The Freedom of the Seas

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NOTWITHSTANDING the wordy pitfalls with which the subject of the freedom of the seas has been surrounded, a brief consideration of the question will show how simple it really is. Even those unlearned in the law of nations can readily grasp the basic principle, namely, the right of vessels under the flag of any nation to sail the high seas without let or hindrance save such as is specifically recognized by the society of nations. This rule is the foundation of all international commerce by sea. There is no principle of international law more important for the development of civilization.

Centuries ago arrogant naval powers claimed dominion over certain waters, and led mercantile states to contend for the freedom of the ships of all nations in time of peace to come and go at will in every sea. When during the Revolutionary wars Great Britain impressed seamen from American vessels, the cry was again raised against the unjustifiable attempt to enforce British law upon the decks of American vessels. After Europe had settled down to a few years of peace another controversy arose over the visit and search in time of peace of vessels suspected of engaging in the slave-trade. France and the United States preferred to coöperate with Great Britain in the suppression of the loathsome commerce by instituting a patrol of the African coasts for the purpose of examining vessels under their own flags rather than recognize the right of British warships to undertake this duty for them. With great difficulty a satisfactory solution of this difference was reached.

These successive controversies left the meaning of the "freedom of the seas" somewhat obscured. In the present war the phrase has been given still another new and ingenious meaning, derived from German sources, namely, that the naval power of all nations should be reduced to a relative equality, so that no head should rise above another. Germany might then be enabled to remove forever the menace of a strangling blockade. No wonder that Germany, stimulated by the desire to attain this goal, has skilfully played upon the jealousy of lesser powers against the superior naval strength of Great Britain, and has employed her Dernburgs and other diplomatic resources to fan the fires of anachronous prejudice against the Island Empire. Germany has worked to create the impression that she favored the inviolability of private property in naval warfare, but at the Second Hague Conference her support of the adoption of this very proposal was subordinated to the previous regulation of the question of contraband and blockade. And yet when Great Britain proposed a self-denying ordinance in the shape of the complete abolition of the right to seize contraband, Germany vetoed any action. It is said that the statesmen of the British delegation were on the point of adjourning, in company with the plenipotentiaries of a majority of the powers, to the Hôtel des Indes to adopt a special convention embodying this reform, when Baron Marschall von Bieberstein, head of the German delegation, interposed. He made appeal to the "gentlemen's agreement" under which they had attended the Hague Conference, to the effect that no action should be taken by the states represented without unanimous consent, so that Germany might not find herself again in an embarrassing minority, as at the recent Algeciras Conference. The majority yielded to this German veto.

Germany cannot but desire the immunity of her great merchant fleets from capture, but military considerations seem always to prevail at Berlin, and the kaiser's counselors preferred to retain the liberty of destroying their enemies' commerce even at the risk of annihilating their own. Germany may have nursed the hope of becoming some day the first naval power, when she might protect her own merchant fleets while she ravaged those of Great Britain. Perhaps she trusted to some happy occasion when she might effect a combination of naval forces for the same purpose.

Even if we admit that the German Government, faced by military disaster, now sincerely desires to secure the recognition of the inviolability of private property from seizure on the high seas, we must carefully examine what would be the situation resulting from the adoption of this modification of the existing rule.

A rule which is not supported by the actual and persisting interests of the powerful states must depend upon the combined action of the majority of the powers for its enforcement solely on the ground that it is the recognized law. Now that we have witnessed Germany's violation of a most sacred treaty guaranteeing neutralized Belgium from invasion, it is not to be expected that the nations of the world will place, as over against the interests of the German Government, any great confidence in her plighted troth. If, then, we should by solemn treaty agree to the adoption of the immunity of private property at sea, we should have to be forewarned against the treacherous violation of the rule by the German Government whenever its interests might seem to make it worth while. On the other hand, in England, France, and the United States, where there exists a deep respect for treaty engagements, public opinion might feel so secure in the verbal protection of the treaty provision that the legislators would not recognize the need of adequate naval preparation. We should then have set a trap for law-abiding nations that the German Government could spring, like Belgian neutrality, at any moment it might find convenient.

Neither can it be said that the adoption of the provision for the immunity of private property at the present time would be in conformity with what are likely to be the continuing needs of international relations. The era of wars is, alas! not over, and when great nations fight, they will be prone to attack the life-giving stream of foreign commerce as the surest means of crippling the enemy. When at last the states of the world shall have formed a more perfect union, it will then be possible to protect all private property and all neutral commerce against the onslaughts of war. A day, now far removed, may come when the embattled hosts of rival nations will give place to a wager of battle to decide the conflict. The battle will then be confined to the combatants alone without violent interference with the peaceful pursuits of non-combatants or destruction of their property. First, however, we must evolve great engines of destruction, so perfect that a few skilled heroes will direct each one of them. These war machines will be so costly that only a few great powers will have the resources to construct and maintain them. Wise legislation and skilful systems of taxation will be necessary to organize the whole people for their support. A chosen few, picked from the whole nation, will man them, men in the full vigor of their strength, physically perfect to endure the terrible strain, and powerful of brain to meet and surmount every intricacy of mechanics and every difficulty of strategy. Above all, these hero-supermen must be of such unswerving character that they will, day in and day out, without surcease, devote their unflagging zeal to the great task of defending the civilization for which they contend. This evolution and the increasing economic burden of maintenance of this machinery will make war the luxury of the most powerful states and will cause the area of war constantly to recede. Small nations will no longer be able to maintain military establishments, and eventually the millions of men now battling upon the field of honor will have been replaced by a con-

test among a few men in control of stupendous machinery. Whatever truth this picture may possess, we must apprehend that in the wars of the more immediate future the efforts of belligerents will not be confined to combatants alone, but that the attacks will be likewise directed against the enemy's international commerce as the most effective method of bringing him to submission.

GERMANY has known how to play upon the jealousies of other nations in regard to the naval superiority of Great Britain. She has been aided by the fact that warships are easily counted wherever they go and carry with them a connotation of naval might. Great Britain has been portrayed as a naval power holding the world in thrall. At the beginning of the war Dr. Dernburg and other German agents distributed maps showing the chain of English naval and coaling stations encircling the world. Yet these two factors of wide-extended naval stations and the first navy of the world, when seen aright, are only the expression of the precarious situation of the British Empire.

At the present time Great Britain is no longer able to maintain the two-power standard by means of which she once could meet single-handed any combination of the two next greatest navies of the world. A coalition of the two next powers would now destroy England's control of the sea, imperil her food-supply, and bring her to submission. The significance of this fact is often overlooked. It simply means that Great Britain must so conduct her relations with other states and so use her naval power as not to bring about a coalition between other states. This situation is of itself an earnest of a broad-minded, liberal policy and does not depend upon mere professions of upright intentions. The day has passed when Great Britain could, if she would, impose her will upon the high seas. Britannia polices the seas for all. She no longer rules them. Great Britain draws her strength from grateful peoples. Separated by seas and without compulsion, Canada and Australia have raised great armies. The nation which has known how to retain the loyal support of the Boers and of the teeming millions of India cannot be called a menace to free institutions.

On land, however, there is a power that threatens the independence of all other nations. Germany is well entrenched at the strategic center of Europe. She commands all the routes north and south, east and west. Thanks to her magnificent state-controlled system of railways, she can mass her well-drilled regiments at any point of her interior lines. Supported by her misguided millions, she has been able to resist the combined strength of Europe in a desperate struggle extending over years. If the extension upon the seas of such a land power as this should not be checked, Berlin would become in verity the capital of the world. Great Britain stands, then, as the trusted guardian of Europe against the overwhelming might of Prussia.

The liberal nations of the world must come to recognize the incontrovertible fact that Great Britain is taking up their burdens and is standing as the outpost of the higher civilization against the advance of benumbing bureaucracy. The British squadrons protect us against a soulless Prussia.

Already the other empires of the world have pooled their naval resources for the policing of the world. Even before the war they may be said to have formed a "super-empire," France guarding the Mediterranean, the United States policing American waters, and Japan patrolling the far-Eastern seas. A growing confidence in one another and a better understanding of the need of coöperation for the care of the common interests of world commerce and of international security have strengthened this informal combination for the good of all. Germany alone held aloof and would pursue her dreams of aggrandizement. She was willing to risk the happiness of the world on the chance that her own sphere of activity might be the larger. As soon as the German Government has been taught the error of its ways, the other world powers

can peacefully pursue the system of co-operation previously begun. They will continue to strive for the greatest sphere of service to humanity, and not fear that common dependence one upon the other which is the best, perhaps the only, guarantee of a prolonged peace.

In the truest sense of the word the freedom of the seas must ever mean the reign of international law upon the seas. During the first few months of the present war the United States was technically neutral. But our rights as a neutral to ship supplies to Germany were disregarded. The explanation was that the Allied powers felt that they were really fighting for us, and they could not believe that public opinion in this country would insist upon the full letter of the right to ship supplies to the invader of Belgium. After months of education the American people have come at last to realize the true significance of the conflict. They comprehend fully now that Great Britain and France have been fighting their fight for the supremacy of international law over the cynicism of national egoism, and now the American nation has joined them heart and soul. When this noble companionship of arms shall have brought the conflict to a successful termination and laid low the specter of faithless German bureaucracy, we may rest assured that the freedom of the seas will be set forth in no uncertain terms. Never again shall the sea-borne commerce of civilization be subjected to barbaric and indiscriminate slaughter through irresponsible engines. Mines shall not float in all parts of the high seas to strike innocent women and children on passenger-vessels and inviolable hospital-ships alike. The use of submarines as commerce-raiders will be prohibited unless they be perfected to such a degree that it is possible for them to ascertain the true character of the vessel they attack. From the very results of German frightfulness and disregard of the principles of international law has come the awakening of the conscience of the whole world to the consequences of international lawlessness. All the nations will set down the true principles of the freedom of the seas, and no froward government will ever again dare to transgress them. Thus shall we know the freedom of the seas.

Just as President Wilson in his great war message of April 2 set forth the fundamental principles upon which the law of nations is based, so at the forthcoming conference following the termination of hostilities will the delegates assembled proclaim the superior right of innocent commerce to traverse the ocean without danger of collision with mines or of unwarned attack from submarines. The field of naval warfare will not be unreasonably restricted, but the needs of a continuing and progressive civilization will receive due consideration. The object of man is not war, but progress. When the nations fully realize that he who prefers the success of his military forces to the survival of the common ideals of civilization is a common enemy and that all must combine against him for the defense of those ideals, then, and only then, will none be found so reckless as to insult the majesty of the law common to all nations, and the reign of law among all nations and upon all seas shall be.