

to protest such actions. With reference to Secretary of State Kellogg's claim that ships which had been engaged in rum-running were no longer "entitled to the interposition of their Government for alleged or fancied infringement of their so-called rights", the Ambassador said that the only reply available to him was that:

... His Majesty's Government in the whole course of the different questions that have arisen out of the difficulties encountered by the United States Government in the enforcement of the Prohibition Law should by now have made it clear that they have no wish to protect rum-runners as such.

Sir Esmé Howard ventures, however, to point out that there are well-established rules of international law governing the high seas in time of peace. The shooting of a vessel flying the flag of one power by an armed vessel of another can hardly, in Sir Esmé Howard's opinion, be called "a fancied infringement of the so-called rights" of the former. Whether done on purpose, or by genuine error or by simple carelessness, it constitutes a serious incident in the mind of His Majesty's Government which, had it resulted in the death of those on board, might have led to a most serious incident.

He then went on to ask once again that instructions be issued to the Coast Guard to be more careful about firing near ships flying the British flag and concluded by warning that further incidents of this type, especially if they were accompanied by personal damages to the crew members, would have the effect of making it more difficult for the Canadian and British Governments to co-operate with the United States in suppressing liquor smuggling.

Strong Canadian Reaction

The *aide memoire* was, by any standard, strongly-worded and severe. However it was not severe enough for the Canadian Government. On August 17, 1926 an urgent telegram was sent to the Ambassador indicating that, by and large the Canadian Government was in agreement with the "general tenor of the *aide memoire*" but, considering the facts at hand, they found themselves:

unable to acquiesce in proposed statement that the word of the Captain of the *Seneca* in the present instance should be taken before that of such a person as the Commander of the *Eastwood*. No consideration has been put forward by the United States Government effective to remove their impression that the conduct of the *Seneca's* officer was characterized by recklessness and lack of humanity deserving of severe reprimand. Without questioning Your Excellency's judgment that it is advisable to accept the Secretary of State's declaration that the officer did not actually fire at the SENECA [sic] they would prefer that it should be accepted without the suggested comparison as to the value of the evidence of the Commanding Officers and in such terms as would not be incompatible with an opinion that the denial of the *Seneca's* officer might be regarded as technical merely.

These changes were incorporated in the *aide memoire* before it was presented on August 21, 1926. Thus the effect of the Canadian position on the matter was to make the protest still more severe by removing the modest amelioration Sir Esmé had been willing to grant. The United States reply came on September 8, 1926. It did not back down from the position that the *Seneca* had not fired at the *Eastwood* nor, indeed, did it admit that the *Eastwood* had even been it. Nonetheless, it conceded the main point of the British and Canadian objections