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Documents on Prisoners of War

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DOCUMENT NO. 9

DECREE OF 3 AUGUST 1792 OF THE FRENCH NATIONAL ASSEMBLY CONCERNING PRISONERS OF WAR CAPTURED IN COMBAT

SOURCE

1 DeClercq 219

NOTE

This is another of the several Decrees adopted by the French National Assembly in 1792, shortly after revolutionary France had gone to war with Austria and Prussia. (See DOCUMENT NO. 8 and DOCUMENT NO. 10) In true revolutionary spirit the legislation, which provided for reprisals for the maltreatment of French prisoners of war by the enemy, excluded common soldiers from being the object of these reprisals. One other major purpose of the legislation was to make clear the French insistence upon the recognition of the military status, and entitlement upon capture to all prisoner of war protections, of members of the various volunteer units which had just been brought into being. This was a comparatively new problem inasmuch as previously the military had more often than not been professionals and the question of entitlement to such status and protection had rarely arisen.

TEXT

The National Assembly,

Considering that officers and soldiers of the voluntary national guard and of the local national guards of the various communities are, like the officers and soldiers of the regular army, armed by virtue of the law for the defense of liberty; considering that they ought, as a consequence, when they are captured in combat, to be treated according to the rules established between nations concerning prisoners of war; and wishing, at the same time, to ensure the security of French citizens, to maintain equality of rights between communities, and not to deviate from the sacred laws of humanity.

Decrees that there is an emergency; and further decrees as follows:

1. Foreigners taken in combat shall be treated in accordance with the Decree of 4 May [1792]. In any case in which the customary law of war shall have been violated by the enemy Powers, every member of the foreign nobility, every officer, and every general, whatever may be his status and his title, who shall be taken prisoner in combat against the French nation, shall be treated in the same manner as their nations have treated French citizens, including the officers and soldiers of the voluntary battalions, of the local national guard, and of the regular army, captured in combat.

2. In all cases the common soldiers of the enemy forces shall be treated in accordance with the customary rules of war.