

**NAVAL WAR COLLEGE;
INTERNATIONAL LAW
SITUATIONS WITH
SOLUTIONS AND NOTES 1904**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649614936

Naval War College; International Law Situations with Solutions and Notes 1904 by C. S. Sperry

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

C. S. SPERRY

**NAVAL WAR COLLEGE;
INTERNATIONAL LAW
SITUATIONS WITH
SOLUTIONS AND NOTES 1904**

U. S. NAVAL WAR COLLEGE.



INTERNATIONAL LAW SITUATIONS,

WITH

SOLUTIONS AND NOTES.



1904.

U. S. NAVAL WAR LIBRARY



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1905.

PREFACE.

The discussion of International Law Situations was carried on by the considerable body of officers composing the conference of 1904, with the assistance of Mr. George Grafton Wilson, professor in Brown University.

It is always the intention to direct the discussions to those difficult and urgent situations in which naval officers have been, or are likely to be, involved, rather than to cases in which the law and precedent are well established, and the president of the college invites suggestions as to such cases.

C. S. SPERRY,

Captain, U. S. Navy, President.

U. S. NAVAL WAR COLLEGE,
Newport, R. I., March 8, 1905.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

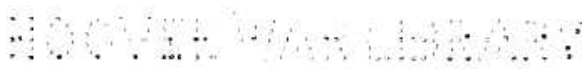


TABLE OF CONTENTS.

SITUATION I.—*Merchant vessels adapted for conversion into auxiliary cruisers.*

	Page.
Solution.....	9
Notes.....	9
General attitude toward neutral commerce.....	9
Question of contraband.....	10
Grounds for commander's judgment.....	13
Special considerations.....	16
Russian position, 1904.....	16
Conclusion.....	17

SITUATION II.—*Rights of foreigner under martial law.*

Solution.....	18
Notes.....	18
Nature of martial law.....	18
Application of Mr. B., the foreigner in State X.....	19
Position of the United States Department of State.....	21
Position of the War Department.....	23
Conclusion.....	24

SITUATION III (A), (B), (C), (D).—*Insurgency.*

Situation III (a).—Asylum for insurgent troops on war vessel.....	26
Solution.....	27
Notes.....	27
Reception to bodies of men.....	27
Cases of asylum.....	27
Brazil, 1894.....	28
Korea, 1895.....	28
Development of policy in regard to asylum.....	29
Attitude toward insurgent troops.....	31
Asylum to officers of established government.....	32
General consideration of situation.....	33
Conclusion.....	34
Situation III (b).—Seizure of United States merchant vessel by insurgents.....	34
Solution.....	34

	Page.
Notes.....	35
Insurgents as pirates.....	35
Policy of United States.....	36
Attitude of Great Britain.....	37
Piracy according to international law.....	38
Application to situation.....	38
Conclusion.....	40
Situation III (c).—Transport service of United States merchant vessel in time of insurrection.....	40
Solution.....	40
Notes.....	41
Nature of relations.....	41
Bluefields insurrection, 1894.....	42
Effect of charter.....	46
Opinion of Department of State.....	48
Conclusion.....	50
Situation III (d).—Return, during its continuance, of foreigners implicated in insurrection.....	51
Solution.....	51
Notes.....	51
Questions suggested by situation.....	51
(a) Asylum for insurrectionists on merchant vessels.....	53
The Barrundia case.....	53
President's statement of Government's position.....	55
Subsequent statements.....	55
Changes in Navy Regulations.....	58
Conclusion.....	60
(b) Intervention for the protection of those involved in insur- rection who return upon a foreign merchant vessel.....	61
Attitude of Department of State.....	61
Conclusion.....	62
 <i>SITUATION IV.—Belligerent war vessel taking supplies from supply ship in neutral port.</i>	
Solution.....	63
Notes.....	63
Jurisdiction over public vessels.....	63
Marshall's opinion.....	64
Later opinions of the courts.....	67
Proclamation of 1870.....	68
Domestic law of the United States.....	70
British regulations.....	71
Neutrality proclamations.....	71
Rights of vessels in port.....	73
Conclusions.....	76

TABLE OF CONTENTS.

7

SITUATION V.—*Neutral port as refuge to escape capture.*

	Page.
Solution.....	79
Notes.....	79
The twenty-four hour rule.....	79
Text writers' opinions.....	79
The twenty-four hour rule in proclamations.....	84
Conclusion in regard to twenty-four hour rule.....	87
Internment.....	87
Unmanned vessel in neutral port.....	87
Asylum to vessels pursued by enemy.....	89
Opinion of Institute of International Law.....	91
Internment in Russo-Japanese war.....	93
Conclusion.....	93

SITUATION VI.—*Use by belligerent of neutral telegraph.*

Solution.....	94
Notes.....	94
(a) Right to control telegraph.....	94
Control by United States.....	95
Hongkong-Manila cable in 1898.....	96
Carriage of military dispatches.....	98
Use of cables during Spanish-American war of 1898.....	99
Attitude of foreign governments.....	100
Conclusion.....	103
(b) Censorship by the government.....	103
Conclusion.....	104

SITUATION VII.—*Newspaper correspondents and wireless telegraph.*

Solution.....	105
Notes.....	105
(a) Treatment of correspondents.....	105
Russian declaration, 1904.....	105
Treatment of vessels.....	106
Correspondents as spies.....	107
Conclusion as to Russian declaration.....	108
Control of newspaper correspondents.....	108
Certification.....	109
Conclusion.....	112
(b) Regulations for the control of correspondents.....	112
Japanese regulations, 1904.....	112
Japanese naval regulations.....	114
Effect of Japanese rules.....	114
Russian regulations.....	114
General scope of necessary regulations.....	115
Conclusion.....	115

SITUATION VIII.—*Rescue of shipwrecked belligerents by neutral war vessel in foreign neutral harbor.*

	Page.
Solution.....	117
Notes.....	117
(a) Claimed as prisoners of war.....	117
What constitutes a prisoner of war.....	117
Reasons why these are not prisoners of war.....	118
Public vessels in foreign ports.....	119
Conclusion.....	120
(b) Status of rescued crews.....	120
Captain Mahan's proposition at The Hague.....	120
Lawrence's opinion.....	122
Hague Conference provisions.....	123
Effect of going on board public vessel.....	124
Chino-Japanese war of 1894-95.....	125
Chemulpo affair, 1904.....	125
Kleen's opinion.....	127
Conclusions.....	128

SITUATION IX.—*Territorial jurisdiction of entrance to harbor 10 miles wide.*

Solution.....	129
Notes.....	129
Maritime jurisdiction in general.....	129
Kent's extreme claim.....	129
Russian provision.....	132
French position in 1864.....	132
Questions raised by the United States.....	134
Questions raised by Professor Moore.....	136
Position of Secretary Bayard.....	136
Other opinions.....	137
Headland doctrine.....	138
Opinion of Institute of International Law, 1894.....	138
Other opinions on headland doctrine.....	138
Netherlands proclamation, 1904.....	140
Conclusions.....	140