

we have a right to expect that the extreme friendliness of His Majesty's Government should meet with a proper response on the part of the United States Government.

The Ambassador was authorized, in the event that the State Department's reply to his note of April 13 was not satisfactory, to communicate the position adopted in this despatch to the Secretary of State.

### Second U.S. Note

The reply to the Ambassador's protest was some time in coming. It was not until August 2, 1926, that he received a note on the subject from Secretary of State Kellogg. This time the United States admitted that the *Seneca* had conducted target practice on the high seas on February 15, 1926. But from there the note went on to recall once more the nature of the activities of the *Eastwood* and to suggest again that the word of the commanding officer of the *Seneca* was much more likely to be true than that of the master of the *Eastwood*. The note continued:

With respect to the observations... that the fact that the *W. H. Eastwood* had previously engaged in rum-running would hardly appear to be germane to the question at issue, I may state that it was designed to invite your consideration of the question whether persons who have been engaged in open and deliberate violation of the laws of a friendly State as a business and for financial gain over a long period of time are entitled to the interposition of their Governments for alleged or fancied infringement of their so-called rights.

The Ambassador was willing to accept the statement that the *Seneca* had not fired at the *Eastwood*. He was even willing to accept the fact that the word of the commander of the *Seneca* should be taken before that of the master of the *Eastwood*. He could not, however, agree that the rum-running activities of the *Eastwood* disqualified it from the protection of the British or Canadian Government when it was fired upon on the high seas. In an urgent despatch to Ottawa on August 9, 1926, enclosing a copy of the State Department's note, Sir Esmé also enclosed a draft *aide memoire*. In this he again raised the question of whether or not the projectiles fired from the *Seneca* had in fact hit the *Eastwood*. He also stated that he intended enclosing a copy of the report of an examination of the fragments of shells and bullets which had been extracted from the *Eastwood*. The report, which had been prepared by the Canadian Department of National Defence at the request of O. D. Skelton, stated that the fragments had been manufactured in the United States and were of the type used by the United States Navy. The draft *aide memoire* continued in the third person:

Sir Esmé Howard is very willing to agree that the word of the Captain of the *Seneca* should be taken before that of such a person as the Commander of a ship like the *Eastwood*, and to accept the statement that the *Seneca* did not fire at the *Eastwood*. At the same time, he feels that it would be very useful if Officers commanding United States Coast Guard cutters and other competent authorities could be warned to be more careful in future while at target practice so as to avoid hitting objects which they do not aim at.

The draft then went on to distinguish between the American and the British positions and to make a strongly-worded statement defending the British right