

them." Article 116 provides that, before a vessel is destroyed all persons on board with their goods and chattels are to be placed in safety, if possible. Westlake (2nd ed., p. 309) is to the same effect, as follows: "And in any case of the destruction of a ship, enemy or neutral, it would be the destroyer's duty to save the men and to preserve all the papers and other evidence which might assist a neutral claimant in proving that innocent property of his had been destroyed."

The case against destruction, it will be seen, is still stronger if, as the "Lusitania" undoubtedly was, the enemy ship is carrying neutral merchandise. Neutral goods, not contraband, are exempt from capture under the enemy's flag by the Declaration of Paris, 1856, and by the unvarying practice of all nations since that date, and the neutral owner is entitled to the decision of a prize court and to the return of his innocent property or compensation. Mr. W. E. Hall points out that a general direction by a belligerent to destroy enemy vessels, instead of bringing them in for condemnation, would amount to an illegal prohibition to neutrals from engaging vessels which they have the express right to engage under the Declaration of Paris, and concludes: "It ought to be incumbent upon a captor who destroys such goods, together with his enemy's vessel, to prove to the satisfaction of the prize court, and not merely to allege, that he has acted under the pressure of a real military necessity."

But all such questions are overwhelmed in the horrible slaughter of over twelve hundred defenceless noncombatants, women and children of a friendly power among them. All authorities are at one with Wheaton that "the custom of civilized nations has exempted, not only women and children, but generally all public and private individuals engaged in the ordinary pursuits of life, from the direct effect of military operations." The instructions for the government of the armies of the United States in the field (sec. 21) declares: "The principle has been more and more acknowledged that the unarmed citizen is to be spared in person, property, and honour as much as the exigencies of war will admit," and (sec. 23) "private citizens are no longer mar-