

RULES OF THE WAR GAME FROM INTERNATIONAL LAW.

An Instructive Summary of the Code Which Belligerent Nations Are Bound by International Agreement to Observe in War Time--Bombardment of undefended towns forbidden

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The great war of the nations raging in Europe is causing many persons to inquire what principles will be observed in the heat of conflict, what laws will bind the belligerents, what agreements have been made between the Powers as to their conduct in so great a war. Are all the rights of property swept away when the invader enters? Are cities liable to bombardment and destruction? What neutral right has the United States to exact, what neutral duties has she to perform? These are all questions which are governed by the rules of the great war game, by those great principles laid down by jurists of international fame and stamped with the approval of the nations. War is, in all its aspects, a barbarous and primitive method of settling difficulties, but there are certain limitations to its career of violence and destruction, and nations are bound by policy and expediency, no less than by justice and humanity, to observe the international code. Of late years great conferences of the Powers--The Hague Convention in 1907, and the International Naval Conference of London in 1909-10, have codified the rules of public law, and all nations have in general agreed to and bound themselves to observe the regulations there laid down.

Civil Rights of Belligerents

Since the effect of a state of war is to place all the subjects of each belligerent Power in a state of hostility, all intercourse is forbidden. Debts due the enemy are not cancelled; the right of the creditor is suspended and revives on the restoration of peace. Existing contracts are dissolved, and future contracts prohibited, for trading with the enemy is unlawful.

State property may be seized by a belligerent, but private property or land not being used in the aid of war is not subject to confiscation. But contribution may be levied on the inhabitants for the support of an army in the field.

Restrictions on Belligerent Action

The Hague Conference of 1907 promulgated a number of rules to govern hostilities, which were agreed to by all the great Powers.

Among the prohibitions in regard to fighting on land were the following:

1. Poison or poisoned weapons are forbidden.
2. To kill or wound an enemy who has surrendered and laid down his arms.
3. To declare that no quarter will be given.
4. To employ arms or projectiles calculated to cause unnecessary suffering.
5. To make improper use of the flag of truce.
6. To destroy or seize the enemy's property except under necessity.
7. To compel persons to fight against their own country.
8. The attack or bombardment of undefended towns is forbidden, and in sieges and bombardments all necessary steps must be taken to spare buildings dedicated to religion, art, science or charitable purposes, and hospitals.
9. Pillage of a town, even when taken by assault, is prohibited.

In regard to maritime warfare, the

bombardment by naval forces of undefended ports, towns, villages, dwellings or buildings is forbidden, unless after formal summons, the inhabitants have failed to furnish supplies asked for. A place cannot be bombarded solely because automatic submarine contact mines are anchored off the harbor, but military works or stores of arms and ships of war in the harbor are not included in this prohibition.

Submarine Mines

The use of submarine automatic mines, which during the Russo-Japanese war of 1904 gave rise to much discussion, was to a limited degree regulated by The Hague conference of 1907. Certain kinds may not be used--unanchored mines which do not become harmless in an hour, or torpedoes which do not become harmless after they have missed their mark. They may not be used solely to intercept commercial shipping.

Privateering

The unprecedented use of the ocean liners as war vessels has given rise to much speculation as to their nature. The granting of commission in the form of letters of marque and reprisal to private vessels in order that they might carry on hostilities upon the sea was generally regarded as legitimate until the Declaration of Paris in 1856, by which it was declared "Privateering is and remains abolished." After the general abolition of privateering plans were made by various states to utilize their private vessels. Russia proposed to do this in 1870 by a voluntary enrolment of them in the navy, with their officers and crew. France protested to Great Britain, but British authorities did not find that it infringed the Declaration of Paris.

Russia adopted the plan in 1877. Great Britain in 1887, and the United States in 1892. By The Hague conference rules of 1907 the merchant ship must be placed under the direct authority, immediate control and responsibility of the power whose flag it flies. It must fly the national flag and its commander must be in the service of the state.

Prisoners of War

The Hague promulgated various rules for the treatment of prisoners of war. They are to be in the power of the hostile Government and not of the individuals who capture them. They must be humanely treated, and may keep their personal belongings except arms and horses. Individuals following an army but not of it, like newspaper reporters, may be treated as prisoners of war. Marauders, deserters and spies are the only persons not treated as prisoners of war. Aviators captured, it is supposed, will not be regarded as spies.

Neutrals in some cases be treated as belligerents where they carry despatches of the enemy or transport troops. When a neutral ship is stopped and any persons belonging to the enemy are found on board, the ship is detained and sent into port for adjudication.

What happens to merchant vessels of the enemy found in a British port at the outbreak of the war? The usual practice has been to proclaim days of grace--varying from forty-eight hours to six weeks, during which they may depart in peace. This

of course, would not apply in the case of vessels capable of being converted into armed cruisers.

Right to Search

The right to visit and search neutral vessels is a war right, the exercise of which is for the purpose of ascertaining the nationality of the vessel, the nature of its cargo, and the ports between which it is trading, with a view to determining whether the vessel and cargo are subject to capture. After a long controversy The Hague decided that the mails, whether of neutrals or belligerents, were to be inviolable and if captured should be forwarded.

Capture and Prize

Private property at sea is regarded from a different standpoint from that on land. The enemy's commerce and navigations are the sources and sinews of its naval power and is indiscriminately liable to capture and confiscation. The Declaration of Paris, 1856, laid down the principle that "neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag." Certain classes of vessels are exempt from capture--ships exchanging prisoners, fishing vessels innocently engaged, and small coast vessels employed in local trade.

Contraband

The commerce of the United States will be subject to the laws of contraband.

As a general rule neutral goods are not subject to capture under any flag unless they are contraband of war, or are being transported in violation of blockade.

Contraband consists of articles useful for war being transported to a belligerent destination.

The classification of contraband has been the subject of much discussion and various lists have been proclaimed by different nations. The Declaration of London 1864, 1910, which was compiled by the international naval conference probably gives the prevailing ideas as to the proper classification. It enumerates a list of articles (1) To be regarded as absolutely contraband, (2) as conditional contraband, and (3) as not contraband.

The following articles are regarded as contraband:

- (1) Arms of all kinds.
- (2) Projectiles and cartridges of all kinds.
- (3) Powder and explosives.
- (4) Gun carriages, military wagons, field forges.
- (5) Military clothing and equipment.
- (6) Military harness.
- (7) Saddle, draught and pack animals for use in war.
- (8) Camp equipments.
- (9) Armor plates.
- (10) Warships and boats.
- (11) Implements and apparatus for the manufacture of munitions of war.

This list may be added to by notification by any Power.

Conditional contraband, articles susceptible of use in war as well as for purposes of peace, include:

- (1) Food.
- (2) Forage and grain for animals.
- (3) Clothing and fabrics, boots and shoes suitable for military use.
- (4) Gold and silver in coin or bullion, paper money.
- (5) Vehicles of all kinds.
- (6) Vessels, craft and boats of all kinds, docks and floating docks.
- (7) Railways and rolling stock, telegraphs and telephones.
- (8) Balloons, flying machines and accessories.
- (9) Fuel, lubricants.
- (10) Barbed wire.
- (11) Harness and saddlery.
- (12) Glasses, telescopes and nautical instruments.

Articles declared not contraband, include:

- (1) Raw cotton, wool, silk, flax, hemp and other raw materials of the textile industries and also yarns of the same.
- (2) Nuts and oil seeds.
- (3) Rubber, resins.
- (4) Raw hides, horns, bones, and ivory.
- (5) Magazines and phosphates.
- (6) Metallic ores.
- (7) Earthen stones, bricks, etc.
- (8) Chinaware and glass.
- (9) Paper and pulp.
- (1) Soap, paints.
- (11) Agricultural, mining, textile and printing machinery.
- (12) Precious stones.
- (13) Clocks and watches.
- (14) Furniture and fancy goods.
- (15) Furniture and decorations.

Conditional contraband may be seized only if it is destined for the military or naval forces of the belligerents.

By the Declaration of London the ship carrying contraband cargo may be confiscated of the contraband forms either by value, by weight, by volume or by freight, more than half the cargo.

Blockade

Where one belligerent cuts off all communication with a place in possession of the other, a state of blockade exists. The Declaration of London laid down the rules to govern this measure of war. Notification is usually made to all neutral Powers, and any ship and cargo attempting to break the blockade may be seized and confiscated.

Prize Courts

The next few weeks will probably

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be filled with news of captured liners and merchantmen towed in to British ports. In the old days British sailors grew rich with the prize money from the Spanish galleons and French frigates. Will the spoils of German liners augment the pay of our 20th century tars is a question which is being discussed.

Maritime capture is given over to the jurisdiction of prize courts, which in Great Britain are established as parts of the Admiralty Division by special commission in time of war. They may and very likely will be established in British possessions overseas. Prize money consists of the proceeds of maritime captures distributed among the captors. All vessels captured belong to the Crown and prize money is a mere gift of the Crown. It has been abolished in the United States, but may still be brought into being for English sailors by Royal proclamation. By a proclamation of 1886 the Admiral's share was one-thirtieth.

The Naval Prize Act of 1864 also provides for prize bounty, which is also called head money. A Royal proclamation may establish this, which is distributed to officers and crew of a warship present at the taking or destroying of an enemy's armed ship. It is calculated at the rate of £5 for each person on board the enemy's ship at the beginning of the engagement. The number of the enemy is to be proved by the survivors.

Neutrality Laws

The position of the United States as a neutral gives her certain rights and duties. The Hague conference proclaimed neutral territory to be inviolable, and belligerents must not move troops or convoys of munitions of war or supplies across neutral territory unless the neutral nation consents. Belligerents are forbidden to use neutral ports and waters as a base for naval operations. The reception or exclusion of belligerent cruisers and their prizes in neutral ports is a matter entirely at the discretion of the neutral Government. Neutral nations may make their own rules, but they may not assist belligerent ships of war in carrying on their warlike preparations.

The English rule has been to allow belligerent ships to repair and provision, but they may only stay twenty-four hours, and they are allowed only enough provisions to enable them to reach their nearest home port.

The United States has positive laws as to the duties of her citizens as neutrals. Enlistment in the United States of troops for foreign service is forbidden, but there is nothing to prevent United States citizens from crossing to Canada and enlisting. The arming or fitting out of a vessel or military expedition to be employed by a belligerent is an offence against the United States. A neutral may trade with a belligerent, but contraband goods carried by neutral vessels are liable to seizure and they must not break a blockade which has been established.

The international code is enforced by no positive power, but its obligations are not without efficient sanction. It is under the protection of public opinion, and is enforced by the censure of the press and the general voice of humanity, but in the vast maelstrom of international complications at the present time it will be subjected to the supreme test, for it alone interposes its authority on the warring nations in their relations with each other.

—Earle R. Macnutt in the Fredericton Gleaner.

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