

utilized to protect and extend British foreign trade at the expense of other countries. A most curious fact revealed in the figures is the existence of a decreased but fairly substantial amount of trade with Turkey.

File No. 763.72/1986

*The Secretary of State to the Ambassador in Great Britain (Page)*

[Telegram]

WASHINGTON, July 20, 1915, 4 p. m.

1878. Department has received printed circular stating that at the outbreak of the Japanese-Russian War the following official order to all British subjects was issued by the British Consulate at Shanghai:

All subjects of the crown are notified that the British Government will not undertake to be responsible for the safety of any British subject leaving this port on a ship of either of the belligerent nations.

Please ascertain discreetly whether any such order was issued at Shanghai or elsewhere with the authorization of the British Government. Report promptly by telegraph.

LANSING

The Note of July 21, 1915, to Germany on the "Lusitania" Case—The Torpedoing of the "Orduna," "Leelanaw," and "Iberian"—German Note of July 30, 1915, Offering Settlement of the "Frye" Case

File No. 763.72/1940

*The Secretary of State to the Ambassador in Germany (Gerard)*

[Telegram]

WASHINGTON, July 21, 1915, 9 p. m.

1981. You are instructed to deliver textually the following note to the Minister for Foreign Affairs:

The note of the Imperial German Government, dated July 8, 1915,<sup>1</sup> 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 non-combatants may in no case be put in jeopardy unless the vessel resists or seeks to escape after being summoned to submit to 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.

<sup>1</sup> *Ante*, p. 463.

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 a 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 past 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 in 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 so 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 cooperation of the Imperial German Government at this time when cooperation may accomplish most and this great common object be most strikingly and effectively achieved.

The Imperial German Government expresses the 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 those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly.

LANSING

File No. 763.72/1970

*The Ambassador in Germany (Gerard) to the Secretary of State*

[Telegram]

BERLIN, July 21, 1915, noon.

[Received July 22, 3 p. m.]

2609. Foreign Office requests attention of Department called to the fact that the news of the schedule of arrival of the *Saint Paul* in Liverpool on June 26, as transmitted in Department's 1858, June 21,<sup>1</sup> only reached German Government on June 23. Likewise the news of schedule of arrival of the *Philadelphia* in Liverpool on July 10, as announced Department's 1912, July 6,<sup>1</sup> only reached German Government on July 8. The Foreign Office transmitted the information at once to the Admiralty. Admiralty states, however, that such a late notification fails of its purpose, as it is impossible to place the German naval forces concerned sufficiently early in possession of the information regarding the schedule of the steamer.

In order that such advance notification may take place in all cases with certainty, the schedule of the American steamer must be made known some weeks before the arrival of the ship in the war zone. It would be best if the notification were made early enough to have the German submarines acquainted with the name and schedule of the steamer one month before the arrival of the steamer in the war zone. Such an early notification can scarcely present insuperable difficulties, as the sailings of the steamers making regular journeys are generally fixed for a very long period in advance.

GERARD

File No. 300.115/4343

*The Consul General at London (Skinner) to the Secretary of State*

No. 565]

LONDON, July 3, 1915.

[Received July 22.]

SIR: I have the honor to inform you that I addressed a cable despatch to the Department yesterday evening in regard to the detention of the American *S. S. Neches* in the port of London. The ship named came from the United States some weeks ago and was detained for a long time on the west coast before clearance was obtained which enabled the captain to proceed to Rotterdam to dis-

<sup>1</sup> Not printed.