

hardships to which British prisoners of war are subjected in the prison camps contrasting, we believe, most unfavorably with the treatment of German prisoners in this country. We have proposed with the consent of the United States government that a commission of United States officers should be permitted in each country to inspect the treatment of prisoners of war. The United States government have been unable to obtain any reply from the German government to this proposal and we remain in continuing anxiety and apprehension as to the treatment of British prisoners of war in Germany.

"3. At the very outset of the war a German mine layer was discovered laying a mine field on the high seas. Further mine fields have been laid from time to time without warning and so far as we know are still being laid on the high seas, and many neutral as well as British vessels have been sunk by them.

"4. At various times during the war German submarines have stopped and sunk British merchant vessels, thus making the sinking of merchant vessels a general practice though it was admitted previously, if at all, only as an exception. The general rule to which the British government have adhered being that merchant vessels, if captured, must be taken before a prize court. In one case already quoted in a note to the United States government, a neutral vessel carrying foodstuffs to an unfortified town in Great Britain has been sunk. Another case is now reported in which a German armed cruiser has sunk an American vessel, the William P. Frye, carrying a cargo of wheat from Seattle to Queenstown. In both cases the cargoes were presumably destined for the civil population. Even the cargoes in such circumstances should not have been condemned without the decision of a prize court, much less should the vessels have been sunk. It is to be noted that both these cases occurred before the detention by the British authorities of the *Wilhelmina* and her cargo of foodstuffs which the German government allege is the justification for their own action. The Germans have announced their intention of sinking British merchant vessels by torpedo without notice and without any provision for the safety of the crew. They have already carried out this intention in the case of neutral as well as of British vessels and a number of noncombatant and innocent lives on British vessels, unarmed and defenseless, have been destroyed in this way.

"5. Unfortified, open, and defenseless towns, such as Scarborough, Yarmouth, and Whitby have been deliberately and wantonly bombarded by German ships of war, causing in some cases considerable loss of civilian life including women and children.

"6. German aircraft have dropped bombs on the east coast of England where there were no military or strategic points to be attacked. On the other hand I am aware of but two criticisms that have been made on British action in all these respects: (1) It is said that the British naval authorities also have laid some anchored mines on the high seas. They have done so, but the mines were anchored and so constructed that they would be harmless if they went adrift and no mines whatever were laid by the British naval authorities till many weeks after the Germans had made a regular practice of laying mines on the high seas. (2) It is said that the British government have departed from the view of international law which they had previously maintained that foodstuffs destined for the civil population should never be interfered with, this charge being founded on the submission to a prize court of the cargo of the *Wilhelmina*, the special considerations affecting this cargo have already been presented in a memorandum to the United States government and I need not repeat them here. Inasmuch as the stoppage of all foodstuffs is an admitted consequence of blockade it is obvious that there can be no universal rule based on considerations of morality and humanity which is contrary to this practice. The right to stop foodstuffs destined for the civil population must therefore in any case be admitted if an effective 'cordon' controlling intercourse with the enemy is drawn, announced and maintained. Moreover, independently of rights arising from belligerent action in the nature of blockade some nations differing from the opinion of the governments of the United States and Great Britain have held that to stop the food of the civil population is a natural and legitimate method of bringing pressure to bear on an enemy country as it is upon the defense of a besieged town. It is also upheld on the authority of both Prince Bismarck and Count Caprivi and therefore presumably is not repugnant

to German morality. The following are the quotations from Prince Bismarck and Count Caprivi on this point. Prince Bismarck in answering in 1885 an application from the Kiel chamber of commerce for a statement of the view of the German government on the question of the right to declare as contraband foodstuffs that were not intended for military forces said, 'I reply to the chamber of commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify your opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity which entails evil consequences not only on the combatants, but also on neutrals. These evils may easily be increased by the interference of a neutral power with the way in which a third carries on the war to the disadvantage of the subjects of the interfering power, and by this means German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy and is a justifiable step in war if impartially enforced against all neutral ships.' Count Caprivi during a discussion in the German Reichstag on the 4th of March, 1892, on the subject of the importance of international protection for private property at sea, made the following statements: 'A country may be dependent for her food or for her raw products upon her trade. In fact, it may be absolutely necessary to destroy the enemy's trade.' * * * 'The private introduction of provisions into Paris was prohibited during the siege, and in the same way a nation would be justified in preventing the import of food and raw produce.' The government of Great Britain have frankly declared, in concert with the government of France, their intention to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves stopping supplies going to or from Germany for this end. The British fleet has instituted a blockade effectively controlling by cruiser 'cordon' all passage to and from Germany by sea. The difference between the two policies is, however, that while our object is the same as that of Germany we propose to attain it without sacrificing neutral ships or noncombatant lives or inflicting upon neutrals the damage that must be entailed when a vessel and its cargo are sunk without notice, examination, or trial. I must emphasize again that this measure is a natural and necessary consequence of the unprecedented methods repugnant to all law and morality which have been described above which Germany began to adopt at the very outset of the war and the effects of which have been constantly accumulating."

American Ambassador, London.

THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT LONDON
(Telegram)

Department of State,

No. 1343.] Washington, March 30, 1915.

You are instructed to deliver the following to His Majesty's government in reply to your numbers 1795 and 1798 of March 15:

The government of the United States has given careful consideration to the subjects treated in the British notes of March 13 and March 15, and to the British order in council of the latter date.

These communications contain matters of grave importance to neutral nations. They appear to menace their rights of trade and intercourse not only with belligerents but also with one another. They call for frank comment in order that misunderstandings may be avoided. The government of the United States deems it its duty, therefore, speaking in the sincerest spirit of friendship, to make its own view and position with regard to them unmistakably clear.

The order in council of the 15th of March would constitute, were its provisions to be actually carried into effect as they stand, a practical assertion of unlimited belligerent rights over neutral commerce within the whole European area, and an almost unqualified denial of the sovereign rights of the nations now at peace.

This government takes it for granted that there can be no question what those rights are. A nation's own sovereignty over its own ships and citizens under its own flag on the high seas in time of peace is, of course, unlimited; and that sovereignty suffers no diminution in time of war, except in so far as the practice and con-

sent of civilized nations has limited it by the recognition of certain now clearly determined rights, which it is conceded may be exercised by nations which are at war.

A belligerent nation has been conceded the right of visit and search, and the right of capture and condemnation, if upon examination a neutral vessel is found to be engaged in unneutral service or to be carrying contraband of war intended for the enemy's government or armed forces. It has been conceded the right to establish and maintain a blockade of an enemy's ports and coasts and to capture and condemn any vessel taken in trying to break the blockade. It is even conceded the right to detain and take to its own ports for judicial examination all vessels which it suspects for substantial reasons to be engaged in unneutral contraband service and to condemn them if the suspicion is sustained. But such rights, long clearly defined both in doctrine and practice, have hitherto been held to be the only permissible exceptions to the principle of universal equality of sovereignty on the high seas as between belligerents and nations not engaged in war.

It is confidently assumed that His Majesty's government will not deny that it is a rule sanctioned by general practice that, even though a blockade should exist and the doctrine of contraband as to unblockaded territory be rigidly enforced, innocent shipments may be freely transported to and from the United States through neutral countries to belligerent territory without being subject to the penalties of contraband traffic or breach of blockade, much less to detention, requisition, or confiscation.

Moreover the rules of the Declaration of Paris of 1856—among them that free ships make free goods—will hardly at this day be disputed by the signatories of that solemn agreement.

His Majesty's government, like the government of the United States, have often and explicitly held that these rights represent the best usage of warfare in the dealings of belligerents with neutrals at sea. In this connection I desire to direct attention to the opinion of the chief justice of the United States in the case of the *Peterhof*, which arose out of the civil war, and to the fact that that opinion was unanimously sustained in the award of the arbitration commission of 1871, to which the case was presented at the request of Great Britain. From that time to the Declaration of London of 1909, adopted with modifications by the order in council of the 23d of October last, these rights have not been seriously questioned by the British government. And no claim on the part of Great Britain of any justification for interfering with these clear rights of the United States and its citizens as neutrals could be admitted. To admit it would be to assume an attitude of unneutrality toward the present enemies of Great Britain which would be obviously inconsistent with the solemn obligations of this government in the present circumstances; and for Great Britain to make such a claim would be for her to abandon and set at naught the principles for which she has consistently and earnestly contended in other times and circumstances.

The note of His Majesty's principal secretary of state for foreign affairs which accompanies the order in council, and which bears the same date, notifies the government of the United States of the establishment of a blockade which is, if defined by the terms of the order in council, to include all the coasts and ports of Germany and every port of possible access to enemy territory. But the novel and quite unprecedented feature of that blockade, if we are to assume it to be properly so defined, is that it embraces many neutral ports and coasts, bars access to them, and subjects all neutral ships seeking to approach them to the same suspicion that would attach to them were they bound for the ports of the enemies of Great Britain, and to unusual risks and penalties.

It is manifest that such limitations, risks, and liabilities placed upon the ships of a neutral power on the high seas, beyond the right of visit and search and the right to prevent the shipment of contraband already referred to, are a distinct invasion of the sovereign rights of the nation whose ships, trade, or commerce is interfered with.

The government of the United States is of course not oblivious to the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated. It might be ready to admit that the old form of "close" blockade with its cordon of ships in the immediate offing of the blockaded ports is no longer