International Law Studies – Volume 25

International Law Documents: Regulation of Maritime Warfare

U.S. Naval War College (Editor)

The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. government, the U.S. Department of the Navy or the Naval War College.
PRIZE

SEIZURE

Definition.

Note to preamble.—La saisie, lorsqu'elle s'applique au navire, est l'acte par lequel le bâtiment de guerre prend possession du navire arrêté, avec ou sans l'assentiment de celui-ci. La saisie diffère de la capture en ce que le sort ultérieur du navire peut n'être pas en cause quant à l'éventualité de sa confiscation. Appliquée aux marchandises seules, la saisie est l'acte par lequel le bâtiment de guerre, avec ou sans l'assentiment du capitaine du navire arrêté, prend possession de ces marchandises et les détient ou en dispose sous réserve du jugement ultérieur de la juridiction des pri ses.—Institut, 1913.

Preliminary note.—La saisie, lorsqu'elle s'applique aux marchandises seules, est l'acte par lequel le navire de guerre, avec ou sans l'assentiment du capitaine du navire arrêté, s'empare et dispose de ces marchandises comme il est dit aux présentes instructions, sous réserve du jugement ultérieur du Conseil des prises. La saisie, lorsqu'elle s'applique au navire, diffère de la capture en ce que le sort ultérieur du navire n'est pas en cause quant à l'éventualité de sa confiscation. Il y a saisie, lorsque le navire doit être mis sous séquestre pendant la durée des hostilités; il y a saisie, lorsque le navire doit être contraint de venir débarquer sa marchandise illicite dans un port national ou allié, sous réserve du jugement ultérieur du Conseil des prises quant au sort de cette marchandise. La saisie est toujours accompagnée des opérations d'inventaire et d'apposition des scellés.—Fr. Ins. 1912.

Preliminary definitions.—Whenever a ship, without being captured, is prevented from pursuing its route, for instance, through notification of blockade made on the spot or through any other cause, it is a case of stopping. (arrêt.)—Fr. Ins. 1916.

CAPTURE

Definition.

Preliminary note.—La capture est l'acte purement militaire par lequel le commandant du navire de guerre substitue son autorité à celle du capitaine du navire de commerce, dispose du navire, de son équipage et de sa cargaison comme il est dit aux présentes instructions, sous réserve du jugement ultérieur du Conseil des prises quant au sort définitif du navire et de sa cargaison.—Fr. Ins. 1912.

Note to preamble—Définitions.—La capture est l'acte par lequel le commandant du bâtiment de guerre substitue son autorité à celle du capitaine du navire ennemi sous réserve du jugement ultérieur de la juridiction des prises quant au sort définitif du navire et de sa cargaison.—Institut, 1913.
When justified.

115. La visite est suivie de capture ou de saisie lorsqu'elle révèle ou confirme soit le caractère ennemi du navire, soit une violation de blocus, soit le caractère de contrebande de son chargement.—Fr. Ins. 1912.

When proper.

94. If the search, after the hearing of the master, shows such circumstances that the captain believes that the condemnation of the ship may be expected, he will as a rule capture the ship.—Ger. O. 1909.

9. Subject to detention are vessels and cargoes which may, according to the provisions of these regulations, be subjected to confiscation as prizes.—Rus. Reg. 1895.

18. The officer ceases the examination and the vessel is subject to detention in the following cases:

(a) If the vessel proves to be an enemy's.
(b) If no ship's papers are found, especially those from which the nationality of the vessel might be determined and the circumstances of its sailing verified; and if the ship's papers are thrown overboard or otherwise destroyed.
(c) If there be among the papers such as give rise to the suspicion that the vessel is a hostile one.
(d) If the officer becomes convinced that the documents are false.
(e) If it is evident from the documents that the vessel was bought by a neutral purchaser from hostile subjects and there is reason to suppose that a fictitious sale was consummated for the purpose of covering enemy's property.

—Rus. Ins. 1900.

Joint capture.

Art. 158. When a Japanese warship and that of an allied power have conjointly captured, or detained, a vessel, the control of that vessel shall be as follows:

(1) When either the Japanese warship or that of the allied power has actually captured or detained a vessel, the other warship only cooperating, the commanding officer of the warship which has actually captured, or detained, the vessel sends her to a port of his country, no matter what the seniority of the two commanding officers is.

(2) When the Japanese warship and that of an allied power have captured, or detained, a vessel at the same time, the senior of the two commanding officers sends the vessel to a port of his country.


Display of flag.

74. The act of capture shall be signified by hoisting the United States flag on board the vessel seized.—U. S. Ins. 1917.

75. In case the prize is an enemy vessel, the flag of the United States shall be flown at the usual place (peak or staff) over the enemy flag.—U. S. Ins. 1917.
76. If the prize is a neutral vessel, the neutral flag shall be flown as usual until she is adjudged to be a lawful prize by a competent court; the flag of the United States, however, shall be exhibited at the fore to indicate that she is for the time in the possession of officers of the United States.—U. S. Ins. 1917.

77. Whenever the colors are displayed, the procedure of the two preceding paragraphs shall be followed thereafter during the passage of the prize to the United States port and while under the control of the prize master in such port.—U. S. Ins. 1917.

127. Tout navire capturé navigue avec le pavillon et la flamme, insignes des bâtiments de guerre.—Fr. Ins. 1912.

Art. 154. On a captured or detained vessel the ensign of Japanese naval vessels shall be hoisted, and in the case of Art. 152, par. 2, the flag of the vessel shall be ordered hauled down.—Jap. Reg. 1914.

Formalities.

95. The capture will be effected by communicating a protocol to the master, taking possession of the ship with a prize crew, and hoisting the war flag. If taking possession of the ship and therewith the hoisting of the war flag is not feasible, the ship will be directed to haul down her flag and regulate her speed and course according to the orders of the captain. The ship does not become a man-of-war by any such flying of the war flag.—Ger. O. 1909.

Art. 9. The capture of a ship is effected by a communication in protocol form to the master, by placing a prize crew on board and by hoisting the naval ensign. If it is found impossible to carry out all these formalities, the mere fact of hoisting the naval ensign or hauling down of the ship’s colors on the order of the commanding officer, constitutes the act of capture.—Ger. P. C. 1916.

96. The captain will report concerning the capture as soon as possible directly to the chief of the admiralty staff. The report must contain the name of the master and of the ship, the flag carried at the time of visiting, time, place, and reasons for capture. The prize office will receive a copy of the report when the ship is brought in.—Ger. O. 1909.

Art. 150. After visit and search has been made, if the commanding officer of the ship of war still has suspicion of the vessel, he shall order the boarding officer to hear the explanation of the master, and if after these explanations there still appears to be grounds for capturing or detaining her, such vessel shall be captured or detained.—Jap. Reg. 1914

31. If the vessel is to be detained the officer makes known this fact by a signal, and, taking with him the documents, the master, and other persons whose testimony may be necessary, he proceeds to his ship.—Rus. Ins. 1900.
Art. LXVII. If the captain of the man-of-war decides to capture a vessel he shall inform her master of the reason, and shall take possession of the vessel by sending one officer and the required number of petty officers and men. If on account of bad weather or any other cause it is impossible to dispatch these officers and men, the captain of the man-of-war shall order the vessel to haul down her colors and to steer according to his direction. If the vessel does not obey the orders of the captain of the man-of-war, he may take any measures required for the occasion.—Jap. Reg. 1904; Art. 152, Reg. 1914.

26. After having decided to capture the ship, the captain of the warship shall communicate to the captain of the vessel under capture the reason or reasons for which his vessel is liable to capture and at the same time dispatch a detachment of sailors under the command of an officer to proceed to the captured ship and take possession of the same.—China, Reg. 1917.

31. After the capture the captain of the captor shall make detailed report on the circumstances under which the capture was carried out to the minister of navy.—China, Reg. 1917.

Prize, definition.

Note to preamble.—Le mot prise est une expression générale s'appliquant au navire capturé ou à la marchandise saisie. Il désigne également le fait de s'emparer d'un bâtiment de guerre.—Institut, 1913.

Preliminary note.—Le mot prise est une expression générale s'appliquant au navire capturé ou à la marchandise saisie.—Fr. Ins. 1912.

5. The following are acknowledged as prizes: (1) Detained (captured) hostile vessels and cargoes, as well as vessels and cargoes of neutral nationality, and (2) Russian and neutral vessels and cargoes and the vessels and cargoes of an allied power captured back from an enemy who has seized them (recaptures), if the detention or recapture has been effected under conditions indicated in these regulations.—Rus. Reg. 1895.

11. Prize means the articles seized, adjudicated by the prize court and confiscated.—China, 1917.

CARE OF PRIZE

Art. 100. Formalités de la saisie.—Lorsque, après la visite qui en aura été faite, un navire est reconnu susceptible de capture, l'officier qui opère la saisie doit:

1. Mettre sous scellés, après les avoir inventoriés, tous les papiers de bord du navire;
2. Dresser un procès-verbal de la saisie, ainsi qu'un inventaire sommaire du bâtiment constatant son état;
3. Constater l'état de la cargaison dont il sera dressé un inventaire, puis faire fermer les écoutes de la cale; les coffres et les soutes et y apposer les scellés autant que le permettent les circonstances;
4. Dresser la liste des personnes trouvées à bord;
5. Mettre à bord du navire saisi un équipage suffisant pour s'assurer du navire et y maintenir l'ordre et le conduire dans tel port qu'il appartiendra.

S'il le juge à propos, le capitaine peut, au lieu de détacher un équipage à bord du navire, se borner à l'escorter.

—Institut, 1913.

116. Si la visite ne détermine pas la saisie du bâtiment, l'officier qui en aura été chargé devra seulement la constater sur les papiers de bord. Si, au contraire, elle détermine la saisie ou la capture, il devra être procédé ainsi qu'il suit:

1. S'emparer de tous les papiers de bord et les mettre sous scellés après en avoir dressé inventaire;
2. Dresser un procès-verbal de capture ou de saisie portant inventaire sommaire du bâtiment, dont un exemplaire sera remis au capitaine du navire capturé ou saisi;
3. Constater l'état du chargement, puis faire fermer les écoutes de la cale, les coffres, les soutes, et y apposer les scellés;
4. Dresser un état des effets, argent, instruments nautiques, et autres objets appartenant au capitaine et à l'équipage. S'ils ne sont pas laissés à leur disposition, mention en sera faite au procès-verbal;
5. Mettre à bord un équipage pour la conduite de la prise et en donner le commandement à un officier ou à un officier-marinier, en lui remettant une lettre de conducteur de prise et vos instructions.

—Fr. Ins. 1912.

Art. 103. Le navire saisi et la cargaison seront, autant que possible, maintenus intacts durant leur voyage au port. Si la cargaison comprend des choses susceptibles de se détériorer facilement, le capturant, autant que possible d'accord avec le capitaine du navire saisi et en sa présence, prendra les mesures les plus convenables pour la conservation de ces choses.—Institut, 1913.

83. Attention is directed to articles 16 and 17 of the articles for the Government of the Navy (sec. 1624, Rev. Stat.), which read:

Art. 16. No person in the Navy shall take out of a prize or vessel seized as a prize any money, plate, goods, or any part of the equipment, unless it be for the better preservation thereof, or unless such articles are absolutely needed for the use of any of the vessels or armed forces of the United States, before the same are adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in, in order that judgment may be passed thereon, and every person who offends against this article shall be punished as a court-martial may direct.

Art. 17. If any person in the Navy strips off the clothes of or pillages, or in any manner maltreats any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge. (Sec. 1624, Rev. Stat., 1878.)

—U. S. Ins. 1917.

106. The captain must immediately upon the capture of a ship or the seizure of goods take the measures which are necessary for their security and for the prize court proceedings.—Ger. O. 1909.
18. Upon detaining a merchant vessel and cargo the commander of the vessel which has made the detention is obliged to draw up a protocol concerning the reasons and circumstances of the detention, as well as to take the necessary measures for taking care of the detained vessel or cargo. Moreover, upon detaining the vessel itself (1) there are detained, together with the vessel, temporarily, regardless of whether they are acknowledged to be prisoners of war or not, the master, supercargo, and other persons of the crew whose statements may, in the opinion of the commander of the detaining vessel, be indispensable in deciding matters during the investigation prescribed for prize cases, and (2) all documents found on the vessel are inventoried and sealed.—Rus. Reg. 1895.

19. The master of a detained merchant vessel, as well as the owners of the vessel or cargo and the agents (trustees) of these owners, provided they are on the spot, are entitled to be present during the acts mentioned in the first part of article 18 and in point 2 of the same article (18), to make their observations and suggestions with regard thereto, and to affix their seals to the articles and rooms being sealed.—Rus. Reg. 1895.

23. Upon conducting a detained vessel or cargo into a Russian port or to the active fleet, it is surrendered to the naval authorities, the proper documents being turned over to the latter (Arts. 18 and 21). The naval authorities, upon opening the documents which have been placed under seal, take measures as to the reception, inventorying, and preservation of the property turned over to them, and also in case of undelayable necessity, arrange for the sale by public auction of those articles constituting such property which, by their nature or condition, do not permit of being kept. Not only the commander of the detaining vessel or his empowered agent, but also the persons mentioned in article 19, are entitled to be present during these acts, as well as to make their observations and suggestions regarding them.—Rus. Reg. 1895.

24. The rights and duties of the naval authorities indicated in article 23 become incumbent, in the absence of such authorities, as follows: (1) In Russian ports, on the local port, customs, or police authorities; and (2) in the ports of an allied power, upon agreement of the director of the naval ministry and the minister of foreign affairs with the proper foreign authorities, on the local Russian naval agency, or Russian consulate, or other establishment.—Rus. Reg. 1895.

107. If circumstances require a quick separating of the man-of-war from the captured ship, the officer commanding the prize crew (prize officer) is to be intrusted with these measures.—Ger. O. 1909.

Art. 181. The commanding officer of a ship of war and the prize officer shall submit to the Minister of the Navy a detailed report con-
cerning the taking into port of a captured vessel, with their own opinions attached to it. However, when the persons and cargo have been landed, when the vessel has been taken into a port of an allied power, when the vessel has touched at a neutral port, when the cargo has been sold, or when any other unusual actions have been taken, being made necessary by circumstances, the substance of such action and the reason therefor shall be reported by telegraph.—Jap. Reg. 1914.

Art. 182. The provisions of this chapter are applicable to vessels detained. However, in the case of vessels detained, transshipment of persons on board, sale of cargo, and any other actions made necessary according to circumstances, shall be taken only in the case of absolute necessity. Also care must be taken to maintain the condition of the vessel and her cargo as found.—Jap. Reg. 1914.

Certificate of valuables.

Art. LXXVI. The captain of the man-of-war shall prepare in duplicate a certificate as to money, negotiable notes, and other valuables on board the vessel, and shall give one copy to the master of the vessel.—Jap. Reg. 1904.

109. Concerning the money and valuables found on board, a list, confirmed in writing, according to 108, of which the master will retain a copy, will be drawn up and later delivered to the prize office. The captain is to see that proper steps are taken that no one may appropriate to his own use anything from the cargo, the ship’s equipage, or the ship’s stores. The ship, equipage, stores, and cargo, as well as the personal and material auxiliary means, are to be handled and managed with the greatest care.—Ger. O. 1909.

Perishable goods.

Art. LXXXIV. When there are among the cargo of a captured vessel any goods that putrify easily or are not adapted for transportation, the captain of the man-of-war shall appoint a board from among the officers of the ship who are qualified for such work, and shall order them to submit a report. The substance of such investigation shall be entered in the log book.—Jap. Reg. 1904; art. 165, Reg. 1914.

Art. LXXXV. When the board reports that there are among the cargo goods that are not adapted for transportation, the captain of the man-of-war shall sell such goods at the nearest Japanese port, or at a neutral port, if permission is obtained from the authorities of the neutral State. Any goods that are not salable may be disposed of as seems best.—Jap. Reg. 1904.

Art. 166. When the board reports that there are among the cargo goods that are not adapted for transportation, the commanding offi-
cer of the ship of war shall sell such goods at the place of capture, the nearest Japanese port, or that of an allied power. Any goods that are not salable may be disposed of as seems best.—Jap. Reg. 1914.

34. When the captain of the captor finds goods of perishable nature among the cargoes on board the captured vessel, which are not adequate to stand a long journey, he should order one of his officers to make a report, together with the captain of the captured vessel, to the prize court. In regard to the treatment of such goods, the captain of the captor can dispose of them at a public sale at the nearest port of the republic or any neutral port, where he can obtain the permission of the local authorities for the sale of such goods. The kind of the goods thus disposed of and the proceeds of the sale shall be entered in the log books of the vessel and forward the same to the prize court.—China, Reg. 1917.

Art. LXXXVI. Before putting up such goods for sale the captain of the man-of-war shall select the most competent appraisers possible and shall have the whole of the cargo, or that part of it which is to be sold, appraised in writing. Such sale, when possible, shall be made by auction, in the presence of the prize officer and a Japanese consul, if convenient, or any other Japanese officer lying near the place where the sale is to be made.—Jap. Reg. 1904.

Art. LXXXVII. The captain of the man-of-war shall order the prize officer to prepare a certificate according to Form VIII concerning the procedure of the sale, and shall send the certificate, accompanied by the report of the board of survey, appraisements, accounts of the sale, and other documents, together with the vessel.—Jap. Reg. 1904; art. 168, Reg. 1914.

Loss at sea.

Art. 107. Perte des prises par fortune de mer.—Si une prise est perdue par fortune de mer; on doit constater le fait avec soin. Aucune indemnité n’est due, dans ce cas, ni pour le navire, ni pour le chargement, pour vu que, si la prise est annulée ultérieurement, le capteur puisse prouver que la perte aurait eu lieu, même en l’absence du capturé.—Institut, 1913.

147. Si une prise est perdue par fortune de mer, il importe de constater le fait avec le plus grand soin et d’en faire l’objet d’un rapport adressé-sans délai au Ministre de la Marine.—Fr. Ins. 1912.

Prize master.

82. If circumstances permit, it is preferable that the officer making the search should act as prize master.—U. S. Ins. 1917.

Art. LXXVII. The captain of the man-of-war shall, so far as possible, close and seal the holds of the captured vessel and shall take
care to prevent embezzlement of any cargo, furniture, or any other things on board.—Jap. Reg. 1904.

27. After having taken possession of the captured vessel, the captain of the warship shall carry out the following measures:

(a) The papers of the ship shall be taken off the ship and kept in safety
(b) To examine the cargo and other valuable articles on board the captured vessel and make an invoice of the same.
(c) The hatchway of the captured vessel leading to its cargo store shall be locked and sealed.

—China Reg. 1917.

124. The prize officer commands the captured ship and with regard to her has the rights and duties of the captain of the man-of-war captor. He will take care, before all else, for taking the ship in safely and for the observance of requirements of Sections VII and VIII.—Ger. O. 1909.

126. He must apprehend and prevent any attempt of the ship's crew to regain possession of her, unnecessary use of force to be avoided.—Ger. O. 1909.

130. Directly after arrival in a port, the prize officer will telegraph for further instructions to the Chief of the Admiralty Staff.—Ger. O. 1909.

15A. The prize officer is in command.—The prize officer acts as commanding officer of the captured ship, and in this respect he possesses the same rights and duties as the commanding officer of the war vessel that has captured the ship. (P. O. 124–131.) He is responsible for the navigation of the vessel. The crew, however, must carry out their former duties under his orders.

13B. Precautions against attack by the crew.—Should the crew attempt to regain control of the ship, he must act with firmness and prevent them from doing so. In this connection, he should, for example, have all hatches but one closed and place a guard over the hatch left open. All arms are to be surrendered.—Ger. P. C. 1916.

Arr. XCVI. The prize officer shall pay the greatest attention to navigating captured vessel, and shall endeavor not to cause any damage to the vessel or her cargo.—Jap. Reg. 1904; Art. 178, Reg. 1914.

Arr. LXXIV. When a vessel has been taken possession of, the captain of the man-of-war shall seize the documents concerning the vessel and her cargo and all other documents on board; arrange, number, and seal them; and the master of the vessel and the captain of the man-of-war shall sign on them; and a certificate prepared according to Form IV shall be attached. The certificate of the above clause is generally made by the officer who received or found the documents.—Jap. Reg. 1904.
ART. 153. When a vessel has been taken possession of, the commanding officer of the ship of war shall order the boarding officer to take the following steps:

(1) To seize the ship's papers and all other documents found on board the vessel, to prepare a list of all the papers and to seal the papers.

(2) When documents which have been thrown away, mutilated or hidden, are found or picked up, to proceed with them according to No. 1, stating the fact.

(3) To prepare a list of money, negotiable notes, and other valuables on board the vessel.

(4) To examine the condition of the cargo and to close and seal the holds of the vessel.

(5) To prepare in duplicate a report regarding the capture or detaining according to Form No. 15 or 16, and to give one copy to the master of the vessel.


ART. LXXV. When documents are found which have been mutilated or thrown away or hidden, the captain of the man-of-war shall deal with them according to the preceding article; but in this case the certificate shall be according to Form V.—Jap. Reg. 1904.

ART. XCV. When a prize officer, while in charge of a captured vessel, receives any new documents or finds or picks up those mutilated or thrown away or hidden, he shall put them in order, number them, and affix to them a certificate prepared according to Form XI.—Jap. Reg. 1904.

ART. 177. When a prize officer, while navigating the vessel, receives any new documents or finds or picks up those mutilated or thrown away or hidden, he shall prepare a list of them and seal the documents, and attach them to the report made according to Form No. 21.—Jap. Reg. 1914.

Inventory.

ART. XCIII. A prize officer, when ordered to take possession of a captured vessel, shall prepare an inventory according to Form X, of the stores, furniture, and cargo, so far as it can be ascertained without disturbing the stowage. In preparing this inventory the prize officer may request assistance of the master of the vessel, and shall give him a copy of the inventory signed by himself.—Jap. Reg. 1904; art. 175, Reg. 1914.

Journal.

ART. XCIV. The prize officer shall keep a journal in which he shall enter events concerning the vessel, cargo, and persons on board.—Jap. Reg. 1904; art. 176, Reg. 1914.

Log.

125. He provides for continuing the ship's log book, and will himself keep a journal from the time of coming on board, in which all
events concerning the voyage, the ship, the cargo, and the personnel are to be entered.—Ger. O. 1909.

Transshipment of persons.

128. If necessary, the prize officer may transship persons and, as far as he is empowered under 110, parts of the cargo to another vessel; the reasons he must enter in the log book. A transshipment is always warranted when it is done in the interest of the safety of persons or preservation of the cargo.—Ger. O. 1909.

Landing or transshipment.

Art. XCVII. The prize officer may land or transship the persons and cargo on board the captured vessel, but only in case of pressing necessity. In this case he shall prepare a certificate according to Form XII, stating the persons and goods landed or transshipped and the reason for such action. The persons and goods landed or transshipped shall be sent without delay by the most convenient means to the Imperial prize court.—Jap. Reg. 1904; art. 179, Reg. 1914.

PERSONNEL

Treatment of personnel.

Art. 101. En dehors des personnes susceptibles d'être considérées comme prisonniers de guerre ou d'être punies, le belligérant ne peut retenir, sur le navire saisi, que pendant un délai raisonnable, celles qu'il est nécessaire d'entendre comme témoins pour la constatation des faits: à moins d'empêchement absolu il doit les remettre en liberté après que procès-verbal de leurs dépositions a été dressé.

Si des circonstances spéciales le commandant, le capitaine, les officiers et une partie de l'équipage du navire saisi peuvent être pris à bord du capteur.

Le capteur pourvoira à l'entretien des personnes retenues et leur donnera, en tout cas, ainsi qu'aux personnes de l'équipage, lors de leur mise en liberté, les moyens provisoirement nécessaires pour leur entretien ultérieur.—Institut, 1913.

93. The United States may give the same treatment to nationals of enemy or neutral countries who legally come into the power of the United States by capture on the high seas that it gives to enemy or neutral nationals within its territory or jurisdiction.—U. S. Ins. 1917.

Art. 104. (b) Master and crew of captured ships—as far as they have not been made prisoners of war—have nevertheless to continue the performance of their previous duties until their release. The use of force, if in any way possible, is to be avoided. In other respects they remain in full enjoyment of their rights, as far as the circumstances of the war do not require otherwise.—Ger. O. 1909.
13. (e) Attitude toward passengers and crew.—No special measures are to be taken in regard to the passengers and crew on normal occasions. The authorities will decide to what extent they are to be given their freedom on arrival in port.—Ger. P. C. 1916.

Art. 121. The crew, passengers, and prisoners of war on board a captured vessel shall be given proper treatment, and care must be taken to protect their private property. With regard to prisoners of war, restraints may be put upon them, as necessary, but with regard to the crew and passengers, no restraint shall be put upon them unless there is special reason.—Jap. Reg. 1914.

105. When circumstances require it, persons found on board captured ships may be removed to another ship, even on board the warship. Their retention on board the warship may not be extended longer than absolutely necessary.—Ger. O. 1909.

140. Dans le cas où vous n'y verriez aucun danger, vous pourriez maintenir à leur bord le capitaine et tout ou partie de l'équipage du navire de commerce capturé.—Fr. Ins. 1912.

145. Dans des circonstances exceptionnelles, le capteur peut expédier directement au port de prise, avec les pièces de procédure, les personnes (capitaine, officiers, ou membres de l'équipage du navire capturé, au nombre de trois au moins) dont la présence est nécessaire à l'instruction de la prise. Leur arrivée devra précéder celle de la prise elle-même.—Fr. Ins. 1912.

Art. L. The masters and crews of enemy's merchant vessels may be made prisoners. Passengers, and the master and crew of a vessel not enemy, shall not be made prisoners. In case it is necessary to call them as witnesses they may be detained.—Jap. Reg. 1904.

28. With the exception of officers and crew of the captured ship participating in any hostile acts, the passengers and the crew shall be subject to the following treatment:

(a) The captain, officers, and crew of enemy nationality shall be considered as prisoners of war, but they shall be released, provided that they give a written statement that they shall not be engaged in any service directly or indirectly in connection with the war in the interests of the enemy countries as long as the war lasts.

(b) If the captain, or officers of the vessel are of neutral nationality, they shall not be considered as prisoners of war provided that they give a written statement that they shall not be engaged in service on board of enemy ships during the war.

(c) The crew or other hands of neutral nationality on board the captured vessel shall not be considered as prisoners of war.

—China, Reg. 1917.

Art. LXIX. The captain of the man-of-war shall land at a convenient port when possible all the passengers of a captured vessel, except those who are deemed to be contraband persons or those who must be detained as witnesses.—Jap. Reg. 1904.
29. With the exception of the prisoners of war and those necessary for witnesses, all the passengers on board the captured ship shall be permitted to land at the nearest port.—China, Reg. 1917.

Art. LXXVIII. The captain and the officers of the man-of-war shall treat with proper courtesy the master and crew of the captured vessel and those who are to be made prisoners and shall pay proper attention to the protection of their personal effects. Those who are to be made prisoners may be kept under restraint as required, but other persons on board shall not be restrained unless there is a special reason.—Jap. Reg. 1904.

Art. 55. A. Personnel des navires—Batiments de guerre.—En cas de capture par l'ennemi d'un batiment de guerre, les combattants et les noncombattants faisant partie de la force armée des belligérants ont droit au traitement des prisonniers de guerre.—Institut, 1913.

146. Si le navire capturé est un bâtiement de guerre, vous transborderez le capitaine, la majeure partie des officiers, une portion de l'équipage, et vous conduirez ces prisonniers dans un port français ou allié, ou occupé par les forces armées françaises ou alliées.—Fr. Ins. 1912.

Art. 5. When an enemy merchant ship is captured 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 formally in writing not to serve on an enemy ship while the war lasts.—XI, H. C. 1907.

Art. 7. The names of the persons retaining their liberty under the conditions laid down in article 5, paragraph 2, and in article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.—XI, H. C. 1907.

Art. 56. Navires publics ou privés.—Lorsqu'un navire ennemi public ou privé est saisi par un belligérant, les hommes de son équipage, nationaux d'un État neutre, ne sont pas faits prisonniers de guerre. Il en est de même du capitaine et des officiers également nationaux d'un État neutre, s'ils promettent formellement par écrit de ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre. Le capitaine, les officiers et les membres de l'équipage, nationaux de l'État ennemi, ne sont pas faits prisonniers de guerre, à condition qu'ils s'engagent, sous la foi d'une promesse formelle écrite, à ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre.—Institut, 1913.

135. Lorsque vous aurez capturé un navire de commerce ennemi, les hommes de son équipage, nationaux d'un État neutre, ne seront pas faits prisonniers de guerre.—Fr. Ins. 1912.
136. Il en sera de même du capitaine et des officiers, également nationaux d’un État neutre, s’ils promettent formellement par écrit de ne pas servir sur un navire ennemi pendant la durée de la guerre.—Fr. Ins. 1912.

Art. 112. In the case of capture of an enemy merchant vessel neutral members of the crew shall not be made prisoners of war.—Jap. Reg. 1914.

Art. 113. The master and officers of an enemy vessel who have neutral nationality shall not be made prisoners of war if they formally promise in writing that they will not serve in enemy vessels during the continuation of the war.—Jap. Reg. 1914.

Art. 6. 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.—XI, H. C. 1907.

137. Le capitaine, les officiers et les membres de l’équipage, nationaux de l’État ennemi, ne seront pas faits prisonniers de guerre, à la condition qu’ils s’engagent, sous la foi d’une promesses formelle écrite, à ne prendre pendant la durée des hostilités aucun service ayant rapport avec les opérations de la guerre.—Fr. Ins. 1912.

100. If a ship is captured under 10 to 16(a) as an enemy ship, or under 55 (b), (c), (d), because of unneutral service, the master, officers, and members of the crew, as far as they are of the enemy’s nationality, will not be made prisoners of war if they bind themselves on the strength of a formal written promise to engage in no service, during the period of the war, that may have any connection with the hostile undertakings of the enemy. So far as the crew belong to a neutral State they may be released unconditionally. If the master and officers have neutral nationality, they are to be released if they give a formal written agreement to take service in no enemy ship during the period of the war.—Ger. O. 1909.

138. Vous remettrez aux intéressés reçu des promesses qu’ils auraient faites dans les termes des paragraphes 136 et 137. En outre, vous aurez soin de me faire connaître et de porter à la connaissance de l’ennemi, par toutes voies possibles, les noms des individus laissés libres dans les conditions visées aux susdits paragraphes.—Fr. Ins. 1912.

Art. 114. The master, officers, and other members of the crew of an enemy vessel who are of enemy nationality shall not be made prisoners of war if they duly swear in writing that they will not, during the continuation of the war, serve in any duty connected with hostile operations.—Jap. Reg. 1914.

Art. 115. The master, officers, and other members of the crew of an enemy vessel who have formally promised or taken oath in
accordance with the provisions of the preceding two articles shall be set at liberty: In this case the commanding officer of the man-of-war shall immediately report the names of the persons set at liberty to the Minister of the Navy, and shall try to notify the enemy of the same through proper channels, as far as possible.—Jap. Reg. 1914.

Nationality.

Art. 58. Toute personne faisant partie de l’équipage d’un navire public ou privé ennemi est, sauf preuve contraire, présumée de nationalité ennemie.—Institut, 1913.

142. Toute personne trouvée à bord d’un navire de commerce ennemi est, sauf preuve contraire, présumée de nationalité ennemie.—Fr. Ins. 1912.

Art. 117. Members of the crew on board an enemy vessel are presumed to be of enemy nationality unless there is proof to the contrary.—Jap. Reg. 1914.

Of enemy vessel, resisting capture.

92. The captain, officers, and crew of an enemy merchant ship which has resisted capture may be made prisoners of war.—U. S. Ins. 1917.

99. If a ship is captured under 16(b) (resistance) or 55(a) (taking part in hostilities), those persons who without being enrolled in the enemy forces have taken part in the hostilities or have exerted forcible resistance may be dealt with according to the customs of war. The other persons of the crew will be made prisoners of war.—Ger. O. 1909.

Of enemy vessel, exempt.

Art. 64. C. Personnel religieux, médical et hospitalier.—Le personnel religieux, médical et hospitalier de tout bâtiment pris ou saisi est inviolable et ne peut être fait prisonnier de guerre. Il emporte, en quittant le navire, les objets et les instruments de chirurgie qui sont sa propriété particulière.

Ce personnel continuera à remplir ses fonctions tant que cela sera nécessaire et il pourra ensuite se retirer, lorsque le commandant en chef le jugera possible.

Les belligérants doivent assurer à ce personnel tombé entre leurs mains les mêmes allocations et la même solde qu’au personnel des mêmes grades de leur propre marine.

Jouit de la protection dont bénéficie le personnel sanitaire, le commissaire mis par le belligérant à bord du bâtiment hospitalier de son adversaire, conformément à l’alinéa 10 de l’article 41.

Le personnel religieux, médical et hospitalier perd ses droits à l’inviolabilité, s’il s’immisce dans les hostilités, si, par exemple, il fait usage de ses armes autrement que comme moyen de défense.—Institut, 1913.
Of enemy merchant vessels, notification.

Art. 57. Les noms des individus laissés libres notifiés par le bel-
ligérant capturé à l'autre belligérant. Il est interdit à ce dernier
d'employer sciemment les dits individus.—Institut, 1913.

Of enemy merchant vessels taking part in hostilities.

Art. 60. Sous la condition de la promesse prévue par l'article pré-
cédent.—Lorsqu'un navire public ou privé a directement ou indi-
rectement pris part aux hostilités, l'ennemi peut retenir comme
prisonniers de guerre tous les membres du personnel du navire, sans
préjudice des pénalités qui peuvent être prononcées d'autre part.—
Institut, 1913.

Art. 61. Les membres du personnel d'un navire public ou d'un
navire privé, qui se rendent personnellement coupables d'un acte
hostile envers l'ennemi, peuvent être retenus par lui comme prison-
niers de guerre, sans préjudice des pénalités qui peuvent être encou-
rues d'autre part.—Institut, 1913.

Of enemy merchant vessels, passengers, and followers.

Art. 62. B. Passagers.—Les individus qui suivent une force na-
vale sans en faire partie, tels que les fournisseurs, correspondants de
journaux, etc., lorsqu'ils tombent au pouvoir de l'ennemi, et lorsque
celui-ci juge utile de les retenir, ne peuvent être détenus qu'au longtemps que les nécessités militaires l'exigent. Ils ont droit au
traitement des prisonniers de guerre.—Institut, 1913.

Art. 63.—Les passagers qui, sans faire partie de l'équipage, se
trouvent à bord d'un navire ennemi, ne peuvent être retenus comme
prisonniers de guerre par l'ennemi, à moins qu'ils ne se soient rendus
coupables d'un acte hostile. Tout passager incorporé dans la force
armée de l'ennemi peut être fait prisonnier de guerre, même si le
navire n'est pas susceptible de saisie.—Institut, 1913.

143. Les passagers sont libres et peuvent débarquer dans le pre-
mier port où le bâtiment aborde.—Fr. Ins. 1912.

103. Passengers on board captured ships are to be left free from
restraint and, with the exception of necessary witnesses, are to be
released as soon as practicable.—Ger. O. 1909.

Art. 104. (c) The passengers of captured ships shall be restricted
in their rights only in serious cases, for instance, on account of
rendering unneutral service.—Ger. O. 1909.

Art. 119. The passengers on board a captured vessel, excepting
those who have been embodied in military forces of the enemy, shall
be landed at a convenient place as soon as practicable. Of the pas-
sengers mentioned in the preceding paragraph, those who are needed
as witnesses may be detained.—Jap. Reg. 1914.
Of enemy merchant vessels, exemption.

Art. 59. Ne peuvent être retenus comme tels les membres du personnel d'un navire ennemi qui, à raison de son caractère particulier, est lui-même exempt de saisie.—Institut, 1913.

Of neutral vessel.

101. If a neutral ship is captured according to 39, for contraband, or under 77, 78, for breach of blockade, or under 51, for unneutral service, the entire crew, including the master and officers, will be released unconditionally.—Ger. O. 1909.

Art. 118. Members of the crew of a captured neutral vessel shall not be made prisoners of war. However, they may be detained if it is considered that they are needed as witnesses.—Jap. Reg. 1914.

Of hospital ships.

Art. VII. The religious, medical, and hospital staff of any captured vessel are declared neutral, and, on leaving the ship, may remove the articles and surgical instruments which are their private property.—Spain, Ins. 1898.

Art. 10. The religious, medical, and hospital staff of any captured ship is inviolable, and its members can 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.—X, H. C. 1907.

Art. 120. Enemy persons on board a captured vessel who are employed in religious, medical, or nursing duties shall not be made prisoners of war, but those of whom there are suspicious circumstances may be detained until definite proof is obtained.—Jap. Reg. 1914.

Art. VIII. The staff designated in the preceding article must continue to fulfill their functions in the captured ship, assisting in the removal of the wounded made by the victorious party; they will then be at liberty to return to their country in conformity with the second paragraph of the first additional article. The stipulations of the second additional article are applicable to the pay and allowance of the staff already mentioned.—Spain, Ins. 1898.

Of cartel vessels.

Art. 65. D. Parlementaires.—Le personnel des navires de cartel est inviolable. Il perd ses droits à l’inviolabilité s’il est prouvé d’une
MANIERE POSITIVE ET IRRECUSABLE QU'IL A PROFITE DE SA POSITION PRIVILEGIEE POUR PROVOQUER OU COMMETTRE UN ACTE DE TRAHISON.—INSTITUT, 1913.

Release.

102. The release will be accomplished by discharge from a board when the prize is delivered. The necessary witnesses are, however, to be held. The names of the conditionally released enemy and neutral persons are to be reported direct to the chief of the admiralty staff for communication to the hostile power.—GER. O. 1909.

BRINGING IN

To port.


ART. 109. JUGEMENT DES PRISES.—LE NAVIRE SAISI ET SON CHARGEMENT, UNE FOIS ENTRÉS DANS UN PORT DE L'ETAT CAPTEUR OU DANS CELUI D'UNE PUISSANCE ALLIÉE, SONT REMIS À L'AUTORITÉ COMPÉTENTE, AVEC TOUS LES DOCUMENTS NÉCESSAIRES.—INSTITUT, 1913.

80. Except under extraordinary circumstances, prizes shall be sent promptly to a port within the jurisdiction of the United States for adjudication. In general, a prize master with a crew shall be sent on board the prize for this purpose. If for any reason this is impracticable, a prize may be escorted into port by the capturing vessel or by another vessel of war of the United States or of an ally. In this exceptional case the prize shall be directed to lower her flag and to steer according to the orders of the escorting vessel of war. The prize must obey the instructions of the escorting vessel, under pain of forcible measures.—U. S. INS. 1917.

128. SAUF LE CAS DE FORCE MAJEURE INDiqué CI-DESSOUS, LES PRISES SONT DIRIGÉES SUR LES PORTS DE FRANCE OU DES POSSESSIONS FRANÇAISES, OU APPARTENANT À UN GOUVERNEMENT ALLié.—FR. INS. 1912.

39. Detained vessels and cargoes are, in the discretion of the imperial cruiser, conducted into port or to the active fleet either by the cruiser itself or they proceed independently into port under the direction of a Russian officer and crew, commanders being governed in these cases by the rules set forth in articles 351-353 of the Navy Regulations, edition of 1899. In case the detained vessel is sent off separately, its original ship's papers and the documents concerning the detention are kept with the commander of the cruiser, while the officer conducting the vessel is given copies of these papers and documents.—Rus. Ins. 1900.

134. Si le capteur n'escorte pas sa prise parce qu'il juge pouvoir l'expédier directement, le conducteur de la prise doit, à son arrivée au port de destination, remettre à l'autorité maritime:

1. Son rapport de traversée.
2. Les pièces et documents de toute nature visés au paragraphe 116.
Une copie certifiée du procès-verbal de capture et d'apposition des scellés restera entre les mains du capteur.
Il importe à tous les points de vue que le capteur n'omette aucune de ces formalités réglementaires.

—Fr. Ins. 1912.

11. The vessels or goods captured shall be brought to the nearest port in the kingdom, colonies, or territory occupied by Italy, or, this being impossible, to a port of an allied nation or occupied by the latter or in case of absolute necessity to a neutral port. The vessels and goods shall there be placed at the disposal of the maritime and consular authorities as the case requires, together with a report of what has been done, accompanied by the respective declarations and documents.—Italy, P. R. 1915.

81. The procedure prescribed by the Revised Statutes shall be observed:

SEC. 4515. The commanding officer of any vessel making a capture shall secure the documents of the ship and cargo, including the log book, with all other documents, letters, and other papers found on board, and make an inventory of the same and seal them up and send them, with the inventory, to the court in which proceedings are to be had, with a written statement that they are all the papers found and are in the condition in which they were found; or explaining the absence of any documents or papers or any change in their condition. He shall also send to such court, as witnesses, the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any person found on board whom he may suppose to be interested in, or to have knowledge respecting, the title, national character, or destination of the prize. He shall send the prize, with the documents, papers, and witnesses, under charge of a competent prize master and prize crew, into port for adjudication, explaining
the absence of any usual witnesses; and in the absence of instructions from superior authority as to the port to which it shall be sent he shall select such port as he shall deem most convenient, in view of the interests of probable claimants as well as of the captors. If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, a survey shall be had thereon and an appraisement made by persons as competent and impartial as can be obtained, and their reports shall be sent to the court in which proceedings are to be had; and such property, unless appropriated for the use of the Government, shall be sold by the authority of the commanding officer present, and the proceeds deposited with the Assistant Treasurer of the United States most accessible to such court and subject to its order in the cause.

Sec. 4617. The prize master shall make his way diligently to the selected port and there immediately deliver to a prize commissioner the documents and papers, and the inventory thereof, and make affidavit that they are the same and are in the same condition as delivered to him, or explaining any absence or change of condition therein, and that the prize property is in the same condition as delivered to him, explaining any loss or damage thereto; and he shall further report to the district attorney and give him all the information in his possession respecting the prize and her capture; and he shall deliver over the persons sent as witnesses to the custody of the marshal and shall retain the prize in his custody until it shall be taken therefrom by process of the prize court.—U. S. Ins. 1917.

111. The captain will provide for taking the ship, the quickest and safest possible way into a German port or one of an allied power. A prize may be taken into a neutral port only when the neutral power permits the bringing in of prizes. A prize may run into a neutral port always on account of unseaworthiness, heavy weather, or shortage of fuel or stores. In the latter case she must leave the port again as soon as the cause which justified entering no longer exists. The captain gives the prize officer appropriate sailing orders in writing, and so makes up the prize crew that it is possible for the prize officer to take the ship in.—Ger. O. 1909.

Of crew.

Art. LXXX. The captain of the man-of-war may request the master and crew of the captured vessel to assist in navigating the vessel under the direction of the prize officer; and in case such request is not complied with, he may insist upon it.—Jap. Reg. 1904; art. 161, Reg. 1914.

Meaning of "port."

131. Vous pourrez d'ailleurs considérer comme port pour la mise sous séquestere des navires et des marchandises tout port occupé par
nos forces, où il pourra être procédé aux actes d'instruction et d'administration prescrits par les lois et règlements de la République.—Fr. Ins. 1912.

Delivery.

Art. XCVIII. The prize officer, when he arrives at the place of destination, shall deliver the captured vessel to the prize court and shall make a request for examination.—Jap. Reg. 1904; art. 180, Reg. 1914.

131. If the port reached is German or belongs to an allied or a neutral power which allows generally the bringing in of prizes, the prize officer will deliver the prize there. The delivery in a German port will be made to the consular representative of the German Empire, to the competent port authorities, otherwise, or of an allied power with simultaneous delivery of the papers, reports, and other means of evidence, for further transmission to the prize office. At the same time, the persons who under 102 are to be let go free are to be released, so far, as they have not to be retained as witnesses.—Ger. O. 1909.

43. Upon the bringing of a detained vessel or cargo into a Russian port it is delivered to the local naval authority (and in the absence of the latter to the port, customs, or police authority), to whom are presented all documents and surrendered all persons detained on the vessel in question for the purpose of elucidating the case. In case the detained vessel or cargo is brought to the active fleet, it is turned over to the commander of the squadron. The proper naval or other authority opens the sealed documents and takes measures for the reception, inventory, and preservation of the surrendered property, as well as for the sale at public auction of those articles which can not be kept, owing to their nature or condition. The following have a right to be present during the performance of the acts in question: Firstly, the commander or one of the officers of the imperial vessel which has made the capture; and, secondly, the master of the detained vessel, as well as the owners of the vessel and cargo or their agents, provided these owners or agents are present at the place in question. All persons present are entitled to make suggestions and observations in regard to the acts of the local authority receiving the property.—Rus. Ins. 1900.

44. In the case of a detained vessel or cargo being brought into the port of an allied power, it is surrendered to the local Russian naval agency, Russian consulate, or other establishment, upon which, after agreement of the Russian Government with the proper foreign authorities, will devolve the duty of receiving the prizes.—Rus. Ins. 1900.
45. The commander of the imperial vessel is obliged to notify the director of the naval ministry by telegraph, at the earliest possible moment, of all vessels and cargoes detained, as well as of their conduction into port and proper delivery.—Rus. Ins. 1900.

Art. LXXIX. The captain of the man-of-war shall send on board the captured vessel a prize officer and the requisite number of petty officers and men, and shall send the vessel and her cargo to a port where there is an imperial prize court or to a Japanese port in the neighborhood of such port.—Jap. Reg. 1904; Art. 160, Reg. 1914.

33. The captain of the captor after the capture shall order the officer in possession of the captured ship to bring the latter to a port where the Prize Court of the Republic is situated, together with all the papers of the vessel, for adjudication.—China, Reg. 1917.

Art. LXXXI. The captain of the man-of-war shall send into port on board the captured vessel the master and crew, and all the cargo and certificates, and the ship's papers, so far as possible, in the same condition in which they were found at the time of capture. The captain of the man-of-war, when he thinks it necessary, shall send an officer who can testify to the circumstances of the capture.—Jap. Reg. 1904; Art. 162, Reg. 1914.

Art. LXXXII. When the captain of the man-of-war thinks that it is not proper to send in the captured vessel, the master, and the whole crew, he shall send at least three or four principal members of the crew as witnesses, and two of them shall be selected from the master, chief purser, mates, and chief seaman. That part of the crew taken to another vessel shall be sent without delay to the port where the captured vessel has been sent.—Jap. Reg. 1904.

Art. 163. When the commanding officer of a ship of war thinks that it is not proper to send in the captured vessel, the master, and the whole crew, at least he shall select a few from the master, chief purser, mates, and officers who have charge of cargo and send them on board as witnesses. That part of the crew taken to another vessel shall be sent without delay to the port where the captured vessel has been sent.—Jap. Reg. 1914.

Art. LXXXIII. In the case of the preceding article, the captain of the man-of-war shall order the prize officer to prepare a certificate according to Form VII, stating that part of the crew taken to another vessel and the reason for it.—Jap. Reg. 1904; art. 164, Reg. 1914.

Unseaworthy.

Art. LXXXVIII. When the captain of a man-of-war deems a captured vessel unfit to be sent into port as above prescribed, he shall appoint from among the officers a competent board to investigate the matter and direct them to submit a report. The gist of their report shall be entered in the log book.—Jap. Reg. 1904; art. 169, Reg. 1914.
ART. LXXXIX. If the board reports that the captured vessel is unfit to be sent into port as prescribed, the captain of the man-of-war shall send the vessel to the nearest Japanese port or the nearest neutral port, with the consent of the neutral authorities.—Jap. Reg. 1904.

ART. 170. If the board reports that the captured vessel is unfit to be sent to the port (of the nearest prize court), the commanding officer of the ship of war shall send the vessel to the nearest Japanese port or that of an allied power.—Jap. Reg. 1914.

ART. XC. In the case of the preceding article the captain of the man-of-war shall order the prize officer to prepare a certificate according to Form IX, in which the circumstances of sending the vessel to the nearest Japanese port or to the nearest neutral port shall be stated in detail, and the captain shall order the prize officer to send this certificate, accompanied by the report of the board, and the witnesses, ship's papers, and any other documents required for judicial examination to the nearest imperial prize court.—Jap. Reg. 1904.

ART. 171. In the case of the preceding article, the commanding officer of the ship of war shall order the prize officer to prepare a report according to Form No. 19, stating in detail the circumstances of sending the vessel to the nearest Japanese port or that of an allied power, and to send this report, accompanied by the report of the board, together with the witnesses, the ship's papers, and other documents required for judicial examination to the nearest Japanese prize court.—Jap. Reg. 1914.

RELEASE

Of innocent vessel.

88. If the officer upon examining the papers forms the opinion that the ship is not liable to capture, he releases her, with the approval of the captain, and after making an entry on the ship's log book and certificate of nationality (visiting ship, time, place of visit, reason for release, name and rank of the captain and of the boarding officer). Before releasing the ship he makes request of the master for a written declaration whether and what objections he has to the carrying out of these measures.—Ger. O. 1909.

8. (P. O. 88, Form 1) Should the ship's papers disclose nothing of a suspicious nature, or the ship herself not be open to suspicion, she is to be released by the examining officer, after he has obtained the approval of the commanding officer and has made an entry in the ship's log or made out a certificate regarding the result of the search. Any complaints made by the master are to be taken down in writing.—Ger. P. C. 1916.
92. If the latter is convinced by the search that the ship is not liable to capture, he will proceed carefully to restore the previous condition of the ship and cargo, according to 88 and 89. Claims of the master for damage are, if possible, to be regulated before the ship is released.—Ger. O. 1909.

97. If proof appears, after the capture has been made, that a ship was wrongfully captured, she is to be released without delay, according to 92. The report mentioned in 96 in this case also, with the data concerning the reasons for release, is to be rendered and by the chief of the Admiralty Staff transmitted to the prize court having jurisdiction.—Ger. O. 1909.

ART. LXX. If the captain of a man-of-war, after capturing a vessel, ascertains that the capture was unlawful, he shall instantly release her.—Jap. Reg. 1904; art. 155, Reg. 1914.

32. After the capture, if the captain of the captor discovers circumstances which do not justify his action, he should set the vessel free at once.—China, Reg. 1917.

119. If the captain believes that a captured ship neither can be brought in nor should be sunk, he must release it under 92.—Ger. O. 1909.

Of prize, neutral jurisdiction.

130. Si la prise, en mesure de sortir des eaux neutres, retardait son départ ou ne se conformait pas à l'ordre de partir immédiatement qui lui aurait été notifié par la puissance neutre, cette dernière serait dans son droit strict en usant des moyens dont elle dispose pour relâcher la prise avec ses officiers et son équipage, et interner l'équipage mis à bord par le capteur.—Fr. Ins. 1912.

REQUISITION

Prize, requisition.

ART. 106. Emploi des navires saisis.—Si le navire saisi ou sa cargaison est nécessaire au capteur pour un usage public immédiat, il peut les employer à cet usage. Dans ce cas il sera fait du navire et de la cargaison, par des personnes impartiales, une estimation et un inventaire soigneux qui, joints au dossier de la saisie, seront transmis au tribunal des prises.—Institut, 1913.

84. By the Revised Statutes captured vessels may be taken for the use of the United States. Section 4624, Revised Statutes, reads as follows:

Whenever any captured vessel, arms, munitions, or other material are taken for use of the United States before it comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisement, and inventory shall be sent to the court in which proceedings are to be had; and, if taken afterwards, sufficient notice shall first be given to enable the
court to have the property appraised for the protection of the rights of the claimants and captors. In all cases of prize property taken for or appropriated to the use of the Government the department for whose use it is taken or appropriated shall deposit the value thereof with the assistant treasurer of the United States nearest to the place of the session of the court, subject to the order of the court in the cause. (Sec. 4624 R. S., 1878)

—U. S. Ins. 1917.

85. While any prize may thus be legally converted to immediate public use, and would be under compelling circumstances, it is undesirable so to convert neutral property taken as prize, because if the prize court fails to condemn the property indemnification for the conversion to public use may be the subject of a claim.—U. S. Ins. 1917.

1. Where it is made to appear to the judge on the application of the proper officer of the Crown that it is desired to requisition on behalf of His Majesty a ship in respect of which no final decree of condemnation has been made, he shall order that the ship shall be appraised, and that upon an undertaking being given in accordance with rule 5 of this order, the ship shall be released and delivered to the crown.

2. Where a decree for the detention of a ship has been made in accordance with order 28, the proper officer of the Crown may file a notice that the Crown desires to requisition the same, and thereupon a commission to the marshal directing him to appraise the ship shall issue. Upon an undertaking being given in accordance with rule 5 of this order the ship shall be released and delivered to the Crown. Service of this notice shall not be required before filing, but copies thereof shall be served upon the parties by the proper officer of the Crown as soon thereafter as possible.

3. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the ship is required for the service of His Majesty forthwith, the judge may order the same to be forthwith released and delivered to the Crown without appraisement.

4. In any case where a ship has been requisitioned under the provisions of this order, and whether or not an appraisement has been made, the court may, on the application of any party, fix the amount to be paid by the Crown in respect of the value of the ship.

5. In every case of requisition under this order an undertaking in writing shall be filed by the proper officer of the Crown for payment into court on behalf of the Crown of the appraised value of the ship, or of the amount fixed under rule 4 of this order, as the case may be, at such time or times as the court shall declare by order that the same or any part thereof is required for the purpose of payment out of court.
6. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the Crown desires to requisition the ship temporarily, the court may, in lieu of an order of release, make an order for the temporary delivery of the ship to the Crown, and, subject as aforesaid, the provisions of this order shall apply to such a requisition; provided that, in the event of the return of the ship to the custody of the court, the court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also that, where the ship so requisitioned is subject to the provisions of order 28, rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of damage, if any, which the ship has suffered by reason of such temporary delivery as aforesaid.

7. The proceedings in respect of a ship requisitioned under this order shall continue notwithstanding the requisition.

8. In any case of requisition of a ship in respect of which no cause has been instituted, any person interested in such ship may, without issuing a writ, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the amount to be paid in respect of such ship be fixed by the court, and the judge may, on the hearing of such summons, order the ship to be appraised or to be valued, or give such other directions for fixing the amount as he may think fit.—Br. O. in C. No. 29, Mar. 23, 1915.

148. Si l’intérêt public l’exige, vous pourrez réarmer les navires ennemis capturés et les employer pour les besoins du service, après en avoir, autant que possible, fait dresser un inventaire sommaire avec estimation.—Fr. Ins. 1912.

112. The captain is authorized to employ a ship which has been captured as hostile under 10 and 16, as an auxiliary vessel, or if its sending in seems not to the purpose or unsafe, to destroy it. The same holds for a ship captured under 56, if it is certain that an unneutral service of serious nature can be proved before the prize court.—Ger. O. 1909.

41. If the detained vessel subject to destruction on the basis of the foregoing article is found to be better than the imperial vessel, owing to its condition or its seagoing qualities, the commander has the right to substitute the prize for his own vessel and burn or sink the latter.—Rus. Ins. 1900.

Art. 132. Captured enemy vessels, when it is considered that there is military necessity, may be armed or be used for any other military purposes.—Jap. Reg. 1914.
Removal of persons.

Art. 133. Before using a captured enemy vessel for military purposes, the commanding officer of the ship of war shall remove all the persons on board the vessel to a place of safety and shall take on board his ship all papers necessary for trial.—Jap. Reg. 1914.

127. He may take goods from the cargo, in the master’s presence and against a receipt, which the execution of his orders may require.—Ger. O. 1909.

Art. 135. With regard to the use of goods found on board a captured enemy vessel and which are considered to be enemy goods, the provisions of this chapter are applicable.—Jap. Reg. 1914.

Of cargo.

149. Vous pourrez également utiliser, pour le service de la flotte, les cargaisons des navires ennemis, après en avoir fait dresser un inventaire estimatif détaillé.—Fr. Ins. 1912.

150. Vous aurez également la faculté d’en agir ainsi pour les approvisionnements du navire, notamment pour les combustibles et les matières grasses.—Fr. Ins. 1912.

110. His Majesty’s ships and allied men-of-war and captured prizes may in case of necessity, fill their needs from the cargo, equipage, and supplies of captured hostile ships, giving receipts therefor, so far as the articles are not proved unquestionably to be neutral goods.

In regard to neutral ships, this is only permissible when neither the master can be persuaded to give over what is necessary as a purchase or in accordance with No. 46, or the matter concerns articles which are liable to confiscation and under No. 117 or 121, would be taken on board in case of the destruction or release of the neutral ship. Violations would give rise to legal claims on the part of the neutral powers concerned.—Ger. O. 1909.

Of enemy vessels, report.

Art. 134. In the case of using a captured enemy vessel, the commanding officer of the ship of war shall prepare a report according to Form No. 11, stating the circumstances which have led him to use the vessel, and shall order the prize officer to send it to the nearest Japanese prize court, together with the persons on board and the ship’s papers and other documents taken on board his ship. He shall also make a report similar to the one mentioned in the preceding paragraph relating to the using of the vessel to the Minister of the Navy.—Jap. Reg. 1914.

151. Les procès-verbaux rédigés en exécution de ces dispositions devront être joints au dossier de la prise; un double en sera adressé au Ministre de la Marine, et un autre au capitaine du navire capturé.—Fr. Ins. 1912.
Forbidden.

9. The captain is not authorized, in return for a payment of damages, to requisition ships or goods which are not subject to seizure or capture, against the consent of the interested party.—Ger. O. 1909.

SEQUESTRATION

Of prize.

Art. 23. A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the decision of a prize court. It may have the prize taken to another of its ports. If the prize is convoyed by a warship, the prize crew may go on board the convoying ship. If the prize is not under convoy, the prize crew are left at liberty.—XIII, H. C. 1907.

Definition.

Preliminary note.—Le séquestre est l'acte par lequel le Gouvernement ou les autorités compétentes d'un port retiennent le navire et sa cargaison, soit provisoirement en vue d'un jugement ultérieur du Conseil des prises, soit pendant la durée de la guerre pour des raisons d'ordre militaire.—Fr. Ins. 1912.

In neutral port.

132. Bien que, aux termes de l'article 23 de la XI Convention de la Haye, une Puissance neutre ait la faculté de permettre l'accès de ses ports et rades aux prises escortés ou non, lorsqu'elles y sont amenées pour être laissées sous séquestre en attendant la décision du tribunal des prises, vous ne chercherez à user de cette autorisation que si les circonstances vous y obligent et qu'après vous être assuré que ladite Puissance neutre permettra réellement l'accès de ses ports et rades à vos prises dans les conditions le l'article 23 précité.—Fr. Ins. 1912.

Forbidden.

Art. 173. A captured vessel shall not be sent to a neutral port in order to detain her until there has been a decision of the Japanese prize court.—Jap. Reg. 1914.

DESTRUCTION

Destruction of prizes.

12. When observance of the provisions of the preceding article may endanger the safety of the ship affecting the capture, or may interfere with the success of operations of war in which she is engaged, naval commanding officers may destroy the prize after providing for the safety of the persons on board and the ship's papers and manifests and of anything else which may help in deciding the legitimacy of
the capture. The destruction of a prize must be justified in a special procès-verbal.—Italy, P. R. 1915.

21. In extraordinary cases, when the preservation of a detained vessel proves impossible in consequence of its bad condition or extremely small value (sic), the danger of its recapture by the enemy, or the considerable distance or blockade of the ports, as well as of danger threatening the detaining vessel or the success of its operations, the naval commander is permitted, on his personal responsibility, to burn or sink the detained vessel after having first taken all the people off it, and, as far as possible, the cargo on board, and also after having taken measures for preserving the documents and other objects found on board, and which might prove essential in elucidating matters when the case is examined according to the method prescribed for prize cases.—Rus. Reg. 1895.

40. In the following and other similar extraordinary cases the commander of the imperial cruiser has the right to burn or sink a detained vessel after having previously taken therefrom the crew, and, as far as possible, all or part of the cargo thereon, as well as all documents and objects that may be essential in elucidating the matter in the prize court:

(1) When it is impossible to preserve the detained vessel on account of its bad condition.

(2) When the danger is imminent that the vessel will be recaptured by the enemy.

(3) When the detained vessel is of extremely little value, and its conduct into port requires too much waste of time and coal.

(4) When the conducting of the vessel into port appears difficult owing to the remoteness of the port or a blockade thereof.

(5) When the conducting of the detained vessel might interfere with the success of the naval war operations of the imperial cruiser or threaten it with danger. The officer prepares a memorandum under his signature and that of all the officers concerning the circumstances which have led him to destroy the detained vessel, which memorandum he transmits to the authorities at the earliest possible moment.

Note.—Although article 21 of the Regulations on Maritime Prizes of 1895 permits a detained vessel to be burned or sunk “on the personal responsibility of the commander,” nevertheless the latter by no means assumes such responsibility when the detained vessel is actually subject to confiscation as a prize, and the extraordinary circumstances in which the imperial vessel finds itself absolutely demand the destruction of the detained vessel.—Rus. Reg. 1900.

Art. XCI. In the following cases, and when it is unavoidable, the captain of the man-of-war may destroy a captured vessel or dispose of her according to the exigency of the occasion. But before so destroying or disposing of her he shall transship all persons on board, and as far as possible the cargo also, and shall preserve
the ship's papers and all other documents required for judicial examination:

1. When the captured vessel is in very bad condition, and can not be navigated on account of the heavy sea.

2. When there is apprehension that the vessel may be recaptured by the enemy.

3. When the man-of-war can not man the prize without so reducing her own complement as to endanger her safety.


35. Under any of the following circumstances, the captain of the captor may destroy the captured vessel, but before the destruction of the vessel, all the persons on board the vessel and its papers must be placed in safety:

(a) That the captured vessel is no longer seaworthy.

(b) That the existence of the captured vessel shall greatly impede the movement of the captor from the military point of view.

—China, Reg. 1917.

Neutral vessel.

Art. 49. As an exception, a neutral vessel captured by a belligerent ship and which would be liable to condemnation, may be destroyed if the observance of article 48 would involve danger to the ship of war or to the success of the operations in which she is at the time engaged.—D. of L. 1909.

Art. 126. A neutral vessel captured and which would be liable to condemnation, may be destroyed, if taking such vessel to a Japanese port would involve danger to the Japanese ship of war or to the success of the operations in which she is at the time engaged.—Jap. Reg. 1914.

95. Engaging in unneutral service as defined in paragraph 39 stamps a neutral vessel with hostile character and such a neutral vessel made prize may be destroyed by the capturing officer in the case of military necessity, when the vessel can not be sent or brought in for adjudication.—U. S. Ins. 1917.

96. Owing to the serious responsibility involved, a neutral vessel not engaged in unneutral service as defined in paragraph 39, must not be destroyed by the capturing officer save in case of the gravest military emergency which would not justify him in releasing the vessel or sending it in for adjudication. If circumstances permit, it is preferable to appraise and sell the prize, as provided in section 4615, Revised Statutes, rather than to destroy it.—U. S. Ins. 1917.

157. Par exception, un navire neutre capturé dont la confiscation vous apparaîtrait certaine peut être détruit, si sa conservation et son convoy peuvent compromettre la sécurité de votre bâtiment ou le succès des opérations dans lesquelles vous êtes engagé.—Fr. Ins. 1912.
113. The captain is authorized to destroy a neutral ship which has been captured because of contraband under 39 or under 77, 78 because of breach of blockade, or under 51 because of unneutral service, only when—

(a) It is subject to confiscation, and when, besides,
(b) taking it in would cause a danger to the man-of-war or risk the success of the undertaking in which she is at the time engaged.

This is to be assumed among other things when—

(a) The ship can not be brought in on account of her bad condition or because of shortage of stores.
(b) The ships can not follow the man-of-war, and therefore recapture is probable, or
(c) The proximity of an enemy force makes the recapture of the ship probable, or
(d) The man-of-war can not spare a sufficient crew.

—Ger. O. 1909.

33. The destruction of a neutral ship is only permissible if both of the following conditions are fulfilled:

(a) If in bringing her into port the war vessel is exposed to danger or the success of the operations in which she is engaged is thereby imperiled; this condition obtains, for instance, if the war vessel can not spare sufficient men to form a prize crew, or if the neutral ship can not follow the war vessel, or if the presence of hostile forces in the vicinity causes apprehensions of her recapture.
(b) (P. O. 41) If the ship is liable to seizure, because the contraband as reckoned by value or weight or volume or freight dues amounts to more than half the cargo.

P. O. 115. Not only must both conditions be fulfilled but the commanding officer must expressly state in the prize report that they did obtain.

If the first condition was not fulfilled, compensation would have to be paid for the ship and the whole cargo, regardless of the fact that ship and cargo were liable to seizure. If the first condition were fulfilled but not the second, compensation would have to be paid in any case, not only for the ship but for the whole portion of the neutral cargo which was not liable to seizure.

Special care should on that account be taken in appraising the value in accordance with paragraph (b) in cases where it is doubtful if that part of the cargo which is not contraband does not exceed that portion which may be contraband all articles in the cargo which are not definitely known to be contraband must be omitted from the appraisement. For example, the following should not be regarded as undoubted contraband: Machinery, machinery parts, iron, iron ores, iron tubes, steel tubes, etc., unless it has been ascertained that these general terms only serve to cover actual contraband, e. g., tool
machines for the manufacture of war material, raw material for shells, raw hematite iron, hematite iron ore, etc.

Ship's papers, and especially cargo papers, should always be secured and transmitted together with the prize report direct to the admiralty staff.—Ger. P. C. 1916.

129. If it is not possible to take the ship into the port ordered, he will seek another into which the prize may be taken. If this also is not possible, he will proceed to destroy the ship, under the provisions of Nos. 112 to 118, as soon as the safe salving of the persons, papers, and articles of evidence on board the ship has been accomplished. The requirements of No. 123 are to be observed.—Ger. O. 1909.

Neutral vessel, proof of necessity.

Art. 51. A captor who has destroyed a neutral vessel must, as a condition precedent to any decision upon the validity of the capture, establish in fact that he only acted in the face of an exceptional necessity, such as is contemplated in article 49. Failing to do this, he must compensate the parties interested without examination as to whether or not the capture was valid.—D. of L. 1909.

159. Je vous rappelle que le capteur qui a détruit un navire neutre doit, préalablement à tout jugement sur la validité de la capture, justifier en fait avoir agi en présence d'une nécessité exceptionnelle dans le sens du paragraphe 157.—Fr. Ins. 1912.

Neutral vessel, forbidden.

Art. 48. A captured neutral vessel is not to be destroyed by the captor, but must be taken into such port as is proper in order to determine there the rights as regards the validity of the capture.—D. of L. 1909.

Art. 125. A captured neutral vessel is not to be destroyed by the commanding officer of a man-of-war making the capture.—Jap. Reg. 1914.

156. Un navire neutre capturé ne peut être détruit par le capteur; mais il doit être conduit dans un port national ou allié, pour y être statué ce que de droit sur la validité de la capture.—Fr. Ins. 1912.

Neutral vessel, compensation.

Art. If the capture of a neutral vessel, of which the destruction has been justified, is subsequently held to be invalid, the captor must compensate those interested in place of the restitution to which they would have been entitled.—D. of L. 1909.

115. If a neutral ship be destroyed when, according to the decision of the prize court, the special circumstances named under 113(b) did not exist, the owners of the ship and cargo—whether these be confiscable or not—have a claim for damages. If the circumstances
in question did exist, but the destroyed ship or neutral goods be shown not confiscable, the respective owners have also a claim for damages.—Ger. O. 1909.

Neutral vessel, responsibility.

ART. 128. The commanding officer of a ship of war who has destroyed a neutral vessel must, as a condition precedent to any decision upon the validity of the capture, establish in fact that he only acted in the face of an exceptional necessity such as is contemplated in article 126.—Jap. Reg. 1914.

114. Before the captain decides to destroy the ship, he will consider whether the injury thereby done to the enemy will outweigh the damages that will have to be paid for the simultaneous destruction of the nonconfiscable part of the cargo.—Ger. O. 1909.

Neutral vessel, cargo.

ART. 53. If neutral goods which were not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.—D. of L. 1909.

ART. 54. The captor has the right to require the giving up of, or to proceed to destroy, goods liable to condemnation found on board a vessel which herself is not liable to condemnation, provided that the circumstances are such as to justify the destruction of a vessel liable to condemnation. The captor enters the goods delivered or destroyed in the log book of the vessel stopped, and must procure from the master duly certified copies of all relevant papers. When the giving up or destruction has been completed, and the formalities have been fulfilled, the master must be allowed to continue his voyage. The provisions of article 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.—D. of L. 1909.

160. Si le navire n'est pas sujet à confiscation ou s'il y a doute, vous aurez la faculté d'exiger la remise ou de procéder à la destruction des marchandises confiscables trouvées à bord dudit navire, lorsque les circonstances justifieraient la destruction d'un navire passible de confiscation. Vous mentionnerez alors les objets livrés ou détruits sur le livre de bord du navire arrêté, et vous ferez remettre par le capitaine copie certifiée conforme de tous papiers utiles. Lorsque la remise ou la destruction a été effectuée et que les formalités ont été remplies, le capitaine doit être autorisé à continuer sa route. L'oubli de ces formalités engage la responsabilité du captur.—Fr. Ins. 1912.

Enemy prizes.

ART. 104. Destruction des navires et des marchandises confiscables.—Il n'est permis aux belligerants de détruire les navires ennemis saisis qu'entant qu'ils sont sujets à confiscation et en présence d'une nécess-
sitée exceptionnelle, c'est-à-dire lorsque l'exigent la sécurité du navire capteur ou le succès des opérations de guerre dans lesquelles celui-ci est actuellement engagé. Avant la destruction, les personnes qui se trouvent à bord devront être mises en sûreté, et tous les papiers de bord et autres pièces, que les intéressés estimeront utiles pour le jugement sur la validité de la capture, devront être transbordés sur le navire capteur. Il en sera de même, dans la mesure du possible, pour les marchandises. Il sera dressé procès-verbal de la destruction du navire capturé et des motifs qui l'ont amenée.—Institut, 1913.

**Enemy prizes resisting capture.**

155. En cas de combat provoqué par une résistance armée, ceux qui montent la navire suivent la fortune des armes.—Fr. Ins. 1912.

**Enemy vessel.**

94. An enemy ship made prize may be destroyed by the capturing officer in case of military necessity, when the vessel can not be sent or brought in for adjudication.—U. S. Ins. 1917.

153. Les prises doivent être amarrrées, conduites dans un port national ou allié, et non pas détruites. Par exception, vous êtes autorisé à détruire toute prise dont la conservation compromettrait votre propre sécurité ou le succès de vos opérations, notamment si vous ne pouvez conserver la prise sans affaiblir votre équipage.—Fr. Ins. 1912.

Art. 122. A captured enemy vessel may be destroyed if the taking of such vessel to a Japanese port is considered to involve danger to the ship of war or to the success of her operations.—Jap. Reg. 1914.

**Enemy vessel, compensation.**

Art. 114. Dans le cas de destruction d'un navire, le capteur sera tenu d'indemniser les intéressés, s'il n'est pas justifié par lui de la nécessité exceptionnelle de la destruction, ou si, la destruction ayant été justifiée, la capture est ensuite déclarée nulle.

La même règle est applicable dans l'hypothèse prévue à l'article 105.

Si des marchandises qui n'étaient pas susceptibles de confiscation ont été détruites, le propriétaire de ces marchandises a droit à une indemnité.

Au cas où le capteur a fait emploi du navire ou de la cargaison après la saisie, il devra, si celle-ci est reconnue illégitime, payer aux intéressés une équitable indemnité, d'après les documents dressés au moment de l'emploi.—Institut, 1913.

**Safety of persons.**

Art. 50. Before the destruction, the persons on board must be placed in safety, and all the ship's papers and other documents which
those interested consider relevant for the decision as to the validity
of the capture must be taken on board the ship of war.—D. of L.
1909.

97. In no case after a vessel has been brought to may it be de-
stroyed until after visit and search has been made and all persons
on board have been placed in safety, and also, if practicable, their
personal effects. All the documents, letters, and papers found on
board the prize shall be taken on board the capturing vessel of war
and be inventoried and sealed in accordance with the procedure of
section 4615, Revised Statutes, for delivery to the prize court, with
especial view to the protection of the interests of the owners of any
innocent neutral cargo on board. All mails on board should be
saved, so far as possible and practicable.—U. S. Ins. 1917.

158. Avant la destruction, les personnes qui se trouvent à bord
devront être mises en sûreté, et tous les papiers de bord et autres
pièces que les intéressé estimeront utiles pour jugement sur la va-
lidité de la capture devront être transbordés sur votre bâtiment.—
Fr. Ins. 1912.

154. Avant la destruction, vous mettrez en sûreté les personnes,
quelles qu’elles soient qui se trouvent à bord, ainsi que tous les
papiers et documents utiles pour le jugement de la prise.—Fr. Ins.
1912.

Art. 123. Before destroying a vessel (enemy) under the preceding
article, the commanding officer of the warship must remove all the
persons on board to a safe place and must take on board his ship
all the papers necessary for trial of the vessel.—Jap. Reg. 1914.

116. Before the destruction, all persons on board, if possible, with
their goods and chattels, to be placed in safety, and all the ship’s
papers and other articles of evidence which in the opinion of the
interested parties are of value for the judgment of the prize court
are to be taken over by the captain.—Ger. O. 1909.

Art. 127. Before the destruction mentioned in the preceding
article, the commanding officer of the warship shall remove the per-
sons on board to a place of safety, and all the ship’s papers and other
documents which are considered relevant for the decision as to the
validity of the capture must be taken on board the warship.—Jap.
Reg. 1914.

Obstruction of navigation.

118. In sinking ships care is to be taken, if possible, to make no
obstruction for neutral shipping.—Ger. O. 1909.

Of cargo at sea.

Art. 105. Le capteur a la faculté d’exiger la remise ou de procéder
ta la destruction des marchandises confiscables trouvées à bord d’un
navire qui lui-même n’est pas sujet à confiscation, lorsque les circon-
stances sont telles que, d’après l’article précédent, elles justifieraient
117. If circumstances permit the salvage of parts of the cargo or equipment, their choice is to be determined, first, by the requirements of the man-of-war; second, with regard to the damages to be paid.—Ger. O. 1909.

Salvage of cargo.

117. If circumstances permit the salvage of parts of the cargo or equipment, their choice is to be determined, first, by the requirements of the man-of-war; second, with regard to the damages to be paid.—Ger. O. 1909.

Salvage of cargo.

117. If circumstances permit the salvage of parts of the cargo or equipment, their choice is to be determined, first, by the requirements of the man-of-war; second, with regard to the damages to be paid.—Ger. O. 1909.

Salvage of cargo.

117. If circumstances permit the salvage of parts of the cargo or equipment, their choice is to be determined, first, by the requirements of the man-of-war; second, with regard to the damages to be paid.—Ger. O. 1909.
(a) The papers and other articles of evidence; (b) a statement of the destruction, the reasons therefor, and all attendant circumstances.

The chief of the Admiralty Staff is besides to be informed as soon as possible of the destruction of a neutral ship, by a brief telegraphic report, direct, of the principle data.—Ger. O. 1909.

98. Every case of destruction of prize shall be reported to the Navy Department at the earliest practicable moment.—U. S. Ins. 1917.

Art. 129. In the case of the preceding article the commanding officer of the ship of war shall prepare an explanation according to Form No. 12, stating the circumstances which compelled him to destroy the vessel and the actions he has taken, and shall order the prize officer to send it to the nearest Japanese prize court, together with the persons on board and the ship's papers and other documents which have been removed from the vessel. The commanding officer of the ship of war shall make a detailed report similar to one mentioned in the preceding paragraph to the Minister of the Navy in regard to the destruction of the vessel.—Jap. Reg. 1914.

Art. XCII. In the cases of the above article the captain of the man-of-war shall direct the prize officer to prepare a certificate stating the circumstances of inability to send in the prize and the details of her disposal, and to send it to the nearest prize court, together with persons and cargo removed from the vessel, the ship's papers, and all documents required for judicial examination.—Jap. Reg. 1904.

Art. 124. The commanding officer of a warship who has destroyed an enemy vessel shall prepare a report according to Form No. 11, stating the circumstances which compelled him to destroy the vessel and particulars of actions he has taken, and shall order the prize officer to send it to the nearest Japanese prize court, together with the persons on board and the ship's papers and other documents removed from the vessel. He shall also make to the Minister of the Navy a detailed report similar to the above relating to the destruction of the vessel.—Jap. Reg. 1914.

36. In case such an event happens the captain of the captor shall file a statement to the prize court setting forth the circumstances under which he was compelled to destroy the vessel and at the same time he shall hold himself duly responsible for any consequence of the destruction.—China, Reg. 1917.

RANSOM

Forbidden.

152. Il vous est interdit de consentir un traité de rançon.—Fr. Ins. 1912.

98. If the search shows that only a part of the cargo is confiscable, the captain will decide whether he will capture the ship or only seize
the questionable part of the cargo, according to 121, or release the ship without further proceedings. A renunciation of the seizure in return for a payment is not permissible.—Ger. O. 1909.

ASYLUM

To prize, in neutral jurisdiction.

Art. 21. A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions. It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral power must order it to leave at once; should it fail to obey, the neutral power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.—XIII, H. C. 1907.

20. A prize can be brought into a neutral port only on account of unseaworthiness, stress of weather, or want of fuel or provisions.—U. S. Ins. 1917.

21. It must leave as soon as the circumstances which justified its entry are at an end.—U. S. Ins. 1917.

42. An imperial vessel, while conducting away detained vessels, may enter the ports of a neutral power which has not forbidden in its declaration of neutrality (or other official document) the visitation of its ports by war vessels of the belligerent parties with prizes. Similarly an imperial cruiser may seek refuge in a port of a neutral power, together with captured vessels, in the case of a storm or other extreme necessity (for instance, a breakdown in the engines, insufficiency of supplies, or in case of pursuit by an enemy of superior strength), in which case the commander of the imperial vessel must submit to the rules established by the local government with regard to the period and other conditions of the sojourn in the neutral port.—Rus. Ins. 1900.

129. Une prise ne peut être amenée dans un port neutre que pour cause d’innavigabilité, de mauvais état de la mer, de manque de combustible ou de provisions. Elle doit repartir aussitôt que la cause qui en a justifié l’entrée a cessé. Le capteur se mettra en rapport avec le consul de France et se concertera avec lui sur la destination ultérieure de la prise.—Fr. Ins. 1912.

Art. 172. A captured vessel shall not be allowed to enter a neutral port, except for the reason that the vessel is incapacitated for navigation, the sea is very heavy, or her fuel or food has run short. When the cause which justifies the entrance to port ceases, the vessel shall instantly leave the neutral port.—Jap. Reg. 1914.

133. Si le port neutre dans lequel il se présente lui est interdit absolument, ou si sa présence n’y est tolérée que pour un temps insuffisant, le capteur ou le conducteur d’une prise défère aux invita-
tions qui lui sont adressées par le Gouvernement du pays où il se trouve. Il agit alors au mieux des intérêts dont il est chargé, et rend compte sans délai au Ministre de la Marine du refus qu'il a éprouvé.—Fr. Ins. 1912.

Refusal of.

Art. 174. In the case of article 172, if the neutral country has refused the entrance of the captured vessel into one of her ports or has unreasonably restricted the period of her stay, the prize officer shall inform the Japanese diplomatic or consular officer accredited to that country and request such officer to discuss the matter with the authorities of that country. He shall also report it to the Minister of the Navy—Jap. Reg. 1914.

ADJUDICATION

Delivery to court.

25. Concerning the conducting of a detained vessel or its cargo into port, the proper authority immediately notifies the nearest prize court, and, after the measures indicated in article 23 have been taken, he turns over to the disposal of the court the master, supercargo, and other persons from among the crew of the detained vessel who have been detained for the purpose of explaining matters, as well as all documents relating to the case.—Rus. Reg. 1895.

Art. 110. La légalité et la régularité de la capture des navires ennemis et de la saisie des marchandises doivent être établies devant la juridiction des prises.—Institut, 1913.

27. The confiscation of detained war vessels and cargoes takes place by order of the proper naval authority. The confiscation of other vessels and cargoes subject to detention does not take place otherwise than by virtue of a decision of a prize court.—Rus. Reg. 1895.

Art. 112. Un Etat belligérant n'acquerra la propriété du navire ou des marchandises qu'il a saisis durant la guerre qu'au moment où par une décision devenue définitive, la juridiction des prises aura prononcé à son profit la confiscation de ce navire ou sur ces marchandises.—Institut, 1913.

38. No ship or cargo shall be condemned without the adjudication of the prize court.—China, Reg. 1917.

33. Objects confiscated as prizes constitute Government property. An appraisal is made of these objects, and then those of them which the navy department does not consider necessary to keep are sold at public auction. In both cases prize money is awarded for the detention of the property in question.

Note.—The appraisal and sale of prizes takes place according to rules issued by the director of the naval ministry with the consent of the Minister of Finance.—Rus. Reg. 1895.
Confiscation, definition.

Note to preamble.—La confiscation est l’acte par lequel la juridiction des prises valide la capture d’un navire ou la saisie de marchandises.—Institut, 1913.

Preliminary note.—La confiscation est prononcée par le Conseil des prises en conséquence de la validation de la capture. C’est l’attribution définitive, au profit de l’État, de la propriété du navire ou de la cargaison capturée.—Fr. Ins. 1912.

Title to, war vessels.

Art. 115. A la différence des navires publics non militaires et des navires privés ennemis, les bâtiments de la marine militaire d’un belligérant pris par son l’adversaire, deviennent, ainsi que leur matériel, la propriété de celui-ci dès qu’ils sont tombés en sa possession sans que doive intervenir une décision de la juridiction des prises.—Institut, 1913.

99. By the fact of capture a public vessel in the military service of the enemy passes into the possession of the captor’s Government, in which title immediately vests. The vessel, therefore, becomes a public vessel belonging to the captor’s Government and subject to its disposal. It is unnecessary to send a captured public vessel into port for adjudication. The vessel may be immediately converted to the use of the captor and sent to any port at his convenience, as a public vessel of the United States. The captured personnel shall be made prisoners of war, except the religious, medical, or hospital staff of the ship.—U. S. Reg. 1917.

RECAPTURE

Recapture of prize.

Art. 111. Toute reprise doit être également jugée par la juridiction des prises.—Institut, 1913.

98. If a ship that has been captured by the enemy has been re­taken, before confiscation or employment in hostile undertakings by him, she is to be released if no ground exists from the German standpoint for her capture. Report of the release is to be made directly to the chief of the admiralty staff.—Ger. O. 1909.

37. When the captain of a warship recaptures a vessel of the Republic or of neutral nationality which had been captured by the enemy but which has not been employed in the service of the enemy brought to an enemy port he shall set the vessels free.—China, Reg. 1917.

34. Regarding Russian and foreign vessels and cargoes recaptured from the enemy, as well as the conducting into port and surrender of these vessels and cargoes, the general rules concerning detention, conducting into port, and surrender of hostile and suspicious vessels are observed, together with the following special rules:
(1) Property recaptured from the enemy, although it may have been already confiscated by the enemy as a prize, is returned by direction of the prize court to the original owner, who is obliged to pay the prize money for the recapture and the expenses incurred in the recapture, and in case property is found on board the recaptured vessels which belongs to the enemy, this property is considered as a prize and is subjected to confiscation according to the general rule.

(2) Russian Government vessels and cargoes recaptured from the enemy are returned to the Government without the intermediation of the court by order of the proper naval authority.

(3) Property recaptured from the enemy and belonging to a foreign owner is returned to him without payment by him of prize money or the expenses of the recapture, provided it is proven that this property could not have been considered as lawful prize by the enemy, but would have been subject to release; in this case no reward is paid for recapture.—Rus. Reg. 1895.

Art. 108. Rescousse.—Lorsqu’un navire pris, puis repris, vient à être enlevé au recapteur, le dernier capteur a seul des droits sur lui.—Institut, 1913.

Art. LXXIII. When the captain of a man-of-war recaptures a Japanese or a neutral vessel captured by the enemy, he may release her if she has not yet been taken into an enemy port or has not been used for military purposes.—Jap. Reg. 1904; art. 159, Reg. 1914.

RESPONSIBILITY

Capture without probable cause.

Art. 64. If the capture of a vessel or of goods is not upheld by the prize court, or if without being brought to judgment the captured vessel is released, those interested have the right to compensation, unless there were sufficient reasons for capturing the vessel or goods.—D. of L. 1909.

Art. 113. Si la saisie du navire ou des marchandises n’est pas validée par la juridiction des prises, ou si, sans qu’il y ait eu de mise en jugement, la saisie n’est pas maintenue, les intéressés ont droit à des dommages et intérêts, à moins qu’il y ait eu des motifs suffisants de saisir le navire ou les marchandises.—Institut, 1913.

78. An officer making a capture is held by the courts of the United States to be personally liable in damages unless the capture made by him is for probable cause.—U. S. Ins. 1917.

Capture, definition of probable cause.

79. Probable cause is defined by the Supreme Court of the United States as follows:
Probable cause exists where there are circumstances sufficient to warrant suspicion, though it may turn out that the facts are not sufficient to warrant condemnation. And whether they are or not can not be determined unless the customary proceedings of prize are instituted and enforced. (Chief Justice Fuller in Olinda Rodrigue (1899), 177 U. S. 510.) The terms "probable cause," according to its usual acceptation, means less than evidence which would justify condemnation; and in all cases of seizure has a fixed and well-known meaning. It imports a seizure made under circumstances which warrant suspicion. (Chief Justice Marshall in Locke v. U. S. (1813), 7 Cranch 339.)

—U. S. Ins. 1917.

8. If the capture of ships and goods is not upheld by the prize courts, or if they are released before prize court proceedings are instituted, the parties interested have claim for damages, unless there were sufficient grounds for the seizure. The latter is always the case when any person found on board the ship has destroyed or concealed ship’s papers, or when two sets, false, or falsified ship’s papers are found on board, so far as the said irregularities have connection with circumstances of weight in deciding between the seizure or release of the ship.—Ger. O. 1909.

29. If the property subject to return to the original owner is found to be sold, or released on deposit made, the owner is given the full amount obtained by the sale or received as a deposit. If, however, the property subject to return has been destroyed by order of the naval authorities or has perished through the fault or negligence of the officials to whom its custody was intrusted, the owner is indemnified in the amount of the value of the destroyed or perished property, estimated on the basis of information furnished.—Rus. Reg. 1895.

30. Independently of the delivery of the property subject to return or of the indemnification to the amount of its value a special indemnity may be awarded the original owner of the property for damages caused by the detention of the property when it is acknowledged that the property was detained without sufficient reason or in violation of the conditions prescribed. In case the property is returned in a damaged state the owner may be awarded an indemnification for his losses, provided it is proven that the damage was caused through the fault or negligence of the officials who were responsible for its custody.—Rus. Reg. 1895.

32. Sums intended for disbursement, in accordance with articles 29-31, as indemnity for destroyed property or losses occasioned by its detention or injury are paid from the funds of the national treasury, and the expenditures thus made by the treasury are recovered in appropriate cases from the guilty parties in the manner established by law.—Rus. Reg. 1895.