

BREKING MUST CHANGE POLICY

UNITED STATES WILL NOT LONGER STAND FOR INTERFERENCE WITH ITS TRADE.

Latest Note to London Covers Trade Situation Since Beginning of War and States that This Country Will Not Submit to Curtailment of Its Rights—Insists That Established Rules of International Law Be Observed by England.

Washington, Nov. 7.—The United States in its latest note to Great Britain, made public here today, covering exhaustively British interference with American trade since the beginning of the European war, declares that the so-called blockade instituted by the allies against enemy countries on March 11 is "ineffective, illegal and indefensible." Notice is served that the American government "can not submit to the curtailment of its neutral rights," and it can not "with complacency suffer further subordination of its rights and interests."

Ambassador Page, to whom the note was sent by special messenger for delivery to the London foreign office, was instructed by Secretary Lansing "to impress most earnestly" upon the British government that the United States "must insist that the relations between it and his majesty's government be governed, not by a policy of expediency but by those established rules of international conduct to which Great Britain in the past has held the latter nation was a belligerent engaged in a struggle for national existence."

Declaring the United States "unhesitatingly assumes" the task of championing the integrity of neutral rights, the note proclaims that the American government will devote its energies to the task, exercising always an impartial attitude.

The note, nearly 15,000 words in length, was made public by agreement between the state department and the British foreign office. It carries with it a voluminous appendix, giving the text of the American naval instructions issued in 1862 and a summary and table showing hundreds of vessels detained by British authorities since the beginning of the present war.

The body of the note is divided into 35 points, dealing with all phases of the contraband question, seizures and detentions, prior to, as well as after, the so-called blockade was instituted, and announces that a separate communication will be sent soon dealing particularly with the 'propriety and right of the British government to include in their list of contraband of war certain articles which have been so included.'

In conclusion, after an argument on the law and facts, Secretary Lansing says:

"I believe it has been conclusively shown that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification; that the blockade, upon which such methods are partly founded, is ineffective, illegal and indefensible; that the judicial procedure offered as a means of reparation for an international injury is inherently defective for the purpose; and that in many cases jurisdiction is asserted in violation of the law of nations. The United States, therefore, can not submit to the curtailment of its neutral rights by these measures, which are admittedly retaliatory, and therefore illegal, in conception and in nature, and intended to punish the enemies of Great Britain for alleged illegalities on their part. The United States might not be in a position to object to them if its interests and the interests of all neutrals were unaffected by them, but, being affected, it can not with complacency suffer further subordination of its rights and interests to the plea that the exceptional geographic position of the enemies of Great Britain require or justify oppressive illegal practices."

"The government of the United States, therefore, desires to impress most earnestly upon his majesty's government that it must insist that the relations between it and his majesty's government be governed, not by a policy of expediency, but by those established rules of international conduct upon which Great Britain in the past has held the United States to account when the latter nation was a belligerent engaged in a struggle for national existence. It is of the highest importance to neutrals not only of the present day but of the future that the principles of international right be maintained unimpaired."

"This task of championing the integrity of neutral rights, which have received the sanction of the civilized world against the lawless conduct of belligerents arising out of the bitterness of the great conflict which is now warring the countries of Europe, the United States unhesitatingly assumes, and to the accomplishment of that task it will devote its energies, exercising always that impartiality which

from the outbreak of the war it has sought to exercise in its relations with the warring nations."

The note is dated October 21 and acknowledges the notes of the British government dated January 7, February 10, June 22, July 23, July 31 (two), August 13, and a note verbale of the British embassy of August 6, all of which relate to restrictions upon American commerce. The United States says at the outset that it has delayed answering these notes in the hope that the announced purpose of Great Britain "to exercise their belligerent right with every possible consideration for the interests of neutrals" and of causing "the least possible amount of inconvenience to persons engaged in legitimate trade" would in practice not unjustifiably infringe upon the neutral rights of American citizens.

"It is therefore a matter of regret," says the note, "that this hope has not been realized, but that on the contrary interferences with American ships and cargoes destined in good faith to neutral ports and lawfully entitled to proceed have become increasingly vexatious, causing American ship owners and American merchants to complain to this government of the failure to take steps to prevent any exercise of belligerent power in contravention of their just rights. As the measures complained of proceed directly from orders issued by the British government are executed by British authorities and arouse a reasonable apprehension that, if not resisted, they may be carried to an extent even more injurious to American interests this government directs the attention of his majesty's government to the following considerations."

Here follow in numbered paragraphs the points made by the United States. Summarized they are:

1. The statistics presented by Great Britain to prove an increase rather than a decrease in American trade "fail to take into account the increased price of commodities resulting from a state of war or to make any allowance for the diminution in the volume of trade which the neutral countries in Europe previously had with the nations at war."

2. Detentions by Great Britain have not been uniformly based on proofs obtained at the time of seizure, but many vessels have been detained while search was made for evidence. The questions has been one of "evidence to support the belief of—in many cases a bare suspicion of—enemy destination, or occasionally of enemy origin of the goods involved."

3. Attention is directed with regard to search of neutral vessels at sea to the instructions issued to the naval commanders of the United States, Great Britain, Russia, Japan, Spain, Germany and France from 1858 to the beginning of the present war to show "that search in port was not contemplated by the government of any of these countries."

4. An examination of the opinion of the most eminent text writers on the laws of nations shows "that they give practically no consideration to the question of search in port outside of examination in the course of regular prize court proceedings."

5. Answering the assertion of Great Britain that the position of the United States in relation to search at sea is inconsistent with its practice during the Civil War, the note says this is based upon a "misconception." A careful search of the records "shows conclusively that there were no instances when vessels were brought into port for search prior to instituting prize court proceedings," and that captures were not made upon other grounds than evidence found on the ship under investigation, and not upon circumstances ascertained from external sources. It is here that Secretary Lansing appends a copy of the instructions issued to American naval officers on August 18, 1862.

6. In answer to the British contention that conditions relating to the size and seaworthiness of modern carriers justify bringing vessels into port, there is cited the report of a board of United States naval experts, just made, in which it is declared, that it is not necessary to remove "every package of a ship's cargo" to establish the character and nature of her trade, that the facilities for boarding and inspection of modern ships are in fact greater than in former times, and that to permit ships to be taken into port "would be a direct aid to the belligerents concerned in that it would release a belligerent vessel overhauling the neutral from its duty of search and set it free for further belligerent operations."

7, 8 and 9. These points deal with new procedures in the prize courts, the effect of which the United States complains is "to subject traders to risk of loss, delay and expense so great and so burdensome as to practically destroy much of the export trade of the United States to neutral countries of Europe."

10 and 11. These discuss the question of the burden of proof as to the non-contraband of goods consigned "to order," the United States urging that none of the cases cited by Great Britain proves that the burden of

proof can rightly be made to rest upon the claimants.

12. The greatly increased imports of neutral countries adjoining Great Britain's enemies "can not be accepted as laying down a just or legal rule of evidence" that commodities are destined for reexportation to the belligerents. Such a rule, it is argued, "offers too great opportunity for abuse by the belligerents" and is opposed "to those fundamental principles of justice which are the foundation of the jurisprudence of the United States and Great Britain."

13. Attention is directed to the fact that Great Britain admits that her exports to neutral countries have also materially increased since the present war began. "Thus Great Britain," says the note, "concededly shares in creating a condition which is relied upon as a sufficient ground to justify the interception of American goods destined to neutral European ports. If British exports to those ports should be still further increased, it is obvious that, under the rule of evidence contended for by the British government, the presumption of enemy destination could be applied to a greater number of American cargoes, and American trade would suffer to the extent that British trade benefited by the increase Great Britain can not expect the United States to submit to such manifest injustice or to permit the rights of its citizens to be so seriously impaired."

14. Whatever may be the conjectural conclusions drawn from trade statistics, the United States "maintains the right to sell goods into the general stock of a neutral country, and denounces as illegal and unjustifiable any attempt of a belligerent to interfere with that right on the ground that it suspects that the previous supply of such goods in the neutral country which the imports renew or replace has been sold to an enemy. That is a matter with which the neutral vendor has no concern and which can in no way affect his rights of trade. Moreover, even if goods listed as conditional contraband are destined to an enemy country through a neutral country, that fact is not in itself sufficient to justify their seizure."

15. In view of these considerations the United States announces that it has no other course but "to contest seizures of vessels at sea upon conjectural suspicion and the practice of bringing them into port for the purpose, by search, or otherwise, of obtaining evidence," and adds that "relying upon the regard of the British government for the principles of justice so frequently and uniformly manifested prior to the present war, this government anticipates that the British government will instruct their officers to refrain from these vexatious and illegal practices."

16. Directing particular attention to the so-called "blockade measures" imposed by the order in council of March 11, the British note of July 23 last is cited to confirm the intention "to establish a blockade." After over six months' application of the blockade order, the note says, "the experience of American citizens has convinced the government of the United States that Great Britain has been unsuccessful in her efforts to distinguish between enemy and neutral trade."

17. The practice of requiring a consignee to prove that his shipments are not bound to an enemy of Great Britain even when articles are on the embargo list of the neutral country to which they are destined is characterized as "harassing to neutral traders."

18. While the United States government "was at first inclined to view with leniency the British measures which were termed in the correspondence but not in the order in council of March 11 'a blockade,' because of the assurances of the British government that inconvenience to neutral trade would be minimized by the discretion left to the courts in the application of the order in council and by the instructions which it was said would be issued to the administrative and other authorities having to do with the execution of the so-called 'blockade' measures, this government is now forced to the realization that its expectations, which were fully set forth in its note of March 30, were based on a misconception of the intentions of the British government. Desiring to avoid controversy and in the expectation that the administration of the order in council would conform to the established rules of international law, this government has until now reserved the question of the actual validity of the order in council of March 11, in so far as it is considered by the government of Great Britain to establish a blockade within the meaning of that term as understood in the law and practices of nations; but in the circumstances now developed it feels that it can no longer permit the validity of the alleged blockade to remain unchallenged."

19. Pointing out that in accordance with the Declaration of Paris in 1856 the effectiveness of a blockade is "manifestly a question of fact," the United States says it is "common knowledge that the German coasts

are open to trade with the Scandinavian countries!" The recent placing of cotton on the British list of contraband is spoken of as making it appear "that the British government themselves have been forced to the conclusion that the blockade is ineffective to prevent shipments of cotton from reaching their enemies, or else that they are doubtful as to the legality of the form of blockade which they have sought to maintain."

20. Decisions are cited to show that it is an essential principle, universally accepted, that a blockade must apply impartially to the ships of all nations, and it is added that "if belligerents themselves trade with blockaded ports," the principle in the past has been that they can not be regarded as effectively blockaded. These decisions are referred to "since it is a matter of common knowledge that Great Britain exports and reexports large quantities of merchandise to Norway, Sweden, Denmark and Holland, whose ports, so far as American commerce is concerned, she regarded as blockaded."

21. The principles of the laws of nations which forbid the blockade of neutral ports in time of war, embodied in that part of the declaration of London adopted by Great Britain as to blockade, are discussed and several decisions of the British prize courts prior to the present war are well as the Matamoros cases in the American Civil war are recalled to support the contention of the United States.

22. Measured by "the three universally conceded tests the present British measures can not be regarded as constituting a blockade, in law, in practice or in effect."

23. Formal notice is given that the "blockade" which Great Britain "claims to have instituted under the order in council of March 11 can not be recognized as a legal blockade by the United States."

24. The British view of the famous Springbox case before the outbreak of the present war is cited to support the American contentions.

25 to 35 inclusive. These deal exhaustively with the modes of judicial redress for citizens of neutral countries, and reach certain general conclusions. "The government of the United States," the note says, "has viewed with surprise and concern the attempt of his majesty's government to confer upon the British prize courts jurisdiction by the illegal exercise of force in order that these courts may apply to vessels and cargoes of neutral nationalities, seized on the high seas, municipal laws and orders which can only rightfully be enforceable within the territorial waters of Great Britain or against vessels of British nationality when on the high seas The United States government feels that it can not reasonably be expected to advise its citizens to seek redress before tribunals which are in its opinion unauthorized by the unrestricted application of international law to grant reparation, nor to refrain from presenting their claims directly to the British government through diplomatic channels."

Secretary Lansing moreover denies in this connection that the charges, such as pilotage, wharfage, unloading costs, etc., against a detained vessel must be paid by the claimants, and adds that the United States is "loathe to believe that such ungenerous treatment will continue to be accorded American citizens." Any waivers of indemnity exacted from American citizens "under such conditions of duress," it is declared, can not preclude them from subsequently obtaining redress through diplomatic channels.

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