

submarine do not permit compliance with these well-settled principles, a submarine blockade is a contradiction in terms.

The law of contraband provides no defence. As an enemy ship, the carriage of contraband was not required for her capture. On the other hand, the fact that she was carrying munitions of war to a belligerent, if established, would not justify her destruction. The carriage of contraband does not justify the destruction of a neutral ship, except in the extreme case, grudgingly allowed by International Law, of an overriding necessity to the captor in the form of an emergency (such as pressing danger from the enemy) which leaves no reasonable alternative—"a military necessity bordering upon self preservation" (Rear Admiral Stockton, U.S. Navy, p. 454); and in that case only on terms that "all persons on board be placed in safety" (*ib.*). And capture must be preceded by visit and search, with prescribed formalities, which include the preservation of the ship's papers for the prize court, on whose decision condemnation or release will be duly determined.

While different considerations may apply to the destruction of an enemy merchantman, the value of the prize will normally restrain its destruction; but, as a rule, the captured vessel must not be destroyed, but sent in to port as a prize. In the well-compiled instructions to the United States cruisers in the Spanish-American War, which are in accord with the best opinion and practice on the subject, it was stated, in regard to enemy captures, that "if there are controlling reasons why vessels may not be sent in for adjudication, as unseaworthiness, the existence of infectious disease, or the lack of a prize crew, they may be appraised and sold; and if this cannot be done they may be destroyed. But in all such cases all the papers and other testimony should be sent to the prize court in order that a decree may be duly entered."

The German naval prize regulations of 1909 place enemy and merchant ships in the same category in respect of destruction in the provision that officers may stop enemy and neutral ships for search and capture, and "in exceptional cases may destroy