SPIES AND PLOTTERS
Chamberlain Defends Drastic Bill Which He withdrew—The Trials of Enemies in England, France, and Italy

Mr. Chamberlain was asked if he would give his reasons for believing the bill to be constitutional.

"To begin with, the term "spys" said the Senator in reply, "has had a very limited meaning in the past. It is unknown to the criminal law of the United States. A spy as such may only be punished by military law. Article 82 of the Articles of War of the United States authorizes the punishment of a spy by a general court-martial or by a military commission as follows: "Any person who in time of war shall be found lurking or acting as a spy or about any of the fortifications, posts, quarters, or encampments of the armies of the United States, or elsewhere, shall be tried by court-martial, or by a military commission, and shall, on conviction thereof, suffer death."

"The question arises, Who under this definition are not spies? For example, a person who comes secretly within the lines with a view to the destruction of property, killing of persons, robbery and the like is not such a spy, according to a civil war decision. One Kennedy, who attempted to burn the City of New York in 1884, was held not to be punishable as a spy by military law; a similar decision was rendered in the case of one Beall, whose crimes, committed during the civil war period, consisted mainly in attempting to throw passenger trains off the track in New York and seizing and destroying steamers and cargoes on Lake Erie. Equally persons who trade with the enemy, or who give information to the enemy, if not in disguise or introduced or acting behind the lines by practice or deception, are not spies.

"This illustrates the limitation placed on a spy at a time when the mode of warfare adopted by our present enemy was unknown. Therefore the question arises whether the word "spy" is not capable of a broader definition on account of the changed methods of warfare. Our enemy of today uses very different tools from those employed at the time when spies were used to obtain information from the enemy. Germany has introduced new devices. The greatest injury wrought on us is not by the technical spy, but by sabotage, the destroyer of property by violence, the spreader of propaganda, and in other insidious and injurious ways. Hence the question whether the term "spy" may not be applied to enemy agents guilty of harmful practices of any kind within our lines and punished according to the degree of the offense.

"In essence the question is whether the action of the enemy agent constitutes a danger to our country. Seeking to injure property of military use or value is an injury, as well as the seeking of the benefit of the enemy for the benefit of the enemy. By the Act of 1806 it was shown that Congress had the constitutional power to subject court-martial civilians who acted as spies, as the word was then employed; in my opinion, it has the same power today to subject court-martial civilians who commit acts just as injurious to the members of our army and navy.

"What is the basis for the trial of civilians by court-martial under Article 82 of the Articles of War? It is that at times the safety of the nation depends on the exercise of military power. These are represented by the army and the navy, and those who endangered the safety of the army and navy, in acting as spies, were made subject to military control and punishment. It is to accomplish this purpose that the rules of military law have grown up and the articles of war have been enacted by Congress. Military law should not be confounded with martial law. Martial law is not statutory in character and received its origin from strict military necessity. Military law is, on the other hand, definitive in character."

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Spies and Plotters--How Shall We Treat Them?

(Continued from Page 1)

head, boldly statement; its general ap-

plication to is to deny the right to all those

of whose guilt is clearly established. This
distinction between the subject matter of the

Act of 1798 and the subject matter of the

bills now before us is clear. In the former

case, the Act of 1798, there was a general

punishment and a general immunity. In the

latter case, the bills now before us, there is

a specific punishment and a specific immu-

nity.

The Act of 1798, therefore, is a general

measure, designed to punish all acts of

espionage and treason, and to protect all

persons engaged in the war.

The bills now before us are specific

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