

In 1885 the German Government refused to protest against the French proclamation of rice as contraband generally, on the ground that it was a justifiable step as increasing the difficulties of their enemy, and tending to shorten the war, and in 1793 we ourselves directed the seizure of all vessels laden with provisions for a French port because there was a prospect of reducing the enemy by famine.

By the Declaration of London, the signatory Powers abandon definitely the right to declare foodstuffs to be absolute contraband, and an element of uncertainty of overwhelming importance to Great Britain in any future war is thus eliminated. It is not merely a misconception, but actually the reverse of the fact, to say that the Declaration involves the population of this country in a greater danger of interruption to their food supply in neutral vessels in time of war than at present exists.

(c.) *If the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy.*

It has been suggested that the words "base for the armed forces of the enemy" might include any large commercial port whence any goods of this character might be supplied to the enemy forces or Government. It is submitted that the words could not be so interpreted by any Court, and that they mean a place primarily devoted to military purposes. In any case they do not alter the existing position, under which the suggested contention might equally be put forward.

Under existing conditions it would be open to belligerents to declare almost any article to be *conditional* contraband, and possibly many not now included to be *absolute* contraband. Cargoes and vessels seized would be judged by the Prize Court of the belligerent captors, which would almost certainly maintain the contraband character of articles so declared by their own Government as well as so admitted by their own rules, which might not be in accord with those applied by the Courts of the neutral. No remedy would then be open to the neutral except war. Under the Declaration of London national Prize Courts will be under an obligation to administer the agreed rules, and if they fail to do so there will be the ultimate resort to the International Court.

To neutrals, at least, this must be a gain, and, as I have ventured to suggest above, if no material belligerent right is taken away, certainty as to the rule to be applied will free naval officers from much anxiety in carrying out belligerent operations, and eliminate the risks to their Governments of complications with neutral Powers at a time when such complications might involve them in great difficulty and even peril. At the same time, all nations would benefit by a system which lessened the risks of extending the area of war in consequence of some doubtful or ill-considered treatment by a belligerent of a neutral vessel.

The writer entirely concurs in the view that no rules should limit the right of a belligerent to exercise his utmost force to crush his opponent, and the provisions of the Declaration as to blockade and contraband do not, it is submitted, so affect a belligerent—except as to the provisions precluding certain articles, including food supply, from being declared absolute contraband, and this is a rule of immense advantage both to the trade of this country when neutral and to the entire nation when belligerent.

I have read more than one criticism in which it appears to be suggested that Article 40 deprives a belligerent to some extent of exercising the existing right of intercepting and capturing contraband.

Article 40 in no way touches the capture and condemnation of contraband goods. It only deals with the question of the ultimate condemnation of the ship carrying those goods.

It could, it is thought, hardly be contended that the carriage of any quantity of contraband, however small, should render the ship liable to condemnation. If that were so, a liner of 20,000 tons having amongst a large mixed cargo a case of two or three rifles might be condemned. The real point is the privity of the ship-owner or master with the contraband enterprise, and what is sought is a reasonable test of that privity. Our own existing principle that the condemnation of the ship—apart from any interest of the ship-owner in the contraband cargo—depends on the existence of forcible resistance or false papers is far from satisfactory, and direct proof of the privity of the ship-owner would generally be very difficult. There might be no evidence of his privity, even when the contraband constituted more than half of the cargo, and it is thought that a test such as that created by the Declaration affords to the belligerent a larger protection than under our rule. It is true that by fixing a standard it might enable the ship-owner to evade condemnation while carrying a large quantity of contraband, but it would not free him from the loss occasioned by