

immunities established by the Geneva Convention by which Spain is bound.

(The said exceptions are given at the end of these instructions.)

(2.) If active resistance is offered to the visit, that is, if force is employed to escape it.

(3.) If a legal document to prove the nationality cannot be produced.

(4.) If bound for the enemy's ports, the vessel cannot produce a document proving the nature of the cargo.

(5.) If the cargo is composed in whole or more than two-thirds of contraband of war.

In the case of the illicit part of the cargo being less than two-thirds only the articles which are contraband of war will be confiscated, and to unload them the ship will be conducted to the nearest and most convenient Spanish port.

It must be understood that goods directly and immediately affecting the war are contraband only when destined for the enemy's ports, for when they are consigned to a neutral port these goods are munitions of war, but not contraband.

But if a vessel is dispatched for a neutral port in proper form but makes for a port of the enemy, then, if found near to one of these ports or sailing in quite a different direction than the proper one shown in her papers, she shall be captured if the Captain cannot prove that *force majeure* drove him from his proper course.

(6.) If she carries on behalf of the enemy officers, troops, or seamen.

(7.) If she carries letters and communications of the enemy, unless she belong to a marine mail service, and these letters or communications are in bags, boxes, or parcels with the public correspondence, so that the Captain may be ignorant of their contents.

(8.) If the vessel is employed in watching the operations of the war, either freighted by the other belligerent or paid to perform this service.

(9.) If the neutral vessel takes part in this employment, or assists in any way in such operations.

The vessel will also be captured when during the visit duplicate or false papers are found, since such cases fall under the Regulations contained in Clauses (3) and (4) or in both, since neither false nor duplicate papers can serve to justify the conditions referred to.

Neither an attempt at flight to escape visit, nor simple suspicion of fraud respecting the nationality of the vessel or the nature of its cargo, authorise the capture of the vessel.

The circumstance that the papers are written in a language unknown to the officer making the visit does not authorise the detention of the vessel.

11. Merchant vessels sailing under convoy, under charge of one or more ships of the navy of their nation, are absolutely exempt from the visit of the belligerents, being protected by the immunity enjoyed by the warships.

As the formation of a convoy is a measure emanating from the Government of the State to which belong the vessels protecting the convoy as well as the vessels under convoy, it must be taken as certain that the Government in question not only will not allow fraud of any kind, but has employed the strictest measures to avoid fraud being committed by any of the vessels under the convoy.

It is therefore useless for the belligerent to inquire of the chief officer of the convoy whether he guarantees the neutrality of the ships sailing under his charge, or of the cargo they carry.

12. On the visit taking place, it is not permissible to give orders to open the hatchways in

order to examine the cargo, nor to open any article of furniture to search for documents. The ship's papers presented by the Captain to prove the legitimacy of the flag and the nature of the cargo are the only proof which International Law allows.

13. Although it very seldom occurs that the principal ship's papers, whether those referring to her nationality or to the nature of her cargo, are lost, mislaid, or left on shore by mistake, if such a case should occur, and by other papers or means the Captain can convince the officer visiting the ship of the neutrality of the ship and her cargo, he may authorize the Captain to continue his voyage; but if an explanation cannot be given, the ship will be detained and conducted to the nearest Spanish port, until the necessary investigation concerning the point or points in question is made.

14. The Commander of the vessel carrying out the visit and the officer commissioned to make the visit, the former in ordering and the latter in carrying it out, should act without prejudice to the good faith of the neutral being visited, and without losing sight of the consideration and respect that nations owe to one another.

Note relative to the first section of Article X. The clauses of the Geneva Convention of the 22nd August, 1864, and those of its Additional Articles drawn up at the second Diplomatic Conference of the 20th October, 1868, are as follows:—

“Articles concerning the Marine.

“ARTICLE VI.

“The boats which, at their own risk and peril, during and after an engagement, pick up the shipwrecked or wounded, or which, having picked them up, convey them on board a neutral or hospital ship, shall enjoy, until the accomplishment of their mission, the character of neutrality, as far as the circumstances of the engagement and the position of the ships engaged will permit.

“The appreciation of these circumstances is intrusted to the humanity of all the combatants. The wrecked and wounded thus picked up and saved must not serve again during the continuance of the war.

“ARTICLE 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.

“ARTICLE VIII.

“The staff designated in the preceding Article must continue to fulfil 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 1st Additional Article.*

“The stipulations of the 11th Additional Article are applicable to the pay and allowance of the staff already mentioned.

“ARTICLE IX.

“The military hospital ships remain under martial law in all that concerns their stores; they become the property of the captor, but the latter must not divert them from their special appropriation during the continuance of the war.

“ARTICLE X.

“Any merchantman, to whatever nation she

* This Article states that the time of departure will be fixed by the Commander of the boarding party.