

safety of personnel and warning of attack are not essential. By its limitations it cannot, unless the circumstances be exceptional, act as a cruiser against commerce and fulfill the requirements of international law and the dictates of ordinary humanity.

If the United States yields the point that its citizens have not the right to travel on armed merchant ships of belligerents, to the extent of the public warning by the legislative branch of the Government to United States citizens not to take passage on such vessels, it will, in the face of its own precedents, in effect consent to a change of international law, which will result to the advantage of one belligerent and to the disadvantage of his adversaries. This would be unneutral. Furthermore, it would be consenting to a change of international law during war, a thing against which the United States has earnestly and steadily protested in other international questions that have arisen during the war.

The conditions under which enemy merchant vessels can be destroyed were correctly laid down by the German Government in official instructions issued to its naval officers at the beginning of the war. The German Prize Code (*Prizenordnung*) of the 30th September, 1909, and issued at the beginning of the war is given in its amended form as in force July 1, 1915, after the maritime warfare against merchant vessels had begun, in a book entitled *The German Prize Code*, translated by Huberich and King (Baker, Voorhis & Co., New York, 1915). Articles 113 to 116, inclusive, and Articles 118 and 119 refer to the destruction of prizes. Article 113 refers to the destruction of neutral prizes. Article 114 reads, translated:

Before the commander determines on the destruction of a vessel, he must consider whether the damage thereby done to the enemy will outweigh the damages payable for the parts of the cargo not subject to condemnation (op. arts. 18, 42, 51, 56 and 80), and which are destroyed at the same time.

Article 18, referred to in Article 114, must be read in connection with Article 17. Those two articles read as follows:

17. A captured enemy vessel is subject to condemnation.
18. The following parts of the cargo of such vessels are subject to condemnation:
  - (a) Enemy goods;
  - (b) Goods belonging to the master and owner of the vessel, if the vessel was captured by reason of resistance (see art. 16b).
  - (c) Articles of contraband, and goods belonging to the owner of the contraband, as provided for in Part III;
  - (d) In case of breach of blockade, goods liable to confiscation under art. 80.