

Third American Note to Germany

Following is the complete text of American note delivered to German government July 23, 1915:

DEPARTMENT OF STATE

Washington, July 21, 1915.

The Secretary of State to Ambassador Gerard: You are instructed to deliver textually the following note to the minister for foreign affairs:

The note of the Imperial German government dated the 8th of July, 1915, has received the careful consideration of the government of the United States and it regrets to be obliged to say that it has found it very unsatisfactory, because it fails to meet the real differences between the two governments and indicates no way in which the accepted principles of law and humanity may be applied in the grave matter in controversy, but proposes, on the contrary, arrangements for a partial suspension of those principles which virtually set them aside.

The government of the United States notes with satisfaction that the Imperial German government recognizes without reservation the validity of the principles insisted on in the several communications which this government has addressed to the Imperial German government with regard to its announcement of a war zone and the use of submarines against merchantmen on the high seas—the principle that the high seas are free, that the character and cargo of a merchantman must first be ascertained before she can lawfully be seized or destroyed, and that the lives of noncombatants may in no case be put in jeopardy unless the vessel resists or seeks to escape after being summoned to submit to an examination, for a belligerent act of retaliation is per se an act beyond the law, and the defense of an act as retaliatory is an admission that it is illegal.

The government of the United States is, however, keenly disappointed to find that the Imperial German government regards itself as in large degree exempt from the obligation to observe these principles, even where neutral vessels are concerned, by what it believes the policy and practice of the government of Great Britain to be in the present war with regard to neutral commerce. The Imperial German government will readily understand that the government of the United States can not discuss the policy of the government of Great Britain with regard to neutral trade except with that government itself, and that it must regard the conduct of other belligerent governments as irrelevant to any discussion with the Imperial German government of what this government regards as grave and unjustifiable violations of the rights of American citizens by German naval commanders.

Illegal and inhuman acts, however justifiable they may be thought to be against an enemy who is believed to have acted in contravention of law and humanity, are manifestly indefensible when they deprive neutrals of their acknowledged rights, particularly when they violate the right to life itself. If a belligerent can not retaliate against an enemy without injuring the lives of neutrals as well as their property, humanity, as well as justice and due regard for the dignity of neutral powers, should dictate that the practice be discontinued. If persisted in, it would in such circumstances constitute an unpardonable offense against the sovereignty of the neutral nation affected. The government of the United States is not unmindful of the extraordinary conditions created by this war or of the radical alterations of circumstance and method of attack produced by the use of instrumentalities of naval warfare which the nations of the world can not have had in view when the existing rules of international law were formulated, and it is ready to make every reasonable allowance for these novel and unexpected aspects of war at sea; but it can not consent to abate any essential or fundamental right of its people because of a mere alteration of circumstance. The rights of neutrals in time of war are based upon principle, not upon expediency, and the principles are immutable. It is the duty and obligation of belligerents to find a way to adapt the new circumstances to them.

The events of the last two months have clearly indicated that it is possible and practicable to conduct such submarine operations as have characterized the activity of the Imperial German

navy within the so-called war zone in substantial accord with the accepted practices of regulated warfare. The whole world has looked with interest and increasing satisfaction at the demonstration of that possibility by German naval commanders. It is manifestly possible, therefore, to lift the whole practice of submarine attack above the criticism which it has aroused and remove the chief causes of offense.

In view of the admission of illegality made by the Imperial government when it pleaded the right of retaliation and defense of its acts, and in view of the manifest possibility of conforming to the established rules of naval warfare, the government of the United States can not believe that the Imperial government will longer refrain from disavowing the wanton act of its naval commander in sinking the Lusitania, or from offering reparation for the American lives lost, so far as reparation can be made for a needless destruction of human life by an illegal act.

The government of the United States, while not indifferent to the friendly spirit in which it is made, can not accept the suggestion of the Imperial German government that certain vessels be designated and agreed upon which shall be free on the seas now illegally proscribed. The very agreement would by implication subject other vessels to illegal attack and would be a curtailment and therefore an abandonment of the principles for which this government contends and which in times of calmer counsels every nation would concede as of course.

The government of the United States and the Imperial German government are contending for the same great object, have long stood together in urging the very principles upon which the government of the United States now solemnly insists. They are both contending for the freedom of the seas. The government of the United States will continue to contend for that freedom, from whatever quarter violated, without compromise and at any cost. It invites the practical co-operation of the Imperial German government at this time when co-operation may accomplish most and this great common object be most strikingly and effectively achieved.

The Imperial German government expresses hope that this object may be in some measure accomplished even before the present war ends. It can be. The government of the United States not only feels obliged to insist upon it, by whomsoever violated or ignored, in the protection of its own citizens, but is also deeply interested in seeing it made practicable between the belligerents themselves, and holds itself ready at any time to act as the common friend who may be privileged to suggest a way.

In the meantime, the very value which this government sets upon the long and unbroken friendship between the people and government of the United States and the people and government of the German nation impels it to press very solemnly upon the Imperial German government the necessity for a scrupulous observance of neutral rights in this critical matter. Friendship itself prompts it to say to the Imperial government that repetition by the commanders of German naval vessels of acts in contravention of these rights must be regarded by the government of the United States, when they affect American citizens, as deliberately unfriendly.

LANSING.

AMERICAN REPLY TO AUSTRIA'S PROTEST AGAINST EXPORT OF ARMS

An Associated Press dispatch from Washington, dated Aug. 15, says: The state department tonight made public the reply of the United States rejecting views set forth by the Austro-Hungarian recent note declaring that transportation of war munitions from the United States to Austria's enemies was conducted on such a scale as to be "not in consonance with the definition of neutrality."

TEXT OF NOTE

Following is the full text of the American reply to Austro-Hungarian note regarding exportation of arms and ammunition from the United States to the allies:

"The secretary of state to Ambassador Penfield, American Embassy, Vienna:

"Department of State, Washington, Aug 12, 1915.—Please present a note to the royal foreign office in reply to its note of June 29, in the following sense:

"The government of the United States has given careful consideration to the statement of the imperial and royal government in regard to the exportation of arms and ammunition from the United States to countries at war with Austro-Hungary and Germany.

"The government of the United States notes with satisfaction the recognition by the imperial and royal government of the undoubted fact that its attitude with regard to the exportation of arms and ammunition from the United States is prompted by its intention to 'maintain the strictest neutrality and to conform to the letter of the provisions of the international treaties' but is surprised to find the imperial and royal government implying that the observance of the strict principles of the law under the conditions which have developed in the present war is insufficient and asserting that this government should go beyond the long recognized rules governing such traffic by neutrals and adopt measures to 'maintain an attitude of strict neutrality with respect to both belligerent parties.'

CAN NOT GRANT THAT

"To this assertion of an obligation to change or modify the rules of international usage on account of special conditions, the government of the United States can not accede. The recognition of an obligation of this sort, unknown to the international practice of the past would impose upon every neutral nation a duty to sit in judgment on the progress of war and to restrict its commercial intercourse with a belligerent whose naval successes prevented the neutral from trade with the enemy. The contention of the imperial and royal government appears to be that the advantages gained to a belligerent by its superiority on the sea should be equalized by the neutral powers by the establishment of a system of non-intercourse with the victor. The imperial and royal government confines its comments to arms and ammunition but if the principle for which it contends is sound, it should apply with equal force to all articles of contraband. A belligerent controlling the high seas might possess an ample supply of arms and ammunition, but be in want of food and clothing. On the novel principle that equalization is a neutral duty, neutral nations would be obliged to place an embargo on such articles because one of the belligerents could not obtain them through commercial intercourse.

"But, if this principle, so strongly urged by the imperial and royal government should be admitted to obtain, by reason of the superiority of a belligerent at sea, ought it not to operate equally as to a belligerent superior on land? Applying to this theory of equalization a belligerent who lacks the necessary munitions to contend successfully on land ought to be permitted to purchase them from neutrals, while a belligerent with an abundance of war stores or with the power to produce them should be debarred from such traffic.

WOULD MEAN MORE TROUBLE

"Manifestly the idea of strict neutrality now advanced by the imperial and royal government would involve a neutral nation in a mass of perplexities which would obscure the whole field of international obligation, produce economic confusion and deprive all commerce and industry of legitimate fields of enterprise already heavily burdened by the unavoidable restrictions of war.

"In this connection it is pertinent to direct the attention of the imperial and royal government to the fact that Austria-Hungary and Germany, particularly the latter, have during the years preceding the present European war produced a great surplus of arms and ammunition, which they sold throughout the world and especially to belligerents. Never during that period did either of them suggest or apply the principle now advocated by the imperial and royal government.

"During the Boer war between Great Britain and the South African republics the patrol of the coasts of the neighboring neutral colonies by British naval vessels prevented arms and ammunition reaching the Transvaal or the Orange Free State. The allied republics were in a situation almost identical in that respect with that in which Austria-Hungary and Germany find themselves at the present time. Yet, in spite of the commercial isolation of one belligerent, Germany sold to Great Britain and other belligerents hundreds of thousands of kilos of explosives, gunpowder, cartridges, shot and weapons, and it is known that Austria-Hungary also sold similar munitions to the same purchaser, though in small quantities. While, as compared with the present war, the quantities sold were small, (a table of the sales is appended), and the principles of neutrality involved was the same. If at that time Austria-Hungary and her present ally had refused to sell arms and ammunition to Great Britain on the ground that to do so would violate the spirit of strict neutrality, the imperial and royal government might with