

# The Commoner

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## The Second American Note to Germany

The text of the second note sent by the United States to Germany follows:

### THE SECRETARY OF STATE AD INTERIM TO THE AMERICAN AMBASSADOR TO BERLIN

Department of State,

Washington, June 9, 1915.

American Ambassador, Berlin: You are instructed to deliver textually the following note to the minister of foreign affairs:

In compliance with your excellency's request I did not fail to transmit to my government immediately upon their receipt your note of May 28 in reply to my note of May 15, and your supplementary note of June 1, setting forth the conclusions so far reached by the Imperial German government concerning the attacks on the American steamers Cushing and Gulflight. I am now instructed by my government to communicate the following in reply:

The government of the United States notes with gratification the full recognition by the Imperial German government in discussing the cases of the Cushing and Gulflight of the principles of the freedom of all parts of the open sea to neutral ships and the frank willingness of the Imperial government to acknowledge and meet its liability where the fact of attack upon neutral ships "which have not been guilty of any hostile act" by German aircraft or vessels of war is satisfactorily established; and the government of the United States will in due course lay before the Imperial German government, as it requests, full information concerning the attack on the steamer Cushing.

### THE FALABA CONTENTION

With regard to the sinking of the steamer Falaba, by which an American citizen lost his life, the government of the United States is surprised to find the Imperial German government contending that an effort on the part of a merchantman to escape capture and secure assistance alters the obligation of the officer seeking to make the capture in respect of the safety of the lives of those on board the merchantman, although the vessel has ceased her attempt to escape when torpedoed. These are not new circumstances. They have been in the minds of statesmen and of international jurists throughout the development of naval warfare, and the government of the United States does not understand that they have ever been held to alter the principles of humanity upon which it has insisted. Nothing but actual, forcible resistance or continued efforts to escape by flight, when ordered to stop for the purpose of visit, on the part of the merchantman has ever been held to forfeit the lives of passengers or crew. The government of the United States, however, does not understand that the Imperial German government is seeking in this case to

relieve itself of liability, but only intends to set forth the circumstances which led the commander of the submarine to allow himself to be hurried into the course which he took.

### THE CASE OF THE LUSITANIA

Your excellency's note, in discussing the loss of American lives resulting from the sinking of the steamship Lusitania, adverts at some length to certain information which the Imperial German government has received with regard to the character and outfit of that vessel and your excellency expresses the fear that this information may not have been brought to the attention of the government of the United States. It is stated in the note that the Lusitania was undoubtedly equipped with masked guns, supplied with trained gunners and special ammunition, transporting troops from Canada, carrying a cargo not permitted under the laws of the United States to a vessel also carrying passengers, and serving, in virtual effect, as an auxiliary to the naval forces of Great Britain. Fortunately these are matters concerning which the government of the United States is in a position to give the Imperial German government official information. Of the facts alleged in your excellency's note, if true, the government of the United States would have been bound to take official cognizance in performing its recognized duty as a neutral power and in enforcing its national laws. It was its duty to see to it that the Lusitania was not armed for offensive action, that she was not serving as a transport; that she did not carry a cargo prohibited by the statutes of the United States, and that if, in fact, she was a naval vessel of Great Britain she should not receive clearance as a merchantman; and it performed that duty and enforced its statutes with scrupulous vigilance through its regularly constituted officials. It is able, therefore, to assure the Imperial German government that it has been misinformed. If the Imperial German government should deem itself

to be in possession of convincing evidence that the officials of the government of the United States did not perform these duties with thoroughness the government of the United States sincerely hopes that it will submit the evidence for consideration.

"Whatever may be the contentions of the Imperial German government regarding the carriage of contraband of war on board the Lusitania or regarding the explosion of that material by the torpedo, it need only be said that in the view of this government these contentions are irrelevant to the question of the legality of the methods used by the German naval authorities in sinking the vessel.

### PRINCIPLES OF HUMANITY INVOLVED

But the sinking of passenger ships involves principles of humanity which throw into the background any special circumstances of detail that may be thought to affect the cases, principles which lift it, as the Imperial German government will no doubt be quick to recognize and acknowledge, out of the class of ordinary subjects of diplomatic discussion or of international controversy. Whatever be the other facts regarding the Lusitania, the principal fact is that a great steamer, primarily and chiefly a conveyance for passengers and carrying more than a thousand souls who had no part or lot in the conduct of the war, was torpedoed and sunk without so much as a challenge or a warning, and that men, women and children were sent to their death in circumstances unparalleled in modern warfare. The fact that more than one hundred American citizens were among those who perished made it the duty of the government of the United States to speak of these things and once more with solemn emphasis call the attention of the Imperial German government to the grave responsibility which the government of the United States conceives that it has incurred in this tragic occurrence and to the indisputable principle upon which that responsibility rests.

The government of the United States is contending for something much greater than mere rights of property or privileges of commerce. It is contending for nothing less high and sacred than the rights of humanity, which every government honors itself in respecting and which no government is justified in resigning on behalf of those under its care and authority. Only her actual resistance to capture or refusal to stop when ordered to do so for the purpose of visit could have afforded the commander of the submarine any justification for so much as putting the lives of those on board the ship in jeopardy. This principle the government of the United States understands the explicit instructions issued on August 3, 1914, by the Imperial German admiralty to its commanders at sea to have recognized and embodied, as do the naval codes of

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