

At the same time the more highly organised of the smuggling "rings" have discovered, especially since our championship of the 3-mile limit in the controversy with the United States referred to in section 3, that the easiest and cheapest way of disposing of liquor is to fit out vessels of some size and despatch them directly to lie outside the 3-mile limit opposite New York, &c. There the liquor is sold to small vessels coming out from points on the coast. The place where these vessels (nearly all under the British flag) lie has come to be known as "Rum Row," and they are stated to constitute danger to navigation lying as they do, often without lights, in the path of incoming ocean liners. One of these vessels, the "Istar," has returned some months ago to Glasgow boasting of a net profit of over £100,000 on her five-months' trip.

7. The present phase of the controversy started at the end of April, when the United States Government suddenly obtained a decision from the Supreme Court (where the question had previously been dormant for a good many months) interpreting the Volstead (Prohibition) Act as prohibiting the transportation of liquor by foreign vessels within United States territorial waters, even when such liquor was placed under seal on the vessel entering these waters. In spite of representations on the part of His Majesty's Government and of the other maritime Powers, on the grounds of international comity, regulations enforcing this decision came into effect on the 10th June, a few minor concessions alone being made to permit the carriage of liquor for medicinal purposes and for the use of the crew when such use was enjoined by the law of the vessel's country.

8. The following day Mr. Hughes communicated to His Majesty's Chargé d'Affaires at Washington a draft treaty* consisting of two articles, of which the substance is as follows:—

Article 1. The two parties, without attempting to extend the limits of their respective territorial waters, agree that the authorities of the other party may, within the distance of 12 geographical miles from its coast, board the vessels of the other and make enquiry whether such vessels or the persons controlling them are attempting to violate the laws of the party making the enquiry, and prohibit or regulate the unlading near, or the importation into, its territories of any articles. An officer of one party may examine a vessel of the other party and make enquiry of the master with respect to the cargo and destination. If such officer has reason to believe that the vessel or the person controlling it is engaged in the wilful commission of acts which constitute the violation of the laws of the State of which such boarding officer is an official, he may institute a search of the vessel and an examination of any articles on board. If there is reasonable cause to believe that the vessel is engaged in the commission of acts which constitute a violation of the laws of the State whose officer is conducting the search, the vessel may be seized and brought in for an adjudication and subjected to imposition of penalties established by law by the party whose laws and regulations are found to have been violated.

Article 2. Any article, the importation of which into the territories of either party is prohibited, but which is listed as sea stores or as cargo destined for a port foreign to either party, on board a vessel of either party destined for a port of the other party, may be brought within the territorial waters of the other party on condition that upon the arrival of the vessel within 12 geographical miles of the coast of the other party such article shall be placed under seal.

9. On the 14th July, Mr. Chilton informed Mr. Hughes that although theoretically the international validity of the 3-mile limit might be strengthened by a treaty making an exception for a special purpose, in practice such a treaty would weaken the principle, because it would form a precedent for the conclusion of similar treaties. For this reason the Secretary of State for Foreign Affairs felt bound to state in Parliament that His Majesty's Government could not accept Mr. Hughes's proposal. In the opinion of His Majesty's Government Mr. Hughes's proposed treaty would not provide for any immediate remedy, seeing that it could not be ratified until Congress meets, when an amendment of the Volstead Act could equally well be introduced if the United States Government so desire. Moreover, even if the 12-mile limit were accepted, cases would inevitably occur liable to cause serious friction between the two countries, owing to the difficulty of deciding the position of a limit usually out of sight of land, at any rate on the Atlantic coast. Mr. Chilton added that the Hovering

* See Annex.

Acts in the United Kingdom were entirely superseded by "The Customs Consolidation Act, 1876," by which British municipal legislation is made to conform to international law.

On the 19th July Mr. Hughes replied that it was not his intention to propose an extension of the limits of territorial waters. He was unable to agree that the conclusion of a treaty making an exception for a special purpose would weaken the principle, and there could be inserted in the treaty any qualification deemed desirable to show that it was definitely limited to the particular situation in view. No assurance could be given as to the action of the Senate or with regard to the prospect of securing from Congress an amendment of the Volstead Act in relation to ship liquor and cargo liquor destined for foreign ports, but it was believed that the solution of the present difficulty through the making of a fair and reasonable agreement would be the most promising method of securing early action. With regard to the difficulty of determining the position of the 12-mile limit and the friction which His Majesty's Government contended would therefore arise, Mr. Hughes felt that the treaty would do much to eliminate the present cause of friction. He emphasised that the treaty would not interfere with vessels bound to United States ports when engaged in legitimate commerce, as they would in any case come within 3 miles of the coast. He confidently asserted that there would be no disposition on the part of the United States authorities to interfere with a British vessel, save within the limits proposed and when it was clear that a vessel was engaged in smuggling.

10. On the 22nd August an interdepartmental committee, under the chairmanship of the Parliamentary Under-Secretary of State for Foreign Affairs, which had already examined the possibility of introducing legislation to stop smuggling, reported that in their opinion, His Majesty's Government have strong ground for complaint that British vessels are no longer allowed to carry liquor in United States territorial waters even under seal. They considered that His Majesty's Government could hardly be expected to adopt measures to assist the United States in suppressing smuggling unless the latter is prepared to remedy the British grievance. With regard to the possibility of retaliation, it was felt that this, to be effective, would have to take the form of the exclusion of United States vessels from the ports not only of the United Kingdom, but of the whole Empire, and that no steps in this direction could be taken without the concurrence of the Dominions and India. In any case, the Empire has much more to lose than the United States by such a contest, as it possesses a far greater amount of tonnage.

11. The committee next examined Mr. Hughes's proposed treaty. The Board of Trade representative said that the Liverpool Shipowners' Association and the Chamber of Shipping of the United Kingdom were in favour of the proposal. A fear was expressed that opposition to the proposal might result in His Majesty's Government losing the support of the United States to the principle of the 3-mile limit for general purposes, and it was suggested that the proposed treaty might strengthen the doctrine if it were reaffirmed in the text. The precise distance from the shore at which the search should take place was not regarded as of great importance, provided that the right were exercised *bonâ fide* and not abused. The committee thought that there was much force in the suggestion made by Sir C. Hurst that no limit should be fixed, and the term "in the vicinity of the coast" substituted, subject to an interpretative clause. They also thought that the omission of mention of the 12-mile limit would have the advantage of emphasising the exception to the recognised limit of territorial waters and of avoiding the adoption even for this exceptional case of a limit which certain nations claim for all purposes. They believed that a treaty on the lines suggested by Mr. Hughes offers the only satisfactory solution, but as any such agreement would be applicable to all British vessels, it was agreed that it would be necessary to consult the Dominions and India. Hence the placing of this subject on the agenda of the Imperial Conference.

12. Inasmuch as it was desirable, pending the meeting of the Imperial Conference, that a reasoned reply should be returned to the United States Government, His Majesty's Chargé d'Affaires at Washington was accordingly instructed to address a note to the United States Government containing the following points: The amount of smuggling of liquor into the United States by sea is admitted by the United States Prohibition Commissioner to be exaggerated by anti-prohibitionists in the United States in order to discredit prohibition. This makes it the less justifiable to weaken the authority of the general rule of international law. The 12-mile limit would be almost impossible to observe, at all events on the Atlantic coast of the United States, which lies low. The British Hovering Acts were modified in 1876 to bring them into harmony with the principle of international law. It is no violation of any law to sell

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