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“THE FREEDOM OF THE SEAS”

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“THE FREEDOM OF THE SEAS”

During the last few months our ears have been much belabored with a high-sounding phrase. The world dearly loves a phrase, and the less of meaning it has the more it will be petted and coddled. “High air castles are cunningly built of words, the words well bedded also in good logic mortar,” rails Carlyle in cynical mood, but philosophical withal, his cynicism gleaming with the flame of truth. “The Freedom of the Seas” is the latest shibboleth. Serious men and serious publications have fallen to its charm, and there are to-day many well meaning persons, doing their thinking at second-hand, who are victims to the mischief of this fallacious phrase.

Let us begin by clearly understanding what is meant. In time of peace, when nations respect international law and the code of morality, the seas are free to all the world. The sea is the one great Democracy, for there all nations are equal and the ocean bestows impartially its favors. England, the greatest naval Power in the world, possesses no rights that are not enjoyed by Holland, whose naval power is negligible; or shared by Switzerland, whose flag no ocean has seen. England's naval strength gives her no advantages over other nations; she is subject to the same laws and rules and regulations; her might does not absolve her from responsibilities or relieve her from obligations. “The freedom of the seas” is, therefore, an expression without meaning and without value when conscience governs, when sanity rules, when morality is dominant, and nation calls to nation in the voice of friendship. But what is the case in time of war?

This phrase would not have been much heard if German calculations had worked out successfully. We must state the facts plainly in order to ascertain the truth. When Germany plunged Europe into war a year ago she relied with as much confidence on her navy as on her army; she was as certain that her navy was strong enough to enable her to keep the sea as she felt secure in the invincibility of her army. Events quickly made her realize that she had as greatly overrated her own naval strength as she had underestimated that of her opponent. A few months after the declaration of war the German mercantile flag vanished from

the seven seas; the great German merchant marine, on which the life of the Empire depends, had either fallen prize to the enemy, or was bottled up in neutral ports, or tied up to the deserted docks of home ports; a mocking memory of what once had been Germany's pride. Her ships of war, after having given a gallant account of themselves, were battered and sent beneath the waves or driven to seek asylum by internment; her fighting fleet, refusing to fight, is powerless. In contrast to the collapse of German sea power, her enemy carried out the most marvellous troop movement the world records. Hundreds of thousands of men, with their horses, guns and supplies were sent from the four quarters of the globe to France. Hundreds of thousands of tons of merchandise—raw material for manufacturing purposes, foodstuffs, military equipment of all kinds—had entered and cleared from the ports of Great Britain and France. And while this was going on, possible only because the German navy virtually was non-existent and the British navy held command of the seas, the coast of Germany was laid under blockade, the High Sea Fleet of Germany was "contained" by the British navy, and was a menace only as a "fleet in being" must always be a military danger to be reckoned with and guarded against. To sum up: Germany, a year after the declaration of hostilities, despite the millions she has spent upon her navy, has seen her commerce destroyed, her ports closed, her supplies dwindling, her military strength weakened, her financial position daily growing more precarious, because she cannot sell, and what she buys she must pay for in gold at a ruinous price.

Under these circumstances, it is perhaps not surprising that Germany, in her extremity, should appeal to the sympathy of the United States, and clamor for "the freedom of the seas."

Was is brutal business, and one of the brutalities of war is that the innocent often suffer almost as much as the guilty; the neutral nation, neither responsible for the war nor having anything to gain by it, has its commerce dislocated, its people forced to take great risks and meet heavy losses. To prevent Germany from obtaining cotton, for instance, works a very serious loss to the American cotton grower, but it is one of the consequences of the war provoked by Germany. Cotton is absolutely essential to Germany for the prosecution of the war, for without cotton Germany is unable to manufacture guncotton, and without guncotton, torpedoes are useless and high explosives cannot be made. Great Britain and her Allies, therefore, must prevent Germany from securing cotton.

Under a system that has slowly expanded, the world has agreed that when nations are at war certain articles used exclusively for military

purposes shall be declared contraband; they may be traded in at the risk of the trader, but are properly subject to capture. In the old days the contraband list was very simple—powder, cannon, firearms, and a few other similar articles. Modern warfare has called every resource of science to its aid, with the result that there is scarcely an article of commerce that cannot be used for military purposes; hence the contraband list has been greatly extended, and now covers the principal articles of commerce as well as many entering into the arts and sciences. Take cotton as a typical illustration. Before the discovery of high explosives, its value was commercial and not military, but since the invention of the modern gun, with its great range and penetrative power, cotton, to nations at war, has become one of the most important elements in the manufacture of munitions, and its commercial use is subordinate. It is the same with scores of other articles that lose their innocent character the moment war is declared.

Out of the intercourse of nations has grown up international law, which is not law in the sense of municipal law, but is a rather loose arrangement by which nations agree to do or not to do certain things that are partly for their own interest, partly for the general convenience and benefit of mankind. International law is founded largely on precedent, on arrangements that have been found to work with fair satisfaction, partly on treaties and agreements that have become incorporated into the unwritten law of nations.

It is this vague and ill-defined *corpus juris* that allows belligerents certain rights and protects the rights of neutrals. Thus, it is lawful for a belligerent to blockade an enemy's port, but the blockade must be effective physically, not merely a paper decree. Having effectually sealed the ports, or being in command of the approaches to the coast, a neutral vessel attempting to enter a blockaded port may be lawfully captured, and, with its cargo, condemned as prize.

But while the right of seizure is granted to the belligerent so as to enable him to inflict as much damage as possible upon his opponent, and a neutral Government must not, as a Government, supply either belligerent or give any help to the one not given to the other, the observance of strict neutrality places no restrictions upon the trading of the *citizens* of a neutral nation with belligerents. A neutral may trade with a belligerent, but he does so at his peril. If there is sufficient profit to risk sending cotton or anything else to a country under blockade, there will always be adventurous spirits to make the attempt. Neither equity nor morals requires the neutral Government to prevent this commerce. To do so would be to make the so-called neutral not a neutral, but an ally of one

belligerent and an opponent of the other. The obligation to prevent the cargo reaching its destination is imposed not upon the neutral, but upon the belligerent, who must be strong enough to make his blockade effective or suffer the consequences.

International law makes a foolish and illogical distinction between absolute and conditional contraband. Under the former is comprised all articles that are solely for military use—arms, projectiles, explosives, ingredients for their manufacture, and other things of a similar character, the Government at war having notified the world by proclamation of what it holds to be absolute contraband.

Conditional contraband may be used for military purposes, but need not necessarily be so used, and its legality of seizure hinges on use and ownership. Take foodstuffs as an illustration; it is because Great Britain is strong enough to prevent the importation of foodstuffs into Germany that the German Government would like to have international law changed.

Foodstuffs imported by a Government or purchased by the military authorities are absolute contraband, on the theory that they are to be applied to military use. Foodstuffs purchased by private individuals are conditional contraband, on the theory, an entirely false one as I shall presently show, that they are for the use not of the military but of the civilian population; and while humanity does not revolt at the thought of an enemy's army being starved, it refuses to allow the "innocent"—that is, the non-combatants—to be starved.

This is the extreme of absurdity. The complexities of modern warfare make it impossible to differentiate between combatants and "non-combatants." The man, woman, or child working in the Krupp factory in Essen is as much a combatant as the Prussian private in the trenches in France. The private fires a rifle, and if his aim is good, he kills a British or French or Belgian soldier; yes, but with what?—with the cartridge that is the handiwork of *the men, women, and children working in the Krupp factory in Essen*. The theory of "non-combatant" seems to collapse here.

The conductor who is to-day in charge of a freight train of cotton *en route* to a mill to be converted into explosives, is a "non-combatant," whose starvation is a crime. But to-morrow he is called to the colors as a reservist, and thus he may be starved, because he is a combatant. A schoolboy's debating club would laugh at a proposition so illogical.

Germany would like to enjoy "the freedom of the seas" while denying that freedom to other nations. In torpedoing neutral merchant vessels and giving their crews and passengers no chance to escape, Germany has violated the fundamental law of nations that the sea is free to all neu-

trals, and a vessel may be destroyed only *after* adequate provision has been made for the protection of life.

The purpose of a blockade is threefold. It is (1) to prevent the enemy from receiving those articles of military necessity without which it cannot prosecute the war; (2) to prevent the importation of food if the country is not able to furnish food for the support of its army and civil population from its own resources; (3) to prevent the enemy from engaging in commerce. All three purposes are designed to accomplish the same end. If the enemy cannot obtain military supplies, its offensive is weakened and its resistance breaks down. If the enemy is placed on short rations, its moral and physical strength is impaired. If it cannot trade, its financial power is crippled, and beggary forces the surrender of its armies.

To the emotional, this may sound very dreadful; and it *is* very dreadful. Slowly to strangle a nation to death, to weaken its power of resistance, to enfeeble it by hunger, to impoverish it—these things move pity. But war, as it has been observed, is brutal business, and while the neutral may be moved by contemplating its horrors and may with propriety try to mitigate them, no neutral may or should interfere in what is clearly not its concern. To do so, I repeat—and it cannot be too often repeated because of the erroneous views entertained—is to strip the neutral of neutrality and make him an ally.

The cry raised by Germany that it is inhuman, and against all precedent in civilized warfare, to starve the non-combatant population, I deny on three grounds.

First, I deny its inhumanity. It is, on the contrary, the most humane way of conducting war. When people feel the pangs of hunger they will no longer fight, and the war can sooner be brought to an end by hunger than it can in any other way. It is more humane to make people experience the discomforts of short rations (it is dishonest to talk about their being "starved," as if they were actually in danger of dying from want of nourishment) than to kill them with bullets, or cause them to suffer the awful agony of suffocation from gas, or to wound them and compel them to drag out the rest of their lives crippled, blind, tortured by their wounds, a misery to themselves and a charge upon relatives or charity.

Second, I deny the existence of "non-combatants." For the reasons I have already given, practically the entire population of the German Empire may be said to be fighting, either in the field or in the factory. A neutral who joins the armed forces of a belligerent, according to international law, forfeits his neutrality. A German, man or woman, who

contributes to the fighting efficiency of Germany, loses his or her status as a non-combatant. Neither law nor morality will recognize a dual relation: a combatant for the profit of Germany, and a non-combatant so that the individual may escape the rigors of war.

Third, I deny that a blockade to prevent a civilian population obtaining food is without precedent in modern warfare; and for that precedent I refer the reader to the American Civil War. President Lincoln's blockade of the Confederacy had a double purpose: to prevent the exportation of cotton, which was the only means by which the South could raise money; and to prevent the importation of foodstuffs, medical supplies, and articles of military necessity. In all history there is no greater lover of humanity than Lincoln, no man with a heart more tender, no man with a deeper love for his fellow man; and yet Lincoln put in force a blockade that slowly but very surely strangled the South; that paralyzed it financially and brought its people to know the meaning of hunger. He did this because of his humanity; because terrible as were the sufferings of the South, they were less dreadful than slaughter and the human wreckage of war. And in that day, there were, in fact as well as in name, non-combatants. There were no great factories in which women and children worked turning out shells and cartridges and high explosives; the places of the men withdrawn from industrial pursuits were not filled by women; trade came to an absolute standstill, for when the men left field or forge or factory the women could not supplant them.

Humane as Lincoln was, his blockade of the South brought untold misery to England. The English factories, unable to obtain cotton, were forced to close down; hundreds of thousands of operatives starved,—and I use the word in no rhetorical sense. They *starved*. Women and little children went hungry and died because there was no work for them and they could not procure food. The North was not spending millions of dollars a day in England in the purchase of munitions, as England is doing to-day in America; trade with the South was cut off; the war, instead of making England rich, left her poorer; the wretched creatures who died because the looms of Lancashire were silent, paid the penalty that neutrals must always pay in time of war. All these things Lincoln knew, and he was sorely grieved, but it did not swerve him.

The Civil War lasted four years. How long would it have lasted had the pernicious doctrine of "the freedom of the seas" been a principle of international law in 1861? Out of the ports of the Southern Confederacy would have sailed the merchant marine of the world loaded with cotton, which would have been exchanged for the food the South craved and the guns and the powder the South so sorely needed, and under the theory of

“private property rights” the navy of the North would have been as effective as toy ships on a lake of glass. It would have been the salvation of the South, just as to-day it would be the salvation of Germany.

Does anyone believe that if Germany had been able to destroy the British fleet, and the coasts of England were under blockade and her people were being reduced to surrender by starvation, Germany would be the champion of “the freedom of the seas”? Germany has openly announced that that is what she is attempting to do—to starve England into surrender. That, she has said, is the purpose of her submarine warfare—to cut off the food supplies of England, Great Britain not being self-sustaining and having to rely on other countries to feed her people.

Germany having met defeat on the sea, now invokes the aid of the neutral nations to bring about “the freedom of the seas.” Having been unable to destroy the British navy by gunfire she would destroy its usefulness by diplomacy. It is the British navy that stands between Germany and the food she does or does not need, but which she seems so anxious to secure, the cotton which America alone can supply, and the numerous other articles neutral nations would willingly sell if German ports were not barred by British cruisers. What Germany cannot do by her own strength the world is to do for her; the world, calling itself neutral, is to give the lie to its professions of neutrality by nullifying the advantage England possesses through superior naval strength.

An idea that is fantastic, dishonest, or dangerous will always commend itself to a certain type of mind if it is clothed in the garments of rhetoric or can be made to serve morality and appeal to self-interest. “The freedom of the seas” can be made to serve two masters, Mammon and Righteousness. The neutral trader, instead of being incommoded by war, would greatly profit by it, as there would be no interference with trade, and the inevitable effect of war is to enhance commodity prices, so that self interest would be served. Blockades being outlawed and so-called non-contraband goods immune from seizure, sea power would lose its former importance, and the world would no longer be shocked by witnessing the seizure of a ship attempting to carry goods of prime military necessity to a blockaded belligerent. Why some persons should regard it as peculiarly immoral for a cruiser to seize a merchant vessel trying to trade with the enemy, but find no violation of morality if the same goods are seized on land, it is not easy to say, but they do.

This is the explanation of Germany’s anxiety to secure “the freedom of the seas,” and is the meaning of the propaganda now being carried on in the United States. If blockades are no longer sanctioned and so-called “private property” rights in cargoes are recognized, Germany, after the

conclusion of peace, need spend less money on her navy and have very much more to spend on her army, on building even larger guns than those she now has, and creating greater reserves of arms and ammunition than she had when war was declared last year. But it is a principle that the serious and matured thought of neither the United States nor Great Britain will accept, as it would immeasurably weaken the defensive power of both countries, and would mean the reckless abandonment of a weapon on which both nations must rely for defense.

That the United States may be involved in war is a contingency not to be dismissed lightly or regarded as impossible, for in history nothing is impossible. If the United States were at war the result might be determined by two things—its power effectively to blockade the coast of its enemy, and its power to prevent the enemy from being supplied by neutrals. The United States is the one country that is self-contained. It can rely on its own resources to furnish all the food it needs; out of the earth it can dig coal, copper, iron, and the other minerals on which war feeds; cotton is the yield of its fields; all the guns and munitions and everything else necessary to warfare, its own skilled workmen could create. The United States might be blockaded, if such a thing were possible, and its people would know none of the horrors of famine or have to deny themselves either necessity or luxury.

Enjoying by the grace of fortune such superb advantages, is it conceivable that American statesmen would consider, or the American people permit, their sacrifice in obedience to the demand of the false prophets, the sentimentalists, the theorists, who, meaning well, do the most harm because their vision is clouded and they live in a maze.

No, "the freedom of the seas" in time of war is impossible, because it is a perversion of both the human and natural law, the law that enables the man or the animal endowed with superior advantages to use them for protection when life is at stake.



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