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XXXIV. German and Italian Ships in United States Ports

(Dept. of State Bulletin, Vol. IV, No. 93, April 5, 1941)

The following note has been sent by the Secretary of State to the Chargé d'Affaires ad interim of Germany, Herr Hans Thomsen:

“APRIL 3, 1941.

“SIR:

“I am in receipt of your two notes dated March 31 and April 1, 1941, respectively, regarding the taking of possession and control of the German tanker *Pauline Freidrich* in the port of Boston and the motorship *Arauca* at Port Everglades and the removal therefrom of the officers and crews.

“I note your allegation that there is no legal basis in international law for the action taken and that it constitutes a violation of the existing Treaty of Friendship, Commerce and Consular Rights, signed by our two Governments on December 8, 1923. You even go so far as to request that these vessels be restored to the ‘unlimited authority of the captains’ and that the members of the crews be placed at ‘liberty immediately’ and allowed ‘to return to and stay on board their ships’, etc.

“I am surprised at these extreme assertions and demands. In the first place, you do not state upon what principle of international law or upon what provision of the treaty between our two countries you rely, and in the second place, you seem wholly to disregard the plain provisions of our statutes which make it a felony for the master or any other person in charge or command of a vessel, foreign or domestic, or for any member of the crew or other person, within the territorial waters of the United States, wilfully to cause or permit the destruction or injury of such a vessel or to tamper with its motive power or instrumentalities of navigation; and which authorize the authorities of this Gov-

ernment to take possession and control of any vessel and to remove therefrom the officers and crew when such action is deemed to be necessary to protect the vessel from damage or injury or to prevent damage or injury to any harbor or waters of the United States.

“I know of no principle of international law which permits the masters or crews of vessels of a country which have sought refuge in or entered the ports of another country, to commit acts of destruction in disregard of local law and of the hospitality which they have been permitted to enjoy; nor is there any provision in the treaty between our two countries which lends even color of support to any such argument. It would indeed be unthinkable that any civilized nation would become a party to a treaty containing any such provision or that it would subscribe to any so-called principle of international law which would permit foreign vessels to be brought to its harbors and roadsteads and there wilfully damaged and wrecked in violation of law and to the detriment of navigation and even the safety of its harbors without restraint or hindrance by the local sovereign.

“On one of the vessels here in question the auxiliary machinery was smashed and the main propelling machinery was deliberately wrecked; and if the scuttling and burning of ships in other harbors of this continent may be regarded as indicative of what might be expected in our ports, it is difficult to see how your Government could expect this Government to be oblivious to the situation presented.

“An inquiry is being made concerning other features of your complaint and I shall communicate with you regarding them at a later date.

“Accept (etc.)

CORDELL HULL”