

QUEST RIGHT TO SEIZE SHIPS HERE FOR REFUGE

Old Prussian Treaties, Which the Germans Would Renew, Come Into Prominence

APPAM CASE DECISION WILL SETTLE MATTERS

Supreme Court Has That Case Now Before It But Events Complicate It

The question of whether or not the United States government has legal right to seize the German vessels interned or brought for refuge into the harbor of Honolulu, even in the event of war, is one that, according to a report last night, the local representatives of the department of justice may have to wrestle with.

The suggestion has been raised that the United States is still bound by the Prussian treaty of 1879 and the German treaty of 1828, and Germany raises that point in the famous Appam case, which is now, an appeal by Germany, before the Supreme Court of the United States for final adjudication.

The situation is rendered still more interesting and complicated by news which reached here from Washington during the week to the effect that Germany contemplates proposing to the United States a re-confirmation of the treaties of 1799 and 1828.

In view of the peculiar situation that exists as regards the relations between the United States and Germany, it is difficult to see how the United States could at this time entertain such a proposal. Diplomatic relations between the two countries have been broken off and re-confirmation of the ancient treaties would certainly come under the head of diplomacy.

According to the report from Washington, the old treaties contain provisions which might be interpreted as preventing the United States from seizing and confiscating German vessels in American harbors.

Reports from various cities of the mainland Monday and Sunday that action was taken in several ports similar to that which was taken in Honolulu Sunday. Acting in concert, the officers and crews of practically all German vessels in American ports disabled or sought to disable them, as did the officers and crews of the interned and refugee vessels in Honolulu harbor.

As a result, the vessels were promptly seized by the United States and their crews removed, as they were here. Appam Case In Point

It is largely the provisions of the treaties of 1799 and 1828 that the representatives of Germany relied in appealing to the Supreme Court of the United States in the Appam case. That case is dissimilar in many respects from the case of the German vessels in Hawaiian waters, but it also has several points of strong resemblance.

The Appam, a British liner, was captured January 15, 1916, by the German raider Moreso and taken to Newport News, Virginia, by a prize crew under Lieutenant Hans Berg. The legal contest that ensued, and which is still undecided, brought about a demand for the interpretation, for the first time, of the treaties of 1799 and 1828 by the Supreme Court of the United States.

Bernstorff's Big Bond

This legal contest itself is now in a peculiar phase, inasmuch as Count von Bernstorff, erstwhile German ambassador, is a party to it as the representative of the government of Germany, and in his name a bond of two million dollars has been posted, the legal counsel of the government, who also holds nearly three-quarters of a million in cash, the proceeds of the sale of the Appam cargo, pending the court decision as to ownership.

Millions Involved

Almost from the moment that the liner passed into Hampton Roads February 1, 1916, after a transatlantic voyage of 251 miles, the legal contest for possession of ship and cargo began. Together their value is estimated between \$3,000,000 and \$4,000,000, constituting one of the richest single prizes of the war.

Right to asylum in American waters until the war ends, or failing that, to have disposition of the vessel and cargo determined by the state department and German government, was claimed by the German captors.

In an admiralty libel suit, attacking the Appam and her cargo, the British and American Steamship Company, British owners, sought repossession. They denied that German-American treaties or international law gave the German claimants authority to retain the prize.

The Appam as a public ship of war belonging by its capture to the government, was the real defendant in the libel suit, although Lieutenant Berg, prize master, and German Vice Consul von Schilling of Norfolk, Virginia, were the nominal claimants.

British Won First Round

The British owners were successful in the lower court. Return of vessel and cargo was ordered in July, 1916, by Federal District Judge Waddill of Virginia. The manner of bringing the Appam into United States waters Judge Waddill held a violation of American neutrality. He interpreted the German-American treaties to give no permanent, but only a temporary, right to American asylum to German war prizes.

Upon appeal to the Supreme Court, bond for \$2,000,000 was given by Ger-

BORBORENDORSE HARRIS FOR JOB

Favor Him For Post in Federal Court When Clerk Clark Resigns

Albert Harris, deputy United States marshal, has received the endorsement of the Territorial Democratic central committee for the position of clerk of the federal court, to fill the vacancy that will exist February 20 through the resignation of George R. Clark.

The endorsement of the Democratic committee, however, is probably all that Harris will get, for it is reliably reported that Judge Vaughn has sent to the mainland for a man to fill the position.

The judge, it is understood, has a friend "back home" to whom he promised a job when there should be one available.

man claimants to retain possession, under supervision of Virginia court officials. Receipts of \$634,000 from court sale of perishable cargo have been held by the lower court awaiting the Supreme Court's final decision.

That an attempt would be made to run the Appam out of American jurisdiction pending the appeal was formally pledged to the state department by German Ambassador von Bernstorff, and the prize crew remained aboard at Newport News. All British persons aboard were promptly released by order of Secretary Lansing.

Grounds Relied On

The three principal grounds relied upon by the German claimants were: 1. That the Appam, as a public ship of war belonging by capture to the German government, is entitled to inland American asylum under Article 19 of the 1799 treaty between the United States and Prussia, renewed in part by Article 12 of the German-American treaty of 1828.

2. That American courts are without jurisdiction, enjoyed solely by German prize courts.

3. That the American and German governments—not American admiralty courts—must determine the Appam's disposition.

All three principal and other minor contentions were rejected by Judge Waddill. He construed the treaties to grant only temporary asylum to war ships—not to prizes unaccompanied by captor warships. That the Appam, having violated United States neutrality, must be treated "as abandoned and stranded upon our shores" and the British owners, therefore "entitled to restitution of their property" was his decision.

The American government intervened in the proceedings, but only as a friend of the court.

Lansing Against Germany

The State department had ruled that its construction of the treaties does not give Germany "the right to deposit spoils of war in an American port" and that they gave the Appam the right to enter American waters "only in case of stress of weather, want of fuel or provisions, or necessity for repairs" and obliged departure "as soon as such cause was removed."

However, in a note to British Ambassador Spring-Rice, Secretary Lansing said he was "unable to accept" the British envoy's suggestion that the Appam violated American neutrality.

Failure of President Wilson's various neutrality proclamations to interdict bringing of prizes to United States ports also was relied upon by the German claimants.

The treaty clause upon which the German claimants relied in chief declared that the "vessels of war, public and private, of both parties shall carry freely . . . the vessels and effects taken from enemies . . . shall such prizes be arrested, searched or put under legal process."

That this treaty provision applies only to prizes conveyed into American ports by warships, and not to a prize unaccompanied, was held by Judge Waddill and, also, by the State department.

Claimed a Precedent

The case of the British steamer Farn, brought into San Juan, Porto Rico, in January, 1915, by a German prize crew and interned under State department orders was relied upon as a precedent by the German interests claiming the Appam. The same consideration should be given the Appam, they contended, although the State department ruled that the Farn was a fleet auxiliary.

That the huge conventions, which would alter prize provisions of the German-American treaties, are inapplicable because not ratified by Great Britain also was urged by the German claimants.

The Appam was appraised at \$1,250,000. She is 440 feet long and of 7800 tons. Her cargo, from the west African coast, was estimated at between \$2,000,000 and \$3,000,000. In addition about \$1,000,000 in gold bullion was reported to have been taken off by the Moreso, which was commanded by Count Zu Dohna and captured several British ships during a brief but active raiding tour.

SEIZURE OF AHLERS A POLITE AFFAIR

Crew, Soldiers and Officials Live On Board Like a Happy Family

(Mail Special to The Advertiser) HILO, February 7.—There was just a little touch of war brought home to the peaceful port of Hilo last Monday afternoon, when a squad of soldiers from Company B, Twenty-fifth Infantry, U. S. A., under command of Captain McNab, came into town from the military camp at Kilauea Volcano to the national guard armory, and then proceeded, under the direction of Deputy Collector of Customs Byron K. Baird, practically to take possession of the German interned steamer O. J. D. Ahlers, Capt. E. Solbe.

There was no flurry or excitement about the affair. Deputy Collector Baird, Captain McNab, Captain Mitchell, Medical Corps, Lieut. G. H. Bonesteel, two United States deputy marshals, James E. Pierce and O. V. Starter, with the seventeen men of the Twenty-fifth Infantry, boarded launches at the landing and went out to where the steamer was anchored and a moment later were in command.

Company B went armed.

The officers shortly afterward returned to shore, Captain McNab returning to the military camp to rejoin the rest of the company, which came aboard were promptly released by order of Secretary Lansing.

While in charge of the steamer the soldiers will be on guard duty four mounting guard at a time, and none of the officers or members of the crew of the O. J. D. Ahlers are allowed in the engine room, or in the hold, unless accompanied by an armed guard. There are nine men of the crew still on board the steamer.

Smashed the Engines

It was stated yesterday that the engines of the Ahlers have been put out of commission and cannot be used. At the request of Deputy Collector Baird, George D. Russell, manager of the Hilo Iron Works, and James Kennedy, expert engineer, made a careful examination of the engines of the steamer, and it is stated that their report is to the effect that it will cost a large sum of money to place the engines in working order again.

Deputy United States Marshals Pierce and Starter are on board of the steamer representing the authority of the United States under the direction of Deputy Collector Baird, while the soldiers are there simply as a guard, but not under the orders of the deputies personally.

When the officers boarded the steamer on Monday a search was instituted for any arms, but none was found with the exception of a small rifle, the personal property of the second engineer. The officers of the steamer and members of the crew, who are still on board the steamer, received the boarding party courteously, while there is said to be the greatest cordiality observed now between the soldiers, the marshals and the officers and crew of the steamer.

Just how long the present situation of affairs will last, or as to what will be the final disposition of the interned steamer, nobody at this time knows. Deputy Collector Baird has reported in full to Collector Sharp in Honolulu by wireless and is awaiting further orders.

Hot Baths for the Border Guardsmen

(By The Associated Press) CAMP PERSHING, Texas, February 2.—National guardsmen on the border here have their hot baths the same as they would if they were at home, with the kitchen heater full of boiling water.

A fire of hickory logs under the tank quickly heats the contents, giving enough hot water for several men. A cold water connection also is arranged to temper the water from the tank.

About twenty Hawaiians and Filipinos applied at the United States Navy recruiting station on the U. S. S. St. Louis on Saturday. Of these only two or three could be accepted, and signed on at once. The majority of Hawaiians who applied did not possess certificates of Hawaiian birth and were told that they could not enlist until they secured such certificates. Filipinos cannot enlist at present owing to their status as American citizens being still unsettled.

Hotel registers show names from many states of the Union

Visitors from all over the Union and the Dominion arrived in the city during the past week. A partial list of these arrivals is furnished in the registers of the various hotels, which show the following:

The Pleasanton

Among the guests to arrive last week at the Moana Hotel are:

Dr. E. W. Gilman and Thomas D. Gaddis, Dayton, Ohio; Mr. and Mrs. Devlin, Boston, Cincinnati; Mrs. J. Hartford, New York City; Anderson Hayward, Los Angeles; J. H. Harkness, Kansas City; Miss Lavina Lally, New York City; Mrs. R. L. Lipsett and niece, and O. E. B. Wrenn, Providence, Rhode Island; Mrs. Ralph Morris and H. Morris, St. Louis; Carlos D. Sheldon and son, Houghton, Michigan; and Mr. and Mrs. C. F. Stough, Colorado Springs.

At the Seaside

The recent arrivals at the Seaside Hotel include the following: F. J. Callahan and A. T. Horton, Wallace, Idaho; Miss Edith Greenough and Mrs. Lucy Walters, Missoula, Montana; Dr. M. J. Chaisson and John Lloyd, Chicago; Frank A. Sanborn and wife, Mexico City; Mr. and Mrs. C. E. Vestrine, Detroit; Mr. and Mrs. G. L. Sault, Brookville, Pennsylvania; C. A. Haley, Melbourne, Australia; and J. B. Lacey and wife, Vancouver, Royal Hawaiian.

HILO WANTS BRANCH OF RED CROSS THERE

(Mail Special to The Advertiser) HILO, February 7.—It was only a coincidence that last week, before there was any thought of the United States being mixed up in a possible war with Germany, a movement was started in Hilo for the organization of a branch of the American Red Cross Association, and already nearly a dozen of the women of this city have joined and it is expected that by the time the society here is organized it will be a large one in membership.

Dr. A. T. Roll, who has had considerable experience in this regard, is taking an interest and has offered his services to the society to help its members in a knowledge of their duties, such as preparing and using bandages, helping sick or injured and attending to those things which come within the province of a Red Cross Nurse.

Mrs. George D. Russell and Misses Mae and Lucy Walker are all much interested in the organization.

Stopping at the Vida Villa are the following guests who arrived from the mainland last week:

Mrs. Anna Lambach, Davenport, Iowa; Mrs. E. T. Reising, Palo Alto, California; Miss Alice Gray and Mrs. E. G. Turner, Arlington, Massachusetts; and Mr. and Mrs. J. D. Carey, Cleveland, Ohio.

At the Seaside

The following is a list of those among the recent arrivals at the Royal Hawaiian:

D. D. Fulton, Calgary, Alberta; Mr. and Mrs. John G. Lewis, Aberdeen, Washington; J. M. Naughton, Peoria, Illinois; Henry Jameson, Indianapolis; D. J. Rosenfeld, San Francisco; H. A. McGomb, Pittsburgh; Mr. and Mrs. William Raffetto, Oakland; Mr. and Mrs. G. Damstetter, Detroit; and Mrs. O. C. Voss, Oakland.

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SPORTS

GOLDEN M. WINS HEXATHLON MEET

In Medley of Sport Events at "Y" Saturday Many Records Go To Smash

With colors flying, the Golden M. Club won the student interclub hexathlon meet at the Y. M. C. A. Saturday night. They made a total of 4823 points and with their victory, they got the handsome silver loving cup that was offered for the winner of the meet.

The Triple A Club was second with 3733 points, and the H. A. C. boys came third with 2748 points. The meet was a big success, and wound up the various hexathlon meets and workouts that were being conducted during the past four weeks.

Forty-three young men entered the meet, and each fellow took part in all six events, these being the sixty and 220 yard potato races, standing broad jump and running high jump, twelve-pound shot-put and fence vault.

The victorious Golden M. Club had nineteen boys out of twenty competing, the Triple A had fourteen out of twenty-three and the H. A. C. used ten out of twenty-three members.

In average points per man scored the H. A. C. boys were highest with an average of 274.8 per man, the Triple-A was second with an average of 266.6 per man, and the Golden M. had an average of 253.3 points per man.

Kan Leong, of the Golden M. scored highest honors with a total of 481 points; Victor Kahn, of the Triple A, was second highest with a score of 436 points, and H. Bent, of the Golden M. was third with 408 points. The next five men were Joe Stickey, H. A. C., 396 points; David Bent, Triple A, 362 points; Gordon Brown, H. A. C., 357 points; D. Brown, H. A. C., 325 points, and George Lindley, H. A. C., 315 points.

In the 220-yard potato race Joe Stickey broke the record, negotiating the distance in 1 minute 12.5 seconds, which is 1.5 seconds better than Paul Keppeler's mark. However, in one round of the race he knocked one of the boxes down, and so it cannot be counted as official, and Keppeler will continue to hold the record.

Francis Xavier's record of 15 seconds in the sixty-yard potato race was equaled by Joe Stickey and Kan Leong.

The officials who efficiently handled the meet were W. J. Meinecke, starter; Edgar Methuen, A. E. Larimer, Richard Whitcomb, timers; Don Ladd, J. A. H. Roseau, J. W. McGrillis, Glenn E. Jackson, judges.

RAILROADERS WIN TWO GAMES IN HILO

Second City Believes Basketball Should Return As Pastime

The Railroaders proved that they are in the championship class by winning from both the Hilo High School and the Boarding School, Saturday afternoon at Mooheau Park, says Monday's Hilo Post. In the first game, with the High School it was nip and tuck until the last inning when the Railroaders scored the winning run. The final score was four to three.

Lineup: H. H. S.—Ah Soy, cf; Sagi, 3b; Ah Fook, 1b; Masa, 1f; Takashi, 2b; Akana, rf; Muraki, c; Kido, ss; Juro, p; McNeill, sub.

Railroad—Ignasi, cf; Segawa, 3b; Carter, 1b; Okino, 1f; Hayashi, 2b; Kase, rf; Araki, c; Logan, ss; Yamasaki, p.

In the second game with the Boarding School it seemed for a while as if the Railroaders would lose, as the Boarding School has some heavy sluggers although rather loose yet on their fielding. With a little more practice, the Boarding School will be able to put up a team that will command respect.

In the sixth inning Logan was put in the box for the Railroaders and completely shut out his opponents from any further scoring, and won the game for his side by a score of five to four.

Lineup: H. H. S.—Augustine, ss; Noohana, 1b; Kowahara, c; Inoue, 1f; Oshiro, rf; Pangio, 2b; Lueasa, 3b; Kanaohou, 3b; Kahula, cf.

All three teams showed fine prospects for further games in their playing. The High School youngsters were a surprise as they were not expected to put up the game they did. There is no reason why one or more games should not be seen at the park every week. The Railroaders are willing to meet all comers and they now up to the other teams around town to come in and get their feet wet.

Small Tractors Popular

Mainland farmers bought 25,000 small tractors last year. Plow manufacturers have been quick to realize the advantages of this form of motive power and there are scores of traction implements on the market, suitable for all kinds of soil and all conditions. There are more than 150 makes of farm tractors on the market.

SPORTS

THIS MAN JUMP IS ONE GREAT BOOSTER

Los Angeles Club Monthly Marvels At Noted Angler's "Some Jump" To Hawaii

Here is what "The Jonathan" of Los Angeles in its January number has to say about James W. Jump, who is now in Hawaii angling, the item being captioned "Some Jump."

James W. Jump is going to "jump" from Los Angeles to Honolulu for the sport of winter fishing. He is commodore of the Los Angeles Motorboat Club, president of the Southern California Rod and Reel Club, and an enthusiastic deep-sea angler.

Mr. Jump will sail for Honolulu on January 16. He is scheduled for a three months' fishing trip in Hawaiian waters. The local sportsman spent last winter in Honolulu and returned with the report that these waters surpass the world for game fish during the winter months.

Mr. Jump's private boat, the Sea Scout, was shipped recently. He will take with him the famous boatman, "Capt." Keet Walker of Catalina Island.

"Our own Catalina is the real Magic Isle during the summer months," said Mr. Jump, "but in winter we must share the honors with Hawaii. The fishing is simply wonderful. The blue, a native pompano, runs as high as one hundred and fifty pounds. The waters are fairly alive with tuna and swordfish. Another remarkable game fish there is the dolphin, sometimes called the 'Rainbow of the Ocean.'"

"I have my own boat and the best boatman in America with me this time; it will be my own fault if I don't have a great winter's sport."

California's Polo Ponies Brought Here High Classed

Relative to the arrival here in the Lurline on Tuesday, as mentioned Wednesday in The Advertiser, of sixteen polo ponies from California, the San Francisco Chronicle of January 30 says:

"Sixteen polo ponies, representing some of the best blood lines in California, will be shipped on the steamer Lurline to Honolulu today. They are from Capt. W. H. McKittrick's breed farm at Bakersfield and are consigned to Walter Dillingham."

Pat Haanen, former trainer for Foxhall Kenne and now looking after Dillingham's string, will take over the ponies, which he pronounces some of the finest he has ever seen. Polo has caught on in Honolulu and matches are staged regularly. There will be a tournament during the Mid-Pacific Carnival next month. Next year Dillingham will head a Honolulu team that will play here and make a tour of the country. The ponies that will go over today will be used for mounts in these contests.

"Captain McKittrick, who is on the executive committee of the Golden Gate Thoroughbred Breeders' Association, is interested in the breeding industry and is anxious to see California take her place again as the rival of Kentucky. At his farm out side of Bakersfield he has forty head at present among them well-known sire and brood mares, Charles W. Clark's thoroughbred stallion, Fal Jetts, that won many races at Emeryville, is there. Captain McKittrick formerly had Grandes and Kismet, famous horses."

"In the past the captain has been shipping his polo ponies to Europe but since the war he has found a ready market in this country and Honolulu."

JAPANESE STUDENTS HOLD BIG WRESTLING EXHIBITION

A big wrestling tournament, in which about one hundred and fifty children gave exhibitions of their skill, was held yesterday afternoon, beginning at one o'clock, at the Japanese High School, Tyler Street. Several thousand Japanese men and women attended and enjoyed the afternoon's sport. Altogether there were about seventy matches. The school has secured the services of one of the foremost judo-wrestlers in Japan. Judo is a modern form of jujitsu. The wrestler or judoist in charge at the school conducts regular classes for the several hundred students attending.

Greatest Japanese Wrestlers To Come Here In June

A number of great Japanese wrestlers, who were in Honolulu two years ago, will come here again this year. They are being headed by Tachiyama, Japan's greatest mat artist. News of this has come in cables to local Japanese, who are already getting stirred up a good deal for wrestling is to the Japanese what baseball is to the average American. The wrestlers will arrive some time during the coming June and will remain about two weeks in Honolulu, giving exhibitions. They will then continue on their way to the mainland, where they expect to remain a month or two to give mat fans a taste of the Japanese wrestling game.

EGGS COST EIGHT DOLLARS AND MIGHT BE BAD AT THAT

(Mail Special to The Advertiser) HILO, February 7.—It was all because of an egg, yet even Judge Wise, of the local district court, does not even know if it was a good egg. But however this might be it was certainly an expensive egg for Junn Cuarema, for before all the proceedings hatched from that egg were paid he cost him eight dollars, of which five dollars was the fine and three dollars for costs.

Lencio Kodet, another Filipino, was the complainant in the case, charging Cuarema with assault and battery. Unfortunately when the case appeared before Judge Wise he did not appreciate the importance which the mysterious egg played in the tragedy, for Cuarema acknowledged that he struck Kodet during a controversy over this egg, and added that under the circumstances he thought he had a right to strike him. It all occurred at Wainuku, and the fate of the egg is still in doubt.

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CHARLES S. CRANE, Manager

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