

FILE NO. 74702

July 27, 1942

Mr. Charles P. Price, Warden
Baltimore City Jail
Madison and Buren Streets
Baltimore, Maryland

Dear Mr. Price:

In your letter of July 20, 1942, you inquired whether one of your prisoners, Emmett W. Burnett, is entitled to the five-days a month commutation for good behavior, provided for in Section 190 of the City Charter.

The order of commitment signed by the Governor and addressed to Brigadier General D. W. Mohr, refers to the fact that this prisoner was tried by a Special Court Martial. I have learned that he was convicted of violating the Articles of War, but that is the extent of the information which I have received from the Judge Advocate of the Maryland State Guard.

Section 190 of the City Charter applies to "all persons who shall be convicted of any offense punishable by confinement in said Baltimore City Jail". In the opinion of former City Solicitor Charles C. Wallace, dated July 27, 1927, to which you refer, this language is construed to mean offenses made punishable by statute, such as felonies or misdemeanors. For this reason, Mr. Wallace concluded that a commitment for contempt of Court did not come within the purview of this Section.

I am in accord with his conclusion, and, therefore, do not believe that the prisoner in this instance is entitled to the commutation permitted by the statute. To hold otherwise might lead to some strange situations, indeed. For example, prisoners committed to the City Jail by the order of the United States District Court, could insist on receiving their commutation merely because they accidentally were sent to the City Jail, rather than to any one of the numerous other places of detention or confinement. The same reasoning which militates against such a construction, should certainly apply in the case of a prisoner convicted by a military court for violation of the Articles of War.

If this prisoner is to receive the commutation which he evidently expects, the authority for that must come from some source other than the Section of the