The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. government, the U.S. Department of the Navy or the Naval War College.
territory of deserters and fugitive conscripts, indicated in article 3 above. In cases where these securities are insufficient, or if they have not been obtainable, the confederation will assume the responsibility. The Federal council will fix definitely the indemnity to be accorded by the confederation.

Art. 7. The commander of the army and the Swiss military department will publish, in agreement with the Swiss department of justice and police, the necessary prescriptions as to the admission of deserters and fugitive conscripts into Switzerland (control of the frontier) and the procedure to which these should be submitted after passage of the frontier.

Art. 8. The competent administrative authorities of the Cantons or of the confederation will intern in appropriate establishments deserters or fugitive conscripts who constitute a public danger or who oppose or are not satisfied with the orders of the authorities or who, in some other manner, give occasion for complaints which appear to necessitate resort to internment. The Cantonal governments will publish the necessary prescriptions as to the measure to be taken by the Cantonal authorities in this matter. The Swiss department of justice and police will offer its cooperation to the Cantons which do not possess suitable establishments in choosing the place of internment. When the internment concerns one of the classes indicated in article 3 and the securities eventually furnished are not sufficient to cover the expense, the confederation will be charged for this amount, provided the internment has been approved by the Swiss department of justice and police.

Art. 9. The Federal council will decide definitely upon controversies which may arise over the execution of the present order with reservation of article 1, sentence 4.

Art. 10. The present order will come immediately into force. The Federal council will fix the date at which the order will cease to be in force.

Berne, June 30, 1916.

In the name of the Swiss Federal Council:

The President of the Confederation, Decoppet.
The Chancellor of the Confederation, Schatzmann.

UNITED STATES.

Proclamation of Neutrality. August 4, 1914.

[38 U. S. Stat. 1999.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a state of war unhappily exists between Austria-Hungary and Servia and between Germany and Russia and be-

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3 Additional proclamations identical in character were issued as follows:
For the war between Germany and Great Britain on August 5, 1914 [No. 1272];
General Provisions.

between Germany and France; and whereas the United States is on
terms of friendship and amity with the contending powers, and
with the persons inhabiting their several dominions;

And whereas there are citizens of the United States residing
within the territories or dominions of each of the said belligerents,
and carrying on commerce, trade, or other business or pursuits
therein;

And whereas there are subjects of each of the said belligerents
residing within the territory or jurisdiction of the United States,
and carrying on commerce, trade, or other business or pursuits
therein;

And whereas the laws and treaties of the United States, with­
out interfering with the free expression of opinion and sympathy,
or with the commercial manufacture or sale of arms or munitions
of war, nevertheless impose upon all persons who may be within
their territory and jurisdiction the duty of an impartial neutrality
during the existence of the contest;

And whereas it is the duty of a neutral government not to per­
mit or suffer the making of its waters subservient to the purposes
of war;

Now, therefore, I, Woodrow Wilson, President of the United
States of America, in order to preserve the neutrality of the
United States and of its citizens and of persons within its terri­
\nory and jurisdiction, and to enforce its laws and treaties, and in
order that all persons, being warned of the general tenor of the
laws and treaties of the United States in this behalf, and of the
law of nations, may thus be prevented from any violation of the
same, do hereby declare and proclaim that by certain provisions
of the act approved on the 4th day of March, A.D. 1909, commonly

For the state of war between Austria-Hungary and Russia on August 7,
1914 [No. 1273];
For the state of war between Great Britain and Austria-Hungary,
August 13, 1914 [No. 1274];
For the state of war between France and Austria-Hungary, August 14,
1914 [No. 1275];
As a result of the United States being “in fact aware of the existence
of a state of war between Belgium and Germany,” August 18, 1914 [No.
1276];
For the state of war between Japan and Germany, August 24, 1914 [No.
1277];
For the state of war between Japan and Austria-Hungary, August 27,
1914 [No. 1278];
For the state of war between Belgium and Austria-Hungary, September
1, 1914 [No. 1280];
For the state of war between Great Britain and Turkey, November 6,
1914 [No. 1286];
For the state of war between Italy and Austria-Hungary, May 24, 1915.
For the state of war between Italy and Turkey, August 22, 1915.
For the state of war between France, Great Britain, Italy, and Servia
and Bulgaria, November 11, 1915.
For the state of war between Germany and Portugal, March 3, 1916.
For the state of war between Germany and Italy, August 30, 1916.
known as the "Penal Code of the United States," the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to wit:

1. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.

2. Enlisting or entering into the service of either of said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

3. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

5. Hiring another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.

6. Retaining another person to go beyond the limits of the United States with intent to be enlisted as aforesaid.

7. Retaining another person to go beyond the limits of the United States with intent to be entered into service as aforesaid. (But the said act is not to be construed to extend to a citizen or subject of either belligerent who, being transiently within the United States, shall, on board of any vessel of war, which, at the time of its arrival within the United States, was fitted and equipped as such vessel of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the United States, to enlist or enter himself to serve such belligerent on board such vessel of war, if the United States shall then be at peace with such belligerent.)

8. Fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.

9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

10. Increasing or augmenting, or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the United States was a ship of war, cruiser, or armed vessel in the service of either of the said belligerents, or belonging to the subjects of either, by adding to the number of guns of such vessels, or by changing those on board of her for guns of a larger caliber, or by the addition thereto of any equipment solely applicable to war.

11. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on
Use of Waters.

from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents.

And I do hereby further declare and proclaim that any frequenting and use of the waters within the territorial jurisdiction of the United States by the armed vessels of a belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations, or as posts of observation upon the ships of war or privateers or merchant vessels of a belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive, and in violation of that neutrality which it is the determination of this government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided, I further proclaim and declare that from and after the fifth day of August instant, and during the continuance of the present hostilities between Austria-Hungary and Servia, and Germany and Russia and Germany and France, no ship of war or privateer of any belligerent shall be permitted to make use of any port, harbor, roadstead, or other waters within the jurisdiction of the United States as a station or place of resort for any warlike purpose or for the purpose of obtaining any facilities of warlike equipment; and no ship of war or privateer of either belligerent shall be permitted to sail out of or leave any port, harbor, roadstead, or waters subject to the jurisdiction of the United States from which a vessel of an opposing belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the jurisdiction of the United States.

If any ship of war or privateer of a belligerent shall, after the time this notification takes place, enter any port, harbor, roadstead, or waters of the United States, such vessel shall be required to depart and to put to sea within twenty-four hours after her entrance into such port, harbor, roadstead, or waters, except in case of stress of weather or of her requiring provisions or things necessary for the subsistence of her crew, or for repairs; in any of which cases the authorities of the port, or of the nearest port (as the case may be), shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel which may have been permitted to remain within the waters of the United States for the purpose of repair shall continue within such port, harbor, roadstead, or waters for a longer period than twenty-four hours after her necessary repairs shall have been completed, unless within such twenty-four hours a vessel, whether ship of war, privateer, or merchant ship of an opposing belligerent, shall have departed therefrom, in which case the time limited for the departure of such ship of war or privateer shall be extended so far as may be necessary to secure an interval of not less than
twenty-four hours between such departure and that of any ship of war, privateer, or merchant ship of an opposing belligerent which may have previously quit the same port, harbor, roadstead, or waters.

No ship of war or privateer of a belligerent shall be detained in any port, harbor, roadstead, or waters of the United States more than twenty-four hours, by reason of the successive departures from such port, harbor, roadstead, or waters of more than one vessel of an opposing belligerent. But if there be several vessels of opposing belligerents in the same port, harbor, roadstead, or waters, the order of their departure therefrom shall be so arranged as to afford the opportunity of leaving alternately to the vessels of the opposing belligerents, and to cause the least detention consistent with the objects of this proclamation.

No ship of war or privateer of a belligerent shall be permitted, while in any port, harbor, roadstead, or waters within the jurisdiction of the United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel, if without any sail power, to the nearest port of her own country; or in case the vessel is rigged to go under sail, and may also be propelled by steam power, then with half the quantity of coal which she would be entitled to receive, if dependent upon steam alone, and no coal shall be again supplied to any such ship of war or privateer in the same or any other port, harbor, roadstead, or waters of the United States, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within the waters of the United States, unless such ship of war or privateer shall, since last thus supplied, have entered a port of the government to which she belongs.

And I do further declare and proclaim that the statutes and the treaties of the United States and the law of nations alike require that no person, within the territory and jurisdiction of the United States, shall take part, directly or indirectly, in the said wars, but shall remain at peace with all of the said belligerents, and shall maintain a strict and impartial neutrality.

And I do hereby enjoin all citizens of the United States, and all persons residing or being within the territory or jurisdiction of the United States, to observe the laws thereof, and to commit no act contrary to the provisions of the said statutes or treaties or in violation of the law of nations in that behalf.

And I do hereby warn all citizens of the United States, and all persons residing or being within its territory or jurisdiction that, while the free and full expression of sympathies in public and private is not restricted by the laws of the United States, military forces in aid of a belligerent cannot lawfully be originated or organized within its jurisdiction; and that, while all persons may lawfully and without restriction by reason of the aforesaid
state of war manufacture and sell within the United States arms and munitions of war, and other articles ordinarily known as "contraband of war," yet they cannot carry such articles upon the high seas for the use or service of a belligerent, nor can they transport soldiers and officers of a belligerent, or attempt to break any blockade which may be lawfully established and maintained during the said war without incurring the risk of hostile capture and the penalties denounced by the law of nations in that behalf.

And I do hereby give notice that all citizens of the United States and others who may claim the protection of this government, who may misconduct themselves in the premises, will do so at their peril, and that they cannot obtain any protection from the government of the United States against the consequences of their misconduct.

In Witness Whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fourth day of August in the year of our Lord one thousand nine hundred and fourteen and of the independence of the United States of America the one hundred and thirty-ninth.

[Seal.]

Woodrow Wilson.

By the President:

William Jennings Bryan,

Secretary of State.

Executive order of the President with reference to radio communication, August 5, 1914.

Whereas Proclamations having been issued by me declaring the neutrality of the United States of America in the wars now existing between various European nations; and

Whereas it is desirable to take precautions to insure the enforcement of said Proclamations in so far as the use of radio communication is concerned;

It is now ordered, by virtue of authority vested in me to establish regulations on the subject, that all radio stations within the jurisdiction of the United States of America are hereby prohibited from transmitting or receiving for delivery messages of an unneutral nature, and from in any way rendering to any one of the belligerents any unneutral service, during the continuance of hostilities.

The enforcement of this order is hereby delegated to the Secretary of the Navy, who is authorized and directed to take such action in the premises as to him may appear necessary.

This order to take effect from and after this date.

Woodrow Wilson.

The White House.
Circular of the Department of State with Reference to Liability for Military Service in Foreign Countries of Persons Residing in the United States. August 14, 1914.

The Department of State has recently received numerous inquiries from foreign-born persons residing in this country as to whether they may be compelled to perform military service in their native lands and as to what penalties, by way of fines, confiscation of property, or imprisonment in case of return, they will incur if they fail to report to the authorities of their country of origin for military service. Some of the inquiries refer to persons who have obtained naturalization as citizens of the United States, others to persons who have made declarations of intention to become American citizens, and still others to persons who have taken no steps toward acquiring American citizenship. Misconception and confusion concerning this matter appear to be current.

The United States is not a party to any treaties under which persons of foreign origin residing in this country may be compelled to return to their countries of origin for military service, nor is there any way in which persons may be forced into foreign armies against their will so long as they remain in the United States.

The Department cannot undertake to give authentic, official information either, in general, as to the requirements of the military service laws of foreign countries and the penalties provided therein for evasion of military service, or, in particular, as to the status and present or future liabilities of individuals under such laws. Information of this kind must be obtained from officials of the foreign countries concerned.

The Department issues printed circulars concerning the status in their native lands of naturalized citizens of the United States, natives of certain European countries, and these will be furnished to interested persons upon request. It is specifically stated in these circulars that the information contained in them is not to be considered as official so far as it relates to the laws and regulations of foreign countries.

The United States has concluded treaties of naturalization with the following European countries: Austria-Hungary, Belgium, Denmark, the German States, Great Britain, Norway, and Sweden. Copies of these treaties are to be found in "Treaties, Conventions, etc., between the United States of America and Other Powers" (Government Printing Office, 1910), and separate copies may be furnished by the Department upon request. Under these treaties the naturalization of persons concerned as citizens of the United States and the termination of their former allegiance are recognized, with the reservation, in most of them, that such persons remain liable to trial and punishment in their native lands for offenses committed prior to emigration therefrom, including offenses of evasion of military duty. The United States
holds that no naturalized citizen of this country can rightfully be held to account for military liability to his native land accruing subsequent to emigration therefrom, but this principle may be contested by countries with which the United States has not entered into treaties of naturalization. The latter countries may hold that naturalization of their citizens or subjects as citizens of other countries has no effect upon their original military obligation, or may deny the right of their citizens or subjects to become naturalized as citizens of other countries, in the absence of express consent or without the fulfillment of military obligations. More specific information as to the Department's understanding of the laws of these countries concerning nationality and military obligations may be found in the Department's circulars mentioned above.

It is important to observe that an alien who declares his intention to become a citizen of the United States does not, at the time of making such declaration, renounce allegiance to his original sovereign, but merely declares that he intends to do so. Such person does not, by his declaration of intention, acquire the status of a citizen of the United States.

W. J. BRYAN.

My Fellow Countrymen:

I suppose that every thoughtful man in America has asked himself, during the last troubled weeks, what influence the European war may exert upon the United States, and I take the liberty of addressing a few words to you in order to point out that it is entirely within our own choice what its effects upon us will be and to urge very earnestly upon you the sort of speech and conduct which will best safeguard the Nation against distress and disaster.

The effect of the war upon the United States will depend upon what American citizens say and do. Every man who really loves America will act and speak in the true spirit of neutrality, which is the spirit of impartiality and fairness and friendliness to all concerned. The spirit of the Nation in this critical matter will be determined largely by what individuals and society and those gathered in public meetings do and say, upon what newspapers and magazines contain, upon what ministers utter in their pulpits, and men proclaim as their opinions on the street.

The people of the United States are drawn from many nations, and chiefly from the nations now at war. It is natural and inevitable that there should be the utmost variety of sympathy and desire among them with regard to the issues and circumstances of the conflict. Some will wish one nation, others another, to succeed in the momentous struggle. It will be easy to excite passion and difficult to allay it. Those responsible for exciting it will assume
a heavy responsibility, responsibility for no less a thing than that the people of the United States, whose love of their country and whose loyalty to its Government should unite them as Americans all, bound in honor and affection to think first of her and her interests, may be divided in camps of hostile opinion, hot against each other, involved in the war itself in impulsive and opinion if not in action.

Such divisions among us would be fatal to our peace of mind and might seriously stand in the way of the proper performance of our duty as the one great Nation at peace, the one people holding itself ready to play a part of impartial mediation and speak the counsels of peace and accommodation, not as a partisan, but as a friend.

I venture, therefore, my fellow countrymen, to speak a solemn word of warning to you against that deepest, most subtle, most essential breach of neutrality which may spring out of partisanship, out of passionately taking sides. The United States must be neutral in fact as well as in name during these days that are to try men's souls. We must be impartial in thought as well as action, must put a curb upon our sentiments as well as upon every transaction that might be construed as a preference of one party to the struggle before another.

My thought is of America. I am speaking. I feel sure, the earnest wish and purpose of every thoughtful American that this great country of ours, which is, of course, the first in our thoughts and in our hearts, should show herself in this time of peculiar trial a Nation fit beyond others to exhibit the fine poise of undisturbed judgment, the dignity of self-control, the efficiency of dispassionate action; a Nation that neither sits in judgment upon others nor is disturbed in her own counsels and which keeps herself fit and free to do what is honest and disinterested and truly serviceable for the peace of the world.

Shall we not resolve to put upon ourselves the restraints which will bring to our people the happiness and the great and lasting influence for peace we covet for them?

Executive Order of the President with Further Reference to Radio Communication. September 5, 1914.

Whereas an order has been issued by me dated August 5, 1914, declaring that all radio stations within the jurisdiction of the United States of America were prohibited from transmitting or receiving for delivery messages of an unneutral nature and from in any way rendering to any one of the belligerents any unneutral service; and

Whereas it is desirable to take precautions to insure the enforcement of said order in so far as it relates to the transmission of code and cipher messages by high-powered stations capable of trans-Atlantic communication;
Base of Operations.

Now therefore it is ordered by virtue of authority vested in me by the radio Act of August 13, 1912, that one or more of the high-powered radio stations within the jurisdiction of the United States and capable of trans-Atlantic communication shall be taken over by the Government of the United States and used or controlled by it to the exclusion of any other control or use for the purpose of carrying on communication with land stations in Europe, including code and cipher messages.

The enforcement of this order and the preparation of regulations therefor is hereby delegated to the Secretary of the Navy, who is authorized and directed to take such action in the premises as to him may appear necessary.

This order shall take effect from and after this date.

Woodrow Wilson.

The White House.

Memorandum of the Department of State with Reference to Merchant Vessels Suspected of Carrying Supplies to Belligerent Vessels, September 19, 1914.

1. A base of operations for belligerent warships is presumed when fuel or other supplies are furnished at an American port to such warships more than once within three months since the war began, or during the period of the war, either directly or by means of naval tenders of the belligerent or by means of merchant vessels of belligerent or neutral nationality acting as tenders.

2. A common rumor or suspicion that a merchant vessel laden with fuel or other naval supplies intends to deliver its cargo to a belligerent warship on the high seas, when unsupported by direct or circumstantial evidence, imposes no duty on a neutral government to detain such ships even for the purpose of investigating the rumor or suspicion, unless it is known that the vessel has been previously engaged in furnishing supplies to a belligerent warship.

3. Circumstantial evidence, supporting a rumor or suspicion that a merchant vessel intends to furnish a belligerent warship with fuel or other supplies on the high seas, is sufficient to warrant detention of the vessel until its intention can be investigated in the following cases:

(a) When a belligerent warship is known to be off the port at which the merchant vessel is taking on cargo suited for naval supplies or when there is a strong presumption that the warship is off the port.

(b) When a merchant vessel is of the nationality of the belligerent whose warship is known to be off the coast.

(c) When a merchant vessel, which has, on a previous voyage between ports of the United States and ports of other neutral states, failed to have on board at the port of arrival a cargo consisting of naval supplies shipped at the port of departure, seeks to take on board a similar cargo.
(d) When coal or other supplies are purchased by an agent of a belligerent government and shipped on board a merchant vessel which does not clear for a port of the belligerent but for a neighboring neutral port.

(e) When an agent of a belligerent is taken on board a merchant vessel having a cargo of fuel or other supplies and clearing for a neighboring neutral port.

4. The fact that a merchant vessel, which is laden with fuel or other naval supplies, seeks clearance under strong suspicion that it is the intention to furnish such fuel or supplies to a belligerent warship is not sufficient ground to warrant its detention, if the case is isolated and neither the vessel nor the warship for which the supplies are presumably intended has previously taken on board similar supplies since the war began or within three months during the period of the war.

5. The essential idea of neutral territory becoming the base for naval operations by a belligerent is repeated departure from such territory by a naval tender of the belligerent or by a merchant vessel in belligerent service which is laden with fuel or other naval supplies.

6. A merchant vessel, laden with naval supplies, clearing from a port of the United States for the port of another neutral nation, which arrives at its destination and there discharges its cargo, should not be detained if, on a second voyage, it takes on board another cargo of similar nature.

In such a case the port of the other neutral nation may be a base for the naval operations of a belligerent. If so, and even if the fact is notorious, this Government is under no obligation to prevent the shipment of naval supplies to that port. Commerce in munitions of war between neutral nations cannot as a rule be a basis for a claim of unneutral conduct, even though there is a strong presumption or actual knowledge that the neutral state, in whose port the supplies are discharged, is permitting its territory to be used as a base of supply for belligerent warships. The duty of preventing an unneutral act rests entirely upon the neutral state whose territory is being used as such a base.

In fact this principle goes further in that, if the supplies were shipped directly to an established naval base in the territory or under the control of a belligerent, this Government would not be obligated by its neutral duty to limit such shipments or detain or otherwise interfere with the merchant vessels engaged in that trade. A neutral can only be charged with unneutral conduct when the supplies, furnished to a belligerent warship, are furnished directly to it in a port of the neutral or through naval tenders or merchant vessels acting as tenders departing from such port.

7. The foregoing propositions do not apply to furnishing munitions of war included in absolute contraband, since in no event can a belligerent warship take on board such munitions in neutral
waters, nor should it be permitted to do so indirectly by means of naval tenders or merchant vessels acting as such tenders.

DEPARTMENT OF STATE,
September 19, 1914.

Memorandum in reference to The Status of Armed Merchant Vessels, September 19, 1914.¹

A.

A merchant vessel of belligerent nationality may carry an armament and ammunition for the sole purpose of defense without acquiring the character of a ship of war.

B.

The presence of an armament and ammunition on board a merchant vessel creates a presumption that the armament is for offensive purposes, but the owners or agents may overcome this presumption by evidence showing that the vessel carries armament solely for defense.

C.

Evidence necessary to establish the fact that the armament is solely for defense and will not be used offensively, whether the armament be mounted or stowed below, must be presented in each case independently at an official investigation. The result of the investigation must show conclusively that the armament is not intended for, and will not be used in, offensive operations.

Indications that the armament will not be used offensively are:

1. That the caliber of the guns carried does not exceed six inches.

2. That the guns and small arms carried are few in number.

3. That no guns are mounted on the forward part of the vessel.

4. That the quantity of ammunition carried is small.

5. That the vessel is manned by its usual crew, and the officers are the same as those on board before war was declared.

6. That the vessel intends to and actually does clear for a port lying in its usual trade route, or a port indicating its purpose to continue in the same trade in which it was engaged before war was declared.

7. That the vessel takes on board fuel and supplies sufficient only to carry it to its port of destination, or the same quantity substantially which it has been accustomed to take for a voyage before war was declared.

8. That the cargo of the vessel consists of articles of commerce unsuited for the use of a ship of war in operations against an enemy.

9. That the vessel carries passengers who are as a whole unfit­ted to enter the military or naval service of the belligerent whose flag the vessel flies, or of any of its allies, and particularly if the passenger list includes women and children.

10. That the speed of the ship is slow.

D.

Port authorities on the arrival in a port of the United States of an armed vessel of belligerent nationality, claiming to be a mer­chant vessel, should immediately investigate and report to Wash­ington on the foregoing indications as to the intended use of the armament, in order that it may be determined whether the evidence is sufficient to remove the presumption that the vessel is, and should be treated as, a ship of war. Clearance will not be granted until authorized from Washington, and the master will be so informed upon arrival.

E.

The conversion of a merchant vessel into a ship of war is a question of fact which is to be established by direct or circum­stantial evidence of intention to use the vessel as a ship of war.

DEPARTMENT OF STATE,

September 19, 1914.

[No. 1287.]

Protocol of an agreement between the United States and Panama, October 10, 1914.¹

[38 U. S. Stat. 2042.]

 Protocol of an agreement concluded between Honorable Robert Lansing, Acting Secretary of State of the United States, and Don Eusebio A. Morales, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, signed the tenth day of October, 1914.

The undersigned, the Acting Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, in view of the close association of the interests of their respective Governments on the Isthmus of Panama, and to the end that these interests may be conserved and that, when a state of war exists, the neutral obligations of both Governments as neutrals may be maintained, after having conferred on the subject and being duly empowered by their respective Governments, have agreed:

That hospitality extended in the waters of the Republic of Panama to a belligerent vessel of war or a vessel belligerent or

¹ See proclamation of November 13, 1914, p. 96.
neutral, whether armed or not, which is employed by a belligerent power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea, shall serve to deprive such vessel of like hospitality in the Panama Canal Zone for a period of three months, and vice versa.

In testimony whereof, the undersigned have signed and sealed the present Protocol in the city of Washington, this tenth day of October, 1914.

ROBERT LANSING [L. S.]
EUSEBIO A. MORALES [L. S.]


The Department of State has received numerous inquiries from American merchants and other persons as to whether they could sell to governments or nations at war contraband articles without violating the neutrality of the United States, and the Department has also received complaints that sales of contraband were being made on the apparent supposition that they were unneutral acts which this Government should prevent.

In view of the number of communications of this sort which have been received it is evident that there is a widespread misapprehension among the people of this country as to the obligations of the United States as a neutral nation in relation to trade in contraband and as to the powers of the executive branch of the government over persons who engage in it. For this reason it seems advisable to make an explanatory statement on the subject for the information of the public.

In the first place it should be understood that, generally speaking, a citizen of the United States can sell to a belligerent government or its agent any article of commerce which he pleases. He is not prohibited from doing this by any rule of international law, by any treaty provisions, or by any statute of the United States. It makes no difference whether the articles sold are exclusively for war purposes, such as firearms, explosives, etc., or are foodstuffs, clothing, horses, etc., for the use of the army or navy of the belligerent.

Furthermore, a neutral government is not compelled by international law, by treaty, or by statute to prevent these sales to a belligerent. Such sales, therefore, by American citizens do not in the least affect the neutrality of the United States.

It is true that such articles as those mentioned are considered contraband and are, outside the territorial jurisdiction of a neutral nation, subject to seizure by an enemy of the purchasing government, but it is the enemy's duty to prevent the articles reaching their destination, not the duty of the nation whose citizens have sold them. If the enemy of the purchasing nation happens
for the time to be unable to do this that is for him one of the misfortunes of war; the inability, however, imposes on the neutral government no obligation to prevent the sale.

Neither the President nor any executive department of the Government possesses the legal authority to interfere in any way with trade between the people of this country and the territory of the belligerent. There is no act of Congress conferring such authority or prohibiting traffic of this sort with European nations, although in the case of neighboring American Republics Congress has given the President power to proclaim an embargo on arms and ammunition when in his judgment it would tend to prevent civil strife.

For the Government of the United States itself to sell to a belligerent nation would be an unneutral act, but for a private individual to sell to a belligerent any product of the United States is neither unlawful nor unneutral, nor within the power of the Executive to prevent or control.

The foregoing remarks, however, do not apply to the outfitting or furnishing of vessels in American ports or of military expeditions on American soil in aid of a belligerent. These acts are prohibited by the neutrality laws of the United States.

DEPARTMENT OF STATE,
October 15, 1914.

[Proclamation No. 1271.]

Proclamation relating to the neutrality of the Panama Canal Zone. November 18, 1914.¹

[38 U. S. Stat. 2039.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, the United States is neutral in the present war and Whereas the United States exercises sovereignty in the land and waters of the Canal Zone and is authorized by its treaty with Panama of February twenty-six, nineteen hundred and four,² to maintain neutrality in the cities of Panama and Colon, and the harbors adjacent to the said cities:

Now, therefore, I, Woodrow Wilson, President of the United States of America, do hereby declare and proclaim the following Rules and Regulations Governing the Use of the Panama Canal by Vessels of Belligerents and the Maintenance of Neutrality by the United States in the Canal Zone, which are in addition to the general “Rules and Regulations for the Operation and Navigation of the Panama Canal and Approaches Thereto, including all Waters under its Jurisdiction” put into force by Executive Order of July 9, 1914, and I do bring to the attention of all concerned the Protocol of an Agreement between the United States

¹ See protocol of October 10, 1914, p. 94.
² Malloy, Treaties, p. 1349.
and the Republic of Panama, signed at Washington, October 10, 1914, which protocol is hereunto annexed.¹

Rule 1. A vessel of war, for the purposes of these rules, is defined as follows: a public armed vessel, under the command of an officer duly commissioned by the government, whose name appears on the list of officers of the military fleet, and the crew of which are under regular naval discipline, which vessel is qualified by its armament and the character of its personnel to take offensive action against the public or private ships of the enemy.

Rule 2. In order to maintain both the neutrality of the Canal and that of the United States owning and operating it as a government enterprise, the same treatment, except as hereinafter noted, as that given to vessels of war of the belligerents shall be given to every vessel, belligerent or neutral, whether armed or not, that does not fall under the definition of Rule 1, which vessel is employed by a belligerent Power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea; but such treatment shall not be given to a vessel fitted up and used exclusively as a hospital ship.

Rule 3. A vessel of war of a belligerent, or a vessel falling under Rule 2 which is commanded by an officer of the military fleet, shall only be permitted to pass through the Canal after her commanding officer has given written assurance to the Authorities of the Panama Canal that the Rules and Regulations will be faithfully observed.

The authorities of the Panama Canal shall take such steps as may be requisite to insure the observance of the Rules and Regulations by vessels falling under Rule 2 which are not commanded by an officer of the military fleet.

Rule 4. Vessels of war of a belligerent and vessels falling under Rule 2 shall not revictual nor take any stores in the Canal except so far as may be strictly necessary; and the transit of such vessels through the Canal shall be effected with the least possible delay in accordance with the Canal Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same Rules as vessels of war of the belligerents.

Rule 5. No vessel of war of a belligerent or vessel falling under Rule 2 shall receive fuel or lubricants while within the territorial waters of the Canal Zone, except on the written authorization of the Canal Authorities, specifying the amount of fuel and lubricants which may be received.

Rule 6. Before issuing any authorization for the receipt of fuel and lubricants by any vessel of war of a belligerent or vessel

¹ See protocol of October 10, 1914, p. 94.
falling under Rule 2, the Canal Authorities shall obtain a written declaration duly signed by the officer commanding such vessel, stating the amount of fuel and lubricants already on board.

**Rule 7.** Supplies will not be furnished by the Government of the United States, either directly, or indirectly through the intervention of a corporation, or otherwise, to vessels of war of a belligerent or vessels falling under Rule 2. If furnished by private contractors, or if taken from vessels under the control of a belligerent, fuel and lubricants may be taken on board vessels of war of a belligerent or vessels falling under Rule 2 only upon permission of the Canal Authorities, and then only in such amounts as will enable them, with the fuel and lubricants already on board, to reach the nearest accessible port, not an enemy port, at which they can obtain supplies necessary for the continuation of the voyage. The amounts of fuel and lubricants so received will be deducted from the amounts otherwise allowed in the ports under the jurisdiction of the United States during any time within a period of three months thereafter. Provisions furnished by contractors may be supplied only upon permission of the Canal Authorities, and then only in amounts sufficient to bring up their supplies to the peace standard.

**Rule 8.** No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the Canal, except in case of necessity due to accidental hindrance of the transit. In such cases the Canal Authorities shall be the judge of the necessity, and the transit shall be resumed with all possible dispatch.

**Rule 9.** Vessels of war of a belligerent and vessels falling under Rule 2 shall not remain in the territorial waters of the Canal Zone under the jurisdiction of the United States longer than twenty-four hours at any one time, except in case of distress; and in such case, shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of an opposing belligerent.

The twenty-four hours of this rule shall be construed to be twenty-four hours in addition to the time necessarily occupied in passing through the Canal.

**Rule 10.** In the exercise of the exclusive right of the United States to provide for the regulation and management of the Canal, and in order to insure that the Canal shall be kept free and open on terms of entire equality to vessels of commerce and of war, there shall not be, except by special arrangement, at any one time a greater number of vessels of war of any one nation, including those of the allies of a belligerent nation, than three in either terminal port and its adjacent terminal waters, or than three in transit through the Canal; nor shall the total number of such vessels, at any one time, exceed six in all the territorial waters of the Canal Zone under the jurisdiction of the United States.

**Rule 11.** When vessels of war or vessels falling under Rule 2, belonging to or employed by opposing belligerents, are present
simultaneously in the waters of the Canal Zone, a period of not less than twenty-four hours must elapse between the departure of the vessel belonging to or employed by one belligerent and the departure of the vessel belonging to or employed by his adversary. The order of departure is determined by order of arrival, unless the vessel which arrived first is so circumstanced that an extension of her stay is permissible.

A vessel of war of a belligerent or vessel falling under Rule 2 may not leave the waters of the Canal Zone until twenty-four hours after the departure of a private vessel flying the flag of the adversary.

Rule 12. A vessel of war of a belligerent or vessel falling under Rule 2 which has left the waters of the Canal Zone, whether she has passed through the Canal or not, shall, if she returns within a period of one week after her departure, lose all privileges of precedence in departure from the Canal Zone, or in passage through the Canal, over vessels flying the flag of her adversaries which may enter those waters after her return and before the expiration of one week subsequent to her previous departure. In any such case the time of departure of a vessel which has so returned shall be fixed by the Canal Authorities, who may in so doing consider the wishes of the commander of a public vessel or of the master of a private vessel of the adversary of the returned vessel, which adversary's vessel is then present within the waters of the Canal Zone.

Rule 13. The repair facilities and docks belonging to the United States and administered by the Canal Authorities shall not be used by a vessel of war of a belligerent, or vessels falling under Rule 2, except when necessary in case of actual distress, and then only upon the order of the Canal Authorities, and only to the degree necessary to render the vessel seaworthy. Any work authorized shall be done with the least possible delay.

Rule 14. The radio installation of any vessel of a belligerent Power, public or private, or of any vessel falling under Rule 2, shall be used only in connection with Canal business to the exclusion of all other business while within the waters of the Canal Zone, including the waters of Colon and Panama Harbors.

Rule 15. Air craft of a belligerent Power, public or private, are forbidden to descend or arise within the jurisdiction of the United States at the Canal Zone, or to pass through the air spaces above the lands and waters within said jurisdiction.

Rule 16. For the purpose of these rules the Canal Zone includes the cities of Panama and Colon and the harbors adjacent to the said cities.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.
Done at the city of Washington this thirteenth day of November in the year of our Lord one thousand nine hundred and fourteen and of the independence of the United States the one hundred and thirty-ninth.

[SEAL.]

By the President:

WOODROW WILSON.

W. J. BRYAN,
Secretary of State.

Joint Resolution to Empower the President to better Enforce and Maintain the Neutrality of the United States. March 4, 1915.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passage of this resolution, and during the existence of a war to which the United States is not a party, and in order to prevent the neutrality of the United States from being violated by the use of its territory, its ports, or its territorial waters as the base of operations for the armed forces of a belligerent, contrary to the obligations imposed by the law of nations, the treaties to which the United States is a party, or contrary to the statutes of the United States, the President be, and he is hereby, authorized and empowered to direct the collectors of customs under the jurisdiction of the United States to withhold clearance from any vessel, American or foreign, which he has reasonable cause to believe to be about to carry fuel, arms, ammunition, men, or supplies to any warship, or tender, or supply ship of a belligerent nation, in violation of the obligations of the United States as a neutral nation.

In case any such vessel shall depart or attempt to depart from the jurisdiction of the United States without clearance for any of the purposes above set forth, the owner or master or person or persons having charge or command of such vessel shall severally be liable to a fine of not less than $2,000 nor more than $10,000, or to imprisonment not to exceed two years, or both, and, in addition, such vessel shall be forfeited to the United States.

That the President of the United States be, and he is hereby, authorized and empowered to employ such part of the land or naval forces of the United States as shall be necessary to carry out the purposes of this resolution.

That the provisions of this resolution shall be deemed to extend to all land and water, continental or insular, within the jurisdiction of the United States.

Approved, March 4, 1915.
Memorandum on Armed Merchant Vessels.


DEPARTMENT OF STATE,

I.

The status of an armed merchant vessel of a belligerent is to be considered from two points of view: First, from that of a neutral when the vessel enters its ports; and, second, from that of an enemy when the vessel is on the high seas.

FIRST.—AN ARMED MERCHANT VESSEL IN NEUTRAL PORTS.

(1) It is necessary for a neutral Government to determine the status of an armed merchant vessel of belligerent nationality which enters its jurisdiction, in order that the Government may protect itself from responsibility for the destruction of life and property by permitting its ports to be used as bases of hostile operations by belligerent warships.

(2) If the vessel carries a commission or orders issued by a belligerent Government and directing it under penalty to conduct aggressive operations, or if it is conclusively shown to have conducted such operations, it should be regarded and treated as a warship.

(3) If sufficient evidence is wanting, a neutral Government, in order to safeguard itself from liability for failure to preserve its neutrality, may reasonably presume from the facts the status of an armed merchant vessel which frequents its waters. There is no settled rule of international law as to the sufficiency of evidence to establish such a presumption. As a result a neutral Government must decide for itself the sufficiency of the evidence which it requires to determine the character of the vessel. For the guidance of its port officers and other officials a neutral Government may therefore declare a standard of evidence, but such standard may be changed on account of the general conditions of naval warfare or modified on account of the circumstances of a particular case. These changes and modifications may be made at any time during the progress of the war, since the determination of the status of an armed merchant vessel in neutral waters may affect the liability of a neutral Government.

SECOND.—AN ARMED MERCHANT VESSEL ON THE HIGH SEAS.

(1) It is necessary for a belligerent warship to determine the status of an armed merchant vessel of an enemy encountered on

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1 "By direction of the President, a memorandum was prepared during March, 1916, in regard to the status of armed merchant vessels in neutral ports and on the high seas. This memorandum is now made public as a statement of this Government's attitude on that subject."
the high seas, since the rights of life and property of belligerents and neutrals on board the vessel may be impaired if its status is that of an enemy warship.

(2) The determination of warlike character must rest in no case upon presumption but upon conclusive evidence, because the responsibility for the destruction of life and property depends on the actual facts of the case and can not be avoided or lessened by a standard of evidence which a belligerent may announce as creating a presumption of hostile character. On the other hand, to safeguard himself from possible liability for unwarranted destruction of life and property the belligerent should, in the absence of conclusive evidence, act on the presumption that an armed merchantman is of peaceful character.

(3) A presumption based solely on the presence of an armament on a merchant vessel of an enemy is not a sufficient reason for a belligerent to declare it to be a warship and proceed to attack it without regard to the rights of the persons on board. Conclusive evidence of a purpose to use the armament for aggression is essential. Consequently an armament which a neutral Government, seeking to perform its neutral duties, may presume to be intended for aggression, might in fact on the high seas be used solely for protection. A neutral Government has no opportunity to determine the purpose of an armament on a merchant vessel unless there is evidence in the ship's papers or other proof as to its previous use, so that the Government is justified in substituting an arbitrary rule of presumption in arriving at the status of the merchant vessel. On the other hand, a belligerent warship can on the high seas test by actual experience the purpose of an armament on an enemy merchant vessel, and so determine by direct evidence the status of the vessel.

**SUMMARY.**

The status of an armed merchant vessel as a warship in neutral waters may be determined, in the absence of documentary proof or conclusive evidence of previous aggressive conduct, by presumption derived from all the circumstances of the case.

The status of such vessel as a warship on the high seas must be determined only upon conclusive evidence of aggressive purpose, in the absence of which it is to be presumed that the vessel has a private and peaceable character and it should be so treated by an enemy warship.

In brief, a neutral Government may proceed upon the presumption that an armed merchant vessel of belligerent nationality is armed for aggression, while a belligerent should proceed on the presumption that the vessel is armed for protection. Both of these presumptions may be overcome by evidence—the first by secondary or collateral evidence, since the fact to be established is
Relations on High Seas.

negative in character; the second by primary and direct evidence, since the fact to be established is positive in character.

II.

The character of the evidence upon which the status of an armed merchant vessel of belligerent nationality is to be determined when visiting neutral waters and when traversing the high seas having been stated, it is important to consider the rights and duties of neutrals and belligerents as affected by the status of armed merchant vessels in neutral ports and on the high seas.

FIRST.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS IN NEUTRAL PORTS.

(1) It appears to be the established rule of international law that warships of a belligerent may enter neutral ports and accept limited hospitality there upon condition that they leave, as a rule, within 24 hours after their arrival.

(2) Belligerent warships are also entitled to take on fuel once in three months in ports of a neutral country.

(3) As a mode of enforcing these rules a neutral has the right to cause belligerent warships failing to comply with them, together with their officers and crews, to be interned during the remainder of the war.

(4) Merchantmen of belligerent nationality, armed only for purposes of protection against the enemy, are entitled to enter and leave neutral ports without hindrance in the course of legitimate trade.

(5) Armed merchantmen of belligerent nationality under a commission or orders of their Government to use, under penalty, their armament for aggressive purposes, or merchantmen which, without such commission or orders, have used their armaments for aggressive purposes, are not entitled to the same hospitality in neutral ports as peaceable armed merchantmen.

SECOND.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS ON THE HIGH SEAS.

(1) Innocent neutral property on the high seas can not legally be confiscated, but is subject to inspection by a belligerent. Resistance to inspection removes this immunity and subjects the property to condemnation by a prize court, which is charged with the preservation of the legal rights of the owners of neutral property.

(2) Neutral property engaged in contraband trade, breach of blockade, or unneutral service obtains the character of enemy
property and is subject to seizure by a belligerent and condemnation by a prize court.

(3) When hostile and innocent property is mixed, as in the case of a neutral ship carrying a cargo which is entirely or partly contraband, this fact can only be determined by inspection. Such innocent property may be of uncertain character, as it has been frequently held that it is more or less contaminated by association with hostile property. For example, under the Declaration of London (which, so far as the provisions covering this subject are concerned, has been adopted by all the belligerents) the presence of a cargo, which in bulk or value consists of 50 per cent contraband articles, impresses the ship with enemy character and subjects it to seizure and condemnation by a prize court.

(4) Enemy property, including ships and cargoes, is always subject to seizure and condemnation. Any enemy property taken by a belligerent on the high seas is a total loss to the owners. There is no redress in a prize court. The only means of avoiding loss is by flight or successful resistance. Enemy merchant ships have, therefore, the right to arm for the purpose of self-protection.

(5) A belligerent warship is any vessel which, under commission or orders of its Government imposing penalties or entitling it to prize money, is armed for the purpose of seeking and capturing or destroying enemy property or hostile neutral property on the seas. The size of the vessel, strength of armament, and its defensive or offensive force are immaterial.

(6) A belligerent warship has, incidental to the right of seizure, the right to visit and search all vessels on the high seas for the purpose of determining the hostile or innocent character of the vessels and their cargoes. If the hostile character of the property is known, however, the belligerent warship may seize the property without exercising the right of visit and search which is solely for the purpose of obtaining knowledge as to the character of the property. The attacking vessel must display its colors before exercising belligerent rights.

(7) When a belligerent warship meets a merchantman on the high seas which is known to be enemy owned and attempts to capture the vessel, the latter may exercise its right of self-protection either by flight or by resistance. The right to capture and the right to prevent capture are recognized as equally justifiable.

(8) The exercise of the right of capture is limited, nevertheless, by certain accepted rules of conduct based on the principles of humanity and regard for innocent property, even if there is definite knowledge that some of the property, cargo as well as the vessel, is of enemy character. As a consequence of these limitations, it has become the established practice for warships to give merchant vessels an opportunity to surrender or submit to
Liability of Vessel.

visit and search before attempting to seize them by force. The observance of this rule of naval warfare tends to prevent the loss of life of noncombatants and the destruction of innocent neutral property which would result from sudden attack.

(9) If, however, before a summons to surrender is given, a merchantman of belligerent nationality, aware of the approach of an enemy warship, uses its armament to keep the enemy at a distance, or after it has been summoned to surrender it resists or flees, the warship may properly exercise force to compel surrender.

(10) If the merchantman finally surrenders, the belligerent warship may release it or take it into custody. In the case of an enemy merchantman it may be sunk, but only if it is impossible to take it into port, and provided always that the persons on board are put in a place of safety. In the case of a neutral merchantman, the right to sink it in any circumstance is doubtful.

(11) A merchantman entitled to exercise the right of self-protection may do so when certain of attack by an enemy warship, otherwise the exercise of the right would be so restricted as to render it ineffectual. There is a distinct difference, however, between the exercise of the right of self-protection and the act of cruising the seas in an armed vessel for the purpose of attacking enemy naval vessels.

(12) In the event that merchant ships of belligerent nationality are armed and under commission or orders to attack in all circumstances certain classes of enemy naval vessel for the purpose of destroying them, and are entitled to receive prize money for such service from their Government or are liable to a penalty for failure to obey the orders given, such merchant ships lose their status as peaceable merchant ships and are to a limited extent incorporated in the naval forces of their Government, even though it is not their sole occupation to conduct hostile operations.

(13) A vessel engaged intermittently in commerce and under a commission or orders of its Government imposing a penalty, in pursuing and attacking enemy naval craft, possesses a status tainted with a hostile purpose which it can not throw aside or assume at will. It should, therefore, be considered as an armed public vessel and receive the treatment of a warship by an enemy and by neutrals. Any persons taking passage on such a vessel can not expect immunity other than that accorded persons who are on board a warship. A private vessel, engaged in seeking enemy naval craft, without such a commission or orders from its Government, stands in a relation to the enemy similar to that of a civilian who fires upon the organized military forces of a belligerent, and is entitled to no more considerate treatment.