

then only if all the belligerents are parties to the convention." Inasmuch, however, as neutrals are admitted to have the right to exclude prizes, or to admit them on conditions, it is evident that any neutral can enforce Articles 21, 22, and 23 if it should so desire, irrespective of the question whether the convention is or is not legally binding. It should be said, as explaining the attitude of the United States in this matter, that in adhering to the convention, the United States specifically excluded Article 23.

JAMES BROWN SCOTT.

DAYS OF GRACE FOR MERCHANT VESSELS OF THE ENEMY

A degree of consideration for merchant vessels of one belligerent within the ports of the other belligerent has often been shown since the seventeenth century. Such consideration was particularly common after the middle of the nineteenth century, though no clear principle could be said to be established. The practice of granting days of grace showed wide differences in the period granted, varying from six weeks to a few hours. At the Conference at The Hague in 1907 the delegates of the United States took the position that days of grace for departure of merchant vessels of one belligerent in the port of the other belligerent at the outbreak of war should be regarded as obligatory. The British delegation were opposed to making the grant of a period for departure obligatory, though supporting the idea that it would be desirable as a favor. The result of the consideration at The Hague in 1907 was the formulation of a convention less stringent in its provisions than recognized by the United States delegation as then legally binding under international practice.

The objection brought forward against an obligatory period was that a fixed number of days would be undesirable, as the period should be determined in each case as it arose. This objection seemed sound, but in no way insurmountable. The Convention of 1907 relative to the Status of Enemy Merchant Vessels announces in the preamble that the states of the world are anxious in negotiating the convention "to insure the security of international commerce against the surprises of war" and to protect commercial operations "in process of being carried out before the outbreak of hostilities." As commercial relations involve mutual exchange, the difficulty which many felt lest one state should gain an advantage over another at the outbreak of war would seem to be met by the insertion of a reciprocal obligation to grant days of grace

accompanied by the proviso that one belligerent should be obliged to grant no longer period than that granted by his opponent. Such a plan is both reasonable and practicable.

It is reasonable that one belligerent should not be under obligation to accord to his opponent more favorable treatment than that accorded to him by his opponent. It is practicable because the belligerent granting a given period to his opponent may under the reciprocity principle shorten the period to that accorded by his opponent.

Further to support this position may be adduced the practice of the present war in Europe. The German declaration of war against France of August 3, 1914, contained a provision for reciprocity in regard to treatment of merchant vessels, which France immediately met. The British Orders in Council of August 4, 1914, contained a similar plan for German vessels, but this was not carried into effect rather because of misunderstanding of telegrams, than because of lack of willingness on the part of Great Britain and Germany. The principle of days of grace was adopted as regards Austria-Hungary when Great Britain was informed that Austria-Hungary would treat British ships in a manner "not less favorable" than that proposed by Great Britain for Austro-Hungarian vessels. France likewise accorded reciprocal treatment to Austro-Hungarian merchant vessels.

It would seem proper that the United States should continue to support as reasonable and practicable a plan to which in actual test of war the great states have resorted, and that the principle of reciprocity in the grant of days of grace for innocent merchant vessels of one belligerent in the ports of the other at the outbreak of war should prevail.

GEORGE GRAFTON WILSON.

ARMED MERCHANT SHIPS

The question has been much discussed whether merchant ships of the enemy carrying arms for defensive purposes are to be considered as losing their mercantile character by this fact and are to be denied the privileges accorded by international law to enemy merchant vessels. The question has also been discussed since the outbreak of the great war whether the Declaration of Paris of 1856 forbidding privateering should in spirit, if not in the letter, prevent enemy merchant vessels from carrying arms, even for defensive purposes. The question has also arisen and has been the subject of diplomatic negotiations, with resultant tension,