A MAELSTROM OF INTERNATIONAL LAW AND INTRIGUE: THE REMARKABLE VOYAGE OF THE S.S. CITY OF FLINT

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As the S.S. City of Flint, a U.S.-flagged “Hog Islander” merchant ship, cleared New York Harbor on October 3, 1939, neither her captain, Joseph Gainard, nor her crew had any reason to suspect that they were embarking on a voyage that would place them at the epicenter of a diplomatic and legal firestorm. Though war was now embroiling much of Europe, including England, their intended destination, America was firmly neutral in the conflict. The Flint’s cargo, consisting of apples, asphalt, wax, machinery, lumber, tractors, canned goods, cereals, tobacco, lard, white bread flour, oil, grease and general cargo, was typical of her usual cargo on this run and hardly seemed of a nature to offend anyone. In addition, Captain Gainard had been informed before the voyage that there were no German surface ships operating in the North Atlantic. All in all, this had all the makings of a routine voyage, one that Captain Gainard, a veteran sailor, and the venerable City of Flint had made many times before.

Things didn’t turn out quite as planned. Neither the City of Flint nor her cargo ever made it to England. Instead, the vessel became a German war prize, and her voyage turned into a 116-day odyssey that took her first to Norway, then to the Soviet Union, and then back to Norway, where Norwegian authorities finally stormed the vessel, evicted her German prize crew, and restored the City of Flint to her rightful captain, crew, and national control. Behind the scenes, the U.S. diplomatic corps was desperately scrambling for information about the ship and her crew, and forcefully reminding involved nations of their legal obligations vis-a-vis the vessel, all to little avail; they were consistently stymied in these efforts by a combination of international intrigue and diplomatic dissembling. By the end of her ordeal, the City of Flint had generated world-
Wide media interest, had engendered mistrust and created diplomatic rifts amongst future wartime allies, and had led at least one newspaper to prognosticate that “international law of the future will devote an entire chapter to the City of Flint.”

Contrary to this prediction, the City of Flint case is virtually forgotten today. This article, which combines an examination of the applicable international law, a discussion of the diplomatic correspondence surrounding the incident, and a recounting of the actions occurring aboard the vessel and taken by involved governments during this remarkable incident, is intended to rectify this unfortunate state of affairs.

The voyage – departure to interception

“I’m no hero. All I claim to be is just a sailor; right now an officer in the United States merchant marine, once just an officer in the United States Navy.” So Captain Gainard aptly describes himself in an autobiography penned in 1940; and indeed, his whole adult life was spent on the water in one form or another, most of it in the U.S. Merchant Marine. He’d also seen military service; as a Navy reservist, he was called up on the day the U.S. entered World War I, and survived for five days in a raft after his vessel, the U.S.S. President Lincoln, was torpedoed and sunk on May 31, 1918 by the submarine U-90. He’d already experienced the present war as well, while master of the City of Flint, of which he took command in March, 1939. On September 3, merely days after Germany and England went to war, his vessel had been one of the first on-scene after the British passenger liner Athenia was torpedoed and sunk – the first significant sinking of the war. Gainard and his crew endeavored mightily to succor the 236 survivors they took aboard during the 10-day voyage to Halifax, where the passengers were disembarked. Despite their best efforts, one of the survivors, a 10-year-old girl, died.
Thus it was a war-hardened crew, with an experienced war-fighting captain, that oversaw the loading of cargo in New York, Baltimore, Philadelphia, and Norfolk in anticipation of the *City of Flint*’s fateful voyage, with Britain as her destination. Her departure during the late afternoon of October 3, 1939, from pier 58, North River, New York was uneventful, as were the first six days of the journey. It was on October 9, at 1843 Greenwich Civil Time, latitude 45 north, longitude 43 west, approximately 1500 miles from New York, that the voyage went terribly wrong.

It began with a lookout calling the captain’s attention to what appeared to be a fast-moving cloud. The cloud soon resolved itself into a ship, and as it approached at a high rate of speed (estimated by Captain Gainard to be at least 25 knots), the ship was identified as a warship. Several more minutes were to pass before the *City of Flint*’s crew could determine that she was German – specifically, the pocket battleship *Deutschland* - and that she was apparently at battle stations, with her guns trained on the *City of Flint*.

The first of three Panzerschiffe (armor-clad ships) of the eponymous class, the *Deutschland* (redesignated as a heavy cruiser and re-named *Lützow* in late 1939) had a standard displacement of 12,630 metric tons, a length of 181.7 meters, a beam of 20.69 meters, was capable of 26-28 knots, and carried a crew of upwards of 1,040 men, depending on particular mission and configuration. Her main armament was 6 x 28 cm. (11”) guns in two triple turrets, with 8 x 15 cm. guns as secondary armament. She was the ideal blend of warship, described by Konteradmiral Wilfried von Loewenfeld as being “faster than any ship more powerful, and more powerful than any faster ship.”
Together with her sister-ship, Admiral Graf Spee, and eighteen submarines, Deutschland had sortied from her home port of Wilhelmshaven in late August, 1939, with orders to disrupt and destroy trade in the event war broke out with England. The objective of this operation was to achieve a complete isolation of Britain from any merchant traffic, which was a means by which the Navy could provide “indirect support” for Army and Air Force operations, as directed by Fuehrer Directive Number 6, issued by Supreme Commander of the Armed Forces.\(^7\) While Admiral Graf Spee proceeded south to her station off the west African coast, Deutschland proceeded to her waiting area off the southern tip of Greenland. It was there, on September 3, 1939, that she received an order sent by the German Naval Staff to all warships in the Atlantic to “begin hostilities with England immediately.”\(^8\) Upon receipt of this order, her captain, Kpt.z.S. Paul Wenneker, took Deutschland south to the vicinity of Bermuda where, on October 5, she sank the 5,000-ton British freighter Stonegate and captured and brought aboard her entire 38-man crew. After this engagement, Wennecker took Deutschland back north – directly into the path of the City of Flint.

After she approached to within a mile and ascertained the City of Flint’s nationality, Deutschland swung her guns inboard and hoisted two signal flags: “LUU” (You must not use your radio), and “CFH” (I am going to send you a boat). In response, Captain Gainard brought his vessel to a stop, and the Deutschland slowed and then took station on City of Flint’s port quarter to provide a lee for her small boat.

International law, then and today, permits a warship of a belligerent state – in this case, Germany – to stop, visit, and search a non-naval vessel of a neutral state (in this case, the United States)\(^9\) to ascertain its character and nationality and verify whether it is carrying prohibited cargo or has
committed any violation of blockade.\textsuperscript{10} “Visit” consists in the first place of an examination of the ship’s papers. If the ship's papers are insufficient or not of a nature to allay suspicion, the officer conducting the visit has the right to proceed to a search of the vessel, for which purpose he must ask the cooperation of the captain.\textsuperscript{11}

In the case of the \textit{City of Flint}, a boarding party of three officers and 14 men, all armed with pistols, came aboard, and the boarding officer asked to see the ship’s papers. After examining the papers, the boarding officer shook his head doubtfully and informed Captain Gainard, “Under the laws of my country you are guilty of carrying contraband to the enemy.” “Contraband” can be characterized either as absolute (items of obvious military utility, e.g. armaments, explosives, warships, machines for weapons manufacture and repairs) or conditional (items susceptible of use in war as well as for purposes of peace, including, \textit{inter alia}, foodstuffs and lubricants).\textsuperscript{12} Germany, as it was entitled to do, had, in its prize law of September 12, 1939, declared “lubricating oils” and “foodstuffs” as items of contraband; and the “contraband” carried by the \textit{City of Flint} that the Germans found objectionable was 20,000 drums of oil and white bread flour, all consigned for England.\textsuperscript{13} A vessel discovered to be carrying either absolute or conditional contraband destined for enemy authorities is liable to be captured and sold (along with its cargo) or otherwise disposed of as a prize of war.\textsuperscript{14} Which was exactly, for the next 26 days, what the \textit{City of Flint} was to become.

After some semaphore communications between the boarding officer and the \textit{Deutschland}, the warship flashed the following message: “We are sending a prize crew.\textsuperscript{15} The ship will go to Germany. We are also sending thirty-eight English prisoners who have given my war-ship commander their parole.” These prisoners – 11 of whom were actually Arabs – were, of course,
the crew of the *Stonegate*; the *City of Flint* was obviously perceived by the warship as an expedient means of disposing of these inconvenient passengers. Thus it came to be that the *City of Flint* became the involuntary host to 38 crewmembers of the *Stonegate*, as well as a German prize crew consisting of its commander, Lieutenant (LT) Hans Pussbach, an experienced merchant mariner who had been called up for naval service in both World War I and World War II; a second officer; an engineer who Gainard states did not know much about engineering; and 18 crew. The prize crew brought aboard with them 60 hand grenades, 20 revolvers, 20 bayonets, 12 dynamite bombs, and 1 machine gun.

**The voyage – interception to Norway**

After the *Deutschland* disappeared over the horizon, the Americans and their unwelcome visitors settled into a routine that was to last until the latter departed the vessel. LT Pussbach, who spoke good English, was in overall command, though Captain Gainard was left in charge of routine ship’s functions. Two German guards, armed with pistols and grenades, were on duty in the wheelhouse at all times. Pussbach slept in the Chief Officer’s room just behind the wheelhouse; four of his men slept in the chartroom just around the corner from Pussbach; the rest slept on deck in the wheelhouse on mattresses provided by the *City of Flint*. The British *Stonegate* survivors were essentially permitted free reign of the ship, though the radio room was off-limits to all (mysteriously, the ship’s radio had become permanently disabled between the time the *City of Flint* hove to to accept the initial boarding party and the time her prize crew arrived aboard). The Arabs of the British crew refused to depart the engineroom as the weather got colder; they were permitted to sleep there.
Their ultimate destination was Hamburg, Germany. However, in view of near-complete British mastery of the seas, including a blockade of the North Sea, a direct route to Germany would assuredly result in their interception. Instead, Captain Gainard and LT Pussbach decided on a route that would take them between Iceland and the British Isles; and accordingly, after the Deutschland departed from view, they set a northeasterly course, heading generally toward the north coast of Norway, with Pussbach undoubtedly planning to avail himself of a safe transit southward toward Germany along the Norwegian coast in Norway’s territorial waters. This route (the “Indreled”) was well-known to the German Navy; in addition to a steady stream of Swedish iron ore moving south along it on German vessels departing the Norwegian port of Narvik, 70 German merchantmen returned to home waters between the war’s outbreak on September 1 and October 20, 1939, most of them along this route.

Other than the undoubted awkwardness and tension occasioned by three crews of different nationalities – two of them in a state of war with each other – involuntarily co-existing aboard the same vessel, this phase of the voyage (which was to end in Norway) was generally uneventful. The German sailors amazed the Americans by their appetites, eating so much that one split the seam of his uniform. Gainard had to talk his men – on nine separate occasions, according to him - out of attempting to re-take the ship, reminding them of the overwhelming destructiveness of the German weapons compared to anything they could bring to bear. No violence was ever perpetrated on either the Americans or the British seamen, though Pussbach had made clear, in a speech to both crews, that he would not hesitate to put them in lifeboats and sink the vessel in the event of any trouble. To darken the ship and avoid detection, Pussbach had the portholes painted and placed blankets over the entrances to the companionways. Whether or not due to these precautions, they did not sight another vessel before reaching Norway.
neared land, the prize crew painted over the American markings that were prominent both on the sides of the vessel and on top of the bridge-house, and also the stack marks that denoted the vessel’s operator, the United States Lines. In place of these markings they substituted a Danish flag painted on canvas, which they secured over the midship rail on both sides of the ship, and painted the name Alf on the bow and stern in place of City of Flint.

The voyage - stop in Norway

On the evening of October 20 the City of Flint, flying a German flag, entered the port of Tromsø, in northern Norway. This port visit appears to have been the product of a ruse employed by Captain Gainard and his crew to take advantage of international law. Article 21 of Hague XIII provides that a prize crew may only bring a prize into a neutral port “on account of unseaworthiness, stress of weather, or want of fuel or provisions;” and Article 22 further provides that the neutral state is required to “release a prize brought into one of its ports under circumstances other than those” listed above. Several days before arriving off the Norwegian coast, Captain Gainard and his Chief Engineer began discussing between themselves (but always in the presence of an English-speaking German) a supposed water shortage aboard the City of Flint. The idea was to cause the Germans to go to port without any real justification for doing so (as there was no real water shortage), which would require the Norwegian authorities to release the City of Flint and intern the prize crew, pursuant to Article 22.

Unfortunately, the Norwegian authorities were much too canny to fall for this ruse. They unquestioningly provided a water barge and filled the City of Flint’s potable waters tank without first sounding them; had they done so, they would have discovered that the vessel had a full tank they hadn’t even begun drawing from. Nor would they allow anyone ashore, as this would have
breached Norway’s Neutrality Provisions – an English-language version of which was provided to Captain Gainard. While in port, Pussbach was successful in purchasing nautical charts for the route along the Norwegian coast to Germany, which were not in the City of Flint’s inventory.20

The City of Flint’s arrival in Norway generated intense media interest; in the words of Captain Gainard, the news was “flashed around the world – and flashed and flashed and flashed after that.”21 This at least solved the mystery of what had become of her after she failed to make a scheduled position report to United States Lines, her operator, on October 12.22 Unfortunately, there wasn’t an American consul in Tromsø, and thus Captain Gainard was unable to speak to an official U.S. government representative while in port there. As a result, neither Gainard nor his crew could convey any messages of reassurance to their families, and the U.S. government remained in the dark regarding the most basic details of what had happened to the vessel and what its fate was. As late as October 26, despite a flurry of telegrams and consultations with Norwegian officials, American authorities were still desperate for even the most basic information about the incident: the name of the German warship that intercepted the City of Flint; whether or not the City of Flint flew the German flag; information as to why they had put into Tromsø; and most particularly, whether the captain and crew were still aboard the vessel.23

After filling the water tanks, Gainard and Pussbach were informed by the Norwegian authorities that they had to leave, which they did on October 21, twenty hours after their arrival. In issuing this order, Norway was fully complying with its obligation as a neutral state to require a prize vessel to leave as soon as the circumstances which justified its entry (in this case, the alleged water shortage) were at an end.24 Before its departure, the Norwegian authorities required the crew to paint over “Alf” on the bow and stern with the vessel’s real name, and to remove the
Danish flag and replace it with a U.S. one. They also permitted the British crew of the *Stonegate* to be landed ashore for eventual repatriation to England; this apparent merciful deed by Pussbach reflected a provision of international law which states that the “captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.”

As Captain Randall of the *Stonegate* and his crew had made such a promise, the provision applied; and surely LT Pussbach breathed easier having 38 less men, from a hostile belligerent no less, for whom he was responsible.

Captain Randall met with the U.S. consul in Bergen on October 26 and October 27, and the two statements he provided collectively gave the U.S. government its first official inkling of what had occurred aboard the *City of Flint*.

The voyage - Murmansk

While the *City of Flint* was in Tromsø, Pussbach had been ordered to sail for Germany through Norwegian territorial waters and the Great Belt (the principal strait connecting the Kattegat and the Baltic Sea). However, Norwegian authorities had only agreed to permit the *Flint* to use Norwegian territorial waters for 24 hours after their departure from Tromsø. The voyage from Tromsø, well above the Arctic Circle, to Germany would take far longer than 24 hours. This left Pussbach, were he to comply with his orders, with two unpalatable options: remaining in the relative safety of Norwegian territorial waters beyond 24 hours, which would undoubtedly prompt Norwegian enforcement action, including seizure of the *City of Flint*; or sailing southward outside Norway’s territorial waters, which would put them directly in harm’s way, between British forces that would be trying to prevent them from getting to Germany, and
German forces determined to facilitate the movement. On the other hand, by heading north, the hostile forces gathered to contest the *Flint’s* voyage to Germany could be avoided, and the northern Norwegian border could be reached in less than 24 hours, thus allowing for a relatively safe transit entirely within Norwegian waters. As Pussbach’s orders permitted him to round the North Cape and go to Murmansk as an alternative destination if the route to Germany was not secure\(^3\), he selected this option; and as a result, the *City of Flint* rounded the North Cape, unexpectedly entered Kola Bay, and dropped anchor in the port of Murmansk in mid-afternoon on October 23.

The vessel’s sojourn in the Soviet Union was marked by bumbling and dissembling by the Soviets, and frustration on the part of the *City of Flint’s* crew and the American diplomatic service. Gainard and his crew’s impression of the Russians was very bad – according to Gainard, “they seemed inefficient and stupid and unfriendly to us all.” Gainard states that the customs men who boarded his vessel were mostly civilian laborers, were dressed in very poor clothing, and acted as though they were doped. When they finished work, they simply lay down on the deck wherever they happened to be, and never moved or looked up when members of his crew walked along the deck, stepping over them.

Despite this official lassitude, the port visit began extremely auspiciously aboard the vessel. A Soviet boarding team came aboard and took the German prize crew ashore to be interned there, leading Captain Gainard to assume he had seen the last of them. That assumption was bolstered early in the morning of October 24, when the Russian Naval Port Officer informed Gainard that the vessel was free to go as soon as the authorities returned the ship’s documents to the vessel. Unfortunately, the crew had begun overhaul of one of their three boilers upon entering port, as
they typically did after a long voyage; and though this did not present a physical barrier to them leaving (they could have sailed on two boilers, cutting in the third once the overhaul was complete), Captain Gainard felt no particular rush to leave. They were, after all, as he states in his book, “a free neutral ship in a supposedly neutral country.” As events unfolded, Gainard and his crew would come to regret not sailing when they had the chance to do so.  

In the meantime, U.S. authorities were desperately trying to contact the City of Flint, and also to find out what was going on from Soviet authorities. For the duration of the vessel’s sojourn in Murmansk, U.S. authorities were frustrated by the “objectionable practice” for Tass, the official Soviet news agency, “to publish information through the medium of communiques before the representatives of interested governments are acquainted with the subject or contents.” It was via a Tass communique that Secretary of State Cordell Hull first became aware that the City of Flint had arrived in the USSR with a German prize crew on board and that the “crew” has been interned. Uncertain as to whether it was the American crew or the German crew that had been interned, Hull directed U.S. Ambassador to the Soviet Union Lawrence A. Steinhardt to “[t]elegraph immediately such information as you can immediately obtain from Soviet authorities” in answer to that question. By response cable 789 of October 24, 1939, Steinhardt was able to reassure Hull that it was the German crew to which the Tass communique referred. Steinhardt was forced to rely on the communique itself for this information, as he had not received any direct information from Soviet authorities at this point, and was not sanguine about his prospects of reaching Minister Potemkin (the Assistant People’s Commissar for Foreign Affairs, Steinhardt’s direct point of contact with the Soviet government) that day, since it was a rest day in the Soviet Union.
Things got progressively worse for Ambassador Steinhardt in the coming days, as he was constantly bombarded with requests for information from his superiors, but was stonewalled by Soviet authorities at every turn. As late as the evening of October 25, an increasingly irritated Hull expressed his continued frustration with Soviet authorities, particularly lamenting the dearth of information regarding the whereabouts and condition of the vessel’s officers and crew, and informed Steinhardt that “[y]ou might wish to throw out a hint, of course, without commitment, to the effect that there is after all some relationship between the treatment accorded our vessels in a foreign port, and the treatment to be expected of foreign vessels in our ports.”

This stonewalling, as Hull reminded Steinhardt in a dispatch sent the next day, directly contravened the Soviets’ obligation to “grant without delay” a request by a consular agent to visit a U.S. citizen detained in the U.S.S.R. – an obligation memorialized in an exchange of notes on November 16, 1933. It wasn’t until 11 P.M. on October 25 that Steinhardt, in dispatch 799, is able to report that he had met with Potemkin, who finally confirmed that the ship’s officers and crew were safe on-board.

Both Gainard and Ambassador Steinhardt were also stymied by Soviet authorities in their efforts to contact each other. On several occasions, Gainard asked port authorities to pass a message to the American Ambassador in Moscow, or alternatively, for permission to go ashore and call the ambassador. Despite vague promises, those opportunities were never provided; Gainard never heard from nor spoke to any U.S. representatives during the port visit, and neither he nor his crew were permitted to go ashore. This was particularly galling to Gainard, who notes that the crews of other neutral vessels, as well as self-interned German ships in harbor like the liners Bremen, New York, St. Louis, and Hamburg, were given free shore access. For his part, Ambassador Steinhardt was told on several occasions that he would be permitted to speak with
Captain Gainard via telephone; but on each occasion, though a telephone link to Murmansk was established, Captain Gainard was not waiting at the other end of the line to take his call. Steinhardt attempted to charter an airplane, but none were supposedly available; he attempted to get permission for a deputy to travel by train to Murmansk, a closed area, but that permission never came. Some of these difficulties may have been due to Soviet infrastructure, which Steinhardt describes as “execrable.” However, it is very obvious that the Soviets, for reasons to be discussed later, were actively attempting to ensure that the Americans were kept away from each other and in the dark about the situation.

In the meantime, confusion reigned as to the factual circumstances under which the *City of Flint* entered the port of Murmansk. Recall that according to Article 21 of Hague XIII, the circumstances under which a prize vessel may enter a neutral port are very limited: unseaworthiness, stress of weather, or want of fuel or provisions. Furthermore, pursuant to Article 22 of the convention, if the vessel enters for any other reason, the neutral state is required to free it. It was assumed by U.S. officials (in the absence of any explanation) that the Soviet authorities had concluded that none of the predicate conditions of Article 21 existed aboard the *City of Flint*; and thus (it was further assumed), these authorities were carrying out their obligations as a neutral state under Article 22 when they removed the prize crew and pronounced the vessel free to go.\(^{38}\)

This question rose to the fore as disquieting reports began to filter out, first, that the German prize crew had been released from their internship, and secondly, that they were going to be restored to the *City of Flint*! Gainard and his crew heard this report via a short-wave radio set aboard the vessel; ironically, they were to discover through listening to it that the world knew
more about their situation than they did. The American authorities knew little more; as always, the first reports of this nature they received were from Tass news reports, not directly from Soviet authorities. These reports led to a mad scramble to find out what was going on – why the vessel had come to Murmansk in the first place; why the German crew had been interned; why they had been released from their internship; and why, as it turned out, the *City of Flint* ultimately departed Murmansk on October 28, 4 days, 23 hours and 10 minutes after her arrival, once again under the command of the German prize crew.

The answer to “the question” varied according to who provided it, and when the answer was provided. The official German version of events, as conveyed by the German Foreign Office to the American Chargé in Berlin, Alexander C. Kirk, on October 25, was that the *City of Flint* went to Murmansk because she was “unseaworthy” due to the absence of navigation charts adequate for bringing the ship into a German port – an assertion that we know to be false, as Pussbach had purchased charts during the Tromsø port call. On October 26, the Foreign Office amended its explanation, informing Kirk via memorandum that the *City of Flint* was taken to Murmansk because of “sea damage” (*havarie*). The German official providing the memorandum stated that in his opinion, the term *havarie* would cover the case of a ship lacking charts with which to navigate the waters through which she had to proceed.40

Unofficially, a member of the German Embassy in Moscow informed Ambassador Steinhardt in strict confidence that upon arrival in Murmansk, Pussbach presented a “written protocol” to the Murmansk port authorities to the effect that he had put into port for the following reasons: (1) repair of encrusted boilers; (2) absence of suitable charts “for the waters in that area” (3) absence of adequate sounding instruments on board; and (4) to obtain provisions and stores. The source
also told him that he believed there was little chance the *City of Flint* would reach a German port, but rather than permit her to be captured by the British, Pussbach would remove the crews and sink her.⁴¹

Finally, what was the Soviet view of the events? The first explanation – naturally - came from Tass at 1:30 AM on October 26, which reported that the *City of Flint* had put in to Murmansk by reason of damage to her machinery (Gainard’s decision to do a routine boiler overhaul while in Murmansk unwittingly provided the Soviets with a useful factual pretext for this assertion). The “official” explanation for Soviet actions came from Potemkin, first verbally during a meeting with Ambassador Steinhardt on October 27, later through an informal memorandum provided to Steinhardt on November 4. In the memorandum, Potemkin informed Steinhardt as follows: (1) the *City of Flint* showed up at Murmansk at 2:40 PM on October 23ʳᵈ, without prior notice or warning; (2) the prize crew captain (Pussbach) informed Soviet authorities that the engines needed to be repaired and they needed supplies, without which they could not have continued their voyage; and (3) Pussbach and his crew were removed and temporarily housed ashore “in order to assure the crew of the *City of Flint* the possibility of effecting without disturbance the repair of the ship’s machinery and to guard against any kind of misunderstanding between the American sailors and the German prize crew.”⁴² During the October 27 meeting, Potemkin informed Steinhardt that, “[w]hen the Soviet authorities in Murmansk judged the vessel was again fit to put to sea, and being desirous of preserving its neutrality, the Soviet government had ordered the vessel to leave the port of Murmansk immediately under the same conditions as those of her entry, namely, with both the German and American crews aboard and her cargo intact.” Furthermore, according to Potemkin, the actions of the Soviet government were “not only in accordance with the well-recognized principles of international law and consonant with
the obligations of a neutral, but that it was also the correct position to take as between the conflicting claims of the United States and Germany to possession of the vessel and her cargo. . .

Ambassador Steinhardt offers this explanation of the obvious Soviet falsehoods and their actions in this case in a dispatch dated October 29, 1939:

I am of the opinion that when the City of Flint arrived at Murmansk the German prize crew claimed the right of entry [for the reasons stated in Pussbach’s “written protocol” described by the confidential German embassy informant], but that the examination of the vessel by the Soviet authorities disclosed that the actual conditions did not bring the vessel within the scope of [Article 21 of Hague XIII]. The Soviet Government thereupon proceeded to intern the German prize crew pending consultation with the German Government. I have little doubt that the German Government counseled the Soviet Government not to challenge the grounds of entry, even though they might not be sound or sufficient, but to release the German prize and permit them to take the vessel to sea. The Soviet Government was then faced with the necessity for deciding whether to proceed in accordance with international law, keep the German prize crew interned, and release the vessel to her American crew; or become a party to a conspiracy to protect Germany’s interests. The decision was disclosed when a Tass communiqué was broadcast to the world at 1:30 a. m. on October 26, announcing the release of the German prize crew from internment and at the same time stating that purpose [of] entry had been damaged machinery.
Ambassador Steinhardt concluded by stating that “I appreciate the seriousness of charging what amounts to a conspiracy between the Soviet and German Governments, but on the basis of a thorough and objective review of the events of the past 4 days and nights I feel justified in arriving at such a conclusion. Furthermore, such a conspiracy would be quite consistent with the past course of the Soviet Government.”

As to the question of why the Soviet government would engage in this apparent perfidy, at the risk of alienating the United States, Steinhardt offers this explanation:

[T]he deliberate failure of the Soviet authorities to furnish me satisfactory information and to keep me informed and the evasions and obstructions to my communicating with the American crew will not be difficult to understand when examined in the light of my telegrams over the past 2 months in which I have emphasized that the Soviet Union has been, and is acting in fact, if not in law, as a silent partner of Germany in the existing conflict. . . . In the present case in view of the close collaboration of the Soviet Union with Germany which is based on self-preservation and fear of German armed might, the Soviet Union has demonstrated by its actions that it clearly prefers to remain in the good grace of Germany even at the expense of the impairment of its relations with the United States choosing what appears to its leaders to be the lesser of two evils.
That the Soviets were not cavalier in their actions toward American authorities nor unconcerned by the potential consequences is demonstrated by this message sent by German naval authorities to Deutschland and Admiral Graf Spee on October 30:

Owing to American objections, political complications have arisen for Russia through the City of Flint (taken in prize by the Deutschland) putting into Murmansk. Russia requests that repetitions be avoided. In future dispatch prizes to Kiel via neutral territorial waters. Calling at intermediate ports only in accordance with Article 21 of the XIIIth Hague Agreement.\textsuperscript{48}

The U.S. also had a motive to minimize conflict related to the City of Flint matter, which “unfortunately complicated” relations with the Soviet Union that were already under strain due to U.S. efforts to dissuade the Soviet Union from attacking Finland and adding that country to the list of other Baltic states – Estonia, Latvia, and Lithuania – that she had gobbled up “like a catfish waiting in the mud for anything to come along.”\textsuperscript{49} The end result is that by early November 1939, U.S. officials determined that it would “serve no purpose to press the [City of Flint] matter further at the present time . . . [I]t is not to be expected that the Soviet Government will confess to any derelictions in writing. Further inquiries and representations will probably result merely in the prolongation of an unprofitable argument and useless recriminations.”\textsuperscript{50}

The voyage – departure from Murmansk to liberation

Upon the return of the German prize crew to the City of Flint, Gainard was ordered to leave Murmansk within 24 hours; which they did at 5:55 PM local time on October 28, heading westward toward Norway, escorted by a Russian customs boat with its gun uncovered and
trained on them. Once they re-entered Norwegian territorial waters, a Norwegian destroyer, the Stegg, took up their escort. Together, the two vessels – the Flint again flying the German flag – entered the port of Tromsø at 1300 on October 30. During their 3-hour port call, during which they neither anchored nor tied to a pier, but steered at slow speed through Tromsø Strait, the Russian custom seal on their cargo hatches was replaced by a Norwegian one, and they were issued permit papers allowing them to remain in Norwegian waters for the duration of their southbound transit toward Germany.

After this brief stop in Tromsø, the Flint began her southbound transit along the Norwegian coast toward the entrance of the Baltic and her ultimate destination, Hamburg. During this transit, she was escorted by the destroyer Aegger and the torpedoboat Stegg; when the minelayer Olaf Tryggvason showed up, she took over Aegger’s duties, which then departed. These warships were under orders to intervene not only if the Flint anchored or stopped in a Norwegian port without justification, but also if she was attacked while in Norwegian waters. This latter concern was all too real. Despite a request by the U.S. government to both the Germans and the British not to expose the crew of the City of Flint to unnecessary danger, both of these adversaries were engaging in a “grim game of hide and seek,” actively endeavoring to respectively facilitate or impede the Flint’s voyage to Germany. German sources proclaimed to the world’s media that their U-boat commanders were confident in their ability to safely escort the Flint southward, and that they would be “only too happy” if British warships attempted to take the City of Flint. And British authorities, who were keenly aware of where the Flint was, tasked the cruiser Glasgow and accompanying destroyers to be on the lookout for her.
And in fact, British surface forces provided the *City of Flint* with her greatest scare during her southbound transit. In the very early morning hours of November 3, a British *Birmingham*-class (9,100 ton)\(^5\) cruiser that was escorting several vessels approached the *Flint* and her escorts, shone a spotlight on the *City of Flint*, and signaled, “What vessel?” Her Norwegian escorts responded by shining a spotlight in turn on the cruiser, and responding “HMS *Olav Tryggvason*. You are in Norwegian territorial waters.” The British cruiser responded, “I will not interfere with your rights. I thought your friend was coming out [of Norwegian waters]. Good bye;” after which the cruiser loomed out of sight.\(^6\) After undoubtedly heaving a sigh of relief following this harrowing episode, the *City of Flint* and her escorts continued their voyage.\(^6\)

As the *Flint* approached the port of Haugesund near the southern end of Norway and faced the imminent and hazardous prospect of departing Norwegian waters and crossing the North Sea to Germany, Gainard, “as a desperate resort,” asked the *Olaf Tryggvason* to provide a doctor to examine one of his crew, Allison Sellars of Wilmington, North Carolina, who had scraped his shins. Dr. Gron from the *Olaf Tryggvason* was sent aboard the *Flint*, diagnosed nothing serious, and simply applied some bandages.

At about the same time, the German merchant vessel *Schwaben* approached the *City of Flint* and signaled her as follows: “Stop immediately. Go to Haugesund. Meet the consul there at the Hotel Bristol. I’m following you.” This directive was relayed at the behest of the German Vice Consul in Haugesund, Herr Lanwer. Lanwer had received a letter from Pussbach dated October 31, stating that the *Flint* would be in Haugesund at 3 A.M. on November 3, and that he would like to meet with the consul. Lanwer had also received a “personal for” message from the German Foreign Ministry dated November 1, directing him to order the *Flint* to use the
Norwegian territorial sea through the Great Belt via Holtenau (a suburb of Kiel) to Hamburg.

This message further directed Lanwer to immediately report the *Flint*’s departure from Haugesund.62

When the *Flint* did not arrive in Haugesund in the early morning of November 3, as promised, Lanwer, unsure how best to comply with his orders, first chartered a motorboat and went looking for her. When that search was unsuccessful, Lanwer decided to deputize the *Schaben*, which was in Haugesund preparing to make the dash to Germany, to direct the *Flint* to approach (anzulaufen) Haugesund if the *Schwaben* was to encounter her in nearby waters. According to Herr Lanwer, he did not tell the *Schwaben* to direct the *Flint* to actually enter port; that message was the product of imprecision in communications by signal lamp (used by *Schwaben*), which resulted in a message being conveyed that was more literal than he intended.63

Before entering port as directed, Pussbach, undoubtedly concerned that the Norwegians would not look kindly upon an unauthorized stop, requested permission from his escorts to enter port, ostensibly to hospitalize *Flint* crewmember Sellars. This request was denied. He also suggested to Gainard’s chief engineer that the vessel develop “engine-trouble,” but Gainard declined, knowing all too well that a stop for engine trouble would give Norwegian authorities no grounds to intern the German prize crew. Despite explicit Norwegian denial of permission to come into port, and without any valid pretext for doing so, Pussbach ordered Gainard to enter Haugesund harbor and anchor, which they did at approximately 1800 on November 3.

Once in port, Pussbach attempted to convince the Norwegians that they had anchored to deliver the injured crewman to the American Consul, but it was obvious to Gainard that this assertion was not being favorably received. The *Olaf Tryggvason* anchored very close to the *City of Flint*
that night, leading Gainard to suspect that something was up. Sure enough, near midnight, a Norwegian armed boarding party of approximately 20 sailors and officers under the command of the *Olaf Tryggvason*’s second-in-command, Commander Dynsnor, boarded the *City of Flint*. The boarding was not opposed by the German prize crew, which was apparently asleep. American Ambassador to Norway, Mrs. J. Borden “Daisy” Harriman, later characterized this apparent German lassitude as follows: “It was evident that, being typically German, the Prize Crew was confident that no one in Norway would dare to hold the ship.”

Dynsor placed some of his team in strategic positions on the ship; not to be outdone, Gainard had his engine force take position in strategic locations in and around the machinery spaces to prevent access to them. Dynsor then began rudely rousting the German prize crew from their slumbers and gathering them and their weaponry in a small boat moored alongside. Just to be on the safe side, the *Olaf Tryggvason* trained her searchlight and guns on the *City of Flint*, and the *Stegg* was alongside the *Flint*’s port side, with her guns trained on the *Flint* as well. Finally, after a period of consultation between Dynsnor and Pussbach, the latter dejectedly joined his crew under Norwegian guard, awaiting transportation to the *Olaf Tryggvason*.

Before Pussbach departed the *Flint*, he and Captain Gainard, who had become quite friendly with each other, shook hands and promised to meet after the war had ended. The prize crew was interned in Kongsvinger Fortress in southern Norway. According to Captain Gainard, “[Pussbach] was a decent, well-meaning sailor who had the misfortune to be born in the wrong country.”

An hour or so after the prize crew was whisked away, Captain Gainard was invited to the *Olaf Tryggvason*. Her Commanding Officer, Captain Brierset, informed Captain Gainard, “Captain,
congratulate you, I am glad you are free. I am glad that we were part of this successful operation; so are your Minister and my Admiral. Incidentally, your Minister and my Admiral want me to inform you that the *Olaf Tryggvason* sails for Bergen in an hour and Bergen is a delightful place to spend a weekend.” Gainard accepted this implicit invitation; and so it came to be that the *City of Flint*, accompanied by the *Olaf Tryggvason* and the *Stegg*, sailed triumphantly into Bergen in the morning of November 4.

**Reactions, Explanations, and Recriminations**

On November 4, the German Legation in Norway duly advised the Royal Norwegian Ministry of External Affairs that “as long as the matter of the *City of Flint* between the German and Norwegian governments is still under discussion, the *City of Flint* should not receive permission to depart from Norwegian territorial waters and that the Royal Norwegian Government should do everything in their power to prevent a departure.” Once it became clear to the German legation that their previous note had been overcome by events, the *charge d’affaires*, Von Neuhaus, informed the Norwegian Minister of External Affairs (Koht) on November 4 that he raised “the sharpest protests” against Norwegian actions in the case, and stated that if the *City of Flint* were permitted to leave the port of Haugesund, “the German government herewith wishes to draw attention to the fact that serious consequences could arise.” The Norwegian government provided these notes to U.S. officials “for [their] confidential information;” they were in turn relayed to Washington.69

American authorities were skeptical that the German government was truly as aggrieved by Norway’s actions as it purported to be, interpreting the *City of Flint’s* somewhat unusual behavior in returning to Haugesund to reflect a realization that British interception of the *City of
Flint was likely – which would embarrass Germany on the world stage. Typical is the view of the secretary of the American legation in Oslo (Cox), who wrote that “[i]t is currently surmised that the German authorities must have felt that there was a probability of British recapture of the City of Flint from the German prize crew, which would not have redounded to German prestige; and that it was better to have the ship put in to a neutral Norwegian port, regardless of neutrality regulations, argue the question, and if obliged to give it up, to have at least a grievance or in any event an excuse to present to the German public.”\textsuperscript{70} Norwegian authorities felt the same way, speculating that the Germans wanted to get rid of a troublesome vessel that had already received a great deal of publicity in the world press.\textsuperscript{71}

Interestingly, this speculation, however reasonable it may seem, is incorrect; the Germans were genuinely unhappy at the affair’s outcome. Official German naval records, which contain the contemporaneous, presumably candid remarks of naval staffers, refer to the outcome as being “particularly regrettable,” and opine that “it would have been quite possible to proceed with the ship to home waters if all the officials concerned had been energetic, punctilious, and responsible.” Those records place principal blame on the Vice Consul Lanwer in Haugesund, who had only been in the job a short time and who, by underestimating the importance of the ship and wrongly interpreting directives sent to him, “was largely instrumental in the failure which accompanied the bringing in of this ship.” They also, for unspecified reasons, characterize Pussbach as being “unequal [to] his task.”\textsuperscript{72}

Regardless of fault, it was a rare military failure for Germany in the early stages of the war, and brought with it the unpleasant task of breaking the bad news to Hitler. This led to an extraordinary, acrimonious exchange between Foreign Minister von Ribbentrop and
Großadmiral Erich Raeder. On November 10, Ribbentrop wrote a “personal for” letter to Raeder stating in relevant part that

I regret but have to tell you that what happened and how it was communicated is not acceptable to me. . . The War Cabinet complained to the führer without first consulting with the Foreign Ministry. . . . Those complaints were wrong in blaming the actions of my vice consul when all the guilt and responsibility [for loss of the Flint] is on you. . . I ask that if something like this happens in the future that you consult with me or my department beforehand before taking it to the führer.

On November 14, Raeder, not to be outdone, responded as follows:

The way and the form you used in your letter makes it very difficult to respond in a neutral way to you. Leaders have to put aside their personal feelings in service of the nation. I understand you fully support your vice consul, but you have to understand that the Sea War Council (Seekriegsleitung) is not solely responsible for the loss of the prize.

Regardless of ultimate fault, the errors that resulted in the loss of the Flint led the German Naval Staff to conclude that “greater care than ever must be taken to word its orders to Reich authorities and merchant shipping as thoroughly and as clearly as possible.” To prevent a repetition of such errors, the Chief, Naval Staff ordered that naval reserve officers be detailed to the consulates in all the important Norwegian naval ports. And as a final measure, the Commander, Submarines was instructed if possible to station one or more boats in a position to intercept the City of Flint if she were to sail, and “bring her into a German port after stopping her
in accordance with prize regulations.” For this purpose, by November 5, submarines U34 and U61 were stationed in waiting positions (off Sogne Fjord and Kors Fjord, respectively) for the City of Flint.73

The End of the Ordeal

As opposed to the Flint’s previous visit to Norway, when U.S. officials weren’t even aware she had pulled into port until after she had departed, the U.S. Consul in Bergen, Maurice P. Dunlap, and several Norwegian authorities were waiting for her and boarded her immediately after she anchored in what Gainard describes as “the choicest anchorage in Bergen harbor” – one that couldn’t have been improved upon “[even] if we’d had the King of Norway aboard.” Also, unlike with previous visits, the Flint was definitively under American control, with the U.S. flag flying and the home port “Philadelphia” gleaming in fresh white paint from the stern.74

Gainard undoubtedly wistfully rued the loss of his and his vessel’s former obscurity when he encountered the media frenzy that awaited him in Bergen. Bergen “teemed with journalists eager for news;” “[t]he Consul’s telephone was ringing day and night and telegrams were streaming in.”75 Gainard was immediately whisked ashore, bypassing what he describes as “an army” of reporters clamoring for details of the voyage. Once safely cloistered in Consul Dunlap’s office, Gainard executed two written statements regarding his ordeal – one for his time in Murmansk, the other concerning the rest of the voyage other than Murmansk. This priority in giving a statement first to U.S. authorities was the product of verbatim instruction from United States Lines to Captain Gainard: “Do not give any publicity before full report made American Consul after which any statement to press should first receive approval American Consul.”76
Once he completed his statements, Gainard’s true media ordeal began; he was “besieged by local requests and cable offers from United States newspapers for his full story.” He began by answering telephone calls “from around the world;” later, he made radio broadcasts back to the U.S., conducted press conferences in the hotel where he was staying, and even filmed a Paramount news reel clip aboard his vessel. It was during the latter event that the strain of the voyage and its aftermath manifested itself. He broke down and had to be taken to a room at the Marine Naval Station where he lay down and recovered – without, so he proudly relates, the assistance of a proffered glass of whiskey, “as he does not touch liquor.”

As for his crew, despite having been confined to the vessel the entire time it was a German prize, they were denied shore leave from November 4 until 6 PM on November 10, until “all necessary affidavits had been cabled . . . and tense [political] situation ashore [was] considerably eased.” This caused some grumbling by the crew (one accused Gainard of treating them like dogs), and according to U.S. officials, some of the men were “on the verge of hysterics.” The only people allowed aboard (other than, presumably, Norwegian and U.S. government officials) were two barbers, neither of whom spoke English. Despite these instructions, two members of the press – described by Consul Dunlap as “two of the cleverest reporters in Bergen” - did get aboard, and talked to and photographed the crew. One was an American female reporter (Elsa Mowinckel) who got on the ship’s accommodation ladder, ordered her launch away, and was swaying “helplessly to and fro until rescued by [the] gallant crew.” The other, Mr. Egil Tresselt, went aboard and distributed free newspapers to the crew, who were starved for news, and thus gained their confidence. Both stories resulting from these visits were deemed accurate, straightforward, and not harmful.

28
It took a personal ship visit by Ambassador Harriman (who, ironically, had traveled to Bergen on the same train as the German Naval Attaché, who was journeying there to protest the freeing of the *City of Flint*), and Captain Gainard arranging for a liberty launch at his own expense, to finally appease his restive crew.\(^{82}\) Eventually things settled down, and Gainard and his crew enjoyed their minor celebrity status\(^{83}\) while indulging in a round of cocktail parties and dinners with the friendly and accommodating locals.\(^{84}\) All good things must come to an end, however, and Gainard began turning his attention to what to do with his vessel and her cargo. The United States Neutrality Act of November 4, 1939 had come into effect during their ordeal, and President Roosevelt had exercised the authority given to him by the act to declare the waters around Britain to be off-limits to American vessels;\(^{85}\) thus, England was out as a destination.\(^{86}\) Fortunately, offers had been coming in from Scandinavian companies to purchase their cargo; and Norwegian authorities gave them permission in late November to sail to Haugesund to discharge their cargo which, except for the apples which had begun to rot, was in good shape. They stayed in Haugesund for about three weeks,\(^{87}\) returned to Bergen for fuel, and then departed Bergen in ballast for the last time at 10 PM on Christmas Eve for Narvik, where they took on a load of iron ore.

After having to effect temporary repairs after the British freight ship *SS Baron Blythswood* dragged anchor during a gale and rammed them, they departed Narvik on January 7, 1940. Their concerns about being the subject of violent or unfriendly acts during their return voyage must have been considerably eased by a telegram from Secretary of State Hull to Consul Dunlap that read as follows:

> From Berlin we have been informed from the German foreign office
that in view of its understanding that the cargo of the City of Flint is landed at Bergen [note – actually not correct; it was discharged in Haugesund], the German naval command has ordered all warships not in any way to interfere with the City of Flint while it is on its voyage to the United States.\textsuperscript{88}

This decision by Germany was undoubtedly motivated by a desire to avoid further offense to the U.S., and was made easier by America’s adoption of the Neutrality Act on November 4, 1939. This act was “very much welcomed” by the German Naval Staff, as it permitted them to intensify their merchant shipping warfare against Britain “under political conditions very favorable to [them]selves as none of these measures need lead to clashes with the United States.”\textsuperscript{89} It also led the German Foreign Ministry on November 9 to urgently request the Naval Staff to treat American ships “with the utmost consideration in order to avoid all possible occasion for tension with the United States.”\textsuperscript{90} Thus it came to be that the only enemy the City of Flint faced on her return voyage was the typical rough conditions of a North Atlantic winter.\textsuperscript{91}

After a relatively event-free transit, she arrived home to a hero’s welcome in Baltimore on January 27, 1940.\textsuperscript{92}

The Rest of the Story

The saga of the City of Flint was the news of the day, so to speak, but was soon overshadowed by the tectonic events of World War Two. Nonetheless, it did play an influential role in several areas of significant import. The first was in “clinching”\textsuperscript{93} America’s adoption of the 1939 Neutrality Act. President Roosevelt himself used the Flint case to leverage recalcitrant lawmakers, publicly lamenting that without the authority the act would provide him, he had no
power to stop other U.S. vessels like the *Flint* from sailing into war zones and thus endangering America’s neutrality. Adoption of the act followed shortly thereafter. Also, the *Flint* case is characterized by Norwegian sources as being the first of multiple incidents that collectively led to the German invasion of Norway in spring 1940.

The international law principles that applied in this case are still extant today. However, as large-scale armed conflict has fallen out of favor with the adoption of the U.N. Charter at the end of World War II, the law of neutrality in general, including the law relating to prizes and their disposal, has fallen into relative desuetude.

Other than the capture of the *City of Flint* and the sinking of the *Stonegate*, *Deutschland*’s only other success on this voyage was the sinking of the Norwegian *Lorentz W. Hansen* on 14 October. Though these results would seem to be rather disappointing, German authorities considered her secondary objective – her indirect effect on the volume of merchant traffic as a whole to enemy countries, as well as tying down strong enemy forces and their increased wear and tear – to have been fully achieved. She successfully broke through a British cordon of auxiliary cruisers on the lookout for her in the Denmark Strait, between Iceland and Greenland, and returned to Germany on November 16, 1939.

America remained a neutral until 1941; while in this status, its vessels continued to be detained by belligerents exercising their right of visit and search. Ironically, the naval hegemon of the time, Great Britain, was the biggest “culprit,” exercising that right aboard U.S. vessels far more frequently than Germany or any other nation. For example, between the declaration of war on 1 September 1939 through 8 November 1939, of 40 reported detentions of U.S. vessels, 25 had been done by Britain, 10 by France, 4 by Germany (including the *City of Flint*), and 1 by an
unknown nation. While some of these boardings resulted in cargo diversion and the like, only one – the *City of Flint* – resulted in actual seizure of a U.S. vessel as a war prize.\(^{97}\)

Captain Gainard, whose coolness, savvy, and professionalism kept his crew alive and his vessel afloat during this most trying ordeal,\(^{98}\) was awarded a Navy Cross upon his return to the States that reads as follows:

> For distinguished service in the line of his profession so ably demonstrated while master of the steamer *City of Flint* at the time of its seizure upon its high seas and during its detention by armed forces of a belligerent European power. His skill, fine judgment and devotion to duty were of the highest order and in accordance with the best tradition of the Naval Service.\(^{99}\)

He also published an autobiography in 1940 that provided much of the on-board factual information for this article. He was recalled to active duty on 30 July 1941, and successively commanded the submarine decoy ship *USS Big Horn* (AO-45) in the Caribbean\(^{100}\) and the attack transport *USS Bolivar* (APA-34) in the Pacific.\(^{101}\) In his honor, an Allen M. Sumner-class destroyer, the *USS Gainard* (DD-706), was named for him, and was commissioned on 23 November 1944. Unfortunately, Captain Gainard wasn’t around to see it sail; he died while on active duty of heart disease on 23 December 1943.

And what of the *City of Flint*? On 27 January 1943, while attempting to catch up to convoy UGS-4 she had fallen out of due to shifted cargo occasioned by a storm, she was sighted by Captain Gunther Heydermann and the crew of the *U-575*. At approximately 2200, a torpedo tore into her port side and ignited the oil and gasoline stored in the number one hold. She was
immediately engulfed by huge sheets of flame, and upon being struck by a second torpedo further aft on her port side, she sank bow first approximately 300 nautical miles south of the Azores with the loss of six of her crew.

Thus disappeared from view this stalwart vessel; and similarly, the story of her ordeal at the beginning of World War II has almost completely slid from public view during the past 50 years. Hopefully this article will restore this remarkable tale of maritime legal history to the level of public prominence it so richly deserves.

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1 The *City of Flint* was built at Hog Island, Pennsylvania, in 1920 by the American International Steamboat Corporation. She was 390 feet long, with a breadth of 54 feet, draft of 27' 8", and a displacement of 4963 gross tons.


3 Joseph Gainard, *Yankee Skipper: The Life Story of the Captain of the City of Flint* (New York: Frederick A. Stokes Company, 1940), p. 1. Unless otherwise noted, personal information about Captain Gainard and details regarding events aboard the *City of Flint* during the voyage, other than the visit to Murmansk, comes from two sources: *Yankee Skipper*; and General Records 1939, “Gainard Affidavit (enclosure 1 to American Consul Bergen letter 202 to Secretary of State Hull, November 11, 1939),” file 711-804.9, RG-84, National Archives.

4 Her destination ports were Manchester, Liverpool, Dublin, and Glasgow.


7 Naval Historical Collection, Naval War College RG 8, Box 1, Part A, volume 2, October 1939: German Naval Staff War Diary, October 11, 1939, pp. 70-71.


9 The U.S. proclaimed its neutrality in Presidential Proclamation of Neutrality, 4 F.R. 3809 (September 5, 1939).


13 Lieutenant Lion T. Miles. “Three Cases of International Law”, U.S. Naval institute Proceedings (August 1941): 1147. Britain had issued her own contraband regulations 4 days before Germany’s.

14 Articles 30, 33, and 34, “Naval Conference of London 1909.”
Upon a valid seizure, the warship’s captain is entitled to “put on board the seized vessel a crew sufficient to retain possession of it, maintain order upon it, and conduct it to such port as he may see fit. “Oxford Manual of 1913”, Article 100.

General Records 1939, Statement by the Stonegate’s Captain Randall to the U.S. Consul in Bergen, Norway, October 26, 1939.

German Naval Staff War Diary Part A, volume 2, October 20, 1939, p. 132; E.A. Steen, Norges Sjøkrig 1940-1945, Bind I, Sjøforsvarets nøytralitetsværn 1939-1940 (Oslo 1954), p. 36

Edward T. Folliard, “Flint’s Men, Home, Tell of Love in Norway, Duplicity in Russia, and Plot to Retake Ship,” Washington Post, January 28, 1940. This article further reported that, “They liked the jam so much they spread it on their meat and potatoes. They called it gravy.”

All of the principal players in the City of Flint saga – Germany, Norway, the U.S.S.R., and the United States – had ratified the convention and had not withdrawn from it as of 1939. However, the convention was technically not applicable, since Great Britain never ratified it, and Article 28 of the convention states that its provisions only apply “if all the belligerents are parties to [it].” Nevertheless, the U.S.’s position, which was apparently shared by all of the principal participants, was that these provisions were “declaratory of the existing law of nations independently of conventional undertakings” – that is, were customary international law binding on all nations, regardless of technicalities in the written law. General Records 1939, “Telegram 208, Secretary of State Hull to U.S. Ambassador to the Soviet Union Steinhardt, October 24, 1939.


22 The vessel was owned by the U. S. government (specifically, the United States Maritime Commission), but was operated under charter by United States Lines.

23 General Records 1939, “Memorandum of October 26, 1939.”

24 Article 21 of “Hague XIII.”

25 Article 6, “Convention (XI) Relative to Certain Restrictions with regard to the Exercise of the Right of Capture in Naval War” October 18, 1907 (in Schindler, *The Laws of Armed Conflict*, pp. 1091-1092). Both Britain and Germany signed this convention on October 18, 1907, and both ratified it on November 27, 1909.

26 The Washington Post reported on October 30, 1939, that the Norwegian steamer *Mira* dropped off the *Stonewage*’s crew at an unidentified port on the northeast coast of England that day.

27 These two declarations were conveyed to the Secretary of State via General Records 1939, “Confidential telegraph 86, October 27, 1939.”

28 German Naval Staff War Diary Part A, volume 2, October 22, 1939, p. 144.

29 Pussbach report, German Naval Staff records, Maritime Law and Prize Rights Section, PG 33720, October 1939 to March 1940. The Norwegians based time limitation on Article 12 of Hague XIII, which provides that “belligerent war-ships are not permitted to remain in the . . . territorial waters of [a neutral] Power for more than twenty-four hours . . . .” The Norwegians later changed their stance, correctly concluding that the *Flint*, though a war prize, was not a warship. Statement of Norwegian Foreign Office, General Records 1939, “Enclosure 1 of Ambassador Harriman letter 522 to Secretary of State Hull, November 7, 1939,” file 711-804.9, RG-84, National Archives.
Section 4 of the Regulations Concerning Navigation in Norwegian Territorial Waters, prescribed by Royal Resolution of September 7, 1939, bound Pussbach and Gainard to “follow the instructions given to [them] for further sailing and as to his actions otherwise” while in Norwegian territorial waters.

Pussbach report, German Naval Staff records, Maritime Law and Prize Rights Section, PG 33720, October 1939 to March 1940.

The Soviets had collected the ship’s papers, including the crew’s discharge books, upon their arrival in Murmansk. As these documents were never returned by the Soviets, and as their return was a stated precondition of their departure, it does not seem that Gainard and his ship could have sailed from Murmansk at this point, even if they had desired to do so.


Foreign Relations at 984-985 (Dispatch 202, Hull to Steinhardt, October 23, 1939).

Contemporary newspaper accounts report that Hull plainly showed irritation at news conferences related to the Flint, confirming the observation of a top aide that “the Secretary rarely gets agitated over a case but this time he has been thoroughly upset.” John Clifford, “The Odyssey of the City of Flint,” The American Neptune, volume XXXII, no. 2, April 1972, 107, quoting the diary of Jay Pierrepont Moffatt, Chief of the State Department’s Western European Division, on October 26, 1939.
This cable was deliberately sent uncoded so the Soviets would read it. Clifford, “The Odyssey of the City of Flint,” 107, quoting the diary of Jay Pierrepont Moffatt, October 25 and 26, 1939.

Hull urges Steinhardt to remind Soviet authorities that their failure to take appropriate action pursuant to Article 22 “would compromise the neutrality of the Soviet government” — neutrality which they had proclaimed on September 17, 1939. Foreign Relations at 986 (Dispatch 208, Hull to Steinhardt, October 24, 1939).

Unlike the disabled ship’s radio, the short-wave set could only receive transmissions, not send them. Thus, it afforded Gainard and his crew no opportunity to pass any messages to the outside world.


Foreign Relations at 1002 (Dispatch 829, Steinhardt to Hull, October 29, 1939).

Foreign Relations at 1010-1011 (Dispatch 865, Steinhardt to Hull, November 4, 1939).

Foreign Relations at 997-998 (Dispatch 818, Steinhardt to Hull, October 27, 1939).

This is indeed the case. According to the German Naval War Diaries, the German Naval Attaché in Moscow was instructed to effect the cancellation of the internment and the release of the prize, and also to see that supplies were replenished and orders issued to the prize officer to return home. German Naval Staff War Diary Part A, volume 2, October 24, 1939, p. 158
The Soviet Union and Germany were still in the honeymoon phase of their relationship after the Non-Aggression Pact, signed in August 1939.

Id.

Id.; see also id. at 999 (Dispatch 820, Steinhardt to Hull, October 27, 1939).

German Naval Staff War Diary Part A, volume 2, October 30, 1939, p. 196


Foreign Relations at 1012.

Steen, Norges Sjøkrig, p. 39

German Naval Staff War Diary Part A, volume 2, October 31, 1939, p. 202. For an explanation of this Norwegian change of heart re duration of transit in Norwegian territorial waters, see discussion in note 29.


German Naval Staff War Diary Part A, volume 3, November 2, 1939, p. 7.

“German officials Silent on City of Flint’s Course,” The Washington Star, October 30, 1939.


The first confirmation American officials received of newspaper reports that the vessel had again pulled into Tromsø was from Sir George Ogilvie-Forbes, Counselor of the British legation, Oslo, who further informed the
American legation that the City of Flint had departed heading southward under escort by a Norwegian destroyer.


59 Identified as the Arethusa in Clifford, “The Odyssey of the City of Flint,” 111

60 Steen, Norges Sjøkrig, p. 40.

61 Enemy combatants weren’t the only hazards the Flint faced. Newspapers reported that on October 29, storms had disrupted German minefields in and around the Baltic, causing some to break free and more than 30 to wash ashore on the Danish coast. The German patrol boat Este 701 struck one of these mines and sank with the loss of 69 lives. “Flint’s Route Held a Military Secret by Nazi Officials,” New York Times, October 30, 1939.

62 Report of Vice Consul Lanwer, contained in German Naval Staff records, Maritime Law and Prize Rights Section, PG 33720 October 1939 to March 1940

63 Id.

64 General Records 1939, “Ambassador Harriman letter Secretary of State Hull, November 8, 1939.”

65 Steen, Norges Sjøkrig, p. 41. The “rescue” operation was ordered by Norwegian Minister of Foreign Affairs Koht.

66 German archival records indicate that as late as March 28, 1940, the German embassy was still attempting, without success, to convince Norwegian authorities to release the prize crew from its internment. As Germany invaded Norway scarcely two weeks later, it is safe to assume that the prize crew remained interned until freed by German forces.

The German ambassador to Norway, Dr. Salm, died in mid-October and had not yet been replaced. Thus, the charge d’affaires had overall control of German diplomatic efforts in Norway related to the City of Flint. “U.S. Envoy Conferences with Flint’s Crew,” New York Times, November 7, 1939.

General Records 1939, “Confidential letter 521, written by Secretary Cox on behalf of Ambassador Harriman to Secretary of State Hull on November 7, 1939.”

General Records 1939, “Dispatch No. 522 to Hull of November 7, 1939.” A London Times editorial agreed, characterizing the decision to anchor in Haugesund as a means of “acquir[ing] a grievance against Norway.”

Steen, Norges Sjøkrig, p. 41. Contemporary press accounts characterized the situation as a “political hot potato.”

German Naval Staff War Diary Part A, volume 3, November 4, 1939, p. 19

German Naval Staff War Diary Part A, volume 3, November 4, 1939, pp. 19-20, 34.

General Records 1939, “American Consulate Bergen letter No. 207 to Secretary of State Hull, November 18, 1939.”

General Records 1939, “American Consul Bergen letter 210 to Secretary of State Hull, November 25, 1939,” and “American Consul Bergen letter 207 to Secretary of State Hull.”

General Records 1939, “Telegram No. 6 of November 4, 1939.”

General Records 1939, “Cable 96 Harriman to Hull, November 4, 1939.”
This was not Gainard’s first run-in with one of his crews. In September 1931, the crew of the steamship *Algie*, of which he was the captain, staged a sit-down strike in Montivideo harbor. 18 of the crew were charged with “endeavoring to make a revolt;” 14 of them were convicted, 9 received prison sentences of 2 months, and the other 5 were fined $50 each. Gainard was the principal government witness.

Consul Dunlap also appeared to enjoy his transition from relative obscurity and anonymity in a remote, sleepy outpost to being the focal point of world-wide attention with direct lines of communication to the Secretary of State himself. One wonders whether Hull’s patience began wearing thin as Dunlap leveraged his new-found prominence to inform Hull of such things as “It is the opinion of the writer [that] minor illnesses as there have been on board are not due to hardship or lack of proper attention or food but to a popular American aversion to woolen underwear which, it is believed, is responsible for most of the ailments of visiting Americans and especially of sailors, some of whom are now going out in Bergen with light underwear and silk socks.” General Records 1939, “American Consul Bergen letter 203 to Secretary of State Hull, November 16, 1939.”

One especially enterprising crew member, 4th officer Carl Ellis of Newtonville Massachusetts, became engaged to 24-year-old Norwegian Ruth Englesen. They met at a dance in Bergen and, according to the betrothed couple, it was love at first sight. She planned to travel to the States to marry him in February 1940. Edward T. Folliard,


Section 2 of the act made it a criminal violation for any American vessels to carry cargo to any nation declared by the President to be in a state of war. Further, section 3 of the act authorized the President to define combat areas, into which it was unlawful for any American citizen or vessel to enter or pass through.

87 During visiting day on December 3, “every person in Haugesund wanted to come aboard just to say they had been aboard the *City of Flint.*” First Mate Warren B. Rhoads, “Flint’s Officer Tells Vivid Story of Seizure by German Warship,” *New York Times*, January 28, 1940.


89 German Naval Staff War Diary Part A, volume 3, November 7, 1939, p. 30

90 German Naval Staff War Diary Part A, volume 3, November 9, 1939, p. 42.

91 Notwithstanding assurances of safety, she hedged her bets by painting 2 huge U.S. flags on each side of her hull, as well as her name and that of her operator, United States Lines, in letters several feet high.

92 “Motorists from nearby states and tourists from afar jammed Baltimore’s waterfront today for a glimpse of the freighter *City of Flint*, which came into port yesterday after one of the most dramatic sea ventures of modern times.” “City of Flint Jams Waterfront at Baltimore,” *The Washington Post*, January 28, 1940. According to other accounts, a half bushel of telegrams awaited her, many from *Athenia* survivors. Turner Catledge, “City of Flint Ends 116-Day Sea Saga at Baltimore Pier,” *New York Times*, January 28, 1940.
“Seizure of the City of Flint by a Nazi raider on the high seas is believed to have clinched the neutrality legislation desired by President Roosevelt.” William Philip Simms, “Ship Incident Clinches Plan of Roosevelt,” The Pittsburgh Press, October 25, 1939.


German Naval Staff War Diary Part A, volume 2, October 28, 1939, p. 177


Not everyone agreed with this assessment. In February 1940, the National Mariners Union, on behalf of several Flint crew members, filed charges of neglect of duty against him, and asked that his license be revoked. Affidavits filed in support of these charges accused Gainard of failing to take advantage of several opportunities of taking the Flint back from her German captors, and of threatening to clap the crew in irons when they requested to go ashore in Norway. The Daily Iowan, Sunday, February 11, 1940, p. 1

Lieutenant Theodore Taylor. “A Matter of Judgment,” U. S. Naval Institute Proceedings (July 1958): 70-75. This was the first such award in World War II. Clifford, “The Odyssey of the City of Flint,” 115.

The Big Horn was the ex-tanker Gulf Dawn that had been converted into a “Q”-ship and instructed to lag behind convoys as a “straggler,” with the intent on pouncing on any submarine unwise enough to make an attack. This tactic proved to be ineffective, and together with other Q-ships, the Big Horn was relegated to weather forecasting duties later in the war. S. E. Morison, History of United States Naval Operations in World War II, volume 1 (Boston: Little Brown 1947-1962), p. 284.