

When Memory and Reality Clash: The First World War and the Myth of American Neutrality

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Ce document traite du « mythe » de la neutralité américaine au cours de la Première Guerre mondiale. La plupart des études sur la politique de l'administration de Wilson cherche à déterminer comment et pourquoi le pays s'est trouvé en état de guerre en avril 1917, après deux ans et demi de non-belligérance. Le facteur commun à ces discussions est l'acceptation tacite par les historiens de la neutralité américaine d'août 1914 jusqu'en avril 1917. Le présent document remet en question l'hypothèse selon laquelle la non-belligérance des États-Unis était en fait une neutralité, car en effet l'intervention américaine en faveur des pays de l'Entente a effectivement débuté lors des premiers mois de la guerre. Cet argument met deux aspects en évidence. Tout d'abord, la Grande-Bretagne a systématiquement violé le droit international. Ensuite, l'administration à Washington, entièrement favorable à l'Entente, a acquiescé à la politique britannique dans le but d'entretenir ses relations avec Londres et d'éviter une défaite de l'Entente.

As the European nations descended into war in 1914, the United States declared neutrality and prepared to carry out commerce with both belligerents and neutrals, as was permitted under international law. Very quickly, however, Britain's naval supremacy enabled the Entente to blockade not only German ports, but those of European neutrals as well. Britain's goal was simple and ruthless: to starve the German population, regardless of international law.¹ The blockade imposed by Britain did not fulfil the requirements of a legitimate blockade, according to international law. In particular, it violated a non-belligerent's right to trade with any combatant, subject to the laws of neutrality.²

The most powerful non-belligerent, the United States, saw its commerce with the

¹ Patrick Devlin, *Too Proud to Fight: Woodrow Wilson's Neutrality* (London, 1975), 191-197.

² Note: "By the law of nations a belligerent may not concede to another belligerent, or take for himself, the right of carrying on commercial intercourse prohibited to neutral nations; and therefore, no blockade can be legitimate that admits to either belligerent a freedom of commerce denied to the subjects of states not engaged in the war. The foundation of this principle is clear and rooted in justice...." quoted in John Bassett Moore, "Law of Nations, Rights and Duties in Times of War," *A Digest of International Law* (Washington, 1906), 7: 845.

entire European continent systematically restricted. European neutrals joined together in protest.³ They looked to Washington for support, but Secretary of State William Jennings Bryan responded that the United States did not “see its way at the present time to joining other governments in protesting to the British government...”⁴ While making clear the illegality of British policy, Washington did little more than quietly lodge a series of mild objections in London.⁵

Berlin retaliated against the British blockade by announcing in February 1915 that the waters around Britain were a war zone and subject to unrestricted submarine warfare. Germany claimed the right to sink any enemy ship, or neutral vessel, believed to be carrying war materials to the Entente. Germany’s justification was the American failure to act against the illegal British blockade.⁶ The sinking of the *Falaba*, a British vessel with American passengers on board (28 March 1915) and the U.S. tanker *Gulflight* (1 May 1915) caused the death of three Americans.⁷ On 7 May 1915 the British passenger liner *Lusitania* was torpedoed with the loss of 1,198 lives, including 128 Americans.⁸ As the sinkings continued, Washington issued harsh remonstrations, threatening to sever diplomatic relations with Berlin. The Germans yielded.

The German army was suffering, however, in the face of the material advantage enjoyed by the Entente forces supplied by unhindered overseas trade while German maritime commerce had been all but stopped.⁹ On 1 February 1917, Germany resumed unrestricted submarine warfare in an attempt to redress the imbalance. They did this with the full knowledge that their course of action might well draw the Americans into the war. It did, within a matter of weeks. The United States went to war with the Central Powers on 6 April 1917.

U.S. policy had forced Germany into a corner. The leaders in Berlin had either to submit to an illegal blockade, tacitly condoned by the United States, that cut off Germany from essential military resources and also food supplies needed by a starving civilian population, or risk bringing the United States into the war on the side of the Entente.¹⁰

³ Eric W. Osborne, *Britain’s Economic Blockade of Germany, 1914-1919* (London, 2004), 78.

⁴ Secretary of State Bryan to minister in Norway, 10 November 10 1914, in Carleton Savage, ed., *Policy of the United States toward Maritime Commerce in War* (Washington, 1936), 2:233.

⁵ Daniel M. Smith, *The Great Departure: The United States and World War I, 1914-1920* (New York, 1965), 42-43.

⁶ German Ambassador Bernstorff to the secretary of state, 7 February 1915, in Savage, *Policy of the United States*, 2:264-267.

⁷ Robert Lansing, *War Memoirs of Robert Lansing, Secretary of State* (Indianapolis, IN, 1935), 28.

⁸ Assistant secretary of the treasury (Peters) to the counselor for the Department of State (Lansing), 8 May, 1915 in Savage, *Policy of the United States*, II: 307; Daniel M. Smith, *Robert Lansing and American Neutrality: 1914-1917* (New York, 1972), 61.

⁹ Smith, *Great Departure*, 33-34.

¹⁰ Germany viewed the United States as an Entente base of supply for not only food, munitions and equipment, but also for the money with which to buy them. Berlin had made many

Germany took the second course. It is hard to see how the government in Berlin could have chosen otherwise. The historian might better ask how it was that events forced this decision on Germany. Had the United States been truly neutral?

This paper looks at the “myth” of American neutrality during the First World War. Most studies of the Wilson administration’s policy seek to determine how and why the country found itself at war in April 1917, after two and a half years of non-belligerence. The common factor in these discussions is the acceptance by historians of American neutrality from August 1914 through April 1917. The present paper challenges the assumption that the United States’ non-belligerence was in fact neutral, indeed American intervention in favour of the Entente powers effectively began in the first months of the war.

The argument is twofold. First, that Britain carried out a systematic violation of international law, beginning in the opening weeks of the conflict.¹¹ Second, that an overwhelmingly pro-Entente administration in Washington, concerned with the prospect of a German victory, acquiesced in British policy in order to maintain relations with London, and prevent an Entente defeat.

In 1915 John Bassett Moore, a pre-eminent American jurist of international law, set down cogent principles: “What we call neutrality is a system of conduct regulated, not by the emotions nor by individual conceptions of propriety, but by certain well defined rules, and it is synonymous with impartiality only in the sense that those rules are to be enforced with impartial rigor upon all belligerents.”¹²

While much has been written about Germany’s “morally questionable” U-boat campaign, significantly less attention has been given to the long list of illegalities committed by Britain. This is a serious omission, for American “neutrality,” and its eventual collapse, were more closely tied to British policy than to that of Germany. As Edward Buehrig, a specialist in the Wilson administration’s foreign policy, has suggested, “In its inception, Washington’s policy of neutrality was not as much a judgment on America’s relation to the war as a whole, but rather to Britain in particular.”¹³ The U-boat campaign had little or nothing to do with the erosion and final end of American non-belligerence. It was merely the catalyst that forced the United States from being a silent partner to an official participant in the war against the Central Powers.

concessions to Washington in connection with submarine warfare, yet the Wilson administration had made no serious attempt to compel the British to revise their naval policy. In short, there was a strong view that the United States was already an implicit belligerent. See Karl E. Birnbaum, *Peace Moves and U-Boat Warfare: A Study of Imperial Germany’s Policy towards the United States: April 18, 1916 – January 9, 1917* (New York, 1970), 277-279.

¹¹ Maritime law is that component of international law which pertains to the sea.

¹² John Bassett Moore, “The Meaning of Neutrality,” *Annals of the American Academy of Political and Social Science* LX: *America’s Interests as Affected by the European War* (July, 1915), 145-146.

¹³ Edward H. Buehrig, “Wilson’s Neutrality Re-Examined” *World Politics* III, no. 1 (October 1950), 2.

The earliest scholarly accounts, such as Charles Seymour's *American Neutrality 1914-1917* (1935), focus on the direct cause of the United States' entry into the war — Germany's employment of unrestricted submarine warfare — and press the analysis no further. Seymour lays sole blame with Germany concluding that nothing short of the sinking of American ships and the loss of American lives could have brought the United States into the war.¹⁴

Harry Elmer Barnes led the economic revisionists in the 1930s to 1940s. Barnes argued that un-neutral American financing of the Entente led to the resumption of the U-boat war in 1917, which in turn enabled the “war party” in the United States to bring the country into the conflict.¹⁵ Wilson was not in the hands of the bankers. Rather he was convinced that it was essential to American prosperity to finance and facilitate trade with the Entente.¹⁶ The economic interpretation was the first to suggest that it was American, not German, policy that was responsible for drawing the United States into the conflict.

In the 1960s and 1970s historians such as Ernest R. May and Ross Gregory put forth what has become the traditional school — creating what the present paper terms the “myth” of American neutrality. For these scholars everything conceivable had been done on the diplomatic front to maintain American neutrality and bring about peace, but Washington was forced into war by German actions that compelled the United States to fight in defence of neutral rights, American honour and fundamental morality.¹⁷ This line of argument shifts the focus back on to the actions of Germany, and to a lesser extent Britain. May contends that “outside forces” over which the United States had no control had determined the country's path towards war.¹⁸ Gregory suggests that Wilson had no alternative to war in 1917 if he wished to escape an unthinkable abandonment of American rights and interests. These analyses fail to look into the root causes that brought about the violation of those rights. In fact, Wilson had surrendered in the initial months of the war the very rights he was purported to uphold in 1917. Moreover, both May and Gregory support the notion that Wilson and the United States acted in accordance with the laws of neutrality, though they subscribe to the unsubstantiated notion that international law was vague and outdated, and thus a fragile and unstable system.

Accounts such as Patrick Devlin's *Too Proud Too Fight* (1975) and Daniel Smith's *The Great Departure* (1965) characterize Washington's policy as one of “benevolent neutrality,” and thus acknowledge that it was to the benefit of the Entente. Neither author, however, concludes that American policy was un-neutral. Smith suggests that “although the negotiations by Wilson and Lansing have been severely criticized...it

¹⁴ Charles Seymour, *American Neutrality: 1914-1917* (New Haven, CT, 1935), 25-26.

¹⁵ Harry Elmer Barnes, “The World War of 1914-1918,” in Willard Waller (ed.), *War in the Twentieth Century* (New York, 1940), 79-80.

¹⁶ *Ibid.*, 80.

¹⁷ Ross Gregory, *The Origins of American Intervention in the First World War* (New York, 1971), 139; Ernest R. May, *World War and American Isolation: 1914-1917* (Cambridge MA, 1963), 425, 437.

¹⁸ May, *World War and American Isolation*, 425.

would seem they had done all that American duty and interests required.”¹⁹

Edward H. Buehrig, writing in 1950, was one of those critics. “American policy was labeled as one of neutrality, which implied that the proper measure of relations with the belligerents was to be found in international law and, more particularly, in the rules of maritime warfare.” In reality the substance “of that policy failed to correspond with its label,” for it was in fact “sharply inclined to the side of Great Britain.” Washington, however, refused to recognize the fact that British naval actions were not being conscientiously “subjected to the test of the rules of maritime warfare.”²⁰ Buehrig, nevertheless, also concluded that American policy was one of “benevolent neutrality.”

Finally, scholars, such as John Coogan and Michael Hunt, have persuasively challenged the conclusion of writers such as Seymour, May and Gregory that United States’ policy was essentially neutral. Their works build on Barnes’ and Buehrig’s more critical analysis. While both authors acknowledge the financial factors discussed by Barnes, they suggest, like Buehrig, that it was Washington’s, particularly Wilson’s, mishandling of American neutrality that ultimately led to war.²¹

Coogan’s *The End of Neutrality: The United States, Britain and Maritime Rights, 1899-1915* (1981) comprehensively covers over a century of the development of the law of the sea. In doing so, he convincingly demonstrates that the United States had a viable system of international law within which to work. This is, perhaps, the book’s largest contribution. Coogan makes the provocative claim that had Washington been balanced in its response to all violations of American neutrality, as international law required, it is almost certain that Germany would not have implemented unrestricted submarine warfare. Coogan convincingly concludes that by April 1915 the United States could no longer claim the status of a neutral.²² The present paper argues that the documents show that American policy had in fact ceased to be neutral months earlier, the end of 1914 at the latest.

To understand the collapse of American neutrality during the fall of 1914, it is necessary first to appreciate the legal as well as the strategic and political contexts in which British statesmen developed the blockade of Germany and American leaders responded to the resulting restriction of trade. Far from being new, the maritime issues in dispute between Britain and the United States were centuries old. Well before the American Revolution the doctrines of continuous voyage, visit and search, contraband, and blockade had been a “source of international controversy.”²³

Here a comment should be made concerning international law, as the term is somewhat misleading. Unlike national or local laws which were, and are, enforced by

¹⁹ Smith, *Great Departure*, 32.

²⁰ Buehrig, “Wilson’s Neutrality Re-Examined,” 1.

²¹ John Coogan, *The End of Neutrality: The United States, Britain and Maritime Rights, 1899-1915* (Ithaca, NY, 1981), 214, 236; Michael Hunt, *Crises in U.S Foreign Policy* (New Haven, CT, 1996), 12-14.

²² Coogan, *End of Neutrality*, 16.

²³ *Ibid.*, 15-16.

national and local authorities, no international body existed in the early twentieth century to enforce multi-national agreements. The integrity of these agreements was contingent on the willingness of the signatories to adhere to their tenets. Thus the use of the terms “legal” or “illegal” is not wholly accurate. It may be more correct to refer to “principles” or “rules” rather than “laws,” and “violations” rather than illegalities. Powerful nations could and did contravene “international law.” States had abrogated the 1856 Declaration of Paris, for example — the Russians, in 1904, during their war with Japan, and the British during the South African War of 1899-1902. However, to say that the “law” was not at all enforceable is also erroneous. In both the instances noted above, international pressure from powerful neutrals could force perpetrators to desist. So, there was impunity for transgressors only if the offended parties could not retaliate, or chose not to.²⁴ All that being said, statesmen and legal minds of the era attached great importance and devoted much time and effort to the development of an international system of law.²⁵ The modern scholar should do no less.

A brief attempt will be made to outline the evolution of the basic principles and customs of maritime law in order to show that the system that existed in 1914 was a viable structure. The first principal figure in maritime law was the seventeenth century Dutch jurist Hugo Grotius. In his appeal to natural law, Grotius argued that “God had ordained that nations would possess different products so that a mutually beneficial trade, free to all men, would be the basis of international friendship.” No nation had the right to deny another neither trade nor communication with others. Private gain and profit were unacceptable at the cost of “human benefit.”²⁶ Grotius’ name would be used to justify maritime rights for centuries to come, by both those advocating freedom of the seas (the new rule) as well as those who argued the right to capture enemy cargo, even that aboard neutral ships (the old rule).

In response to Prussian accusations of improper conduct at sea, Britain proclaimed what would later be referred to as the “Rule of 1756.” Prussia claimed “free ships, free goods,” barring the capture of enemy goods aboard neutral ships. The British “Rule of 1756” gave belligerents the right to stop and search “all ships” to determine if they were carrying contraband to the enemy and contained revised rules regarding the rights of neutrals and their goods at sea.²⁷ While the British acknowledged that earlier treaties signed with the Dutch in 1674 and the French in 1713 had “inverted the rule of the law of nations” making goods aboard an enemy ship a prize of war while goods on a neutral ship were free, they dismissed the principle of free ships free goods.²⁸

²⁴ Under “international law” there was recourse available to the offended neutral in the form of “reprisal.” In fact, it was their obligation to exercise this responsibility.

²⁵ Officials, politicians and legal experts used this terminology — international law, legal, illegal, etc. — as demonstrated by the documents. For this reason, I use the same vocabulary.

²⁶ Bernard Semmel, *Liberalism and Naval Strategy: Ideology, Interest, and Sea Power during the Pax Britannica* (Boston, 1986), 13.

²⁷ *Ibid.*, 14-16.

²⁸ “Report of the British Law Offices,” in R.G Marsden, (ed.), *Law and Custom of the Sea* (London, 1916), 2:428-429, 354.

It is in the “Rule of 1756” that the roots of the doctrine of continuous voyage are to be found. During the Seven Years’ War, the French, deprived of commerce, permitted neutrals to carry goods between ports in France and French possessions in the West Indies, a decision contrary to customary colonial policy. The trade was, presumably, on neutral accounts in order to claim immunity from capture. The British responded by seizing both neutral vessels and their cargoes, on the premise that “a neutral has no right to deliver a belligerent from the pressure of his enemy's hostilities, by trading with his colonies in time of war, in a way that was prohibited in time of peace.” In an attempt to circumvent British policy “neutral traders began to ship from a belligerent to a neutral port, thence trans-shipping to the final belligerent port, claiming that the ship was thus always on a voyage between a belligerent and neutral port.” Despite such stops, “the voyage was held by the English to be really continuous from one hostile port to another,” resulting in the condemnation of both ship and cargo.²⁹

Thus, the doctrine of continuous voyage, as it applied to the seizure of contraband by belligerent warships, determined that it was not any “nominal or intermediate destination” of the cargo that determined its “liability” but rather the “ultimate destination” of the goods.³⁰ In any case, the other European powers wished to continue trade with belligerents and looked upon the “Rule of 1756” with nothing but disfavour. Eventually, the United States would go to war, in 1812, over violations of neutral rights by the Royal Navy, particularly the search of American vessels by British warships.

During the nineteenth century forces were at work in Britain as well as other nations against the broad application of naval power against trade in wartime. In Britain the rise of free trade liberalism brought reconsideration of naval policy. Prosperity was to be found in free commerce not force, and employing naval power to halt the trade of an enemy was not only immoral but detrimental to Britain’s own interests.³¹ The Declaration of Paris in 1856 was the first major step toward international agreement on maritime law. The doctrine of free ships, free goods was accepted, as was the principle that for a blockade to be legally binding, it must be effective.³² Fundamentally, “effective” meant that the blockading force was required to present a blockade runner with not a “complete certainty” of capture, but a “significant danger” of interception.³³

When nations met again at The Hague in 1907, the international climate had shifted dramatically. The experience of the American Civil War, and the South African and Russo-Japanese wars, in which interference in neutral trade by belligerent navies had threatened to broaden the conflicts did much to strengthen the conviction that international agreements rather than the laws of the belligerents should be the primary determinants of

²⁹ H. D. S., “International Law. Neutral Vessel. Continuous Voyage,” *University of Pennsylvania Law Review and American Law Register* LXV, no. 5 (March, 1917), 477-478.

³⁰ Lester H. Woolsey, “Early Cases on the Doctrine of Continuous Voyages,” *The American Journal of International Law* IV, no. 4 (October 1910): 823; H. D. S., “International Law,” 477.

³¹ Semmel, *Liberalism and Naval Strategy*, 53.

³² Marion C. Siney, *The Allied Blockade of Germany, 1914-1916* (Ann Arbor, MI, 1957), 3.

³³ “Blockade – Effectiveness,” in Moore, *Digest of International Law*, 7:788-797.

international law. Experience in those wars also confirmed the traditional distinction between absolute and conditional contraband. Absolute contraband denoted commodities, such as arms and munitions, that it was unlawful to ship to a belligerent under any conditions. Conditional contraband included essentially civilian items (among them foodstuffs, wire, timber, coal, cloths, and currency) that were also necessary to sustain military forces. The caveat, or “condition,” was that these articles were contraband only where it could be shown that they were intended to be used for the purposes of war.³⁴

One American voice, the naval strategist Alfred Thayer Mahan, cautioned against abandoning belligerent rights and argued that to continue to push for strong neutral rights, as many in Washington were, could prove disastrous.³⁵ Mahan argued that because America was no longer a weak power, it no longer required the limitation of belligerent rights it once sought for its own security. He held America should not only abandon its “quest” for immunity but denounce the very idea of free ships, free goods.³⁶ Moreover, he advocated closer military, particularly naval, cooperation with Britain.³⁷ Admiral George Dewey, chair of the Navy Board, agreed.³⁸

While initially a proponent of decisive battle between fleets, Mahan’s writings would eventually come to endorse commerce destruction, both through capture and blockade, as legitimate in principle and effective in damaging an enemy’s financial position, and consequently its war effort. Naval strategists in Britain, such as Julian Corbett, agreed with Mahan.³⁹ Both in Britain and America, naval intellectuals were shifting away from the strategy of the decisive battle to one of “economic exhaustion.”⁴⁰ However, despite Mahan and Dewey’s warnings the United States government would continue to support strong neutral rights, at The Hague Conferences of 1907 and the London Conference of 1909. President Theodore Roosevelt felt the days of commercial war were at an end.⁴¹

American policy was in transition during this time as long-established theories

³⁴ John Bassett Moore, “Contraband of War,” *Proceedings of the American Philosophical Society* LI, no. 203 (January-March 1912), 33-35.

³⁵ Immunity meant granting the same rights that prevented property on land from destruction or capture to property at sea.

³⁶ Mahan to Roosevelt, 27 December 1904, in Richard W. Turk, *The Ambiguous Relationship: Theodore Roosevelt and Alfred Thayer Mahan* (New York, 1987), 135-136.

³⁷ Alfred Thayer Mahan, *The Problem of Asia and its Effects Upon International Policies* (Boston, 1905), 201-202; Turk, *Ambiguous Relationship*, 43-46, 106. For a particularly cogent discussion of Mahan’s views on Anglo-American co-operation see, Jon Tetsuro Sumida, *Inventing Grand Strategy and Teaching Command: The Classic Works of Alfred Thayer Mahan Reconsidered* (Baltimore, 1997), 82-92.

³⁸ Coogan, *End of Neutrality*, 59.

³⁹ Julian S. Corbett, *Principles of Maritime Strategy* (London, 1911; reprint, Mineola NY, 2004), 263-284.

⁴⁰ Semmel, *Liberalism and Naval Strategy*, 98.

⁴¹ *Ibid.*, 156-157.

were being challenged as the country emerged as a world power. Traditional concepts such as political isolation, coastal defence as the forward limit of national defence, a small navy whose main function was to raid enemy commerce, and support for the immunity of neutrals, were confronted with novel philosophies such as Anglo-American rapprochement and Mahan's strategy of command of the sea. Leaders in Washington, much as those in London, were unable to "recognize the implications of the new ideas" or the perils "of mixing them unsystematically with the old."⁴²

While naval strategists may have revised their views, both the United States and Britain continued to pursue a maritime policy based on limited belligerent rights. The British government would contest the doctrine of continuous voyage and limit the right to capture contraband, while continuing to sanction the right to capture enemy ships and impose blockade. Britain's faith in blockade remained resolute, despite warnings from the Japanese. Japan's experience during its war with Russia in 1904-05 "had shown how difficult it was to enforce a close blockade" in the face of modern technology. Nonetheless, this was the position that Britain adopted for future conferences on maritime rights.⁴³

In the wake of the prolonged and costly land war in South Africa of 1899-1902, the Conservative British government of Sir Arthur Balfour had endeavoured to return to priority for naval defence, which was both more economical and more flexible than land forces. With the 1906 Liberal electoral victory in Britain came a new foreign secretary, Sir Edward Grey, who would shape British foreign policy for the next decade. Grey came to his position already convinced of a German threat to the balance of power and he saw a close relationship with France as the only means of preventing a possible German drive for domination.⁴⁴ Hence, Grey favoured a "continental" policy. Britain's traditional policy of reliance on the navy, and isolation from Europe, was based on the idea that Britain's vital interests lay not on the continent, but rather with its maritime Empire. Grey by contrast *did* believe Britain's vital interests lay on the continent. The new foreign secretary's diplomatic undertakings were a consequence of this deep conviction with particular regard to the German threat.⁴⁵ Grey never communicated the full extent of this commitment to the Admiralty and never suggested altering naval strategy, nor the maritime policy officially put forth when the major maritime powers met at in London in December 1908 "with the object of laying down the generally recognized principles of international law," pursuant to the 1907 conference at The Hague.⁴⁶

The Declaration of London, signed on 26 February 1909, agreed to the abolition of the doctrine of continuous voyage for conditional contraband, but not for absolute contraband. The agreement also clarified which goods were considered contraband and thus subject to seizure after the search of a neutral vessel by a belligerent, what goods were "free" and not subject to seizure under any circumstances, and laid down more

⁴² Coogan, *End of Neutrality*, 69.

⁴³ Nicholas Tracy, *Attack on Maritime Trade* (Toronto, 1991), 102-103.

⁴⁴ Coogan, *End of Neutrality*, 79-80.

⁴⁵ Zara Steiner, *Britain and the Origins of the First World War* (New York, 1977), 45.

⁴⁶ "Declaration of London 1909," in Savage, *Policy of the United States*, 2:163.

precise standards of proof that items considered conditional contraband were destined for enemy armed forces and thus liable to seizure. The agreement recognized the concept of “effective” blockade and defined the rules under which neutrals would have to respect a blockade.⁴⁷ All ten powers present signed the agreement and the American Senate ratified it.⁴⁸ The British House of Commons endorsed the agreement, but the Lords prevented ratification over a technicality regarding prize courts.⁴⁹

Although the Declaration of London did not come into force, it nevertheless registered understanding and agreement, especially by Britain and the United States, of principles developed through long experience. John Bassett Moore certainly would not have concurred with those historians who portray the maritime law of the early twentieth century as unstable and ambiguous. In 1906 he wrote: “Neutrals have the right to continue during war to trade with the belligerents, subject to the law relating to contraband and blockade. *The existence of this right is universally admitted*, although on certain occasions it has been in practice denied.”⁵⁰ Over time a succession of compromise rules had evolved, “which by treaty and custom defined the extent to which a belligerent could interfere with neutral shipping, without giving the neutral government cause for objection.”⁵¹ The British government acknowledged its commitment to these laws, and as the historian Bernard Semmel points out, “once Britain [as the leading sea power] subscribed to a rule, once the general opinion of civilized mankind had come to some sort of an agreement, explicit or implicit, such a rule became part of the *ius gentium* and binding.”⁵²

Britain in the end never ratified the Declaration of London because of the controversy in the Lords, but the British government remained committed to its substance even after the outbreak of hostilities in 1914.⁵³ Washington, on 6 August 1914, pressed for all belligerents to adhere to the declaration. Germany agreed provided Britain did so as well.⁵⁴ Sir Eyre Crowe, an assistant secretary of state at the Foreign Office, replied on 22 August that Britain would “adopt generally the rules of the Declaration...subject to certain modifications and additions.”⁵⁵ Nevertheless, the Admiralty had advised the

⁴⁷ Ibid., 163-179, for the whole text of the agreement.

⁴⁸ Signatories to the 1909 Declaration of London Declaration were the United States, Great Britain, France, Germany, Japan, Russia, Italy, Austria-Hungary, Spain, and the Netherlands. See “Declaration of London 1909,” in *ibid.*, 163.

⁴⁹ Tracy, *Attack on Maritime Trade*, 104. The declaration’s ratification was recommended by four successive directors of naval intelligence.

⁵⁰ “Right of Neutrals to Trade,” in Moore, *Digest of International Law*, 7:382. Emphasis added.

⁵¹ Coogan, *End of Neutrality*, 18.

⁵² Semmel, *Liberalism and Naval Strategy*, 122.

⁵³ Osborne, *Britain’s Economic Blockade*, 52, 61; Tracy, *Attack on Maritime Trade*, 105.

⁵⁴ Ambassador in Germany (James Gerard) to the secretary of state, 2 September 1914, in U.S. Department of State, *Papers Relating to the Foreign Relations of the United States Supplement: The World War [FRUS]* (Washington, 1928), 1:224-225.

⁵⁵ Sir Eyre Crowe to American Ambassador Walter Hines Page, in Savage, *Policy of the United*

Foreign Office that the Prize Manual of 1913, itself based directly on the declaration, should be adopted as the basis for the order in council under which the fleet would enforce belligerent rights.⁵⁶ This was the policy put in place by the Attorney General's office and the strategy Britain adhered to in the initial stage of the war. If this policy had remained unchanged, the war might well have ended differently.

Britain soon realized that its maritime policy were incompatible with its foreign policy and the realities of modern war. The traditional close blockade, prized by proponents of the London declaration, was now utterly impractical.⁵⁷ Germany transferred her trade to neutrals, shielding her merchant marine from capture. The British also found themselves in a position where they could not impose an "effective" blockade — at least not a legitimate one. A blockade, to be legitimate, had to be equally enforced against ships of all nations. A distant blockade of the type Britain imposed at the entrance to the North Sea could not prevent Scandinavian or Dutch vessels from entering German ports. Yet the traditional close blockade in the immediate approaches to the enemy's ports would have been "suicidal" against the new weapons, including fast torpedo craft, submarines and underwater minefields, that protected Germany's coast.

The rights Britain had "signed away" were now needed. The only means of generating serious economic pressure seemed to be through the (illegal) application of the doctrine of continuous voyage to contraband, and particularly to conditional contraband.⁵⁸ Like Roosevelt and others in America, many in Britain too viewed commercial war as obsolete. And, as in the United States, there had also been voices in Britain that cautioned against the adoption of strong neutral rights and peaceful seas. Captain Maurice Hankey, secretary to the Committee of Imperial Defence (CID), had prophetically warned that Britain had "agreed to a definition of blockade that made a distant blockade, so necessary to a war against Germany, if not impossible, at least open to legal objections."⁵⁹

The British government looked for ways to remedy the dilemma. There had been those in government, as well as at the Admiralty, who had long contended that in time of war "declarations and agreements" could be "torn up like scraps of paper." This is what happened. The government selectively applied provisions of the Declaration of London favourable to Britain's position in combination with various British maritime laws used to justify acts that violated international law. As article 65 of the declaration stated that the agreement must be adhered to in its entirety, the British decision to apply only the

States, 7:194-195.

⁵⁶ Siney, *Allied Blockade of Germany*, 12; Semmel, *Liberalism and Naval Strategy*, 159. The declaration had originally been recommended by Admiral Sir Doveton Sturdee, chief of staff at the Admiralty, and Admiral Sir Edmond Slade, the Admiralty's expert on trade warfare, but was deemed too difficult for naval officers to interpret. See Coogan, *End of Neutrality*, 154.

⁵⁷ Osborne, *Britain's Economic Blockade*, 44-45.

⁵⁸ Britain had advocated for, and agreed to the abolition of continuous voyage for conditional contraband in the London declaration of 1909.

⁵⁹ Semmel, *Liberalism and Naval Strategy*, 113.

“parts...which she liked” was in clear contravention.⁶⁰ London’s refusal to accept the declaration was within Britain’s rights, as the opposition in the Lords had prevented ratification. However, subsequent British appeals to belligerent rights unacknowledged under international law, on the grounds that they were recognized in the declaration, were without merit. Moreover, London’s refusal to follow any recognized system of law meant that Britain acknowledged “none of the safeguards” provided for neutrals under either the declaration or existing international law. In the entire period of American neutrality Britain never actually proclaimed a blockade, but achieved the essential effects through the expansion of the definition of contraband and application of the doctrine of continuous voyage, contrary to the Declaration of London.⁶¹

At the war’s outbreak the British had no viable naval strategy in place and no consensus regarding a policy on blockade. In fact, the “blockade” would evolve on almost an ad hoc basis during the first months of the conflict. The Royal Navy immediately deployed the 10th Cruiser Squadron to seal off the northern entrance to the North Sea, while the Dover Patrol performed a similar duty in the Straits of Dover.⁶² The German merchant marine was rapidly swept from the seas; however, the British soon realized that neutrals, significantly the Dutch, would surely become the main channel through which enemy trade would now occur.⁶³ The issue boiled down to contraband. Absolute contraband was subject to seizure if it could be proven that the cargo was destined for Germany, though evidence to substantiate such accusations often proved difficult to obtain. The greater problem, however, lay with conditional contraband. These items were immune from seizure unless proven to be destined for the enemy armed forces or government departments. .

Grey and others soon understood that the Declaration of London inhibited effective measures being taken to prevent enemy trade through neutrals, particularly conditional contraband such as food and minerals. As Eric W. Osborne has suggested, “Grey began to turn away from the emphasis on neutral rights for the sake of military expediency.”⁶⁴ Thus, it was a response to British frustrations over the policy’s ineffectiveness that pushed London to abandon international law and continuously tighten the blockade. In any case, initial measures proved unsuccessful at stopping, or even significantly reducing, neutral trade in contraband with Germany, much of it coming from the United States.⁶⁵ Officials, on the pretext of a rumour, quickly moved to make good this deficiency.

London’s first violation of international law came when the Order in Council of

⁶⁰ Devlin, *Too Proud to Fight*, 167-168; Also see “Declaration of London”, article 65, in Savage, *Policy of the United States*, 2:177.

⁶¹ Coogan, *End of Neutrality*, 160, 210, 167.

⁶² Osborne, *Britain’s Economic Blockade*, 58-59.

⁶³ Siney, *Allied Blockade of Germany*, 21-22.

⁶⁴ Osborne, *Britain’s Economic Blockade*, 62.

⁶⁵ Siney, *Allied Blockade of Germany*, 22.

20 August 1914 was issued.⁶⁶ At the outbreak of hostilities Grey had insisted that “we have always contended that foodstuffs and raw materials destined for the civil population are not contraband of war... Over and over again, we have laid this down as a doctrine of international law, and our prize courts would not act on any other.”⁶⁷ The 20 August order, however, drawn up at the behest of both Grey and the first lord of the Admiralty, Winston Churchill, applied the doctrine of continuous voyage to conditional contraband, including food. It declared that all foodstuffs consigned to Germany through neutral ports was to be captured, and all such cargoes consigned for Rotterdam was to be presumed to be destined for Germany. The justification given for this action was that the German government was in control of food supplies.⁶⁸ The decision was based on a convenient rumour that A.C. Bell, the official historian of the blockade, has suggested “provided the pretext for a hunger blockade of Germany...”⁶⁹ This action brought international condemnation. Courts at The Hague and in Copenhagen found nothing to substantiate the British claim. Rather, evidence seemed to confirm that the German government was not in control of the supply or distribution of foodstuffs within the country.⁷⁰

Not only was the treatment of conditional contraband a clear violation of international law, it cut across a principle publicly advocated by British leaders, including Grey, for well over a decade.⁷¹ Even at the Admiralty Admiral Sir Edmond Slade, a former director of naval intelligence, and others expressed concern. Sir John Simon, the attorney-general, warned this was a clear and unjustifiable violation of law; neutrals would not stand idly by while their maritime rights were so blatantly assaulted.⁷² However, only one non-belligerent was worrisome: the United States.

In Washington Robert Lansing, chief counsel to the secretary of state, in consultation with Harvard law professor Eugene Wambough and James Scott, former State Department solicitor, concluded that Britain was in clear violation of American neutral rights. Citing former British prime minister Lord Salisbury, Lansing argued: “Foodstuffs, with a hostile destination, can be considered contraband of war only if they are supplies for the enemy’s forces. It is not sufficient that they are capable of being used so; it must be shown that this was in fact their destination at the time of the seizure.” This doctrine was in accord with generally accepted principles of international law and a part of the Declaration of London. Lansing suggested that to concede to the existence of the rights asserted in articles three and five of the order in council, concerning foodstuffs and neutral ports, “would make neutral trade between neutral ports dependent upon the

⁶⁶ British Order in Council, 20 August 1914, in Savage, *Policy of the United States*, II, 194-197.

⁶⁷ Tracy, *Attack on Maritime Trade*, 125.

⁶⁸ “Memorandum,” article 3, attached to British Order in Council, 20 August 1914, in Savage, *Policy of the United States*, 2:195.

⁶⁹ Archibald C. Bell, *A History of the Blockade of Germany and the Countries Associated with her in the Great War: Austria, Bulgaria, and Turkey, 1914-1918* (London, 1937), 40.

⁷⁰ Devlin, *Too Proud to Fight*, 191-194

⁷¹ Smith, *Lansing and American Neutrality*, 25-26.

⁷² Coogan, *The End of Neutrality*, 156-157, 159.

pleasure of belligerents, and give belligerents the advantages of an established blockade without the necessity of maintaining it with an adequate naval force.”⁷³ It amounted to a reversion to the doctrine of continuous voyage in relation to contraband which had been abandoned by the London declaration. Furthermore, failure to oppose the violations would constitute “non-neutrality” towards Germany and a failure to ensure the interests of Americans engaged in legal trade. Wambough suggested that it would be well within American rights to go to war over such violations.⁷⁴

The original protest note, drafted at Lansing’s direction, characterized British policy as illegal and unacceptable. Wilson, however, held the letter back in favour of his preferred policy of private accommodation. He saw no reason why the U.S. could not settle its maritime disputes while maintaining good relations with London. Washington’s ambassador to London, Walter Page, was instructed in a telegram from Lansing dated 28 September 1914 to relay “informally and confidentially” to Sir Edward Grey a statement of the United States government’s concerns over violations of the London declaration. “You (Page) will say that the President earnestly desires to avoid a formal protest to the proposed rules and their enforcement and hopes that the British government will be willing to consider the advisability of modifying these features of the order in council which possesses such latent possibilities.” The telegraphed instructions concluded: “You will impress upon Sir Edward Grey the President’s conviction of the extreme gravity of the situation and his earnest wish to avoid every cause of irritation and controversy between this Government and the Government of His Majesty.”⁷⁵ This mild message was to characterize correspondence between the White House and the British government for the entire war. Indeed, a further note from Lansing to Page, on 16 October 1914, directed the ambassador to join in subterfuge. He was to say that the United States “government feels that it fully understands and appreciates the British position, and is not disposed to place obstacles in the way of the accomplishment of the purposes which the British representatives have so frankly stated.” It then suggested an approach in which the British could adopt the Declaration of London and still circumvent the agreement to obtain their desired goals. Page was directed to claim these suggestions as his own, and explain that the United States “government is in no way responsible for what you may say.”⁷⁶

The British had in place, by late September, a growing bureaucracy to administer the blockade. The Restriction of Enemy Supplies Committee, including representatives from the Admiralty, Foreign Office and Board of Trade, implemented the new measures on behalf of the Foreign Office. This apparatus enabled a more rapid development of the blockade, necessary because it appeared that trade with Germany through neutrals was

⁷³ Lansing to Ambassador Page, 26 September 1914, in Savage, *Policy of the United States*, 2:197-205.

⁷⁴ Scott, “Quotations from Joint Neutrality Board” to Lansing, 5 September 1914 and Wambough to Lansing, 9 September 1914, in Coogan, *End of Neutrality*, 173.

⁷⁵ Lansing to Page, 28 September 1914, in *FRUS*, 1:232-233.

⁷⁶ Acting Secretary of State Lansing to Ambassador in Great Britain, 16 October 1914, in *FRUS*, 1:250-252.

continuing virtually unabated. The Navy was frustrated with the blockade's ineffectiveness, and the loss of three armoured cruisers off the Dutch coast to a single German submarine in September only served to exacerbate the issue. In light of this, Commodore William Goodenough (of the 1st Light Cruiser Squadron) and Vice-Admiral David Beatty (Commander of the Grand Fleet's battle-cruisers) submitted on 22 October 1914 a proposal that all vessels bound for neutral ports should be compelled to stop at a British port for inspection prior to proceeding to their destination.⁷⁷ Soon this would become official policy. Thus, Britain reverted to practices employed during the Napoleonic Wars, another clear violation of recognized law.

A new Order in Council of 29 October 1914 added items to the conditional contraband list, and re-classified as absolute contraband other items earlier deemed conditional contraband.⁷⁸ The latter change assured seizure of the goods under any circumstance if their destination was Germany. The new order in council also repealed the doctrine of continuous voyage as it applied to conditional contraband. Many in Britain at the time and most historians since have argued that this was a significant concession to neutrals, specifically the United States.⁷⁹

If so the concession was purely symbolic. Britain had already transferred most materials they deemed crucial to the German war effort to the absolute contraband list. The legislative machinery for controlling conditional contraband was, at the time, largely ineffective in any case. The repeal of continuous voyage also came with conditions. It was only applicable to cargo "addressed to a named consignee." Goods without a consignee or those consigned "to order" of the shipper were deemed absolute contraband, regardless of the nature of the goods. Moreover, conditional contraband was still subject to continuous voyage if the British knew, or believed they knew, of the existence of a "brisk neutral trade" between the relevant neutral and Germany.⁸⁰

At the outbreak of hostilities most neutrals immediately implemented measures to regulate exports, for conservation purposes as much as any other. Britain, finding these measures insufficient to curtail re-export to Germany, exerted its power over the northern European neutrals in an effort to secure individual agreements to guarantee against such trade.⁸¹ As 1914 came to a close the British had succeeded, in large part through coercion, in enlisting the assistance of the Norwegian, Swedish, and Danish governments in regulating the flow of contraband goods to Germany.⁸² The issue would, however, continue to prove troublesome in British relations with the Scandinavian countries throughout the war. Negotiations with the Dutch posed still greater challenges

⁷⁷ Osborne, *Britain's Economic Blockade*, 64, 67-68.

⁷⁸ See "Proclamation revising the list of contraband of war, attached to British Order in Council, 29 October 1914, in *FRUS*, 1:261-262.

⁷⁹ Osborne, *Britain's Economic Blockade*, 69-70.

⁸⁰ Siney, *Allied Blockade of Germany*, 27-29. Also see British Order in Council, 29 October 1914, sections 1 and 2, in *FRUS*, 1:262-263.

⁸¹ Bell, *History of the Blockade*, 52.

⁸² Siney, *Allied Blockade of Germany*, 33, 56. For a succinct review of the 1914 negotiations between Britain and the Netherlands, Denmark, Sweden, and Norway, see *ibid.*, 33-59.

because of that country's geographic proximity and economic ties to Germany. As a result, the Netherlands Overseas Trust was created whereby Britain worked directly with merchants from the private sector. This alleviated tension with the Dutch government and eventually elicited extensive concessions from Dutch merchants and ship owners.⁸³ Worth noting was the understanding that neutrals would "maintain embargoes that, in practice, were compatible with the Allied contraband lists."⁸⁴

Despite some success in limiting contraband trade with Germany, reports from the Navy confirmed that ships were still slipping through. To further aid in restricting and controlling access to neutral ports in Scandinavia and the Netherlands, the Admiralty declared the entire North Sea a war zone, on 5 November 1914. The justification given was Germany's use of mines in the North Sea. Osborne has correctly pointed out that "the mine issue gave him (Grey) a chance to extricate Britain from the seemingly unworkable laws of the declaration governing neutral trade." The real reason was the desire to have all trade passing into the North Sea diverted into the Straits of Dover for inspection.⁸⁵ To accomplish this, the British created mine-free channels for shipping. While notifications of these channels were published, updates were often slow and neutral vessels were sunk as a result. A significant effect of British policy, including the agreements with European neutrals, was to restrict American trade with Europe to unprecedented low levels.

By November 1914, conversations between Lansing (on behalf of Wilson) and the British ambassador to the United States, Sir Cecil Spring-Rice, and those between Sir Edward Grey and the American ambassador to Britain, Walter Hines Page, had made clear that the State Department was on the side of Britain and, in Spring-Rice's words, the "President would be with us by birth and upbringing."⁸⁶ In essence, the president hinted that the United States would not object to a "British expanded definition of blockade far beyond its usual meaning."⁸⁷ Colonel E.M. House, Wilson's close friend and personal emissary, was the most vocal Entente sympathizer. He continuously urged Entente support in Washington and strenuously reassured Grey and others in London of Wilson's sympathies.⁸⁸

The American response of privately expressing a desire for an "amicable resolution," and proceeding to address each violation on a case by case basis was welcome in Britain.⁸⁹ London, thus emboldened, compiled perhaps the most extensive

⁸³ Osborne, *Britain's Economic Blockade*, 76.

⁸⁴ Siney, *Allied Blockade of Germany*, 56.

⁸⁵ Osborne, *Britain's Economic Blockade*, 74, 62.

⁸⁶ Stephen L. Gwynn, (ed.), *The Letters and Friendships of Sir Cecil Spring Rice: A Record* (Boston, 1929), 220.

⁸⁷ Kendrick A. Clements, *Woodrow Wilson: World Statesman* (Boston, 1987), 154; Smith, *Great Departure*, 23-4.

⁸⁸ H.C. Peterson, *Propaganda for War: The Campaign Against American Neutrality, 1914-1917* (Oklahoma City, OK, 1939), 182-183.

⁸⁹ See acting secretary of state to the ambassador in Great Britain (Page), 22 October 1914, and

list of contraband ever seen and, began laying mines in the North Sea to impede trade with neutrals through whom cargoes might reach Germany.⁹⁰ Britain had in effect a blockade of not only Germany but the Scandinavian countries and Holland as well. By the end of the year they had a stranglehold on the continent. Vehement protests ensued from European neutrals, especially the Dutch who were being virtually starved.

By December 1914 pressure from the State Department forced Wilson to issue a formal protest. The final draft Wilson sent on 26 December was diffident in tone, just as his unofficial protests had been. Page was instructed to communicate to Grey “in the most friendly spirit” that, despite the fact that the United States “could not admit that British actions fell within *any recognized definition of belligerent rights*” they were “confident in the deep sense of justice of the British nation.” It closed with a request that Britain “conform more closely to those rules governing the maritime relations between belligerents and neutrals, which have received the sanctions of the civilized world, and which Great Britain has, in other wars, so strongly and successfully advocated.”⁹¹

Sir John Simon, the attorney-general, advised that Britain’s case against the legal issues raised in the American note would not stand even the most perfunctory examination.⁹² By now, however, there was not only little fear of American action, but an emerging contempt for Wilson. The British government’s reply explained that, although they recognized the American interpretation of maritime law as laid out in the note of 26 December, extraordinary measures were required for defence against German aggression. They agreed to discuss any case in which it was felt an American citizen had been unjustly treated.⁹³ While the note was conciliatory, Lansing argued that it was “transparently illogical in many particulars to one familiar with the facts.” It seemed clear that the letter’s intent was to allay “public irritation in this country without giving any assurance that trade conditions with neutral countries will be relieved.”⁹⁴ Britain proceeded to do what it had done before: tighten the blockade.

By the end of 1914 Britain’s list of violations was long indeed. It had made a mockery of the tenets of contraband, adding virtually every item deemed valuable to the German war effort, including “free list items” like ores and metals and even foodstuffs.⁹⁵

ambassador in Great Britain (Page) to the secretary of state, in *FRUS*, 1:257-258.

⁹⁰ Document 36: Absolute Contraband, and Document 37: Conditional Contraband, in Kenneth Bourne and D. Cameron Watt, (eds.), *British Documents on Foreign Affairs, Blockade and Economic Warfare*, Part 2, Series H, World War I, 1914-1918 (Frederick, MD, 1989), 5:42-44, 44-45; Hunt, *Crises in U.S. Foreign Policy*, 11.

⁹¹ Secretary of State Bryan to Ambassador Walter Hines Page, 26 December 1914, in Savage, *Policy of the United States*, 2:240-244. Emphasis added.

⁹² “Memo from Sir John Simon,” 29 December 1914, in Coogan, *End of Neutrality*, 207; Devlin, *Too Proud to Fight*, 202.

⁹³ Coogan, *End of Neutrality*, 207-208.

⁹⁴ Lansing to Wilson, 11 January 1915, in Arthur S. Link, (ed.), *The Papers of Woodrow Wilson*, vol. XXXII (Princeton, NJ, 1980), 54.

⁹⁵ See Document 36: Absolute Contraband, and Document 37: Conditional Contraband, in *British Documents on Foreign Affairs*, 5:5, 42-44, 44-45; British Order in Council, 20 August

Britain claimed the right to seize as contraband any cargo on either contraband list if a neutral state of destination would not provide a guarantee against re-export to Germany, or ensure no export of comparable domestically produced goods. The British maintained and enforced the right to seize ships on mere suspicion and then, contrary to customary law, required the ship owners and its cargo to prove they were in no violation of “British law.”⁹⁶ London had been ready to go to war with Russia, in 1904, over a less stringent adaptation of such a policy.

The British application of the doctrine of continuous voyage in the Baltic was not only illegal, but as morally reprehensible as the submarine campaign. It was designed to methodically reduce the quantities of food and raw materials to bare subsistence levels in Holland and the Scandinavian countries. In this way they would have nothing to export to Germany. Finally, Britain declared the North Sea a war zone, requiring neutral ships to stop at British ports for sailing directions or, risk destruction in British mine fields.⁹⁷ These stops entailed searches that were carried out at leisure, and it was not uncommon for ships to sit for months without prize court proceedings being undertaken.⁹⁸ The United States had done virtually nothing to prevent this systematic violation of maritime law. Indeed, it had taken four months, until December 1914, for Washington to lodge a formal protest.

The British were not blind to the negative effects their revised policies were sure to inspire in neutral nations, whose trade would be adversely affected. Grey was always aware of the tightrope he walked when forming policy that was sure to affect neutrals. This was especially true of the United States. While neutral governments, such as those in Copenhagen and Amsterdam, had little choice but to concede British demands, Washington was in an incomparably stronger position.⁹⁹ Grey, a master politician, minimized the danger of US counter measures. While he expressed sympathy with America for Britain’s harsh but necessary policies, he did nothing to change them. In fact, he advocated further restrictions.¹⁰⁰ Nonetheless, while Grey supported the “blockade” and British measures to enforce it, he more than any other politician in London realized the potential threat America could pose to Britain, however unlikely it would be made real.

Fortunately, there were sympathetic statesmen in Washington, Wilson chief among them, who were willing to accommodate British policy. Unlike Lansing and others, Wilson viewed the issues between Washington and London as matters of formality, not substance. The most appropriate solution in the president’s eyes was an

1914, in Savage, *Policy of the United States*, II: 195; British Order in Council, 29 October 1914, in *FRUS*, 1:261-263.

96 “Acting Secretary of State to the British Ambassador Spring Rice”, 1 December 1914, in *FRUS*, I: 349; See “British Order in Council, August 20, 1914,” in Savage, *Policy of the United States*, 2:195; “British Order in Council, October 29, 1914,” in *FRUS*, 1:261-263.

97 Osborne, *Britain’s Economic Blockade*, 74; Smith, *Great Departure*, 40; Hunt, 11.

98 Peterson, *Propaganda for War*, 73-74.

99 Devlin, *Too Proud to Fight*, 171; Osborne, *Britain’s Economic Blockade*, 78.

100 Coogan, *End of Neutrality*, 245-246.

accommodation with London, which would diffuse any potential disasters.¹⁰¹ With every violation that the United States let pass, the British became bolder, until they gave little regard to American reaction.¹⁰² Just as Germany became convinced that Washington would never take strong measures against Britain, so too did authorities in London. What Wilson's policy failed to take adequately into consideration was that bending the law to avoid confrontation with Britain was only to invite confrontation with Germany.

Berlin protested for six months before finally responding to the blockade, and the United States' failure to act against it. On 4 February 1915 the German government issued a proclamation that, with effect from 18 February, all merchant ships would be subject to sinking within the German war zone, including all the waters around the British Isles. The intent was to discourage neutral shipping from all trade with Great Britain and force Britain to abandon its illegal blockade. Their official justification read that "for her violations of international law Great Britain pleads the vital interests which the British Empire has at stake, and the neutral powers (the United States) seem to satisfy themselves with theoretical protests. Therefore in fact they accept the vital interests of belligerents as sufficient excuse for every method of warfare. Germany must now appeal to these same vital interests to its regret..." The note concluded with the expectation "that neutral powers will show no less consideration for the vital interests of Germany than those of England."¹⁰³ Germany saw "their vital interests" to be as important as Britain's and expected neutrals to do the same. Wilson was faced with a new challenge. He responded within a very few days — not weeks as with his first note to London, or four months as in the case of his official protest to the British.

On 10 February the American embassy in Berlin relayed a warning from Wilson to the German chancellor that, if any violation of American neutral rights were to result, "the United States would be constrained to hold the Imperial German government to a strict accountability for such acts of their naval authorities and to take any steps it might be necessary to take to safeguard American lives *and* property..."¹⁰⁴ Far from the regretful tone of earlier American letters to London, the "Strict Accountability" note could be construed as nothing less than an ultimatum.

In sharp contrast to Wilson's great restraint in the face of illegal British blockade practices, he judged submarine warfare a clear and utterly unacceptable violation of American neutrality. There seems little doubt that the president truly believed he was doing the "right thing," both in the mild response to British practices and the quick denunciation of submarine warfare. For him, there was a fundamental difference between the British and German policies, and he chose to follow this, his own interpretation of international law. He was confident that he knew better than the legal experts and advisors, like Wambough and Lansing, who underscored the gravity of

¹⁰¹ Ibid., 181; Smith, *Great Departure*, 30, 42; Siney, *Allied Blockade of Germany*, 25.

¹⁰² Ibid., 29, 58-59.

¹⁰³ "German Ambassador Bernstorff to the secretary of state, 7 February 1915, in Savage, *Policy of the United States*, 2:264-267.

¹⁰⁴ Secretary of State Bryan to Ambassador James Gerard, 10 February 1915, in *ibid.*, 2:267-269. Emphasis added.

British transgressions.¹⁰⁵

Yet, advocacy of neutral rights and adherence to the international code of law was an American policy as old as the nation itself. The right of neutrals to trade with belligerents had in fact been the bedrock of American policy during French Revolutionary and Napoleonic wars of 1793-1815, when the United States had fought the “Quasi-War” with France in 1798-1800 and full-fledged war with Britain in 1812-1814 largely in defence of neutral rights.¹⁰⁶ When confronted with unprecedented violations of American neutrality by Britain in the early months of the First World War, the United States surrendered those same rights without even the threat of serious action. As Coogan observes, any assessment of American neutrality “must begin with the recognition that the Wilson administration permitted, and in some cases encouraged, systematic British violation of American neutral rights on a scale unprecedented at the height of the Napoleonic Wars.”¹⁰⁷

May and Gregory, among others, suggest that maritime law, as it existed in 1914, was vague and outdated. From this conclusion, they attempt to portray an unstable foundation on which Wilson was forced to balance American neutrality. The evidence, however, does not support this contention. There was a codified, practical and generally accepted system of international law to apply had the administration in Washington truly wanted to uphold its own neutral rights and support those of other non-belligerent nations.

Wilson not only allowed this system to collapse, but was the chief architect of its downfall, British policy being the catalyst. Britain found itself wedded to an outmoded system of warfare which ultimately failed to provide a strategy for waging a successful conflict. In turn, the British circumvented maritime law to suit their immediate needs. While Wilson could not openly condone these transgressions, he privately allowed them to continue.¹⁰⁸ H.C. Peterson’s *Propaganda for War: The Campaign Against American Neutrality, 1914-1917* (1939) concludes that American policy was nothing less than “a defence of British blockade” and in certain cases this resulted in “America’s most idealistic President exculpating himself with technical appeals to shadowy legalities.”¹⁰⁹ Despite pleas from weaker non-belligerents, Wilson rebuffed any united neutral front, and instead pursued accommodation with Britain, and that at the risk of confrontation with Germany. Hunt’s more recent *Crises in U.S. Foreign Policy* (1996) similarly accepts that there is no question Wilson deviated from a well-established body of international law and longstanding tradition of neutrality, bringing with this departure dramatic and far reaching consequences.¹¹⁰

Seymour, May, Gregory, and Devlin among others justify Wilson’s position,

¹⁰⁵ Coogan, *End of Neutrality*, 220.

¹⁰⁶ “Rights of Neutral to Trade,” in Moore, *A Digest of International Law*, 7:1104.

¹⁰⁷ Coogan, *End of Neutrality*, 209.

¹⁰⁸ See Wilson to Bryan, 24 March 1915, in Hunt, *Crises in U.S. Foreign Policy*, 29-30.

¹⁰⁹ Peterson, *Propaganda for War*, 191.

¹¹⁰ Hunt, *Crises in U.S. Foreign Policy*, 23.

arguing submarine attacks took lives while the British blockade involved loss of only material. For Seymour there was, indeed, a clear distinction between property interests and human rights.¹¹¹ Seymour, however, is guilty of the same misinterpretation of international law as Wilson, in that he accepts the idea that German and British violations were qualitatively different. Yet, according to international law there was no such distinction. The law was clear, making no distinction between the loss of life and the loss of material property. Indeed, Wilson himself made no effort to differentiate the two in the 10 February 1915 note to Berlin.¹¹²

Rodney Carlisle in *Sovereignty at Sea: U.S. Merchant Ships and American Entry into World War* (2009) argues that Wilson, despite being morally outraged, did not personally consider the American ships and lives lost prior to March of 1917 as justification for a declaration of war against Germany.¹¹³ During the period of neutrality eleven other American ships had been sunk or seized by German submarines or surface vessels. Moreover, Americans had died while travelling on foreign ships, the *Falaba* and *Lusitania* being but two examples of this. None of these incidents had led to intervention, as Wilson had accepted the losses “as unfortunate events, but not acts of war.”¹¹⁴

The British could not claim innocence either; their minefields were indiscriminate killers. Furthermore, the law did not allow for selective enforcement. In fact, tolerating these transgressions was to “fail in the responsibilities incumbent on a neutral.”¹¹⁵ Barnes has suggested that the United States had “one type of international law for England and the Allies, but quite another for Germany.”¹¹⁶ It would seem, then, that the Americans viewed the British blockade and unrestricted submarine warfare differently, not just because the former took property and the latter took lives, but because the former was British and the latter German. This is a critical point.

There existed an overwhelmingly pro-Entente and anti-German attitude in Washington.¹¹⁷ In August Wilson privately predicted ominous consequences if Germany was victorious. In early September, he told the British ambassador that a quarrel with Britain “would be the crowning calamity.”¹¹⁸ Wilson was not willing to risk a German victory, despite his public calls for impartiality, and so he ultimately “surrendered”

¹¹¹ Seymour, *American Neutrality*, 11.

¹¹² See Secretary of State Bryan to Ambassador James Gerard, 10 February 1915, in Savage, *Policy of the United States*, 2:268.

¹¹³ Rodney Carlisle, *Sovereignty at Sea: U.S. Merchant Ships and American Entry into World War* (Gainesville, FL, 2009). Carlisle argues that it was the sinking of three specific ships, *Vigilancia* (16 March 1917), *City of Memphis* (17 March 1917), and *Illinois* (18 March 1917) that determined the American decision for war.

¹¹⁴ *Ibid.*, 106-107.

¹¹⁵ Hunt, *Crises in U.S. Foreign Policy*, 13.

¹¹⁶ Barnes, “World War,” 73.

¹¹⁷ Smith, *Great Departure*, 18-21.

¹¹⁸ Arthur S. Link, (ed.), *The Papers of Woodrow Wilson*, vol. XXX (Princeton NJ, 1979), 462, 472.

American neutrality to preserve relations with Britain. Understanding Wilson is crucial to understanding the decisions made in Washington during the first six months of the war. The president had a religious upbringing, being the son of a Presbyterian minister. With this background came an unquestioning faith in God, and a strict sense of right and wrong. He had an affinity for British culture, law and commitment to human rights, as well as a strong mistrust of autocratic and militaristic Germany.¹¹⁹ As president, Wilson had great authority over foreign policy and he exerted that authority perhaps more than any other president before him. The policy of the United States was Wilson's. He consulted and accepted advice, but his nature led him to make his own decisions.¹²⁰

Winston Churchill said of Wilson: "It seems no exaggeration to pronounce that the action of the United States with its repercussions on the history of the world depended, during the awful period of Armageddon, upon the workings of this man's mind and spirit to the exclusion of almost every other factor; and that he played in the fate of nations incomparably more direct and personal than any other man."¹²¹ While it is true that Wilson was responsible for fashioning American policy in ways that benefited the Entente, there appears to be no evidence to suggest that he appreciated his actions were in any way un-neutral. The president was surrounded by advisors sympathetic to the Entente cause, who represented British actions "in the best possible light," only serving to reinforce Wilson's beliefs. Confident in his own "moral superiority," Wilson appears to have maintained a resolute conviction in his ability to "define true neutrality" better than the legal experts.¹²²

What Wilson ideally wanted was peace between the belligerents, although one favouring Britain and France. The president maintained his peace efforts throughout the duration of American "neutrality."¹²³ There can be no question, however, that American interests lay in an Entente victory, and Wilson had no desire to place obstacles in the path of Britain's economic campaign. Loss of commerce and even neutral rights was a price he was willing to pay.¹²⁴

Scholars, too, have refused to acknowledge that American policy was un-neutral. They have interpreted most British violations of law, and Wilson's reaction to them, as justifiable. Moreover, much like Wilson, these writers have made the mistake of viewing the submarine issue in moral terms when the law did not make such a distinction. As a consequence the general public has, for the most part, accepted these accounts. There exists a collective memory with regards to the United States and their role in the Great War. It is manifest in the traditional narrative – the United States was forced into war by

¹¹⁹ Hunt, *Crises in U.S. Foreign Policy*, 9, 14; Clements, *Woodrow Wilson*, 5, 155.

¹²⁰ Smith, *Great Departure*, 24-25.

¹²¹ W.S. Churchill, *The Great War* (London, 1934), 1:956.

¹²² Coogan, *End of Neutrality*, 250.

¹²³ Ronald J. Caridi, *Twentieth Century American Foreign Policy* (Englewood Cliffs, NJ, 1974), 66.

¹²⁴ Buehrig, "Wilson's Neutrality," 5.

German actions, in defence of neutral rights, American honour and fundamental morality.¹²⁵ This account provides a convenient and positive explanation for why the United States departed from a long standing tradition of isolation from European affairs. The truth was more complex and American actions much less altruistic.

The reality is that American interests were tied up with those of Britain.¹²⁶ The prewar maritime policies London and Washington, developed on the basis of a liberal view of freedom of the sea and indomitable neutral rights, proved incompatible with the exigencies of modern war. To make blockade of the Central Powers effective, Britain had to adopt policies that were illegal. Wilson accommodated resulting British violations of U.S. neutral rights in the conviction that Entente success served larger American interests.

Emotions and individual propensities, however, are not a part of international law. They are, though, an integral component of the human personality. The traditional narrative coincides with the notion that the First World War was a “good” war — a struggle between peaceful Western democracies and militaristic German autocracy.¹²⁷ This is, perhaps, why the “myth” of American neutrality endures. The general public may be excused for their part in this perpetuation, the scholar may not.

¹²⁵ Gregory, *Origins of American Intervention*, 139; May, *World War and American Isolation*, 425, 437.

¹²⁶ Clements, *Woodrow Wilson*, 155.

¹²⁷ The Second World War would be seen in much the same light.

