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1973

GREAT BRITAIN AND THE FIRST HAGUE CONFERENCE: AN EPISODE
IN INTERNATIONALISM

BY

SHEILA IRIS KAPLAN

A dissertation submitted to the Graduate
Faculty in History in partial fulfillment
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1973

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ABBREVIATIONS

Adm.	British Admiralty Correspondence, Public Record Office, London.
Cab.	Cabinet Papers, Public Record Office, London.
F.O.	British Foreign Office Correspondence, Public Record Office, London.
W.O.	British War Office Correspondence, Public Record Office, London.
Arbitration Documents	<u>Correspondence Between the Governments of Great Britain and the United States with Respect to Proposals for Arbitration</u> (London, 1896).
B.D.	G. P. Gooch and Harold Temperley, eds. <u>British Documents on the Origins of the War, 1898-1914</u> , Vol. 1 (London, 1926).
D.D.	<u>Documents Diplomatiques: Conférence Internationale de la Paix</u> (Paris, 1899).
G.P.	<u>Die Grosse Politik de europaischen Kabinette, 1898-1899</u> , Vol. XV (Berlin, 1922).
Proceedings	J.B. Scott, ed. <u>The Proceedings of the Hague Peace Conferences: The Conference of 1899</u> (New York, 1920).

Chapter I

Internationalism and the First Hague Conference

The incidence of turmoil and conflict has held more interest for diplomatic historians than the periods of tranquility and cooperation. By and large, they have studied the record of diplomacy between 1870-1871 and 1914 as a prelude to the tragedy of war. World War I did have a cataclysmic effect on the history of the modern world. It cost millions of lives and it squandered national treasure and resources. The outcome toppled three major dynasties and weakened a fourth. It broke up three empires and transformed another into a republic. The origin of events on that vast scale can hardly be ignored.

In retrospect the prewar international polity seems to have become unstable about the time that Germany gained national unity. For some time the old system of concert diplomacy masked the difficulty of accommodating a Great Power of Germany's size and military strength. That accommodation encountered new difficulties before the end of the nineteenth century. An integral nationalism which glorified the differences between the European peoples and dismissed their similarities brought an unpredictable popular influence to bear on the conduct of foreign

relations. A new alliance system, at once very ceremonial and very secretive, did not provide an effective check on the "pursuit of particular national interests."¹

By the nineties imperial rivalries between the Great Powers gave rise to more diplomatic strain. The competition for overseas possessions exacerbated the traditional rivalries and created new ones. Colonies were revered as symbols of power and prestige and were coveted as proof of national greatness. While the historical and ideological sources of imperialism are not easily identified, there can be little doubt that the rivalries engendered by the quest for overseas territories increased the danger of a general European war.²

1

Carlton J.H. Hayes, A Generation of Materialism, 1871-1900 (New York, 1963), pp. 298-299; F.H. Hinsley, Power and the Pursuit of Peace: Theory and Practice in the History of Relations Between States (Cambridge, 1963), pp. 256-259. Also see: Robert Binkley, Realism and Nationalism, 1852-1871 (New York, 1963); Carlton J.H. Hayes, Essays on Nationalism, (New York, 1926), and, The Historical Evolution of Modern Nationalism (New York, 1965); Hans Kohn, Nationalism: Its Meaning and History (New York, 1965); Boyd C. Shafer, Nationalism Myth and Reality (New York, 1955); Louis L. Snyder, The Meaning of Nationalism (New York, 1968), and, The New Nationalism (New York, 1968).

2

The literature of imperialism is so vast that it can only be briefly summarized here. J.A. Hobson's Imperialism: A Study (Ann Arbor, 1965) and V.I. Lenin's Imperialism: The Highest Stage of Capitalism (London, 1916) remain the classic statements of the economic nature of imperialism. This view has been severely challenged and the most recent studies of this phenomenon stress the complete diversity of its origins. See: William L. Langer "A Critique of Imperialism" Foreign Affairs, XIV (October, 1935), pp. 102-115; Henri Brunschwig, French Colonialism, 1871-1914: Myths and Realities (New York, 1966), D.K. Fieldhouse, "Imperialism: Sidelights on a Stereotype" Journal of Economic History, XXI (December, 1961), 582-598; David S. Landes, "Some Thoughts on the Nature of Economic Imperialism" Journal of Economic History, XXI (December, 1961) 496-512; George Lichtheim, Imperialism (New York, 1971); Ronald Robinson and John Gallagher, Africa and the Victorians: The Climax of Imperialism (New York, 1968); Bernard Semmel, Imperialism and Social Reform, 1895-1914 (New York, 1968);

Militarism steadily gained importance as a factor shaping international politics after 1870-1871. National greatness became increasingly identified with the strength of the national armed forces. The principal continental powers adopted the German practice of enforcing universal conscription, and, thanks to a burgeoning technology, these mass armies acquired weapons of unparalleled destructive force. An international naval rivalry, also abetted by steady progress in the design of armaments as well as improvements in marine engineering, added more complexities to the unstable situation. The emphasis given to national security based on massive, complicated military and naval armaments seemed to provide visible evidence of what could now be taken to be implacable national enmities. Another element of international instability can be identified in the imperfect and shaky civilian control over the national armament systems.

All this is well known. The extant historical literature provides a full account of international rivalries and discord. Much less has been said or written about the international ideas, issues and events which tended to bring the nations together so as to promote amity and elicit cooperation. The "long peace" from 1871 to 1914 cannot be explained as

A.J.P. Taylor, *Germany's First Bid for Colonies, 1884-1885; A Move in Bismarck's Foreign Policy* (New York, 1970).

3

See: Gordon Craig, *The Politics of the Prussian Army, 1640-1945* (New York, 1965); Arthur J. Marder, *The Anatomy of British Sea Power: A History of British Naval Policy in the Pre-Dreadnought Era, 1880-1905* (Connecticut, 1964); Theodore Ropp, *War in the Modern World* (Chapel Hill, 1959); Alfred Vagts, *A History of Militarism* (New York, 1959); Quincy Wright, *A Study of War*, 2 vols. (Chicago, 1942); Samuel R. Williamson, Jr. *The Politics of Grand Strategy: Britain and France Prepare for War, 1904-1914* (Cambridge, 1969); Paul G. Halpern, *The Mediterranean Naval Situation, 1908-1914* (Cambridge, 1971); William Langer, *European Alliances and*

a fortuitous accident. To neglect the factors making for close and harmonious international relations would distort the picture of the prewar international polity. It is not an exaggeration to say that the late nineteenth-century witnessed the development of an international legal community which sustained a degree of international cooperation without precedent in previous European history.

II

The concept and the fact of national sovereignty provided the cornerstone of nineteenth-century international law and international relations. A sovereign state possesses complete control over its actions and is not subservient to any external authority. In the opinion of Vattel, the chief international theorist of the eighteenth-century, natural law sanctioned the existence of sovereign states but did not command the creation of an international community. "Individuals," he argued, "are so constituted that they could accomplish but little by themselves and could scarcely get on without the assistance of civil society and its laws. But as soon as a sufficient number have united under a government, they are able to provide for most of their needs, and they find the help of

Alignments, 1871-1890 (New York, 1950), and, The Diplomacy of Imperialism, 1890-1902 (New York, 1968); A.J.P. Taylor, The Struggle for Mastery in Europe, 1848-1918 (Oxford, 1971).

4

C. van Vollenhoven, Scope and Content of International Law, 1898 (Bibliotheca Visserrana, 1932), p. 12.

other political societies not so necessary to them as the state itself⁵ is to individuals."

Nothing in the theory of sovereignty precludes a state from voluntarily circumscribing its freedom of action through the acceptance of customary behavior or through international treaties or agreements with other sovereign states. According to Cornelius van Vollenhoven, "the state which acknowledges itself to be a party to any agreement or to be under the jurisdiction of a tribunal, or which engages by contract to perform some act, is bound to fulfill its promises.... Sovereignty is destroyed when a state is subjected to a law without its free consent; it is left intact⁶ if the superior authority is instituted by the will of the state itself."

In this light nineteenth-century Europe had a treaty structure that imposed legal obligations and conferred legal rights on the several sovereign states that made up the international community. The accords made at the Congress of Vienna defined, in a very real sense, the fundamental legal relationships between the European Great Powers. Both the concert principle and the rule of law enunciated at Vienna survived the territorial and dynastic changes associated with the era of Italian and German unification. It is useful to remember that for a long time European statesmen referred to these rights and obligations as the Law of Europe. Only gradually did Jeremy Bentham's term, "international law,"

5

Vattel quoted in Martin Wright's "Why Is There No International Theory?" Diplomatic Investigations: Essays in the Theory of International Politics, Herbert Butterfield and Martin Wright, eds. (London, 1969), p. 31.

6

Vollenhoven, Scope and Content of International Law, p. 12.

replace the older usage. Either term is applicable to the rich development of legal instrumentalities by the nineteenth-century European community.

It would be erroneous, therefore, to say that nineteenth-century international relations were anarchical. All European states, including, eventually, the Ottoman Empire, acknowledged the existence of international law: a diverse series of rules and regulations governing limited aspects of inter-state relations.⁷ According to J.L. Brierly, the "existence... of international law is simply one of the inevitable consequences of... coexistence in the world of a plurality of states necessarily brought into relations one with another...." One can define international law "as the sum of the rights that a state may claim for itself and its nationals from other states, and of the duties which in consequence it must observe towards them."⁸

It has frequently been charged that international law is not law in the strict sense of the term. Lacking an effective means for enforcement, and often blatantly disregarded in time of war, international law has been dismissed as a hypocritical statement of international ethics ill-suited to the immoralities of modern statecraft.⁹

Such criticism ignores the circumstance that international law effectively governs a plethora of peacetime relations among nations. Many aspects of international law come into effect only upon the outbreak of war.

7

Paul Heilborn, "Les Sources du Droit International" Recueil des Cours: Académie de Droit International, XXIII (1926), pp. 5-6.

8

J.L. Brierly, Law of Nations (London, 1944), pp. 4-5.

9

James Brown Scott, The Hague Peace Conferences: 1899 and 1907 (Baltimore, 1909), p. 2.

Traditionally, international law has accepted and recognized war as an historical reality and as a prerogative right of every sovereign state. And prior to the Covenant of the League of Nations (1919), extant international law did not presume any limitation on the right of a sovereign state to undertake hostilities. Every state could judge the necessity of its own actions, whether belligerent or peaceful. International law only took account of the reality of war as a proper subject for legal definition and as a kind of political transaction that had to be regulated in the belligerents' own interest. The law of war also came to include a degree of protection for the equities of non-combatants. It dealt with the legal consequences for neutral states and private persons arising from the outbreak of war.

In the course of the nineteenth century it had become customary, though not a legal obligation, for governments to make formal pronouncements that hostilities were about to begin. Usage and custom also enforced a general rule that warring states should resort to diplomacy to terminate a war as soon as an acknowledged political objective had been reached or as soon as one of the belligerents acknowledged its deteriorating military capability. Since its origin, international law had continually sought to define the proper limits of military violence. During the nineteenth century notable advances occurred with respect to the law's effectiveness in this limited but highly significant area.

The lack of an effective enforcement mechanism does not belie the existence of international law since such law is primarily self executing. States acknowledge the validity of international legal precepts because it is in their interest to do so. They accept the restraints of international law as long as the results are mutually beneficial.¹¹ Although international law is often violated, the same can be said of national law. It is illogical to argue that international law does not exist because it is sometimes ignored in time of crisis or war for it is evident that municipal law is not chimerical because it is sometimes modified or altered in time of domestic stress.¹²

All legal systems pass through various stages of development directly related to the cohesiveness of the societies they serve. In primitive civilizations with weak or informal institutions, law is based on custom and usage. With the development of strong, centralized institutions of government customary law is replaced by a written and enforceable legal code.¹³ At the beginning of the nineteenth-century international law

by Grotius that a distinction exists between just and unjust wars has become an accepted part of positive international law. The Covenant of the League of Nations and the Charter of the United Nations both reject the eighteenth and nineteenth-century doctrine of the unqualified prerogative of states to resort to war. Both documents assert that war can be legitimate only when it is used as a means to protect or to enforce universally accepted legal doctrines. Ibid., p. 55.

11

C. Schwartzberger, "Bentham's Contribution to International Law and Organization," Jeremy Bentham and the Law: A Symposium, G.W. Neeton and G. Schwartzberger, eds. (London, 1948), pp. 158-159.

12

John Basset Moore, International Law and Some Current Illusions (New York, 1924), pp. vii-viii.

13

Heilborn, "Les Sources du Droit Internationale", pp. 20-21.

was based partly on custom and usage and partly on the contractual terms set forth in treaties, some concluded between two states, others binding on several signatories. By general agreement, the definition of custom and usage remained in the hands of the Great Powers. By the end of the century customary law had become a code and new laws had been created by the free consent of the European states exercising their treaty-making powers or by assenting to agreements concluded at international conclaves. Although the nineteenth-century's international legal system consistently lacked an enforcement mechanism, the change from customary to created law constituted a major advance in the evolution of the European
¹⁴
community.

III

The Congress of Vienna which met in 1814-1815 was called primarily to deal with European issues and territorial settlements left unresolved by the Treaty of Peace with France. Its Acte Finale made several important contributions to the public law of Europe. The signatories recognized the perpetual neutrality of Switzerland, regulated the rank and conduct of diplomatic agents, decreed the abolition of the slave trade and established

14

O. Nippold, "Le Développement Historique du Droit International depuis le Congrès de Vienne," Recueil des Cours: Académie du Droit International XXI (1924), p. 52.

15

the principle of the free navigation of international rivers. In 1831, this latter provision was expanded by the Convention of Mainz, which, when ratified by the states bordering the Rhine, established an international commission to control river traffic. The Rhine Commission was the first of several supra-national administrative and regulatory agencies created during the century to serve the European community.

16

In 1856 the Congress of Paris made further additions to European international law. The Great Powers abolished privateering, defined a naval blockade and sanctioned the principle that free ships make free goods. The participants also sought to extend the concept of the free navigation of international rivers to include the Danube. Article 15 of the Acte Finale declared:

17

The act of the Congress of Vienna having established the principles intended to regulate the navigation of rivers which separate or traverse different States, the contracting powers stipulate among themselves that these principles shall in future be applied to the Danube and its mouths. They declare that this arrangement henceforth form a part of the public law of Europe and take it under their guarantee.¹⁸

The signatories established an international commission to preserve freedom of navigation on the Danube. It was empowered to fix river tolls by a majority vote of its members and it was bound by the principle

15
Scott, The Hague Peace Conferences, p. 15.

16
For a detailed discussion of the formation of the Rhine Commission, see, F.S.L. Lyons, Internationalism in Europe, 1815-1914 (Leyden, 1963), pp. 53-58.

17
Scott, Hague Peace Conferences, p. 18.

18
Lyons, Internationalism, p. 60.

that "the flags of all nations shall be treated on a footing of perfect equality." Throughout the rest of the century the Commission worked harmoniously to regulate Danubian commerce.

Significant additions to the public law of Europe were made at Vienna and Paris, although the creation of new legal usage was not the primary goal of either conclave. As conferences assembled at the end of major wars to provide a political and territorial settlement they gave rise to treaties which added to the existing corpus of international law. In doing this they differed little from the various peace conferences that had been held during the eighteenth century. From the middle of the nineteenth century the new terms of international intercourse--an expanded commerce, postal exchanges, insurance and patent rights, as well as a mounting wave of migration--gave rise to a need for more specific international regulations. To meet this need a wholly new type of international conference became a commonplace in Europe. From the 1860's on formal diplomatic meetings were frequently called for the sole purpose of draughting treaties to govern economic relations between states or to humanize and regulate the conduct of war.

19

Ibid., pp. 60-63.

20

The last four decades of the century also witnessed countless international meetings of an unofficial nature. Concerned citizens from all parts of Europe met to discuss economic cooperation and international peace. They also urged international cooperation in the fields of science and health and improvements in the conditions of the working classes. Although these unofficial gatherings had an important effect on European public opinion, their activities fall beyond the scope of this study. For an analysis of private international organizations and their effect on European internationalism see, Lyons, Internationalism, passim.

IV

The spread of industrialism and the emergence of markets that transcended political frontiers made the late nineteenth-century political leaders and businessmen realize that international cooperation was essential to continued national prosperity.²¹ The invention of the telegraph had revolutionized European business practices. Manufacturers, bankers and merchants could contact their agents and clients in all parts of the continent with minimum delay. Standardized rules governing the use of the telegraph did not exist, however, and businessmen often feared for the privacy of their communications when operating from foreign countries.

In 1865 a meeting took place in Paris attended by the diplomatic and technical representatives of twenty nations. The result of this conference was a treaty establishing the International Telegraphic Union. The signatories recognized the right of the nationals of all states to correspond freely by telegraph in peacetime. They pledged their governments to take all necessary measures to insure the secrecy of messages and their prompt dispatch. In 1875 the signatories met again in St. Petersburg to create a semi-autonomous commission, funded by the contributions of member states, to oversee the operation of the Union. The success of the International Telegraphic Union provided the impetus for a similar convention to regulate postal communications.

21

Nippold, "Le Développement Historique du Droit International", p. 54; Lyons, Internationalism, p. 11.

Throughout the nineteenth century postal rates were viewed as an important source of income by many of the smaller European states and principalities. A letter sent from St. Petersburg to Paris passed through numerous jurisdictions and special stamps were required each time an international border was crossed. Although reciprocal postal agreements setting rates and guaranteeing the rapid handling of mail had been negotiated between individual governments, an international agreement to standardize procedures in all countries was desperately needed.

In 1874 a special conference was convened at Berne to consider the situation. As a result of these discussions, the Universal Postal Union was established. The Union guaranteed the privacy of international mail and set uniform postal rates. A supra-national administrative agency was also created to oversee the activities of the Union. And it effectively regulated the free flow of European mail for the rest of the century.

The expanded economic activity of the last half of the century caused a substantial increase in the number of new inventions. Uniform patent laws did not exist in Europe and many inventors were dismayed to find that their creations were being used by foreign nationals without payment of royalties. In 1883 the representatives of eleven countries met in Paris and agreed to the establishment in Berne of an International Bureau for Patents and Trademarks. Although the treaty did not provide for the creation of uniform patent laws, it did guarantee inventors the

right to register their inventions in all signatory states with the same rights and guarantees accorded to a national of that country. The main task of the Bureau was to keep inventors apprised of changes in the domestic patent laws in the various countries and to keep files on inventions that were granted patents. ²³ In 1886 a similar treaty was signed which extended legal protection to the creative works of writers ²⁴ and artists.

V

Although the agreements on posts and telegraphs and on the protection of patents and artistic rights may appear minor and insignificant, they were indicative of a growing trend towards internationalism. Europeans at the turn of the century were extremely optimistic about the future of their continent. Europe had been free from major wars for thirty years and the signs of material progress were everywhere. There was an oft-spoken conviction that mankind was becoming more civilized and that international cooperation and harmony would be the hallmark of the new ²⁵ century.

23

Ibid., pp. 128-130.

24

Ibid., pp. 131-132.

25

Oron J. Hale describes the mood of Europe at the turn of the century as unquestionably optimistic. A "sense of a boundless future", he declared, "was strong among all Western leaders in 1900, and it brought zest and

The belief that man was sublimating his barbaric instincts and that governments would cooperate for the good of their people was substantiated by the impressive advances made in humanizing the conduct of war. Following the Battle of Solferino (1859) in which tens of thousands of wounded French, Piedmontese and Austrian soldiers had been left unattended on the battlefield, the Swiss financier and publicist, Henri Dunant, began a one-man crusade to prevent the recurrence of such needless suffering. Stranded in the village of Castiglione during the three-day engagement, Dunant had labored with several civilian companions to ease the agony of the neglected soldiers. His account of this experience, which appeared in 1862 as Un Souvenir de Solferino, made a profound impression. Calling on the conscience of the civilized world, Dunant pleaded for an international conference to regulate the care and treatment of wounded combatants. As a result of his efforts, the representatives of thirteen nations met in Geneva in 1864 to sign the Geneva Convention which guaranteed neutrality to all medical personnel serving under the banner of the Red Cross and identified means for the proper care of the wounded and prisoners of war.

26

The wars fought in Denmark in 1864 and in Germany in 1866 raised a general

assurance to the cities and cultures of men. It was a time of incredible innocence: War was unlikely; social reform was every man's duty; and progress was inevitable. Poet, priest, statesman, scientist, industrialist, labor leader, or social reformer-few foresaw the grandeur and the misery that would characterize the twentieth century. It was a period dominated by the heirs of Samuel Smiles...." The Great Illusion, 1900-1914 (New York, 1971), pp. 3-4.

26

Scott, The Hague Peace Conferences, pp. 18-20.

fear that modern technology had equipped armies with weapons of unnecessary force and cruelty. At the invitation of the Tsar of Russia, an international conference was held in St. Petersburg in 1868 to investigate the possibility of prohibiting the use of unusually cruel weapons. The result of this conference was the St. Petersburg Declaration which permanently outlawed the use of explosive bullets in wars between civilized nations.

27

27

Ibid., pp. 20-21.

Explosive bullets, also called "musket shell" or "percussion bullets," had been used extensively by both Union and Confederate troops during the American Civil War. British troops had also used them to suppress the Indian Mutiny in 1857. Directions for making "percussion bullets" had been included in textbooks used at West Point. Theoretically these explosive bullets were intended to detonate artillery caissons or ammunition chests. In fact they found their chief targets in the opposing ranks. They inflicted ghastly wounds so that their use aroused a certain moral horror.

Both the Confederacy and the Union took some pains to conceal their manufacture. Most of the rounds that reached Confederate soldiers came either from captured Union stores or from the various states' ordnance departments. Lincoln's Assistant Secretary of War, Peter H. Watson, surreptitiously placed an order for 100,000 rounds of the "Gardiner musket shell," a design submitted for testing in the spring of 1862. Samuel Gardiner, Jr., the inventor, had filled the conventional Minie' ball with fulminate of mercury, the sensitive chemical used in making percussion caps. A fuse in the "musket shell" ignited by the musket's discharge burned long enough to allow the shell to penetrate any target before exploding. Other designs simply inserted a percussion cap in the nose of the Minie' ball so that it would detonate on impact. Soldiers often improvised such explosive bullets in the field. But at Gettysburg both sides fired Gardiner's "musket shell."

Ten thousand rounds had been captured by Confederate troops in June; twice that amount had been issued to the Second New Hampshire. This ammunition accounted for the dreadful slaughter in the Peach Orchard on the second day of the battle. General Grant had been outraged by the Confederates' use of explosive bullets during the siege of Vicksburg. But plenty of the same ammunition was issued to General Sherman for his march through Georgia and Grant's own troops made liberal use of it during the Richmond campaign. After the war spokesmen for both the Confederacy and the Union denounced explosive bullets as "an inexcusable barbarity." Cf. Robert V. Bruce, Lincoln and the Tools of War (Indianapolis, 1956), pp. 191-192, 257, and 282.

International efforts to regulate the conduct of war did not end with the effort made in St. Petersburg. In 1874 a conference convened in Brussels at the suggestion of the French and Russian governments made another attempt to codify the various and often conflicting laws and customs of land warfare. A declaration was produced which defined the rights and duties of belligerents and non-combatants and provided for the security and protection of public buildings and private property. Although the Brussels Declaration was not ratified by the signatory states, several governments expressed hope that a subsequent international conference would amend the Declaration in order to make its terms more acceptable
28
to the Great Powers.

These attempts to regulate the conduct of war found a complement in a rising sentiment, most evident in western Europe, that favored arbitration as the best method of peacefully resolving international disputes. Vocal groups of international lawyers and peace advocates kept the subject of arbitration before the public throughout the last three decades of the
29
century. The example set by the Treaty of Washington (1871), which

28

Lyons, Internationalism, p. 305.

29

During this period, Frederick Passy, a leading French businessman and liberal parliamentarian founded the Société française de l'arbitrage entre nations. Charles Lemmonier established the Ligue internationale de la paix et de la liberté in Geneva which was committed to international arbitration and to the creation of a United States of Europe. Randall Cremer, a future Nobel Peace Prize laureate, was responsible for the creation of the Workman's Peace Committee and the International Arbitration League and Peace Association of Great Britain and Ireland. Many similar organizations were set up throughout Scandinavia. Ibid., pp. 320-322.

provided for the arbitration of the Alabama Claims, seemed to prove that judicial means could be used to resolve conflicting interests even when they touched the sensitive issue of national sovereignty. ³⁰ As a result, numerous resolutions favoring the conclusion of international arbitration ³¹ accords were introduced in European parliaments.

30

In 1861, soon after the outbreak of the American Civil War, the British government issued a formal proclamation of neutrality which forbade British subjects from providing military aid to either side in that conflict. Despite the proclamation, British shipyards built two fast and powerful commerce raiders, the Florida and the Alabama, which eventually became important units of the Confederate Navy. The Union government protested to Lord Russell in 1863 that the British government had failed to exercise due diligence in order to prevent these ships from leaving their home ports. Charles Francis Adams, the American Ambassador in London, suggested at that time that the question of the Alabama and the Florida be submitted to arbitration at the cessation of hostilities.

Successive British governments opposed this suggestion on the ground that it was incompatible with national honor and sovereignty to allow the citizens of a foreign country, through the proceedings of a court of arbitration, to determine whether officials of the British Crown had properly interpreted and carried out their nation's laws. Britain finally consented to the arbitration of the Alabama Claims when, following Russia's abrogation of the Black Sea Clauses in 1871, an Anglo-Russian war appeared possible. At that time the United States threatened to provide Russia with commerce raiders despite its issuance of the customary formal declaration of neutrality. This threat, along with the American agreement to arbitrate a host of economic problems with Canada, appears to have been decisive in bringing Britain to the conference table. Maureen Robson, "The Alabama Claims and the Anglo-American Reconciliation, 1865-1871," The Canadian Historical Review (March, 1961), pp. 9-12.

31

During 1873 and 1874 resolutions favoring the creation of a permanent system of international arbitration were introduced in the Parliaments of Great Britain, Belgium, the Netherlands, Italy, Germany, France and Denmark. Lyons, Internationalism, p. 323.

In 1899 the Conference interparlementaire pour l'arbitrage international (the Interparliamentary Union) was founded by Frederick Passy of France and Randall Cremer of England to

Unite in common action the members of all parliaments constituted in national groups, to secure recognition in their respective states, either through legislation or by international treaties, of the principle of solving disputes between nations and by arbitration or other friendly and judicial means. It has also the further objective of studying other questions of international laws, and, in general, problems relating to the development of peaceful relations among peoples. 32

Numerous bilateral arbitration treaties were concluded prior to 1899, and the Interparliamentary Union and its supporters hoped that a multi-lateral accord with provisions for a permanent court of arbitration would provide a fitting climax to the nineteenth century.

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VI

It would be difficult to determine the number of persons who were active in or who sympathized with the cause of internationalism during the last century. Yet it is clear that the movement did attract numerous and influential followers in all parts of Europe. Despite an accelerating arms race and continuing Great Power rivalries, many

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Lyons, Internationalism, pp. 328-329.

33

For a list of the bilateral treaties in force in 1898, see Proceedings, pp. 818-838.

leading citizens and statesmen throughout the continent became convinced that the current of history was moving slowly but inexorably in the direction of international cooperation and peaceful coexistence.

"An impulse strong and deep urges modern nations towards arbitration and cooperation," declared the distinguished Belgian jurist, Edouard Descamps. "This impulse," he asserted, "is bound up with the progress of international relations, the development of democratic institutions, the economic transformation of societies, the softening of manners and customs and the spirit of the century. It is an enlightened manifestation of the legal conscience of modern peoples.... Notwithstanding the many shadows still existing, and in spite of many failures, victorious civilization pursues both in space and in time its progressive evolution."³⁴

Most monarchs and their foreign ministers were less sanguine about extending the political range of international cooperation. Their outlook is understandable. However praiseworthy, the achievements of an international character had had only peripheral consequences. The supra-national administrative bodies that had been established and the humanitarian conventions that had come into force dealt with limited and essentially non-critical matters. The willingness of states to surrender control of matters considered vital of national security had yet to be tested.

The Hague Conference of 1899 provided the first crucial test of the viability of international cooperation with respect to politically sensitive issues. That Conference revealed the degree to which the

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L'opinion de M. Descamps, in Actes et documents relatifs a la conference de la paix, Adm. 116/98.

principal European states were prepared to limit their sovereign prerogatives for the sake of international peace.

Chapter II

The Russian Initiative

The ambassadors accredited to the Court of St. Petersburg were shocked and astonished as they left Count Mouravieff's weekly reception on August 24, 1898.* The Foreign Minister's Wednesday gatherings had usually been devoted to routine announcements of Court functions and official statements of a prosaic nature. Members of the diplomatic corps ordinarily used these occasions to exchange the latest gossip of a Court that was almost Byzantine in the scope and nature of its intrigues. But August 24 was not to be an ordinary Wednesday. Count Mouravieff solemnly handed each of the startled representatives a communication, authorized personally by Tsar Nicholas II, inviting the nations of the world to join together in a conference to explore the possibilities for limiting their ever increasing expenditure for armaments.¹

The proposal was stunning in its breadth and boldness. It had come, incredibly, from the sovereign of an autocratic military power, a man whose authority to increase national armaments could not be

*All Russian dates are given new style.

¹Scott to Salisbury, August 25, 1898, p. 1, F.O. 65/1555. See Appendix I for the text of the Rescript.

checked by any consitutional or parliamentary restraints.² In every area bordering on Russia--in China, Persia, Asia Minor, the Balkans, and even Scandinavia--statesmen regarded Russia and the Tsar as a menace to peace and progress.³ Yet the text of the Rescript indicated the Supreme Autocrat's sincere desire to assure all the people of the world "the blessings of real and lasting peace...." and the benefits of economic prosperity.⁴

Nicholas believed that the last decades of the ninatenth century had witnessed a trend towards "general pacification." In the hope of preserving peace the continental states had formed powerful alliances; for the p pose of guaranteeing peace they had "developed their military forces in an unprecedented degree, and continue to develop them without hesitating at any sacrifice...." Yet all of these efforts had failed to eliminate the threat of war.⁵

In the Tsar's opinion, the vast sums spent annually on new and "frightful engines of destruction" distorted national economies and diverted "the physical and intellectual forces of the people, labor and capital...from their natural application." There could be no limit to the amounts squandered, for scientific and technological advances rendered new weapons obsolete almost as soon as they had been perfected.

²Ibid.

³Merze Tate, The Disarmament Illusion: The Movement for a Limitation of Armaments to 1907 (New York, 1942), p. 169.

⁴Scott to Salisbury, August 25, 1889, p. 2, F.O. 65/1555.

⁵Ibid.

Thus progress demanded continuous spending to provide nations with a feeling of security, no matter how fleeting or ephemeral. The very existence of huge stockpiles of weapons constituted a grave danger, for there would always be the temptation to use them. If any nation were to succumb, the Tsar prophesied that Europe would be visited by a disaster "the horrors of which strike the human mind with terror in anticipation."⁶

Nicholas concluded that it was "the supreme duty...at the present moment of all states to put some limit to these unceasing armaments...." He therefore proposed an international conference that "with God's help...would concentrate in one powerful effort the strivings of all States which sincerely wish to bring about the triumph of the grand idea of universal peace over the elements of trouble and discord."⁷

II

Although the Tsar's interest in arms limitations and peace was genuine, the idea for the conference had not been his own. The kernel of

⁶Ibid., p. 3.

⁷Ibid.

⁸The idealism of the young Autocrat was well known to his contemporaries. E.J. Dillon, a British scholar and publicist who frequented the Imperial Court wrote after the publication of the Rescript that: "there can, of course, be no reasonable doubt that the proposal was made most seriously by the young Tsar, whose enlightened humanity and heroic courage are deserving of all praise..." Dillon realized, however, that Nicholas was not his own foreign minister and suspected that the Tsar's political

the idea can be found in the March 11, 1898 memorandum from General Kuropatkin to the Tsar.⁹ In it, the War Minister suggested an official démarche to the Austrian Government on the subject of a proposed mutual moratorium on expenditures for new military equipment. It had become known in Russia that the Austrian General Staff was preparing to introduce rapid-fire field artillery patterned after the newly designed French 75-mm. guns. Kuropatkin knew that if Austria equipped her armies with this weapon, Russia would be forced to do the same. Because the financial situation of the Hapsburg Empire was little better than that of Russia, the War Minister hoped the prospect of saving millions would be sufficient to make the idea of a moratorium appealing to the Ballplatz. The Tsar showed an immediate sympathy for this suggestion and he sent the

advisors were responsible for the original idea. See, E.J. Dillon, "The Tsar's Eniricon," Contemporary Review, LXXIV (November, 1898), p. 610.

Merze Tate has characterized Nicholas' idealism as follows:

"To the young Russian sovereign, universal peace was an hereditary question, for it represented the highest aspirations of a father whose principles and whose passion were peace. Certainly the Tsar's forefathers furnished numerous examples of a sincere, though somewhat spasmodic and eccentric interest in humanitarian projects. In 1815, Alexander I, inspired by Christian and mystical motives, conceived the Holy Alliance, whose members were to be guided by the precepts of 'Justice, Christian Charity and Peace.'. Alexander II freed the serfs in 1860, procured the condemnation of explosive bullets by international convention in 1868, and in 1874 made a strenuous but unsuccessful attempt to induce all the states of Europe to agree upon a code for regulating military operations on land. Alexander III was aptly called the 'Peace Keeper of Europe.'. With this strain of idealism and enthusiasm in his blood, the young Tsar may well have resolved to signalize his reign by a great effort to lighten the war burdens of the nations." See Tate, Disarmament Illusion, pp. 170-171.

⁹Thomas Ford, "The Genesis of the First Haque Peace Conference," Political Science Quarterly, LI (September, 1936), p. 362.

memorandum to Count Witte as well as Count Mouravieff for further consideration.¹⁰

Few of the Tsar's ministers opposed expenditures for the military more passionately than Finance Minister Witte. He believed that the government's primary responsibility was to finance the industrialization of Russia and to complete construction of the Trans-Siberian Railroad. Every kopek diverted from productive investment to armaments would be completely wasted. Yet Witte denounced the Kuropatkin proposal as impractical and potentially dangerous.¹¹

Witte argued that Austria would never accept such a transparent suggestion. The Dual Monarchy was quite prepared to invest in the new artillery and would view a Russian proposal for a moratorium as a sign of weakness and fear. Witte also asserted that once word of the démarche became known, other Powers might conclude that Russia was on the verge of national insolvency and deny her the loans necessary for further industrialization. As a counterproposal, the Finance Minister suggested that the Imperial Government sponsor an international conference and invite all the Powers to ponder and discuss the question of mutual arms limitations.¹²

The considerations which motivated Witte's counterproposal remain obscure. It is, of course, conceivable that he actually believed an agreement on armaments was possible, but the available sources suggest

¹⁰Ibid., pp. 362-364. Count Sergei Witte became Imperial Minister of Finance in 1892 after an extremely successful career as administrator of Russia's southern railways. As the minister responsible for the national budget, Witte played a major role in the formulation of Russian foreign policy until his dismissal in 1902.

¹¹Ibid., pp. 366-367.

¹²Ibid., pp. 367-368.

alternate explanations.¹³ E. J. Dillon, a close friend and confidant of Witte, asserts that the proposal was made to demonstrate the peaceful intentions of the Imperial Government to the international community in the hope of expediting negotiations for foreign loans.¹⁴ This explanation appears less than convincing, however, as French investors, with the strong support of their Government, had been eagerly subscribing to all the Russian bonds offered on the Paris Bourse.¹⁵

More enlightening is Witte's statement to the German Ambassador, Prince Radolin, in April, 1899.¹⁶ The Finance Minister, according to Herr Radolin, sympathized with the idea of arms limitations, but was certain no important agreement would issue from an international conference. Witte confided that he supported the "charming and idealistic" (herzigen und idealen) proposal in the hope of discrediting those Russian officials who favored an adventurous policy in China and the Near East. Witte admitted he was most disturbed by their irresponsibility

¹³In his sometimes unreliable memoirs, Count Witte comments on the conference as follows: "This appeal was issued August 12/24, 1898 and the following year a peace conference took place at the Hague. I had an occasion to discuss the matter with His Majesty. I congratulated him upon having taken the initiative in the great and noble task of bringing about universal peace, but I pointed out that the conference was not likely to have any practical results. The sacred truths of the Christian faith were announced by the Son of God some two thousand years ago, and yet most of the people are still indifferent to these precepts. Likewise many centuries will pass before the idea of peaceful settlement of international conflict will be carried into practice." Sergei Witte, The Memoirs of Count Witte (New York, 1967), p. 97.

¹⁴E. J. Dillon, The Eclipse of Russia (London, 1918), pp. 121-123.

¹⁵Andrew Malozemoff, Russian Far Eastern Policy, 1881-1904 (Berkeley, 1958), pp. 39-40; and, Theodore H. Von Laue, Sergei Witte and the Industrialization of Russia (New York, 1963), p. 106.

¹⁶Radolin to Hohenlohe, April 2, 1899, G.P. XV, No. 4251.

and he therefore sought to undermine their influence "at any price."¹⁷

The crucial relationship of the Rescript to Russia's position in China and her rivalry with Britain for influence in Peking is another significant issue which deserves further consideration. In order to place this relationship in perspective, one must survey the British and Russian involvement in China and the resulting conflicts between the two Powers.

III

For fifty years following China's humiliation in the Opium Wars, Britain enjoyed an unchallenged preeminence in controlling and profiting from China's foreign trade.¹⁸ An Englishman filled the post of Inspector-General of the Imperial Maritime Customs and the British owned Chartered Bank of India, Australia and China and the Hongkong and Shanghai Banking Corporation financed the China trade.¹⁹ By 1894, sixty-five

¹⁷Ibid.

¹⁸The Treaty of Nanking which ended the first Opium War ceded Hongkong to Britain and granted British merchants trading rights in five major ports, including Canton and Shanghai. The 1858 Treaty of Tientsin opened additional ports to British commerce. The provision which protected British commercial domination for the rest of the century was the principle of most favored nation treatment for British subjects which first appeared in the Supplementary Treaty of 1848 and was reaffirmed in the Treaty of Tientsin. See. L.K. Young, British Policy in China, 1895-1902 (Oxford, 1970), pp. 2-3

¹⁹Foreign financial competition only became a threat with the founding of the Deutsche-Asiatische Bank in 1899, the Yokohama Specie Bank in 1892, and the Russo-Chinese Bank in 1895. Ibid., pp. 5-6.

percent of China's overseas trade was directly with Britain and an even more impressive eighty-five percent of Chinese imports and exports were carried on British ships.²⁰ The other Great Powers, and Russia in particular, had not been indifferent to the growing potential of the Chinese market and by mid-decade they prepared to challenge Britain's commercial hegemony.

Lord Salisbury's China policy was simple and sensible: he wanted China opened to economic penetration by all the Powers; and he insisted on the maintenance of China's nominal independence and territorial integrity. The Prime Minister was convinced that the Chinese market was large enough to accommodate the economic interest of all the Great Powers. Furthermore, with Britain already engaged in the scramble for territory in Africa, and forced to garrison India against domestic unrest and a possible Russian-backed invasion, it would be dangerous and foolhardy to annex and try to govern effectively huge parts of China. Not only would British resources be diverted from more vital areas, but Salisbury feared that any attempt to carve up China would result in war among the Powers.²¹

By the end of the 1880's Russia's involvement in the Near East and the Balkans had diminished sharply and the Imperial Government was free to turn its attention to other areas.²² Where Russia would find a

²⁰Langer, The Diplomacy of Imperialism, 1890-1902, p. 167.

²¹J.A.S. Grenville, Lord Salisbury and Foreign Policy: The Close of the Nineteenth Century (London, 1964), pp. 131-132.

²²The Imperial Government's efforts to expand Russian influence in the Balkans came to a temporary halt in 1885. Russia had nominated Prince Alexander of Battenburg to be King of Bulgaria in the belief that the

new outlet for her interest and energy was not in doubt. For decades the question of constructing a railroad to open the vast stretches of Siberia to settlement and economic development, and to connect Asiatic and European Russia, had been under active consideration. Staggering costs and technical problems attended the building of a railroad over five-thousand miles of steppes and frozen tundra. But the potential benefits for Russian industrialization and international prestige seemed to outweigh all the difficulties.²³ Count Witte held this view tenaciously and in 1892 he was able to convince the government to go ahead with the project.

There seems little doubt that Witte's policy also aimed at the establishment of Russian economic and political preponderance in China. The trans-Siberian Railroad would permit Russian cotton goods to enter the Chinese market hitherto dominated by the British and it would break Britain's maritime monopoly on the Chinese carrying trade by permitting goods to pass economically between China and Europe overland. The railroad would also permit Russia to deploy its vast military resources close to the Russia-Chinese frontier. The army would enhance Russian diplomacy as much as the navy had enhanced British interests in China.

Tsar's favorite nephew would be susceptible to Russian guidance. This calculation proved incorrect, however, as the King fell under the influence of nationalist groups in Sofia. Although Russia was successful in forcing Alexander's abdication in 1885, it was unable to assert any influence over the new government. See, Langer, European Alliances and Alignments, pp. 336-338.

Russian aggrandizement in Afganistan was also halted in 1885 when Britain and Russia agreed to direct negotiations to determine the geographical limitations of their respective spheres of influence. See Ibid., p. 315.

²³Von Laue, Sergei Witte, pp. 83-86, 106.

And Witte's plan also envisioned an increase in Russia's naval presence. Although the Russian port of Vladivostok was the planned eastern terminus of the railroad, Witte hoped eventually to acquire a warm water port on the Yellow Sea to act as its southern terminus. Such a port would enable Russia to build up and supply a fleet in Asian waters and thus play a dominant role in the political affairs of the region.²⁴

Yet Witte, like Salisbury, viewed the political disintegration of China with alarm. He continued to champion the policy of peaceful economic penetration until early in the twentieth century when the existence of the Trans-Siberian railroad enabled the Imperial Government to pursue and benefit from a more adventurous course.²⁵

Even during the period of enforced prudence Witte was constantly alert to every possibility of increasing Russian influence in China, and the Sino-Japanese War presented him with such an opportunity. The Japanese seizure and occupation of Port Arthur in 1895 could have been the beginning of the dismemberment of China; that it was not, is a tribute to Witte's foresight and opportune action. The Finance Minister sought to win the gratitude of the Chinese government by leading a coalition of France, Germany, and Russia to force the Japanese to evacuate all occupied territories. The diplomatic manoeuvre was successful and the grateful Chinese granted a Russo-French consortium the right to finance the indemnity mandated under the Treaty of Shimonenski. The Chinese government also granted a charter for the

²⁴Malozemoff, Russian Far Eastern Policy, p. 47.

²⁵Ibid., pp. 62-67, passim.

creation of the French financed Russo-Chinese Bank.²⁶

The carefully orchestrated movement to maximize Russian influence reached its climax with the Russo-Chinese Treaty of 1896. Ostensibly the treaty called for mutual military aid in the event that either country would be attacked by Japan. More important for Witte were the secret, nonmilitary clauses which granted the Russians permission to build a sizeable section of the Trans-Siberian Railroad across Chinese territory "in the direction of Vladivostok." The concession was considered necessary in that it permitted Russia to send military reinforcements to China in the event of war. At the same time discussion began on the possibility of constructing a spur of the railroad south from Vladivostok. No agreement was reached on this matter.²⁷

The British government responded quickly to Russia's new interest and influence in Peking. Several members of Salisbury's Cabinet, and Joseph Chamberlain in particular, were greatly disturbed by the apparent decline of British influence in respect to that of Russia.²⁸

²⁶Ibid., pp. 69-72, passim.

²⁷Ibid., pp. 79-80.

²⁸Élie Halévy, the perceptive French historian of Victorian England, has characterized the fears of Chamberlain and his supporters as follows:

"Whatever the improvements made in her national institutions, England felt an increasingly powerful conviction that her vitality was less than that of certain other nations and that if she were progressing, her rate of progress was less rapid than theirs--that is to say, if not absolutely, at least relatively to her rivals, she was declining. It was this loss of confidence which explains the far-reaching change in her foreign policy which took place towards the end of the nineteenth century...."

Élie Halévy, History of the English People in the Nineteenth Century: Imperialism and the Rise of Labour, 1895-1905 (New York, 1961), p. viii.

They sought to promote an active anti-Russian policy to reverse this dangerous trend. Salisbury took a more detached view of the situation. He continued to believe that China was not central to Britain's world-wide interests, and that in any case the British government could not prevent or reverse Russia's economic penetration of China without risking a war. He was, therefore, content with the policy of peaceful coexistence in the belief that China was large enough to accommodate the interests of both powers. Because Salisbury was still in control of his Cabinet at the beginning of 1898, this policy prevailed despite the muffled rumblings of Chamberlain's discontent. Russia's subsequent seizure of Port Arthur would rekindle this foreign policy dispute between Salisbury and his influential Colonial Secretary.²⁹

The first Sino-Japanese War had also stirred Germany's imperial ambitions in Asia. Germany's occupation of the port of Kiaochow in the fall of 1897 portended the dismemberment of China. The Russian government had not objected to the Kaiser's action and Witte believed the territorial integrity of China could be preserved if Russia would restrain herself and not claim another Chinese city by way of compensation. Neither the Tsar nor Mouravieff were sympathetic to this view, nor were they concerned with the maintenance of the nominal independence of China. Their aim was the immediate acquisition of a warm water port. A lengthy and spirited debate took place within the inner circles of the Russian government and Witte's defeat was signaled by the March 11, 1898

²⁹During 1897 and 1898, Lord Salisbury suffered from a chronic respiratory illness and was often forced to vacation in the south of France to recover his health. During the Prime Minister's lengthy absences, Joseph Chamberlain emerged as the most influential member of the Cabinet. Grenville, Lord Salisbury and Foreign Policy, pp. 134-136.

decision to demand the lease of Port Arthur.³⁰

Lord Salisbury also believed that Germany's precipitous action need not result in a general scramble for Chinese territory. The dissolution of China would be forestalled, he argued, if England and Russia could reach an understanding and cooperate in the economic exploitation of that country.³¹ In January, 1898 Salisbury made such a proposal to Witte, sweetening the offer with a suggestion that Anglo-Russian cooperation might be extended to encompass the crumbling Ottoman Empire. Salisbury placed only two conditions on an agreement. He asserted that Britain "would not admit the violation of any existing treaties, or impair the integrity of the present empires of either China or Turkey. We aim at no partition of territory, but only a partition of preponderance."³²

Salisbury's démarche proved unsuccessful as the Tsar was unwilling to forego the annexation of Port Arthur and control of Talienwan for an agreement with the British. Even Witte was not enthusiastic, declaring frankly that Russia would under no circumstances bind herself indefinitely

³⁰Malozemoff, Russia's Far Eastern Policy, pp. 98-104, passim.

³¹Salisbury to O'Conor, January 17, 1898, B.D.I, 5.

³²Salisbury illustrated his proposal for partition as follows: "It is evident that both in respect to Turkey and China there are large portions which interest Russia much more than England and vice versa. Merely as an illustration, and binding myself to nothing, I would say that the portion of Turkey which drains into the Black Sea, together with the drainage valley of the Euphrates as far as Bagdad, interest Russia much more than England: whereas Turkish Africa, Arabia, and the Valley of the Euphrates below Bagdad interest England much more than Russia. A similar distinction exists in China between the Valley of the Hoango with the territory north of it and the Valley of the Yangtze." Salisbury to O'Conor, January 25, 1898, B.D.I, 9.

to the preservation of the territorial integrity of China.³³ Once the Russian decision on Port Arthur became known, the British government was thrown into a turmoil. Something had to be done quickly in order to save face-- yet for nearly a month the Cabinet deliberated. Salisbury continued to argue against the acquisition of any Chinese territory but the opposition from his own party and the press proved strong enough to force his capitulation. On March 25, 1899 the Cabinet decided to apply for the lease of the port of Wei-wei-wei.³⁴

The occupation of Wei-wei-wei did not silence Salisbury's critics. Chamberlain opposed it believing that annexation tacitly sanctioned Russia's initiative and would be interpreted as Britain's recognition of Russian preeminence in China. Salisbury, he declared, should have forced the Tsar's government to back down even at the risk of war.³⁵ Chamberlain's criticism quickly escalated to challenge the concept of "splendid isolation," the working principle of Salisbury's foreign policy. On March 25, 1899 the Colonial Secretary began private discussion with Baron Hatzfeldt in the hope of securing an Anglo-German alliance to counter Russian influence in China.³⁶

Despite his best efforts the Prime Minister's "Dying Nations Speech" carried little conviction that British influence in China

³³Grenville, Lord Salisbury and Foreign Policy, p. 142.

³⁴Ibid., p. 144.

³⁵Ibid.

³⁶See Grenville, Lord Salisbury and Foreign Policy, ch. VII for a discussion of the Chamberlain-Hatzfeldt negotiations. Lord Salisbury's interpretation of "splendid isolation" did not preclude cooperation with the Triple Alliance in order to stabilize the political situation in the Mediterranean and the Balkans. See, C.J. Lowe, Salisbury and the Mediterranean, 1886-1896 (London, 1965), passim.

remained paramount and that it could be protected without resort to troublesome alliances.³⁷ No amount of fudging could obscure the fact that Britain had suffered a serious humiliation and a diplomatic reversal, and The Times went so far as to suggest that Salisbury resign his post as Foreign Secretary.³⁸ Chamberlain's warning that unless the nation gave up its posture of "splendid isolation," "the fate of the Chinese Empire may be, probably will be, hereafter decided without references to our wishes and in defiance of our interests" found supporters inside and outside government circles.³⁹

Even as the rhetoric and recrimination died down and the attention of the country shifted to Kitchner and Khartoum, one point had become clear: Lord Salisbury would have to assume a firmer position towards Russian incursions in China or face serious opposition from his Cabinet. The next confrontation was not long in coming and it brought Great Britain and Russia to the brink of war.

The crisis in Anglo-Russian relations developed from events of late June, when a Franco-Belgian syndicate, backed secretly by the Russo-Chinese Bank, secured the concession for completing the railroad linking Peking and Hankow. The British Ambassador protested that the concession threatened British interests in the Yangtze valley. At the same time, however, the British-backed Hongkong and Shanghai Bank

³⁷The Times, May 5, 1898, p. 7.

³⁸Ibid., p. 9.

³⁹Grenville, Lord Salisbury and Foreign Policy, pp. 169-170.

agreed to underwrite a loan to the Chinese Government for the construction of a railroad from Mukden to Newchwang, the busiest port in Manchuria. Security for the loan included a lien on the right of way and a mortgage on the entire rolling stock of the line connecting Peking and Newchwang. Since the Russians considered Manchuria part of their sphere of influence, it was not surprising that a sharp protest was raised by M. Pavlov, the Imperial Ambassador in Peking.⁴⁰

Pavlov insisted that acceptance of the British loan by the Chinese Government would violate the Treaty of 1896 which had given Russia first claim on all concessions in Manchuria. Pavlov tried to frighten the Chinese officials into reversing their position, but Salisbury proved equally intent on holding them to the agreement. On July 22, 1898 the Prime Minister cabled the British Ambassador in Peking:

You may inform... (the Chinese Government) that Her Majesty's Government will support them against any Power which commits any act of aggression on China, because China has granted to a British subject permission to make or support any railway or similar public work.⁴¹

By mid-August the situation had deteriorated so badly that Balfour could inform Mouravieff:

It is impossible for Her Majesty's Government to acquiesce in an arrangement which while excluding England from her share in the railway enterprises of Manchuria leaves all of China open to the enterprise of Russia. Such a situation if persisted in must inevitably produce the most serious international difficulties.

⁴⁰Langer, Diplomacy of Imperialism, pp. 679-680.

⁴¹Ibid., pp. 679-680.

It has clearly⁴² aroused in this country a feeling of great exasperation.

There could be no doubt about Britain's determination and the next move was clearly up to the Russians.

Given the tense nature of the Anglo-Russian situation, St. Petersburg's decision to seek a peaceful solution by attempting to find an understanding with London was wise. On August 18 Count Mouravieff assured Sir Charles Scott that Russia had no wish to drive British commerce out of China: rather it was the sincere desire of the Tsar's Government to cooperate peacefully with the British.⁴³ By August 21 the Russian Foreign Minister had revived the proposal to divide north China into Russian and British spheres of influence. In return for Salisbury's agreement not to seek railroad concessions in Manchuria, Russia would agree not to seek railroad concessions in the Yangtze basin.⁴⁴ These negotiations had begun when the Tsar's Rescript suddenly appeared on August 24, 1898.

In his private dispatches the British Ambassador, Sir Charles Scott, attempted to place these rapid diplomatic developments in perspective.⁴⁵ Sir Charles was completely convinced of the "sincerity of the

⁴²Balfour to Scott, August 17, 1898, F.O. 65/1558.

⁴³Scott to Salisbury, August 18, 1898, F.O. 65/1555.

⁴⁴Scott to Salisbury, August 21, 1898, F.O. 65/1555.

⁴⁵At this point something should be said about the veracity of Sir Charles Scott's diplomatic reports. Zara Steiner asserts that Scott was an unreliable diplomat. "Sir Venturesome Scott," as he was called by his detractors, had the reputation of being too trusting to be useful. Despite this, Scott was held in high esteem by Salisbury's faithful and trusted Under-Secretary, Sir Thomas Sanderson. See Zara Steiner, The Foreign Office and Foreign Policy, 1898-1914 (Cambridge, 1969), p. 176.

Emperor's pacific sentiments and earnest desire to arrive at a friendly understanding on all questions with England."⁴⁶ Since Count Witte's commitment to the Great Power's peaceful coexistence in China was well-known, the apparent conversion of Mouravieff seemed most significant to British diplomats. Scott speculated that the Foreign Minister, "finding the current in the highest quarters now firmly set in the direction of conciliation...had promptly set his sails to catch it and run with it."⁴⁷

The dispatch suggests that the Rescript was, in part, the Russian government's dramatic way of underscoring its peaceful intentions in China.⁴⁸

Balfour, as acting-Foreign Secretary, was determined to test the accuracy of Scott's analysis. If the Imperial Government had in fact decided to follow a pacific and conciliatory policy towards Britain,

⁴⁶Scott to Balfour, August 25, 1898, Salisbury Papers.

⁴⁷Ibid.

⁴⁸It was Scott's opinion that Her Majesty's Government should make every effort to capitalize on Mouravieff's new spirit of conciliation. He advised Salisbury:

"I am disposed to believe in the sincerity of his (Mouravieff's) expressed desire for this, and to think that it might be a wise policy on our part to render him every assistance in this difficult position in which he is placed.

My personal view is...that Count Mouravieff's private interests and the satisfaction of his personal ambition lie in the direction of supporting the ultra pacific sentiments and conciliatory dispositions of the Young Emperor--and at the same time the financial policy of M. de Witte at present seriously jeopardized by the large demand, just now falling due, on the Treasury for artillery equipment and for new ships, while funds are urgently needed by him for peaceful employment elsewhere."

Scott to Salisbury, September 8, 1899, Salisbury Papers.

Balfour wanted to force Russia into making concrete concessions. He therefore decided to concentrate on the China situation until Count Mouravieff was forced "into making a distinct offer of spheres of interest (so far as concessions go), i.e. Manchuria v. basin of Yangtze [sic]..." Russia, he believed, would have to succumb to British pressure as "she could hardly go to war at the very moment she is summoning a peace conference, some proposal she must make."⁴⁹

The course of Anglo-Russian negotiations for the economic division of north China proved to be long and tedious. The Russians procrastinated during the fall and winter, partly because of the Tsar's unwillingness to come to terms with Britain while his ally, France, was on the brink of war over the Sudan.⁵⁰ Finally, on April 28, 1899, the two Powers exchanged a series of notes in which Russia recognized the valley of the Yangtze as a British railroad sphere and the British accepted Manchuria as well as all of China north of the Great Wall as a Russian railroad sphere.⁵¹ Chamberlain privately expressed his opposition to this

⁴⁹Balfour to Salisbury, August 30, 1898, Balfour Papers. In order to clarify the role of Balfour in policy making, it should be noted that while Lord Salisbury was recovering from his illness in the south of France, his nephew was in complete charge of the Foreign Office. By Salisbury's personal directive, Balfour was free to formulate policy and make decisions on matters of great urgency. See, Salisbury to Balfour, April 9, 1898, Balfour Papers.

⁵⁰Despite the accepted view that Russia had no interest in France's difficulties in the Sudan, Sir Charles Scott indicated that this issue delayed the resolution of the Anglo-Russian railroad controversy. Scott to Salisbury, January 12, 1899, Salisbury Papers.

⁵¹This agreement gave Britain the right to build and control all railroads in the Yangtze Valley and gave Russia similar rights in all of northern China. Langer, Diplomacy of Imperialism, p. 683.

agreement, but Salisbury, while conceding that negotiating with the Russians was like handling a barrel of "soapful eels," believed Britain had made the best possible arrangement given Russia's proximity to China.⁵² More importantly, war had been avoided.

V

The full significance of the Tsar's Rescript derives from its bearing on current issues in Russian foreign relations. It was something more than a simple bid for an international conference on arms limitations. Russian domestic affairs also had a significant bearing on the Rescript. The Russian government had grave fiscal difficulties which would have been eased by a moratorium on arms procurement. Yet there is no indication that the Imperial government had reason to believe a meaningful international accord was either likely or possible.

Yet, Russia's decision to make a public proposal on August 24 suggests some other intention. The Tsar's government had obviously underestimated the intensity of Britain's reaction to Russia's continuing advances in China. Salisbury's government was disconcerted by the Russian occupation of Port Arthur, but it had made known its determination to stand fast on the issue of railroad concessions. The Russian government had every reason to avoid war with Great Britain over Chinese issues. And since Balfour's belligerent statements had

⁵²Salisbury to Chamberlain, February 19, 1899, Chamberlain Papers.

underscored Britain's Chinese interests, Russia had to make its pacific intentions absolutely clear. Although private assurances might have been sufficient, a dramatic demonstration would certainly be more convincing. The Rescript was intended in part to be the public pledge of Russia's commitment to peace.

Chapter III

The British Response

The Tsar's Rescript aroused surprise and consternation among the major European Powers. The French were dumbfounded. Incredibly, their Russian ally had prepared and issued a disarmament appeal without a prior consultation with the Quai d'Orsay.¹ Despite the cordial tone of the official French response,² Delcassé was particularly distressed by the Russian initiative. There was growing French dissatisfaction with the Franco-Russian Alliance prior to August, 1898, and the wording of the Rescript raised French fears that the Russian-sponsored conference would reaffirm the territorial clauses of the Treaty of Frankfurt.³

Kaiser Wilhelm's response to the Rescript was flattering to the Tsar but sceptical of practical results. While praising the "pure and lofty motives" that inspired the document, the Kaiser expressed his view that the distrust and hostility which characterized the

¹Monson to Salisbury, September 1, 1898, B.D.I, 262.

²See the speech of Delcassé to the Chamber of Deputies, January 23, 1899, D.D., p.2.

³Le Temps, the newspaper generally regarded as expressing the views of the Quai d'Orsay, said frankly: "Until the injustice of 1871 has been rectified, until France has re-established the past at the risk of her very existence, until she has assured the future, the true heirs of the Revolution cannot subscribe to the principles of Count Muraviev." Quoted in William Langer, The Diplomacy of Imperialism, p. 585.

political relations among the Great Powers presented an insurmountable obstacle to an international agreement to limit arms and armies. The Kaiser also offered a very personal reason for questioning the success of a conference: "Could we," he asked, "a monarch holding personal command of [the] Army, dissolve the regiments sacred with a hundred years of history and relegate their glorious colors to the walls of the armories and museums?...." Yet, despite all of his doubts, the Kaiser promised that his government would give the Russian proposal its most serious attention.⁴

When the Rescript reached London, Arthur J. Balfour was acting-Foreign Secretary. Balfour's response to the Tsar's communication was swift and correct. Sir Charles Scott, the British Ambassador in St. Petersburg was instructed to inform the Imperial Government that since the Prime Minister was abroad, and the Cabinet scattered on summer holiday, it was impossible for Her Majesty's Government to make an official response to the Rescript. He was authorized, however, to assure Count Mouravieff that the British people and their government shared the pacific and humanitarian sentiments expressed in the circular, and that further communications would be forthcoming.⁵

⁴The Kaiser's real opinion of the Rescript can be found in his minute to von Bulow's dispatch of August 28, 1898. William commented: "The whole plan seems to me to be due merely to the financial exhaustion of Russia. Army increases, strategical railways, the rapid expansion towards China, the Siberian railway, all of this has drained the land, taxes can hardly be increased....Witte had no further sources since France has given out and Germany and England are no longer willing.... All this must be counted in, along with the young Tsar's humanitarian nonsense which has led him to this incredible step. There's a bit of deviltry in it too, because anyone who refuses the invitation will be said to want to break the peace and that at a moment when Russia cannot go further, while others-especially Germany-can not begin to make up for lost time." G.P., XV, 4219.

⁵Balfour to Scott, August 30, 1898, F.O. 65/1558.

In a secret dispatch which accompanied his cable, Balfour asked Scott to determine if the Russian Government had a definite scheme to lay before an international conference. If so, Balfour wondered if, at the insistence of one or a group of Powers, the conference could be forced to consider such delicate questions as Alsace-Lorraine, Constantinople, Afghanistan, or Egypt? He was also anxious to know if the Imperial Government had in mind a formula that would fix national armaments on the basis of territory, population, or wealth, or on some ratio thereof? Scott was instructed not to press his inquiries on Mouravieff, but any information he could supply on these points would be most welcome.⁶

Count Mouravieff proved most willing to provide answers to Balfour's questions. Russia, he told Scott, had no definite plan to lay before the proposed conference. She would absolutely insist, however, that the discussions "be of an essentially non-political character...." Excluded from the outset would be any consideration of general disarmament or the "causes past or present tending to lead to hostilities...." Mouravieff further stipulated that no Government should be "held bound or committed to anything by the fact of its acceptance of, or participation in the conference...." and stressed his hope that the deliberations would take place in public and not in "secret conclave."⁷

The Foreign Minister declared that the Tsar, in making his proposal, was not a utopian dreamer. Nicholas recognized the impracticability of any suggestion for general disarmament and was quite aware that a

⁶Balfour to Scott, August 30, 1898, F.O. 65/1558.

⁷Scott to Salisbury, Sept. 1, 1898, F.O. 65/1588.

conference based on such an exaggerated possibility would be doomed to failure. All the Tsar requested was "an open and frank interchange of views...." on questions concerning the ruinous financial burdens imposed by increasing military expenditures. In terms of actual results, Mouravieff indicated that the Russian Government believed "an agreement between [sic] the leading Powers not to adopt or make use of any more advanced engines of destruction which science might place within their reach..." might well be within the range of "practical accomplishment."⁸

Count Mouravieff's assurances that the conference was to be "non-political" in nature cleared the way for Britain's formal acceptance of the Tsar's proposal after Salisbury's return from France. In keeping with his practical temperament, Salisbury's response, while positive, was distinctly unenthusiastic. In his communication of October 24, 1898, the Prime Minister acknowledged that the Tsar was correct in indentifying the tendency to increase the size of armies and arsenals as potentially dangerous to the general peace. Yet he was careful to remind the Imperial Government that the production of armaments of an advanced type was not without desirable results. Salisbury asserted that "the perfection of the instruments thus brought into use, their extreme costliness, and the horrible carnage and destruction which would ensue from their employment on a large scale, have acted no doubt as a serious deterrent from war." He was willing to concede, however, that the burdens imposed by the arms race produced a "feeling of unrest and discontent on the part of the populations affected," and assured Mouravieff that Britain would

⁸Ibid.

cooperate in an effort to find a remedy for this growing evil.⁹

In his note, Lord Salisbury expressed the hope that the Russian government would supply the other Powers with a protocol identifying the topics to be considered by the conference.¹⁰ Britain was

⁹Salisbury to Scott, October 24, 1898, B.D., I, p. 269

Salisbury's allegiance to the maxim Si vis pacem, para bellum was well known. In an 1864 article on British foreign policy, he declared that:

"The defense of a high reputation is, after all, not a cheap one. A nation which is known to be willing as well as able to defend itself will probably escape attack. Where the disposition to fight in case of need is wanting...the political gamblers who speculate in war will naturally be inclined to invest in the venture of aggression."

As Prime Minister, Salisbury repeated these sentiments in his famous 1897 Guildhall speech. He remarked that:

"There is another danger, or, if not a danger, a cause of disquietude—a cause which if it does not disquiet us, must at least attract our earnest attention, and that is that year after year, we see that new necessities of fresh armaments are recognized. Fresh forces are brought into the ranks, larger and larger armaments are constructed, vaster and vaster sums are devoted to the purposes of defense. And as the process goes on we ask—Where is it to end? Will the time come when the nations will think that they have prepared enough and will begin to decrease their accumulations of armaments and men? I see it stated on good authority that there are no less than twelve millions of men, of armed men maintained by the five Powers of Continental Europe.... I do not say that this should diminish our confidence in peace, but I feel that there is a general impression pervading the community—one of those wide public impressions affecting every mind and every class which carries by its very universality the warrant of its truth—which tells us that in the midst of so much preparation we must not remain unprepared."

Lord Salisbury quoted in, Michael Pinto-Duschinsky, The Political Thought of Lord Salisbury, 1854-1868 (London, 1967), p. 126 and Tate, Disarmament Illusion, pp. 133-134.

¹⁰Salisbury to Scott, October 24, 1898, B.D., I, p. 269.

not the only country anxious to learn these details; the German Ambassador, Prince Radolin, had had several interviews with Count Mouravieff in an effort to work out an agenda for the conference that would prove acceptable to his government.¹¹ Finally, on January 11, 1899, after extensive discussions with members of the diplomatic corps and his cabinet colleagues, including Feodor de Martens, the noted international jurist, Count Mouravieff, with the approval of the Tsar, delivered a Second Rescript to the St. Petersburg diplomats which contained a tentative agenda for the conference.

II

The Second Rescript expressed the intention of the Imperial Government to convene a conference in spite of the fact that several of the Powers had authorized large weapons expenditures subsequent to August, 1898, the date of the First Rescript. Unlike that document, the Second Rescript was a careful and precise statement clearly listing the issues to be considered by the participants. Significantly, these included suggestions for the elaboration and codification of the laws of war and the promotion of both mediation and arbitration in addition to proposals to limit arms and armed forces.¹²

The first four items on the proposed agenda dealt specifically

¹¹Lascelles to Salisbury, December 22, 1898, B.D., I. p. 271.

¹²Scott to Salisbury, January 12, 1899, F.O. 65/1577. See appendix II for the text of the Second Rescript.

with the size of armed forces and the use of weapons. The conference was asked to seek an agreement not to increase "for a fixed period" the existing size of military and naval forces and their current budgets and to discuss means for reducing armaments and expenditures. Prohibition of "any new kind of fire arms whatever" and of new explosives or powders more powerful than those already in use was also suggested. An agreement was sought to restrict the use in warfare of all types of explosives, "to prohibit the throwing of projectiles or explosives of any kind from balloons," and, in naval warfare, to prohibit the use of submarine torpedo boats and the construction of vessels with rams.¹³

Russia's proposed agenda included three suggestions about the laws of war. The powers were requested to apply to Naval warfare the provisions of the Geneva Convention of 1864 and the supplementary articles of 1868. They were also asked to agree to the neutralization of vessels employed in lifesaving operations during and after naval engagements. On the subject of land operations, the conference was asked to revise and adopt the 1874 Brussels Declaration on the laws and customs of war. Finally, the Imperial Government recommended that the conference "accept in principle the employment of good offices of mediation and facultative arbitration in cases lending themselves thereto, with the object of preventing armed conflicts between nations; to come to an understanding with respect to the mode of applying these good offices and to establish a uniform practice in using them."¹⁴

¹³Ibid.

¹⁴Ibid.

III

Lord Salisbury's formal response to the Second Rescript was brief and non-committal; he simply notified Count Mouravieff that Her Majesty's Government would send representatives to the Russian-sponsored conference. The Prime Minister refrained from expressing an opinion on the issues raised in the circular, "without benefit of careful expert examination." Salisbury was, however, willing to offer his support for the proposal to "promote, by all possible means, the principles of recourse to mediation and arbitration for the prevention of war," measures that had long enjoyed the Marquess' approbation.¹⁵

Privately, Salisbury indicated that he had no illusions about the possibility of achieving positive results at the conference. And he was also clearly disturbed by the terms in which the Russian Government had expressed their proposals. The use of the term "armed forces" (effectifs actuels des forces armées) worried Salisbury lest a too narrow definition permit "the provision in any numbers, of men who are drilled and ready to bear arms, but who do not actually possess them." The Prime Minister feared that this would only serve to encourage the development of large reserve forces along the lines of "the well-known plan by which Prussia prepared for the War of Liberation." Salisbury also feared that the prohibition on the construction of new warships would be circumvented by the building of vessels without actual weapons, but "so built as to be capable of being fitted with

¹⁵Salisbury to Scott, February 14, 1899, F.O. 83/1699.

them at the shortest notice."¹⁶

Unquestionably, Salisbury's greatest concern centered on the methods for implementing the decisions of the proposed disarmament conference. He believed that any limitation of forces or prohibition on the use of new weapons could only be of serious value if an organization were created to guarantee compliance. Salisbury elaborated:

Such...machinery must be able to detect and to repress, during time of peace, in the case of any Power, any increase of armed forces by sea or land beyond the total to be fixed; and also during wartime to restrain the employment by the belligerents of any guns or rifles of a new pattern.... On the action and efficacy of this inspecting and restraining organization the practical working of the whole scheme depends. It will furnish the only means of giving assurance to each of the several Powers that their abstinence from preparation will not place any of them, when war comes, at the mercy of some less scrupulous antagonist.¹⁷

¹⁶Salisbury to Scott, February 14, 1899, F.O. 83/1699.

¹⁷Ibid.

In Salisbury's view, the major responsibility of any political leader was to work for the avoidance of conflict and for the maintenance of peace. Salisbury was, however, a total pragmatist who rejected as Utopian all suggestions that the international community would consent to the creation of a supra-national body to govern interstate relations. In 1887, when the Marquess of Bristol introduced a resolution in Parliament urging the establishment of an international court of arbitration, Salisbury opposed his motion declaring:

"If nations were once to get to that state of mind that they would submit all their disputes to any tribunal and would obey that tribunal, the warlike spirit would so far disappear that the very necessity for taking precautions would cease to exist. At present we can only say we see no prospect of the formation of any such tribunal.... There is no legislature to lay down the law by which such a tribunal could be guided, and there is no authority to enforce its decrees when once they have been pronounced, and therefore it would be a mere form and its functions would be reduced to a nullity."

Salisbury quoted in, Helen M. Cory, Compulsory Arbitration of International Disputes (New York, 1932) pp. 26-27. See also, Pinto-Duschinsky, The Political Thought of Lord Salisbury, pp. 122-123.

Salisbury's reservations concerning the conference were cabled to Sir Charles Scott in St. Petersburg. The Ambassador was instructed to discuss the Prime Minister's views with Count Mouravieff, but he was carefully cautioned against presenting them "in any way which would suggest that Her Majesty's Government are opposed to the conference."¹⁸

While Scott conveyed his doubts to the Imperial Government, Salisbury took advantage of the February 7, 1899 opening of Parliament to warn his countrymen against expecting momentous results from the conference. "No one can doubt", he said, "the purity and grandeur of the motives which have animated the Emperor in making this invitation, and everyone must heartily wish that his anticipations will be realised; but further than that I do not think it safe to go."¹⁹

The Prime Minister reminded Parliament that many nations, including Russia, were increasing their armaments budgets at the very time when "we are speaking of and prophesying peace...." Such actions, he argued, made it impossible to believe that the conference would be successful in reaching an accord to limit armaments. Salisbury suggested, however, that he would be "heartily pleased" if the conference attained a "somewhat humbler aim." He continued:

If by extending the use of the principle of arbitration, we are able to diminish the number of causes by which war can be induced, and if, by humane and beneficent legislation, we can diminish the horrors of that war when it is waged, we shall, I think, have done for our generation a service of which the whole value cannot be appreciated at once, but to which, I think the future inhabitants of Europe will look back with gratitude.²⁰

¹⁸Salisbury to Scott, February 15, 1899, F.O. 83/1699.

¹⁹The Parliamentary Debates 62 Victoria, vol. 66. Feb. 7, 1899, p.33.

²⁰Ibid.

Opposition leaders in Parliament echoed the Prime Minister's cautious response to the Rescript. The Earl of Kimberley who had served as Foreign Secretary in Lord Rosebery's last Liberal government characterized the Rescript as a "remarkable and striking" document. He went on to declare, however, that "the omens [were] not...very favorable at the present moment for any considerable practical measure [to arise] out of the Emperor's proposal."²¹

Sir Henry Campbell-Bannerman, a future liberal Prime Minister, also welcomed the Rescript. He was not surprised that the Tsar's "noble appeal" had been met with an "instantaneous and unhesitating response in the hearts of the British people, and that that response took the form of joyful acclamation...." Campbell-Bannerman cautioned against over-optimism, however, declaring that "no one who is acquainted with the condition of Europe and the relation of the Powers of Europe to each other, and bears in mind the inborn characteristics of human nature, can fail to see how enormous are the difficulties in the way of what is desired." He expressed the hope that some tangible results would issue from the conference, but he believed that its most important effect would be the "moral influence of the Tsar's appeal on the statesmen of Europe."²²

²¹Parliamentary Debates, 62 Victoria, vol. 66. February 7, 1899, pp. 20-21.

²²Ibid., p. 90.

Radical M.P.'s such as Henry Labouchere and Keir Hardie remained strangely silent on the subject of the Tsar's Rescript. The Radical's dislike and distrust of autocratic Russia might explain their reluctance to support the conference. See A.J.P. Taylor, The Troublemakers: Dissent Over Foreign Policy, 1872-1939 (London, 1969), p. 101.

IV

The Prime Minister's remarks seemed to identify the government's expectations: if the powers reached any accords at the conference, they would doubtless concern humanitarian issues and methods of arbitration rather than arms limitation.

Larger possibilities soon came to light however, and on March 9, 1899 the First Lord of the Admiralty, Sir George Goschen, made a stunning offer to the Great Powers. In his speech to Parliament detailing the naval Budget for 1899-1900.... Goschen declared:

I have now to state on behalf of Her Majesty's Government that similarly, if the other great Naval Powers should be prepared to diminish their Programme of shipbuilding, we should be prepared on our side to meet such a procedure by modifying ours. The difficulties of adjustment are no doubt immense, but our desire that the Conference should succeed in lightening the tremendous burdens which now weigh down all European nations is sincere.²³

Did this proposal mean that Lord Salisbury's government had changed its mind about the conference's potential for arms limitation? Or was there an alternative explanation? Here again understanding requires some consideration of the balance of naval power in the Far East.

At the beginning of 1898 the British China Squadron was superior to the combined Franco-Russian fleet. And it was only slightly inferior to the total strength of the naval forces deployed by France, Russia and Germany in the Far East. The British advantage was threatened however by

²³Ibid., vol. 68, March 9, 1899, p. 324.

the French government's decision to increase the number of ships on China station. Rumors spread through Whitehall that the Russian Government was preparing to send battleships from the Black Sea Fleet to the Pacific. In February, 1898 the Admiralty took steps to preserve British naval superiority by dispatching two battleships and two armored cruisers to join Admiral Buller's command in the China Sea.²⁴

The Admiralty's concern over events in the Far East resulted in a request for increased appropriations. An additional two million pounds was included in the March, 1898 Naval Budget to begin construction of three battleships, fourteen armored cruisers and four sloops. Although the funds requested were voted by Parliament, doubts were expressed during the debate that they would be sufficient. Goschen acknowledged the validity of these fears, but hesitated to apply for a larger sum since Britain's shipyards, plagued by labor problems, had been unable to meet their 1897 construction schedules.²⁵

In June, 1898 Goschen learned that the Russian Government was prepared to allocate twenty-six million pounds for naval construction over a six year period; nine and one half million of this sum to be spent in 1898. At the end of 1904, Russia expected to have a fleet based at Port Arthur containing six to eight battleships, eight cruisers and twenty destroyers. Unless neutralized by an enlarged British squadron, the creation of this force threatened to alter the political

²⁴ Arthur J. Marder, The Anatomy of British Sea Power: A History of British Naval Policy in the Pre-Dreadnought Era, 1880-1905 (Connecticut, 1964), pp. 302-304.

²⁵ Ibid., pp. 305-306.

balance in the Far East and upset that "irreducible minimum" of British security, the two-power standard. After intense Cabinet discussions, Goschen, in July, 1898, presented Parliament with a supplemental budget request for two million pounds to commence construction on four battleships, four cruisers, and twelve destroyers.²⁶

Both Goschen and the Treasury Secretary, Sir Michael Hicks-Beach, realized further increases would be necessary in 1899, and feared similar action by the other Powers. In February, 1899, the Cabinet, meeting without the Prime Minister, recommended a démarche to the Tsar that would test the sincerity of Russia's commitment to arms limitations and hopefully terminate this new phase of the arms race.²⁷

The Cabinet feared that the Russian government would be "startled" by the substantial increases in the 1899 Naval Estimates. With the "international disarmament conference" in the offing, Goschen believed it would be "expedient" for Sir Charles Scott to acquaint the Russian Government with the reason for the proposed increase and to offer a proposal to curtail it. Scott was to explain the real implications of the 1899 increase: for two million pounds of the total sum represented the amount already authorized by the supplementary budget of 1898; thus only eight hundred thousand pounds represented new funds. The Ambassador was to remind Count Mouravieff that Britain's action had been taken solely to offset the expanded Russian naval construction program, and to stress that there was nothing in the new estimates

²⁶Ibid., pp. 315-316.

²⁷Goschen to Salisbury, n.d. Salisbury Papers.

"inconsistent with our readiness to enter the Disarmament Conference."²⁸

Since it was clearly in the interest of Britain and Russia to limit their naval expenses, Goschen advised the Prime Minister that:

The question may fairly arise, if Russia and we are prepared in an international conference to enter at all upon the subject of a diminution in constructing battleships, whether we could not exchange views as to the possibility of Russia on her side undertaking not to order or commence any new battleships in 1899-1900 beyond the four ordered under the 90,000,000 (roubles-9 million pound) ukase, and we undertaking not to proceed with the two inserted in our forthcoming estimates. Such a hint might test the sincerity of Russia, and at the same time afford a proof of our sincerity.

The Cabinet seemed inclined to wish that I should publicly throw out such a suggestion in moving my Estimates on the 9th of March, as it would show the British public as well as the Russian Government that we were not unprepared to respond in some measure to the peaceful overtures implied in the invitation to the conference....²⁹

With the approval of Lord Salisbury, Goschen's offer was conveyed to the Tsar and revealed to the British public. Unfortunately, however, the Imperial Government was unwilling to consider the proposal because Nicholas "did not think the time has yet come for acting on the hint and exchanging views about a mutual curtailment of naval programmes."³⁰

Sir Charles Scott suggested that the Tsar's negative response was the result of his having become "less sanguine" about the chance that the conference might reach an international accord on naval construction. From Russia's point of view, a bilateral agreement with Britain would be meaningless because "in case of war with England, Russia would certainly

²⁸Ibid.

²⁹Ibid.

³⁰Scott to Salisbury, March 9, 1899, Salisbury Papers.

keep all her battleships in harbour and never risk them in a fight."³¹ Thus the Russian naval program "in no way took account of the English navy" and in issuing the Rescripts the Tsar was actually hoping to make a naval agreement with Japan and Germany. Since neither power had indicated a willingness to limit its program of naval construction it was not in Russia's interest to tie her hands through a unilateral accord with Britain.³²

Goschen's motives in suggesting a moratorium on naval construction remain obscure. The First Lord was totally cynical about the prospects of the Tsar's conference and remarked to Salisbury that the task of the British delegation should be "to make it appear that it is one of the others [Great Powers] who causes the inevitable collapse."³³ He had been told, however, by Sir Michael Hicks Beach, First Lord of the Treasury, that continued increases in naval expenditures were a fiscal impossibility.³⁴ And Goschen was well aware that the continental Powers were accelerating their programs of shipbuilding. One might speculate, therefore, that Goschen made his proposal in the belief that only a naval freeze could preserve the "two-power standard" for the immediate future.

³¹Fisher to Salisbury, July 26, 1899, p. 2, F.O. 83/1701.

³²Ibid.

³³Goschen to Salisbury, January 18, 1899, Salisbury Papers.

³⁴Hicks Beach to Salisbury, January 30, 1899, Salisbury Papers.

V

Despite Russia's unfavorable response to the British démarche, London's preparations for the conference continued in earnest. Instructions had to be prepared for the guidance of the British delegation, and it was to the intelligence divisions of the War Office and the Admiralty that Lord Salisbury turned for expert advice.

At the War Office, the Director of Military Intelligence, (DMI), Major-General Sir John Ardagh, was asked to comment on the terms of the Second Rescript within the context of Britain's military strength and world-wide commitments. In considering the proposal to freeze the size of military forces and budgets for a fixed period, Ardagh declared that in proportion to population, the "extent of the territories to be defended and...the value of the interests at stake Britain already maintained a smaller number of troops than any major nation save the United States. He acknowledged that the military budget had constantly been increasing but the policy of voluntary enlistments meant that the military had to compete for manpower in the open labor market. Thus the army had to provide wages and benefits comparable to those offered by private business. Continental Powers could reduce expenditures by fixing soldiers' wages at a level lower than that paid to unskilled workers, but a comparable reduction in Britain would severely curtail the ability of the army to attract capable recruits.³⁵

³⁵War Office to Foreign Office, May 17, 1899, pp. 1-2, F.O. 83/1700

Ardagh asserted that the growth of Britain's military forces was directly "attributable to the measures of precaution and prudence which have been forced upon Her Majesty's Government by the action of other states...." and by the growth of the Empire. He feared that those Powers advocating a reduction in military forces did so with the intention of diverting their resources to naval construction" for the purpose of overthrowing the maritime supremacy of the United Kingdom." As long as this danger persisted, Ardagh believed the government should, under no circumstances, give guarantees that Britain's military forces and budget would not be increased or that in the future would be diminished.³⁶

The Second Rescript specifically invited an international agreement to limit the use of new weapons in land warfare. The DMI was persuaded that restrictions were warranted only if it could be demonstrated that their adoption would "alleviate the general mass and burden of human suffering inseparable from war." If the development of sophisticated engines of destruction had prolonged the duration of wars and increased the number of casualties, both civilian and military, a strong case could be made for their prohibition. Ardagh argued, however, that it was precisely the introduction of new weapons, not their proscription, that had lessened the duration and frequency of war and had reduced the number of casualties. One had simply to compare the Hundred Years' War of the fourteenth-century with the Seven Weeks' War of the nineteenth-century to prove that the duration of wars had lessened. To document the declining frequency of hostilities, the DMI indicated that Britain

³⁶Ibid.

in the fourteenth century had experienced seventy-seven years of war and only twenty-three of peace, while the statistics for the nineteenth century were almost exactly reversed.³⁷

The diminution of casualties in warfare, Ardagh opined, was largely the result of changes in military tactics necessitated by the introduction of new weapons. In preceding centuries, the decisive period of a passage-at-arms was the time of hand-to-hand fighting with sword or spear. When the moment of decision had arrived and one army felt overwhelmed and turned to flee, the victors were in such close proximity to the vanquished, they could kill with impunity and grant no quarter even to the wounded. Although the decline of mass slaughter in the modern era had resulted in part from the transition "from barbarianism to civilization" and from the decline of religious fanaticism, Ardagh was certain that the introduction of long-ranged artillery and rapid-fire breech-loading rifles had also played a significant role. These weapons forced opposing armies to maintain a respectful distance during an engagement and thus they were able to terminate a battle at will and withdraw from the battlefield with forces largely intact.³⁸

Ardagh argued that the use of modern weapons had also enabled armies to treat non-combatants with consideration and restraint. Disciplined military organizations, possessing refined weapons could effectively control the civilian populations of occupied areas with a small number

³⁷Ibid., pp. 2-3.

³⁸Ibid., pp. 3-4.

of men. Thus civilians were not considered a threat and their elimination could not be justified on the grounds of military necessity.³⁹ The DMI concluded, that in "all respects whether in the duration of war, the mortality occasioned by them or the treatment of non-combatants, it appears to be substantially true that there has been a diminution more and more pronounced, as the destructive agencies employed in war have improved."⁴⁰

An additional argument against Britain's acceptance of a ban on the development of new weapons was Ardagh's view that it would deprive the country of the advantages derived from "the skill and inventiveness of our scientific men." It would prevent the nation from fully utilizing the resources of industry and thus deprive Britain of one of its strongest military assets.⁴¹

Furthermore, any limitation or restraint on technological development would place in doubt Britain's ability to protect her colonial possessions against the periodic onslaught of large armies of uncivilized tribesmen. It was only through the concentration of superior firepower that the small British army had been able to defeat the Dervishes at Omdurman. If new weapons were denied the military, Ardagh believed that within a short period of time, native forces, with the assistance of Britain's enemies, could equip themselves with sophisticated weapons and make their numerical superiority the decisive

³⁹Ibid., p. 19.

⁴⁰Ibid., p. 5.

⁴¹Ibid., p. 15.

factor in colonial warfare.⁴²

In Ardagh's view, the difficulty of enforcing any prohibition on the employment of new weapons rendered any such agreement suspect. Despite the binding nature of the Declaration of St. Petersburg, accusations about the illegal use of exploding bullets had been made by both France and Germany during the War of 1870-1871. Ardagh, like Salisbury, believed that in the absence of any international body to investigate alleged violations and apply sanctions, it would be unwise for Britain to endorse and implement such an agreement.⁴³

Although Ardagh advised Lord Salisbury against any agreement to limit arms and armies, the proposal to revise the Brussels Declaration of 1874 on the laws and customs of war received his qualified support. The Brussels Conference had attempted to clarify and codify international usage on such questions as the exercise of military authority over occupied territory, the regulation of sieges and bombardments, the rights of uniformed military personnel and the definition and treatment of spies and prisoners of war.⁴⁴ The Final Act of the Conference was signed by all the nations attending, but the Declaration had not been ratified by the signatories and thus did not have the binding force of international law.

The essential reason for Britain's refusal to ratify the Declaration in 1874 had been Lord Derby's categorical refusal to accept any agreement

⁴²Ibid., pp. 5-6.

⁴³Ibid., p. 6.

⁴⁴Ibid., pp. 23-24.

which would result in "altering the principles of international law upon which this country has hitherto acted...."⁴⁵ This assertion was immediately criticized by the other Powers who agreed with Prince Gortchacow that "if the British Government was determined to insist on keeping to those principles of international law on which it had traditionally acted, it would be desirable for that Government to state exactly what those principles were."⁴⁶ Ardagh acknowledged the validity of Gortchacow's objection and recognized that with the exception of a very few sentences in the Army Act, there was no authorized exposition of the laws and customs of war or of the principles of international law formally endorsed by Britain.⁴⁷

Ardagh realized that in time of war, a British commanding officer was virtually a law unto himself. While the absence of formal regulations had the advantage of providing flexibility in the conduct of war it also placed a grave responsibility on the commander who was denied official guidance in his dealings with enemy troops and civilian populations. The DMI believed that this oversight should be remedied and an official code adopted, but he argued that such a code should be of a national rather than of an international character.⁴⁸ A national code would be subject to revision and emendation at the pleasure of Her Majesty's Government and would guarantee the right of a commander to take exceptional measures in exceptional circumstances.⁴⁹

⁴⁵Ibid., p. 7.

⁴⁶Ibid.

⁴⁷Ibid.

⁴⁸Ibid.

⁴⁹Ibid., p. 8.

Ardagh welcomed the reconsideration of the Brussels Declaration by the conference because he believed that the majority of the items to be included in any revised Declaration would be suitable for a national military code for the British army.⁵⁰ But he warned the Government that under no circumstances should Britain bind herself to the revised Declaration for "the essence of codification is the imposition of restrictions, and if the latter have any influence whatever on the duration of war, the tendency must be rather to lengthen the period than to shorten it."⁵¹

The Admiralty shared the reluctance of the War Office to endorse the arms restrictions suggested in the Second Rescript. Captain Robert Custace, the Director of Naval Intelligence, (DNI), prepared a report on the Rescript which was sent to the Lords Commissioners of the Admiralty. Captain Custace rejected the Russian proposal to freeze the size of naval forces for a fixed period on the grounds that "it will be found to be quite impracticable to come to any agreement as to the meaning of the term effectifs actuels or to ensure that the terms of any agreement arrived at would be carried out."⁵² An accord to freeze naval budgets was also dismissed as unrealistic. To prevent the concealment of naval appropriations such an agreement would have to be accompanied by appropriate procedures allowing for international inspection of national budgets and procurements. In the opinion of the

⁵⁰Ibid.

⁵¹Ibid., p. 26.

⁵²Admiralty to Foreign Office, May 16, 1899, F.O. 83/1700.

Admiralty, none of the Great Powers would grant foreign naval officers free access to their financial records, and thus any budgetary agreement "could not fail to break down."⁵³

Custace adamantly refused to consider any proposal that would limit the strength of the British fleet. He reminded the Foreign Office that the tonnage and composition of the fleet entrusted with the defense of the realm was determined by the scale of foreign armies as well as of foreign navies. For this reason, the Admiralty could not endorse any agreement that established a numerical ration between the Royal Navy and the fleets of the other Great Powers without an accompanying limitation placed on the size of foreign armies.⁵⁴

On the Russian proposal to restrict the use of new and more sophisticated weapons, the Admiralty's view paralleled that of the War Office. Captain Custace observed that modern weapons did not add to the suffering caused by war or the percentage of those killed or wounded in battle. Like Ardagh, he believed that arms restrictions favored the interests of savage nations and were, therefore, retrogressive.⁵⁵ The specific suggestion to limit the use of new and more powerful explosives was rejected because the Admiralty was certain that the Powers were not prepared to make public "the nature and composition of those [explosives] which they now use and which are at present secret." Without such disclosures an effective accord was deemed "impracticable."⁵⁶

⁵³Untitled, n.d. p. 2, Adm. 116/98.

⁵⁴Ibid., p.4.

⁵⁵Admiralty to Foreign Office, May 16, 1899, F.). 83/1700.

⁵⁶Ibid.

The Admiralty also made a negative response to the proposals for regulating the laws of war. The Lords Commissioners warned the Government against binding Britain to a revised Geneva Convention and rejected the French plan, first offered in 1868, to neutralize all ships and boats engaged in humanitarian rescue operations. During a naval engagement it would be most difficult "to distinguish a boat employed in saving men from one carrying a torpedo." It was, therefore, considered advisable to deter rescue craft from intruding into the war zone by denying them the privilege of immunity.⁵⁷

The only segment of the Second Rescript to elicit a favorable response from the Admiralty was the proposal to prohibit the use of submarine torpedo boats. Naval opinion had recognized that the submarine or submersible boat, especially the advanced types being developed by the French navy, posed a serious threat to Britain's large surface warships. "It would be in our interest," Captain Custace observed, not surprisingly, "to prohibit it (the submarine), as well as mines and torpedoes of all kinds because the efficiency of our blockades would be much increased. The fact is that the advantages which the superior Navy gained by the use of steam has been counter-balanced by what it has lost through the introduction of mines and torpedoes."⁵⁸ The report gave no indication, however, that the

⁵⁷Untitled, n.d. p. 5, Adm. 116/98.

⁵⁸Ibid., p. 4.

Admiralty believed the other Great Powers would accept such a prohibition.

In sum, responsible officers at both the War Office and the Admiralty showed little enthusiasm for the Tsar's proposed disarmament conference. They raised many technical objections. And they did not hesitate to offer their opinion about the temper of foreign military and naval advisers. In their view the intensity of the arms race reflected the strain of international rivalries. In this atmosphere none of the Great Powers could afford to accept international restrictions on either the size or the increase of their armed forces. War rather than peace seemed to loom on the European horizon, for it was the view of the Admiralty that "after a long peace each power is prepared to fight for what it considers its legitimate aspirations."⁵⁹ Even if this analysis proved incorrect, the Services opposed committing Britain to any agreement, however limited, that would check the technical improvement of weapons or the over-all size of military and naval budgets.

Ardagh and Custace were less antagonistic to the proposals to codify the laws of war, but again advised against binding Britain to any international accords. The War Office favored a revision of the Brussels Declaration, but only in order to incorporate some of its provisions in a national code of military usage. The Admiralty's position on a revised Geneva Convention was the same. The Lords Commissioners refused to have their freedom of action circumscribed by the terms of an international convention. Both services wished to preserve maximum flexibility in the British response to the unforeseeable

⁵⁹Ibid., p. 1

demands of war.

VI

Although Lord Salisbury had publicly expressed his support for the principle of arbitration, his commitment was not unconditional. During his previous administration, Salisbury had personally supervised the negotiations with the United States resulting in the Venezuela boundary arbitration and in the Anglo-American Arbitration Treaty of 1897. As a result, the Prime Minister had developed definite opinions concerning the circumstances in which arbitration could be useful or harmful to the world-wide interests of the British Empire.

The Prime Minister knew that a proposal for a general international treaty of arbitration was certain to be made at the conference. Numerous bi-lateral arbitration agreements had been negotiated during the last twenty years of the century.⁶⁰ And suggestions for a multi-lateral treaty had been made in 1895 by the Inter-Parliamentary Union⁶¹

⁶⁰For a list of the bi-lateral arbitration treaties in force in 1899, see: "General survey of the clauses of mediation and arbitration affecting the Powers represented at the Conference" in, Proceedings, pp. 818-832.

⁶¹"Projet d'institution d'une cour permanente d'arbitrage internationale" in Acts et Documents Relatifs a la Congres de la Paix (la Haye, 1899), Adm. 116/98.

and the International Law Association,⁶² and in 1897 by the Inter-Parliamentary Conference on Arbitration.⁶³ Lord Salisbury favored such a treaty provided it recognized certain international realities.

In Salisbury's view a system of arbitration was an "entirely novel arrangement, and, therefore the conditions under which it should be adopted...must be determined by experiment."⁶⁴ The Prime Minister was particularly concerned over the possible inclusion of provisions for obligatory or compulsory arbitration in any general treaty.

"Cases that arise between states," Salisbury declared,

belong to one of two classes. They may be private disputes in respect to which the state is representing its own subjects as individuals; or they may be issues which concern the State itself considered as a whole. A claim for an indemnity or for damages belongs generally to the first class; a claim to territory or sovereign rights belongs to the second. For the first class of differences the suitability of international arbitration may be admitted without reserve.... There is nothing in cases of this class which should make it difficult to find capable and impartial arbitrators. But the other class of disputes stands on a different footing. They concern the State in its collective capacity.... If the matter in controversy is important, so that defeat is a serious blow to the credit or power of the litigant who is worsted, that interest becomes a more or less keen partisanship, and, according to their sympathies, men wish for the victory of one side or another.⁶⁵

In cases of the second class, Salisbury was convinced that a truly impartial arbitration panel would be impossible to find.

Salisbury realized that a treaty permitting obligatory arbitration

⁶²"Projet de règlement pour la procedure arbitrale internationale," Ibid.

⁶³ "Resolutions de la conference interparlementaire en 1897," in Ibid.

⁶⁴Salisbury to Pauncefote, March 5, 1896, Arbitration Documents, p. 4.

⁶⁵Ibid.

on all questions would allow any power to call before a tribunal any other power against which it had a grievance. Greece might therefore summon Turkey or France prepare a case against Germany. The differences between these countries which concerned matters of religion, territory and national existence itself could not be resolved by judicial methods.

The Prime Minister was willing, therefore, to accept compulsory arbitration in only four types of disputes. They were; (1) cases of complaints made by the nationals of one power against the officers of another, (2) pecuniary claims, or claims for damages amounting to not more than one hundred thousand pounds, (3) all questions pertaining to diplomatic or consular privileges, and, (4) all questions regarding fishing rights, navigation and commercial privileges.⁶⁶ Lord Salisbury insisted on the complete exclusion of all questions pertaining to "national honor" and to territory.⁶⁷

If border disputes and claims to territory were made subject to compulsory arbitration, Lord Salisbury feared that the result would be an "enormous multiplication" in the number of such cases. In the field of private law, he declared, "excessive litigation is prevented by the judgment for costs against the losing party; but to a national Exchequer the cost of an arbitration will be too small to be an effective deterrent. Whatever the result [of the arbitration award] it may be worth the while of an enterprising government to

⁶⁶Ibid., p. 5.

⁶⁷Olney to Pauncefote, April 11, 1896, Ibid., p. 7.

hazard the experiment."⁶⁸

Lord Salisbury argued that since international litigation was generally protracted, "the prospects of every inhabitant of the disputed territory" would be endangered by the procedure. "Whatever the benefits of arbitration may be in preventing war from arising out of territorial disputes," the Prime Minister opined, "they may well be outweighed if the system should bend to generate a multiplicity of international litigation, blighting the prosperity of border country exposed to it and leaving its inhabitants to lie under the enduring threat of a forcible change of allegiance or of exile."⁶⁹

Furthermore, Salisbury realized that an increase in the number of territorial claims "could hardly fail to result, from time to time, in a miscarriage of justice." The Prime Minister was well aware that the provisions of international law pertaining to territorial rights were "most rudimentary." There were essential differences, he asserted, "between individual and national rights to land, which make it almost impossible to apply the well known laws of real property to a territorial dispute."⁷⁰ An arbitration tribunal would, therefore, be denied the guidance of positive law, and it might be tempted to make its award in favor of the weaker party. Lord Salisbury feared that a few such verdicts at the expense of a British colony or dominion would result in the eventual disintegration of the British

⁶⁸Salisbury to Pauncefote, May 18, 1896, Ibid., p. 12.

⁶⁹Ibid.

⁷⁰Ibid.

Empire.⁷¹

The War Office and the Admiralty were very interested in the subject of arbitration and conveyed their differing views to the Prime Minister. While not minimizing the difficulties that stood in the way of an accord, General Ardagh believed that an arbitration treaty and the concurrent establishment of an International Court would be a major step forward in the conduct of international relations. Ardagh hoped that a treaty would declare hostilities to be unjustifiable without prior resort to arbitration or to neutral mediation. The DMI believed that such an agreement would eliminate the fear of a sudden outbreak of war and that the tensions which existed between states on this account would be mitigated or possibly removed.

Ardagh realized that any delay in the commencement of hostilities would be to the detriment of the continental powers with large armies and elaborate mobilization plans. Britain, by contrast, would benefit,

⁷¹R.B. Mowat, The Life of Lord Pauncefote: First Ambassador to the United States (London, 1929), p. 165.

Salisbury's fear of compulsory arbitration is summarized in a minute appended by the Prime Minister to a Foreign Office dispatch sent to Pauncefote. Salisbury wrote:

"The danger of making [arbitration] in the least degree obligatory is that the weaker power if she has no case would always use it for the purposes of delay.

Great Britain has for to [sic] many years been so profoundly unpopular with all powers that she would be much embarrassed if she was asked to what power she would be disposed to entrust [arbitration], for she would either have to confess to her want of friends or to accept a rival. It is a position which will not make for peace and can do us nothing but harm."

Foreign Office to Pauncefote, May 19, 1899, F.O. 85/1694

as any delay would give her a chance to gather the army from colonial outposts.⁷²

The Admiralty and Admiral Sir John Fisher in particular disliked arbitration precisely because it would delay the outbreak of war. Fisher argued that if states were obliged to have recourse to arbitration or to mediation, it would give the more unprepared power a chance to deploy its naval forces. He knew that the strength of the Royal Navy lay in its constant preparedness and feared that any agreement that compromised the Navy's ability to strike first would endanger the survival of Britain.⁷³

Britain's position on arbitration at the conference would reflect the views of Lord Salisbury and his military and naval advisors. Britain would favor arbitration in regard to relatively minor matters but would oppose all efforts to make resort to arbitration compulsory in political or territorial disputes.

VII

Her Majesty's Government's emerging attitude towards the Conference

⁷²War Office to Foreign Office, May 17, 1899, p. 9. F.O. 85/1700.

⁷³Fisher's opinion was given additional support by Britain's experience during the Fashoda crisis. At that time, naval experts calculated that if the country had gone to war at the end of the lengthy diplomatic discussions instead of before they began, Britain would have lost fifty percent of the advantage provided by the fleet "owing to the preparations made in the interim by the French." Maxwell to the Foreign Office, May 18, 1899, F.O. 85/1700.

is discernible in the Prime Minister's response to the Second Rescript and in the policy recommendations set forth by the War Office and the Admiralty. The Government was prepared to endorse a limited international agreement on a wider use of arbitration and mediation as well as a nonbinding revision of the Brussels Declaration and the Geneva Convention. On the other hand, it opposed any effort to reach an accord on arms limitations.

Lord Salisbury carefully chose British delegates who would effectively represent these views at the conference. Sir Julian Pauncefote, Britain's Ambassador to the United States was appointed to head the delegation. The other members were Major General Sir John Ardagh and Admiral Sir John Fisher.

Pauncefote, a seasoned diplomat and political realist, had no illusions about the proximity of the millennium. He was learned in international law and was firmly committed to international arbitration. He was just as firmly opposed to all forms of "disarmament." Pauncefote's impressive background in the diplomatic service made him an ideal choice to head the mission.⁷⁴

Born in 1828 to a wealthy London family, Pauncefote was schooled in languages and law. He had first served the British government as private secretary to Sir William Molesworth, Secretary of State for Colonial Affairs in Lord Palmerston's Administration. As Molesworth's assistant, Pauncefote was responsible for the drafting of representative constitutions for several British colonies. After the death of his

⁷⁴The following biographical sketch of Sir Julian Pauncefote is based on R.B. Mowat's The Life of Lord Pauncefote.

patron in 1855, Pauncefote spent twenty years as a lawyer in Hong Kong and the Leeward Islands where he compiled various commercial and legal codes.

Knighted for his service in the Far East, Pauncefote was recalled to London in 1875 and invited to rejoin the Colonial Office as Legal Assistant Under-Secretary of State. In 1876 he transferred to the Foreign Office to occupy its newly created post of Legal Assistant Under-Secretary. By 1882 he had been promoted to the position of Permanent Under-Secretary at the Foreign Office and he served in this capacity until his appointment as Ambassador to Washington.

Lord Salisbury had faced a special problem in selecting Britain's first ambassador to the United States.⁷⁵ Her Majesty's previous minister, Sir Lionel Sackville-West, had left Washington amid a barrage of criticism for having publicly supported Grover Cleveland in the presidential election of 1889. Salisbury sought to replace him with a diplomat of proven tact and judgment who would be able to restore amicable relations between the two countries. Pauncefote's personality seemed ideally suited to this task. His biographer has described him as a man "with the elasticity of mind, the knowledge of men and things, the unargumentative persuasiveness, and the capacity to give up points, which are essential to the diplomatist."⁷⁶ Salisbury could not have made a better choice.

⁷⁵Britain's Washington Legation was raised to the status of an Embassy with the arrival of Pauncefote in 1889.

⁷⁶Ibid., p. 297.

During his ten-year tour of duty Pauncefote had been enormously successful in improving Anglo-American relations. He was a persistent proponent of arbitration, and during his tenure of office the Bearing Sea Seals dispute and the Venezuela Boundary dispute were submitted to binding arbitration. His most noteworthy achievement was the negotiation of the Anglo-American Arbitration Treaty of 1897.

Major-General Sir John Ardagh, Director of Military Intelligence and author of the War Office's position paper on the Conference, was chosen as Britain's chief military delegate. As head of the military intelligence service, Ardagh was thoroughly familiar with the military opinions, resources, and strength of the continental Powers as well as with the problems of providing for the military defense of the Empire.⁷⁷ His personal opposition to any agreement on arms limitations which was known to Lord Salisbury had been a factor in his selection.

In Ardagh's view the most the Conference could hope to achieve were some minor accords on arbitration and a modest addition to the laws of war that might ameliorate needless suffering. The D.M.I. favored such agreements. But he was aware of an inherent danger in the negotiations that would precede them. This was the possibility "that by yielding this or that point to humanity, some means of defense, some resource might be abandoned, the loss of which might fatally weaken the State fighting for its independence."⁷⁸ Ardagh believed his role was to protect Britain against such an occurrence.

⁷⁷Lady Susan Ardagh, The Life of Major-General Sir John Ardagh, (London, 1909), p. 273.

⁷⁸Ibid., p. 305.

The Government's unequivocal opposition to all restrictions on the numbers and the design of naval vessels and naval ordnance was manifest in its choice of Admiral Sir John Fisher as chief naval delegate. A sailor from the age of thirteen and destined to end his career as First Sea Lord, Fisher had built a reputation as an out-spoken defender of British naval supremacy. In 1884, he had cooperated with the journalists William T. Stead and H.O. Arnold-Forster in compiling a series of articles entitled "The Truth About the Navy." Through these articles, Fisher sought to inform the British public of his view that the reductions made by successive governments in the naval budget had seriously jeopardized the Royal Navy's ability to guarantee the security of the Empire. The popular outcry resulting from these disclosures brought on the "Naval Scare" that forced Gladstone's government to increase naval appropriations. The episode also established Fisher's reputation as one of Britain's foremost naval experts. And from that time on he had been in the limelight as a public figure.⁷⁹

Salisbury also chose Fisher because of his skill as a public speaker.⁸⁰ The admiral had always been out-spoken and he had never minced his words in expressing his opinions. Indeed, he reserved some of his most scathing invective for the program of the conference itself. In Fisher's view peace could never be assured through idealistic schemes of arms limitations. The supremacy of the Royal Navy was the only real

⁷⁹Richard Hough, First Sea Lord: An Authorized Biography of Admiral Lord Fisher (London, 1969), pp. 80-84.

⁸⁰Ibid., p. 114.

guarantee of world peace. "If you rub it in," he declared on several occasions, "both at home and abroad, that you are ready for instant war with every unit of your strength in the first line, and intend to be first in and hit your enemy in the belly, and kick him when he is down, and boil your prisoners in oil (if you take any) and torture his women and children, then people will keep clear of you."⁸¹

Although Fisher hated war with the passion of one who had experienced it, he belittled efforts to humanize it.⁸² "The essence of war is violence," he said, "moderation in war is imbecility."⁸³ It was only by making armed conflict more terrible and not less, that mankind could hope to reduce the instances of war. Although his conduct at the Conference proved more conciliatory than his words, Fisher could be counted on to be a forceful defender of British naval interests.

⁸¹Admiral Sir R.H. Bacon, The Life of Lord Fisher of Kilverstone: Admiral of the Fleet, vol. 1 (London, 1929), pp. 121-122.

⁸²Fisher first saw action in 1859 when, at the age of eighteen, he led a party of seven hundred sailors in a raid on Chinese coastal fortifications on the River Peiho. More than one half of Fischer's command was killed or wounded during this action.

⁸³Bacon, The Life of Lord Fisher, p. 122.

Chapter IV

The Journalistic Reaction

British newspapers and periodicals shared the government's cautious response to the Tsar's Rescript. Continuing international rivalries and the growing influence of the military in foreign affairs caused most journalists to conclude that arms limitation agreements were unlikely to materialize. One segment of the population, however, was not convinced of the impracticality of the Russian proposals. Peace and arbitration societies, the non-conformists and evangelicals, trade unions and some liberal politicians joined in a national "Crusade for Peace" in order to convince Lord Salisbury that prosperity could not endure without an end to the arms race. An analysis of editorial reaction and of the activities of the Peace Crusade will illustrate the diversity and intensity of the feelings aroused by the conference. It will also show how a national pressure group sought to influence British foreign policy.

II

Britain's leading liberal newspaper, the Manchester Guardian, hailed the First Rescript as the most striking document to appear in

Europe in a generation. The manifesto, appealing to reason and conscience as the proper arbiters of international relations, was described as "sane, humane, and lofty in thought and expression." Then giving way to a strong nationalist statement, the Manchester Guardian concluded that "Englishmen could be excused for thinking it the work of John Bright."¹

The editors agreed with the Tsar that the strain of militarism had long been an intolerable burden on the peoples of Europe. The cost of maintaining weapons and soldiers as an insurance against war had become as ruinous to the industrial life and social fabric of nations as war itself. On the continent compulsory military service kept millions of men out of the factories, and the labor of millions more was required to provide these soldiers with expensive weapons that "pass out of fashion as fast as hats." Statesmen had to be awakened to the "danger and insanity" of militarism before Europe suffered from a conflagration "rendered ten times more horrible than other wars by the perfection of the preparations made for it in the name of peace."²

The Manchester Guardian readily acknowledged that the highly emotional problem of Alsace-Lorraine had to be solved before progress could be made on arms limitations. Since there was no "basic hostility" between France and Germany, the editors suggested that Wilhelm II, "as a good citizen of Europe," should agree to the renegotiation of the territorial clauses of the Treaty of Frankfurt. Once this cause of international ill-will had been eliminated, the Great Powers, by applying

¹Manchester Guardian, Monday, August 29, 1898, p. 4.

²Ibid., p. 5.

moderation and good will, could rapidly settle their disputes over China and the upper Nile. The Manchester Guardian was confident that a weapons accord would follow naturally from an international agreement on frontiers, colonies and spheres of influence.³

With the appearance of the First Rescript the idea of arms limitations could no longer be dismissed, even by political realists, as the "rant and gush" of soft-headed visionaries. The Manchester Guardian solemnly warned that any statesman who failed to respond to the Russian initiative in the same "wise and humane spirit" would be obliged to take on the fearful responsibility of condemning Europe to the scourge of war.⁴

The newspaper's sense of optimism so apparent in August had evaporated five months later. The Imperial Government's inevitable decision to exclude political questions from the agenda of the conference made significant restrictions on armaments unlikely.⁵ The Manchester Guardian remained hopeful that the meeting would contribute to the growth of mutual trust among nations, but it cautioned its readers to expect only modest accords. A convention to outlaw the use of unusually cruel weapons was anticipated along with an agreement to prevent the throwing of projectiles from balloons. It was also considered likely that the humanitarian spirit of the age would require the extension of the Geneva Convention to naval warfare and the adoption of a revised Brussels

³Manchester Guardian, Tuesday, August 30, 1898, p. 4.

⁴Ibid, Monday, August 29, 1898, p. 5.

⁵In order to assure Great Power participation, the Russian government had agreed to exclude all political questions from the agenda of the conference. See p. 45.

Declaration on the laws and customs of land war.⁶

The Manchester Guardian concluded that future generations would judge the conference a success if the Great Powers took steps to displace war as the final arbiter of international disputes. Article eight of the Second Rescript called on all nations "to accept in principle, the employment of good offices, of mediation and [of] facultative arbitration...with the object of preventing armed conflicts." The editors were impressed by the reasonableness of this proposal because it "merely" asked for the application to international affairs of the "methods almost universally used by peacable and self-respecting men of business."⁷ If the delegates were able to extend and elaborate the principles governing the peaceful settlement of international differences, the "Tsar's conference [would] be no failure."⁸

The conservative Times, by contrast, consistently deprecated the value of the Russian initiative. While acknowledging the First Rescript as a "remarkable" document, the editors discovered in it a "breathless" quality of "generous, perhaps...of almost quixotic humanity," more common to the "effusions of visionaries and enthusiasts" than to the pronouncements of sovereigns and statesmen. The Tsar's desire for an end to the arms race commanded the sympathy and respect of "all men of good will." The Times remarked, however, that it was not within the power

⁶Ibid., Tuesday, January 17, 1899, p. 7.

⁷Ibid., Tuesday, August 30, 1899, p. 4.

⁸Ibid., Tuesday, January 17, 1899, p. 7.

of a single individual--not even the Tsar of Russia--"to turn the current of [international] sentiment into new or untried channels." Popular enthusiasm in every country had to be tempered by the realization that the proposed conference might never meet, or if it did, it could well be "only to discover that its objectives were unattainable."⁹

Great honor was due Nicholas for bringing the vital questions of peace and arms control out of the "limbo of merely academical discussions." His Rescript would doubtless receive the respectful consideration of Europe's leading statesmen. In the absence, however, of international trust and an acceptable territorial arrangement, The Times predicted that no significant accords would issue from the international peace conference.¹⁰

The appearance of the Second Rescript did not alter this conclusion. Although many Englishmen publicly proclaimed their sincere admiration for the principles contained in that document, no one of any public "weight or consequence" acknowledged the belief that the Tsar's scheme was practical. The Times dismissed the eight-point plan with the thankful observation that sentiment had not so perverted the judgment of the governing classes as to lead them to believe in "the advent by treaty of the millenium."¹¹

The views of Britain's leading periodicals closely paralleled those of The Times. The liberal Spectator applauded the humanitarian concerns which had prompted the Rescript, but was convinced of the

⁹The Times, Monday, August 29, 1899, p. 7.

¹⁰Ibid.

¹¹Ibid., Tuesday, January 17, 1899, p. 9.

ultimate futility of the Tsar's démarche. Nicholas, they feared, had unwittingly done a "grave injury" to the cause of peace by drawing public attention to the instability of European politics. For "when men are climbing along the edge of a precipice, it is not wise to look down and consider how many thousand feet lie sheer below."¹²

The Spectator believed any agreement on the sensitive subject of arms limitations would create more problems than it could possibly solve. There would be constant complaints that the accords were being violated, and European states might find themselves "fighting like devils for conciliation and arming in order to enforce disarmament." Even more dangerous was the possibility that once nations began to examine the realities of the international situation they would seriously ask: "would it not be better to end all this misery one way or the other by fighting out a battle which is clearly inevitable?"¹³ Whatever the hardships of the armed peace, they were certainly more acceptable than those of a European war.¹⁴

There was a tendency shown in some sectors of the British public to identify the humanitarian ideals of the Tsar with the actual objectives of Russian foreign policy. Several observers hastened into print to condemn this attitude and to brand it the most dangerous consequence of the Rescript. R. C. Dillon, and "A Soldier" writing in

¹²Anon, "The Czar's Encyclical, The Spectator, LXXXI (September 3, 1899), p. 296.

¹³The Economist also viewed the Rescript as an error in judgment. Europe, the editors feared, contained too many influential people who sincerely believed that "two years of campaigning would settle most of the questions now afloat, and then there might be peace, the peace of exhaustion, for a generation." See The Economist, LVI (December 3, 1898), p. 1723

¹⁴Anon, "The Czar's Encyclical", pp. 296-297.

the Contemporary Review, reminded their readers that Nicholas, despite his exalted position, was not his own foreign minister. Medieval schoolmen, they observed, often commented that when the same thing is said by two persons, it ceases to be the same; and statesmen, while seemingly anxious to defer to the wishes of an autocratic ruler, often adopt the language of the sovereign to further their own policy objectives. To appreciate the implications and nuances of the Rescript one had to discern the motives of the Tsar's advisors in sanctioning its publication.¹⁵

In the opinion of both writers, Count Mouravieff and Count Witte had realized that Russia's long-term goals of dominating China, Persia and Afghanistan, and challenging British control in India, could best be served by diverting scarce financial resources from armaments to internal development. The Tsar's idealism was a welcome camouflage, for it provided his ministers with an opportunity to expand Russia's political influence in Asia, while reaping a harvest of international good will at the peace conference. Before announcing their support for an arms limitations accord, astute Englishmen were asked to consider the threat Russia could pose to their Asiatic Empire if the restraints imposed by the arms race were to be removed.¹⁶

¹⁵R. C. Dillon, "The Tzar's Eniricon", Contemporary Review, LXXIV (Nov. 1898), p. 610, and "A Soldier", "The Tzar's Appeal", Contemporary Review, LXXIV (Oct. 1898), pp. 498-499. For an analysis of the motives of the Tsar's ministers in sanctioning the idea of a conference, see pp. 25-28.

¹⁶Dillon, Ibid., pp. 500-504; "A Soldier", Ibid., pp. 632-642. Arnold White, writing for the conservative National Review, also feared his countrymen would succumb to the temptation of "facile sentimentalism" and allow the idealism of the Rescript to mask the true belligerent intent of Russian foreign policy. "If only words were things and theologians safe guides in foreign politics" he remarked, "the Tsar's message has brought us within measurable distance of the Second Advent." Yet none with even the slightest knowledge of history and human nature

Not all commentators were willing to grant the Tsar's basic proposition that militarism was an unmitigated evil. Sidney Low, writing for The Nineteenth Century, defended the premise that war and not its abolition was necessary for the advancement of a civilization.¹⁷ An extended period of peace, he argued, resulted only in the ruin and stagnation of the human spirit. Men needed the stress of war with its sufferings, sacrifices, and danger of death to counter the debilitating effects of "ease, luxury, and material prosperity." Low believed that no people had ever risen to international greatness without the discipline of combat, and few had been able "to develop the highest excellence in art, science, learning, or industry except under its impulse."¹⁸

Low insisted that the social benefits of militarism could not be overlooked and to insure their full effect he advocated the adoption of a program of universal conscription. Compulsory military service had the advantage of turning lazy peasants and city slum dwellers into disciplined workmen. The service taught young men the invaluable lessons of "punctuality, promptitude, and absolute unswerving devotion to discipline." In Low's view, a man so trained and educated, when sent back to civilian life, possessed great advantages "over the youngster who has slouched into the factory from a school where the moral discipline

could view the manifesto as anything more than an obvious attempt to gain for Russia a temporary respite from the arms race in order to devote her resources to territorial expansion. See, Arnold White, "The Tsar's Manifesto", National Review (October, 1898), p.

¹⁷ Sir Sidney Low, 1857-1932, was the son of a city merchant family. He took first class honors at Oxford in 1879 and became a lecturer in constitutional history at King's College, London. Low became a journalist in the 1880's and was named editor of the St. James Gazette. He was a well-known "Jingo" and an out spoken supporter of Anglo-American cooperation and of an enlarged British defense force.

¹⁸ Sidney Low, "Should Europe Disarm?", The Nineteenth Century, CCLX

has been unimportant and a home where it may have been non-existent."¹⁹

To limit armaments would endanger western civilization. Low reminded his countrymen that it was only the possession of sophisticated weapons that preserved the preeminence of the white race in a world where "Aryans" constituted a minority of the population. "Eight hundred millions of coloured folks surge round us," he commented, "eight hundred millions, our equals or superiors in physical strength, many of them capable of a high degree of organization and combined action." Many of these "savages" possessed sufficient intelligence to handle the most "scientific warlike appliances." If Europeans chose to limit these weapons, "who shall say that the Chinamen or the African will not take them up," and visit on the West the same fate that befell the Roman Empire.²⁰

Russophobia and the difficulty of reaching an international agreement to freeze armaments account for the similarity of views expressed in liberal and conservative journals. The increase of Russian influence in China and the construction of a modern, two-ocean navy

(October, 1898), p. 523.

¹⁹Ibid., p. 528. The positive economic consequences of armaments also was stressed by H. W. Wilson in The Nineteenth Century. Provided a state could produce all of its war material within its national boundaries the sums spent on rifles, cannon, and battleships was not wasted. This money was used "almost entirely" as wages for the working class. Furthermore, Wilson argued, the "subtraction" of hundreds of thousands of young men from civilian life for several years had the desirable effect of discouraging premature marriages, developing the body, and implanting the spirit of discipline and obedience. H. W. Wilson, "The Growth of the World's Armaments," The Nineteenth Century, XL III (May, 1898), p. 716.

²⁰Low, "Should Europe Disarm?" p. 524.

provided a shocked British public with proof of the aggressive design of Tsarist foreign policy. Even if the Rescripts indicated a basic change in Russian foreign policy, veteran political observers knew that no statesman was likely to "unload his revolver and unbuckle his sword in a room full of dangerous men all armed to the teeth."²¹ Influential commentators concluded with Punch that serious consideration of the Tsar's eight-point program should be "deferred for some reasonable time—say a thousand years."²²

Such cynicism was not shared by all segments of British society. Some public-minded citizens believed that the Tsar had correctly identified militarism and the intensified arms race as the most serious and immediate threat to the survival of European civilization. While widely read journals emphasized the insurmountable difficulties in the way of an arms control agreement, the British Peace Society began a campaign to remind Lord Salisbury's government of its moral obligation to work for the elimination of these obstacles.

III

The "Society for the Promotion of Permanent and Universal Peace" had

²¹Anon, "The Tsar's Encyclical" p. 296.

²²Punch, January 25, 1899 p. 48.

been founded in 1814 amid an intense wave of revulsion in Britain at the carnage of the Napoleonic wars. Largely Quaker in membership the Society was committed to a philosophy of religious pacificism because it denied all sophistry about the distinction between just and unjust wars.²³ Its objectives were "to print and circulate tracts, and to diffuse information tending to show that War is inconsistent with the spirit of Christianity and the true interests of mankind; and to point out the means best calculated to maintain...peace upon the basis of Christian principles."²⁴

Throughout the century, the Society flooded Britain with tracts, pamphlets, newsletters, periodicals, and prize essay contests in an effort to educate public opinion. Its leaders were certain that an enlightened public would force the British government to alter those policies which were inconsistent with the realization of international peace. Although the effectiveness of the Society's activities could not be accurately measured, the Society was content to believe that "if you go on every year, holding four hundred meetings, preaching five hundred sermons and issuing four hundred thousand circulars,... you will make some impression..."²⁵

The Peace Society had little political influence. Attracting few members outside the circle of non-conformists, its followers were

²³A.C. F. Beales, The History of Peace: A Short Account of the Organized Movements of International Peace (New York, 1931), p. 6.

²⁴War Against War, February 10, 1899, p. 71

²⁵Beales, The History of Peace, p. 188.

"tarred with the brush of religious fanaticism in time of peace and with personal cowardice in time of war."²⁶ The Crimean War discredited the Society, for, at a time when the nation was closing ranks behind the foreign policy of Lord Palmerston, the Society and its small band of Parliamentary supporters, which included Richard Cobden and John Bright, were actively opposing all appropriations for the army and navy. Reflecting the views of an influential segment of society, The Times commented that the efforts of the Peace Society to "weaken our common country will utterly fail... " and would be considered by most Englishmen to be "imprudent, unmanly and unpatriotic."²⁷ The Society's public image was further tarnished by its refusal to aid the numerous relief organizations which had been formed to help the victims of the war. The Society justified its policy by asserting that any effort to humanize "collective homicide" was itself immoral.²⁸

The Peace Society entered the decade of the sixties disgraced but not destroyed. Presently it gained new respectability under the dynamic leadership of the Nobel Laureat, William Cremer.²⁹ The movement shed its

²⁶Ibid.

²⁷The Times, February 1, 1853, p. 4.

²⁸Beales, The History of Peace, pp. 97-98.

²⁹Sir William Randal Cremer, 1838-1908, was the son of a Yorkshire working class family. Apprenticed as a carpenter during his teens, Cremer became active in the growing labor movement and was one of the founders of the Amalgamated Society of Carpenters and Joiners in 1860. Cremer was devoted to the cause of peace and was appointed secretary of the Workmen's Peace Association established in 1871. He was elected to Parliament where he was a prominent supporter of arbitration and the secretary of the British section of the Inter-parliamentary Union. Cremer was awarded the Nobel Peace prize in 1903.

identification with religious pacificism and acquired new strength through an alliance with the Free Trade followers of Richard Cobden and John Bright. The "internationalists", as this group was termed, rejected the notion that all wars were unjust and immoral. Defensive struggles against unprovoked aggression were considered legitimate when conducted by individual states or by the international community. Most wars, however, were believed to be the result of national jealousies which could be prevented if nations would increase commercial exchanges and submit their differences to impartial arbitration.³⁰

The resolution of the Alabama Claims by an Anglo-American tribunal strengthened the influence of the "internationalists" and reinforced the Society's commitment to arbitration. It appealed for the insertion of arbitration clauses in all bilateral treaties and for the establishment of a permanent, international court of arbitration.³¹ Yet, despite this change of priorities, world peace through universal disarmament remained the ultimate goal of the Peace Society.³²

³⁰Cobden's belief in the relationship between peace and free trade was absolute. He declared in 1842 in one of his most famous Parliamentary speeches:

"Free Trade! What is it? Why, breaking down the barriers that separate nations; those barriers behind which nestle the feelings of pride, revenge, hatred and jealousy, which every now and then burst bounds and deluge whole countries with blood; those feelings which nourish the poison of war and conquest, which assert that without conquest we can have no trade...."

Cobden quoted in, Lyons, Internationalism, p. 312.

³¹Beales, The History of Peace, P. 140.

³²Ibid., p. 7.

Tempered enthusiasm characterized the Peace Society's response to the First Rescript. The Herald of Peace declared the fact that after a century of ineffective propaganda and prayer, the sovereign of a Great Power had taken up the cause of peace was occasion for "joy unspeakable." The Society realized, however, that the Tsar's plea for "an end to the progressive development of armaments" was but a small first step toward disarmament. Yet for all of its limitations, the Society believed that the proposal was realistic. If the Great Powers would accept an immediate freeze on weapons, they probably would accept an actual reduction within a few years. Thus, slowly and by stages, the Society hoped an effective system of disarmament could be implemented without disturbing the precarious European political equilibrium.³³

Ignoring what the leadership considered cynical efforts to dismiss the Rescript as utopian, the Society began to organize a national campaign to stimulate and give expression to popular sympathy with the proposed conference. In a letter to its members dated September 2, 1898, the secretary of the Peace Society, W. Evans Darby, outlined its official position. "We consider," he wrote, "that the Tsar's proposal should be accepted in good faith and be cordially supported by everybody in authority, and especially by the leaders of opinion and those who have the ear of the public...." It was a matter of urgency for the members of the Society to make an immediate and strong effort to emphasize and popularize the principles advocated by the Tsar.³⁴

³³Herald of Peace, October 1, 1898, p. 122.

³⁴Ibid.

Darby believed that the British government's attitude towards the conference could be influenced by a demonstration of popular enthusiasm. The Society realized, however, that an effective display of public support had to be carefully organized. It therefore recommended that public meetings "be given the character-as far as possible-of a public demonstration." The services of the most forceful and articulate speakers were to be secured for these gatherings, and great care was to be taken to prevent the meetings being "captured or utilized by our opponents." It was hoped that local officials and mayors could be persuaded to support the Society's efforts and that ministers of Christ would hold a "united gathering of churches" to pray for the success of the Tsar's conference.³⁵

The Peace Society diligently organized these meetings and solicited pledges of support. Yet for all of its commendable earnestness the Society was unable to generate much popular enthusiasm for the Rescript. The efforts of private citizens to influence their government seemed destined to collapse until the cause was taken up by that master manipulator of public opinion, William T. Stead.

IV

Journalist, jingo, and social reformer, William T. Stead thrived on controversy. To his numerous detractors, Stead was an unprincipled and

³⁵Ibid., pp. 125-126.

undignified demagogue; a traitorous Russophile with an uncontrollable messianic complex. To his legion of admirers, Stead was a "hero, apostle, prophet, and martyr; the man to whom the world may be indebted for its deliverance from the intolerable load of sin and misery it has to bear upon its weary shoulders."³⁶

Stead was born in 1849, the son of a Northumberland Congregationalist minister. He was educated at home and at a non-conformist public school, and in both places he was influenced by the Christian humanitarianism of his father and teachers. While still very young, Stead vowed to become a crusader for social reform.³⁷ His first challenge came at the age of twenty-one.

In 1870 William Stead became pastor of a congregation situated near a notorious Newcastle slum. The wretched living conditions of the inhabitants had repeatedly been brought to the attention of the local authorities, who consistently refused to take corrective action. The young Stead was incensed by their callous indifference. He was determined to call public attention to the horrors of slum life and to the apathy of government officials.

Stead wrote a series of letters to the editor of the Northern Echo of Darlington. The public reacted immediately.irate citizens groups descended on the city government to demand that funds be appropriated immediately for the rehabilitation of the slum swellings.³⁸ The local

³⁶Weymss Reid in Frederic Whyte's, The Life of William T. Stead, I (London, 1925), p. 310.

³⁷Ibid., p. 13.

³⁸Ibid., p. 20.

authorities yielded and the knight-errant had vanquished his first opponent.

This episode demonstrated to Stead that an aroused public could force elected officials to act. It also convinced him that the press "was the greatest agency for influencing public opinion in the world."³⁹ In order to continue his fight against social injustice, the crusader decided to become a professional journalist and lead a crusade of the righteous.

In 1871 Stead became editor of the Northern Echo. For nine years he used its columns to expose local social evils and kept its readers poised for political action. He was also active in his community, serving as the president of the Young Men's Mutual Improvement Society and as Secretary of the Newcastle Mendacity Society.⁴⁰

Until the mid-seventies, Stead concentrated on arousing public opinion on domestic issues. He had, however, always taken an active interest in foreign affairs. He believed that Britain's foreign policy should be based on the principles of Christian morality. In 1876 Stead had been infuriated by Lord Beaconsfield's refusal to condemn the Turkish massacres. He organized mass meetings in Newcastle to force the British government to abandon its diplomatic support for the corrupt and iniquitous Ottoman rulers. He also advocated an alliance with Tsarist Russia so as to enable Britain and Russia to spread the benefits of civilization throughout the Balkans and Asia Minor.⁴¹ Stead's activities

³⁹Ibid., p. 31.

⁴⁰Ibid., p. 28.

⁴¹Ibid., p. 43.

had no visible effect on Beaconsfield's policies. Nonetheless, the intrepid editor relished his first battle on the field of foreign affairs.

In 1880 Stead went to London in search of a new position and with the hope of being able to influence a larger and more powerful audience. He became assistant editor of the Pall Mall Gazette and the associate of John Morley. Under their leadership, the Pall Mall Gazette developed into one of the most influential British newspapers.⁴²

Both Morley and Stead were advocates of the "new" journalism. They instructed their reporters to make more than routine studies of various government programs and finances. And they published sensational reports to expose official stupidity and indifference. During his ten-year association with the Pall Mall Gazette, Stead became known for his sponsorship of H. O. Arnold Forster's 1884 series, "The Truth About the Navy," and for his own 1885 series exposing the evils of child prostitution. The public outcry that resulted from Arnold-Forster's disclosures that many ships of the Royal Navy were obsolete and undermanned forced Gladstone's government to drastically increase the Admiralty budget.⁴³ Stead's lurid description of the life of a thirteen year old whore caused a complacent parliament to raise the age of consent to sixteen.⁴⁴

⁴²Oron J. Hale, Publicity and Diplomacy: With Special Reference to England and Germany, 1890-1914 (New York, 1940), p. 17.

⁴³Whyte, The Life of William T. Stead, p. 148.

⁴⁴Stead spent two months in jail as a result of his series, "The Maiden Tributes of Modern Babylon." In order to present a realistic picture of child prostitution, Stead commissioned a Salvation Army officer and former Madam to purchase a thirteen year old girl for immoral purposes. Stead took the child to a Soho brothel where they spent the night--properly chaperoned. The girl was then sent to school in France.

By 1890 Stead had become editor-in-chief of the Pall Mall Gazette. Attacked as a Russophile and as a jingo, and ridiculed for his undignified investigative methods, Stead was dissatisfied with his position. He had many ideas and programs to share with his countrymen and he felt that his creativity and influence was stifled by the limited circulation of the Pall Mall Gazette. He therefore decided to establish a new periodical that would circulate throughout the English speaking world and be "read as men used to read their Bibles...to discover the will of God and their duty to men."⁴⁵. This new Bible, with Stead as its scribe, appeared under the guise of the Review of Reviews.

V

Stead was ecstatic over the appearance of the First Rescript in 1898. He was certain that the Tsar's challenge to militarism had been divinely inspired. While Europe's statesmen dismissed the proposal as Utopian or as part of a byzantine plot to enable Russia to increase her

Public indignation erupted over his series. The girl's father sought to prosecute Stead for abduction. He pleaded guilty to the charge and was sentenced to a short jail term. There he spent his time preaching the Gospel to his fellow inmates. See, Ibid., p. 185.

⁴⁵Ibid., 190.

power in the Far East, Stead set about to convince the skeptics of the Tsar's sincerity and to inculcate the masses with his own ardor.⁴⁶

He immediately embarked on a trip to the continent to discuss peace with various rulers and statesmen. Russia held a prominent place in his itinerary. He was granted an audience by the Tsar and he emerged a disciple from the presence of the "Emperor of Peace." Stead found Nicholas to be a sincere humanitarian who was determined to persevere in his search for peace despite the opposition of his advisors. "He is master in his own house," Stead reported, and Count Mouravieff and his colleagues "will do their Imperial master's bidding."⁴⁷

Stead realized that powerful groups throughout Europe would organize to oppose the Tsar's initiative. "The immense strength of the most formidable vested interests," he wrote, "the clotted mass of international jealousies and rival ambitions—in short the devil and all his agents everywhere are in the field against him...."⁴⁸ In all countries, statesmen responded to the Rescript with courtesy and words of admiration for the Tsar's idealism. Yet, after his visits to Berlin, Vienna, Paris and Rome, Stead was convinced that the leaders of the Great Powers were determined to sabotage the Tsar's efforts.⁴⁹

Stead was not surprised that veteran diplomats were skeptical of

⁴⁶Ibid., p. 125.

⁴⁷William T. Stead, The United States of Europe on the Eve of the Parliament of Peace (London, 1899), p. 1.

⁴⁸Ibid., p. 160.

⁴⁹Ibid., p. 84.

the possibility of "bringing in the kingdom of heaven by any sort of international compact." "Diplomacy", he mused, "is not usually a forcing bed for moral enthusiasms." Stead found one glimmer of hope on the international scene: he believed the Tsar's conference could succeed if the peoples of Europe would rise up and force their leaders to work for an end to militarism. "Democracy," he declared, "has to help [the] autocracy bring closer the millennium."⁵⁰

Stead returned to London to arouse the British public. By mid-December he had planned a three-month "Crusade for Peace," with a newspaper, War Against War, to chronicle its activities. With the appearance of the Second Rescript in January, 1899, Stead was ready to take his message to the people.

In Stead's opening manifesto, "The Clarion Call of Duty," the nineteenth-century Peter the Hermit exhorted his countrymen to enlist as soldiers in the "Holy War against War." "I shall ask you," he wrote, "to give this Crusade of Peace precedence in your thoughts, in your words, in your actions, over all other political, social, or religious questions, over your business, and over your pleasures, for it is a matter of life and death, of salvation or damnation to the nations."⁵¹ Such a single-minded dedication would entail many sacrifices, but Stead reminded his followers that this was a small price to pay for the abolition of war.

Stead assured his audience that his Crusade would be successful.

⁵⁰Ibid.

⁵¹War Against War, January 13, 1899, p. 1.

He insisted that previous efforts to oblige the government to halt the arms race had failed because they had been supported only by a "handful of good people...whose influence was minimized by the fact of their uncompromising and indiscriminating opposition to all wars, to all soldiers, to all warships."⁵² Now, by contrast, the leaders of Stead's Crusade were "realistic men" who had given ample proof of their pride in the Empire and of their concern for the Navy. Their voices would not be ignored in London.

The Crusade would succeed because its goals were limited and realistic. Its leaders did not expect to banish war from the world or require governments to decrease their armaments "by a solitary soldier or a single torpedo boat." The Great Powers were "merely" asked to freeze armaments at their existing levels for five years.⁵³ In Stead's opinion, similar proposals had never before been implemented because the people had remained apathetic and indifferent. The purpose of the Crusade was to "dispel that apathy and to exorcise its influence...." "Sovereigns may propose," Stead declared, "but it is their subjects who dispose. The Rescript of the Autocrat is mere waste paper unless countersigned by the Democracy. Herein lies the real, veritable, palpable, terrible sovereignty of the people."⁵⁴

Stead had large ambitions. One million volunteers were needed to toil in the vineyards of peace. They were asked to circulate petitions

⁵²Ibid.

⁵³Ibid.

⁵⁴Ibid. January 20, 1899, p. 11.

and to organize meetings in support of the conference.⁵⁵ Stead did not underestimate the difficulty of enrolling all of his countrymen in the cause of peace. "An ordinary cannibal," he wrote, "of the average ethical development of such races, would feel himself quite at home in many an English parsonage, and would experience no break of ethical gauge in discussing the peace question in many a drawing room and workshop." Many clergymen, businessmen, and ladies of fashion believed that war, if not exactly a good thing, "was a natural and on the whole a beneficent necessity for the human race."⁵⁶ The crusaders were to challenge these "pseudo-Christians," and to serve as the vanguard of a national moral and spiritual regeneration.

Stead realized that many Englishmen who would otherwise be sympathetic to the cause of peace and disarmament would repudiate the Crusade because they would persist in their distrust of Russia's motives. The "Arbitration League" composed of a staunch group of men dedicated to the efficacy of arbitration as a means to resolve international differences, offered Stead only tepid support. The League considered Russia the most ruthless of despotisms. "Its earth hunger is insatiable, "its intolerance is inhuman, its diplomacy is the very perfection of duplicity, and its militarism crushes the peasantry under an intolerable load."⁵⁷

Stead pleaded with his countrymen to overcome their distrust of

⁵⁵Ibid.

⁵⁶Ibid., January 27, 1899, p. 33.

⁵⁷The Arbitrator, December, 1898, p. 63.

Russia in the name of world peace. He reminded them that the Russian example indicated that autocracy was not an unmitigated evil. The Tsar of Russia had been responsible for the 1864 Geneva conference that created the Red Cross and for the 1869 St. Petersburg Conference that outlawed the use of exploding bullets in warfare among civilized nations.⁵⁸

In an effort to win more converts Stead emphasized the social benefits that would flow when the arms race had ended. He estimated that the government would save fourteen million pounds over a period of five years and he presented several plans for a wiser use of these funds. A correspondent of the Daily News predicted that if the entire amount were to be invested in housing, the government could replace all the slums in London with safe and sanitary houses. New dwellings could be built for three-hundred thousand people, and the homes of six-hundred thousand more could be improved.⁵⁹

Stead's brother, Herbert, proposed to use the funds saved by disarmament for old-age pensions. He reminded his countrymen that at least seven-hundred and fifty thousand aged men and women were in need of "a pittance from the State to save them from degradation by charity, incarceration in the workhouse, or death by starvation." "To know even half a dozen old people," he declared, "past work, yet piteously striving to get work, without resources, yet ashamed to take the 'charity' or 'relief' they are forced to take, and finally flung to die in an empty garret or in the abhorred workhouse, is almost enough to break the heart

⁵⁸ Stead, United States of Europe, p. 125.

⁵⁹ War Against War, February 3, 1899, p. 49.

of a sensitive man."⁶⁰

Stead himself offered a more moderate proposal. He was aware that fourteen million pounds could not significantly improve the living conditions of all the poor and the aged in Britain. This money could, however, provide diversion for the working classes to help them forget their misery, and Stead proposed a scheme entitled "Salvation by Billiards."

Stead realized that workers did not come home from the shop or factory and seek to improve themselves by reading "the important sections of Locke's On the Human Understanding." They went instead to public houses where they wasted their money on drink. To save them from the pernicious influence of alcohol, Stead advocated the construction of hundreds of billiard parlors in working-class neighborhoods throughout the country. He believed that the poor would flock to these establishments and entertain themselves playing a game that was enjoyed in many of the best homes in England.⁶¹

A few volunteers responded to Stead's call, but their numbers proved inadequate. In Plymouth, two hundred crusaders took the pledge. There were one-hundred seventeen in Leeds; eighty-four in Liverpool, forty-two in Lincoln, and none in Ripon.⁶² This showing disappointed Stead. But he did not lose heart. To focus national attention on the Crusade and to attract more volunteers, Stead invited crusaders from all parts of the country to attend a national convention in London. The turn-out was not large, and the convention had to be moved from the Royal Albert Hall

⁶⁰Ibid., January 27, 1899, p. 33.

⁶¹Ibid., February 10, 1899, p. 65.

⁶²Ibid., February 24, 1899, pp. 104-105.

to the more modest precincts of St. Martin's Church.⁶³

In assessing his poor showing in mounting the Crusade and the convention, Stead managed to maintain his optimism. He believed that the movement had been a success despite its limited numbers because it had forced Englishmen to consider seriously the question of international peace. "To enable our people in two hundred town meetings," he declared, "to realize that Britain is capable of a worthy response to the Imperial initiative is in itself no small service to render to our national self-respect."⁶⁴

He knew, however, that the Crusade would collapse without a spectacular new move to revive national interest. Stead, the impressario, decided on an international "Pilgrimage of Peace" to St. Petersburg. He asked his British followers and those throughout the world to visit the Tsar and personally express their support for the forthcoming disarmament conference. "Never in the nineteen centuries of Christian civilization," Stead exclaimed, "has such a mission been dispatched by the free action of a great nation to plead the claims of human brotherhood and the solidarity of the peoples in all the countries of Europe."⁶⁵ Stead knew that the Pilgrimage would not by itself inaugurate an era of peace, but he hoped that the visit would foster international understanding "and create a fresh hope in the hearts of the peoples."⁶⁶

⁶³Ibid., March 24, 1899, p. 161.

⁶⁴Ibid.

⁶⁵Ibid., February 23, 1899, p. 97.

⁶⁶Ibid.

Within a week Stead was forced to modify his grand design. Pilgrims did not come forth in great numbers from Britain and the peace groups in major European cities refused to sanction or organize the procession for fear of arousing counter-demonstrations. Furthermore, Stead received no word from St. Petersburg that the Tsar would receive his followers. Hence his plan for arranging a "spontaneous" outpouring of public sentiment had to be postponed.

The Russian government was embarrassed by Stead's activities and relieved by the failure of his Pilgrimage. On January 14, Tsar Nicholas had told the British Ambassador that he had been personally distressed by the excessive publicity that Stead had given him and his proposed conference. The Tsar remarked that he had granted Stead an audience in September, 1898 only to fulfill a promise made to the journalist by his late father. He had not, however, sanctioned the idea of a Crusade. In considering his relations with Stead, the Tsar commented to Scott that "he ought perhaps have been more careful to remember that, after all, Stead was a journalist."⁶⁷

VI

The Peace Crusade came to an end on March 17, 1899. Despite its many reverses it had not failed. "Not even during the popular agitation

⁶⁷Scott to Salisbury, January 14, 1899. F.O. 85/1699.

over the Bulgarian atrocities," declared the often critical Herald of Peace, "was there such a large response of the public to the claims of humanity and righteousness."⁶⁸ Hundreds of public meetings had been held throughout the country in support of the Crusade,⁶⁹ and petitions had poured into Whitehall urging Lord Salisbury "to adopt such measures as will encourage the Tsar's desire."⁷⁰

Trade unions prodded their members to join the Crusade. Workers were instructed to pass resolutions in their "trade and labor organizations, trade councils, Friendly, Temperance and other Societies, and thus help forward the good cause of peace, progress, and prosperity."⁷¹ G. S. Baines, General Secretary of the Amalgamated Engineers, defended labor's anti-war position against its critics. He declared:

from the point of view...both of humanity as well as of expediency, we believe that we are justified in indentifying ourselves with a movement which has for its object an arrest in the growth of war

⁶⁸Herald of Peace, July 1, 1899, p. 248. As the organ of the British Peace Society, the Herald of Peace resented Stead's tendency to characterize all the Society's members as fuzzy-thinking religious pacifists. See Herald of Peace, May 1, 1899, p. 212.

⁶⁹Over 1200 public meetings were held in Great Britain in response to the Rescripts. They can be classified as follows:

Town Meetings	348
Political and labor Associations	79
Church and religious Groups	605
Local governing bodies	132
Other	<u>38</u>
	1,204

See: Ibid., July 1, 1899, p. 248.

⁷⁰Letter from the "Leeds Workpeoples Hospital Fund" to A. J. Balfour, October 21, 1898, F. O. 85/1568.

⁷¹"Manifesto of the Labor Committee to the Working Classes of the United Kingdom", War Against War, January 13, 1899 p. 12.

expenditure. War tells against all classes, but perhaps most of all against the class to which we belong. For though workmen have little to do with making war, they are, nevertheless, called upon to pay the piper. It is the poor who are called upon in the largest numbers to lay down their lives, it is they whose homes are broken up, and who find themselves crippled by it and then cast aside after serving the turn of the war makers.... So long as forty millions are spent every year in war, we shall probably have to leave the old to end their days...in indigence and want--a discredit to all who quietly acquiesce in it.⁷²

Prominent members of the Liberal and Conservative parties were moved to make public statements in support of the Crusade. Arthur Balfour declared his belief that the Crusade would "help inaugurate an era of international peace" and improve Britain's relations with the "Slavic races."⁷³ Earl Grey answered Stead's appeal for volunteers, and offered to serve on the Crusade's governing council.⁷⁴

On March 29 a deputation of the Crusade's leaders were received at the Foreign Office. Mr. Balfour, speaking for Lord Salisbury, hailed their movement as "a great landmark in the progress of mankind and as a step which brings us perceptibly nearer to the great idea of universal peace." The delegates were promised that Britain would do all in its power to make their hopes for peace a reality.⁷⁵

At the same time Stead and his colleagues' efforts to influence government policy came under attack from several quarters. Jingos were

⁷²Ibid., March 17, 1899, p. 148.

⁷³Ibid., January 13, 1899, p. 1.

⁷⁴Ibid.

⁷⁵The Times, March 30, 1899, p. 6.

angry because they were anxious to give France or Russia, or both, a "good thrashing." The "conventionally religious" were shocked by Stead's use of Christian symbols. "Superior persons" winced at Stead's vulgar displays. The common man was confused by his praise of Russia at the expense of Britain.⁷⁶

Frederick Greenwood, writing in Blackwood's Edinburgh Magazine, deplored Stead's tendency to make Christian morality the basis of British foreign policy. To accept Christian doctrine as the basis of foreign affairs, he declared, would invite "foreign diplomacy to practice on this country deceptions which credulity itself would reject and audacities that would move a worm to resentment." Greenwood believed that Stead was a dupe of the Russian government and that the crusaders were misguided individuals working against the best interests of their country.⁷⁷

The Times warned its readers against losing sight of the realities of international politics amid the preaching of the Crusade. Morality, it declared, did not always govern the actions of states, and Englishmen had to realize "that there are compromises a great nation cannot make without loss of credulity abroad and of self-respect at home."⁷⁸

Henry Howarth, writing in the Nineteenth Century, expressed the fear that Lord Salisbury would be perniciously influenced by the activities of the Crusade. He saw enormous dangers "in the tendency of

⁷⁶Whyte, The Life of William T. Stead, p. 150.

⁷⁷Frederick Greenwood, "A Tyranny of Sentiment," Blackwood's Edinburgh Magazine, CLXV (June, 1899) pp. 1043-1044.

⁷⁸The Times, March 22, 1899, p. 11.

our politicians and other anglers for votes and power and influence, to pay increasing court to hysterical people and hysterical movements, to countenance different forms of effeminate agitation, and too often to surrender to gush and sentiment in order to bask for a while in the delusive attractions of what is, after all, but October sunshine."⁷⁹

Howarth asserted that war had plagued the human race since its beginning, and although all rational men detested useless bloodshed, it was sheer folly to take "all the talk of the Millennium resulting from the Rescript as serious."⁸⁰

Lord Salisbury was kept apprised of the views of the peace advocates and of their detractors. He undoubtedly read the more influential newspapers and periodicals. And the many petitions sent to the Foreign Office by trade unions and civic and religious organizations are marked with a large red letter S, indicative of the fact that the Prime Minister had read them.

Salisbury took no action to encourage or discourage the peace advocates. A certain Canon Rawnsky, a minister in the northern counties and an active supporter of the Crusade, asked the Prime Minister whether the meetings organized by the Peace Crusade were "in any way hampering Her Majesty's Government" in its dealings with foreign countries. Rawnsky believed that the meetings "so far from hampering the government which longs for peace and hates unnecessary war as much as any other civilized government [were]...really strengthening [the government's]

⁷⁹Henry Howarth, "Some Plain Words About the Tsar's New Gospel of Peace," The Nineteenth Century, CCLXIV (February, 1899) p. 202.

⁸⁰Ibid.

hand in taking part in the intended Conference."⁸¹ Salisbury's private secretary, E. Barrington, replied to the Canon on behalf of the Prime Minister that "Her Majesty's Government have no wish to interfere with the free expression of public opinion in favor of the disarmament proposals of the Russian Emperor."⁸²

The question remains, however, of to what extent, if any, was the Prime Minister influenced by the activities of the crusaders in the formulation of Britain's policy towards the conference.

Lord Salisbury was a keen advocate of a free press and extremely aware of its important political and constitutional role in domestic affairs. The press, in his view, provided a forum for the discussion of issues and was able to bring important problems to the attention of the public and Parliament. The press also acted as an important check on the national and local governments through its ability to expose administrative abuses, corruption and neglect.⁸³

In foreign affairs, however, Salisbury was an advocate of secret diplomacy. And he was loath to see Britain's foreign policy made or dictated by the people or by Fleet Street. Lord Cecil of Chelwood, in speaking of his father's views on public opinion and foreign policy has said: He [Salisbury] thought it dangerous to pay too much attention to it [public opinion] in foreign affairs because he thought public opinion was not well enough informed."⁸⁴ Zara Steiner, in her major

⁸¹Rawnsky to Salisbury, January 28, 1899, Salisbury Papers.

⁸²Ibid.

⁸³Pinto-Duschinsky, The Political Thought of Lord Salisbury, p. 117.

⁸⁴Aubrey L. Kennedy, Salisbury, 1830-1903: Portrait of a Statesman (London, 1953), p. 349.

study of the Foreign Office in the years before the First World War has concluded that "newspapers could create or destroy a particular mood but they rarely caused any concrete changes in Foreign Office thinking and both Salisbury and Lansdowne remained aloof from any press campaign to alter the course of British diplomacy."⁸⁵

One may conclude, therefore, that the outpouring of public sentiment in favor of the Tsar's conference organized by the Peace Crusade did not significantly influence the position of the Prime Minister. Salisbury remained sceptical of the possibilities of disarmament, and his support for the principle of arbitration was limited and qualified. The British delegation to the conference were bound by instructions that reflected Salisbury's analysis of international realities and not by the views of William Stead and the Peace Crusaders.

⁸⁵Steiner, The Foreign Office, p. 190.

Chapter V

Impasse on Armaments

On May 18, 1899, the envoys of twenty-six nations assembled at the Hague in a mood of cautious scepticism.¹ In their private communications, the leaders of the Great Powers had expressed the view that arms limitations in any form was unrealistic and "out of the question."² The delegates were nevertheless prepared to consider proposals to limit the use and deployment of new weapons as well as ways to humanize the conduct of war and expand the use of international arbitration.

II

In April, 1899, after receiving assurances that all the invited countries would participate, Count Mouravieff sought a suitable locale for the conference. Geneva, Mouravieff's first choice, was deemed unacceptable because of its large resident population of anarchists

¹Andrew D. White, The First Hague Conference (Boston, 1912), p. 8.

²Rumbold to Foreign Office, May 12, 1899, F. O. 83/1700.

and nihilists. Furthermore, the failure of the cantonal police to prevent the assassination of the Empress of Austria raised grave doubts about Geneva's ability to provide adequate security for the delegates.³ A city in the Netherlands seemed a desirable alternative, and the Dutch government, greatly honored by the Russian request, offered to host the conference at the Hague.⁴

The choice of the Hague proved fortuitous although not without attendant difficulties. In keeping with established international practice, Russia, as the initiator of the conference, could identify the participating governments, while the Netherlands would issue the formal invitations.⁵ This procedure resulted in an unexpected crisis when the Dutch public learned that the Vatican and the Transvaal had not been asked to send representatives. Russia considered the exclusion of the Papal internuncio essential since the Italian government had made clear its determination to avoid any situation that might imply Italy's recognition of the Pope as a temporal sovereign.⁶ St. Petersburg also knew that the British government would offer strenuous objections to the Transvaal's participation. The absence of either of these Great Powers would undoubtedly have forced the cancellation of the conference.⁷

³In April, 1898, Empress Elizabeth of Austria was stabbed to death by an Italian anarchist while boarding a pleasure boat to tour Lake Geneva.

⁴White, The First Hague Conference, p. 1.

⁵Baron Goldstein to Salisbury, April 17, 1899, F. O. 83/1699.

⁶Rumbold to Salisbury, February 1, 1899, F.O. 83/1699.

⁷Foreign Office to Howard, May 17, 1899, F. O. 83/1700.

M. de Beaufort, the Dutch Foreign Minister, came under scathing attack from Catholic deputies and newspapers for his acquiescence in this insult to the Holy See. From the pulpit of every Catholic Church sermons were delivered condemning the government's inaction, and the Catholic members of the States-General refused to attend a state dinner honoring the conference delegates.⁸ In order to pacify the Catholic minority, the Dutch Cabinet, with the knowledge of the Italian government, authorized Queen Wilhemina to send a private communication to the Pope. Leo XIII was formally apprised of the forthcoming conference and invited to bestow on its labors his "valuable moral support."⁹ Pope Leo responded with a gracious letter praising the delegates and offering his prayers for a successful conclusion to their deliberations. This amende honorable satisfied the Dutch Catholics and M. de Beaufort was free to confront the Calvinist opposition.¹⁰

The leader of the Calvinist party in the States-General publicly condemned the government for failing to secure the participation of the Transvaal in the conference. Unwilling to conciliate the Calvinists, M. de Beaufort challenged their assumption that the identity of language and race between the Dutch and the Africaners required the Netherlands to protect their interests in Europe. The Hague Conference, he asserted, was not designed to be a friendly gathering of all nations, but a serious

⁸Howard to Salisbury, June 28, 1899, F. O. 83/1700.

⁹Proceedings, p. 222.

¹⁰Howard to Salisbury, August 3, 1899, F. O. 83/1700.

meeting to discuss European arms reduction. Many countries, including the republics of South America, had not been invited because their participation was not considered essential. The same was true of the Transvaal, and M. de Beaufort was not prepared to risk a diplomatic crisis with Britain by insisting on her presence.¹¹

III

The Dutch parliamentary crisis notwithstanding, the conference began as scheduled on May 18, 1899, Tsar Nicholas II's thirty-second birthday. The brief and dignified opening ceremonies took place amid the baroque splendors of the Salle d'Orange in the Huis den Bosch. The delegates were welcomed by M. de Beaufort, who offered his best wishes for the success of their labors. Ambassador Staal, the head of the Russian delegation, replied on behalf of his colleagues. He thanked the Dutch government for its hospitality and offered a resolution to thank Queen Wilhemina for graciously allowing them to gather in her capital. This resolution was unanimously adopted as well as another to telegraph birthday greetings to the Tsar. After electing M. Staal president of the conference, and M. de Beaufort honorary president, the first plenary session adjourned.¹² It had lasted thirty minutes.

¹¹Howard to Salisbury, May 6, 1899, F. O. 83/1700

¹²Proceedings, pp. 13-14.

The second plenary session took place on May 20. The envoys of the Great Powers spent the day-long recess in intense private discussions. Broad based accords on arms limitations were unlikely to be reached and the delegates realized that if any substantial agreements were to issue from their deliberations, they would have to concentrate their efforts on the codification of the laws of war and the expanded use of arbitration and mediation.¹³ M. Staal's presidential address indicated that this would be the course the delegates would follow.

The president reminded his audience that the main responsibility of the conference was to seek the most "efficacious means of assuring to all peoples the blessing of a real and lasting peace." European public opinion persisted in referring to the conference as the "Peace Conference" with the expectation that it would produce tangible results. M. Staal confidently predicted that the delegates would not fail in their task but was careful to point out that peace could be assured by the regulation of diplomatic practices as well as through the limitation of armaments.

The mission of diplomacy, he asserted, was "to prevent and to smooth over disputes between states; to moderate rivalries; to conciliate divergent interests; to remove misunderstandings; and to substitute good understanding for disagreement." Diplomacy was no longer "merely an art in which personal ability played an exclusive part. Its tendency [was] to become a science which shall have fixed rules for settling International disputes." If the conference could establish firm rules

¹³White, The First Hague Conference, p. 12.

for the conduct of diplomacy and reach an accord codifying arbitral practices, it would have achieved its primary aim, "the prevention of conflicts by peaceful means."¹⁴

M. Staal frankly acknowledged, however, that despite the best efforts of the delegates, "the possibility of armed conflict between nations could never be absolutely eliminated." As a result, the highest priority had to be given by the delegates to efforts to regulate the conduct of war and assure the humane treatment of those wounded and taken prisoner.

The question of arms limitations was not to be deleted from the agenda, however, and M. Staal suggested that the delegates might well investigate "whether a limitation of increasing armaments is not required for the well being of nations." In concluding, the president expressed the conviction that if the delegates were prepared to examine the issues before them in a high-minded and conciliatory fashion, they would "perform a useful work for which future generations will thank the sovereigns and heads of States represented in this hall."¹⁵

In order to expedite their tasks, M. Staal suggested that the delegates divide themselves into three commissions that would deal with the several sections of the Second Rescript. The First Commission was to consider the articles dealing with armaments; the Second the revision of the Geneva Convention and the Brussels Declaration; and the Third was to discuss the possibility of an arbitration convention. Every state was to be represented on each commission and at the end of their deliberations,

¹⁴Ibid., pp. 17-18.

¹⁵Ibid., p. 19.

the delegates were to present draft proposals to the plenary session of the conference for formal approval. These rules of procedure were swiftly adopted, and the delegates prepared to begin their real work.

IV

August Beernaert, president of the Belgian Chamber of Representatives, presided over the First Commission. It was charged to seek ways to end "the progressive and ruinous development of armaments." And despite the reticence of the Great Powers, M. Beernaert was hopeful that agreements could be reached on this "sacred" task.¹⁶

Throughout the century, several attempts had been made to limit troop strength and proscribe the use of new weapons. In 1816, Tsar Alexander I had proposed statutory limitations on the size of armies in peacetime,¹⁷ and Louis Napoleon in 1863 had included a similar suggestion on the agenda for a European political conference.¹⁸ On neither occasion were the Great Powers prepared to accept restrictions on the size of their armed forces, so both of these initiatives were stillborn. The Powers had proved willing, however, to accept prohibitions on the use of specific weapons. In 1868 an international military commission meeting in St. Petersburg had outlawed the use of exploding bullets in warfare among

¹⁶Proceedings, p. 272.

¹⁷"Memorandum du Prince Metternich, 1816." in Actes et Documents, Adm. 116/98.

¹⁸Ibid., "Lettre de Napoléon III aux Souverains de l'Europe," Novembre 4, 1863.

civilized states.¹⁹

In adopting the St. Petersburg Declaration, the nations of Europe sanctioned the principle that "civilized states are in duty bound to diminish as much as possible the calamities of war," and that even in the midst of combat, "the needs of humanity should be supreme over all others."²⁰ M. Beernaert was confident that "humanitarian considerations" would compel the Great Powers to accept the restrictions on the use of new weapons, powders, and explosives proposed in the Second Rescript.

To facilitate the work of the Commission, the members agreed to divide their assignment between two sub-commissions; the first to deal with military armaments, and the second with naval weaponry. In order to preserve as long as possible the harmonious relations among the delegates, M. Beernaert sought to reserve until the last the discussion of the most difficult question. He recommended, therefore, that the highly controversial proposal for a general convention to limit the size of land and sea forces along with naval and military budgets be considered by the plenary session of the First Commission only after the sub-commissions had completed their labors. His procedural suggestion was adopted and the plenary session adjourned for one month.²¹

The first sub-commission met five times during May and June to consider limitations on land weapons. Article two of the Second Rescript

¹⁹Proceedings, p. 273.

²⁰Ibid.

²¹Ibid., pp. 273-274.

called on the nations of the world "to prohibit the use in armies and fleets of any new kind of firearms whatever, and of new explosives or any Powders more powerful than those now in use, either for rifles or cannon." To implement this statement, the Russian military delegate, Colonel Gilinsky, proposed that for a "fixed term" the Powers agree not to replace the basic infantry rifle currently in use by more sophisticated models and, further, to refrain from developing automatic shoulder arms.²²

In defending his motion, Gilinsky disclosed that general staffs had recognized that the rifles used by all major armies were roughly equal in quality of design and manufacture as well as in effectiveness. If any nation significantly altered its rifle design, other nations would immediately do the same. Hence the tactical advantage gained by an arms modification would be temporary. In his view, therefore, it was both logical and economical for governments to agree to stop seeking to improve rifle technology since a freeze on such developments would assure that the effectiveness and the strength of their national armed forces would remain unchanged.²³

The reception accorded the Russian proposal was cautious. Only Belgium, the Netherlands, Persia, Siam and Bulgaria were willing to accept the "proposition of the Russian government with regard to rifles." The representatives of the other powers shared the hesitation expressed by Austria-Hungary. The delegate of the Dual Monarchy declared that

²²Ibid., p. 331.

²³Ibid.

"the Austro-Hungarian delegation could agree to the proposition not to change the present gun for some time; but it would seem to be very difficult to determine what that present gun is." Austria-Hungary and the other Great Powers requested from Russia a more detailed statement on the characteristics of an acceptable rifle.²⁴

In response to this request, the Russians presented a five-point plan. Their specifications set forth:

1. The minimum weight of a gun shall be four kilograms.
2. The minimum caliber shall be six and one-half millimeters.
3. The weight of the bullet shall not be less than ten and one-half grams.
4. The initial velocity shall not exceed seven hundred and twenty meters.
5. The rapidity of fire shall be kept at twenty-five shots per minute.²⁵

The precise wording of the document clearly surprised some of the delegates. M. Beernaert was hopeful that the logic of the Russian presentation would result in its adoption. To give the delegates time to seriously examine it, the president temporarily postponed debate. Another Russian-sponsored plan for limiting improvements in cannon was taken up first.

Colonel Gilinsky's resolution on this subject was not unexpected, since it was generally believed that the Imperial Government had initiated the conference in order to prevent Austria-Hungary from introducing costly new rapid-fire artillery. The Russian government

²⁴Ibid., pp. 334-336.

²⁵Ibid., p. 337.

knew that the Dual Monarchy was planning to adopt new recoil-combustion field artillery patterned after the French army's 75mm. field guns. The delegates were very surprised, however, by the phrasing of the Russian resolution that appeared to encourage all nations to adopt modern artillery. Gilinsky simply proposed that for a fixed period, the Great Powers agree not to change their present field ordnance but that "those countries which had yet to convert to rapid-fire cannon be allowed to adopt new models." In addition, Gilinsky suggested a prohibition on the use of high explosive shells and a moratorium on the development of new powders.²⁶

The opposition to any restrictions on the technological development of artillery was so apparent that M. Beernaert called for a vote on the resolution without permitting debate. It was rejected unanimously and the Imperial Government's own tepid commitment to arms limitations was revealed by its delegations' abstention on this key vote.²⁷ The resolution on shells and explosives was also decisively defeated and the delegates were free to return to the question of rifles.

Eschewing diplomatic niceties, Colonel Gross von Schwarzhoff addressed himself directly and critically to Russia's five-point plan. Germany, he declared, was determined to avoid unnecessary military outlays and anxious to participate in meaningful weapons accords. The Russian proposal, however, was unacceptable to his government because it was considered unworkable and would mandate increased arms expenditures.²⁸

²⁶Ibid., p. 334.

²⁷Ibid., p. 341.

²⁸Ibid., pp. 346-347.

Schwarzhoff asserted that an agreement to set the minimum weight of rifles at four kilograms would oblige Belgium, Spain, Italy, Norway, Roumania, and Germany to make undesirable and expensive modifications on their existing rifles. Similarly, an agreement to set the minimum weight of bullets at ten and one half grams would require Norway and Roumania to replace their entire stockpile of ammunition.²⁹ Commenting on the proposal to freeze the initial velocity of bullets at seven hundred and twenty meters, the German delegate explained that the initial velocity of a bullet was a function of the powders used in rifles. Since the sub-commission had already refused to restrict the development and use of new powders, he remarked that it would be foolish for the delegates to place statutory limitations on velocity. He also rejected the contention that it was possible to place viable restraints on the rapidity of rifle fire. In his view, the rate of fire depended on the skill and training of the individual soldier, and no convention could prevent an expert marksman from exceeding the proposed maximum of twenty-five shots per minute.³⁰

Schwarzhoff's statements and his "reluctant" refusal to endorse the Russian resolution received full support from the Great Powers. No further debate was necessary and by the lopsided vote of eleven to four, the sub-commission tabled the proposal.³¹

Before the delegates could properly congratulate themselves on having disposed of this troublesome issue, a substitute resolution was

²⁹Ibid., p. 347.

³⁰Ibid.

³¹Ibid., p. 349.

presented by General den Beer Poortugael of the Netherlands. The Dutch military delegate was extremely distressed by the evident unwillingness of the Great Powers to consider arms limitations seriously. In an impassioned speech, printed and distributed at the request of his colleagues, Poortugael reminded the delegates of their grave responsibilities to the people of Europe and the onimous consequences of their failure. "If gentlemen," he declared, "after all that has happened and is expected, this Conference, proudly announced and constituted, and unparalleled in history, accomplishes nothing in the way of the economies so ardently desired-if we place not a single restriction on the ruinous transformation of armaments-we shall forge weapons for the enemy common to all governments, for those who wish to revolutionize the established order of the world and who will not hesitate to scatter among the people venomous germs and a doubt as to the sincerity of the governments whom we represent."³²

In order to sooth public opinion, the General offered a weak and flexible resolution ostensibly to enable the Powers to demonstrate publicly their committment to arms limitations without in any way inhibiting their freedom of action. He proposed that:

For a period of five years from the date of the present act, the nations agree not to replace the guns now in use in their armies by guns of any other type.

However, they do not forbid themselves making any improvements or perfection in the guns now in use which may appear advantagious to them.

The nations which have a gun of an antiquated model, that is, of a caliber above eight millimeters or having a magazine, may adopt

³²Ibid.

existing models.³³

Following Poortugael's eloquent speech, a vote was taken on his proposal. Nine states, Denmark, Spain, the Netherlands, Persia, Roumania, Russia, Serbia, Siam and Sweden voted in favor of the resolution. Nine others abstained due to the lack of official instructions and Germany and Great Britain alone voted nay. The lack of unanimity made the adoption of the resolution impossible and further discussions on the subject were terminated.³⁴

During the futile debate on cannon and rifles, the Swiss military delegate recommended a prohibition on the use of bullets that cause unnecessarily severe or painful wounds. In raising this issue, Colonel Kunzli frankly declared his desire to outlaw the notorious dum-dum bullet used in the regulation British infantry cartridge.

These cartridges, manufactured by the Dumdum arsenal near Calcutta and widely used by British troops throughout India and the empire, had a lead bullet that was not completely covered by its cupro-nickle jacket. On impact the bullet tended to flatten or to break up entirely. In either case the bullet inflicted extremely severe wounds. Kunzli was confident that the delegates would unanimously agree to ban this barbarous device.³⁵

An enthusiastic support greeted the Swiss proposal and even Sir John Ardagh proved willing to accept a loosely phrased resolution

³³ Ibid., p. 350.

³⁴ Ibid., p. 353.

³⁵ Ibid., p. 338.

deploring the use of needlessly cruel bullets in order to spare his government the embarrassment of opposition. To his dismay, however, the declaration, co-sponsored by France and Russia, was not couched in vague and ambiguous diplomatic language. The Mounier resolution demanded that:

The use of bullets which expand or flatten easily on penetrating the human body such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions should be prohibited.³⁶

Stunned by such precise language, Ardagh argued vigorously against the proposal's adoption. His effort was futile. While acknowledging that the resolution had been offered in the loftiest spirit of humanitarian concern, Ardagh charged that its actual effect would be to condemn thousands of British soldiers to an agonizing death in colonial wars. The British Army had learned at the battle of Omdurman that a fully jacketed eight-millimeter bullet could not stop a determined charge by the Dervishes.³⁷ In civilized warfare, Ardagh declared, "a soldier whose body is penetrated by a small projectile realizes himself to be wounded and hors de combat. He does not continue to advance and withdraws to the ambulance or red cross station." Savage warfare presented a completely different picture. With his body pierced by several bullets the savage does not "cease to march forward, does not call upon the hospital attendants, but continues on and before anyone has time to explain to him that he is flagrantly violating the decisions

³⁶Ibid., p. 343.

³⁷Ibid., p. 273.

of the Hague conference, he cuts off your head."³⁸ More "stopping power", Ardagh averred, had to be developed by the infantry arms used in colonial warfare. He insisted that every government had a solemn obligation to provide its armed forces with the most effective weapons, and Britain intended to meet that responsibility.

In defending his outlook, Ardagh challenged the view that the dum-dum bullet caused unnecessary suffering. Europe's general information about the effects of the dum-dum came mainly from newspaper accounts of a widely publicized study carried out at the medical faculty of Tübingen University. Ardagh alleged that the bullet tested in Germany, and which was found to produce a jagged and gaping wound when fired into sheep carcasses, was not the British dum-dum. It was a lead-tipped bullet used exclusively in a Mauser big game rifles. He denied that the dum-dum bullet was designed with the aim of inflicting "useless suffering" and he assured his colleagues that the British public would never permit its army to use excessively cruel projectiles.³⁹

Ardagh's contention that the unique demands of colonial warfare justified the use of special weapons was rejected by his colleagues. M. Raffalovich of Russia, speaking in the name of the "humanitarian spirit of the nineteenth century" declared that it was "impermissible to make a distinction between a savage and a civilized enemy since both are men who deserve the same treatment."⁴⁰ Overriding the opposition of

³⁸Ibid., p. 343.

³⁹Ibid., p. 277.

⁴⁰Ibid., p. 343.

the British delegation, the sub-commission voted nineteen to one, with Austria-Hungary abstaining, to recommend the declaration prohibiting expanding bullets to the plenary session.⁴¹

Before **the declaration** could be considered by the entire Commission, intense behind-the-scenes negotiations started in the hope of conciliating Britain and securing unanimous support for the Declaration. These negotiations extended over several weeks. At a secret meeting with the members of the British delegation, Johkheer van Karnebeek of the Netherlands offered to introduce an amendment that would declare the prohibition on the use of expanding bullets binding only in case of war among the signatories, thus allowing Britain to use the dum-dum bullet in colonial warfare.⁴²

Pauncefote and Ardagh rejected this suggestion and stipulated that the only acceptable compromise would be the adoption of a substitute resolution offered by Captain Crozier of the United States. The Crozier resolution declared:

The employment of bullets which inflict uselessly cruel wounds such as explosive bullets and in general every kind of bullet which exceeds the limit necessary in order to put a man hors de combat at once is forbidden.⁴³

The British delegates were aware that the new .303 Lee-Enfield Mark IV bullet intended for use by the British Army in "civilized warfare" exhibited many of the characteristics of the dum-dum. The lead core of this bullet was covered by a cupro-nickel envelope except for the tip where

⁴¹Ibid., p. 344.

⁴²Ardagh to Salisbury, Ardagh Papers, May 19, 1899.

⁴³Proceedings, p. 273.

the envelope was turned down and the core exposed. Pauncefote and Ardagh realized that it would be outlawed by the terms of the Mounier resolution, but they were confident that its use could be justified under the terms of Crozier's revised draft.⁴⁴

The same imprecision that commended Crozier's proposal to the British, aroused the hostility of the other Powers. They were unwilling to accept a vague and easily ignored declaration, and, despite the opposition of Britain, the original France-Russian resolution was eventually submitted without amendments to the plenary session for approval.

Following the adoption of the declaration on expanding bullets, the sub-commission turned its attention to article three of the Second Rescript. In this paragraph, the Russian government proposed an agreement to "prohibit the throwing of projectiles of explosives of any kind from balloons or by any similar means." The military use of balloons had been minimal. They had been used as observation platforms during the American Civil War and the Franco-Prussian War. But balloons lacked a reliable means of control and they were wholly at the mercy of the wind. Most military experts did not believe balloons could play an influential role in military operations. For this reason, it was hoped that the powers could agree to prohibit the military use of balloons--at least until technology made them more effective.⁴⁵

A declaration prohibiting the discharge of explosives from balloons was warmly supported by General den Beer Poortugael. He asserted that the laws of war did not "recognize belligerents as having an unlimited

⁴⁴Ardagh to Salisbury, June 27, 1899, F.O. 83/1698

⁴⁵Proceedings, p. 280.

power as to the choice of means of injuring the enemy." The dropping of projectiles from the sky was unquestionably contrary to the laws of humanity since explosives so discharged might "just as easily hit inoffensive inhabitants as combatants, or destroy a church as easily as a battery." The Dutch delegate argued that humane men demanded the scrupulous elimination of all "perfidious" means of waging war, and that it was, therefore, necessary to outlaw the use of "infernal machines which seem to fall from the sky."⁴⁶ The other members of the sub-commission agreed, and they gave unanimous consent to the proposal. Britain alone abstained and the resolution was sent to the plenary session for ratification. With the conclusion of this debate, the military sub-commission completed its labors and the delegates turned their attention to naval affairs.

V

Jonkheer van Karnebeek of the Netherlands was elected president of the second sub-commission. Although hardly an expert on naval matters, the former Dutch Foreign Minister was a dedicated proponent of arms limitations.⁴⁷ He was determined to use his control of the agenda and procedure to provide the reluctant delegates with every possible

⁴⁶Ibid., p. 342.

⁴⁷Davis, The United States and the First Hague Conference, p. 111.

opportunity to reach a weapons accord.

The sub-commission proposed to discuss the possibility "as regards navies, to prohibit by means of a conventional arrangement, the putting into use of new fire arms." Since portable arms had a lesser role in maritime operations, the delegates concentrated their attention on ordnance. A general discussion of the question of ordnance revealed major obstacles and objections in the way of an agreement.

Admiral Pephau of France remarked that it would be impossible to adequately define the term "new firearms." Would an arrangement to forestall the introduction of completely new weapons, he asked, allow nations to refine and modify their existing stocks of cannon? If gradual alterations were permitted, old weapons would eventually be changed into improved new types and the original accord would be rendered meaningless.⁴⁸ Britain's Admiral Fisher dismissed the entire discussion as dangerous and absurd. He declared that each country naturally seeks to use the best weapons available and that "any conventional restraints on their freedom puts civilized states at a disadvantage in case of war with savage nations."⁴⁹

Little progress was made during the general discussion. In order to focus the debate the French delegate introduced a resolution to define the acceptable limits on innovations in naval ordnance.

Admiral Pephau proposed:

The contracting nations undertake, during a period of _____, beginning _____, not to subject the existing type of cannon to a

⁴⁸Proceedings, p. 359.

⁴⁹Ibid., p. 360.

radical transformation similar to that by which the muzzle loader was replaced by the breech loader.⁵⁰

The resolution was immediately rejected by the representatives of Britain, Austria-Hungary, Italy, the United States, and Germany on the grounds that it was indistinct and vague. "If such a form of wording were accepted," declared Captain Siegel of Germany, "no one would be satisfied, neither military men nor the public, which would at once understand that this means was chosen only in order to get out of a difficulty."⁵¹

The delegates' demand for precision was met by a surprise substitute resolution offered by Captain Scheine of Russia. He proposed that the governments represented undertake:

1. Not to exceed a caliber of seventeen inches or 431.7 millimeters for any kind of canon,
2. That the length of cannon be fixed at a maximum of forty-five calibers,
3. That the initial velocity does not exceed three thousand feet or nine hundred and fourteen meters,
4. For armor plate, the maximum thickness will be fourteen inches or (35 cm.) and of the same quality as⁵² that manufactured according to the latest Krupp patent.

Van Karnebeek found the Russian document impressive. He appreciated the fact that an accord based on these precise figures would gain "immeasurably in value and significance." The other delegates did not share the president's enthusiasm, and they presented every conceivable argument to prove the proposal ambiguous and unworkable.⁵³

⁵⁰Ibid., p. 363.

⁵¹Ibid., p. 371.

⁵²Ibid., p. 372.

⁵³Ibid., pp. 372-373.

In a desperate effort to salvage the resolution, van Karnebeek postponed the formal vote. He asked the delegates to obtain new instructions from their governments in the hope that further consideration would convince the Great Powers of the urgency of an affirmative vote. The president was prepared to defer final action until the end of the conference, and the proposal was finally disposed of at the third meeting of the plenary session of the First Commission. The delay had not softened the opposition of the Great Powers and as a face-saving solution, the delegates agreed in principle, to submit the Scheine proposal to national technical committees for further study.⁵⁴ These committees were never convened.

Following their failure to place restrictions on the technical development of naval ordnance and on the use of armor plate for warships, the delegates rapidly dismissed suggestions to prohibit the use of submarine torpedo boats and the construction of vessels with rams.⁵⁵ Only a Russian-sponsored resolution to outlaw the use of projectiles intended solely for spreading asphyxiating gases elicited a favorable response. The proposal appealed to the delegates on humanitarian grounds but failed to command unanimous assent when Captain Mahan of the United States challenged the contention that poison gas was a barbarous weapon.

The gas shell had yet to be perfected and Mahan was unwilling to renounce in advance his country's right to use it. Such a weapon could

⁵⁴Ibid., pp. 282-283.

⁵⁵Ibid., pp. 367-368.

prove decisive in warfare, and Mahan argued that it "might even be considered as more humane than those weapons which kill or cripple in a much more cruel manner by tearing the body with pieces of metal."⁵⁶ Ignoring his arguments, the delegates approved the declaration on asphyxiating and deleterious gases, and the second sub-commission adjourned.

VI

The declarations submitted by the military and naval sub-commissions were quickly ratified by the plenary session of the First Commission. The prohibition on the use of expanding bullets and asphyxiating gases was accepted without reservation, while the ban on the launching of projectiles from balloons was modified to remain in force for a period of five years.⁵⁷ The declarations were sent to the general session of the conference for inclusion in the Acte Finale, while the members of the Commission debated proposed limitations on military and naval personnel and budgets.

The Russian government had called for a five-year agreement, during the course of which the signatories would pledge not to increase the size of their armies. Colonial forces were not to be regulated, however,

⁵⁶Ibid., p. 366. Captain A. T. Mahan, author of the important work The Influence of Sea Power Upon History was the United States' naval representative at the Conference.

⁵⁷See Appendices III, IV and V for the texts of these declarations.

and for the purposes of the accord, Asiatic Russia was to be considered as a colonial territory. During the same five-year period, the contracting parties were pledged to maintain their military budgets at the level attained in 1899.⁵⁸ The Imperial government also proposed a three-year pact to limit naval effectives and budgets. During the term of this treaty, the signatories were required to make public the total tonnage of warships under construction, the total number of naval officers and ratings, and their complete budget allocations for coastal fortifications, docks, and arsenals.⁵⁹

The Russian proposals stirred a warm defense by General den Beer Poortugael of the Netherlands. As a professional soldier, the General was convinced that "eternal peace" was neither possible nor desirable. Nations could not survive without armies and navies, and wars could, "in exceptional cases be inevitable and salutary, by purifying like a storm the political atmosphere and by freeing [nations] from the meannesses that materialism and the love of money foster."

He asserted, however, that the peoples of Europe were being mercilessly crushed by the burden of military expenditures. The amount of national wealth invested in armies and armaments had assumed "gigantic, disquieting, and dangerous" proportions. Den Beer Poortugael declared that unless the Great Powers adopted the Russian resolutions and put an end to the arms race, the very existence of swollen military forces would cause the most destructive war in the history of mankind.⁶⁰

⁵⁸Proceedings, p. 305.

⁵⁹Ibid., p. 306.

⁶⁰Ibid., pp. 301-302.

The self-evident quality of the General's argument did not seem apparent to all of his colleagues. Colonel Gross von Schwarzhoff vehemently denied the suggestion that the Kaiser, through his armaments policy, was "engaged in working for the inevitable ruin of his country." The German people, he declared, "are not crushed beneath the weight of expenditures and taxes, they are not hanging on the edge of the precipice, they are not hastening towards exhaustion and ruin. Quite the contrary; public and private wealth is increasing, the general wealth and standard of life are rising from year to year."⁶¹

Schwarzhoff condemned the Russian military plan as a worthless over-simplification. An absolute freeze on the number of effectives would prove meaningless unless it was accompanied by some restrictions on militia units, strategic reserves, and the continuing obligations of ex-soldiers. Furthermore, unless limits were placed on the size of colonial forces, the entire system would inevitably collapse. No government, declared the German delegate, was so naive as to believe that European troops in colonial service would not be recalled in the event of a European war.⁶²

Even if a proposal could be drafted that eliminated these objections, von Schwarzhoff regretfully informed his colleagues that the German government could not become a signatory. The Army Act of 1898, recently approved by the Reichstag mandated yearly increases in the size of the German army over a period of five years. Since the German government was

⁶¹Ibid., pp. 308-309.

⁶²Ibid., p. 310.

legally bound to implement this Act, it would be impossible for its representatives to sign a treaty that mandated conflicting obligations.⁶³

No other public comments were forthcoming on the Russian resolutions, and they were sent to a secret session of the first sub-commission for further debate. Following its short deliberations, the sub-commission, with one negative vote, issued the following statement:

1. That it would be difficult to fix, even for a term of five years, the number of troops without regulating at the same time, other elements of national defense.
2. That it would be not less difficult to regulate by international agreement the elements of defense organized in each country upon very difficult principles.

Hence, the committee regrets its inability to accept the proposition made in the name of the Russian government. The majority of its members believe that a more thorough study of question by the governments themselves would be desirable.⁶⁴

This declaration was approved by the First Commission along with a similar statement postponing until a future conference, the consideration of a limitation on naval forces and naval budgets. With these votes the delegates completed action on the most basic issues taken up at the Hague Conference.

⁶³Ibid.

⁶⁴Ibid. 550.

Chapter VI

The Laws and Customs of War

The sense of futility and failure which pervaded the meetings of the First Commission was noticeably absent from the deliberations of the Second Commission. After nearly fifty years of international discussions, seminars, and conferences, European opinion was firmly in favor of general accords to codify the laws of war and guarantee the humane treatment of prisoners. From the outset of the Conference, there was great optimism that the Powers would reach an agreement to extend the provisions of the 1864 Geneva Convention to maritime warfare and successfully revise the 1874 Brussels Declaration on the laws and customs of war.

II

The distinguished Russian lawyer, Feodor de Martens, was appointed President of the Second Commission.¹ At its first plenary session on

¹M. de Martens was the obvious choice to head the Second Commission. As a young government official he had attended the Brussels Convention called by Tsar Alexander II in 1874. His reputation as an international jurist was unrivaled, and even while the Hague Conference was in session,

May 23, 1899, the Commission was divided into two sub-commissions; the first, under the presidency of T.M.C. Asser of the Netherlands, was to examine questions relating to the Geneva Convention, and the second, under the leadership of M. de Martens, was charged with the reconsideration of the Brussels Declaration.²

The first sub-commission was instructed to draft a convention to regulate the treatment of combatants wounded or shipwrecked during naval engagements and the neutrality of ships and medical personnel involved in rescue operations. In 1864, at the invitation of the Swiss Government, a conference was convened in Geneva to discuss ways of ameliorating the suffering of those wounded in land operations. The result of this conference was the Geneva Convention which, modified by the Additional Articles of 1868, granted complete neutrality and inviolability to unprotected ambulances, military hospitals, and medical teams operating under the banner of the red cross.

The Articles of 1868 contained provisions to regulate humanitarian activities in maritime warfare but they had not been ratified by the signatory powers and thus lacked the standing of international legislation. They had, however, become part of customary international law, having been observed by the belligerents in the Franco-Prussian War and accepted as a modus vivendi in the Spanish-American War. Much ambiguity as to the applicability of the Articles remained, however, and it was the hope

Martens was often absent in Paris where he was the presiding officer of the arbitral tribunal considering the Venezuela-British Guiana boundary dispute. Davis, The United States and the First Hague Peace Conference p. 126.

²Proceedings, p. 383.

of the Russian government that a new convention could be written that would clearly delineate the rights and responsibilities of combatants, neutrals, rescue ships, and medical personnel during naval hostilities.³

At its first meeting, the sub-commission agreed to accept the Additional Articles as the basis of the new draft convention. The relevant provisions of 1868 would be considered seriatum and emended or modified according to the will of the delegates. The discussions proceeded rapidly and the only item of controversy was the proposal of the French government to grant complete inviolability and neutrality to all hospital ships and to exempt them from capture as prizes of war. This proposal was opposed by the British representative, Admiral Fisher, but was adopted by the sub-commission by the vote of 14 to 2. The resistance of the British and American delegates was greatly modified when the sub-commission also agreed to accept a Russian amendment to give belligerents the right to restrict the free passage of hospital ships if it was considered necessary to protect the secrecy of naval operations.⁴

The draft convention was prepared by a committee headed by the distinguished French jurist, Louis Renault. In presenting the draft, M. Renault stated that the text was intended to be a simple statement of the general principles of law acknowledged by the signatories. The specific and complex details of its implementation had been deliberately omitted because the drafting committee felt that such considerations

³See Appendix VI for the text of the Additional Articles of 1868 pertaining to maritime warfare.

⁴Proceedings, p. 451.

should be left to the discretion of the individual states.⁵

In an effort to assuage those observers who would criticize the draft-convention for imposing too many restrictions and limitations on the free movement of rescue craft, M. Renault pointed out that international law, to be effective, had to be realistic. The committee could not be "so preoccupied with the demands of humanity that we are oblivious of the necessities of warfare." It had to avoid laying down rules which "even though inspired by sentiments of humanity are likely to be disregarded... by the combatants as unduly impeding their freedom of action." "Humanity", he declared, "gains little by the adoption of a rule that remains a dead letter...."⁶ A brief summary of the draft convention will illustrate the committees' effort to combine humanitarian idealism with political necessity.⁷

Articles one through six of the draft convention dealt with the status of military and private hospital ships and neutral vessels engaged in rescue operations. All military hospital ships, i.e., "ships constructed or assigned by States specially and solely with a view to assist the wounded, sick and shipwrecked," whose names had been made available to the belligerents at the beginning or during the course of a war were to be "respected" and immune from capture for the duration of hostilities.⁸ Hospital ships equipped by private individuals or relief

⁵Ibid., p. 396.

⁶Ibid.

⁷For the full text of the convention, see Appendix VII.

⁸Proceedings, p. 397. The drafting committee refrained from simply

societies were likewise declared immune from capture. The problem of neutral ships engaged in lifesaving activities was considered and it was declared that the rescue of wounded or shipwrecked belligerents by neutral merchantmen, yachts, or other vessels was an act of humanity and was not per se a violation of their neutrality.⁹

All hospital ships, whether public or private, were specifically charged to give "relief and assistance" to all victims of war "without distinction of nationality." They were not to be used for any military purpose and could not gather information, carry dispatches, or transport troops, arms, or munitions. The right of the belligerents to stop and search relief vessels was sanctioned by the convention, because it was not deemed "unreasonable" for these ships to be asked to demonstrate their innocent character in return for the privilege of immunity. In extreme cases, belligerents were permitted to "detain" hospital ships, if it was believed that such vessels might compromise the outcome of an engagement.¹⁰ During naval engagements, hospital ships were considered to be acting at "their own risk and peril" and were mandated to refrain from any action that would impede the activities of the belligerents. In order to make these craft easily identifiable to the combatants during hostilities, the draft convention stipulated that all

declaring hospital ships to be "neutral." By stating that the ships were to be "respected" and immune from capture, the committee felt it was stating precisely the two principle consequences emanating from the state of neutrality without using the term considered by some to be ambiguous.

⁹Ibid., p. 401.

¹⁰Ibid., pp. 400-401.

hospital ships were to be painted white with a red stripe and were to fly the red cross pennant under its national flag.¹¹

Articles seven through nine of the draft convention concerned the status of medical personnel and wounded combatants. The medical and religious staff of any ship was declared to be inviolable and not liable to capture as prisoners of war. The convention declared that it was the solemn responsibility of all belligerents to protect and care for enemy casualties under their jurisdiction. Each state had the right to keep such captives in their own country, to send them to a neutral state, or to repatriate them. If the wounded were repatriated, they were honor bound to remain hors de combat for the duration of the war.¹²

Article ten of the draft convention was the only part of the document that had no counterpart in the Additional Articles of 1868. It declared that the shipwrecked, sick, or wounded, landed at neutral ports with the consent of the neutral government, were to be "guarded by the neutral state so as to prevent their again taking part in the operation of the war." This article was based on the principle that the neutral state that has voluntarily consented to the disembarkation of victims "is obliged to take necessary measures to the end that his territory may serve the victims of war only as an asylum and that

¹¹Ibid. The Moslem states refused to accept this part of the convention and declared that their hospital vessels would fly the pennant of the red crescent rather than that of the red cross.

¹²Proceedings, p. 401.

individuals not be allowed to take part again in the hostilities.¹³

The draft convention was accepted unanimously by the plenary session of the Second Commission meeting on June 20. The work of the first sub-commission was not complete, however, as the American delegate, Captain Mahan, introduced three additional articles for possible inclusion in the final text of the convention.¹⁴

Speaking as a naval commander who had seen service during the American Civil War, Mahan reminded the delegates that during a battle it was quite conceivable for the shipwrecked combatants of the victorious power to be saved by neutral vessels. In Mahan's view the draft convention was incomplete because it failed to indicate whether combatants so saved would be protected by the neutrality of the rescuing craft or would be liable to capture by belligerent warships. The convention also failed to determine whether shipwrecked belligerents returned to their own countries by neutral ships could continue on active service during the remainder of the war. Mahan offered his proposals to remedy these omissions and they were referred to M. Renault's drafting committee for consideration. The articles read as follows:

1. Neutral vessels of any kind, hospital ships or others, being on the scene of a naval engagement, which may, as an act of humanity, save men in peril of drowning from the results of the engagement, shall not be considered as having violated their neutrality by that act alone.

They will, however, in so doing, act at their own risk and peril.

2. In case a war vessel should demand the return of the men thus

¹³Ibid., p. 405.

¹⁴Ibid., p. 392.

gathered up, the latter shall not be considered under the cover of the neutral flag, but shall be susceptible of capture and recapture.

If this demand is made, the men in question may be delivered up and have the same status as if they had not been under a neutral flag.

3. In case these men, who have thus escaped the consequence of the flight through neutral interposition, should not be demanded by a belligerent ship, they shall be considered as being out of action, and shall not serve during the remainder of the war unless duly exchanged. The contracting Governments who are belligerents engage to prevent these men from serving during the continuance of the war unless exchanged.¹⁵

After carefully examining Captain Mahan's proposals, M. Renault recommended that all three articles be rejected as redundant. Article one was held to be superfluous since Article six of the draft convention provided for the protection of neutral ships.¹⁶ Article two was also non-essential because, in M. Renault's view, a belligerent under existing international law had the right to stop and search a neutral vessel and capture or liberate any combatants on board. The French jurist argued that Admiralty Law admitted of this right and he cited the 1855 case of the Bremen vessel "Cretois" condemned by a British Prize Court in Hong Kong. This neutral vessel carrying shipwrecked Russian sailors had been stopped by British warships and the combatants on board were declared prisoners. If Britain could do this under existing maritime law, other nations had the same right and thus Mahan's article was redundant.¹⁷ Renault rejected article three on the grounds that a

¹⁵Ibid.

¹⁶Pauncefote to Salisbury, July 1, 1899, p. 3, F.O. 83/1696.

¹⁷Ibid.

combatant was only hors de combat if he had been captured by enemy forces or interned in a neutral country. If he was returned to his own country by a neutral ship, he had to be allowed to remain as a combatant because he had at no time been a prisoner of war.¹⁸

The British delegation concurred in the repudiation of Mahan's proposals, but Fisher and Pauncefote were greatly disturbed by the arguments offered by Renault to justify his rejection of Article two. Pauncefote pointed out that the Bremen ship "Cretois" had not been stopped and brought before a British prize court as a neutral vessel, but in order to determine "whether she had rendered herself liable to capture as having acquired an enemy character by reason...of her having been hired by a belligerent for the conveyance of...shipwrecked wounded or sick persons." The prize court had found that the ship was acting in the service of Russia and was, therefore, liable to capture as an enemy vessel.¹⁹ In Pauncefote's view it would be contrary to the accepted principles of international law for Britain to accept M. Renault's contention that a neutral vessel passing near the scene of battle and rescuing drowning sailors out of humanity "is bound to surrender them on demand of a vessel of war belonging to their enemy, and, in fact, that she does not cover the persons on board with the protection of her neutral flag."²⁰

The Admiralty complied with Pauncefote's request for instructions

¹⁸Ibid., pp. 3-4.

¹⁹Ibid., p. 1.

²⁰Ibid.

on this point of law and agreed that M. Renault's interpretation was "a great departure from the accepted practice...which is that no person may be taken out of a neutral ship." In the Admiralty's view, the 1861 Trent Affair had upheld this position and it was considered "extremely unwise to depart from such a great principle in order to rescue or capture a few half drowned officers and men who are not of vital importance."²¹

Admiral Fisher apprised the delegates of his government's position on this point, but a legal battle was avoided when Captain Mahan withdrew his articles in order to avoid further controversy and to secure unanimous support for the draft-convention. The Convention to Adapt the Principles of the Geneva Convention to Maritime Warfare was approved by the Second Commission and sent to the plenary session of the Conference.²²

III

An international conference to regulate warfare and limit its excesses and cruelties was briefly discussed at the final session of the 1868 St. Petersburg Conference. The delegates to that international military commission sought to reconcile the exigencies of warfare with the dictates of humanity and had agreed to a binding convention to outlaw

²¹Case 258, June 6, 1899, Adm. 116/98.

²²Proceedings, p. 30.

the use of exploding bullets in warfare among civilized states. They expressed the hope in the Acte Finale that other ways would be found to limit the suffering caused by modern war, and it was for this purpose that the Russian government convened the 1874 Brussels Conference.²³

It was the common assumption of the Brussels conferees that the laws and customs of land war had to be precisely defined in order to preclude needless violence. Atrocities committed in the absence of international regulation not only inflamed national passions, but also made "the reestablishment of good relations and of a durable peace between the belligerents more difficult."²⁴ The Conference produced a comprehensive document that codified international practice on such issues as the treatment of prisoners of war, the rights of occupying armies over invaded territory, and the definition of the term "belligerent."²⁵ The complex and contentious nature of the agreement made it impossible for the delegates to accept the Acte Finale as anything more than "a conscientious inquiry that would serve as the basis for future discussions."²⁵ The Brussels Declaration was never ratified and was thus not binding on its signatories.²⁶

²³"Convention de Saint-Petersbourg, 11 December, 1868," in Actes et Documents, Adm. 116/98.

²⁴Ibid., "Conférence de Bruxelles de 1874, Protocole finale, séance du 27 août, 1874.

²⁵Ibid.

²⁶Representatives of Russia, Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Greece, Italy, the Netherlands, Portugal, Sweden and Norway, Switzerland, and Turkey signed the Brussels Declaration.

Article seven of the Second Rescript proposed that the Hague Conference reconsider the Brussels Declaration. The Russian government hoped that after a recess of a quarter century, during which time popular sentiment to regulate warfare had increased, the Powers would be able to agree to a revised declaration. It was to be a non-binding convention that would hopefully serve as the common basis for the national martial law codes issued by all governments and binding on their armies in time of war.²⁷

The delegates to the second sub-commission accepted the Imperial Government's definition of their task and agreed to discuss and modify the various sections of the 1874 Declaration.²⁸ A consensus was reached without much debate on the sections concerning the treatment of prisoners of war; the regulation of sieges and bombardments; capitulations, armistices, and parlementaries; the care of the sick and wounded; the definition and treatment of spies; the proper means of injuring the enemy; and the internment of belligerents in neutral states. The delegates then turned their attention to the most controversial sections that dealt with the rights of invading armies over the occupied territory of hostile states and the definition of the term "belligerent."

It was clear from the experience of 1874 that the framing of an acceptable declaration hinged on the ability of the delegates to reach an agreement on these two complicated and emotional issues. The delegates had to consider the refusal of the small states to accept any wording

²⁷Proceedings, p. 475.

²⁸Ibid., p. 474.

that tacitly sanctioned invasion by enumerating the rights of conquerors over captured territory. They had to reconcile this view with the insistence of the Great Powers that aggressive wars were realities that were better regulated than ignored. The delegates also had to accommodate the reluctance of the small states to place any limitations on their populations' right to take up arms at the approach of an invader with the position of the Great Powers that humane treatment of civilians could only be guaranteed if the right of resistance was circumscribed.²⁹

August Beernaert, Minister of State and President of the Belgian Chamber of Representatives, was a major spokesman for the small powers during the long and passionate debate over articles one through eight of the Brussels Declaration.³⁰ While acknowledging that many advantages would accrue to the civilian populations of occupied lands if the behavior of the invader was circumscribed by convention, M. Beernaert could not accept the principle included in the Brussels Declaration that the vanquished "shall recognize the invader in advance as having certain rights on his territory." He argued that specific, written regulations enumerating these rights "would encounter objections of a moral and patriotic nature which seem hardly surmountable."³¹ How could the government of neutral Belgium, he asked, submit to its parliament "a convention providing for the failure of great states in their pledges

²⁹Ibid., p. 502.

³⁰For the text of articles one through eight of the Brussels Declaration, see Appendix VIII.

³¹Proceedings, p. 503.

towards us, sanctioning in advance...[the conqueror's right] to legislate, administer, punish, and levy new taxes with the previous and written consent of the conquered?" Beernaert pleaded with his fellow delegates to delete all mention of military occupations from the formal convention and leave the subject "as at present, under the governance of that tacit and common law which arises from the principle of the law of nations."³²

The Russian delegate, M. Martens, completely rejected this suggestion. He argued that the sub-commissions' failure to regulate occupations would subject Europe's jurists and statesmen to the charge of abdicating responsibility for the treatment of unarmed populations to the commanders-in-chief of invading armies. In the absence of detailed and specific international guidelines, it would be impossible to deny these men "an unlimited right to interpret the laws of war to suit their fancy and convenience". "To leave uncertainty hovering over these questions," Martens observed, "would necessarily be to allow the interests of force to triumph over those of humanity."³³

The majority of the delegates concurred with the position of M. Martens, and with only minor changes the sub-commission voted to include seven of the original eight articles on military occupations in the revised declaration. The single section to be suppressed was Article four that appeared to "authorize" or at least "invite" state functionaries to continue to discharge their duties in the service of the invader. The delegates agreed with the Dutch representative,

³²Ibid., pp. 502-503.

³³Ibid., p. 504.

Jonkheer van Karnebeek, that it was the highest patriotic duty of government officials "to remain to the end the most determined and resolute opponents and enemies of the invader," and in this spirit the article was deleted.³⁴ With the adoption of the chapter entitled "On Military Authority Over Hostile Territory", the delegates turned their attention to the next controversial issue—the definition of the term "belligerent."

In its search for ways to reduce unnecessary suffering the Brussels Conference had decreed that defense forces had to be organized and disciplined in order to qualify for the prerogatives of belligerents. Article Nine of the Declaration stated that:

The laws, rights, and duties of war apply not only to armies but also to militia and volunteer corps fulfilling the following conditions:

1. That they be commanded by a person responsible for his subordinates;
2. That they have a fixed distinctive emblem recognizable at a distance;
3. That they carry arms openly; and,
4. That they conduct their operations in accordance with the laws and customs of war.³⁵

In order to eliminate the possibility that a strict interpretation of this article could preclude a national levée en masse, the delegates added an additional statement. They declared:

The population of a territory which has not been occupied, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves

³⁴Ibid., p. 521.

³⁵Ibid., p. 566.

in accordance with Article 9, shall be regarded as belligerents if they respect the laws and customs of war.³⁶

There were few objections to the inclusion of Article Nine in the revised Declaration, for the delegates agreed with General den Beer Poortugael that "to lead un-disciplined and unorganized troops into the fire is to lead them to butchery."³⁷ But several were concerned, however, that the wording of Article ten was too restrictive and the British delegate, Sir John Ardagh, was among this group. He offered an amendment to remove all doubts as to the right of patriotic resistance. His proposal read:

Nothing in this chapter shall be considered as tending to lessen or abolish the right belonging to the populations of an invaded country to fulfill its duty of offering by all lawful means, the most energetic patriotic resistance against the invaders.³⁸

The Swiss representative, Colonel Kunzli, argued vehemently for the inclusion of Ardagh's amendment in the final text. He reminded his colleagues that nations were never greater than at the moment of deepest adversity. When, at the approach of an invader, an entire population resist to defend their freedom, they are acting in the finest spirit of patriotic self-sacrifice. Such glorious acts, he asserted, must be sanctioned by the international community and the adoption of the Ardagh proposal would remove all ambiguity as to the right of a people to defend themselves.³⁹

³⁶Ibid.

³⁷Ibid., p. 549.

³⁸Ibid., p. 550.

³⁹Ibid., p. 551.

The German delegate, Colonel Gross von Schwarzhoff, resisted the inclusion of this article that seemed to command a national levee en masse. While protesting that his government in no way opposed the right of resistance, von Schwarzhoff asserted that the underlying assumption of the Brussels Declaration was that the civilian population of an invaded territory would remain peaceful. The international community could not expect soldiers to treat non-combatants with humanity unless they were assured that "the peaceful inhabitants shall not change suddenly into furious enemies."⁴⁰ Von Schwarzhoff argued that Article Nine of the Brussels Declaration made it extremely easy for patriots to form their own organized military units, and Article ten guaranteed their right to do so. Any further elaboration of this principle was construed as unnecessary and potentially prejudicial to the security of civilians.⁴¹

With the exception of the British and Swiss representatives, the members of the sub-commission accepted von Schwarzhoff's analysis. Ardagh withdrew his resolution in the "spirit of conciliation" and the delegates voted to include Articles nine and ten in the revised Declaration. The entire document was quickly approved and sent to the plenary session of the conference for final consideration.⁴² The Second Commission had successfully completed its task in the spirit of harmony and cooperation.

⁴⁰Ibid., p. 553.

⁴¹Ibid., pp. 552-553.

⁴²See Appendix IX for the text of the revised Brussels Declaration.

Chapter VII

The Challenge of Arbitration

To the Third Commission fell the challenging and exacting task of preparing an international convention to promote recourse to mediation and arbitration. European public opinion expected "tangible results" from the Hague Conference. And although the delegates knew that an accord limiting the production and use of armaments would not be forthcoming, they believed that the conference could not be termed a failure if it could prevent conflict through an agreement codifying the practices of mediation and arbitration.¹

II

Throughout the nineteenth century, European international lawyers and diplomats had often discussed the possibility of mandating recourse to mediation or arbitration in the event of international crises. Mediation is a political method of resolving international differences. It is relatively easily adaptable to crisis situations since it requires

¹Proceedings, p. 418.

no special machinery aside from the skills of an experienced negotiator. When direct, bi-lateral contacts fail, the parties to a dispute may appoint a neutral or disinterested person to investigate their differences and recommend a solution. In such cases, the report of the mediator is advisory and his activities in no way violate the sovereignty or independence of the respective states.²

During the investigation, the parties usually suspend direct relations and refrain from all hostile acts. This delay theoretically permits national passions to cool and encourages a diplomatic settlement even if the report of the mediator is rejected. Yet, despite its many advantages, mediation was rarely used during the last century.

Nineteenth-century international law did not require states to submit political differences to third party mediation. Such an obligation would have been ignored and resented as an infringement on the prerogatives of national sovereignty. Following the Crimean War, however, the Great Powers seriously discussed the possibility of utilizing mediation in all crisis situations. Protocol twenty-three of the Congress of Paris expressed the hope that states would request mediation rather than resort to war. But this statement was contained in a voeu and was not binding on any of the signatories.³

Several nineteenth-century treaties, including the Treaty of Paris, contained provisions which required resort to mediation in specifically defined circumstances. Article eight of the 1856 Treaty of Paris

²Ibid., p. 805.

³"Proposition of the Earl of Clarendon to the Congress of Paris," April 14, 1856, Protocol XXII, in, Actes et Documents.

mandated Austria, France, Great Britain, Prussia, Russia and Sardinia to submit all future disputes with the Sublime Porte to the mediation of a friendly power.⁴ Article twelve of the 1856 General Act of Berlin bound its signatories to accept the mediation of all disputes arising from commercial activities in the Congo and Niger River basins and in the "new" territories of West Africa.⁵ Mediation was never requested, however, under the terms of either treaty.

Feodor de Martens, the distinguished Russian jurist, believed the underutilization of mediation to be the result of a conflict between theory and reality. The request for mediation, he argued, "necessarily presupposes a previous agreement between the interested states with regard to the necessity and opportunity for it. Such an agreement is not...possible in the heat of a dispute between interests diametrically opposed to each other."⁶ Martens was convinced that this contradiction could be resolved by granting legal standing to the disinterested intervention of neutral states.

Nineteenth-century international law did not recognize the right of neutral states to propose mediation. In the opinion of some legal commentators, unsolicited offers of aid violated national sovereignty and could be construed as unfriendly acts.⁷ Yet, the history of the

⁴"Treaty of Paris," April 14, 1856, article eight, Ibid.

⁵"General Act of Berlin," February 26, 1856, article 12. Ibid. France, Germany, Austria-Hungary, Belgium, Denmark, Spain, the United States, Great Britain, Italy, the Netherlands, Portugal, Russia, Norway and Sweden and Turkey were parties to this agreement.

⁶Proceedings, p. 806.

⁷M. Martens described the views of several nineteenth century international

last half of the century showed that mediation was only used in crisis situations was proposed by neutral states on their own initiative.⁸

Martens believed that "modern states [could] not stand indifferent to international conflicts wherever they may arise and whoever may be the parties in controversy.." "At the present time," he declared, "a war even between two states [is] an international evil." Since, in his view, mediation was one of the most effective ways to limit the possibility of war, Martens concluded that international law had to be expanded to encourage neutrals to offer their assistance in crisis situations.⁹

The Russian jurist arrived at the Hague with a draft convention on mediation.¹⁰ His document required the signatories "in case of serious disagreement or dispute, [to] have recourse, so far as circumstances

legal theorists as follows:

"In theory,...some authors have gone so far as to assert that neutral States are not only not obliged to offer mediation to disputing States, but that they have not the right to do so. Bluntschli and Heffter consider mediation as a dangerous and injurious interference in the affairs of others. Hautefeuille and Galiani advise States prudently to abstain from mediation, fearing to alienate the sympathies of one or other of the parties in controversy without justification. In short, we might cite, as a matter of practice, a number of examples of serious disputes, which later ended in war, which did not suggest to neutrals the least idea of attempting to offer mediation...!"Ibid.

⁸Neutral intervention was considered responsible for the termination of the war between Chile, Peru and Bolivia in 1882 and between Greece and Turkey in 1897. See, Ibid., p. 807.

⁹Ibid.

¹⁰For the text of the Russian convention, see Appendix X.

admit, to the good offices of mediation of one or more friendly Powers."

Article six elaborated on this Point:

The Powers consider it useful in cases of serious disagreement or conflict between civilized states concerning questions of a political nature, independently of the recourse which these Powers might have to the good offices and mediation of Powers not involved in the dispute, for the latter, on their own initiative and as far as circumstances allow, to offer...their mediation in order to smooth away the difficulty which has arisen, by proposing a friendly settlement, which without affecting the interests of other states, might be of such a nature as to reconcile in the best way possible the interests of the litigant parties.¹¹

Martens submitted his convention to the Third Commission along with a proposal on arbitration.

III

Arbitration is a judicial procedure in which the parties to a controversy submit questions of a legal nature to adjudication by an individual or by a tribunal. Legal commentators have never considered arbitration to be applicable to all disputes. Some controversies are exempt because the rival contentions cannot be formulated in a legal manner. Others, of a political-legal nature, are reserved when the parties determine that the issues involved affect their vital interests or national honor. Each time the procedure is used, a voluntary political agreement is made between the parties consenting to arbitration.¹²

¹¹Proceedings, p. 797.

¹²Helen M. Cory, Compulsory Arbitration of International Disputes. (New York, 1932) pp. X-XI.

A compromis is concluded which clearly defines the issues to be resolved by the arbitrators and the specific rules of international law which they are to apply in reaching a decision. The award of the arbitrators is binding unless the compromis includes provisions for review or revision.¹³

Throughout the nineteenth century arbitration had been used on hundreds of occasions to resolve minor differences. These cases usually concerned demands for financial indemnity arising from the violation of neutral duties;¹⁴ the illegal arrest of foreign subjects;¹⁵ the seizure of private property of a belligerent on land;¹⁶ or the illegal seizure of vessels and violation of the right of fishery.¹⁷ In all of these cases, the parties voluntarily consented to submit their differences to arbitration and accepted the award of the court without opposition.

Various treaties establishing supra-national administrative agencies were negotiated during the last half of the century. These "international unions" dealt with such matters as posts and telegraphs, international river traffic and the protection of literary and artistic property and copyrights. The members of these unions generally agreed

¹³Norman Hill, "British Arbitration Policies," International Conciliation, CCLXII (February, 1930), p. 74.

¹⁴"The Alabama Claims," 1872, Great Britain v. The United States.

¹⁵"The Case of Captain White," 1864, Great Britain v. The United States.

¹⁶"The Case of the Macedonian," 1863, The United States v. Chile.

¹⁷"The Newfoundland fisheries dispute," 1897, Great Britain v. The United States.

that arbitration was the best method of resolving any disputes arising from the interpretation or implementation of the conventions. And the 1892 Treaty of Berne took the pioneering step of declaring arbitration to be compulsory in all matters relating to the International Postal Union.¹⁸

The idea of applying compulsory arbitration to non-political disputes attracted many supporters. Numerous bi-lateral treaties were negotiated during the last decades of the century that obligated the contracting parties to submit certain categories of disputes to arbitration if they could not be settled through normal diplomatic channels.¹⁹ A general international convention making arbitration compulsory in all "legal" disputes did not exist, however, and Feodor de Martens believed that 1899 was the right time and the Hague the right place for the conclusion of such a treaty.

The Russian delegate presented the Third Commission with the text of an arbitration convention.²⁰ His proposal stated that in all controversies "concerning legal questions, and especially with regard to those concerning the interpretation of application of treaties in force" arbitration is recognized by the signatories as "the most effective and at the same time the most equitable means for the friendly settlement of these disputes." The document enumerated the cases in which arbitration was to be made compulsory. Article ten declared:

¹⁸Proceedings, p. 807.

¹⁹For a list of the treaties in force in 1899, see: "General Survey of the clauses of mediation and arbitration affecting the powers represented at the conference," in Ibid., pp. 818-832.

²⁰For the text of the Russian convention, see Appendix X.

Upon the ratification of the present document by all the signatory Powers, arbitration will be obligatory in the following cases, so far as they do not concern the vital interests or national honor of the contracting States:

I. In case of differences or disputes relating to pecuniary damages suffered by a State or its nationals, as a consequence of illegal actions or negligence on the part of another State or its nationals.

II. In case of disagreement relating to the interpretation or application of treaties and conventions mentioned below:

1. Treaties and conventions relating to the posts and telegraphs, railroads, and also those bearing upon the protection of submarine telegraph cables; regulations concerning methods to prevent collisions of vessels on the high seas; conventions relating to the navigation of international rivers and interoceanic canals.

2. Conventions concerning the protection of literary and artistic property as well as industrial property (patents, trade-marks, and trade-names); conventions relating to money and measures; conventions relating to sanitation and veterinary surgery, and for the prevention of phylloxera.

3. Conventions relating to inheritance, exchange or prisoners, and reciprocal assistance in the administration of justice.

4. Conventions for marking boundaries, so far as they concern purely technical and non political questions.²¹

Despite its demand for an unprecedented abrogation of national sovereignty, M. Martens' proposal did not satisfy all of the advocates of arbitration. Sir Julian Pauncefote identified immediately a serious flaw in the Russian draft convention.

Pauncefote believed that the reluctance of states to submit disputes to arbitration arose out of a growing concern over the judicial impartiality of the arbitration procedures. Arbitration tribunals were usually composed of an equal number of representatives from the disputing states and a "disinterested" or "neutral" umpire chosen by mutual consent

²¹Proceedings, p. 7.

to serve as the president of the court. Since a tribunal's decision was based on the opinion of a majority, it was the president who usually cast the deciding vote.

Pauncefote, who had actively participated in the negotiations leading to the Venezuela boundary arbitration and the Anglo-American Arbitration Treaty, understood the difficulty of finding a truly impartial person to serve as court president. The men chosen to serve in this capacity were often public figures or government officials in their own countries. Thus, in the view of Great Britain, there was reason to believe that they would cast their vote to please their own governments irrespective of the merits of the case.²²

In order to help insure impartiality, Pauncefote proposed the creation of a permanent court of arbitration" which can assemble at the request of contesting nations." The Court was to be composed of eminent men of the "highest moral reputation" and with "known competency in questions of international law." Pauncefote's plan did not envisage the creation of a court with a fixed complement of judges. Such a court, "however impartial the members might be, would run the risk of assuming in the eyes of universal public opinion the character of the states represented."²³ Instead, Pauncefote proposed the compilation of a list of outstanding men who would be nominated by the signatories of the convention and prepared to serve on specific arbitral panels if selected by the disputants.²⁴

²²Jackson Ralston, International Arbitration from Athens to Locarno (Stanford, 1929), pp. 29-30.

²³Proceedings p. 708.

²⁴For the text of Pauncefote's proposal, See Appendeix XI.

IV

When the Third Commission met for its first working session on May 26, the delegates were clearly surprised by the scope and implications of the Russian and British proposals. They were of such a complex and technical nature that the Commission's president, Leon Bourgeois of France, suggested the formation of a select Comité d'Examen to conduct preliminary hearings on the draft conventions. To enhance the prospects of success, the most eminent lawyers and jurists present were elected to serve on the Comité. In addition to M. Bourgeois and the two honorary presidents, Sir Julian Pauncefote and Count Nigra of Italy, they included: M. Asser of the Netherlands, Chevalier Descamps of Belgium, Baron d'Estournelles de Constant of France, M. Lammasch of Austria, M. Martens of Russia, M. Odier of Switzerland, Dr. Zorn of Germany, and Mr. Holls of the United States.²⁵ The full commission adjourned for one month while the Comité d'Examen studied the documents.

M. Martens' text on mediation engendered little debate. The delegates were in complete agreement with the spirit of his proposal, although its articles were rearranged and reworded. The only clause to cause dissent was the statement in article two that the signatories agree to have recourse to mediation only "so far as circumstances admit."

²⁵Proceedings, p. 5.

Mr. Asser and Count Nigra asked for the deletion of this phrase because they believed it would make the entire declaration too restrictive. M. Martens was prepared to accept the omission because, in his view, "whether it is so stated or not, Powers will not have recourse to mediation unless circumstances permit."²⁶ At the insistence of Dr. Zorn of Germany, the Comité finally agreed to accept recourse to mediation "unless exceptional circumstances are opposed to it."²⁷

Having disposed quickly of the question of mediation, the Comité next considered M. Martens' arbitration proposal. Surprisingly, the delegates adopted the principle of compulsory arbitration without serious debate. Several clauses of article ten were deleted, however, at the insistence of various governments. At the request of Mr. Holls, all reference to interoceanic canals and international rivers were expunged from the final text and at the suggestion of Dr. Zorn, no mention was made of prisoners of war.²⁸ Various other minor alterations were made, and the revised article, still largely intact, was approved provisionally.²⁹

The harmony and unanimity that characterized the proceedings of the Comité d'Examen during its early meetings fell apart during its consideration of Pauncefote's proposal. Dr. Zorn, who had muted his feelings during the discussion of compulsory arbitration, categorically opposed the creation of any type of permanent court. He declared:

²⁶Ibid., p. 691.

²⁷Ibid., p. 695.

²⁸Ibid., pp. 702-706.

²⁹Ibid., p. 708.

I cannot, I must not surrender myself to illusions; and such is, I am sure, the opinion of my Government, also. It must be recognized that the proposition now proposed and submitted to the judgement of the Committee is but a generous project; it cannot be realized without bearing with it great risks and even greater dangers which it is simple prudence to recognize. Would it not be better to wait the results of greater preliminary experience' upon this subject? If these experiences prove successful, and if they realized the hopes reposed in them, the German government will not hesitate to cooperate to that end by accepting the experiment of arbitration having far greater scope than anything which has been in practice up to this day. But it cannot possibly agree to the organization of the permanent tribunal before having the preliminary benefit of satisfactory experience with occasional arbitration.³⁰

Zorn would not reconsider his position despite the urging of his colleagues, and on June 9, the conference faced its first crisis.

V

The delegates were extremely concerned by the intransigent position taken by Dr. Zorn. They were committed to an international arbitration convention and prepared to take whatever measures were necessary to reach a mutually acceptable accord. Frantic, behind-the-scenes negotiations were begun to salvage an arbitration agreement. On June 12, Sir Julian Pauncefote met with Andrew White and M. de Staal to discuss strategy. They realized that the refusal of any of the Great Powers to become a party to the convention would render it meaningless. They also feared that Germany would force Austria and Italy to support her position and cause the conference to collapse amid Great Power bickering. Recognizing

³⁰Ibid., p. 709.

that they could not hope to influence the Kaiser, Pauncefote, White, and de Staal appealed to their respective governments for help.³¹

In response to Pauncefote's cable, Lord Salisbury had an interview with Count Hatzfeldt, the German ambassador in London. The Prime Minister assured Hatzfeldt that the proposed international court would in no way infringe on Germany's national sovereignty. He guaranteed the German government that major political issues such as Alsace-Lorraine and Africa would be exempt from its jurisdiction. Although the ambassador was sympathetic, he could make no commitments, and Salisbury was forced to take further action.³²

The Prime Minister cabled Sir Horace Rumbold in Vienna and Sir George Bonham in Rome to inform them of the crisis. The ambassadors were instructed to "exert all the influence you can" over the foreign ministers of each country to dissuade them from supporting Germany.³³ Rumbold reported that Count Glouchowski was aware of the situation at the Hague, but that no pressure had been exerted on Austria by her ally. The Austrian foreign minister reiterated his government's support for the arbitration convention, and assured Britain that he would make strong representations at Berlin to soften Germany's position. Rumbold had no reason to doubt the veracity of Glouchowski's reply and informed Salisbury that "the current here at this moment, as far as I am able to judge, is not in the direction of subserviency to German counsels."³⁴

³¹White, The First Hague Conference, p. 68.

³²Hatzfeldt to the Foreign Office, June 14, 1899, G. P., XV, p. 288.

³³Salisbury to Rumbold, June 12, 1899, B.D., I, p. 227.

³⁴Rumbold to Salisbury, June 13, 1899, Ibid., p. 228.

A similar report was forthcoming from Rome. Count Lanza indicated to Bonham that the Marquis of Venosta had already made a confidential representation to Count von Bülow over matters at the Hague. Although no immediate change in Germany's position was evident, the Italian foreign minister remained hopeful that a compromise could be effected. He assured Bonham that Italy remained a staunch supporter of the international court, but he believed that all reference to compulsory arbitration would have to be deleted from the convention to gain Germany's support.³⁵

The members of the American delegation were extremely active during the crisis. When the State Department informed White that it was powerless to act, the American delegate seized the initiative. He dispatched Frederick Holls to Berlin with a personal letter for von Bülow. Taking advantage of a twenty-year friendship with the German foreign minister, White tried to clarify the intent of the arbitration proposal and to dispel any misconceptions.³⁶

White assured von Bülow that the proposed tribunal would not infringe on Germany's independence. "No one proposed," he declared, "to submit to any such tribunal questions involving the honor of any nation or the inviolability of its territory, or any of those things which nations feel instinctively must be reserved for their own decision." The Kaiser alone would decide what questions were proper subjects for arbitration, and Germany's freedom to mobilize for war would not be impaired by the convention.³⁷

³⁵Ibid., Bonham to Salisbury, June 13, 1899.

³⁶White, The First Hague Conference., p. 71.

³⁷Ibid., p. 74.

To soften the German attitude, White indicated that his colleagues were willing to delete all references to compulsory arbitration from the convention even though it applied only to "sundry and petty matters." They would not agree, however, to any compromise on the establishment of a permanent court.³⁸ The willingness of the United States to sacrifice the principle of compulsory arbitration was shared by Great Britain. When the content of the Russian arbitration proposal first became known, Lord Salisbury reacted immediately. He reminded Pauncefote that:

the danger of making [arbitration and mediation] in the least degree obligatory is that the weaker power, if he has no case would always use it for the purposes of delay. Great Britain has for to [sic] many years been so profoundly unpopular with all powers that she would be much embarrassed if she was asked to what power she would be disposed to entrust [mediation or arbitration]; for she would either have to confess to her want of friends or accept a rival. It is a position [?] which will not make for peace and can do us nothing but harm.³⁹

³⁸Ibid.

In his diary of the Conference, Andrew White explained his government's reasons for accepting the deletion of all references to compulsory arbitration. He wrote:

"Obligatory arbitration between states is indeed possible in various petty matters, but in many great matters absolutely impossible. While a few nations were willing to accept it in regard to these minor matters, as for example, postal or monetary difficulties.... not a single power was willing to bind itself by a hard and fast rule to submit all questions to it-and least of all the United States.

The reason is very simple: to do so would be to increase the chances of war and to enlarge standing armies throughout the world. Obligatory arbitration on all questions would enable any power, at any moment, to bring before the tribunal any other power against which it has, or thinks it has, a grievance. Greece might thus summon Turkey, France might summon Germany;...regarding matters in which the deepest human feelings-questions of religion, questions of race, questions even of national existence-are concerned. To enforce the decisions of a tribunal in such cases would require armies compared to which those of the present day are a mere bagatelle, and plunge the world into a sea of trouble compared to which those now existing are as nothing." Ibid., pp. 121-122.

³⁹Salisbury to Pauncefote, May 19, 1899, F.O. 85/1794.

Pauncefote like White, remained convinced, however, that the creation of a permanent court of arbitration was essential for the success of the conference. He realized that European public opinion expected the delegates to provide the world with some means of resolving international differences "otherwise [sic] than by bloodshed." A permanent court would be a tangible sign that the various governments had committed themselves to the preservation of peace. In the words of Mr. White, the court would "relieve the various peoples of the fear which so heavily oppresses them all-the dread of an outburst of war at any moment." If the conference failed to provide even this small ray of hope, its inaction would be used by "socialists, anarchists, and other anti-social forces" to win the allegiance of disaffected classes in all countries.⁴⁰

While Great Britain and the United States were abandoning their support for compulsory arbitration, Germany was being exhorted by Russia

Admiral Fisher shared Lord Salisbury's distrust of compulsory arbitration and mediation. In speaking to Mr. Maxwell of the Foreign Office, Fisher declared that:

"from a naval point of view...if the parties are obliged to have a recourse to [mediation or arbitration] it gives the more unprepared of the two time to make up lee-way. Now the strength of our naval position consists in the fact that we are ready to strike instantly-that we are as ready as we possibly can be. In the Fashoda business the experts calculated that if we had gone to war at the end of the diplomatic discussion instead of before it took place we should have lost 50 percent of our advantage owing to the preparations made in the interim by the French. Compulsory mediation is therefore calculated to put us at a disadvantage so long as we are in such a prepared condition as we now appear to be."

Maxwell to the Foreign Office, May 30, 1899, F.O. 85/1700.

⁴⁰White, The First Hague Conference, p. 76.

as well as by Italy and Austria-Hungary to modify her opposition to the proposals of Pauncefote and Martens. Count Radolin reported to Bülow that a crisis in Russo-German relations was likely to develop unless the Kaiser and his ministers relented. The Russian government, reported Germany's ambassador, considered the Kaiser's continuing opposition as a personal affront to the Tsar.⁴¹

Despite Russia's annoyance, von Bülow was convinced that arbitration "must be injurious to Germany." He believed that "Germany is prepared for war as no other country is or can be; that she can mobilize her army in ten days; and that neither France, Russia nor any other power can do this." In his view, arbitration "would simply give rival powers time to put themselves in readiness and would therefore be a great disadvantage to Germany."⁴²

The pressures brought to bear on Germany by the other powers and their obvious willingness to omit all mention of compulsory arbitration finally cleared the way for a compromise. The German government was unwilling to appear as the sole opponent of arbitration. And on June 22 Dr. Zorn announced to the Comité d'Examen that his delegation would support the proposal for a permanent court if recourse to it was made completely voluntary. The delegates accepted his suggestion and the crisis was resolved.

With Germany's retreat and the Great Power's surrender, the Comité d'Examen was able to complete its labors. A lengthy document entitled

⁴¹Radolin to the Foreign Office, June, 19, 1899, G.P., XV, pp. 298-299.

⁴²White, The First Hague Conference, p. 19.

"Convention for the Pacific Settlement of International Disputes" was prepared by a drafting committee. The Convention, which was intended to obviate "as far as possible recourse to force in the relations between states," contained provisions on mediation and arbitration, established a Permanent Court of Arbitration and an International Bureau to administer its affairs at the Hague, and recommended the increased use of international commissions of inquiry.⁴³

Although the document was impressive and the creation of the court a major advance in the conduct of international relations, several delegates feared that the court was "in danger of not being a living organism." Baron d'Estournelles de Constant believed that in the absence of all forms of compulsory arbitration, the parties to a dispute would be prevented from submitting their differences to the court "by national scruples, by a feeling of honor, [and] by the moral impossibility of taking the first step." We therefore find ourselves, he declared, "face to face with a truly ludicrous situation; we are creating institutions to prevent war and the court to which states may resort on any occasion--except when war is threatened."⁴⁴

In Constant's opinion, nations could only be persuaded to have recourse to the court if they were constantly subjected to the moral pressure of the international community. He therefore proposed an amendment to the convention that would make it the solemn "duty" of all the signatories to "remind" any state on the verge of war

⁴³For the text of the convention, see Appendix XII.

⁴⁴Proceedings, p. 760.

"that the Permanent Court is open to them." He also sought authorization to give the secretary-general of the International Bureau independent authority to offer the court's assistance in all crisis situations.⁴⁵

The Comité approved of the first part of Constant's proposal but refused to grant the secretary-general independent powers. Dr. Zorn argued that the secretary-general was a mere administrative functionary who did not have the "moral authority" to intervene effectively in political conflicts.⁴⁶ Chevalier Descamps agreed and asserted that an awkward or ill-timed intervention on the part of the secretary-general would compromise the effectiveness of the permanent court and "render its impartiality suspect."⁴⁷ The revised convention without any means of assuring that major disputes would be sent to arbitration, was given to the plenary session of the Third Commission for approval.

VI

The plenary session carefully reviewed the draft convention submitted by the Comité d'Examen. The thoroughness and competency of

⁴⁵Ibid., p. 761.

⁴⁶Ibid.

⁴⁷Ibid., p. 762.

the Comité's work was underscored by the delegates willingness to accept most of the language of the convention. Only two items engendered serious debate; the question of the revision of arbitral awards and the definition of the circumstances governing the creation of commissions of inquiry.

At several of its working sessions, the Comité d'Examen had discussed at length the subject of revision. M. Martens' original convention had declared that the award of a court of arbitration was to be final and binding on all parties. Article 24 of his draft stated:

The arbitral award, duly pronounced and notified to the agents of the governments at variance, settles the dispute between them definitely and without appeal and closes all of the arbitral procedures instituted by the compromis.

By a close vote the Comité had rejected the principle contained in M. Martens' proposal. The delegates substituted an article which declared that "unless stipulated to the contrary in the compromis, revision of the arbitral award may be demanded of the tribunal which rendered it...within three months following the notification of the award."⁴⁸ The wording of the substitute article did not satisfy several of the proponents of revision and they sought to broaden its terms. Mr. Asser of the Netherlands supported by Mr. Hollis of the United States introduced a substitute article that declared:

The parties can reserve in the compromis the right to demand the revision of the award.

In this case, and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounces the award and only on the ground of the discovery of some new

⁴⁸Ibid., p. 617.

fact which is of a nature to exercise a decisive influence upon the award and which, at the time the tribunal entered its decree, was unknown to the tribunal and to the party demanding the revision.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character ascribed in the preceding paragraph and declaring the demand admissable on this ground. No demand for revision can be received unless it is formulated within six months following the notification of the award.⁴⁹

Vigorous opposition to the revised article was registered by M. Martens. In his view, any resolution that encouraged the revision of awards would completely undermine the effectiveness of the "entire institution of international arbitration." The Russian jurist believed that the purpose of arbitration was to settle disputes swiftly and finally. "It would be profoundly regrettable," he declared, "if the arbitration award did not terminate finally and forever the dispute between litigating nations, but should provoke new dissensions, inflaming the passions anew, and menace once more the peace of the world."⁵⁰

M. Martens asserted that the result of the Asser resolution would be the refusal of the losing state to implement the award of the arbitration tribunal for a period of six months. During this period that government would "make every effort imaginable" to find or invent new facts or documents. Thus the litigation would not be ended and for several months "the nation which have (sic) been found guilty will be drawn still more into recriminations and dangerous reciprocal

⁴⁹Ibid., p. 618.

⁵⁰Ibid.

accusations." The court's judgment would be delivered into the hands of the "wrangling of public opinion" and would "raise a storm in press and parliament." For several months discussion upon the judgment would be left open and, in M. Martens' view, no judgment "given under such conditions can have the moral binding force which is the very essence of arbitration."⁵¹

Mr. Asser and Mr. Holls recognized the dangers inherent in revision. They believed, however, that the moral force of arbitration could only be exerted if the possibilities of miscarriages of justices were minimized by the process of judicial review. Mr. Holls took issue with the belief that the main goal of arbitration was to settle disputes quickly and forever. Holls was of the opinion that "nothing is settled until it is settled right," and argued that an award must be subject to revision if pertinent new facts were discovered.

Holls denied Martens' assertion that governments would manufacture new evidence to secure a revised judgment. "New facts," he opined, "cannot be forged nor manufactured, at least not by civilized governments. In fact, every government will hesitate to expose its country to the humiliation which would undoubtedly attach to an unsuccessful attempt for a rehearing of the litigation upon a pretended discovery of new facts, the existence of which would be denied by the tribunal."⁵²

Mr. Assers' resolution was accepted by the plenary session with one modification. At the suggestion of Dr. Zorn, no time limit for the

⁵¹Ibid., 619.

⁵²Ibid., p. 621.

filing of a request for review was inserted in the convention. Each compromis concluded under the terms of the convention was to address itself to this question and determine its own time limit. To assure the unanimous approval of the convention, M. Martens graciously withdrew his objections to the principle of revision and the arbitration sections of the draft convention was approved without further dispute.⁵³

The minor states of Eastern Europe had played no role in the deliberations of the Comité d'Examen. Rumania, Serbia and Greece approved of the mediation and arbitration provisions of the draft convention but vigorously opposed the inclusion of an article pertaining to the use of international commissions of inquiry. The article in question stated:

In disputes of an international nature arising from a difference of opinion regarding facts which may form the object of local determination and besides involving neither the honor nor vital interests of the interested Powers, these Powers, in case they cannot come to an agreement by the ordinary means of diplomacy, agree to have recourse, so far as circumstances allow, to the institution of international commissions of inquiry, in order to elucidate on the spot by means of an impartial and conscientious investigation, all the facts.⁵⁴

Despite the assurances of the Comité d'Examen to the contrary, the Rumanian delegate and his colleagues feared that the text of the article made the calling of commissions of inquiry obligatory in certain circumstance. He believed that such an arrangement was detrimental to the interests of small states. M. Velikovitch of Serbia argued that

⁵³Ibid., p. 625.

⁵⁴Ibid., p. 643.

"there is beneath every request for an international investigation, a sort of doubt...concerning the impartiality of an investigation conducted by the national authorities of the other state alone. And again, a state's acceptance of the proposal to appoint an international commission of inquiry implies its consent to subject the actions of its own authorities to a sort of international control."⁵⁵ If he signed the convention as written, M. Velikovitch feared that in the event of a controversy with a Great Power, Serbia would be forced to accept the creation of a commission of inquiry, even against its wishes. To dispel this fear, which the Comité considered unwarranted, the delegates agreed to substitute the phrase "the signatory powers deem it expedient" to have recourse to commissions of inquiry for the statement "the signatory powers agree" to have recourse to such commissions. This change satisfied the small powers and they agreed to accept the draft convention.⁵⁶ With the resolution of this final disagreement, the plenary session of the Third Committee approved the amended "Convention for the Pacific Settlement of International Disputes" and sent it to the plenary session of the Conference.

⁵⁵Ibid., p. 635.

⁵⁶Ibid., p. 673.

Chapter VIII

The Politics of Adhesion

The glittering closing session at which Sir Julian Pauncefote and the representatives of twenty-five sovereign states affixed their signatures and seals to the Acte Finale did not conclude Great Britain's involvement with the events of the Hague Conference. Pauncefote was not authorized by Lord Salisbury to sign the specific conventions and declarations produced by the delegates before his departure from the Dutch capital. The political ramifications of these accords along with the legal and military obligations that would be incurred through adhesion had first to be analyzed by experts at the Foreign Office, the War Office and the Admiralty. A final decision could only be made by the Prime Minister. And he had to balance the general reluctance of professional military and naval officers to subject their services to the restrictions imposed by international conventions against the opprobrium that would descend on Great Britain as a result of a formal declaration of non-adhesion.

II

As the Conference moved towards its close, the Second Commission

on the laws and customs of war was the first of the working groups to complete its deliberations. On July 5 the plenary session was presented with the texts of the revised Brussels Declaration and the revised Geneva Convention. Both documents were scrutinized by the delegates and adopted without debate or opposition.¹ The plenary session was asked, however, to examine an intricate ancillary issue that had arisen during the debates of the Commission and was deemed too controversial to admit of solution by that body.

During its consideration of the Brussels Declaration, the Second Commission had approved an article the effect of which was to protect private property in occupied territories from arbitrary seizure by military authorities. At that time, Andrew White of the United States introduced a resolution that would have extended similar legal protection to private property on the high seas. White's government wanted the delegates to agree "that the private property of the citizens or subjects of the signatory powers, with the exception of contraband of war, should be exempt from seizure or capture on the high seas by the navies or the military forces of the said powers."²

Since its establishment as an independent country, the United States had considered itself a "zealous propagator" of the principle of the protection of private property at sea. Clauses embodying this belief had been included in bi-lateral treaties negotiated with Italy and Prussia. And in 1856 President Franklin Pierce had suggested that the Congress

¹Proceedings, p. 45.

²Pauncefote to Salisbury, June 20, 1899, Adm. 116/98.

of Paris declare this principle to be an integral part of public international law.³ Although the Acte Finale of the Congress contained the declaration that "free ships make free goods," this statement was not satisfactory since it did not protect privately owned non-contraband goods carried on the merchant ships of belligerent powers.

The Tsar's Rescripts did not allude to the question of the protection of private property at sea and thus the issue was not a proper subject for debate. White was aware that his colleagues would be hesitant to act on his resolution, but he believed that it was in the interests of world peace to have the question raised before "an enlightened and intelligent audience" as the first step towards an eventual accord.⁴

In defending his proposal, White asserted that the history of the American Civil War had shown conclusively that the destruction of merchant ships had "not the slightest effect in terminating or even shortening [a] war." The sinking by Confederate commerce raiders of 169 Union ships had destroyed a large amount of property belonging to the "most laborious and the most meritorious part" of the population of the United States. These attacks, however, had no appreciable effect on the ability of the Union to sustain and ultimately to win that conflict.⁵

White argued that the "only effective measure for terminating

³Ibid.

⁴Proceedings, p. 48.

⁵Ibid.

[a] war by the action of a navy is the maintenance of a blockade." He concluded, therefore, that there could be no valid reason for a state to oppose a resolution extending protection to private property on the high seas save the difficulty of defining the term "contraband." The American representative realized that a generally accepted list of goods considered to be contraband of war did not exist; and that one was not likely to be compiled in the near future. In the various wars of the century, breadstuffs, coal and even rice had, at one time or another, been declared contraband. White opined, however, that the difficulty of defining the term should not serve as an excuse to prevent a serious discussion of the basic issue of the sanctity of private property on the seas.⁶

The British delegation vehemently opposed any consideration of the American resolution. Sir Julian Pauncefote bluntly told the Second Commission that his government was prepared to participate in the renegotiation of the Brussels Declaration only if the discussion of all maritime questions was scrupulously avoided.⁷ Her Majesty's government did not share White's contention that the destruction of merchant ships would have no significant impact on the outcome of a war. And Pauncefote knew that the Royal Navy's ability to protect the Empire was dependent on its unfettered right to stop and seize hostile merchant ships on the high seas.

Pauncefote's refusal to discuss the subject was supported by the

⁶Ibid., p. 49.

⁷Ibid., p. 411.

representatives of France and Russia. Faced with their united opposition, White graciously withdrew his resolution in an effort to maintain the harmony of the conference's proceedings. As a good-will gesture towards the United States, the delegates agreed to include in the Acte Finale, a non-binding voeu stating that "the proposal which contemplates the declaration of the inviolability of private property in naval warfare may be referred to a subsequent conference for consideration."⁸ With the acceptance of this voeu and of another recommending the calling of a conference to reconsider all of the articles of the 1864 Geneva Convention, the plenary session completed its review of the accomplishments of the Second Commission.

On July 21, August Beernaert, president of the First Commission, submitted three draft declarations to the plenary session. These declarations called for prohibitions on the use of expanding bullets, on the throwing of projectiles from balloons, and on the use of projectiles intended solely to spread asphyxiating or deleterious gases. Although each declaration had been exhaustively studied, the presentation of the report of the First Commission rekindled debate on several controversial points.

The British delegation, with the active collaboration of the United States, staged a last-minute assault on the declaration that would have outlawed the dum-dum bullet. A resolution was introduced

⁸Of the Great Powers, only the representative of Germany actively supported White's initiative. Count Munster's motives in so doing were not immediately apparent. But White speculated that Germany was less interested in the intrinsic merits of his proposal than in seeking to disrupt the cordial relations between the United States and Great Britain that had developed during the course of the conference. White, The First Hague Conference, p. 45.

by Captain Crozier, the American military delegate, that was designed to replace the First Commission's declaration specifically banning all bullets which "tend to expand or flatten when entering the body" with one that simply outlawed "every kind of bullet which exceed the limit necessary for placing a man hors de combat."⁹

During the last decades of the century, many general staffs had adopted small caliber rifles for use by their armed forces. These weapons had several obvious advantages. They were relatively light-weight and permitted a soldier to carry a large amount of ammunition. The rifles were also easier to fire since they produced a limited recoil. Their main disadvantage, however, lay in the fact that their light-weight ammunition did not necessarily produce sufficient shock on impact to stop the advance of an enemy soldier.

Captain Crozier believed that modern armies would not abandon the use of small caliber weapons. They would, therefore, have to find new ways to make their small caliber ammunition more effective. And Crozier feared that the restrictions on exploding bullets imposed by the 1869 St. Petersburg Convention and the restrictions on expanding bullets contained in the First Committee's draft declaration would not prevent states from manufacturing other types of "unnecessarily cruel bullets." He was particularly fearful that some states would produce a bullet "such that the point would turn easily to one side upon entering the body, so as it cause it to turn end over end, revolving about its shorter axis," or one of "such original form as

⁹Proceedings, p. 80.

would...inflict a torn wound."¹⁰ Crozier believed that his substitute resolution would prevent the adoption of an infinite variety of "unnecessarily cruel bullets" and that its approval would undoubtedly further the cause of world peace.

Of the delegates present at the July 21 meeting of the plenary session, only Sir Julian Pauncefote supported the American proposal. While the representatives of the other powers admitted that Crozier was probably correct in assuming that some states would try to circumvent the spirit of the declaration by producing inhumane bullets that did not expand on impact, they believed that as long as the American delegate could not adequately define the term "unnecessarily cruel bullet" they could best serve the interests of humanity by specifically outlawing the one type of cruel bullet then known to be in use.¹¹ After extensive parliamentary wrangling, the Crozier resolution was voted upon and resoundingly defeated. The original declaration prohibiting the use of expanding bullets was adopted unanimously with only the United States and Great Britain dissenting.¹²

Sir Julian Pauncefote and Andrew White joined forces again at this session to oppose the draft declaration prohibiting the use of poison gas shells. During the debates of the First Commission, Captain Mahan had declared his government's unwillingness to be deprived "by means of hastily adopted resolutions" of the opportunity to

¹⁰Ibid., p. 81.

¹¹Ibid., p. 83.

¹²Ibid., p. 87.

develop new weapons "which might later on be usefully employed"¹³ Mahan denied the contention that poison gas was a barbaric weapon. In his view, projectiles designed to spread asphyxiating gases could be considered more humane "than those which kill or cripple in a much more cruel manner, by tearing the body with pieces of metal."¹⁴ Yet, despite the Anglo-American opposition, the declaration was adopted by the plenary session. Subsequently, without debate or dissension, the delegates also approved the declaration that prohibited the throwing of projectiles from balloons.¹⁵

The failure of the First Commission to conclude a general agreement limiting the development of new weapons and the size of armed forces and their budgets was not unexpected. The problems involved were enormously complex and the delegates knew it was unrealistic to expect that they could be resolved during a conference that lasted a mere two months. The delegates were heartened, however, by the spirit of cooperation that characterized the deliberations of the First Commission; and hopeful that these discussions would serve as a prelude to a subsequent accord. The plenary session unanimously approved a voeu, to be included in the Acte Finale, that called upon all nations to convene, at an unspecified later date, a conference to discuss again the subject of arms limitations.¹⁶

After the lengthy and delicate discussions that led to the

¹³Ibid., p. 367.

¹⁴Ibid., p. 366.

¹⁵Ibid.

¹⁶Ibid., p. 283.

conclusion of the Convention for the Pacific Settlement of International Disputes, its rapid approval by the plenary session on July 25 came almost as an anti-climax. The articles of the convention were read seriatum and each was adopted without debate.¹⁷ The American delegation then stated that its approval was conditional on the understanding that nothing therein contained in any way "required the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions or policy of international administration of any foreign state, nor... could it [be] construed to imply a relinquishment by the United States of its traditional attitude towards purely American questions."¹⁸ Once this statement had been read into the record, the convention was voted on as a whole and unanimously adopted.¹⁹

After approving the report of the Third Commission, the plenary session turned its attention to the preparation of the Acte Final. The delegates agreed that this document should be composed of several parts. There would be an Acte Général that recorded in broad terms the results of the conference. All the delegates were expected to sign this document as "a mere constation of the work done." But it was clearly understood that its terms were not considered to be binding on any of the signatory states.²⁰

¹⁷Ibid., p. 91.

¹⁸Ibid., pp. 99-100.

¹⁹Ibid., p. 100.

²⁰Pauncefote to Salisbury, July 21, 1899, F.O. 83/1692.

The various declarations and conventions were to be appended to the Acte Général and these were to be signed separately.²¹ The delegates realized that several of their number did not have the authority to sign the individual accords before leaving the Hague. As a result, it was decided that each participating state would be given until December 21, 1899 to sign these documents. If a government had not signed by that date, it could still become a party to the various agreements by complying with the adhesion or accession clauses contained in each accord.²²

While this decision appeared routine and non-controversial, it obscured the fact that the delegates had been unable to agree on the terms of an adhesion clause to be included in the arbitration convention. On July 13, M. Descamps, a Catholic member of the Dutch delegation, introduced a resolution that would have allowed "Powers" not represented at the conference to adhere freely to the convention at some future date. The wording of the resolution was deliberate since M. Descamps hope that the substitution of the term "Powers" for that of "States" would permit the Vatican to become a signatory of the arbitration accord.²³

The Dutch government realized that it would be placed in an extremely embarrassing position if the Holy See was denied the right to adhere. The convention stipulated that the Council of Control of the

²¹Ibid.

²²Proceedings, p. 103.

²³Howard to Salisbury, July 13, 1899, F.O, 83/1701.

Permanent Court of Arbitration was to be composed of the ambassadors of the signatory powers accredited to the Dutch Court. If the Vatican was not a party, the Papal Internuncio at the Hague would be the only resident foreign representative without a seat on the council. The Dutch government feared that this diplomatic affront would cause the Pope to reduce the status of his representative from an Internuncio to that of a mere chargé d'affaire. Since M. Beaufort was already under attack from the Catholic minority of the Netherlands for allowing Pope Leo to be excluded from the conference, the Prime Minister hoped to avoid further domestic unrest by arranging for the Vatican's participating in the actual working of the Hague Court.²⁴

The Italian government opposed the Descamps resolution fearing that it would result in Italy's tacit recognition of Vatican sovereignty. Great Britain also resisted the Dutch initiative. Relations with the Boer government of the Transvaal had deteriorated rapidly during the spring and summer of 1899. The Bloemfontein Conference had failed in mid-June to resolve the emotional and complex question of the Uitlander franchise, and Lord Salisbury was acutely aware of the likelihood of war in South Africa.²⁵ If the Transvaal was permitted to become a party to the arbitration convention through a free accession clause, Lord Salisbury feared that the pressure of world opinion would

²⁴Ibid.

²⁵For a detailed account of the diplomatic manoeuvring that preceded the outbreak of the Boer War, and for an assessment of the roles played in these events by Salisbury, Chamberlain and Milner, see Grenville, Lord Salisbury and Foreign Policy, ch. XI.

force Britain to submit the Anglo-Boer dispute to third-party mediation or to arbitration. Salisbury was determined to avoid such a situation. The Prime Minister instructed Pauncefote to inform his colleagues that Britain was prepared to withhold its ratification of the arbitration convention unless and until the question of adhesion was resolved to his satisfaction.²⁶

Count Nigra offered a resolution that he believed would meet with Lord Salisbury's approval. The Italian delegate proposed that the right of accession to the arbitration convention be declared free and absolute unless a state's petition was vetoed by any of the original signatories within a stated period of time.²⁷ This suggestion was deemed unacceptable by Pauncefote who realized that the necessity of issuing a public veto would place the objecting government in an exposed and awkward position.²⁸

As the dispute dragged on, Pauncefote was seriously concerned that the failure to settle this "thorny question" would jeopardize

²⁶On July 27, Salisbury informed Pauncefote:

"It is impossible for Her Majesty's Government to admit that Great Britain, except with her own consent formally conveyed in the usual manner by the signature of Her Majesty's plenipotentiary, can come under conventional obligation to another government. Unless the consent of Great Britain has been previously obtained any intimation of adhesion to this convention by any government or person but the plenipotentiaries now signing it will be regarded as non avenue so far as Great Britain is concerned."

Salisbury to Pauncefote, July 27, 1899, F.O. 83/1698.

²⁷Pauncefote to Salisbury, July 31, 1899, F.O. 83/1697.

²⁸Ibid.

the "entente cordiale which had developed among the Powers." After intensive discussions with Professor Asser of the Netherlands, Pauncefote agreed to a compromise that simply postponed the problem. An article was appended to the arbitration convention which simply stated that:

The conditions on which the Powers which have not been represented at the International Peace Conference may adhere to the present convention shall form the subject of a subsequent agreement between the contracting powers.²⁹

Article sixty-one was approved without debate and inserted into the convention.

For the closing ceremonies, the delegates gathered again in the ornate Salle d'Orange in the Huis den Bosch. At midday on July 29, the representatives of the participating powers signed the Acte Général. And those so authorized also affixed their signatures and seals to the various conventions and declarations. Of the Great Powers, the representatives of Great Britain, Germany and Austria-Hungary were instructed to withhold their assent to the specific accords pending further study by their governments.³⁰

After the signing ceremonies were completed. M. Staal closed the conference with a speech that summarized its aims and its accomplishments. While freely admitting that the participants were unable to reach agreement on all the issues raised in the Tsar's Rescripts, M. Staal asserted that the "moral ideas" which had guided their deliberations would have a profound impact on the future history of the world.

²⁹Proceedings, p. 245.

³⁰Ibid., pp. 220-221.

The President praised the delegates for attempting "to inculcate in the people of the world the spirit of mutual good will," and for giving precedence in their deliberations "to that which unites over that which divides."

M. Staal opined that "the dominant factor in the era upon which we are entering should be works which spring from the need of concord and which are made fruitful by the collaboration of states...."³¹ He further declared that the true magnitude of the conference's achievements would only be appreciated by future generations that would be spared the horrors of unregulated war. As the delegates prepared to depart the Hague, they shared their President's satisfying conviction that they had accomplished more towards securing the peace of the world through the extension of the rule of law than any previous gathering in the history of the world.

III

Prior to the return of the British delegation to London, the Director of Military Intelligence, the Director of Naval Intelligence, and the Law Officers of the Crown began an exhaustive examination of the conventions and declarations concluded at the Hague.³² Their task

³¹Ibid., 24.

³²The Law Officers of the Crown were noted jurists officially attached to the Royal Courts of Justice. They served as legal consultants to the Foreign Office and other government departments.

was to isolate the precise legal and military obligations that Great Britain would incur if she became a party to the accords and to analyze their potential effect on the operations of the armed forces and the Foreign Office.

Since Sir Julian Pauncefote, a former legal Undersecretary of State at the Foreign Office, had been a prime architect of the arbitration convention, it was not surprising that the Law Officers discovered no legal obstacles to adhesion. In their judgement, the qualifications contained in the agreement "and the optional character of its provisions [were]...sufficient to prevent danger from its adoption."³³ The convention did not impinge on national sovereignty insofar as Her Majesty's Government could not be forced to submit international differences to arbitration or to mediation without its own consent.

Yet, despite the approval of the Law Officers, Lord Salisbury waited ten months before notifying Dutch officials of his intention to adhere to the arbitration convention. This delay can be explained by the deteriorating political situation in South Africa and by the government's reluctance to be chided into submitting that dispute to third-party mediation.

In late September, 1899, Sir Horace Rumbold, British Ambassador in Vienna, was engaged in a far-ranging discussion of world politics by his Italian counterpart, Count Nigra. Commenting on the apparent imminence of war in the Transvaal, Nigra inquired into the possible response of Lord Salisbury's government to a formal offer from one or more of the Great Powers to mediate Anglo-Boer differences under the

³³Richard Webster and Robert Finlay to the Foreign Office, September 18, 1899, F.O. 83/1701.

terms of the Hague convention.³⁴ Rumbold was clearly surprised by the démarche, but he provided Nigra with an answer which he believed correctly reflected the position of the Foreign Office.

Britain, he declared, would refuse such an offer on two grounds. First, since Her Majesty's Government did not recognize the Transvaal as a fully sovereign and independent state, Britain "could not admit that a conflict between them and that Republic would be of the character of those arising between equal sovereign Powers which were contemplated by the conference," Secondly, since Britain had not as yet signed the arbitration convention, Rumbold reminded Nigra that "Her Majesty's Government were not bound to take cognisance of recommendations made on the basis of it."³⁵

The Italian withdrew his inquiry as a result of Rumbold's categorical reply, but the possibility of third-party interference in the South African dispute remained. In April, 1900, a Boer peace delegation visited Washington to ask the United States to mediate their conflict with Britain. Although American public opinion was largely pro-Boer, it would have been highly improper for the United States to become officially involved. America's interference would have been especially resented in London in view of Lord Salisbury's policy of strict neutrality during the Spanish-American War and of the cordial relations that had developed between the two powers during the conference.

1900, however, was an election year in the United States, and

³⁴Rumbold to Salisbury, September 29, 1899, F.O. 83/1701.

³⁵Ibid.

Britain feared that President McKinley would ignore international protocol and make an offer of assistance since "one can never tell what the government of that country may be forced to do during a presidential campaign."³⁶ Fortunately for the continuation of Anglo-American cooperation, no démarche was forthcoming. And with the failure of the Boer peace mission, Britain was free to sign the arbitration convention. The Queen's ratification was deposited with Dutch officials on September 4, 1900.³⁷

The revised Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention was examined by the Law Officers and the Director of Naval Intelligence. The Admiralty had opposed the 1868 Convention because it granted too much freedom to belligerent hospital ships operating in a war zone. Naval experts feared that the unrestricted right of passage granted to such ships would provide them with an unique opportunity to discern the deployment of enemy fleets and to transmit this information to the commander of their naval forces. The new convention minimized this danger by declaring that hospital ships could enter a war zone only at their own "risk and peril," and by certifying that belligerent warships had the right to temporarily stop and detain hospital ships "if important circumstances require it."³⁸

The Law Officers were satisfied that the convention maintained

³⁶Howard to Salisbury, May 9, 1900, F.O. 83/1790.

³⁷Howard to Salisbury, July 17, 1900, F.O. 83/1790.

³⁸Custace to the Foreign Office, June 15, 1899, Adm. 116.98.

an acceptable balance between the interests of humanity and the requirements of belligerent forces. They strongly objected, however, to article ten which they believed represented a major and unfortunate departure from the generally accepted principles of public international law. Article ten stated in part:

The shipwrecked, wounded, or sick, who are landed at a neutral part with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral state and the belligerent states, be guarded by the neutral state so as to prevent their again taking part in the operations of war.

The Law Officers interpreted this article as requiring neutral governments to intern shipwrecked belligerents landed in their ports with official consent for the duration of hostilities. Although they recognized the obligation of all states to "give shelter to the shipwrecked", the Law Officers opined that "it is not self-evident that the acceptance of such shelter should disqualify the crew from further taking part in the war." Under existing international practice, shipwrecked sailors, washed up on neutral shores, had to be released and were free to again take part in the hostilities. The Law Officers feared that the "whole tendency of the article seems to be rather in the direction of restricting the hospitality which has hitherto been accorded to the victims of war" and advised the government against accepting a doctrine so obviously in conflict with existing international practice.³⁹

The Director of Naval Intelligence agreed that article ten was of "doubtful wisdom." And although the Lords Commissioners approved of the

³⁹Law Officers to the Admiralty, October 19, 1899, Adm. 116.98.

balance of the convention, they rejected the suggestion that Britain should become a signatory. They preferred instead to issue the convention to all Royal Navy personnel as part of a national code of naval instructions.⁴⁰

Sir Julian Pauncefote vehemently objected to the Admiralty's attitude. He reminded Lord Salisbury that the Great Powers had already indicated their intention to sign the convention, and he declared that Britain's refusal to do so "would expose this country to unfavourable comment."⁴¹ Faced with Pauncefote's warning and the relatively uncontroversial nature of the document, the Admiralty relented. On June 27 the Lords Commissioners informed the Prime Minister that they were prepared to withdraw their opposition to the revised Geneva Convention if it would spare the government "needless embarrassment."⁴²

Once the Admiralty's approval had been obtained, the Prime Minister instructed Sir Henry Howard, British ambassador at the Hague, to inform Dutch officials that Her Majesty's Government was prepared to ratify the revised Geneva Convention with a disclaimer relative to article ten.⁴³ Lord Salisbury was not the only head of government to express his disapproval of this article. By January 30, 1900 Germany, the United States and Turkey had also indicated their unwillingness to be bound by its terms. Since the intent of the

⁴⁰Custace to the Foreign Office, June 15, 1899, Adm. 116/98.

⁴¹Pauncefote to Salisbury, June 23, 1899, Adm. 116/98.

⁴²Custace to the Foreign Office, June 27, 1899, F.O.83/1700.

⁴³Howard to Salisbury, October 31, 1899, F.O. 83/1701.

convention was to establish uniform procedures to regulate maritime warfare, Dutch officials believed that the interests of international harmony could best be served if the offending article was formally deleted from the text. After extensive consultations with the Russian government and the representatives of the other participating states, M. Beaufort was authorized to efface article ten from the convention and to notify the signatory states of this change.⁴⁴ No objections were raised and the nine-point convention remained opened for further ratifications.

Before his appointment as military delegate to the Hague Conference, Major-General Sir John Ardagh had served in the War Office as Director of Military Intelligence. In that capacity he had prepared instructions for the British delegation on the subject of the Brussels Declaration. Ardagh had welcomed the decision to reconsider the document and was hopeful that its provisions could be incorporated into a national code of military law to be compiled by the War Office. He had rejected, however, the idea that Britain become a signatory of the revised declaration, warning Lord Salisbury that "the essence of codification is the imposition of restrictions and if the latter have any influence whatever on the duration of war, the tendency must be rather to lengthen the period than to shorten it."⁴⁵

After participating in the deliberations of the Second Commission,

⁴⁴Baron Gercke to Salisbury, January 30, 1900, F.O. 83/1790.

⁴⁵War Office to the Foreign Office, May 17, 1899, F.O. 83/1700.

Ardagh had changed his position. He found the revised Brussels Declaration to be a "skillfully drawn document" that contained "a fair summary" of the laws and customs of land warfare acceptable to civilized nations.⁴⁶ The accord protected the interests of states with small armies by recognizing the right of civilian populations to organize and offer armed resistance to invading armies. It also sought to mitigate the impact of war on civilians by restricting the arbitrary rights of occupying armies "so far as military necessities permit." Furthermore, Ardagh was pleased by the stipulation that in situations "unforeseen and unprovided" for by the declaration, civilian populations were "to remain under the [protection]... of the principles of the law of nations as they result from the usages established between civilized states, from the laws of humanity and the requirements of public conscious."⁴⁷

In his reports from the Hague, Ardagh recommended categorically that Her Majesty's Government become a party to the declaration. He reminded his colleagues at the War Office that the declaration's provisions protecting soldiers and civilians from mistreatment were only binding during a war between signatories. Ardagh feared that as a result of Britain's refusal to sign, "a belligerent signatory, when engaged in a war against her [would be] ipso facto released and absolved from the obligations of observing the terms of the compact which the other had declined to enter." In these circumstances, the door

⁴⁶Pauncefote to Salisbury, July 1, 1899, F.O. 83/1698.

⁴⁷Ibid.

could be opened "to the perpetration of acts which have met with general reprehension in former wars."⁴⁸

Ardagh was convinced that the "international climate" had changed markedly since the original Brussels Declaration was prepared in 1874. That document was completed a scant three years after the Franco-Prussian War. And its provisions reflected the prejudices, fears and emotions engendered by that conflict. The declaration contained several articles that gave the major military powers an almost unlimited right "to exercise an arbitrary control over the vanquished populations."⁴⁹

A quarter century later, however, powers great and small had come to realize that the requirements of humanity demanded that the rights of civilians exposed to war had to be protected. Although the restrictions contained in the revised Brussels Declaration "limited and diminished" the prerogatives of military commanders, Ardagh and his colleagues were certain that the advantages which would accrue to combatants and non-combatants as a result of the accord would "preponderate over those arising from the exercise of unlimited or arbitrary power."⁵⁰

The War Office examined the declaration and commented at length on Ardagh's recommendations. Military experts agreed that its terms were drawn strictly in accordance with the usages established by

⁴⁸Ibid.

⁴⁹Ibid.

⁵⁰Ibid.

civilized nations, but they rejected Ardagh's contention that Britain become a signatory. The events of previous wars had shown the War Office that belligerent states which were parties to international humanitarian conventions tended to accuse their adversaries of ignoring these agreements. During the Franco-Prussian War, for example, France had accused Germany of violating the Geneva Convention by "attacking ambulances, or marking provisions, ammunition, and money wagons with the red cross and of selecting hospitals as a mark for their shell fire." Germany, in return, had accused the French of attacking dressing stations, mistreating hospital attendants, and of murdering wounded soldiers.⁵¹ These accusations only exacerbated the ill-feelings between the belligerents. And the War Office believed that Britain could avoid involvement in a similar situation by withholding its assent from other binding international agreements.

Military experts did not believe that British soldiers would be the victims of atrocities in a war against a signatory state. In such an eventuality, both sides would be bound by law of war, and it appeared inevitable that the terms of the Brussels Declaration would soon be incorporated into the general body of international law accepted by all Nations. Furthermore, most officers believed that a soldier's willingness to abide by the laws of war did not depend on the existence of a conventional arrangement. The rules of law, it was argued, "have been gradually improved without a convention and there is every reason to believe in consequence of the increased power of the sentiments

⁵¹Ibid.

of humanity, the general softening of manners, the improved discipline of armies, and above all, the knowledge that soldiers have acquired that the practice of forbearance towards an enemy is for their own advantage and is dictated not only by humanity but by prudence, that the improvement will continue."⁵²

Lord Lansdowne, the Secretary of State for War, also offered his comments on the Brussels Declaration. As the civilian chief of the military establishment, Lansdowne believed that the opinion of the experts at the War Office should "as a rule prevail" in controversies related to the laws of war.⁵³ As a political leader, however, he realized that Britain's refusal to sign the document would result in unfavorable comment at home and cause the government embarrassment abroad. After intensive discussions with the Director of Military Intelligence, Lansdowne concluded that Britain's military interests were sufficiently protected by the inclusion in the Declaration of article five which permitted a signatory state to denounce its adherence to the agreement after one year's notice. He thereupon notified Lord Salisbury that the military would acquiesce in a governmental decision to ratify the Brussels Declaration.⁵⁴

Although the Prime Minister was not enthusiastic about binding Great Britain to the accord, he had no alternative. In mid-October, Salisbury was informed by his diplomatic representatives that France, Russia and Austria-Hungary had already ratified the Declaration and that

⁵²Ibid.

⁵³War Office to Foreign Office, October 11, 1899, F.O. 83/1701.

⁵⁴Ibid.

Germany and the United States were preparing to do the same.⁵⁵ Salisbury could not place Britain in the awkward position of being the only major power to repudiate publicly an international humanitarian convention. As a result, he reluctantly commented to his aides that "if Germany signs [the Declaration] I think we should do so."⁵⁶ When he was informed on October 23 that the Kaiser was prepared to issue a formal statement that was "equivalent to a signature," Salisbury authorized his agent at the Hague to sign the Brussels Declaration on behalf of Her Majesty's Government.⁵⁷

Acting on the advice of General Ardagh and Admiral Fisher, Sir Julian Pauncefote had voted against the Hague declarations that outlawed the use of expanding bullets and poison gas shells. He had, however, placed Britain on record as a supporter of the five-year moratorium on the throwing of projectiles from balloons. Pauncefote had voted for this resolution in order to win the support of the United States in the debate over the dum-dum bullet. On his return to London, however, it was not clear whether Lord Salisbury would support his position and officially ratify this declaration.

Although the balloon had not been thoroughly tested as a military weapon, General Ardagh recommended that the government support the Hague prohibition. Ardagh was extremely impressed by the offensive potential of an aerial weapons system. After many conversations with

⁵⁵Memo to Lord Salisbury, October 19, 1899, F.O. 83/1701.

⁵⁶Ibid.

⁵⁷Lord Gough to Salisbury, October 23, 1899, F.O. 83/1701.

the various naval delegates, he concluded that explosives discharged from balloons would be a devastating weapons when directed at warships enforcing a blockade. Since the free use of balloons would prove disadvantageous "to those states which rely heavily on naval superiority for protection" Ardagh recommended that Her Majesty's Government take the lead in ratifying the declaration.⁵⁸

The Admiralty failed to comment on Ardagh's analysis and the War Office rejected his proposal. Lord Wolsely, the Commander-in-Chief, argued that Britain, as a "small military power", could not afford to forego the "enormous advantages which the use of such a means of warfare" would provide. In war, superior armaments could compensate for a lack of numerical strength. And Wolsely and the War Office were not prepared to surrender that advantages that could be derived from the creativity of Britain's scientists and inventors by agreeing to accept any limitations on weapons development.⁵⁹ Lord Salisbury accepted the advice of his military advisors and the government withheld its approval from the three Hague declarations.

IV

A scant three months after the close of the Hague Conference, Britain was at war with the Boers of South Africa. Throughout 1898 and

⁵⁸Memo of September 29, 1899, Ardagh Papers.

⁵⁹Ibid.

1899, the War Office was in the process of converting its stock of ammunition from the Mark IV to the Mark V Bullet, and it was the latter which was issued to the soldiers ordered to the Transvaal. The core of the Mark V bullet was not completely covered by its jacket and the projectile thus tended to expand slightly on impact. Since all civilized nations with the exception of Great Britain and the United States had publicly repudiated the use of such bullets at the conference, the War Office's decision to employ the Mark V raised serious moral and political problems for Lord Salisbury's government.

Lord Lansdowne was aware that British soldiers distrusted the fully-jacketed Mark II bullet which had been used during the Chitral campaign and by Kitchner's army in the Sudan. Although the Mark II was the only bullet in Britain's arsenal that did not contravene the Hague declaration, it did not have sufficient stopping power to halt the advance of a determined enemy.⁶⁰

Lansdowne realized that it was uneconomical and inefficient for the War Office to stockpile solid bullets for civilized warfare and expanding bullets for use against savages. At the same time, he realized that the British government could become the object of international opprobrium if it became known that it had authorized the use of the expanding bullet. Furthermore, Lansdowne feared that British soldiers would become the targets of expanding bullets once it became known that such projectiles were in general use. The War Office and ultimately Lord Salisbury had to

⁶⁰ War Office to Foreign Office, October 7, 1899, F.O. 83/1701.

decide if the potential disaffection in the ranks resulting from the use against the Boers of the solid Mark II bullet would be outweighed by the expectation that the Afrikaneers would refrain from using expanding bullets against British troops.⁶¹

After intensive internal discussion and debate, the War Office decided against keeping double stocks of ammunition and authorized the use of the Mark V in South Africa. In reaching this decision, Lansdowne and Salisbury were swayed by the arguments presented by General Sir Henry Brackenbury, the Director General of Ordnance. Brackenbury in his defense of the Mark V, reiterated the fact that the Mark II had already been found to be "ineffective as a man-killing or even a man stopping bullet" and raised the spectre of if the troops were issued ammunition in which they lacked confidence. In addition, Brackenbury pointed out that "it is in the power of every man, by filing away a portion of the nickle covering the point of the [Mark II] bullet to convert every round in his possession into a bullet of the dum-dum type which is more destructive than the Mark V..." Since Sir Julian Pauncefote had publicly declared at the Hague that Her Majesty's Government expressly denied the allegation that the Mark V was an unnecessarily cruel bullet, Brackenbury argued that no moral issue was involved, and that there was no reason why the bullet should not be used.⁶²

⁶¹Cabinet Document, December 11, 1899, p. 1. Cab. 37/51.

⁶²Ibid.

The recommendations of the War Office favoring the use of the Mark V bullet was approved by Lord Salisbury. Since Great Britain had not signed the Hague declaration outlawing the use of expanding bullets, Salisbury and his advisory were under no legal obligation to refrain from such action. Furthermore, the Prime Minister knew that the ultimate success of the South African campaign would be decided by the valor and the dedication of the common soldier. And he was not prepared to risk their disaffection by issuing ammunition which conformed to the terms of the Hague declaration but which failed to command the support of the armed forces.

Chapter IX

Significance of the Hague Conference

It has become customary to dismiss the accomplishments of the first Hague Conference as marginal or ephemeral. The swift pace of events appears to have overtaken its well-meaning resolutions. The conference's prohibition of expanding bullets was violated before it came into effect. The five-year moratorium on the development of means for launching projectiles from balloons lapsed in 1904. Meanwhile a more formidable aerial challenge had become a reality. Late in 1903 the Wright brothers first successful heavier-than-air flight turned attention to the airplane. Within a few years the military potential of this new device began to get systematic development in all the Great Powers' armies and navies. The Conference's solemn renunciation of the use of poison gas does appear to have restrained its full development as a military weapon before the outbreak of World War I. The French use of hand and rifle-launched gas grenades in the summer and fall of 1914 eventually provoked a large-scale German retaliation, which came in a cloud of choking chlorine gas spread from canisters during the Second

Battle of Ypres (April 22, 1915).

Some failures and a partial success in reaching an international accord to regulate the development and use of new weapons would appear to be a fair estimate of the first Hague Conference's achievements. And it should not go unmentioned that the first conference at the Hague made possible the second in 1907. The assessment should also take into account the pre-1914 diplomatic mentality which still construed war as a viable alternative to diplomacy. This mentality had rational political parameters, that is to say it understood both armaments and alliances as devices which enhanced the possibility of settling serious disputes by means of diplomacy.

Within this framework it appeared to the statesmen and diplomats of Europe that to forego or to relinquish formidable armaments would jeopardize their own nation's prospect of competing successfully in international relations. The European state system had always had a conspicuous competitive quality; it thrived in a milieu alive with rivalries and shifting relationships. Armaments were, to be sure, a conspicuous symbol of international rivalry; they were also understood -- perhaps incorrectly-- as a calculable instrument within the international political system. A common political rationale made for its smooth functioning; the Great Powers had been at peace for more than a generation by the time the first Hague Conference had convened. The statesmen and diplomats assembled there had every confidence that peace would endure. The spectre of revolution, especially the kind propagated within one country

for dissemination abroad, no longer haunted them. They were free to consider armaments wholly within the context of international relations, in terms that is of their customary political rationale.

To assess the first Hague Conference solely in terms of its effort to limit the arms race would obscure one of its most significant aspects. The fact that such a political conference could take place marked an enormous advance in the history of internationalism. Many international conferences had been held during the last decades of the nineteenth-century. Urgent though not vital problems had been discussed rationally by professional diplomats, clashing views had been compromised and reasonable solutions had generally been reached. The advocates of internationalism gained encouragement from these achievements. They hoped that the new century might begin with a concerted international effort to resolve the most serious issues relating to war and peace. The Hague Conference represented the fulfillment of this hope.

As a political event the conference was without precedent. It marked the first time "that the representatives of almost every civilized country were seen to meet peacefully without a dispute to settle, without complaints to be redressed, without any thought of personal advantage, and this with the two-fold purpose of perpetuating harmony and softening the evils of war, or of regulating it for the day when it could not be avoided."¹ Even the conservative Times, which had been so skeptical about the efficacy of such a gathering, remarked with a slight tinge of awe that "no congress of the past has ever dealt

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Proceedings, p. 273.

with a work of such vast proportions.... History affords no picture of a world filled by such enormous populations, protected or burdened by such colossal armaments,...nor can we easily find a parallel for the grandiose idea of comprising the strife of interests over so vast an area...."²

The conference can be said to have achieved more than a symbolic success. The agreements reached there on the codification of the laws of war and on the use of arbitration had lasting consequences. The willingness of the Great Powers to recognize the demands of corporate humanity by accepting the revised Brussels Declaration and the extension of the Geneva Convention to maritime warfare represented major victories for the cause of international cooperation and the growing spirit of humanitarianism. And despite the nagging reluctance of many of the Great Powers, and Great Britain in particular, to surrender any aspect of their sovereignty to the international community, the demands of the conscience of the world could no longer be denied. The seasoned diplomats and pragmatic politicians who represented their countries at the Hague, recognized, by their approval of these accords, that the demands of humanity had to take precedence over narrow national concerns.

The arbitration convention and the creation of the permanent court appeared to contemporaries to be the conference's major contribution to world peace.³ While acknowledging the inherent limitations of arbitration and accepting the fact that the Hague Court would lack

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The Times, May 19, 1899, p. 8.

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Mowat, Life of Lord Pauncefote, pp. xiv-xv.

compulsory jurisdiction over any category of disputes nor would it have the coercive power to implement its decisions, they believed that it represented a major advance in the orderly conduct of international relations. "It is a clear gain," commented the editors of The Times, "to shorten the period of controversy which has hitherto almost always preceded resort to arbitration and to diminish the friction which is generated while diplomatists are slowly coming up to this point. These things, even if the subject matter in dispute is too trivial to cause war, often create the temper that afterwards may lead to war."⁴ The proponents of arbitration were confident that once the court had proven itself able to resolve minor differences with equity and dispatch, it would acquire the authority for dealing with the serious problems which divided the nations, peoples and governments of the world.

One might still be tempted to decry even these accomplishments on the grounds that the Hague tribunal never developed into an effective, functioning judicial organ and that the humanitarian conventions were blatantly disregarded under the stress of the First World War. While recognizing the legitimacy of such criticism, one must remember that in the historical development of all legal systems, law precedes adjudication and the establishment of tribunals precedes the obligation to have recourse to them. The conclusion of the Hague

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The Times, August 1, 1899, p. 9.

accords represented the striving of nineteenth century humanity; those accords set a new standard for guiding the development of civilized international relations.

The diplomats of 1899 did not fully acknowledge that national survival actually depended on international cooperation. Perhaps the full meaning of that view has become apparent only in our own time. It may therefore be unwise to attempt to assess the historical significance of the first Hague Conference. One can only review and recount its achievements and request that its apparently modest accomplishments be considered "sans l'impatience et sans le scepticism."

Appendix I

Note communicated by Count Mouravieff to Foreign Representatives, August 24, 1898 in the official translation from the French. (Sir Charles Scott to the Marquess of Salisbury, August 25, 1898. F.O. 65/1555)

The maintenance of universal peace and a possible reduction of the excessive armaments which weigh upon all nations in the present condition of affairs all over the world represent the ideal towards which the efforts of all Governments should be directed.

This view fully corresponds with the humane and magnanimous intentions of His Majesty the Emperor, my august Master.

Being convinced that this high aim agrees with the most essential interests and legitimate aspirations of all the Powers, the Imperial Government considers the present moment a very favourable one for seeking, through international discussion, the most effective means of assuring to all peoples the blessings of real and lasting peace, and above all of limiting the progressive development of the present armaments.

During the last twenty years aspirations towards general pacification have particularly asserted themselves in the consciences of civilized nations. The preservation of peace has been made the aim of international policy; for the sake of peace the Great Powers have formed powerful alliances, and for the purpose of establishing a better guarantee of peace they have developed their military forces in an unprecedented degree, and continue to develop them without hesitating at any sacrifice.

All these efforts, however, have not yet led to the beneficent results of the desired pacification.

The ever increasing financial burdens strike at the root of public prosperity. The physical and intellectual forces of the people, labour and capital, are diverted for the greater part from their natural application and wasted unproductively. Hundreds of millions are spent in obtaining frightful engines of destruction which, while being regarded today as the latest inventions of science, are destined tomorrow to be rendered obsolete by some new discovery. National culture, economical progress, and the production of wealth are either paralysed or developed in a wrong direction.

Therefore, the more the armaments of each Power increase, the less they answer to the objects aimed at by the Governments. Economic disturbances are caused in great measure by this system of excessive armaments, and the constant danger lying in this accumulation of war material renders the armed peace of today a crushing burden more and more difficult for the nations to bear. Evidently, therefore, if this situation be prolonged, it will certainly lead to that very disaster which it is desired to avoid, and the horrors of which strike the human mind with terror in anticipation.

It is the supreme duty, therefore, at the present moment of all States to put some limit to these unceasing armaments, and to find means of averting the calamities which threaten the whole world.

Deeply impressed by this feeling, His Majesty the Emperor has been pleased to command me to propose to all Governments who have Representatives at the Imperial Court the meeting of a Conference to discuss this grave problem.

Such a Conference, with God's help, would be a happy augury for the opening century. It would concentrate in one powerful effort the strivings of all States which sincerely wish to bring about the triumph of the grand idea of universal peace over the elements of trouble and discord. It would, at the same time, cement their agreement by a united consecration of the principles of law and equity on which rest the security of States and the welfare of peoples.

(signed) Count MOURAVIEFF

St. Petersburg, August 12/24, 1898

Appendix II

Note communicated by Count Mouravieff to Foreign Representatives, January 11, 1899, in a translation from the French. (Sir Charles Scott to the Marquess of Salisbury, January 12, 1899. F.O. 65/157)

When, in the month of August last, my August Master instructed me to propose to the Governments which have Representatives in St. Petersburg the meeting of a Conference with the object of seeking the most efficacious means for assuring to all peoples the blessings of real and lasting peace, and, above all, in order to put a stop to the progressive development of the present armaments, there appeared to be no obstacle in the way of the realization, at no distant date, of this humanitarian scheme.

The cordial reception accorded by nearly all the Powers to the step taken by the Imperial Government could not fail to strengthen this expectation. While highly appreciating the sympathetic terms in which the adhesions of most of the Powers were expressed, the Imperial Cabinet has been also able to collect, with lively satisfaction, evidence of the warmest approval which has reached it, and continues to be received, from all classes of society in various parts of the globe.

Notwithstanding the strong current of opinion which exists in favor of the ideas of general pacification, the political horizon has recently undergone a decided change. Several Powers have undertaken fresh armaments, striving to increase further their military forces, and in the presence of this uncertain situation, it might be asked whether the Powers considered the present moment opportune for the international discussion of the ideas set forth in the circular of August 12(24).

In the hope, however, that the elements of trouble agitating political centers will soon give place to a calmer disposition of a nature to favor the success of the proposed Conference, the Imperial Government is of opinion that it would be possible to proceed forthwith to a preliminary exchange of ideas between the Powers with the object:

a. Of seeking without delay means for putting a limit to the progressive increase of military and naval armaments, a question the solution of which becomes evidently more and more urgent in view of the fresh extension given to these armaments; and

b. Of preparing the way for a discussion of the questions relating to the possibility of preventing armed conflicts by the pacific means at the disposal of international diplomacy.

In the event of the Powers considering the present moment favorable for the meeting of a Conference on these bases it would certainly be useful for the Cabinets to come to an understanding on the subject of the programme of their labors.

The subjects to be submitted for international discussion at the Conference, could in general terms, be summarized as follows:

1. An understanding not to increase for a fixed period the present effective of the armed military and naval forces, and at the same time not to increase the Budgets pertaining thereto; and a preliminary examination of the means by which a reduction might even be effected in future in the forces and Budgets above mentioned.

2. To prohibit the use in the armies and fleets of any new kind of firearms whatever, and of new explosives, or any powders more powerful than those now in use, either for rifles or cannon.

3. To restrict the use in military warfare of the formidable explosives already existing, and to prohibit the throwing of projectiles or explosives of any kind from balloons or by any similar means.

4. To prohibit the use, in naval warfare, of submarine torpedo boats or plungers, or other similar engines of destruction; and to give an undertaking not to construct, in future, vessels with rams.

5. To apply to naval warfare the stipulations of the Geneva Convention of 1864, on the basis of the additional Articles of 1868.

6. To neutralize ships and boats employed in saving those overboard during or after an engagement.

7. To revise the Declaration concerning the laws and customs of war elaborated in 1874 by the Conference of Brussels, which has remained unratified to the present day.

8. To accept in principle the employment of good offices, of mediation and facultative arbitration in cases lending themselves thereto, with the object of preventing armed conflicts between nations; to come to an understanding with respect to the mode of applying these good offices, and to establish a uniform practice in using them.

It is well understood that all questions concerning the political relations of States, and the order of things established by Treaties, as in general all questions which do not directly fall within the program adopted by the Cabinets, must be absolutely excluded from the deliberations of the Conference.

In requesting you, Sir, to be good enough to apply to your Government for instructions on the subject of my present communication, I beg you at the same time to inform it that, in the interest of the great cause which my August Master has so much at heart, His Imperial Majesty considers it advisable that the Conference should not sit in the capital of one of the Great Powers, where so many political interests are centered, which might, perhaps, impede the progress of a work in which all the countries of the universe are equally interested.

I have, etc.

(signed) Count MOURAVIEFF

Appendix III

Hague Declaration on Expanding Bullets

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920) pp. 262-263.)

The undersigned, plenipotentiaries of the Powers represented at the International Peace Conference at The Hague, duly authorized to that effect by their Governments,

Inspired by the sentiments which found expression in the Declaration of St. Petersburg of November 29/December 11, 1868,

Declare that:

The contracting Parties agree to abstain from the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.

The present Declaration is only binding on the contracting Powers in the case of a war between two or more of them.

It shall cease to be binding from the time when, in a war between the contracting Powers, one of the belligerents is joined by a non-contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A proces-verbal shall be drawn up on the receipt of each ratification, a copy of which, duly certified, shall be sent through the diplomatic channel to all the contracting Powers.

Non-signatory Powers may adhere to the present Declaration. For this purpose they must make their adhesion known to the contracting Powers by means of a written notification addressed to the Netherland Government, and by it communicated to all the other contracting Powers.

In the event of one of the high contracting Parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and by it forthwith communicated to all the other contracting Powers.

This denunciation shall have effect only in regard to the notifying Power.

Appendix IV

Hague Convention on Asphyxiating or Deleterious Gases

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920) p. 266.)

The undersigned, plenipotentiaries of the Powers represented at the International Peace Conference at The Hague, duly authorized to that effect by their Governments,

Inspired by the sentiments which found expression in the Declaration of St. Petersburg of November 29/December 11, 1868.

Declare that:

The contracting Powers agree to abstain from the use of projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases.

The present Declaration is only binding on the contracting Powers in the case of a war between two or more of them.

It shall cease to be binding from the time when, in a war between the contracting Powers, one of the belligerents shall be joined by a non-contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A proces-verbal shall be drawn up on the receipt of each ratification, a copy of which, duly certified, shall be sent through the diplomatic channel to all the contracting Powers.

Non-signatory Powers may adhere to the present Declaration. For this purpose they must make their adhesion known to the contracting Powers by means of a written notification addressed to the Netherland Government, and by it communicated to all the other contracting Powers.

In the event of one of the high contracting Parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and by it forthwith communicated to all the other contracting Powers.

This denunciation shall have effect only in regard to the notifying Power.

Appendix V

Hague Declaration on the Discharge of Projectiles from Balloons

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920), p. 264.)

The undersigned, plenipotentiaries of the Powers represented at the International Peace Conference at The Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of November 29/December 11, 1868,

Declare that:

The contracting Powers agree, for a term of five years, to forbid the discharge of projectiles and explosives from balloons or by other new methods of similar nature.

The present Declaration is only binding on the contracting Powers in case of war between two or more of them.

It shall cease to be binding from the time when, in a war between the contracting Powers, one of the belligerents is joined by a non-contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

A proces-verbal shall be drawn up on the receipt of each ratification, a copy of which, duly certified, shall be sent through the diplomatic channel to all the contracting Powers.

Non-signatory Powers may adhere to the present Declaration. For this purpose they must make their adhesion known to the contracting Powers by means of a written notification addressed to the Netherland Government, and by it communicated to all the other contracting Powers.

In the event of one of the high contracting Parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and by it forthwith communicated to all the other contracting Powers.

This denunciation shall have effect only in regard to the notifying Power.

Appendix VI

Additional Articles of October 20, 1868 Concerning Naval Warfare.

(See James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920), pp. 444-447.)

Article 6

The boats which, at their own risk and peril, during and after an engagement pick up the shipwrecked or wounded, or which having picked them up, convey them on board a neutral or hospital ship, shall enjoy, until the accomplishment of their mission, the character of neutrality, so far as the circumstances of the engagement and the position of the ships engaged will permit.

The appreciation of these circumstances is entrusted to the humanity of all the combatants. The wrecked and wounded thus picked up and saved must not serve again during the continuance of the war.

Article 7

The religious and medical, and hospital staff of any captured vessel are declared neutral. When leaving the vessel, they remove the articles and surgical instruments which are their private property.

Article 8

The staff designated in the preceding article must continue to fulfill their functions in the captured ship, assisting in the removal of the wounded made by the victorious party; they will then be at liberty to return to their country, in conformity with the second paragraph of the first additional article.

The stipulations of the second additional article are applicable to the pay and allowances of the staff.

Article 9

Military hospital ships remain subject to the laws of war as regards their material; they become the property of the captor, but the latter cannot divert them from their special purpose during the continuance of the war.

Article 10

Any merchantman, to whatever nation she may belong, charged exclusively with removal of sick and wounded, is protected by neutrality, but the mere fact, noted on the ship's books, of the vessel having been visited by an enemy's cruiser, renders the sick and wounded incapable of serving during the continuance of the war. The cruiser shall even have the

right of putting on board an officer in order to accompany the convoy, and thus verify the good faith of the operation.

If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerents.

The belligerents retain the right to interdict neutralized vessels from all communications and from any course which they may deem prejudicial to the secrecy of their operations. In urgent cases special conventions may be entered into between the commanders in chief in order to neutralize temporarily and in a special manner the vessels intended for the removal of the sick and wounded.

Article 11

Wounded or sick sailors and soldiers, when embarked, to whatever nation they may belong, shall be protected and taken care of by their captors.

Their return to their own country is subject to the provisions of Article 6 of the Convention, and of the additional Article 5.

Article 12

The distinctive flag to be used with the national flag, in order to indicate any vessel or boat which may claim the benefits of neutrality, in virtue of the principles of this Convention, is a white flag with a red cross. The belligerents may exercise in this respect any mode of verification which they may deem necessary.

Military hospital ships shall be distinguished by being painted white outside, with green strake.

Article 13

The hospital ships which are equipped at the expense of the aid societies recognized by the Governments signing this Convention, and which are furnished with a commission emanating from the sovereign, who shall have given express authority for their being fitted out and with a certificate from the proper naval authority that they have been placed under his control during their fitting out and on their final departure, and that they were then appropriated solely to the purpose of their mission, shall be considered neutral, as well as the whole of their staff. They shall be recognized and protected by the belligerents.

They shall make themselves known by hoisting, together with their national flag, the white flag with a red cross. The distinctive mark of their staff, while performing their duties, shall be an armband of the same colors. The outer painting of these hospital ships shall be white, with red strake.

These ships shall bear aid and assistance to the wounded and wrecked belligerents, without distinction of nationality.

They must take care not to interfere in any way with the movements of the combatants. During and after the battle they must do their duty at their own risk and peril.

The belligerents shall have the right of controlling and visiting them; they will be at liberty to refuse their assistance, to order them to depart, and to detain them if the exigencies of the case require such a step.

The wounded and wrecked picked up by these ships cannot be reclaimed by either of the combatants, and they will be required not to serve during the continuance of the war.

Article 14

In naval wars any strong presumption that either belligerent takes advantage of the benefits of neutrality, with any other view than the interest of the sick and wounded, gives to the other belligerent, until proof to the contrary, the right of suspending the Convention, as regards such belligerent.

Should this presumption become a certainty, notice may be given to such belligerent that the Convention is suspended with regard to him during the whole continuance of the war.

Appendix VII

Hague Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of August 22, 1864.

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920), pp. 247-249.)

Article 1

Military hospital ships, that is to say, ships constructed or assigned by States specially and solely with the view to assist the wounded, sick and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as men-of-war as regards their stay in a neutral port.

Article 2

Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall likewise be respected and exempt from capture, if the belligerent Power to which they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships shall be provided with a certificate from the competent authorities, declaring that they had been under their control while fitting out for final departure.

Article 3

Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, if the neutral Power to which they belong has given them an official commission and has notified their names to the belligerent Powers at the commencement of or during hostilities, and in any case before they are employed.

Article 4

The ships mentioned in Articles 1, 2, and 3 shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use these ships for any military purpose.

These ships must in nowise hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents will have the right to control and search them and can refuse to help them, order them off, make them take a certain course, and put a commissioner on board; they can even detain them, if important circumstances require it.

As far as possible the belligerents shall enter in the log of hospital ships the order which they have given them.

Article 5

Military hospital ships shall be distinguished by being painted white outside with a horizontal band of green about a meter and a half in breadth.

The ships mentioned in Articles 2 and 3 shall be distinguished by being painted white outside with a horizontal band of red about a meter and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva Convention.

Article 6

Neutral merchantmen, yachts, or vessels, having, or taking on board, sick, wounded, or shipwrecked of the belligerents, cannot be captured for so doing but they are liable to capture for any violation of neutrality they may have committed.

Article 7

The religious, medical, and hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they may take with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave when the commander in chief considers it possible.

The belligerents must guarantee to the said staff when it has fallen into their hands the enjoyment of their salaries intact.

Article 8

Sailors and soldiers on board when sick or wounded, to whatever nation they belong, shall be protected and tended by the captors.

Article 9

The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other, are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

Article 10

The shipwrecked, wounded, or sick, who are landed at a neutral port, with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States, be guarded by the neutral State so as to prevent their again taking part in the operations of the war.

The expenses of tending them in a hospital and interning them shall be borne by the State to which the shipwrecked, sick or wounded belong.

Appendix VIII

Comparative texts of the key articles of the 1874 Brussels Declaration on the laws and customs of war and the Hague Convention respecting the laws and customs of war on land.

(James B. Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920), pp. 564-567.)

Brussels Declaration

Hague Convention

On Military Authority Over Hostile Territory

Article 1

Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised.

Article 2

The authority of the legitimate Power being suspended and having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and ensure, as far as possible, public order and safety.

Article 3

With this object, he shall maintain the laws which were in force in the country in time of peace, and shall not modify, suspend or replace them unless necessary.

Article 4

The functionaries and employees of every class who consent, on his invitation, to continue their functions, shall enjoy his protection. They shall not be dis-

Article

Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised.

Article

The authority of the legitimate Power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

(Articles 2 and 3 of the Brussels Declaration were combined in Article 43 of the Hague Convention.)

Article

Suppressed

missed or subjected to disciplinary punishment unless they fail in fulfilling the obligations undertaken by them, and they shall not be prosecuted unless they betray their trust.

Article 5

The army of occupation shall only collect the taxes, dues, duties and tolls imposed for the benefit of the state, or their equivalent, if it is impossible to collect them, and as far as is possible, in accordance with the existing forms and practice. It shall devote them to defraying the expenses of the administration of the country to the same extent as the legitimate Government was so obliged.

Article 6

An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for the operations of the war.

Railway plant, land telegraphs, steamers and other ships, apart from cases governed by maritime law, as well as depots of arms, and, generally, all kinds of war material, even if belonging to companies or to private persons, are likewise material which may serve for military operations and which cannot be left by the army of occupation at the disposal of the enemy. Railway plant, land telegraphs, as well as steamers and other ships above mentioned shall be restored and compensation fixed when peace is made.

Article

If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefits of the State, he shall do so, as far as possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expense of the administration of the occupied territory to the same extent as the legitimate Government was so bound.

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Article

The plant of railways coming from

neutral States, whether the property of those States or of companies or of private persons, shall be sent back to them as soon as possible.

Article 7

The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

Article 8

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences even when State property, shall be treated as private property.

All seizure or destruction of, or wilful damage to, institutions of this character, historic monuments, works of art and science should be made the subject of legal proceedings by the competent authorities.

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All seizures or destruction of, or wilful damage to, institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

Who Should Be Recognized as Belligerents; Combatants and

Non-Combatants

Article 9

The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. That they be commanded by a person responsible for his subordinates;

Article

The laws, rights, and duties of war apply not only to armies, but to militia and volunteer corps fulfilling the following conditions:

1. That they be commanded by a person responsible for his subordinates;

2. That they have a fixed distinctive emblem recognizable at a distance;
3. That they carry arms openly; and
4. That they conduct their operations in accordance with the laws and customs of war.

In countries where militia constitute the army, or form part of it, they are included under the denomination "army."

Article 10

The population of a territory which has not been occupied, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves in accordance with Article 9, shall be regarded as belligerents if they respect the laws and customs of war.

Article 11

The armed forces of the belligerent parties may consist of combatants and non-combatants. In case of capture by the enemy, both shall enjoy the rights of prisoners of war.

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3. That they carry arms openly; and
4. That they conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

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The population of a territory which has not been occupied, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had the time to organize themselves in accordance with Article , shall be regarded as belligerents if they respect the laws and customs of war.

Article

The armed forces of the belligerent parties may consist of combatants and non-combatants. In case of capture by the enemy, both have a right to be treated as prisoners of war.

Appendix IX

Convention Respecting the Laws and Customs of War on Land

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920), pp. 251-262.)

Considering that, while seeking means to preserve peace and prevent armed conflicts between nations, it is likewise necessary to bear in mind the case where an appeal to arms may be brought about by events which their solicitude could not avert;

Animated by the desire to serve, even in this extreme case, the interests of humanity and the ever progressive needs of civilization;

Thinking it important, with this object, to revise the general laws and customs of war, either with the view of defining them with greater precision, or of confining them within such limits as would mitigate their severity as far as possible;

Inspired by these views which are enjoined at the present day as they were twenty-five years ago at the time of the Brussels Conference in 1874, by a wise and generous forethought;

Have, in this spirit, adopted a great number of provisions, the object of which is to define and govern the usages of war on land.

According to the views of the high contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war, so far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.

It has not, however, been found possible at present to concert regulations covering all the circumstances which arise in practice;

On the other hand, the high contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war has been issued, the high contracting Parties deem it expedient to declare that, in cases not included in the regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and from the dictates of the public conscience.

They declare that it is in this sense especially that Articles 1 and 2 of the Regulations adopted must be understood.

The high contracting Parties, wishing to conclude a Convention to this effect, have appointed as their plenipotentiaries, to wit:

Who, after communication of their full powers, found in good and due form, have agreed upon the following:

Article 1

The high contracting Parties shall issue instructions to their armed land forces, which shall be in conformity with the "Regulations respecting the laws and customs of war on land" annexed to the present Convention.

Article 2

The provisions contained in the Regulations referred to in Article 1 are only binding on the contracting Powers, in case of war between two or more of them.

These provisions shall cease to be binding from the time when, in a war between contracting Powers, a non-contracting Power joins one of the belligerents.

Article 3

The present Convention shall be ratified as speedily as possible. The ratifications shall be deposited at The Hague.

A proces-verbal shall be drawn up recording the receipt of each ratification, and a copy, duly certified, shall be sent through diplomatic channel to all the contracting Powers.

Article 4

Non-signatory Powers are allowed to adhere to the present Convention. For this purpose they must make their adhesion known to the contracting Powers by means of a written notification, addressed to the Netherland Government, and by it communicated to all the other contracting Powers.

Article 5

In the event of one of the high contracting Parties denouncing the present Convention, such denunciation would not take effect until a year after the written notification made to the Netherland Government, and by it at once communicated to all the other contracting Powers. This denunciation shall have effect only in regard to the notifying Power.

Annex to the Convention

Regulations Respecting the Laws and Customs of War on Land

Section I- On Belligerents

Chapter I-The qualifications of belligerents

Article 1

The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. That they be commanded by a person responsible for his subordinates;
2. That they have a fixed distinctive emblem recognizable at a distance;
3. That they carry arms openly; and
4. That they conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

Article 2

The population of a territory which has not been occupied who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves in accordance with Article 1, shall be regarded as belligerents if they respect the laws and customs of war.

Article 3

The armed forces of the belligerent parties may consist of combatants and non combatants. In case of capture by the enemy, both have a right to be treated as prisoners of war.

Chapter II-Prisoners of war

Article 4

Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them. They must be humanely treated. All their personal belongings, except arms, horses, and military papers remain their property.

Article 5

Prisoners of war may be interned in a town, fortress, camp, or other place, under obligation not to go beyond certain fixed limits; but they can only be place in confinement as an indispensable measure of safety.

Article 6

The State may utilize the labor of prisoners of war according to their rank and aptitude. The tasks shall not be excessive and shall have no connection with the operations of the war. Prisoners may be authorized to work for the public service, for private persons, or on their own account.

Work done for the State is paid for at the rates in force for work of a similar kind done by soldiers of the national army.

When the work is for other branches of the public service or for private persons, the conditions are settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance.

Article 7

The Government into whose hands prisoners of war have fallen is charged with their maintenance.

In the absence of a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters, and clothing, on the same footing as the troops of the Government which has captured them.

Article 8

Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State in whose power they are. Any act of insubordination justifies the adoption towards them of such measure of severity as may be necessary. Escaped prisoners who are retaken before being able to rejoin their army or before leaving the territory occupied by the army that captured them are liable to disciplinary punishment. Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment for the previous flight.

Article 9

Every prisoner of war is bound to give, if questioned on the subject, his true name and rank, and if he infringes this rule, he is liable to a curtailment of the advantages accorded to the prisoners of war of his class.

Article 10

Prisoners of war may be set at liberty on parole if the laws of their country allow it, and, in such cases, they are bound, on their personal honor, scrupulously to fulfill, both towards their own Government and the Government by which they were made prisoners, the engagements they have contracted. In such cases their own Government is bound neither to require of nor accept from them any service incompatible with the parole given.

Article 11

A prisoner of war can not be compelled to accept his liberty on parole; similarly the hostile Government is not obliged to accede to the request of the prisoner to be set at liberty on parole.

Article 12

Any prisoner of war liberated on parole and retaken bearing arms against the Government to which he had pledged his honor, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the courts.

Article 13

Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers and contractors, who fall into the enemy's hands, and who the latter thinks fit to detain, are entitled to be treated as prisoners of war, provided they are in possession of a certificate from the military authorities of the army they were accompanying.

Article 14

An information bureau relative to prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States and,

when necessary, in neutral countries which have received belligerents in their territory. The function of this bureau is to reply to all inquiries about the prisoners, to receive from the various services concerned all the information necessary to enable it to make out an individual return for each prisoner of war. It is kept informed of internments and transfers, as well as of admissions into hospital and deaths. It is likewise the function of the information bureau to receive and collect all objects of personal use, valuables, letters, etc., found on the field of battle or left by prisoners who have died in hospitals or ambulances, and to forward them to those concerned.

Article 15

Relief societies for prisoners of war, which are properly constituted in accordance with the laws of their country and with the object of serving as the channel for charitable effort shall receive from the belligerents, for themselves and their duly accredited agents, every facility for the efficient performance of their humane task within the bounds imposed by military necessities and administrative regulations. Agents of these societies may be admitted to the places of internment for the purpose of distributing relief, as also to the halting-places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an undertaking in writing to comply with all measure of order and policy which the latter may issue.

Article 16

Information bureaus enjoy the privilege of free postage. Letters, money orders, and valuable, as well as parcels by post, intended for prisoners of war, or dispatched by them, shall be exempt from all postal duties in the countries of origin and destination, as well as in the countries they pass through. Presents and relief in kind for prisoners of war shall be admitted free of all import or other duties, as well as of payments for carriage by State railways.

Article 17

Officers taken prisoners may receive, if necessary, the full pay allowed them in this position by their country's regulations, the amount to be refunded by their Government.

Article 18

Prisoners of war shall enjoy complete liberty in the exercise of their religion, including attendance at the services of whatever church they may belong to, on the sole condition that they comply with the measures of order and policy issued by the military authorities.

Article 19

The wills of prisoners of war are received or drawn up in the same way as for soldiers of the national army.

The same rules shall be observed regarding death certificates as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

Article 20

After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible.

Chapter III-The sick and wounded

Article 21

The obligations of the belligerents with regard to the sick and wounded are governed by the Geneva Convention of August 22, 1864, subject to any modifications which may be introduced into it.

Section II- On Hostilities

Chapter I-Means of injuring the enemy, sieges, and bombardments

Article 22

The right of belligerents to adopt means of injuring the enemy is not unlimited.

Article 23

In addition to the prohibitions provided by special conventions, it is especially forbidden:

- a. To employ poison or poisoned weapons;
- b. To kill or wound treacherously individuals belonging to the hostile nation or army;
- c. To kill or wound an enemy who, having laid down his arms, or having no longer means of defense, has surrendered at discretion;
- d. To declare that no quarter will be given;
- e. To employ arms, projectiles, or material calculated to cause unnecessary suffering;
- f. To make improper use of a flag of truce, of the national flag, or of the military insignia and uniform of the enemy, as well as the distinctive badges of the Geneva Convention;
- g. To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

Article 24

Ruses of war and the employment of measures necessary for obtaining information about the enemy and the country are considered permissible.

Article 25

It is forbidden to attack or bombard towns, villages, dwellings or buildings that are not defended.

Article 26

The officer in command of an attacking force must, before commencing a bombardment, except in cases of assault, do all in his power to warn the authorities.

Article 27

In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.

It is the duty of the beseiged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

Article 28

It is forbidden to give over to pillage even a town or place taken by storm.

Chapter II-Spies

Article 29

A person can only be considered a spy when, acting clandestinely or on false pretences, he obtains or endeavors to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not wearing a disguise who have penetrated into the zone of operations of the hostile army, for the purpose of obtaining information, are not considered spies. Similarly, the following are not considered spies: Soldiers and civilians, carrying out their mission openly, entrusted with the delivery of dispatches intended either for their own army or for the enemy's army. To this class belong likewise persons sent in balloons for the purpose of carrying dispatches and, generally, of maintaining communications between the different parts of an army or a territory.

Article 20

A spy taken in the act shall not be punished without previous trial.

Article 31

A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

Chapter III-Parlementaires

Article 32

A person is regarded as a parlementaire who has been authorized by one of the belligerents to enter into communication with the other, and who advances bearing a white flag. He has a right to inviolability, as well as the trumpeter, bugler, drummer, the flag-bearer and the interpreter who may accompany him.

Article 33

The commander to whom a parlementaire is sent is not in all cases obliged to receive him. He may take all necessary steps in order to prevent the parlementaire taking advantage of his mission to obtain information. In case of abuse, he has the right to detain the parlementaire temporarily.

Article 34

The parlementaire loses his rights of inviolability if it is proved in a clear and incontestable manner that he has taken advantage of his privileged position to provoke or commit an act of treason.

Chapter IV-Capitulations

Article 35

Capitulations agreed upon between the contracting parties must take into account the rules of military honor. Once settled, they must be scrupulously observed by both parties.

Chapter V-Armistices

Article 36

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

Article 37

An armistice may be general or local. The first suspends the military operations of the belligerent States everywhere; the second only between certain fractions of the belligerent armies and within a fixed radius.

Article 38

An armistice must be notified officially and in good time to the competent authorities and to the troops. Hostilities are suspended immediately after the notification, or on the date fixed.

Article 39

It rests with the contracting parties to settle, in the terms of the armistice, what communications may be held in the theatre of war with the populations and between them.

Article 40

Any serious violation of the armistice by one of the parties give the other party the right of denouncing it, and even, in cases of urgency, or recommencing hostilities immediately.

Article 41

A violation of the terms of the armistice by private persons acting on their own initiative only entitles the injured party to demand the punishment of the offenders and, if necessary, compensation for the losses sustained.

Section III-On Military Authority over the Territory of
The Hostile State

Article 42

Territory is considered occupied when it is actually placed under the authority of the hostile army.
The occupation extends only to the territory where such authority has been established and can be exercised.

Article 43

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Article 44

It is forbidden to force the population of occupied territory to take part in military operations against its own country.

Article 45

It is forbidden to compel the population of occupied territory to swear allegiance to the hostile Power.

Article 46

Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.
Private property can not be confiscated.

Article 47

Pillage is formally forbidden.

Article 48

If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do so, as far as it is possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound.

Article 49

If, in addition to the taxes mentioned in the above article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the administration of the territory in question.

Article 50

No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they can not be regarded as jointly and severally responsible.

Article 51

No contribution shall be collected except under a written order, and on the responsibility of a commander in chief. The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force. For every contribution a receipt shall be given to the contributors.

Article 52

Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in the operations of the war against their country. Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied. Contributions in kind shall, as far as possible, be paid for in cash; if not, a receipt shall be given.

Article 53

An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for the operations of the war. Railway plant, land telegraphs, telephones, steamers and

other ships, apart from cases governed by maritime law, as well as depots of arms generally all kinds of munitions of war, even though belonging to companies or to private persons, are likewise material which may serve for military operations, but they must be restored and compensation fixed when peace is made.

Article 54

The plant of railways coming from neutral States, whether the property of those States or of companies or of private persons, shall be sent back to them as soon as possible.

Article 55

The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

Article 56

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure or destruction of, or wilful damage to, institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

Section IV-Of the Internment of Belligerents and the Care of the Wounded in Neutral Countries

Article 57

A neutral State which receives on its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It may keep them in camps, and even confine them in fortresses or in places set apart for this purpose.

It shall decide whether officers can be left at liberty on giving their parole not to leave the neutral territory without permission.

Article 58

In the absence of a special convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity. At the conclusion of peace the expenses caused by the internment shall be made good.

Article 59

A neutral State may authorize the passage over its territory of wounded or sick belonging to the belligerent armies, on the condition that the

trains bringing them shall carry neither personnel nor material of war. In such a case, the neutral State is bound to take whatever measures of safety and control are necessary for the purpose.

Wounded or sick brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral State, so as to ensure their not taking part again in the operations of the war. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

Article 60

The Geneva Convention applies to sick and wounded interned in neutral territory.

Appendix X

Russian Draft Proposal for an International Convention on Good Offices, Mediation and Arbitration

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899, (New York, 1920), pp. 797-804.)

Good Offices and Mediation

Article 1

With the purpose of obviating, as far as possible, recourse to force in international relations, the signatory Powers have agreed to use their best efforts to bring about by pacific means the settlement of disputes which may arise between them.

Article 2

Consequently, the signatory Powers have decided that, in case of serious disagreement or dispute, before an appeal to arms, they will have recourse, so far as circumstances admit, to the good offices or mediation of one or more friendly Powers.

Article 3

In the case of mediation accepted spontaneously by the litigant States, the object of the Government acting as mediator is to reconcile the opposing claims and appease the feelings of resentment which may have arisen between these States.

Article 4

The part of the Government acting as mediator is at an end when the settlement proposed by it or the bases of a friendly settlement which it may have suggested are not accepted by the litigant States.

Article 5

The Powers consider it useful in case of serious disagreement or conflict between civilized States concerning questions of a political nature, independently of the recourse which these Powers might have to the good offices and mediation of Powers not involved in the dispute, for the latter, on their own initiative and so far as circumstances will allow, to offer their good offices or their mediation in order to smooth away the difficulty which has arisen, by proposing a friendly settlement, which without affecting the interest of other States, might be of such a nature as to reconcile in the best way possible the interests of the litigant parties.

Article 6

It is of course understood that mediation and good offices, whether offered on the initiative of the litigant parties or upon that of the neutral Powers, have strictly the character of friendly advice and no binding force whatever.

International Arbitration

Article 7

With regard to those controversies concerning legal questions, and especially with regard to those concerning the interpretation or application of treaties in force, arbitration is recognized by the signatory Powers as being the most effective and at the same time the most equitable means for the friendly settlement of these disputes.

Article 8

The contracting Powers consequently agree to have recourse to arbitration in cases involving questions of the character above mentioned, so far as they do not concern the vital interest or national honor of the litigant Powers.

Article 9

Each State remains the sole judge of whether this or that case should be submitted to arbitration, excepting those enumerated in the following article, in which cases the signatory Powers to the present document consider arbitration as obligatory upon them.

Article 10

Upon the ratification of the present document by all the signatory Powers, arbitration will be obligatory in the following cases, so far as they do not concern the vital interests nor national honor of the contracting States:

1. In case of differences or disputes relating to pecuniary damages suffered by a State, or its nationals, as a consequence of illegal actions or negligence on the part of another State or its nationals;

2. In case of disagreement relating to the interpretation or application of the treaties and conventions mentioned below:

- a. Conventions concerning the protection of literary and artistic property as well as industrial property (patents, trade-marks, and trade names); conventions relating to money and measures; conventions relating to sanitation and veterinary surgery, and for the prevention of phylloxera.

- b. Treaties and conventions relating to the posts and telegraphs, railroads and also those bearing upon the protection of submarine telegraph cables, regulations concerning methods to prevent collisions of vessels on the high seas; conventions relating to the navigation of international rivers and interoceanic canals.

- c. Conventions relating to inheritance, exchange of prisoners, and reciprocal assistance in the administration of justice.

d. Conventions for marking boundaries, so far as they concern purely technical and non-political questions.

Article 11

The enumeration of the cases mentioned in the above article may be completed by subsequent agreements between the signatory Parties of the present Act.

Article 12

In all other cases of international disputes, not mentioned in the above articles, arbitration, while certainly very desirable and recommended by the present Act, is only voluntary; that is to say, it cannot be resorted to except upon the suggestion of one of the parties in litigation, made by its own accord and with the express consent and full agreement of the other party or parties.

Article 13

With a view to facilitating recourse to arbitration and its application, the signatory Powers have agreed to define by common agreement the fundamental principles to be observed by the institution, and the rules of procedure to be followed during the examination of the dispute and the delivery of the arbitral decision in cases of international arbitration. The application of these fundamental principles, as well as of arbitral procedure, ...may be modified by special agreement between the States which resort to arbitration.

International Commissions of Inquiry

Article 14

In cases which may arise between the signatory States where differences of opinion with regard to local circumstances have given rise to a dispute of an international character which cannot be settled through the ordinary diplomatic channels, but wherein neither the honor nor vital interests of these States are involved, the interested Governments agree to form an international commission of inquiry in order to ascertain the circumstances forming the basis of the disagreement and to elucidate the facts of the case by means of an impartial and conscientious investigation.

Article 15

These international commissions are formed as follows: Each interested Government names two members and the four members together choose the fifth member, who is also the president of the commission. In case of equal voting for the selection of a president, the two interested governments by common agreement address a third Government or a third person, who shall name the president of the commission.

Article 16

The Governments between which a serious agreement or a dispute under the conditions above indicated has arisen, undertake to supply the commission of inquiry with all means and facilities necessary to a thorough and conscientious study of the facts in the case.

Article 17

The international commission of inquiry, after having stated the circumstances under which the disagreement or dispute has arisen, communicate its report to the interested Governments signed by all the members of the commission.

Article 18

The report of the international commission of inquiry has in no way the character of an award; it leaves the disputing Governments entire freedom either to conclude a settlement in a friendly way on the basis of the above-mentioned report, or to resort to arbitration by concluding an agreement ad hoc, or finally to resort to such use of force as is accepted in international relations.

Appendix XI

Proposition of Sir Julian Pauncefote for a Permanent Court of Arbitration

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920), pp. 813-815)

Article 1

With a view to facilitate immediate recourse to arbitration by States which may fail to adjust by diplomatic negotiations differences arising between them, the signatory Powers agree to organize in manner herein-after mentioned, a permanent "tribunal of international arbitration" which shall be accessible at all times and which shall be governed by the code of arbitration provided by this Convention, so far as the same may be applicable and consistent with any special stipulations agreed to between the contesting parties.

Article 2

For that purpose a permanent central office shall be established at.... where the records of the tribunal shall be preserved and its official business shall be transacted. A permanent secretary, an archivist and a suitable staff shall be appointed who shall reside on the spot. This office shall be the medium of communication for the assembling of the tribunal at the request of the contesting parties.

Article 3

Each of the signatory Powers shall transmit to the others the names of two persons of its nationality who shall be recognized in their own country as jurists or publicists of high character for learning and integrity and who shall be willing and qualified in all respects to act as arbitrators. The person so nominated shall be members of the tribunal and a list of their names shall be recorded at the central office. In the event of any vacancy occurring in the said list from death, retirement or any other cause whatever, such vacancy shall be filled up in the manner hereinbefore provided, with respect to the original appointment.

Article 4

Any of the signatory Powers desiring to have recourse to the tribunal for the peaceful settlement of differences which may arise between them, shall notify such desire to the secretary of the central office, who shall thereupon furnish such Powers with a list of the members of the tribunal from which they shall select such number of arbitrators as may be stipulated for in the arbitration agreement. They may besides, if they think fit, adjoin to them any other person, although his name

shall not appear on the list. The persons so selected shall constitute the tribunal for the purposes of such arbitration and shall assemble at such date as may be fixed by the litigants.

The tribunal shall ordinarily hold its sessions at..., but it shall have the power to fix its place of session elsewhere and to change the same from time to time as circumstances and its own convenience or that of the litigants may suggest.

Article 5

Any Power, although not a signatory Power, may have recourse to the tribunal on such terms as shall be prescribed by the regulations.

Article 6

The Government of ...is charged by the signatory Powers to establish on their behalf as soon as possible after the conclusion of this Convention a Permanent Council of Administration at...to be composed of five members and a secretary.

The Council shall organize and establish the central office, which shall be under its control and direction. It shall make such rules and regulations from time to time as may be necessary for the proper discharge of the functions of the office. It shall dispose of all questions which may arise in relation to the working of the tribunal or which may be referred to it by the central office. It shall have absolute power as regards the appointment, suspension or dismissal of all employees and shall fix their salaries and control the general expenditures.

The Council shall elect its president who shall have a casting vote. Three members shall form a quorum. The decisions of the Council shall be governed by a majority of votes.

The remuneration of the members shall be fixed from time to time by accord between the signatory Powers.

Article 7

The signatory Powers agree to share among them the expenses attending the institution and maintenance of the central office and of the Council of Administration.

The expenses of and incident to every arbitration, including the remuneration of the arbitrators, shall be equally borne by the contesting Powers.

Appendix XII

Convention for the Pacific Settlement of International Disputes

(James Brown Scott, ed. The Proceedings of the Hague Peace Conferences: The Conference of 1899 (New York, 1920) pp. 235-245.)

Animated by a strong desire to work for the maintenance of general peace;

Resolved to promote by their best efforts the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law, and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a tribunal of arbitration, accessible to all, in the midst of the independent Powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of the procedure of arbitration;

Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an international agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Being desirous of concluding a Convention to this effect have appointed as their plenipotentiaries, to wit:

Who, after having communicated their full powers, found in good and due form, have agreed on the following provisions;

Part I-The Maintenance of General Peace

Article 1

With a view to obviating, as far as possible, recourse to force in the relations between States, the signatory Powers agree to use their best efforts to ensure the pacific settlement of international differences.

Part II-Good Offices and Mediation

Article 2

In case of serious disagreement or dispute, before an appeal to arms, the signatory Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

Article 3

Independently of this recourse, the signatory Powers deem it expedient that one or more Powers, strangers to the dispute, should, on

their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers, strangers to the dispute have the right to offer good offices or mediation, even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

Article 4

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

Article 5

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

Article 6

Good offices and mediation, undertaken either at the request of the parties in dispute, or on the initiative of Powers strangers to the dispute, have exclusively the character of advice and never have binding force.

Article 7

The acceptance of mediation can not, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted, unless there be an agreement to the contrary.

Article 8

The signatory Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

In case of a serious difference endangering the peace, the States at variance choose respectively a Power, to which they entrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, can not exceed thirty days, the States in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

Part III-International Commissions of Inquiry

Article 9

In dispute of an international nature involving neither honor nor essential interests, and arising from a difference of opinion on points of fact, the signatory Powers deem it expedient that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an international commission of inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

Article 10

The international commissions of inquiry are constituted by special agreement between the parties in dispute.

The inquiry convention defines the facts to be examined and the extent of the power of the commissioners.

It settles the procedure.

At the inquiry both sides must be heard.

The form and the periods to be observed, if not stated in the inquiry convention, are decided by the commission itself.

Article 11

International commissions of inquiry are formed, unless otherwise stipulated, in the manner determined by Article 32 of the present Convention.

Article 12

The Powers in dispute undertake to supply the international commission of inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with and to accurately understand the facts in question.

Article 13

The international commission of inquiry communicates its report to the Powers in dispute, signed by all the members of the commission.

Article 14

The report of the international commission of inquiry is limited to a finding of facts, and has in no way the character of an award. It leaves to the Powers in dispute entire freedom as to the effect to be given to this finding.

Part IV-The system of arbitration

Article 15

International arbitration has for its object the settlement of disputes between States by judges of their own choice and on the basis

of respect for law.

Article 16

In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the signatory Powers as the most effective and at the same time the most equitable means of settling disputes which diplomacy has failed to settle.

Article 17

The arbitration convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

Article 18

The arbitration convention implies an engagement to submit in good faith to the arbitral award.

Article 19

Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the signatory Powers, these Powers reserve to themselves the right of concluding, either before the ratification of the present act or later, new agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

Chapter II-The Permanent Court of Arbitration

Article 20

With the object of facilitating an immediate recourse to arbitration for international differences which it has not been possible to settle by diplomacy, the signatory Powers, undertake to organize a Permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

Article 21

The Permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special tribunal.

Article 22

An International Bureau, established at The Hague, serves as registry for the Court.

This Bureau is the channel for communications relative to the meetings of the Court.

It has the custody of the archives and conducts all the administrative business.

The signatory Powers undertake to communicate to the International Bureau at The Hague a duly certified copy of any conditions of arbitration arrived at between them and of any award concerning them delivered by a special tribunal.

They undertake likewise to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the awards given by the Court.

Article 23

Within three months following its ratification of the present act, each signatory Power shall select four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrators.

The persons thus selected shall be inscribed, as members of the Court, in a list which shall be notified to all the signatory Powers by the Bureau.

Any alteration of the list of arbitrators is brought by the Bureau to the knowledge of the signatory Powers.

Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers.

The members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a member of the Court, his place is filled in the same way as he was appointed.

Article 24

When the signatory Powers wish to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the arbitrators called upon to form the tribunal competent to decide this difference must be chosen from the general list of members of the Court.

Failing the composition of the arbitration tribunal by direct agreement of the parties, the following course is pursued:

Each party appoints two arbitrators, and these together choose an umpire.

If the votes are equally divided, the choice of an umpire is entrusted to a third Power, selected by the parties by a common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.

The tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court and the names of the arbitrators.

The tribunal of arbitration assembles on the date fixed by the parties.

The members of the Court, in the performance of their duties and out of their own country, enjoy diplomatic privileges and immunities.

Article 25

The tribunal of arbitration sits ordinarily at The Hague. Except

in cases of necessity, the place of session can only be altered by the tribunal with the assent of the parties.

Article 26

The International Bureau at The Hague is authorized to place its premises and staff at the disposal of the signatory Powers for the use of any special board of arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-signatory Powers, or between signatory Powers and non-signatory Powers, if the parties are agreed to have recourse to this tribunal.

Article 27

The signatory Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the parties at variance of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as in the nature of good offices.

Article 28

A Permanent Administrative Council, composed of the diplomatic representatives of the signatory Powers accredited to The Hague and of the Netherland Minister for Foreign Affairs, who will act as president, shall be instituted in this town as soon as possible after the ratification of the present act by at least nine Powers.

This Council will be charged with the establishment and organization of the International Bureau, which will be under its direction and control.

It will notify to the Powers the constitution of the Court and will provide for its installation.

It will settle its rules of procedure and all other necessary regulations.

It will decide all questions of administration which may arise with regard to the operation of the Court.

It will have entire control over the appointment, suspension or dismissal of the officials and employees of the Bureau.

It will fix the payments and salaries, and control the general expenditure.

At meetings duly summoned the presence of five members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the signatory Powers without delay the regulations adopted by it. It addresses to them an annual report on the labors of the Court, the working of the administration, and the expenditure.

Article 29

The expenses of the Bureau shall be borne by the signatory Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

Chapter III-Arbitration procedure

Article 30

With a view to encouraging the development of arbitration, the signatory Powers have agreed on the following rules which shall be applicable to arbitration procedure, unless other rules have been agreed on by the parties.

Article 31

The Powers which have recourse to arbitration sign a special act (compromis), in which are clearly defined the subject of the dispute and the extent of the arbitrators' powers. This act implies an engagement of the parties to submit in good faith to the arbitral award.

Article 32

The duties of arbitrator may be conferred on one arbitrator alone or on several arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present act.

Failing the composition of the tribunal by direct agreement of the parties, the following course is pursued:

Each party appoints two arbitrators, and these together choose an umpire.

If the votes are equally divided the choice of the umpire is entrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.

Article 33

When a sovereign or the chief of a State is chosen as arbitrator, the arbitration procedure is settled by him.

Article 34

The umpire is exofficio president of the tribunal.

When the tribunal does not include an umpire, it appoints its own president.

Article 35

In case of the death, retirement, or disability from any cause of one of the arbitrators, his place is filled in the same way as he was appointed.

Article 36

The tribunal's place of session is selected by the parties. Failing this selection the tribunal sits at The Hague.

The place thus fixed can not, in case of necessity, be altered by the tribunal without the assent of the parties.

Article 37

The parties are entitled to appoint delegates or special agents to attend the tribunal to act as intermediaries between themselves and the tribunal.

They are further authorized to commit the defense of their rights and interests before the tribunal to counsel or advocates appointed by them for this purpose.

Article 38

The tribunal decides on the choice of languages to be used by itself, and to be authorized for use before it.

Article 39

As a general rule arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the tribunal and the opposite party of all printed or written acts and of all documents containing the grounds relied on in the case. This communication shall be made in the form and within the time fixed by the tribunal in accordance with Article 49.

The discussions consist in the oral development before the tribunal of the arguments of the parties.

Article 40

Every document produced by one party must be communicated to the other party.

Article 41

The discussions are under the direction of the president.

They are only public if it be so decided by the tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the secretaries appointed by the president. These minutes alone have an authentic character.

Article 42

After the close of the pleadings, the tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

Article 43

The tribunal is free to take into consideration new papers or documents to which its attention may be drawn by the agents or counsel of the parties. In this case, the tribunal has the right to require the production of these papers or documents, but is obliged to make them known to the opposite party.

Article 44

The tribunal can, besides, require from the agents of the parties the production of all papers, and can demand all necessary explanations. In case of refusal, the tribunal takes note of it.

Article 45

The agents and counsel of the parties are authorized to present orally to the tribunal all the arguments they may consider expedient to the defense of their case.

Article 46

They are entitled to raise objections and points. The decisions of the tribunal on these points are final, and can not form the subject of any subsequent discussions.

Article 47

The members of the tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the tribunal in the course of the discussions can be regarded as an expression of opinion by the tribunal in general, or by its members in particular.

Article 48

The tribunal is authorized to declare its competence in interpreting the compromis as well as the other treaties which may be invoked in the case, and in applying the principles of international law.

Article 49

The tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms and time in which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

Article 50

When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case, the president pronounces the discussion closed.

Article 51

The deliberations of the tribunal take place in private. Every decision is taken by a majority of the members of the tribunal.

The refusal of a member to vote must be recorded in the minutes.

Article 52

The award, given by a majority of votes, must state the reasons on which it is based. It is drawn up in writing and signed by each member of the tribunal.

Those members who are in the minority may record their dissent when signing.

Article 53

The award is read out at a public sitting of the tribunal, the agents and counsel of the parties being present, or duly summoned to attend.

Article 54

The award, duly pronounced and notified to the agents of the parties at variance settles the dispute definitively and without appeal.

Article 55

The parties can reserve in the compromis the right to demand the revision of the award.

In this case, and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact which is of a nature to exercise a decisive influence upon the award and which, at the time the discussion was closed, was unknown to the tribunal and to the party demanding the revision.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The compromis fixes the period within which the demand for revision must be made.

Article 56

The award is binding only on the parties who concluded the compromis.

When there is a question as to the interpretation of a convention to which Powers other than those in dispute are parties, the latter notify to the former the compromis they have concluded. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the award is equally binding on them.

Article 57

Each party pays its own expenses and an equal share of the expenses of the tribunal.

General Provisions

Article 58

The present Convention shall be ratified as speedily as possible. The ratifications shall be deposited at The Hague.

A proces-verbal shall be drawn up recording the receipt of each ratification, and a copy duly certified shall be sent, through the diplomatic channel, to all the Powers that were represented at the International Peace Conference at The Hague.

Article 59

Non-signatory Powers which have been represented at the International Peace Conference may adhere to the present Convention. For this purpose they must make known their adhesion to the contracting Powers by a written notification addressed to the Netherland Government, and communicated by it to all the other contracting Powers.

Article 60

The conditions on which the Powers which have not been represented at the International Peace Conference may adhere to the present Convention shall form the subject of a subsequent agreement between the contracting Powers.

Article 61

In the event of one of the high contracting Parties denouncing the present Convention, this denunciation would not take effect until a year after its notification made in writing to the Netherland Government, and by it communicated at once to all the other contracting Powers.

This denunciation shall have effect only in regard to the notifying Power.

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