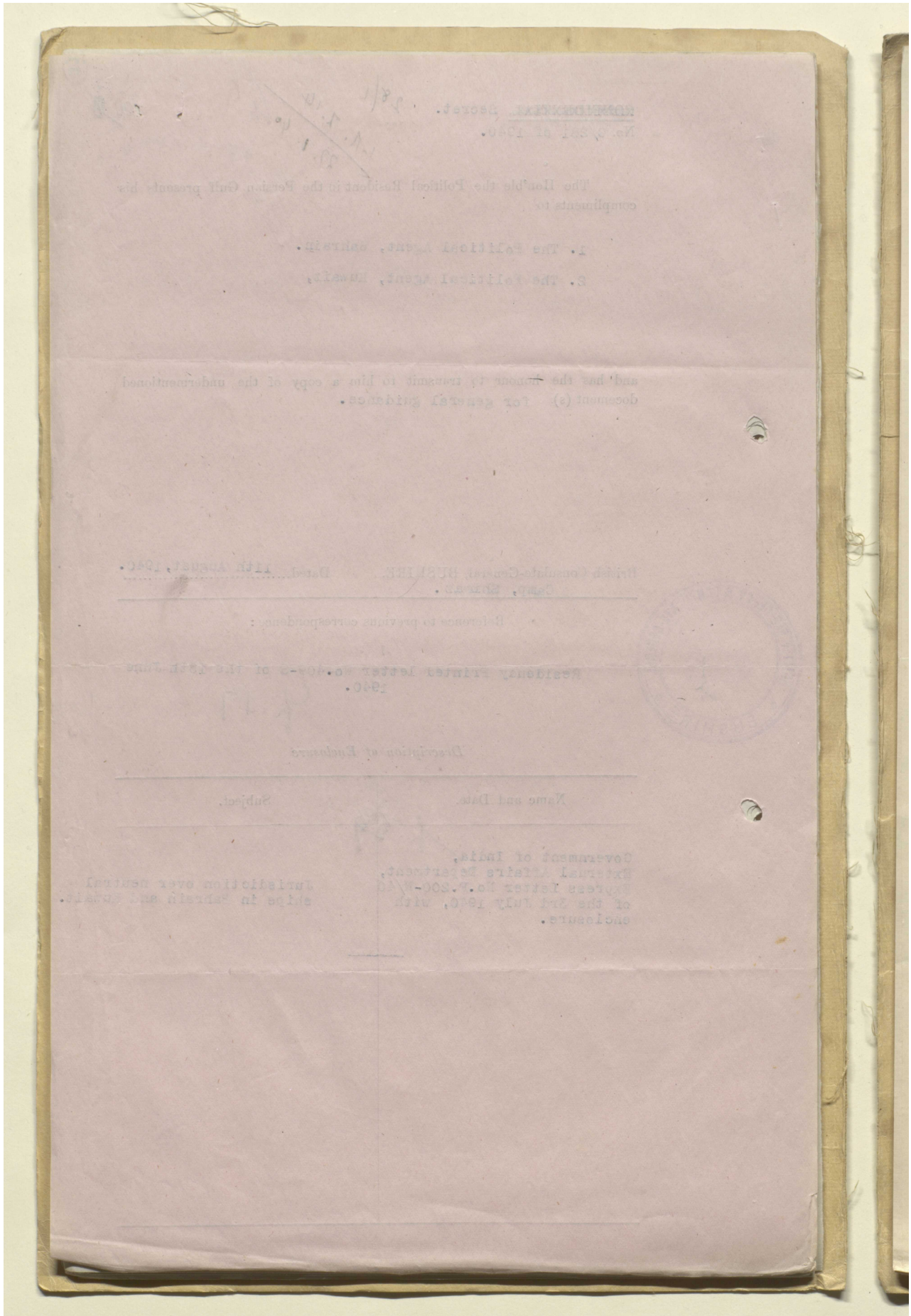


Description of Enclosure.

Name and Date.	Subject.
Government of India, External Affairs Department, Express Letter No.F.200-N/40 of the 3rd July 1940, with enclosure.	Jurisdiction over neutral ships in Bahrain and Kuwait.

4-29

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [29v] (58/76)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [30r] (59/76)

Copy.

GOVERNMENT OF INDIA,
External Affairs Department.

SECRET.

EXPRESS LETTER.

From - Foreign, Simla.

To - Britconsul, Bushire.
(Repeated to Secretary of State for India, London).
No.F.200-N/40. Dated 3rd July, 1940.

SUBJECT:- Jurisdiction over neutral ships
in Bahrain and Kuwait.

Reference correspondence ending with Secretary of State's
express letter No.P.Z.2769/40 dated 22nd May 1940, a copy of which
has been sent to you direct. 25 30

2. The attached instructions may please be communicated to
Political Agents at Bahrain and Kuwait for general guidance on the
question of detaining enemy aliens found on board neutral ships
whether as passengers or as members of the crew. It is requested
that the following specific points mentioned in Foreign Office
letter No.E.1922/428/91 dated 15th May 1940 may also be brought
to the notice of the Political Agents namely, that

(1) in the case of enemy subjects on board neutral vessels
which call voluntarily in the ordinary course of trade, discretion
may be exercised in the matter of their arrest and detention in
the light of local donctions;

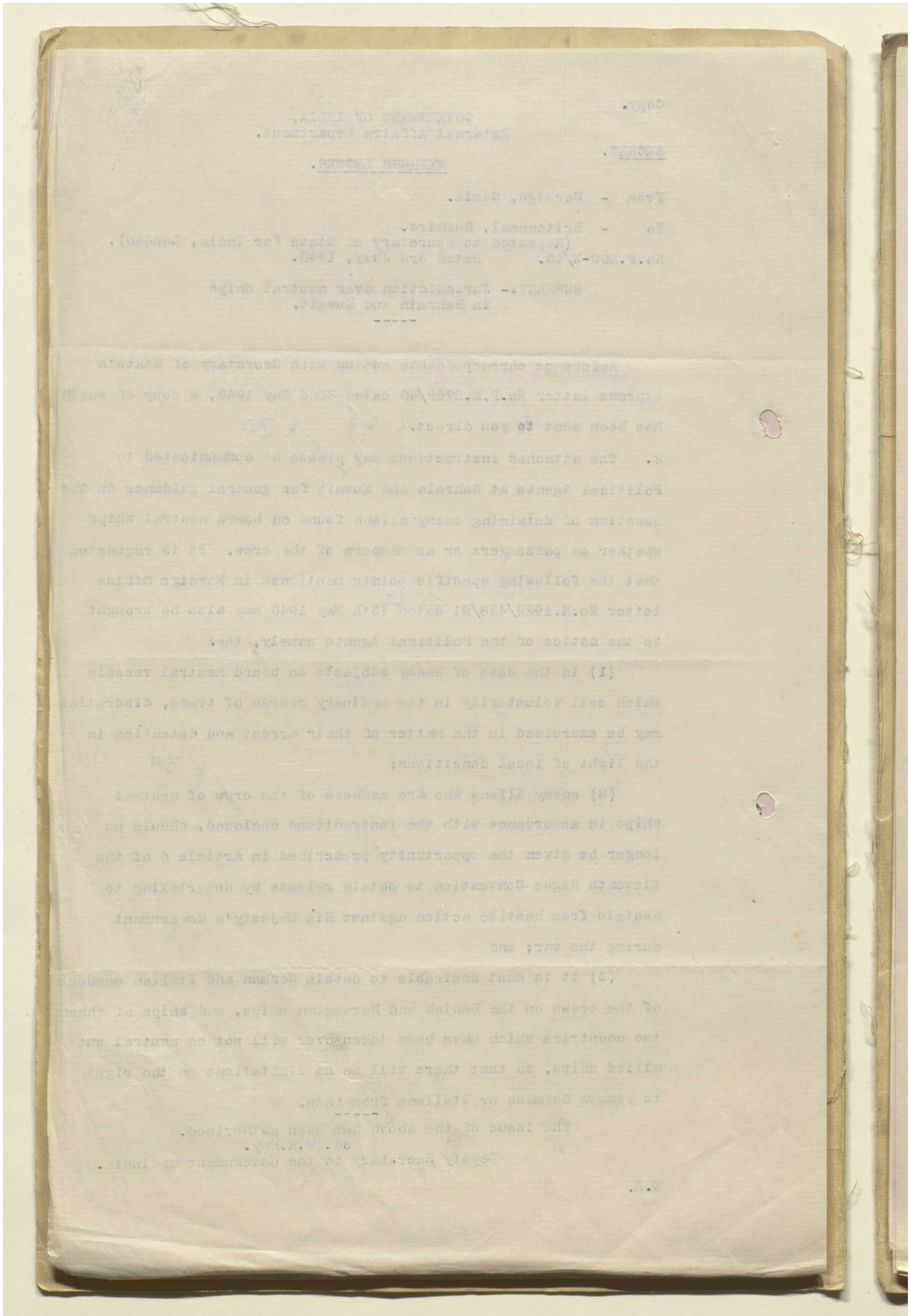
(2) enemy aliens who are members of the crew of neutral
ships in accordance with the instructions enclosed, should no
longer be given the opportunity prescribed in Article 6 of the
Eleventh Hague Convention to obtain release by undertaking to
abstain from hostile action against His Majesty's Government
during the war; and

(3) it is most desirable to detain German and Italian members
of the crews on the Danish and Norwegian ships, and ships of these
two countries which have been taken over will not be neutral but
allied ships, so that there will be no limitations on the right
to remove Germans or Italians from them.

The issue of the above has been authorised.
sd. W.R.Hay.

Deputy Secretary to the Government of India.

W.L.



30 (31)
Secret.

Instructions regarding the circumstances in which enemy subjects may be removed from neutral ships.

1. Enemy aliens of the following categories, travelling as passengers, may be removed from neutral ships :-

- (a) Officers and Non-Commissioned Officers on active or reserve lists of enemy army and corresponding ranks and ratings of his Naval and Air Forces provided they are capable of useful service.
- (b) Enemy agents of either sex or any age.

The definition of enemy agent is given below for guidance:-

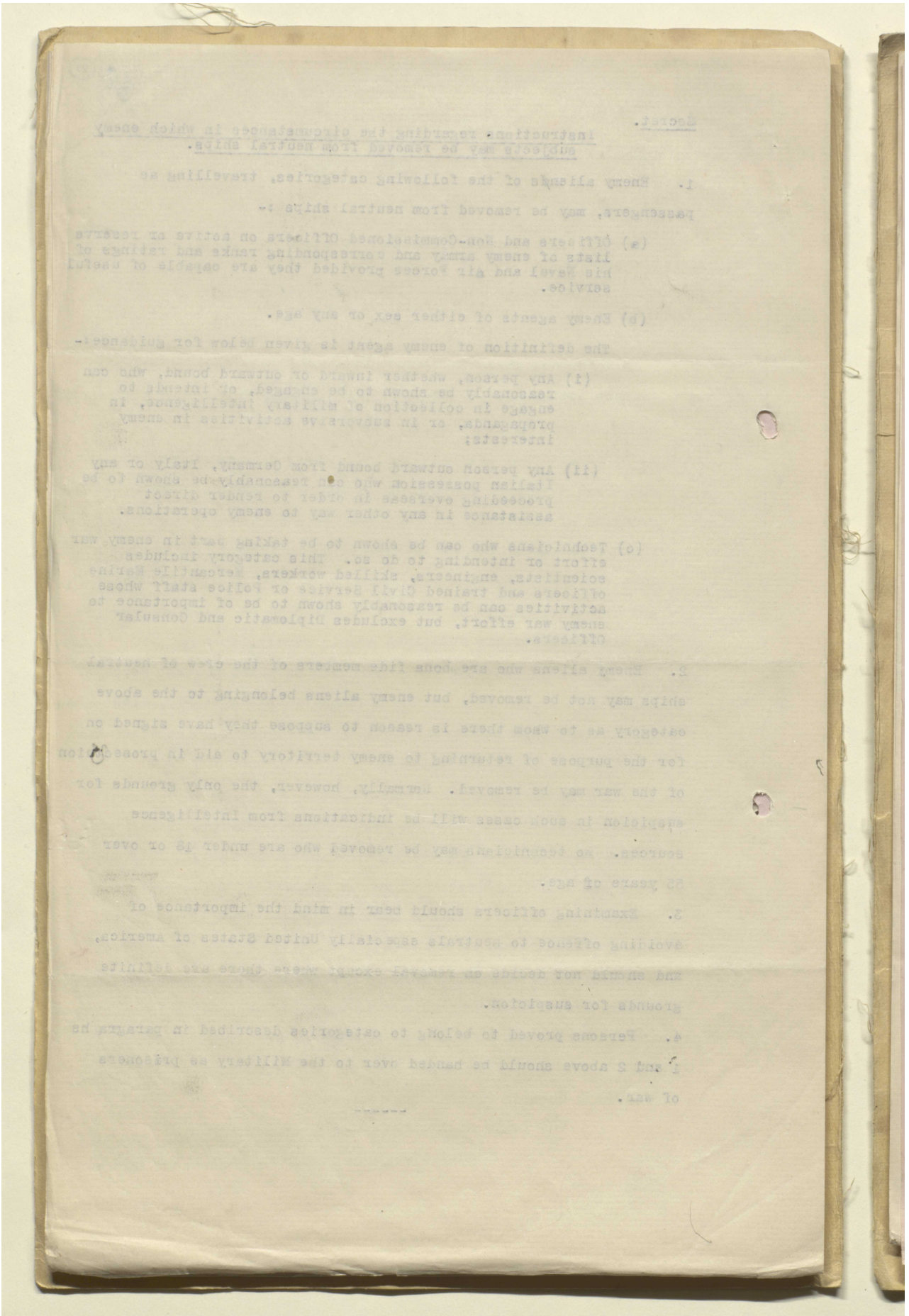
- (i) Any person, whether inward or outward bound, who can reasonably be shown to be engaged, or intends to engage in collection of military intelligence, in propaganda, or in subversive activities in enemy interests;
- (ii) Any person outward bound from Germany, Italy or any Italian possession who can reasonably be shown to be proceeding overseas in order to render direct assistance in any other way to enemy operations.
- (c) Technicians who can be shown to be taking part in enemy war effort or intending to do so. This category includes scientists, engineers, skilled workers, Mercantile Marine officers and trained Civil Service or Police staff whose activities can be reasonably shown to be of importance to enemy war effort, but excludes Diplomatic and Consular Officers.

2. Enemy aliens who are bona fide members of the crew of neutral ships may not be removed, but enemy aliens belonging to the above category as to whom there is reason to suppose they have signed on for the purpose of returning to enemy territory to aid in prosecution of the war may be removed. Normally, however, the only grounds for suspicion in such cases will be indications from Intelligence sources. No technicians may be removed who are under 18 or over 55 years of age.

3. Examining officers should bear in mind the importance of avoiding offence to neutrals especially United States of America, and should not decide on removal except where there are definite grounds for suspicion.

4. Persons proved to belong to categories described in paragraphs 1 and 2 above should be handed over to the Military as prisoners of war.

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [31v] (62/76)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [32r] (63/76)

CONFIDENTIAL.

No. **C/344 of 1940.**

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The Hon'ble the Political Resident in the Persian Gulf presents his compliments to

1. The Political Agent, Kuwait.
2. The Political Agent, Bahrain. ✓
3. The Political Agent, Muscat,

and has the honour to transmit to him a copy of the undermentioned docement (s) ~~of~~ **for information.**

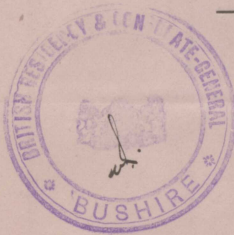
11/17/9

British Consulate-General, BUSHIRE.

Dated... **14th. September, 1940.**

~~Camp, Shiraz.~~

Reference to previous correspondence :

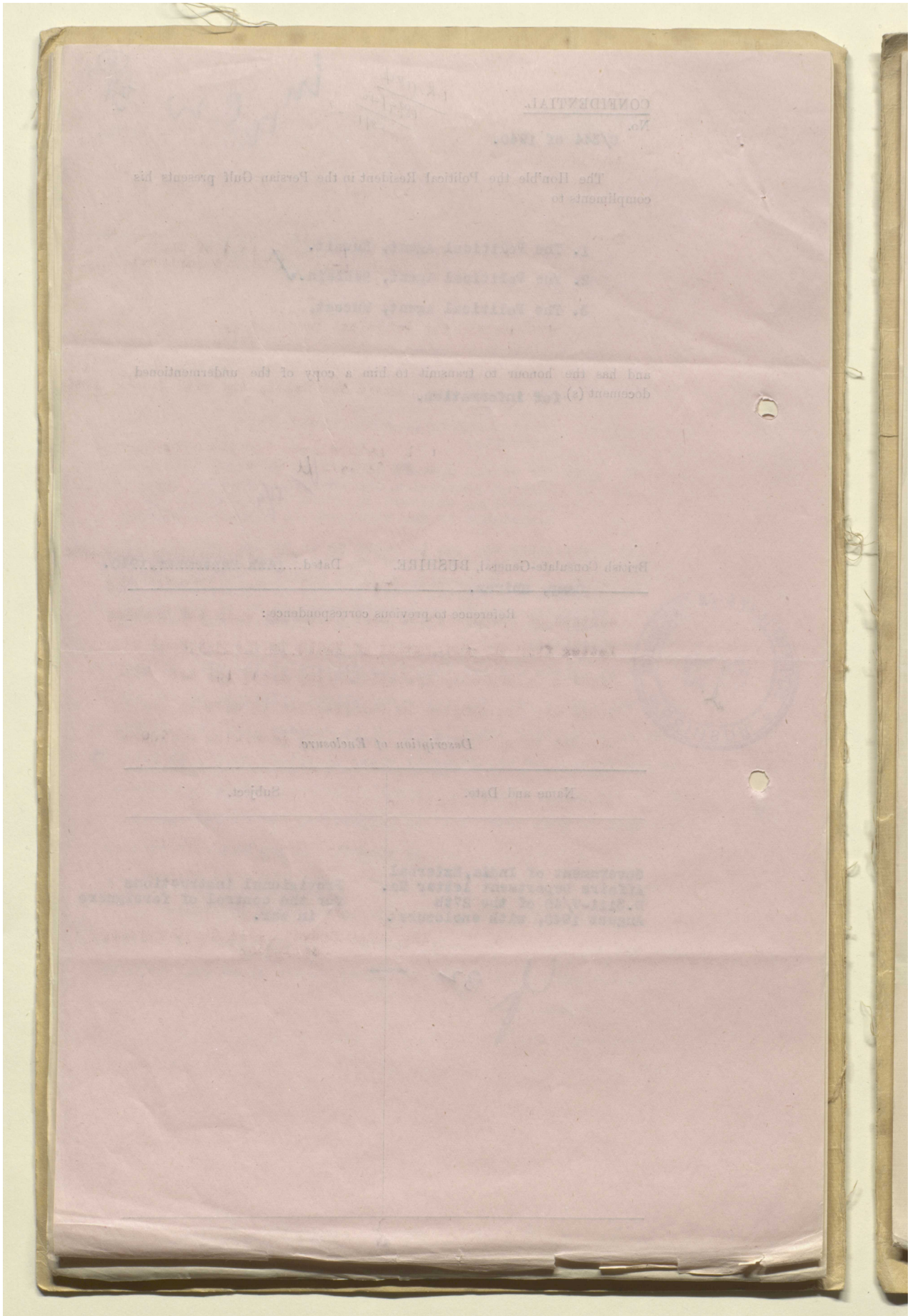


Description of Enclosure.

Name and Date.	Subject.
Government of India, External Affairs Department letter No. D.3111-W/40 of the 27th August 1940, with enclosure .	Provisional instructions for the control of foreigners in war.

4 32

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [32v] (64/76)



Confidential.

No.D.3111-W/40.

From
The Under Secretary to the Government of India
in the External Affairs Department,

To
The Hon'ble the Political Resident in
the Persian Gulf.

Dated New Delhi, the 27th August 1940.

Provisional Instructions for the control
of foreigners in war.

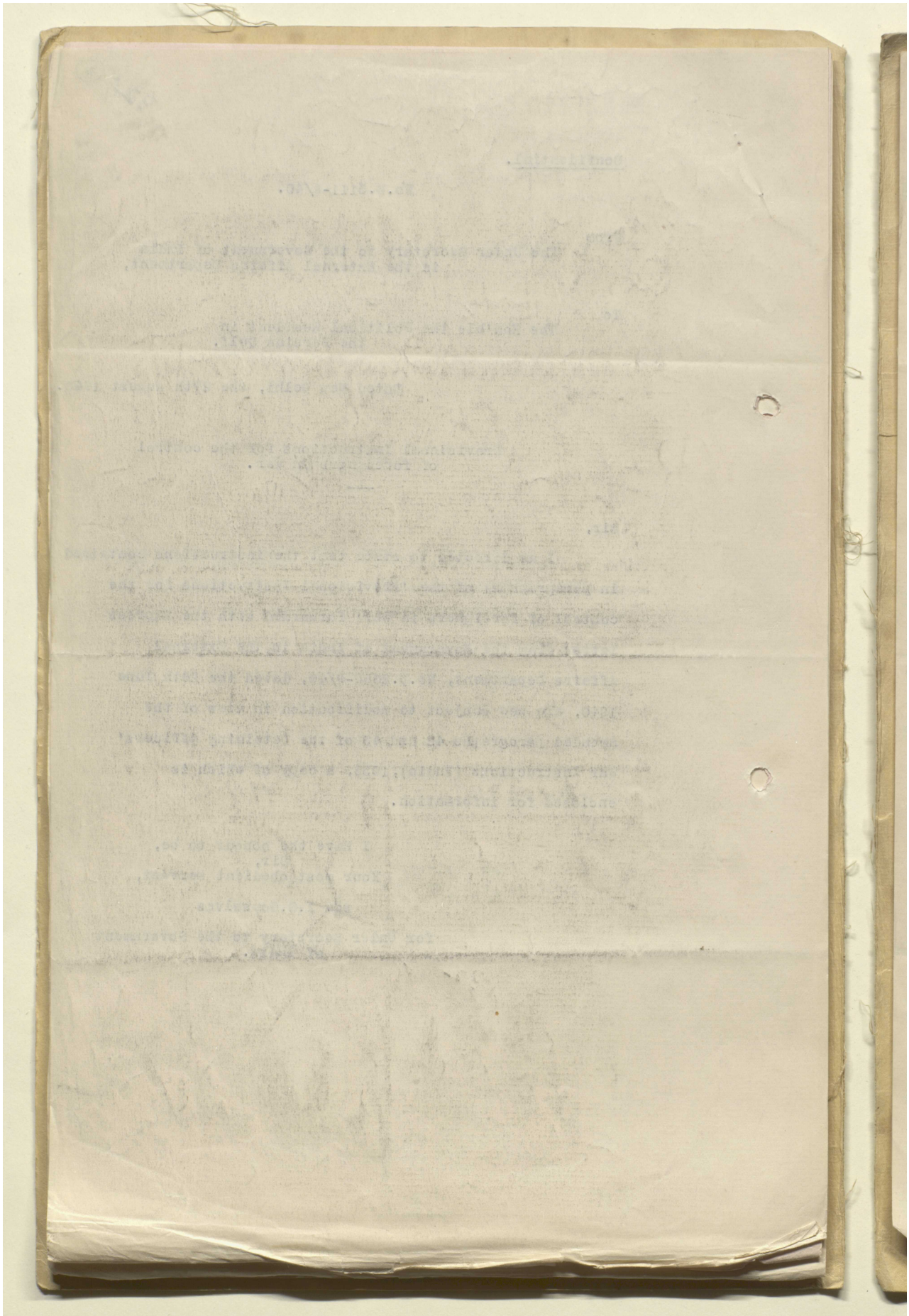
Sir,

I am directed to state that the instructions contained in paragraph 21 of the 'Provisional Instructions for the control of foreigners in war' forwarded with the Express Letter from the Government of India in the External Affairs Department, No.D.2558-W/40, dated the 26th June 1940, are now subject to modification in view of the amended paragraphs 42 and 43 of the Detaining Officers' War Instructions (India), 1935, a copy of which is enclosed for information.

I have the honour to be,
Sir,
Your most obedient servant,

sd. I.S.Gomeslves

for Under Secretary to the Government
of India.



33 34
Copy of amended paragraphs 42 and 43 of the
Detaining Officers' War Instructions
(India), 1935.

*42. Enemy Merchant Ships. - (a) The Captain, officers and members of the crew of enemy merchant ships detained or seized, if subjects or citizens of the enemy State, are not made prisoners of war if they undertake on the faith of a written promise not to engage, while hostilities last, in any service connected with the operations of the war. The written undertakings, with full particulars of the persons concerned, are to be forwarded to the Home Department. The necessary information is also to be given to the Police to enable them to arrange for surveillance of these persons until their departure from India.

(b) With the above exception, all male enemy subjects of the age of 16 years or more are to be arrested and handed over to the Police who have instructions for dealing with them. Although women and children, who are enemy subjects, will not normally be interned, they are to be handed over to the Police who have instructions for dealing with them also.

(c) The Captain and officers of any enemy merchant ship, if subjects or citizens of a neutral State, are not liable to detention if they give a formal undertaking (in the form of Appendix IV No.8) in writing not to serve in an enemy ship while the war lasts. Such undertakings are to be forwarded to the Home Department. In the event of a Captain or officer refusing to give the necessary undertaking the matter is to be referred by telegram to the Central Government for instructions, and the Police are also to be informed, but the officer is not to be detained except on instructions from the Central Government. Members of the crew who are subjects or citizens of a neutral State are not liable to detention.

(d) The Detaining Officer has no discretion to make any exception to the above instructions. Such general and special exemptions as may be decided upon by the Central Government will be communicated by that Government to Provincial Governments and Military Commanders, and it will be for the Police or the Military Commanders, in whose charge the individuals in question are, to give effect to the exemption orders of the Central Government.

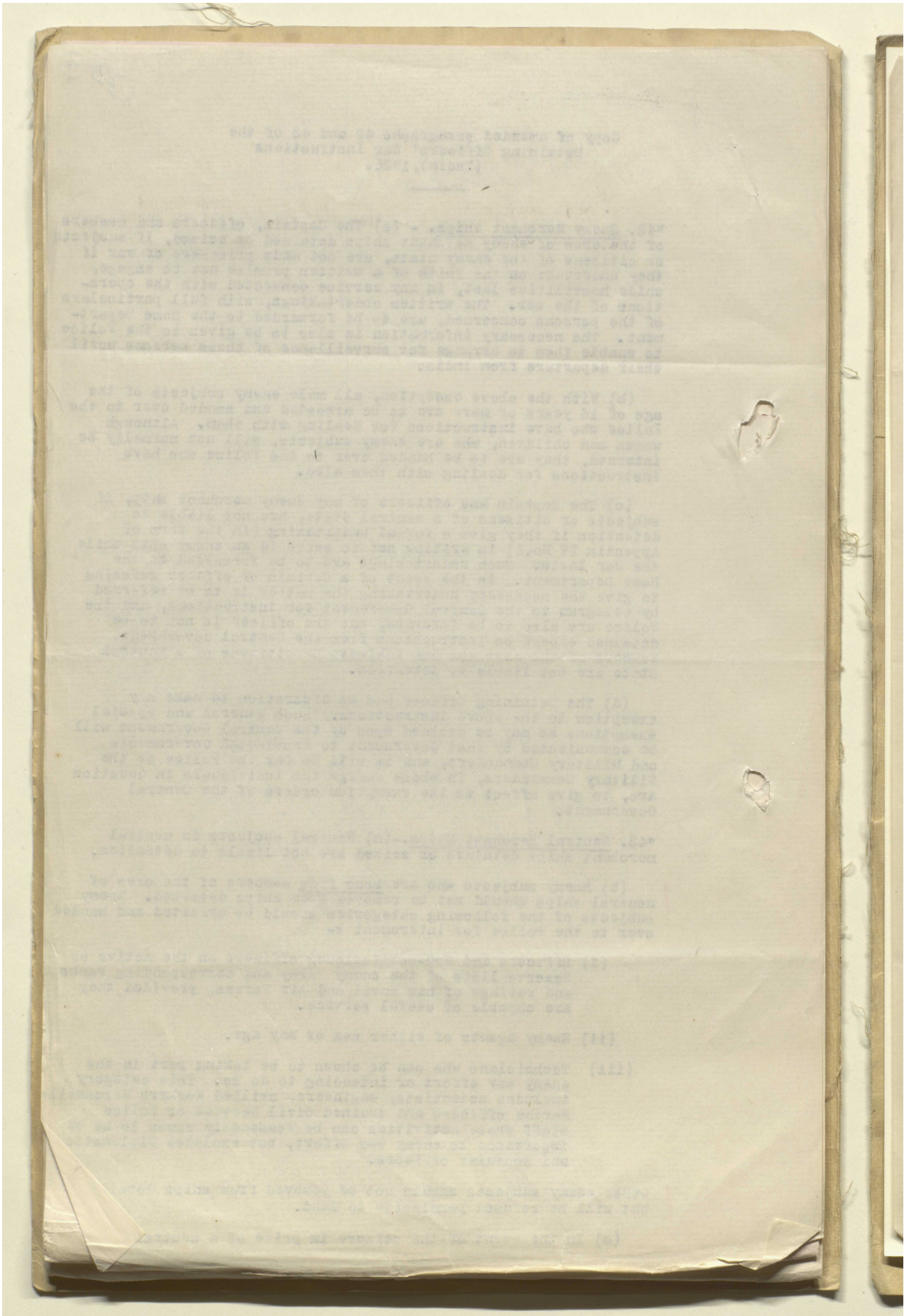
*43. Neutral Merchant Ships.-(a) Neutral subjects in neutral merchant ships detained or seized are not liable to detention.

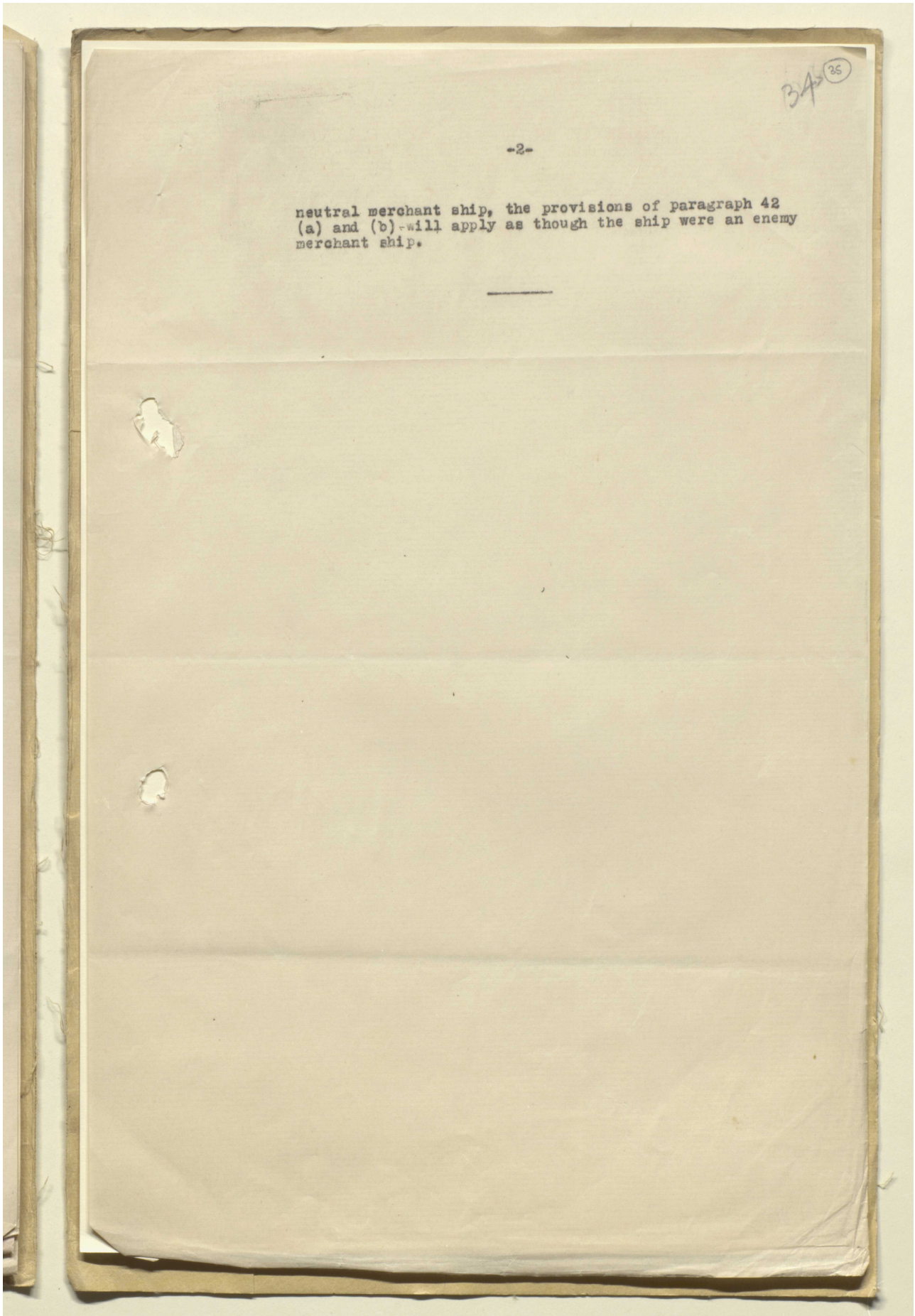
(b) Enemy subjects who are bona fide members of the crew of neutral ships should not be removed from ships detained. Enemy subjects of the following categories should be arrested and handed over to the Police for internment :-

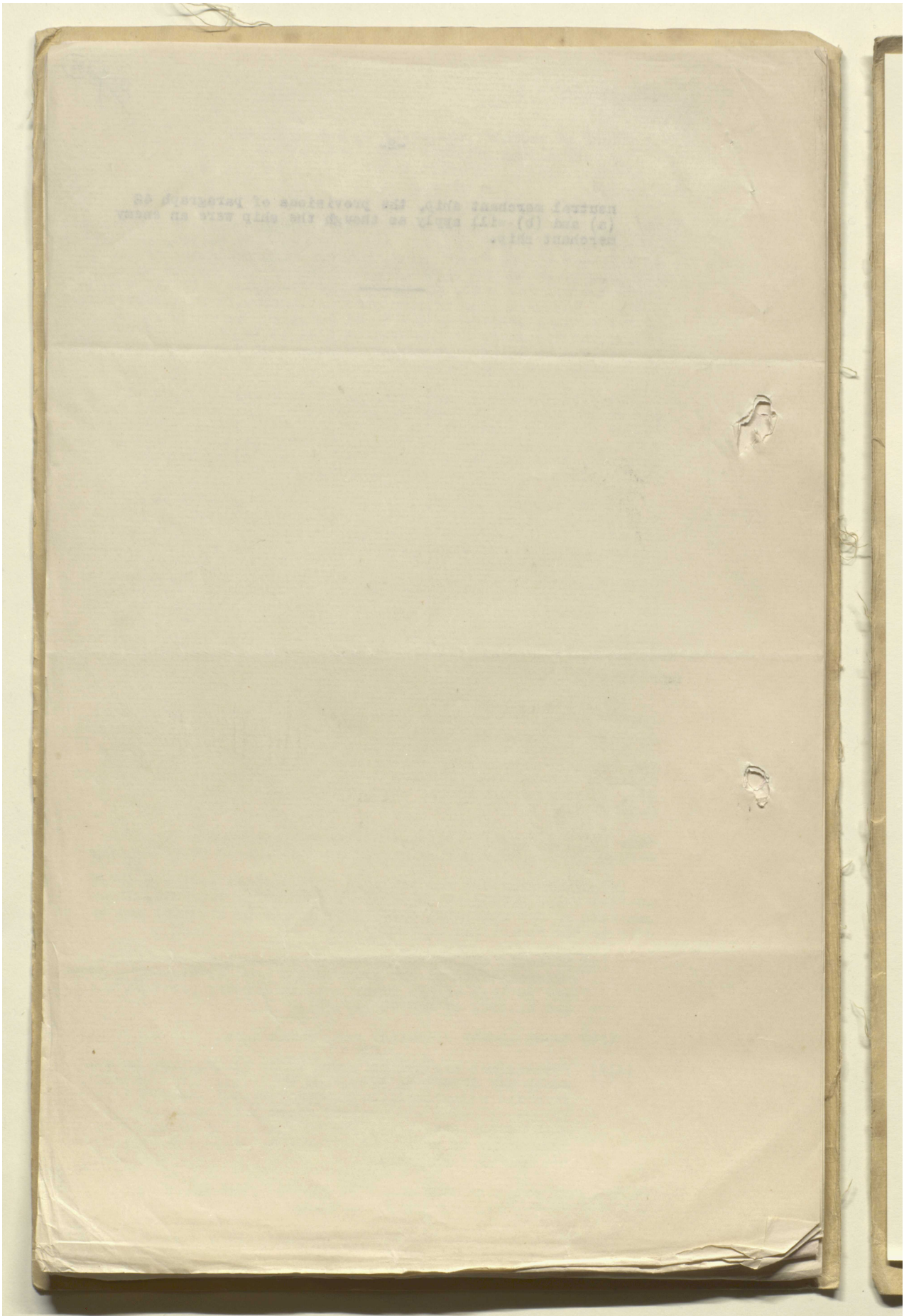
- (i) Officers and Non-commissioned officers on the Active or Reserve lists of the enemy Army and corresponding ranks and ratings of his Naval and Air Forces, provided they are capable of useful service.
- (ii) Enemy agents of either sex or any age.
- (iii) Technicians who can be shown to be taking part in the enemy war effort or intending to do so. This category includes scientists, engineers, skilled workers Mercantile Marine officers and trained Civil Service or Police staff whose activities can be reasonably shown to be of importance to enemy war effort, but excludes Diplomatic and Consular officers.

Other enemy subjects should not be removed from ships detained, but will be refused permission to land.

(c) In the event of the seizure in prize of a neutral







Confidential

No.C/780-28/1.

Political Agency,
Bahrain, the 13th October 1940

To

The Chief Local Representative,
The Bahrain Petroleum Company Limited,
Bahrain.

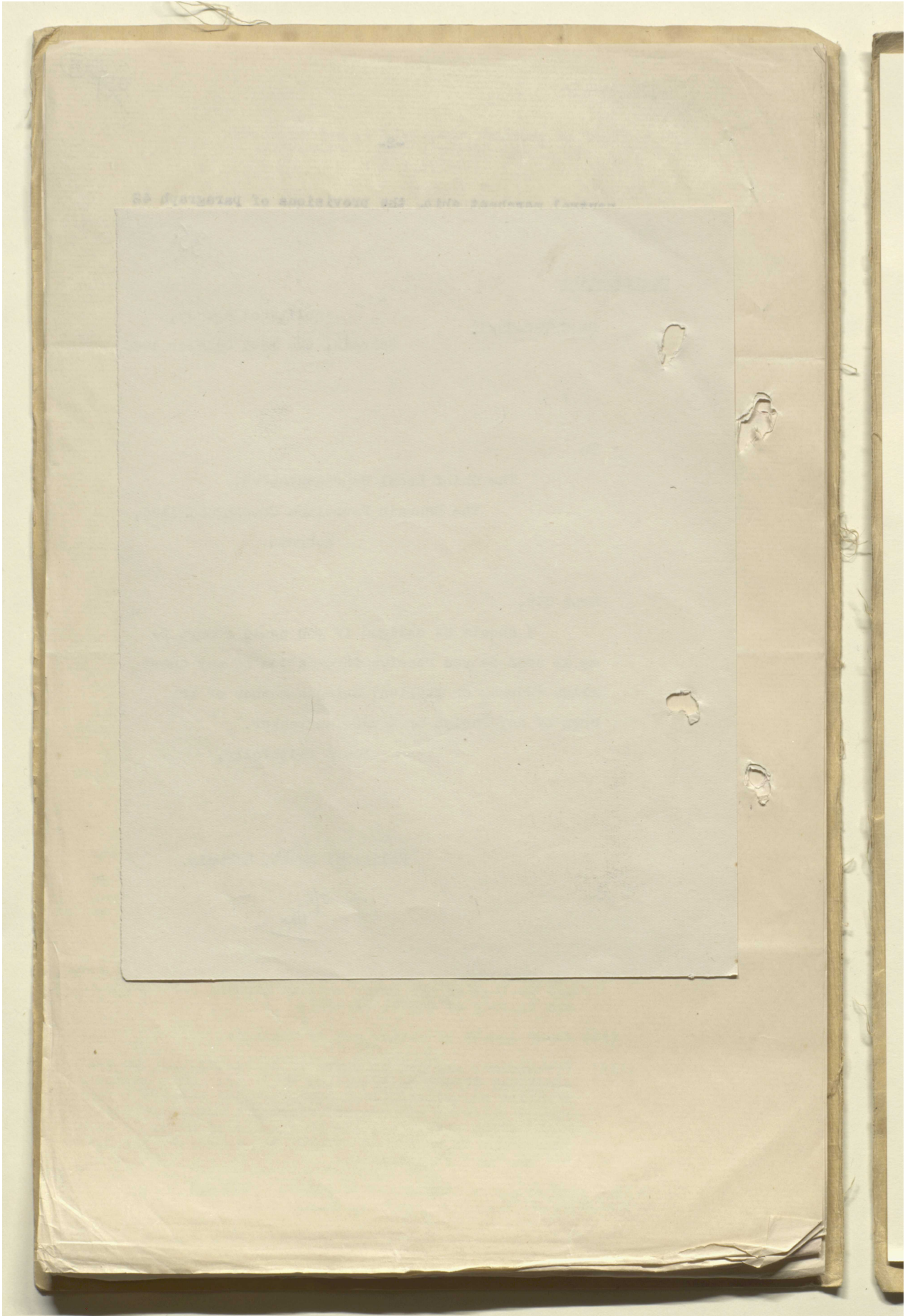
Dear Sir,

I should be obliged if you would report to
me as soon as you receive information of any enemy
alien (German or Italian) being a member of the
crew of any Danish or Norwegian tanker.

Yours faithfully,

h
Political Agent, Bahrain.

ofc
Hhr



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [37r] (73/76)

Confidential

No. C/782-28/1.

The Political Agent, Bahrain, Presents his compliments to:—

The Naval Officer in Charge,
Naval Base,
Bahrain.

and has the honour to send him a copy of the undermentioned document (s)
for information.

THE AGENCY,
BAHRAIN, PERSIAN GULF.

Dated 13th October 1940.

Reference to previous correspondence:

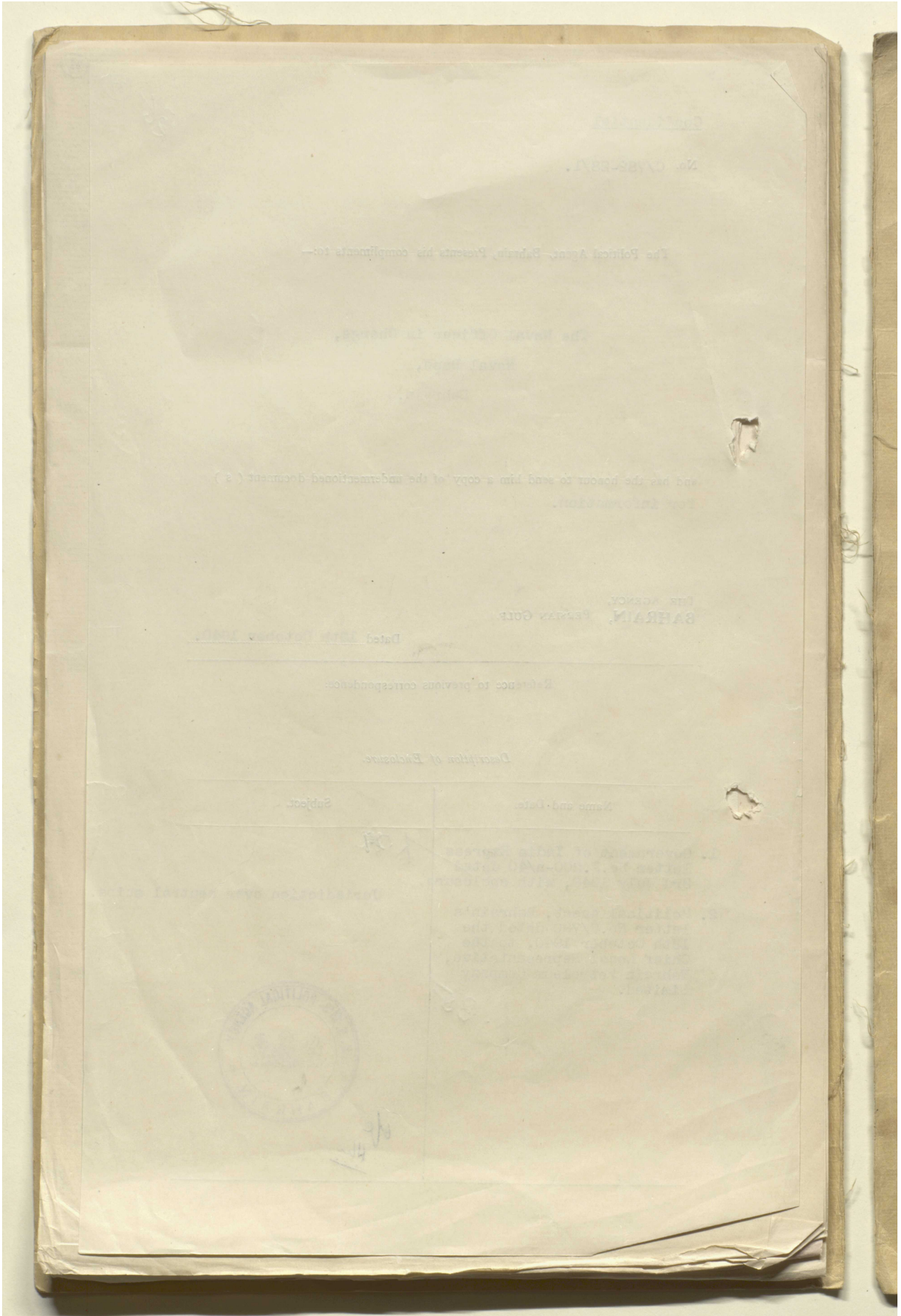
Description of Enclosure.

Name and Date.	Subject.
1. Government of India Express letter No.F.200-n/40 dated 3rd July 1940, with enclosure.	Jurisdiction over neutral ships.
2. Political Agent, Bahrain's letter No.C/780 dated the 13th October 1940, to the Chief Local Representative, Bahrain Petroleum Company Limited.	



of
H. M.

'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [37v] (74/76)



'File 28/16 Jurisdiction over neutral ships in Bahrain & Kuwait' [back-i]
(75/76)

