

in damages and costs when he failed to make out any case against a prize brought in for carrying contraband, and there were no good grounds for the seizure.¹ Such a right to compensation is now expressly provided by Article 64 of the Declaration of London, which also extends to the case where the prize is released without any judgment being given.

Article 63 of the Declaration provides, in accordance with the established practice, that forcible resistance to the legitimate exercise of the right of stoppage and search shall involve in all cases the condemnation of the vessel. Hitherto Great Britain has always regarded the attempt to take advantage of the convoy of a warship of the neutral nation as equivalent to such forcible resistance.² By adhering to Articles 61 and 62, however, she has waived her right to search vessels so convoyed in the present war ; but so far no neutral Power seems to have made any use of this system. As an alternative an arrangement appears to be in process of negotiation with the United States of America whereby immunity from search will be secured for vessels which have obtained certificates as to the nature of their cargoes from British Consular officials or the United States Customs authorities.

Great Britain has always maintained that if, owing to inability to spare a prize crew, or for any other reason, a neutral prize cannot be brought in for adjudication to a port of the captor's State, she must be dismissed, and that no military necessity would justify her destruction.³ But the practice of other States did not always follow this rule, and a limited but ill-defined right to destroy

¹ *The Osee* (1855), 9 Moore P. C. 150 ; Spinks, 174 ; 2 E. P. C. 432.

² *The Maria* (1799), 1 C. Rob. 340 ; 1 E. P. C. 152.

³ *The Actaeon* (1815), 2 Dods. 48 ; 2 E. P. C. 209.