

Diplomatic Correspondence

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT BERLIN

Department of State,
Washington, May 13, 1915.
No. 1664.]

Please call on the minister of foreign affairs and after reading to him this communication leave with him a copy.

In view of recent acts of the German authorities in violation of American rights on the high seas which culminated in the torpedoing and sinking of the British steamship *Lusitania* on May 7, 1915, by which over 100 American citizens lost their lives, it is clearly wise and desirable that the government of the United States and the Imperial German government should come to a clear and full understanding as to the grave situation which has resulted.

The sinking of the British passenger steamer *Falaba* by a German submarine on March 28, through which Leon C. Thrasher, an American citizen, was drowned; the attack on April 28 on the American vessel *Cushing* by a German aeroplane; the torpedoing on May 1 of the American vessel *Gulflight* by a German submarine, as a result of which two more American citizens met their death; and finally, the torpedoing and sinking of the steamship *Lusitania*, constitute a series of events which the government of the United States has observed with growing concern, distress, and amazement.

Recalling the humane and enlightened attitude hitherto assumed by the Imperial German government in matters of international right, and particularly with regard to the freedom of the seas; having learned to recognize the German views and the German influence in the field of international obligation as always engaged upon the side of justice and humanity; and having understood the instructions of the Imperial German government to its naval commanders to be upon the same plane of humane action prescribed by the naval codes of other nations, the government of the United States was loath to believe—it can not now bring itself to believe—that these acts, so absolutely contrary to the rules, the practices, the spirit of modern warfare, could have the countenance or sanction of that great government. It feels it to be its duty, therefore, to address the Imperial German government concerning them with the utmost frankness and in the earnest hope that it is not mistaken in expecting action on the part of the Imperial German government which will correct the unfortunate impressions which have been created and vindicate once more the position of that government with regard to the sacred freedom of the seas.

The government of the United States has been apprised that the Imperial German government considered themselves to be obliged by the extraordinary circumstances of the present war and the measures adopted by their adversaries in seeking to cut Germany off from all commerce, to adopt methods of retaliation which go much beyond the ordinary methods of warfare at sea, in the proclamation of a war zone from which they have warned neutral ships to keep away. This government has already taken occasion to inform the Imperial German government that it can not admit the adoption of such measures or such a warning of danger to operate as in any degree an abbreviation of the rights of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality; and that it must hold the Imperial German government to a strict accountability for any infringement of those rights, intentional or incidental. It does not understand the Imperial German government to question those rights. It assumes, on the contrary, that the Imperial government accept, as of course, the rule that the lives of noncombatants, whether they be of neutral citizenship or citizens of one of the nations at war, can not lawfully or rightfully be put in jeopardy by the capture or destruction of an unarmed merchantman, and recognize also, as all other nations do, the obligation to take the usual precaution of visit and search to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag.

The government of the United States, therefore, desires to call the attention of the Imperial

German government with the utmost earnestness to the fact that the objection to their present method of attack against the trade of their enemies lies in the practical impossibility of employing submarines in the destruction of commerce without disregarding those rules of fairness, reason, justice, and humanity, which all modern opinion regards as imperative. It is practically impossible for the officers of a submarine to visit a merchantman at sea and examine her papers and cargo. It is practically impossible for them to make a prize of her; and, if they can not put a prize crew on board of her, they can not sink her without leaving her crew and all on board of her to the mercy of the sea in her small boats. These facts it is understood the Imperial German government frankly admit. We are informed that in the instances of which we have spoken time enough for even that poor measure of safety was not given, and in at least two of the cases cited not so much as a warning was received. Manifestly submarines can not be used against merchantmen, as the last few weeks have shown, without an inevitable violation of many sacred principles of justice and humanity.

American citizens act within their indisputable rights in taking their ships and in traveling wherever their legitimate business calls them upon the high seas, and exercise those rights in what should be the well-justified confidence that their lives will not be endangered by acts done in clear violation of universally acknowledged international obligations, and certainly in the confidence that their own government will sustain them in the exercise of their rights.

There was recently published in the newspapers of the United States, I regret to inform the Imperial German government, a formal warning, purporting to come from the Imperial German Embassy at Washington, addressed to the people of the United States, and stating, in effect, that any citizen of the United States who exercised his right of free travel upon the seas would do so at his peril if his journey should take him within the zone of waters within which the Imperial German navy was using submarines against the commerce of Great Britain and France, notwithstanding the respectful but very earnest protest of his government, the government of the United States. I do not refer to this for the purpose of calling the attention of the Imperial German government at this time to the surprising irregularity of a communication from the Imperial German Embassy at Washington addressed to the people of the United States through the newspapers, but only for the purpose of pointing out that no warning that an unlawful and inhumane act will be committed can possibly be accepted as an excuse or palliation for that act or as an abatement of the responsibility for its commission.

Long acquainted as this government has been with the character of the Imperial German government and with the high principles of equity by which they have in the past been actuated and guided, the government of the United States can not believe that the commanders of the vessels which committed these acts of lawlessness did so except under a misapprehension of the orders issued by the Imperial German naval authorities. It takes it for granted that, at least within the practical possibilities of every such case, the commanders even of submarines were expected to do nothing that would involve the lives of noncombatants or the safety of neutral ships, even at the cost of failing of their object of capture or destruction. It confidently expects, therefore, that the Imperial German government will disavow the acts of which the government of the United States complains, that they will make reparation so far as reparation is possible for injuries which are without measure, and that they will take immediate steps to prevent the recurrence of any thing so obviously subversive of the principles of warfare for which the Imperial German government have in the past so wisely and so firmly contended.

The government and people of the United States look to the Imperial German government for just, prompt, and enlightened action in this vital matter with the greater confidence because the United States and Germany are bound together not only by special ties of friendship but also by the explicit stipulations of the treaty of 1828 between the United States and the Kingdom of Prussia.

Expressions of regret and offers of reparation

in case of the destruction of neutral ships sunk by mistake, while they may satisfy international obligations, if no loss of life results, can not justify or excuse a practice, the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

The Imperial German government will not expect the government of the United States to omit any word or any act necessary to the performance of its sacred duty of maintaining the rights of the United States and its citizens and of safeguarding their free exercise and enjoyment.

BRYAN.

THE GERMAN MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN AMBASSADOR AT BERLIN

No. 2326.] Berlin, May 28, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, ambassador of the United States of America, dated the fifteenth instant, on the subject of the impairment of many American interests by the German submarine war.

The Imperial government has subjected the statements of the government of the United States to a careful examination and has the lively wish on its part also to contribute in a convincing and friendly manner to clear up any misunderstandings which may have entered into the relations of the two governments through the events mentioned by the American government.

With regard firstly to the cases of the American steamers *Cushing* and *Gulflight*, the American Embassy has already been informed that it is far from the German government to have any intention of ordering attacks by submarines or flyers on neutral vessels in the zone which have not been guilty of any hostile act; on the contrary the most explicit instructions have been repeatedly given the German armed forces to avoid attacking such vessels. If neutral vessels have come to grief through the German submarine war during the past few months by mistake, it is a question of isolated and exceptional cases which are traceable to the misuse of flags by the British government in connection with carelessness or suspicious actions on the part of the captains of the vessels. In all cases where a neutral vessel through no fault of its own has come to grief through the German submarine or flyers according to the facts as ascertained by the German government, this government has expressed its regret at the unfortunate occurrence and promised indemnification where the facts justified it. The German government will treat the cases of the American steamers *Cushing* and *Gulflight* according to the same principles. An investigation of these cases is in progress. Its results will be communicated to the embassy shortly. The investigation might, if thought desirable, be supplemented by an international commission of inquiry, pursuant to Title Three of The Hague convention of October 18, 1907, for the pacific settlement of international disputes.

In the case of the sinking of the English steamer *Falaba*, the commander of the German submarine had the intention of allowing passengers and crew ample opportunity to save themselves.

It was not until the captain disregarded the order to lay to and took to flight, sending up rocket signals for help, that the German commander ordered the crew and passengers by signals and megaphone to leave the ship within 10 minutes. As a matter of fact he allowed them 23 minutes and did not fire the torpedo until suspicious steamers were hurrying to the aid of the *Falaba*.

With regard to the loss of life when the British passenger steamer *Lusitania* was sunk, the German government has already expressed its deep regret to the neutral governments concerned that nationals of those countries lost their lives on that occasion. The Imperial government must state for the rest the impression that certain important facts most directly connected with the sinking of the *Lusitania* may have escaped the attention of the government of the United States. It therefore considers it necessary in the interest of the clear and full understanding aimed at by either government primarily to convince itself that the reports of the facts which are before the two governments are complete and in agreement.

The government of the United States proceeds on the assumption that the *Lusitania* is to be