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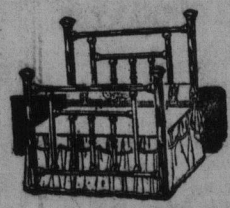
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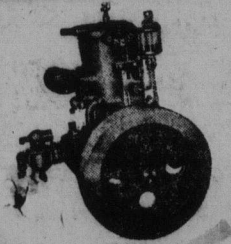
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THE QUESTIONS OF NEUTRALITY

Some of the Perplexing Problems Which Will Confront the President, if Congress Gives Him Authority to Arm American Ships—Active Participation in War Remote.

It may be an easy thing to give the executive branch of the United States Government authority to furnish guns to American merchant ships, but it is difficult to delimit the extent of responsibility which that government must assume for the action of American sea captains thereafter. Can an American skipper open fire on a submarine at sight? Is this submitting to visit and search, or will American ships proceed on the assumption that all submarines intend to forego visiting and searching, and mean to destroy without warning? Is not action on the latter assumption really defensive, and not offensive use of armament?

Were the United States a belligerent, the solution of these questions according to well established principles of international law might not be so complicated, but our government still intends only a state of armed neutrality, a physical assertion of rights and resistance to illegality. When the number of tangles that are likely to arise over moot points in international law is considered, the possibility of active participation by the United States in the war, indeed, seems to be quite remote. At the worst, occasional hostilities, encounters with submarines, are to be expected. The temper of Congress and the attitude of the President, as reflected in his last two messages indicates that while the United States Government is anxious to protect its shipping, there is no disposition to wreak vengeance in the form of expeditionary forces to Europe.

The colloquy in the Senate between Senators Lodge, La Follette, Norris, and Fall, while largely academic, reveals nevertheless, the limits of controversy which it is possible to meet on the subject of arming merchant vessels of the United States. But the Federal statutes define the act. Senator La Follette wanted to know whether the United States Government is provided for in the Naval Appropriation bill, will be used. He was told that the bill merely appropriated for their prompt purchase, and prescribed no authority to dispose of them.

The Wisconsin Senator was satisfied, but Senator Norris wanted information. He might have got it by studying a few chapters of international law, or turning to the diplomatic correspondence issued by the State Department since the outbreak of the European war. Instead, the Nebraska Senator asked questions for nearly an hour and Senator Fall, who betrayed considerable knowledge on the subject, answered quite elusively and comprehensively. Turning to what is known as municipal law, there is no authority for the Executive Department of the Government to permit American merchantmen to arm defensively. Here is the last statute enacted nearly a hundred years ago:

The commander and crew of any merchant vessel of the United States owned wholly or in part by a citizen thereof may oppose and defend against any aggression, search, restraint, depredation, or seizure which shall be attempted upon such vessel, or any other vessel so owned, by the commander or crew of any armed vessel whatever not being a public armed vessel of some nation in amity with the United States and the United States and the United States may also retake any vessel so owned which may have been captured by the commander or crew of any such armed vessel and send the same into any port of the United States.

The above statute was intended to cover piracy, Senator Fall remarked that in his judgment submarines were "pirates" but he added that there are two interpretations of piracy, that which might be defined by American municipal law, and that which might be defined in international law by a belligerent. For attacking a submarine, a commissioned vessel of a nation with which the United States is at peace, the German Government for instance, might try the captured commander for piracy.

In one case, said Senator Fall, "the United States might be in another we might call them patriots." The New Mexico Senator held that the commanders of German submarines were guilty of international piracy.

Point on Which Question Turns... Clearly the whole question turns on the matter of commissioning war vessels. Submarines are operating by direct commission or order of a government. They are public armed ships. The German Government assumes full responsibility for their acts. They must therefore be considered as vessels of war, though the United States may not necessarily submit to neutrals or belligerents to their acts. To resist the commissioned vessels of Germany, however, American municipal law must be changed. Whatever resolution is adopted this week by Congress in pursuance to the President's address of Monday will supersede existing law and grant American sea captains the right to defend themselves specifically against submarines.

But that does not dispose of the subject. The entrance of the submarine into modern warfare as a commerce destroyer introduces a conflict between two established principles of international law. One provides for the exercise of the right of visit and search, and the other permits the use of armament for defensive purposes. Germany says these two principles are contradictory, that one must be yielded. The argument is advanced that a submarine cannot risk an attempt to visit and search, since its approach is considered hostile by British merchantmen, which Germany claims, are instructed immediately to open fire. This note was published in Germany's note of February 8, 1916, which quoted from the British instructions to her merchantmen as follows: "It is not advisable to open fire at a range greater than 800 yards unless the enemy has already opened fire. From this was the German Foreign Secretary's comment, it is apparently the duty of the merchantman 'in prin-

ple to open fire without regard to the attitude of the submarine." In support of this contention, the German Government quoted again from the British instructions:

If a submarine is obviously pursuing a ship by day, and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defense, notwithstanding the submarine may not have committed a definite hostile act, such as firing a gun or torpedo.

From this also concludes the German Government, the "mere appearance of a submarine in the wake of a merchantman affords sufficient occasion for an armed attack."

The question which the United States Government must soon decide is how far, the British view of the use of defensive armament is to be accepted. Unquestionably, there is a great deal to be said in favor of opening fire on a submarine whose undoubted purpose is to sink a merchantman without warning. If no warning is ever to be given, the right to quasi-offensive use could not be disputed. But in the case of the Houatonic and the Lyman M. Law, American ships sunk since the war-zone decree of February 1 was announced, warning was given before the ships were torpedoed. Those aboard to get into lifeboats. Unofficial, but authoritative, press dispatches from Berlin, filed from Copenhagen by the Associated Press correspondents and others after the severance of diplomatic relations, declare that German submarine commanders have instructions not to attack American ships without warning. If this is, in fact, the case, the United States Government would not be warranted in assuming responsibility for the acts of her sea captains who open fire on submarines at sight, or the consequences of those acts.

On the other hand, it might be argued that Germany's official notices, of February 1 makes an exception and refers to "all ships" encountered within the war zone as liable to attack without warning. Press dispatches to be sure, are not the bases for official action.

Point Must Be Decided

Obviously, the State Department must decide the points involved here, however armament is given American ships, and similarly, the United States Government must decide itself once and for all, whether or not it recognizes the submarine as a commerce raider entitled to cruiser's rights. In the first note sent after the Lusitania tragedy, the American Government declared that it did not see how it was practicable for submarines to perform the work of commerce raiders and have due regard for the "safety of non-combatants."

Germany's attitude, as the terms of non-combatants, is the term "pirates," but subsequently, when German submarine commanders began exercising caution and the Imperial Government announced that no liners of any nationality would be torpedoed without warning, a note from the United States Government expressed gratification that the German submarines had been able to do in actual practice what had previously been feared was impossible. In other words, the use of the submarine as a commerce-raider was recognized and Germany's defense began using submarines in the Baltic to prey upon German commerce there, similarly giving warning and landing the crews after destroying a ship.

While the proposal made by Secretary Lansing as a modus vivendi on January 18, 1916, was suggested for adoption only in the event that all belligerents accepted it, while the United States indeed did not prove acceptable and the United States properly reverted to previous understandings, the following except the equity of the submarine in unequivocal terms:

Prior to the year 1915 belligerent operations against enemy commerce on the high seas have been conducted on cruisers carrying heavy armaments. Under these conditions international law appeared to permit a merchant vessel to carry an armament for defensive purposes without losing its character as a private commercial vessel. This right seems to have been forfeited by the superior defensive predilection of ships of war, and the limitation of armament to have been dependent on the fact that it could not be used effectively in offence against enemy merchantmen, while it could generally interior armament of piracy ships and privateers.

The use of the submarine, however, has changed these relations. Comparison of the defensive strength of a cruiser and a submarine shows that the latter, relying for protection on its power to submerge, is almost defenceless in point of construction. Even a merchant ship carrying a small arm would be able to use it effectively for offence against a submarine. Moreover, pirates and sea rovers have been swept from the main trade channels of the seas, and privateering has been abolished. Consequently the placing of arms on merchantmen at the present day of submarine warfare can be explained only on the ground of a purpose to render merchantmen superior in force to submarines and to prevent warning and search by them. Any armament, therefore, on a merchant-

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vessel would seem to have the character of an offensive armament.

If a submarine is required to stop and search a merchant vessel on the high seas and in case it is found that she is of enemy character and that conditions necessitate her destruction, to remove to a place of safety all persons on board, it would not seem just or reasonable that the submarine should be compelled, while complying with these requirements, to expose itself to almost certain destruction by guns on board the merchant vessel.

The reciprocal arrangement suggested at the time that submarines should be required to exercise visit and search and remove passengers to places of safety before destroying prizes, and that in lieu of this all merchantmen of belligerent nationality should be prohibited from carrying any armament whatsoever.

But Germany was unwilling to forego the privilege of sinking without warning, and England was reluctant to surrender the right to arm. Yet Secretary Lansing's statement of principles holds good today. If the Germans should make public announcements that they would, of their intention not to sink without warning vessels flying the American flag, the State Department might be entitled to reciprocate by instructing American sea captains as to the use of defensive armament would have to undergo quite a change. And conceivably, if the United States Government prescribed the extent to which it believed armament should be used in view of a German declaration of intent to give warning before destroying merchantmen, some question could be raised as to the amount of diplomatic protection American citizens would be entitled to have when travelling on belligerent merchantmen armed for offensive use under instructions differing radically from those given to American sea captains.

If contraband is to be carried by American merchantmen, the United States must announce what it considers absolute and conditional contraband and prima facie evidence thereof. Many perplexing questions remain to be settled, and their very array suggests that America will not become a belligerent and will not send armies to Europe, but will confine her activities to local maritime warfare in the sea zones immediately surrounding Europe's belligerent domains.

MEN OF THE 198TH BUFFS.

The Y. M. C. A. kept open house last evening to over 450 soldiers of the 198th Battalion, and everything possible was done to give them the time of their lives. Much interest was shown in the indoor baseball, basketball and billiard matches which were played by picked men from both the battalion and the association.

In the bowling match between members of Company "A" and "B," company "B" won out by a close margin. The lineup was:

Company "A"	Company "B"
Bate..... 72	Welsh..... 81
Harrison..... 69	Pennington..... 73
Moore..... 79	Montgomery..... 70
McKeller..... 77	Trout..... 72
Conway..... 53	Henderson..... 68
	64
	350

A fast baseball game was played between the 198th and the Y. M. C. A.



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LOCAL BOWLING.

The Sweeps not only captured the four points from the Amateurs last night in the City League, but broke three records. A total of 351 for Ferguson, with a single string of 137, made a record, the former one being 136, held by Riley. The third record was the grand total of 1571, the former record of the league being held by the Ramblers, 1532.

The individual scores follow:

Amateurs	Sweeps
Lenson..... 85	87
Jenkins..... 109	85
Hughard..... 92	84
Howard..... 96	106
Ramsey..... 86	87
	469
	454
	438
	1361
McIlveen..... 131	117
Jenkins..... 97	111
Ferguson..... 90	111
Sullivan..... 100	105
	91
	296
	98
	1-3
	498
	546
	537
	1571

The Specials and Nationals roll to night.