

## **Manual of the Laws of Naval War. Oxford, 9 August 1913.**

The Institute of International Law, at its Christiania session, declared itself in favour of firmly upholding its former Resolutions on the abolition of capture and of confiscation of enemy private property in naval warfare. But at the same time being aware that this principle is not yet accepted, and deeming that, for so long as it shall not be, regulation of the right of capture is indispensable, it entrusted a commission with the task of drawing up stipulations providing for either contingency. In pursuance of this latter action, the Institute, at its Oxford session on 9 August 1913, adopted the following Manual, based on the right of capture (1).

(1) ' Definitions.- Capture ' is the act by which the commander of a war-ship substitutes his authority for that of the captain of the enemy ship, subject to the subsequent judgment of the prize court as to the ultimate fate of the ship and its cargo.

' Seizure, ' when applied to a ship, is the act by which a war-ship takes possession of the vessel detained, with or without the consent of the captain of the latter. Seizure differs from capture in that the ultimate fate of the vessel may not be involved as a result of its condemnation.

Applied to goods alone, seizure is the act by which the war-ship, with or without the consent of the captain of the vessel detained, takes possession of the goods and holds them or disposes of them subject to the subsequent judgment of the prize court.

' Confiscation ' is the act by which the prize court renders valid the capture of a vessel or the seizure of its goods.

The word ' prize ' is a general expression applying to a captured ship or to seized goods.

By ' public ships ' are meant all ships other than war-ships which, belonging to the State or to individuals, are set apart for public service and are under the orders of an officer duly commissioned by the State. (Note in the original).

### SECTION I

#### ON LOCALITIES WHERE HOSTILITIES MAY TAKE PLACE

Article 1. Rules peculiar to naval warfare are applicable only on the high seas and in the territorial waters of the belligerents, exclusive of those waters which, from the standpoint of navigation, ought not to be considered as maritime.

### SECTION II

#### ON THE ARMED FORCE OF BELLIGERENT STATES

Art. 2. War-ships. Constituting part of the armed force of a belligerent State and, therefore, subject as such to the laws of naval warfare are:

(1) All ships belonging to the State which, under the direction of a military commander and manned by a military crew, carry legally the ensign and the pendant of the national navy.

(2) Ships converted by the State into war-ships in conformity with Articles 36.

Art. 3. Conversion of public and private vessels into war-ships. A vessel converted into a war-ship cannot have the rights and duties accruing to such vessels, unless it is placed under the direct authority, immediate control, and responsibility of the Power whose flag it flies.

Art. 4. Vessels converted into war-ships must bear the exterior marks which distinguish the war-ships of their nationality.

Art. 5. The commander must be in the service of the State and duly commissioned by the competent authorities; his name must appear on the list of officers of the fighting fleet.

Art. 6. The crew must be subject to the rules of military discipline.

Art. 7. Every vessel converted into a war-ship must observe in its operations the laws and customs of war.

Art. 8. The belligerent who converts a vessel into a war-ship must, as soon as possible, announce such conversion in the list of war-ships.

Art. 9. The conversion of a vessel into a war-ship may be accomplished by a belligerent only in its own waters, in those of an allied State also a belligerent, in those of the adversary, or, lastly, in those of a territory occupied by the troops of one of these States.

Art. 10. Conversion of war-ships into public or private vessels. A war-ship may not, while hostilities last, be converted into a public or a private vessel.

Art. 11. Belligerent personnel. Constituting part of the armed force of a belligerent State and, therefore, in so far as they carry on operations at sea, subject as such to the laws of naval warfare, are:

- (1) The personnel of the ships mentioned in Article 2;
- (2) The troops of the naval forces, active or reserve;
- (3) The militarized personnel on the seacoasts;
- (4) The regular forces, other than naval forces, or those regularly organized in conformity with Article 1 of the Hague Regulations of 18 October 1907, concerning the laws and customs of war on land.

Art. 12. Privateering, private vessels, public vessels not war-ships. Privateering is forbidden.

Apart from the conditions laid down in Articles 3 and following, neither public nor private vessels, nor their personnel, may commit acts of hostility against the enemy.

Both may, however, use force to defend themselves against the attack of an enemy vessel.

Art. 13. Population of unoccupied territory. The inhabitants of a territory which has not been occupied who, upon the approach of the enemy, spontaneously arm vessels to fight him, without having had time to convert them into war-ships in conformity with Articles 3 and following, shall be considered as belligerents, if they act openly and if they respect the laws and usages of war.

### SECTION III

#### ON MEANS OF INJURING THE ENEMY

Art. 14. Principle. The right of belligerents to adopt means of injuring the enemy is not unlimited.

Art. 15. Treacherous and barbarous methods. Ruses of war are considered permissible. Methods, however, which involve treachery are forbidden.

Thus it is forbidden:

- (1) To kill or wound treacherously individuals belonging to the opposite side;
- (2) To make improper use of a flag of truce, to make use of false flags, uniforms, or insignia, of whatever kind, especially those of the enemy, as well as of the distinctive badges of the medical corps indicated in Articles 41 and 42.

Art. 16. In addition to the prohibitions which shall be established by special conventions, it is

forbidden:

(1) To employ poison or poisoned weapons, or projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases;

(2) To employ arms, projectiles, or materials calculated to cause unnecessary suffering. Entering especially into this category are explosive projectiles or those charged with fulminating or inflammable materials, less than 400 grammes in weight, and bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not cover the core entirely or is pierced with incisions.

Art. 17. It is also forbidden:

(1) To kill or to wound an enemy who, having laid down his arms or having no longer means of defense, has surrendered at discretion;

(2) To sink a ship which has surrendered, before having taken off the crew;

(3) To declare that no quarter will be given.

Art. 18. Pillage and devastation are forbidden.

It is forbidden to destroy enemy property, except in the cases where such destruction is imperatively required by the necessities of war or authorized by provisions of the present regulations.

Art. 19. Torpedoes. It is forbidden to employ torpedoes which do not become harmless when they have missed their mark.

Art. 20. Submarine mines. It is forbidden to lay automatic contact mines, anchored or not, in the open sea.

Art. 21. Belligerents may lay mines in their territorial waters and in those of the enemy.

But it is forbidden, even in territorial waters:

(1) To lay unanchored automatic contact mines unless they are so constructed as to become harmless one hour at most after the person who laid them ceases to control them;

(2) To lay anchored automatic contact mines which do not become harmless as soon as they have broken loose from their moorings.

Art. 22. A belligerent may not lay mines along the coast and harbours of his adversary except for naval and military ends. He is forbidden to lay them there in order to establish or to maintain a commercial blockade.

Art. 23. When automatic contact mines, anchored or unanchored, are employed, every precaution must be taken for the security of peaceful shipping. The belligerents must do their utmost to render these mines harmless within a limited time. Should the mines cease to be under surveillance, the belligerents shall notify the danger zones, as soon as military exigencies permit, by a notice addressed to ship-owners, which must also be communicated to the governments through the diplomatic channel.

Art. 24. At the close of the war, the belligerent States shall do their utmost to remove the mines that they have laid, each one its own.

As regards the anchored automatic contact mines laid by one of the belligerents off the coast of the other, their position must be notified to the other party by the State that has laid them, and each State must proceed, with the least possible delay, to remove the mines in its own waters.

Belligerent States upon whom rests the obligation of removing these mines after the war is over shall, with as little delay as possible, make known the fact that, so far as is possible, the mines have been removed.

Art. 25. Bombardment. The bombardment of undefended ports, towns, villages, dwellings, or buildings is forbidden.

A place cannot be bombarded solely because submarine automatic contact mines are anchored off its coast.

Art. 26. Military works, military or naval establishments, depots of arms or war ' matériel, ' workshops or plants which could be utilized for the needs of the hostile fleet or army, and the war-ships in the harbour, are not, however, included in this prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable time of waiting, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed.

He incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.

If for military reasons immediate action is necessary, and no delay can be allowed the enemy, it is understood that the prohibition to bombard the undefended town holds good, as in the case given in paragraph 1, and that the commander shall take all due measures in order that the town may suffer as little harm as possible.

Art. 27. The bombardment of undefended ports, towns, villages, dwellings, or buildings because of the non-payment of contributions of money, or the refusal to comply with requisitions for provisions or supplies is forbidden.

Art. 28. In bombardments all useless destruction is forbidden, and especially should all necessary measures be taken by the commander of the attacking force to spare, as far as possible, sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected. on condition that they are not used at the same time for military purposes.

It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large stiff rectangular panels divided diagonally into two coloured triangular portions, the upper portion black, the lower portion white.

Art. 29. If the military situation permits, the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.

Art. 30. Blockade. Ports and coasts belonging to the enemy or occupied by him may be subjected to blockade according to the rules of international law.

#### SECTION IV

#### ON THE RIGHTS AND DUTIES OF THE BELLIGERENT WITH REGARD TO ENEMY PROPERTY

Art. 31. A. Ships and cargoes -- War-ships. The armed forces of a State may attack the enemy's war-ships, to take possession of them or to destroy them, together with their equipment and supplies, whether these ships, at the beginning of the struggle, are in a harbour of the State, or are encountered at sea, in ignorance of hostilities; or by ' force majeure ' are either compelled to enter a port, or are cast on the shores of said State.

Art. 32. Public and private vessels -- Stopping, visit, and search. All vessels other than those of the navy, whether they belong to the State or to individuals, may be summoned by a belligerent war-ship to stop, that a visit and search may be conducted on board them.

The belligerent war-ship, in ordering a vessel to stop, shall fire a charge of powder as a summons and, if that warning is not sufficient, shall fire a projectile across the bow of the vessel.

Previously or at the same time, the war-ship shall hoist its flag, above which, at night, a signal light shall be placed. The vessel answers the signal by hoisting its own flag and by stopping at once; whereupon, the war-ship shall send to the stopped vessel a launch manned by an officer and a sufficient number of men, of whom only two or three shall accompany the officer on board the stopped vessel.

Visit consists in the first place in an examination of the ship's papers.

If the ship's papers are insufficient or not of a nature to allay suspicion, the officer conducting the visit has the right to proceed to a search of the vessel, for which purpose he must ask the cooperation of the captain.

Visit of post packets must, as Article 53 says, be conducted with all the consideration and all the expedition possible.

Vessels convoyed by a neutral war-ship are not subject to visit except in so far as permitted by the rules relating to convoys.

Art. 33. Principle of capture. Public and private vessels of enemy nationality are subject to capture, and enemy goods on board, public or private, are liable to seizure.

Art. 34. Capture and seizure are permitted even when the vessels or the goods have fallen into the power of the belligerent because of ' force majeure, ' through shipwreck or by being compelled to put into port.

Art. 35. Vessels which possess no ship's papers, which have intentionally destroyed or hidden those that they had, or which offer false ones, are liable to seizure.

Art. 36. Extenuation of the principle of capture. When a public or private vessel belonging to one of the belligerent Powers is, at the commencement of hostilities, in an enemy port, it is allowed to depart freely, immediately or after a reasonable number of days of grace, and to proceed, after having been furnished with a passport, to its port of destination, or to any other port indicated.

The same rule should apply in the case of a ship which has left its last port of departure before the commencement of the war and entered an enemy port while still ignorant of hostilities.

Art. 37. The public or private vessel unable, owing to circumstances of ' force majeure, ' to leave the enemy port within the period contemplated in the preceding article, cannot be captured.

The belligerent may only detain it without payment of compensation but subject to the obligation of restoring it after the war, or requisition it on payment of compensation.

Art. 38. Enemy vessels, public or private, which left their last port of departure before the commencement of the war and which are encountered on the high seas while still ignorant of the outbreak of hostilities, cannot be captured. They are only liable to detention on the understanding that they shall be restored after the war without compensation, or requisitioned, or even destroyed, on payment of compensation, but in such case provision must be made for the safety of the passengers on board as well as for the security of the ship's papers.

But, where these vessels shall be encountered at sea before the expiration of a sufficient period to be granted by the belligerent, seizure is not permissible. Vessels thus encountered are free to proceed to their port of destination or to any other port indicated.

After touching at a port in their own country or at a neutral port, these vessels are subject to capture.

Art. 39. Enemy cargo found on board the ships detained under Articles 37 and 38 may likewise be held. It must be restored after the termination of the war without payment of indemnity, unless requisitioned on payment of compensation.

The same rule is applicable to goods which are contraband of war found on board the vessels mentioned in Articles 36, 37 and 38, even when these vessels are not subject to capture.

Art. 40. In all cases considered in Articles 36, 37 and 38, public or private ships whose build shows that they are intended for conversion into war-ships, may be seized or requisitioned upon payment of compensation. These vessels shall be restored after the war.

Goods found on board these ships shall be dealt with according to the rules in Article 39.

Art. 41. Exceptions to the principles in Articles 31 and 32 -- Hospital ships. Military hospital ships, that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and cannot be captured while hostilities last.

Military hospital ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a half (five feet) in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital ships shall make themselves known by hoisting, with their national flag the white flag with the red cross provided by the Geneva Convention.

The ships and boats above mentioned which wish to ensure by night the freedom from interference to which they are entitled, must, subject to the belligerent they are accompanying, take the measures necessary to render their special painting sufficiently plain.

The distinguishing signs referred to in this article can be used only outside with a horizontal band of green about a metre and a half (five feet) in breadth.

These ships cannot be used for any military purpose.

They must in no wise hamper the movements of the combatants.

During and after an engagement, they will act at their own risk and peril.

The belligerents shall have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a commissioner on board; they can even detain them, if important circumstances require it.

As far as possible, the belligerents shall enter in the log of the hospital ships the orders which they give them.

Hospital ships which, under the terms of this Article, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong.

Art. 42. Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall likewise be respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships must be provided with a certificate from competent authorities declaring that the vessels have been under their control while fitting out and on final departure.

The ships in question shall be distinguished by being painted white outside with a horizontal band of red about a metre and a half (five feet) in breadth.

They are subject to the regulations laid down for military hospital ships by Article 41.

Art. 43. In case of a fight on board a war-ship, the sick-wards and the ' matériel ' belonging to them shall be respected and spared as far as possible. Although remaining subject to the laws of war, they cannot be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded. The commander into whose power they have fallen may, however, apply them to other purposes, if the military situation requires it, after seeing that the sick and wounded on board are properly provided for.

Art. 44. Hospital ships and sick-wards of vessels are no longer entitled to protection if they are employed for the purpose of injuring the enemy. The fact that the staff of the said ships and sick-wards is armed for maintaining order and for defending the sick and wounded, and the

presence of wireless telegraphy apparatus on board, are not sufficient reasons for withdrawing protection.

Art. 45. Cartel ships. Ships called cartel ships, which act as bearers of a flag of truce, may not be seized while fulfilling their mission, even if they belong to the navy.

A ship authorized by one of the belligerents to enter into a parley with the other and carrying a white flag is considered a cartel ship.

The commanding officer to whom a cartel ship is sent is not obliged to receive it under all circumstances. He can take all measures necessary to prevent the cartel ship from profiting by its mission to obtain information. In case it abuses its privileges, he has the right to hold the cartel ship temporarily.

A cartel ship loses its rights of inviolability if it is proved, positively and unexceptionably, that the commander has profited by the privileged position of his vessel to provoke or to commit a treacherous act.

Art. 46. Vessels charged with missions. Vessels charged with religious, scientific, or philanthropic missions are exempt from seizure.

Art. 47. Vessels used exclusively for fishing along the coast and for local trade. Vessels used exclusively for fishing along the coast, or for local trade, under which term are included those used exclusively for piloting or for light-house service, as well as the boats meant principally for the navigation of rivers, canals, and lakes, are exempt from seizure, together with their appliances, rigging, tackle and cargo.

It is forbidden to take advantage of the harmless character of said boats in order to use them for military purposes while preserving their peaceful appearance.

Art. 48. Vessels furnished with a safe-conduct or a licence. Enemy vessels provided with a safe-conduct or a licence are exempt from seizure.

Art. 49. Suspension of immunities. The exceptions considered in Articles 41, 42, 45, 46, 47 and 48 cease to be applicable if the vessels to which they refer participate in the hostilities in any manner whatsoever or commit other acts which are forbidden to neutrals as unneutral service.

The same suspension occurs if, summoned to stop to submit to search, they seek to escape by force or by flight.

Art. 50. Rights of the belligerent in the zone of operations. When a belligerent has not the right of seizing or of capturing enemy vessels, he may, even on the high seas, forbid them to enter the zone corresponding to the actual sphere of his operations.

He may also forbid them within this zone to perform certain acts calculated to interfere with his activities, especially certain acts of communication, such, for example, as the use of wireless telegraphy.

The simple infraction of these prohibitions will entail driving the vessel back, even by force, from the forbidden zone and the sequestration of the apparatus. The vessel, if it be proved that it has communicated with the enemy to furnish him with information concerning the conduct of hostilities, can be considered as having placed itself at the service of the enemy and, consequently, with its apparatus, shall be liable to capture.

Art. 51. Enemy character. The enemy or neutral character of a vessel is determined by the flag which it is entitled to fly.

The enemy or neutral character of goods found on board an enemy vessel is determined by the enemy or the neutral character of the owner.

Each State must declare, not later than the outbreak of hostilities, whether the enemy or neutral character of the owner of the goods is determined by his place of residence or his nationality.

Enemy goods found on board an enemy ship retain their enemy character until they reach their destination, notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character.

Art. 52. Transfer to a neutral flag. The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel as such is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost its belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void; this presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of, the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.

The transfer of an enemy vessel to a neutral flag effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There is, however, an absolute presumption that a transfer is void:

- (1) if the transfer has been made during a voyage or in a blockaded port;
- (2) if a right to repurchase or recover the vessel is reserved to the vendor;
- (3) if the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.

Art. 53. B. Postal correspondence. Postal correspondence, whatever its official or private character may be, found on the high seas on board an enemy ship, is inviolable, unless it is destined for or proceeding from a blockaded port.

The inviolability of postal correspondence does not exempt mail-boats from the laws and customs of maritime war as to ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

If the ship on which the mail is sent be seized, the correspondence is forwarded by the captor with the least possible delay.

Art. 54. C. Submarine cables. In the conditions stated below, belligerent States are authorized to destroy or to seize only the submarine cables connecting their territories or two points in these territories, and the cables connecting the territory of one of the nations engaged in the war with a neutral territory.

The cable connecting the territories of the two belligerents or two points in the territory of one of the belligerents, may be seized or destroyed throughout its length, except in the waters of a neutral State.

A cable connecting a neutral territory with the territory of one of the belligerents may not, under any circumstances, be seized or destroyed in the waters under the power of a neutral territory. On the high seas, this cable may not be seized or destroyed unless there exists an effective blockade and within the limits of that blockade, on consideration of the restoration of the cable in the shortest time possible. This cable may be seized or destroyed on the territory of and in the waters belonging to the territory of the enemy for a distance of three marine miles from low tide. Seizure or destruction may never take place except in case of absolute necessity.

In applying the preceding rules no distinction is to be made between cables, according to whether they belong to the State or to individuals; nor is any regard to be paid to the nationality of their owners.

Submarine cables connecting belligerent territory with neutral territory, which have been seized or destroyed, shall be restored and compensation fixed when peace is made.



## SECTION V

### ON THE RIGHTS AND DUTIES OF THE BELLIGERENT WITH REGARD TO INDIVIDUALS

Art. 55. A. Personnel of vessels -- War-ships. When a war-ship is captured by the enemy, combatants and non-combatants forming part of the armed forces of the belligerents, are to be treated as prisoners of war.

Art. 56. Public or private vessels. When an enemy ship, public or private, is seized by a belligerent, such of its crew as are nationals of a neutral State, are not made prisoners of war. The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise in writing not to take, during hostilities, any service connected with the operations of the war. The captain, officers and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing not to undertake, while hostilities last, any service connected with the operations of the war.

Art. 57. The names of the persons retaining their liberty on condition of the promise provided for by the preceding article, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

Art. 58. All persons constituting part of the crew of a public or a private enemy ship are, in the absence of proof to the contrary, presumed to be of enemy nationality.

Art. 59. Members of the personnel of an enemy ship which, because of its special character, is itself exempt from seizure, cannot be held as enemies.

Art. 60. When a public or a private ship has directly or indirectly taken part in the hostilities, the enemy may retain as prisoners of war the whole personnel of the ship, without prejudice to the penalties he might otherwise incur.

Art. 61. Members of the personnel of a public or of a private vessel, who are personally guilty of an act of hostility towards the enemy, may be held by him as prisoners of war, without prejudice to the penalties he might otherwise incur.

Art. 62. B. Passengers. When individuals who follow a naval force without belonging to it, such as contractors, newspaper correspondents, etc., fall into the enemy's hands, and when the latter thinks it expedient to detain them, they may be detained only so long as military exigencies require. They are entitled to be treated as prisoners of war.

Art. 63. Passengers who, without forming part of the crew, are on board an enemy ship, may not be detained as prisoners of war, unless they have been guilty of a hostile act.

All passengers included in the armed force of the enemy may be made prisoners of war, even if the vessel is not subject to seizure.

Art. 64. C. Religious, medical, and hospital personnel. The religious, medical, and hospital staff of every vessel taken or seized is inviolable, and its members may not be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave,

when the commander in chief considers it possible.

The belligerents must guarantee to the said staff, when it has fallen into their hands, the same allowances and pay which are given to the staff of corresponding rank in their own navy.

The commissioner put by the belligerent on board the hospital ship of his adversary, in conformity with paragraph 10 of Article 41, enjoys the same protection as the medical staff.

The religious, medical, and hospital staffs lose their rights of inviolability, if they take part in hostilities, if, for example, they use their arms otherwise than for defense.

Art. 65. D. *Parlementaires*. The personnel of cartel ships is inviolable.

It loses its rights of inviolability if it is proved in a clear and incontestable manner that it has taken advantage of its privileged position to provoke or commit an act of treason.

Art. 66. E. *Spies*. A spy, even when taken in the act, may not be punished without first being tried.

Art. 67. A person can be considered a spy only when, acting clandestinely or on false pretenses, thus concealing his operations, he obtains or endeavours to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Hence, soldiers not wearing a disguise who have penetrated into the zone of operations of the hostile fleet for the purpose of obtaining information, may not be considered as spies but are to be treated as prisoners of war. Similarly, soldiers or civilians, carrying out their mission openly, entrusted with the delivery of dispatches, or engaged in transmitting and receiving dispatches by wireless telegraphy, are not to be considered as spies. To this class belong likewise persons sent in air-ships or in hydro-aeroplanes to act as scouts in the zone of operations of the enemy fleet or to maintain communications.

Art. 68. The spy who succeeds in escaping from the zone corresponding to the enemy's actual sphere of operations, or who has rejoined the armed force to which he belongs, if he later falls into the power of the enemy, incurs no responsibility for his previous acts.

Art. 69. F. *Requisition of nationals of the enemy State -- Guides, pilots, and hostages*. A belligerent has no right to force persons who fall into his power, or nationals of the adverse party in general, to take part in the operations of the war directed against their own country, even when they were in his service before the beginning of the war, or to compel them to furnish information concerning their own State, its forces, its military position, or its means of defense.

He cannot force them to act as guides or as pilots.

He may, however, punish those who knowingly and voluntarily offer themselves in order to mislead him.

Compelling nationals of a belligerent to swear allegiance to the enemy Power is not permitted. The taking of hostages is forbidden.

Art. 70. G. *Prisoners of war*. Prisoners of war are in the power of the hostile government, but not of the individuals or corps who capture them.

They must be humanely treated.

All their personal belongings, except arms, horses, military papers, and all objects in general which are specially adapted to a military end, remain their property.

Art. 71. Prisoners of war may be interned on a ship only in case of necessity and temporarily.

Art. 72. The government into whose hands prisoners of war have fallen is charged with their maintenance.

Art. 73. All prisoners of war, so long as they are on board a ship, shall be subject to the laws, regulations, and orders in force in the navy of the State in whose power they are.

Art. 74. Escaped prisoners who are retaken before succeeding in escaping from the enemy's actual sphere of action, or before being able to rejoin the armed force to which they belong, are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment on account of the previous flight.

Art. 75. Every prisoner of war is bound to give, if he is questioned on the subject, his true name and rank, and if he infringes this rule, he is liable to have the advantages given to prisoners of his class curtailed.

Art. 76. Prisoners of war may be set at liberty on parole if the laws of their country allow, and, in such cases, they are bound, on their personal honour, scrupulously to fulfil, both towards their own government and the government by whom they were made prisoners, the engagements they have contracted.

In such cases their own government is bound neither to require nor to accept from them any service incompatible with the parole given.

Art. 77. A prisoner of war cannot be compelled to accept his liberty on parole; similarly the hostile government is not obliged to accede to the request of the prisoner to be set at liberty on parole.

Art. 78. Prisoners of war liberated on parole and recaptured bearing arms against the government to whom they had pledged their honour, or against the allies of that government, forfeit their right to be treated as prisoners of war, and can be brought before the courts, unless, subsequent to their liberation, they have been included in an unconditional cartel of exchange.

Art. 79. Prisoners in naval warfare disembarked on land are subject to the rules laid down for prisoners in land warfare.

The same regulations should be applied, as far as possible, to prisoners of war interned on a vessel.

The preceding rules must, as far as it is possible to apply them, be followed toward prisoners of war from the moment they are captured, when they are on the ship which takes them to the place of their internment.

Art. 80. After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible.

Art. 81. H. Wounded, sick, shipwrecked and dead. Vessels used for hospital service shall afford relief and assistance to the wounded, sick and shipwrecked of the belligerents without distinction of nationality.

Art. 82. In case of the capture or seizure of an enemy vessel or a hospital ship that has failed in its duty, the sailors and soldiers on board, when sick or wounded, as well as other persons officially attached to fleets or armies, whatever their nationality, shall be respected and tended by their captors.

Art. 83. Any war-ship belonging to a belligerent may demand that sick, wounded or shipwrecked men on board military hospital ships, hospital ships belonging to relief societies or

to private individuals, merchant ships, yachts, or boats, whatever the nationality of these vessels, should be handed over.

Art. 84. The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

Art. 85. After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked and wounded, and to protect them, as well as the dead, from pillage and ill-treatment.

They shall see that the burial, whether by land or sea, or the cremation of the dead shall be preceded by a careful examination of the corpse.

Art. 86. Each belligerent shall send, as early as possible, to the authorities of their country, their navy, or their army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him.

The belligerents shall keep each other informed as to internments and transfers as well as to admissions into hospitals and the deaths which have occurred among the sick and wounded in their hands. They shall collect, in order to have them forwarded to the persons concerned by the authorities of their own country, all the objects of personal use, valuables, letters, etc., which are found in the captured or seized ships, or which have been left by the sick or wounded who died in hospital.

Art. 87. In the case of operations of war between the land and sea forces of belligerents, the provisions of the present regulations on hospital assistance do not apply except between the forces actually on board ship.

## SECTION VI

### ON THE RIGHTS AND DUTIES OF THE BELLIGERENT IN OCCUPIED TERRITORY

Art. 88. Occupation: extent and effects. Occupation of maritime territory, that is of gulfs, bays, roadsteads, ports, and territorial waters, exists only when there is at the same time an occupation of continental territory, by either a naval or a military force. The occupation, in that case, is subject to the laws and usages of war on land.

## SECTION VII

### ON CONVENTIONS BETWEEN BELLIGERENTS

Art. 89. General rules. The commander of any belligerent naval force may conclude agreements of a purely military character concerning the forces under his command.

He may not, without authority from his government, conclude any agreement of a political character, such as a general armistice.

Art. 90. All agreements between belligerents must take into account the rules of military honour, and, once settled, must be scrupulously observed by the two parties.

Art. 91. Capitulation. After having concluded a capitulation the commander may neither damage nor destroy the ships, objects, or supplies in his possession, but must surrender them unless the right of so doing has been expressly reserved to him in the terms of the capitulation.

Art. 92. Armistice. An armistice suspends military operations.

Blockades established at the time of the armistice are not raised, unless by a special stipulation of the agreement.

The exercise of the right of visit continues to be permitted. The right of capture ceases except in cases where it exists with regard to neutral vessels.

Art. 93. An armistice may be general or partial. The first suspends the military operations of the belligerent States everywhere; the second, only between certain portions of the belligerent forces and within a fixed radius.

Art. 94. The agreement which proclaims an armistice must indicate precisely the moment it is to begin and the moment it is to end.

An armistice must be notified officially and in good time to the competent authorities as well as to the forces engaged.

Art. 95. Hostilities are suspended at the date fixed by the agreement, or, if no date has been set, immediately after the notification.

If the duration of the armistice has not been defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned in good time.

Art. 96. The terms of a naval armistice shall settle, in cases where they permit the approach of enemy war-ships to certain points of the enemy's coast, the conditions of this approach and the communications of these ships either with the local authorities, or with the inhabitants.

Art. 97. Any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately.

Art. 98. A violation of the terms of the armistice by isolated individuals, acting on their own initiative, entitles the injured party only to demand the punishment of the offenders or, if necessary, compensation for the losses sustained.

Art. 99. Suspension of arms. A suspension of arms must, like an armistice, determine precisely the moment when hostilities are to be suspended and the moment when it ceases to be effective.

If no time is set for resuming hostilities, the belligerent who intends to continue the struggle must warn the enemy of his intention in good time.

The rupture of a suspension of arms by one of the belligerents or by isolated individuals entails the consequences stated in Articles 97 and 98.

## SECTION VIII

### ON THE FORMALITIES OF SEIZURE AND ON PRIZE PROCEDURE

Art. 100. Formalities of seizure. When, after the search has been conducted, the vessel is considered

subject to capture, the officer who seizes the ship must:

(1) Seal all the ship's papers after having inventoried them;

(2) Draw up a report of the seizure, as well as a short inventory of the vessel stating its condition;

(3) State the condition of the cargo which he has inventoried, then close the hatchways of the hold, the chests and the store-room and, as far as circumstances will permit, seal them;

- (4) Draw up a list of the persons found on board;
  - (5) Put on board the seized vessel a crew sufficient to retain possession of it, maintain order upon it, and conduct it to such port as he may see fit.
- If he thinks fit, the captain may, instead of sending a crew aboard a vessel, confine himself to escorting it.

Art. 101. Except for persons who may be considered prisoners of war or who are liable to Punishment, a belligerent may not detain on a seized ship for more than a reasonable time, those necessary as witnesses in ascertaining the facts; but for insurmountable obstacles he must set them at liberty after the 'procès-verbal' of their depositions has been drawn up.

If special circumstances require it, the captain, the officers, and a part of the crew of the captured ship may be taken on board the captor.

The captor shall attend to the maintenance of the persons detained, and shall always give them, as well as the crew, when they are set at liberty, means temporarily necessary for their further maintenance.

Art. 102. The seized ship must be taken to the nearest possible port belonging either to the captor State or to an allied belligerent Power, which offers safe refuge, and has means of easy communication with the prize court charged with deciding upon the capture.

During the voyage, the prize shall sail under the flag and the pendant carried by the war-ships of the State.

Art. 103. The seized ship and its cargo shall, as far as possible, be kept intact during the voyage to port.

If the cargo includes articles liable to deteriorate easily, the captor, so far as possible with the consent of the captain of the seized ship and in his presence, shall take the best measures toward the preservation of these articles.

Art. 104. Destruction of vessels and goods liable to confiscation. Belligerents are not permitted to destroy seized enemy ships, except in so far as they are subject to confiscation and because of exceptional necessity, that is, when the safety of the captor ship or the success of the war operations in which it is at that time engaged, demands it. Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the war-ship. The same rule shall hold, as far as possible, for the goods.

A 'procès-verbal' of the destruction of the captured ship and of the reasons which led to it must be drawn up.

Art. 105. The captor has the right to demand the handing over, or to proceed himself to the destruction of, any goods liable to condemnation found on board a vessel not herself liable to condemnation, provided that the circumstances are such as would, under the preceding article, justify the destruction of a vessel herself liable to condemnation. The captor must enter the goods surrendered or destroyed in the log-book of the vessel stopped, and must obtain duly certified copies of all relevant papers. When the goods have been handed over or destroyed, and the formalities duly carried out, the master must be allowed to continue his voyage.

Art. 106. Use of captured ships. If the captured ship or its cargo is necessary to the captor for immediate public use, he may use them thus. In this case, impartial persons shall make a careful estimate and inventory of the ship and its cargo, and this estimate shall be sent, together with the account of the capture, to the prize court.

Art. 107. Loss of prizes through the perils of the sea. If a prize is lost by the perils of the sea, the fact must be carefully ascertained. In that case no indemnity is due, either for the ship or for

the cargo, provided that if the prize be subsequently annulled the captor is able to prove that the loss would have occurred even without capture.

Art. 108. Recapture. When a ship has been taken and retaken and is then captured from the recaptor, the last captor only has the right to it.

Art. 109. Prize procedure. The captured vessel and its cargo, once in the port of the captor or of an allied State, shall be turned over, with all necessary documents, to the competent authority.

Art. 110. The legality and the regularity of the capture of enemy vessels and of the seizure of goods must be established before a prize court.

Art. 111. All recaptures must likewise be judged by a prize court.

Art. 112. A belligerent State shall not obtain possession of the ship or goods that it has seized during the war until such time as, by final decree, the prize court shall have adjudged the confiscation of the said ship or said goods in its favour.

Art. 113. If the seizure of the ship or of the goods is not upheld by the prize court, or if the prize is released without any judgment being given, the parties interested have the right to compensation, unless there were good reasons for capturing the vessel or the goods.

Art. 114. In case of the destruction of a vessel, the captor shall be required to compensate the parties interested, unless he is able to justify the exceptional necessity of the destruction, or unless, the destruction having been justified, the capture is subsequently declared void.

The same rule is applicable to the case provided for in Article 105.

If goods not liable to confiscation have been destroyed, the owner of the goods has a right to an indemnity.

In the case of a captor's using the ship or the cargo after the seizure, he must, if his act is held to have been illegal, pay the interested parties an equitable indemnity, according to the documents drawn up at the time the vessel or goods were used.

Art. 115. Unlike non-military public ships and enemy private ships, belligerent war-ships taken by the adversary, as well as their ' matériel, ' become the property of the latter as soon as they fall into his possession, without the decision of a prize court being necessary.

## SECTION IX

### ON THE END OF HOSTILITIES

Art. 116. Peace. Acts of hostility must cease upon the signing of the treaty of peace.

Notice of the end of the war shall be communicated by each government to the commander of its naval forces with as little delay as possible.

When hostile acts have been committed after the signing of the treaty of peace, the former status must, as far as possible, be restored.

When they have been committed after the official notification of the treaty of peace, they entail the payment of an indemnity and the punishment of the guilty.

## ADDITIONAL ARTICLE

In conformity with Article 3 of the Hague Convention of 18 October 1907, concerning the laws and customs of war on land, the belligerent party which violates the provisions of the present regulations shall, if the case demands, be obliged to pay compensation; it shall be responsible for all acts committed by persons forming part of its armed naval forces.