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Text of Stimson Letter on Embargo

Following is the text of the letter of Henry L. Stimson, former Secretary of War and later Secretary of State, recommending the lifting by the President of the embargo against the sale of arms and munitions to the Spanish Loyalist Government.

TO THE EDITOR

THE NEW YORK TIMES.
I have been asked for my views concerning the present situation in Spain and the duties of our own government and people toward that situation. The basic reasons which govern my views consist of simple and long-standing principles of American international conduct. They do not in the least depend upon ideological considerations which may or may not be involved in the conflict. On the contrary, they depend entirely on the interest of our own country toward that conflict and its possible results.

First: The republican government of Spain (commonly termed the Loyalist Government) has been recognized as the true government of Spain by our government. The exact details have been reached by Great Britain, France, and a number of other countries. The principles upon which our government acts in making such a decision have been well understood since the beginning of our history. They do not depend in any degree upon the internal structure of the government recognized or its domestic theories which control its relations to its citizens, whether they be Communist, Fascist, monarchial or democratic.

Spain's Own Affairs.
Such ideological internal relations are exclusively a domestic matter for Spain itself, into which foreign governments should not intrude. That is a fundamental rule of international relations. Thomas Jefferson expressed it well as long ago as 1792:

"We certainly cannot deny to other nations that principle whereas our own government is founded, that every nation has a right to govern itself internally under whatever form it pleases and to change those forms at its own will; and externally to transact business with other nations through whatever organ it chooses, whether that be a king, convention, assembly, committee, president, or whatever it may be." (Jefferson to Pinckney, Works, Vol. III, page 300.)
When our government several years ago through our President determined that the Spanish Government in question had control of the administrative machinery of the State with the general acquiescence of its people and was able and willing to discharge international and conventional obligations, that Spanish Government became to us and all other nations the true Government of Spain for the purpose of our respective international relations. By this decision we admitted it as a member of the family of nations which we recognized as our friendly neighbors in the world and vested it with all of the conventional rights and privileges which we accord to such friendly neighbors.

Right to Friendly Assistance.
Second: One of the most important of these rights which a State like Spain is entitled to expect from another government, which has recognized it as a friendly neighbor in the family of nations, is the right of self-defense against any future rebellion which may challenge its authority. History shows that almost every State, preceding our own, sooner or later in its history has to meet with the hazard of domestic strife within its borders including an armed rebellion against its authority. In such a case the duty which the neighbor States owe to the member of the family whose authority has been challenged is perfectly well settled. It is that such a nation has the exclusive right to the friendly assistance of its neighbors by being permitted to purchase in their markets the necessary supplies and munitions for the purpose of putting down the rebellion; and further that no similar assistance shall be given to the rebels who have challenged its authority. Any such assistance to the rebels would be deemed a most unfriendly act—even a cause of war—against the mother State.

Third: No nation has gone further than the United States in sustaining this general right of a nation against which civil strife has broken out. During our own great Civil War our Federal Government insisted that it alone had the right to purchase war materials in the world at large and made vitally needed purchases of war materials abroad.
Had England undertaken to embargo arms to both the North and the South, the North might have lost the war. Churchill,

"Necessity for the United States," page 187.

In the case of rebellions among its neighbor States, the United States has acted upon the same principle and has not only given assistance to their governments, but has retained itself from giving aid and has prevented its nationals from giving aid to the rebels. By the Joint Resolution of 1913, applying to this hemisphere and somewhat more widely extended in 1922, our President has been authorized to levy embargoes against supplying arms or munitions to rebels against the authority of friendly States. In mention only a few cases, such embargoes have been levied by our government in the case of rebellions against Cuba in 1912, Mexico in 1912, 1923 and 1929, Nicaragua in 1921 and Brazil in 1939. In these and other cases we have recognized it as our duty to assist the government and to prevent assistance from our markets reaching rebels against that government.

Furthermore, in 1928 we enacted and in 1933 ratified a general convention promulgated by the Sixth Pan-American Conference between the American Republics and covering generally the subject of the mutual rights and duties of States in the event of civil strife. This convention provided:

"Article 1. The contracting States bind themselves to observe the following rules with regard to civil strife in another one of them:

1. To forbid the traffic in arms and war material, except when intended for the government, while the belligerency of the rebels has not been recognized, in which latter case the rules of neutrality shall be applied."

This treaty made the provisions existing traditional practice a binding rule of conduct among its signatories.

Maintenance of Rights

Fourth: During the great war Secretary of State Lansing took occasion to point out why the United States was so insistent on maintaining this right of a government to buy arms and munitions in the markets of the world, whether in cases of domestic strife or of general war. As he pointed out, it was because our nation being a peaceful and generally unarmed nation, would have found any other rule of law most dangerous to its own safety.

Secretary Lansing declared that the United States had from the foundation of the republic "advocated and professed a restricted trade in arms and military supplies, because it had never been the policy of the nation to maintain in times of peace a large military establishment or stores of arms and ammunition sufficient to repel invasion by a well equipped and powerful enemy, and that in consequence the United States would, in the event of attack by a foreign power, be seriously if not fatally embarrassed by the lack of arms and ammunition."

Lansing said "Depended upon the right and power to purchase arms from neutral nations in case of foreign attack. This right which it claims for itself, it cannot deny to others." He contended that a nation whose policy and principle it was to rely upon international obligations and international justice to preserve its political and territorial integrity, might become the prey of an aggressive nation whose policy and practice it was to increase its military strength during times of peace with the design of conquest, unless the nation attacked could go into the markets of the world and purchase the means to defend itself against the aggressor."
—Hyde, "International Law Clearly as Interpreted and Applied by the United States," Vol. 2, at page 752.

Belligerency Not Recognized

Fifth: Thus under the rules of international law governing cases of insurrection against a government whose status has been recognized by its neighbors, the government itself is the only party which will be permitted to purchase arms and munitions abroad, and any assistance to the rebels would be a violation of such international law, an unfriendly act against the government. Until the insurrection has progressed so far and successfully that a state of belligerency is recognized by the outside nations, no rules of neutrality apply. The only party recognized as lawful is the mother government at which the insurrection is aimed. In the case of Spain no such belligerency has been recognized by us or by Great Britain or by France. Under such circumstances any attempt to treat the situation as embroiling the duty of neutrality based upon a complete misconception of the rules of international law. Professor Edwin Herkner in his study on "Neutrality and Civil Wars," American Journal of Law, 30,

303, has thus expressed the situation.

"International law requires the United States to treat the elected government of Spain as the lawful government, and to regard and call the belligerency of the Rebels as recognized as the only government entitled to receive the assistance of the United States in suppressing armed opposition." * * * This embargo against Spain was thought to be neutrally legislation, but it seems more likely the precise opposite."

Experiments Reverted Practice

Sixth: The foregoing was the well-established practice of the world governing rebellions which occurred in the family of nations, when on July 13, 1936, the present rebels in Spain broke out against the republican government which we had recognized. Instead of following the rules of law which had theretofore been established with practical timeliness, a series of novel experiments were attempted on both sides of the Atlantic. These have resulted in a complete reversal of the pre-existing law and practice.

In Europe the conflict in Spain opened opportunities for other countries to experiment with a new type of intervention. In fact, blame attributed to them a share in the instigation of the Franco revolt. Accordingly in September, 1936, under the leadership of Great Britain, a special agreement of non-intervention was engineered among the neighboring nations to Spain in the hope that the conflict might be localized and the danger of its spread prevented. The first thing to be said about this agreement was that it was a complete abandonment of a code of practice which the international world had adopted through preceding ages as the best means of achieving the same purpose and minimizing the spread of disorder. International law is the product of the efforts and experience of the nations aimed to promote peace and stability.

In the second place, however well intentioned it may have been, an experiment based upon the premises of the totalitarian States was never actually there available. The States had already progressed too far along the primrose path of treaty violation and the non-intervention agreement at once became a mockery and a failure. The only nations which have observed the non-intervention agreement have been the ones from whom the danger of intervention was not apprehended—Great Britain and France. Italy and Germany, while ostensibly accepting the obligation of the covenant, have continuously and flagrantly violated it. At the present moment Italy is openly avowing its effective participation on the side of France. She is openly making every effort to bring the strife to a conclusion in favor of the rebels.

Thus the non-intervention agreement has simply resulted in allowing to the recognized government of Spain those world markets for supplies and munitions which under the law of nations she had a right to depend upon and to have open to her purchases. It has not prevented supplies from going to the rebels who, under international law, have no right to them. Not only have the rebels been receiving arms and munitions, but, as everybody now knows, they have actually received organized Italian troops in large quantities conducting for them a very large share of the fighting.

Our Interests Remote

Seventh: On our side of the Atlantic there has been even less excuse for a departure from law for we have been far remote and our interests were very unlikely to be seriously affected by the war in Spain. If we had continued our former practice and permitted the government of Spain to make purchases in this country of arms and munitions, we would have done in the many cases which I have mentioned no real danger that those purchases would have aroused any resentment against us from which we need have any apprehension. As a matter of fact, our government has continued under our River Purchase Law to make large purchases of Spanish silver from the Spanish Government which undoubtedly have assisted that government in carrying on the war. Such purchases have not even attracted attention in the press, let alone aroused hostile criticism against us. Had we been following the law and could have given critics a perfectly good reason for our action. To assert that such a course of self-respecting adherence to our part in a historic policy of international law could have dragged us into war in Europe does not speak well for the balanced judgment of those who make the assertions. But our Congress, not altogether

unwisely, may have been influenced by a desire to support the objectives of the Non-Intervention Agreement which had not been entered into in Europe. In that event, it is hard to see how we may not have foreseen that this agreement would not be faithfully observed. Congress may not have foreseen that instead of honoring a course of equal treatment toward both sides of the combatants in Spain, it would become an engine of glaring favoritism toward one side alone—the Rebels—and that the legitimate Spanish Government which by law was the only side entitled to buy arms would eventually become the only side which was unable to buy arms. At all events our Congress in January, 1937, passed a temporary resolution applying an embargo to the sale of arms to both the combatants in Spain. And on May 1, 1937, this temporary resolution was approved by Spain's Republic. By the enactment of that resolution, the exportation of munitions to any foreign State was prohibited on a proclamation by the President that "a state of civil strife exists in Spain, and such civil strife is of a magnitude or is being conducted under such conditions that the export of arms * * * would * * * endanger the peace of the United States." On the same day, May 1, 1937, the President imposed the present embargo against Spain.

Traditions Abandoned

Eighth: The results have shown how futile, as well as how novel experiments in international law can be. The United States on its part has abandoned a traditional policy to which for a century and a half it had steadfastly adhered. It has sacrificed the peace and stability of nations which the world preferred to live not armed to the teeth. It is likely easy to see the day when that principle was abandoned and when it amounted to a new precedent which may hereafter weight the scales in favor of a militaristic and thoroughly armed nation.

On the other hand, the progress of events during the past two years in Spain have served to demonstrate the vitality of the Loyalist Government and thus has tended to confirm the correctness of our government's decision when we recognized that Loyalist Government as representative of the people of Spain.

To an extent which probably few anticipated, that Loyalist Government has not only defended itself not only against a surprise attack by its own rebellious army, but against a powerful combination of aggressive interveners by land and sea and air. By its own courage and strong evidence of its vitality and of the fact that it must be supported by the great mass of the people within its territory. Starting without an army of its own, forced to organize and train its raw militia, conspicuously lacking in the powerful modern guns, planes and other munitions which have been available to its opponents, it has not only managed to put up a most surprising and valiant defense against opponents who have had every advantage in the way of land and naval organization and who saw their side as the only land and sea by powerful organized forces from Italy and Germany.

If this Loyalist Government is overthrown, it is evident now that its defeat will be the ruin of Spain. It is the fact that it has been deprived of its right to buy from us and other friendly nations the munitions necessary for its defense. I cannot see how the present government of our country would wish to assume such a responsibility.

Power With President

Eighth: In short, I have come to the conclusion that a embargo imposed under the resolution of May 1, 1937, should be at once lifted by the President. By its terms I believe he has the power to take such action. The change in the international situation during the past two years would justify such action by him. The embargo, which by the terms of the law authorizing it was intended as a protection against conditions which would no longer be present in Spain, would arise is now shown by the events of the past two years to be itself a source of danger to that peace. Any danger that may come to the people of the United States from the situation in Spain would arise not from any lawful sale of munitions in our markets to the Government of Spain, but from the assistance which our embargo has given to the enemies of Spain. It is the success of the lawless precedents created by these enemies which would constitute our real danger. There is no reason why we should continue to facilitate and accede to that danger. There is still less reason why we should violate our own historic policy to do so. The prestige and stability of our country is promoted by abandoning its self-respecting traditions, in order to avoid the hostility of reckless violators of international law in Europe. I am, Sir, very respectfully,
New York, Jan. 23, 1939.