

File No. 763.72112/1109

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

No. 425]

LONDON, April 30, 1915.

[Received May 12.]

SIR: Referring to the Department's cabled instruction of April 16 in regard to the duties of the prize claims committee, and to my reply of April 17¹ stating, briefly, that the committee would deal with equity cases, I have the honor to report that the procurator general consulted with the Foreign Office, after receiving confirmation of my verbal inquiries, and the Foreign Office, in a note addressed to the Ambassador of April 24, confirms my cabled report in the following language:

I have accordingly the honour to state that the view expressed by Mr. Skinner in his letter is substantially correct. Order V, Rule 2, of the prize court rules refers to cases "where a ship has been captured as prize but has been subsequently released by the captors, or has by loss, destruction, or otherwise, ceased to be detained by them without proceedings for condemnation having been taken." The prize claims committee on the other hand have been constituted to consider claims put forward in respect of vessels or cargoes which have been sentenced to condemnation or detention by the prize court. The former thus relates to claims arising out of delays caused to vessels in consequence of their detention by the British authorities—the latter to claims preferred by third parties against vessels condemned or detained (as the case may be) by the prize court.

I should be much obliged if your excellency would be good enough to inform Mr. Skinner of this communication.

I may add that, although the *Fridland* appears in the published list of ships with which the prize claims committee is dealing, I am now informed that this is the result of an error.

I have [etc.]

ROBERT P. SKINNER

File No. 763.72/1764a

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

[Telegram]

WASHINGTON, May 13, 1915.

1664. Please call on the Minister of Foreign Affairs and, after reading to him this communication, leave him with 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

¹Ante, pp. 370 and 371.

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 or 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, and 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 non-combatants, 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 non-combatants 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 anything 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 the 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

File No. 763.72/1764

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

[Telegram]

BERLIN, *May 15, 1915, 11 a. m.*

[*Received May 17, 8 a. m.*]

2234. Your 1664, May 13, 11 a. m., did not arrive until 10 p. m. last night. It was sent from Rome 4 p. m. yesterday. I presented it at 10.30 this morning to Von Jagow personally; he asked that he might read it himself as he understands written better than spoken English. While reading it he laughed and said, "Right of free travel on the seas, why not right of free travel on land in war territory?"

In confidential conversation he said that there would have to be a sitting of the authorities and no answer should be expected before Monday or Tuesday, but that he was sure Germany would never give up this method of submarine warfare. I am myself positive that Germany will continue this method of war and that it is only a question of short time before other American ships or lives are destroyed, and if that happens you say that United States will not omit any act necessary to maintain the rights which you have claimed for the United States and its citizens.

Your cables require two days or more to reach Germany and therefore, in view of your note and what I take to be the inevitable consequences, I hope you will cable me full instructions now as to all possible contingencies.

GERARD