

## GOVERNMENT NOTIFICATION.—No. 262.

With reference to Government Notification No. 239 of the 28th May last, the following Circular Despatch, with its enclosure, is published for general information.

By Command.

T. SERCOMBE SMITH,  
*Acting Colonial Secretary.*

Colonial Secretary's Office, Hongkong, 10th June, 1898.

## CIRCULAR.

DOWNING STREET,  
9th May, 1898.

SIR,—I have the honour to transmit to you, for the information of your Government and for publication in the Colony, an extract from the London Gazette containing a note from the United States Ambassador as this Court announcing the rules which his Government intend to observe during hostilities between the United States and Spain, together with a translation of a Royal Decree issued by the Spanish Government as to the principles which that Government will observe during the War, and a translation of the Instructions drawn up by the Spanish Minister of Marine for exercising the right of visit in accordance with Article 5 of the Royal Decree.

I have the honour to be,

Sir,

Your most obedient, humble Servant,

J. CHAMBERLAIN.

*The Officer Administering the Government of*  
HONGKONG.

## EXTRACT FROM "THE LONDON GAZETTE" OF TUESDAY, MAY 3, 1898.

*Foreign Office, May 3, 1898.*

THE Secretary of State for Foreign Affairs has received the following Note from the American Ambassador at this Court :—

*American Embassy,*  
*London, April 23, 1898.*

MY LORD,

I HAVE the honour to acquaint your Lordship that I have been informed of the intention of the Government of the United States, in the event of hostilities between that Government and Spain, not to resort to privateering, but to adhere to the following recognized rules of International Law :

First, the neutral flag covers enemy's goods, with the exception of contraband of war ;

Second, neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag ; and

Third, blockades, in order to be binding, must be effective.

I have, &c.,

JOHN HAY.

The Most Honourable  
The Marquess of Salisbury,  
&c., &c.

*Foreign Office, May 3, 1898.*

THE Secretary of State for Foreign Affairs has received, through Her Majesty's Embassy at Madrid, the following Translation of a Decree issued by the Spanish Government on the 23rd of April, 1898 :—

*Royal Decree.*

In accordance with the advice of my Council of Ministers ; in the name of my son, King Alfonso XIII, and as Queen-Regent of the Kingdom,

I decree as follows :—

ART. I. The state of war existing between Spain and the United States terminates the Treaty of Peace and Friendship of the 27th October, 1795, the Protocol of the 12th January, 1877, and all other agreements, compacts, and conventions that have been in force up to the present between the two countries.

ART. II. A term of five days from the date of the publication of the present Royal Decree in the Madrid Gazette is allowed to all United States' ships anchored in Spanish ports, during which they are at liberty to depart.

ART. III. Notwithstanding that Spain is not bound by the Declaration signed in Paris on the 16th April, 1856, as she expressly stated her wish not to adhere to it, my Government, guided by the principles of international law, intends to observe and hereby orders that the following Regulations for maritime law be observed :—

(a.) A neutral flag covers the enemy's goods, except contraband of war.

(b.) Neutral goods, except contraband of war, are not liable to confiscation under the enemy's flag.

(c.) A blockade to be binding must be effective; that is to say, maintained with a sufficient force to actually prevent access to the enemy's coast.

ART. IV. The Spanish Government, while maintaining their right to issue letters of marque, which they expressly reserved in their note of the 16th May, 1857, in reply to the request of France for the adhesion of Spain to the Declaration of Paris relative to Maritime Law, will organize for the present a service of "Auxiliary Cruisers of the Navy," composed of ships of the Spanish Mercantile Navy, which will co-operate with the latter for the purposes of cruising, and which will be subject to the statutes and jurisdiction of the navy.

ART. V. In order to capture the enemy's ships, to confiscate the enemy's merchandise under their own flag, and contraband of war under any flag, the Royal Navy, auxiliary cruisers, and privateers, if and when the latter are authorized, will exercise the right of visit on the high seas and in the territorial waters of the enemy, in accordance with international law and any regulations which may be published for the purpose.

ART. VI. Under the denomination contraband of war, the following articles are included :—

Cannons, machine-guns, mortars, guns, all kinds of arms and fire-arms, bullets, bombs, grenades, fuzes, cartridges, matches, powder, sulphur, saltpetre, dynamite, and every kind of explosive, articles of equipment like uniforms, straps, saddles and artillery and cavalry harness, engines for ships and their accessories, shafts, screws, boilers and other articles used in the construction, repair, and arming of war-ships, and in general all warlike instruments, utensils, tools, and other articles, and whatever may hereafter be determined to be contraband.

ART. VII. Captains, Commanders, and officers of non-American vessels or of vessels manned as to one-third by other than American citizens, captured while committing acts of war against Spain, will be treated as pirates, with all the rigour of the law, although provided with a licence issued by the Republic of the United States.

ART. VIII. The Minister of State and the Minister of Marine are charged to see the fulfilment of the present Royal Decree and to give the orders necessary for its execution.

MARIA CRISTINA.

Madrid, April 23, 1898.

*Foreign Office, May 3, 1898.*

THE Secretary of State for Foreign Affairs has received through Her Majesty's Embassy at Madrid the following translation of the Instructions, drawn up by the Spanish Minister of Marine, for exercising the right of visit in accordance with Article 5 of the Royal Decree which was issued on the 23rd of April, 1898.

*Royal Order.*

(Translation.)

Your Excellency,

HIS Majesty the King, and in his name the Queen-Regent, have been pleased to approve of the annexed instructions for exercising the right of visit. They have been drawn up by the Minister of Marine in accordance with Article 5 of the Royal Decree issued by the President of the Council of Ministers on yesterday's date.

(Signed) SEGISMUNDO BERMEJO.

Madrid, April 24, 1898.

To the President of the Council of the Fleet.

*Instructions for the Exercise of the Right of Visit.*

(Translation.)

1. Right of visit can only be exercised by belligerents; hence it can evidently be only resorted to during international conflicts by one or other of the States at war, as also during internal civil or insurrectionary wars, when one or more foreign Powers have recognized the insurrectionary party as belligerents. In such circumstances, right of visit can be exercised by the mother country, but it is restricted to the merchant vessels of the nation or nations who have given this recognition, and who are for such reason in the position of neutrals.

2. In accordance with the position laid down in the preceding Article, ships of war and merchant vessels of the belligerents, when legally armed either as auxiliary cruisers of their navy or as privateers, if and when they are authorized, may in their own territorial waters, or those under the jurisdiction of the enemy, or in the open seas, detain such merchant vessels as they meet with in order to verify the legitimacy of their flag, and, if neutrals, and proceeding to a port of the other belligerent, the nature of their cargo.

3. Seas subject to the sovereign jurisdiction of neutral Powers are absolutely inviolable: right of visit may not therefore be resorted to within them, even if it be alleged that it was attempted to exercise such right in the open sea, and that, on chase being given, and without losing sight of the vessel pursued, the latter penetrated into neutral waters.

Neither may the violation of the rights attaching to such waters be justified under the pretext that the coast washed thereby was undefended or uninhabited.

4. The following is the method of exercising right of visit:—

(A.) Notification to the vessel to be visited to lay to and state its nationality is made by the visiting vessel hoisting her national flag and firing a blank shot, a signal upon which the merchant vessel is bound to hoist the flag of the nation to which it belongs and lay to.

(B.) If the merchant vessel does not obey this first intimation, and either refuses to hoist her flag or does not lay to, a second gun will be fired, this time loaded, care being taken that the shot does not strike the vessel, though going sufficiently close to her bows for the vessel to be duly warned: and if this second intimation be disregarded, a third shot will be fired at the vessel, so as to damage her, if possible, without sinking her. Whatever be the damage caused to the merchant vessel by this third shot, the Commanding Officer of the man-of-war or Captain of the privateer cannot be made responsible.

Nevertheless, in view of special circumstances, and in proportion to the suspicion excited by the merchantman, the auxiliary vessel of war or privateer may delay resorting to the last extremity until some other measure has been taken, such as not aiming the third discharge at the vessel, but approaching it and making a fresh notification by word of mouth; but if this last conciliatory measure prove fruitless, force will immediately be resorted to.

(C.) The visiting vessel will place herself at such distance as her Commander or Captain may think convenient from the vessel to be visited, according to circumstances of wind, sea, current, or the suspicion inspired by the said vessel; and if these circumstances make it advisable for the boat about to make visit to approach on the windward side and go to leeward on returning, there is no reason why she should not do so.

But if, by existing Treaties between the nations to which the vessels respectively belong, the distance to be kept is specified, such a clause of Conventional Law shall be respected, if the circumstances of wind, sea, or current above mentioned permit.

(D.) The visiting vessel will send to the merchant vessel a boat with an officer, who will effect the visit in question, under a verbal commission from his Commanding Officer; said officer may board the merchant vessel in company with two or three of the crew of the boat, but it will be left to his discretion whether he shall do so or go alone.

(E.) The visiting officer will inform the Captain of the merchant vessel that, under commission from the Commander of the Spanish ship of war, or of the auxiliary cruiser (here follows name of ship of war or auxiliary cruiser), or from the Captain of the privateer (here follows name of vessel), he intends to effect a visit, and will request him to produce his sailing papers, or official document which takes their place, in proof of the nationality of the vessel therein stated being that of the flag which he has hoisted, and to show the port to which the vessel is proceeding.

Should the first point be satisfactorily proved, and should the port of destiny prove to be a neutral one, the visit is thereby concluded.

But should the vessel be proceeding to a port belonging to the enemy of the nation to which the visiting vessel belongs, the officer will ask the Captain of the merchant vessel for the documents in which the nature of the cargo is stated, in order to ascertain if there be contraband of war; should there be none the visit is definitely concluded, and the neutral vessel is at liberty to proceed on its voyage; but should there be contraband its capture is proceeded with, but no search may, in these circumstances, be made.

5. The visiting officer should have instructions from his Commanding Officer authorising the visited vessel to continue her voyage, if the visit has presented no difficulties, in order that the delay may not be longer than is absolutely indispensable.

6. If the Captain of the visited vessel asks to have the visit certified the visiting officer will accede to his request and will insert a note in the sheet for the day in the ship's books in the following form:—

The Undersigned (rank in the navy) sailing on the (gun-boat, cruiser, &c., of His Catholic Majesty, named \_\_\_\_\_, or the auxiliary cruiser or privateer) whose Commanding Officer is (rank and name), certifies that this day at (hour of morning or evening), under a verbal commission from the said Commanding Officer, has carried out the visit of the (class of vessel, name, and nationality of merchant service), Captain (name of Captain), and ascertained from the papers shown to him the legitimacy of the flag which she flies, and the neutrality of her cargo.

Date.

Signature of visiting officer.

Seal of visiting vessel.

7. The visit will likewise be recorded in the books of the visiting vessel, the following circumstances being stated:—

- (A.) Details of the intimation or intimations given to the visited vessel.
- (B.) Hour of its laying to.
- (C.) Name and nationality of visited vessel and Captain thereof.
- (D.) Manner in which visit was effected, and its result, stating name of officer who executed it.
- (E.) Hour at which vessel was authorized to proceed.

8. The record of the visit, which, as stated in Article VI, can be made at the wish of the Captain of the visited vessel, will become an indispensable formality should the vessel contain wounded or sick soldiers, subjects of the enemy, for in such a case all such persons will, by the mere act of visit, be incapacitated from bearing arms again during the war, in accordance with the 1st paragraph of the Xth Additional Article of the Geneva Convention.

The visiting officer will therefore in such a case make a notification of the same to the chief of the expeditionary force, and will make a note in the books of the visited vessel in the form prescribed in Article VI, with the following addition:—

This vessel contains (number of sick and wounded) individuals (of the army or navy or both) sick and wounded, subjects of the enemy, all of whom, by the fact of this visit, are incapacitated from bearing arms again during the war, according to paragraph 1 of the Xth Additional Article of the Geneva Convention, of which I have made notification to the Commander of the expeditionary force, who stated that he was (here follow rank and name).

9. The visit is not an act of jurisdiction on the part of the belligerent; it is a natural means of legitimate defence allowed by international law, lest fraud and bad faith should assist the enemy. This right should therefore be exercised with the greatest moderation by the belligerent, special care being taken to avoid causing the neutral any extortion, damage, or trouble, that is not absolutely justifiable.

In consequence of this, the detention of the ship visited should always be as short as possible, and the proceedings restricted as far as they can be, their exclusive object being, as explained, for the belligerent to ascertain the neutrality of the ship, and in case of its neutrality (if bound for a port of the enemy) the inoffensive and neutral description of its cargo.

It is not necessary, therefore, to demand during the visit any other documents than those proving these two conditions, for what the belligerent requires is to prevent any damage, favouring, or assisting the enemy; to prevent assistance and help being furnished to them that may contribute directly to the prolongation of the war, and not to be assured that all ships belonging to neutral Powers are provided with all the documents required by the laws of their country.

10. In consequence of the visit the vessel is captured in the following cases:—

(1.) If the nationality of the vessels proves to be that of the enemy, unless covered by the 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 2nd 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 may belong, charged exclusively with removal of sick and wounded, is protected by neutrality; but the mere fact, noted on the ship's books, of the vessel having been visited by an enemy's cruiser, renders the sick and wounded incapable of serving during the continuance of the war. The cruiser shall even have the right of putting on board an officer in order to accompany the convoy, and thus verify the good faith of the operation.

“If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerents.

“The belligerents retain the right to interdict neutralized vessels from all communication, and from any course which they may deem prejudicial to the secrecy of their operations. In urgent cases special Conventions may be entered into between Commanders-in-chief, in order to neutralize temporarily and in a special manner the vessels intended for the removal of the sick and wounded.

“ARTICLE XI.

“Wounded or sick sailors and soldiers, when embarked, to whatever nation they may belong, shall be protected and taken care of by their captors.

“Their return to their own country is subject to the condition that they are bound not to bear arms again during the war.

“ARTICLE XII.

“The distinctive flag to be used with the national flag, in order to indicate any vessel or boat which may claim the benefits of neutrality, is a white flag with a red cross. The belligerents may exercise in this respect any mode of verification which they may deem necessary.

“Military hospital ships shall be distinguished by being painted white outside, with green strake.

“ARTICLE XIII.

“The hospital ships which are equipped at the expense of the Aid Societies, recognized by the Signatory Powers to the Geneva Convention, and which are furnished with a commission emanating from the Sovereign, who shall have given express authority for their being fitted out, and with a certificate from the proper naval authority that they have been placed under his control until their final departure, and that they were then appropriated solely to the purpose of their mission, shall be considered neutral, as well as the whole of their staff. They shall be recognized and protected by the belligerents.

“They shall make themselves known by hoisting, together with their national flag, the white flag with a red cross. The distinctive mark of their staff, while performing their duties, shall be an armlet of the same colours. The outer painting of these hospital ships shall be white, with red strake.

“These ships shall bear aid and assistance to the wounded and wrecked belligerents, without distinction of nationality.

“They must take care not to interfere in any way with the movements of the combatants. During and after the battle they must do their duty at their own risk and peril.

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

"The belligerents shall have the right of controlling and visiting them; they will be at liberty to refuse their assistance, to order them to depart, and to detain them if the exigencies of the case require such a step.

"The wounded and wrecked picked up by these ships cannot be reclaimed by either of the combatants, and they will be required not to serve during the continuance of the war.

"ARTICLE XIV.

"In naval wars any strong presumption that either belligerent takes advantage of the benefits of neutrality, with any other view than the interest of the sick and wounded, gives to the other belligerent, until proof to the contrary, the right of suspending the Convention, as regards such belligerent.

"The Minister of Marine,

(Signed) "SEGISMUNDO BERMEJO.

"Madrid, April 24, 1898."

GOVERNMENT NOTIFICATION.—No. 263.

The following Extract of Meteorological Observations, made at the Hongkong Observatory during the Month of May, 1898, is published.

By Command,

T. SERCOMBE SMITH,  
*Acting Colonial Secretary.*

Colonial Secretary's Office, Hongkong, 11th June, 1898.

EXTRACT OF METEOROLOGICAL OBSERVATIONS, MADE AT THE HONGKONG OBSERVATORY DURING THE MONTH OF MAY, 1898.

DATE.	BARO-METER AT M.S.L.	TEMPERATURE.			HUMIDITY.		CLOUDINESS.	SUNSHINE.	RAIN.	WIND.	
		Max.	Mean.	Min.	Rel.	Abs.				Dir.	Vel.
	ins.	°	°	°	p. c.	ins.	p. c.	hrs.	ins.	Points.	Miles. p. h.
1,.....	29.81	70.4	66.8	64.9	89	0.59	100	0.0	1.760	WNW	3.5
2,.....	.85	80.3	71.8	65.5	64	.50	27	11.3	...	N by E	8.4
3,.....	.93	75.4	71.8	68.6	79	.62	35	10.3	...	E by N	17.5
4,.....	.93	77.2	73.1	69.8	73	.59	53	6.7	...	E by N	19.8
5,.....	.89	77.7	73.9	71.0	82	.69	87	6.1	...	E	17.5
6,.....	.86	81.2	76.0	73.9	92	.83	49	8.4	0.015	E	8.8
7,.....	.80	86.5	79.3	73.5	81	.81	68	10.5	...	SW by W	6.0
8,.....	.75	86.0	80.8	77.9	80	.84	65	8.8	...	SW	10.5
9,.....	.76	87.6	81.3	77.5	80	.85	64	11.0	...	SW	8.0
10,.....	.79	88.4	80.6	76.8	79	.83	34	11.7	...	SW	6.5
11,.....	.77	83.4	79.0	76.1	86	.85	51	10.1	...	E	12.1
12,.....	.76	78.2	75.8	74.3	86	.77	98	0.0	0.135	E by N	24.8
13,.....	.80	81.8	76.9	73.3	91	.84	87	4.5	2.350	E by S	19.1
14,.....	.88	81.4	76.6	73.4	94	.86	97	2.7	0.225	E by N	18.4
15,.....	.85	75.4	73.4	71.9	92	.76	100	0.0	0.810	E by N	27.6
16,.....	.69	79.4	76.2	74.0	93	.84	85	5.5	0.095	E	15.1
17,.....	.66	81.5	78.3	75.7	91	.88	49	8.9	...	E	11.8
18,.....	.78	84.2	79.6	76.6	88	.89	66	4.2	...	ESE	7.6
19,.....	.90	84.1	80.1	77.9	90	.93	60	7.8	0.100	E	13.3
20,.....	.89	87.9	81.8	78.1	85	.92	24	11.7	...	SE by E	6.2
21,.....	.87	87.9	81.9	76.3	81	.88	9	12.2	...	W by S	4.6
22,.....	.95	82.0	79.1	78.1	87	.87	56	6.4	0.045	E	17.3
23,.....	.96	80.3	78.0	76.2	89	.86	90	4.3	0.130	E	20.2
24,.....	.94	85.8	81.0	78.0	85	.90	43	10.3	0.035	E by S	8.5
25,.....	.93	89.1	82.1	76.4	78	.86	16	12.2	...	SSW	6.0
26,.....	.93	84.6	80.8	78.1	81	.88	16	11.9	...	E	11.7
27,.....	.92	88.6	81.9	76.4	75	.81	11	11.8	...	SW by W	4.3
28,.....	.87	89.8	82.5	77.7	71	.82	6	12.2	...	SW	5.0
29,.....	.81	89.4	83.6	79.2	75	.86	24	11.8	...	S	3.2
30,.....	.78	91.5	84.0	79.4	73	.85	57	10.3	...	SW	4.1
31,.....	.79	88.6	83.7	78.8	73	.85	38	12.1	...	E by S	9.2
Mean or Total,	29.84	83.4	78.4	75.0	83	0.81	54	256.0	5.700	E	11.5

W. DOBERCK,  
*Director.*

Hongkong Observatory, 8th June, 1898.