concerned will fix the day and place for the meeting of the commission.

"III. That the commission shall be at liberty to request assistance and advice from experts in international law and in land, naval, and aerial warfare.

"IV. That the commission shall report its conclusions to each of the powers represented in its membership.

"Those powers shall thereupon confer as to the acceptance of the report and the course to be followed to secure the consideration of its recommendations by the other civilized powers.'

The chairman asked whether discussion of the resolution was desired. No discussion being desired, the delegations were polled, each voted affirmatively, and the chairman announced that the resolution had been unanimously adopted.

The chairman then asked whether there was any further business.

Mr. Kammerer asked whether it would not be advisable to embody this resolution in the text of the agreement in regard to submarines and the use of poisonous gases in warfare.

Mr. Root said he thought Mr. Kammerer's suggestion might involve a little difficulty in procedure. Under the provisions regarding submarines and gas, the adherence of other powers was to be immediately requested. He thought that it would be unwise to complicate that with this other provision, under which there would be no adherence called for until after a report of the commission and the acceptance of it by the five powers, after which the adherence of other powers would be called for. Provisions which called for no adherence by other powers would thus be put into the treaty, together with provisions which called for immediate adherence.

The chairman said that, if there was nothing further to be done at the present time, and if agreeable to the committee, adjournment might be taken. Of course, as soon as the Naval Treaty was in readiness, the chairman would call a meeting of the committee.

The committee then adjourned, subject to the call of the chair.

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TWENTIETH MEETING—TUESDAY, JANUARY 31, 1922, 3.30 P. M.

PRESENT.

United States.—Mr. Hughes, Senator Lodge, Mr. Root, Senator Underwood, Admiral Coontz. Accompanied by Mr. Wright, Mr. Clark.

British Empire.—Mr. Balfour, Lord Lee, Sir Auckland Geddes, Rear Admiral Sir E. Chatfield, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand).
The twentieth meeting of the Committee on Limitation of Armament was held in the Columbus Room of the Pan American Building on Tuesday, January 31, 1922, at 3.30 p.m.

There were present: For the United States, Mr. Hughes, Senator Lodge, Mr. Root, Senator Underwood, Admiral Coontz; for the British Empire, Mr. Balfour, Lord Lee, Sir Auckland Geddes, Rear Admiral Sir E. Chatfield, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Sastri (for India); for France, Mr. Jusserand; for Italy, Senator Schanzer, Senator Rolandi-Ricci, Senator Albertini, Vice Admiral Baron Acton; for Japan, Admiral Baron Kato, Baron Shidehara, Mr. Hanihara.

The following secretaries and technical advisers were present: For the United States, Mr. Wright, Mr. Clark; for the British Empire, Mr. Christie, Mr. Malkin, Mr. Mousley; for France, Mr. Kammerer, Mr. Ponsot; for Italy, Count Pagliano, Commander Prince Ruspoli, Mr. Bruno Averardi; for Japan, Capt. Uyeda, Mr. Sugimura, Mr. Ichihashi.

The secretary general of the conference, assisted by Mr. Cresson, Mr. Pierrepont, and Mr. Wilson, was present. Mr. Camerlynck (interpreter) was also present.

The chairman, Mr. Hughes, said he was glad to be able to report, from the subcommittee of fifteen which had had in charge the consideration of the proposals relating to the limitation of naval armament, that a conclusion had been reached unanimously and embodied in a proposed naval treaty. He presented the treaty to the committee. It was somewhat long, and he would not attempt to read it. He assumed that it had been considered by each delegation, as it had been passed upon by the chiefs of delegations, with their experts, meeting in the subcommittee of fifteen. Of course, if it was desired by any of the delegates that the treaty should be reviewed at this time, article by article, that course would be taken. If he was right in the assumption that each chief of delegation had been over the treaty with his delegation, the chairman assumed that the committee could at once act upon it. The action he suggested was that the proposed form of treaty, as
passed by the subcommittee of fifteen, which embodied the conclusions reached with respect to the limitation of naval armament, be approved and reported to the conference at the plenary session which would be held the following day. The chairman asked if that course was agreeable.

As all delegations assented, the chairman said it was so ordered.

Mr. Jusserand said:

"Mr. President, I beg leave to submit to the committee a few observations. I should have liked to have presented them some time ago, but circumstances did not permit. There were other questions that came up besides this one of naval disarmament, and it was moreover difficult to explain myself without getting the necessary documents which were not very easy to procure.

"In the course of the last few weeks the country that I have represented in America for nearly 20 years has been censured with extreme severity, and I might use another word. The letters I have been receiving, the articles I have read, the conversations in which I have taken part, all this shows that a very grave misunderstanding is persisting in the minds of many as to the ideas of France, her faith and her aspirations. Many people continue to believe that although we are poor—and we are poor for reasons of which we are not ashamed—although we are poor, that we wanted to establish a great navy composed of big warships. Nothing of the kind. We are thinking only of the future time when that might be necessary, and when we might become less poor, in order that we might resume on the high seas the rank which we have ever held.

"To which I shall add: Of the countries which we expected to approve this ambition, our great maritime neighbor was, in our opinion, to be the foremost, since there are so many chances that our fleet may prove of use to Great Britain, and none I think that it should be harmful to her. In the course of the last hundred years three great wars have taken place in the world in which the British and French fleets have participated, and in these three wars they fought side by side for the same cause. Can anything different be imagined? We do not think so, we of France. And even if our English friends adopted a different opinion, we would not change ours.

"But the chief blame aimed at us has had for its cause the question of the submarines. People continue to be persuaded that we have a passion for these loathed machines and want to use them German fashion. All this is chiefly grounded on remarks made by the First Lord of the Admiralty at the sitting of December 30; they had an immense effect, still lasting, and were very hurtful to us. They were based on an article by Commander Castex, published in January, 1920, which is now famous but was not before, and I had trouble to find a copy to read."
"I have done so and found that, as for the tone of the article, it is rather paradoxical. The author passes sweeping judgments on many men and problems, and there are a number of points on which I disagree with him. He obviously finds pleasure in upsetting commonly prevailing ideas; he generously distributes blame to many, to the English, to the Germans, to the French.

"As to the substance of the article, its purpose—which could not be suspected from the extracts read to this committee—is to show the uselessness of privateering and "guerre de course" under any form, unless the country that has recourse to it is in actual possession of the high seas, through the number and force of her main ships. The author glances at the past, examines the fate of the great perturbers of the peace throughout ages, who thought they could win through their corsairs. But they lost the game. Whether they used wood or steel ships, sailing vessels or steamships, surface or submarine vessels, all under the same delusion, lacking a big fleet, they failed. He quotes the example of Louis XIV, of Napoleon the First, of the South in the Civil War, and lastly of the Germans in the great war, concluded by our common victory.

"Such is the purpose of the article. The quotations made from it by Lord Lee had for their object, I take it, to prove against Commander Castex, and as a consequence against our naval authorities, not to say against France herself, four things:

"First, that Capt. Castex is in favor of the hated submarine, the suppression of which is demanded by Great Britain from motives of humanity. Capt. Castex's belief is, as I have said, that the submarine may be useful to those who hold the mastery of the seas, an opinion which is not unfavorable to Great Britain. He is not, moreover, the only one to think that this device must continue to exist. In support of this assertion I beg to quote an authority which certainly our British friends will not decline to accept.

"'To go to the other extreme, as was suggested in some quarters after the armistice, and prohibit submarines altogether, is an equally unacceptable proposal. It is clear that, as in the case of mines, the weaker naval States would never consent to forego the right to employ such a useful defensive weapon as the submarine. Moreover, the idea of submersible warships is still comparatively new, and future developments may entirely change the aspect of this question. The only reasonable attitude to adopt is to insist that such vessels shall be subject to the same rules of warfare as any other type of warship.'

"This is drawn from the Law of Naval Warfare by J. A. Hall, lecturer on international law to admirals' secretaries' course, Portsmouth, second edition, London, 1921, p. 77."
"Second, Commander Castex is charged with seeing in the submarine a weapon for France—for ungrateful, therefore, and perfidious France—to smash the naval power of her present ally Great Britain. Lord Lee quoted a paragraph as follows:

"Thanks to the submarine, after many centuries of effort, thanks to the ingenuity of man, the instrument, the system, the martingale is at hand which will overthrow for good and all the naval power of the British Empire."

"Lord Lee then spoke as follows:

"I have quoted this because, as I say, they are the utterances of a responsible member of the French naval staff, who at the time of writing was in a high position and was the actual head of a bureau.

"These things are known to our naval staff of course; indeed they were published to the world under the authority of the French naval staff."

"The words 'will overthrow for good and all the naval power of the British Empire,' are not the words of a Frenchman, nor words that any Frenchman would approve. The quotation as given by Lord Lee began by three words indispensable for the understanding of the whole, which he did not include. They were: 'This is the way the Germans are reasoning.' Commander Castex was citing the point of view of the Germans, not the point of view of the French. The mistake is the more difficult to understand since not once but twice Commander Castex took the same precaution, saying on the preceding page: 'For our enemies these ships did represent, or at least they thought so, the new engine, the technical and material upsetting that was going to make every old teaching obsolete.'

"More than that, the very title of the article leaves no doubt as to its purport. In its complete form, which had not been quoted, it reads, 'Synthesis of submarine warfare—Characteristics of the German submarine warfare.' If, therefore, on account of those lines of Commander Castex cause for anxiety is found about something, it must be about the German enemies and not the French friends of Great Britain.

"Third, Commander Castex has been represented as approving of the infamous use made of submarines by Germany. All should be at a loss to understand how this claim could have been made, since the French officer expressed himself formally, clearly, and peremptorily in the opposite sense. After having said that the Germans could not be blamed simply because they used the submarine, he adds: 'The only reproach that can be set up against them is to have too frequently and in too many particular cases smeared their flag by conducting submarine warfare with barbarity and with an aggravation of odious acts. A useless and, moreover, a stupid cruelty, for it served in no way the pur-
pose of the war, and because in the end it turned against their own interest by raising against them the unanimous condemna-
tion of the conscience of the civilized people of the world.'

"Am I not entitled to maintain not only that Commander Castex was not approving of these German ways and means but that he expressly condemned them?

"Commander Castex was also stated by Lord Lee to have made his own the views of Admiral Aube (a man of wild theories, whom I have well known, who, desiring the end of all wars, fancied that the ruthless use of torpedo boats would bring that to pass), but Commander Castex did not approve those views, he just blamed them, a difference worth noting.

"Fourth, it has also been said that Commander Castex was probably teaching in the French naval schools the theories thus attributed to him; and it has been said in such unkind and cruel words that my heart is still bleeding at the thought of them. Those words were as follows:

"'Now, this officer, who is appointed principal lecturer to the senior officers' course, will, no doubt, unless a change of policy takes place, be pouring what we regard as this infamy and this poison into the ears of the serving officers of the French navy.'

"The answer to this," Mr. Jusserand continued, "is twofold and simple enough. There is no need for us to change our policy. Commander Castex can not teach what has been called that infamy, first, because he detests it; second, because his course of lectures has nothing to do with submarines, his subject being the organization of the general staff.

"The subject is so grave that I want to let you know what is actually taught in French naval schools as to the submarine and the German way of using it. The following extract will enlighten you:

"'The submarine weapon has turned round against the raving maniacs who employed it and Germany's misfortune came not only from the defeat of her land armies, but in a very large measure from the incomprehension of those who, in her camp, have ordered it.

"'The privateers' war is forbidden in the form which has been given it by the Germans. That the Germans may have considered the most solemn engagements as scraps of paper is their business. But it does not behoove Frenchmen to follow such shameful examples. The life of human societies, like that of men, rests on good faith, and the French have too often shown other people how loyal one should be to give up now, under the effect of surprise caused by the submarine war, give up what has been their glory in the past and may be again, I am persuaded, their force in the future.'
"It has been said," continued Mr. Jusserand, "that the article of Commander Castex was well known to the British naval staff. May I express regret that such lessons as are being given by Capt. Laurent, the author of the passage I have just quoted, and the subject of whose lectures is naval strategy, have apparently remained unknown to the same staff. The lesson I quoted can not be supposed to have had anything to do with the present discussion, for it was taught on June 1, 1920, and appears in Commander Laurent's printed text, volume II, page 107.

"In conclusion, I believe I am justified in saying that neither the infamy wrongly ascribed to Commander Castex nor any other is taught or ever shall be taught in any of those French naval schools from whence come the comrades of war that have fallen of late by the side of American and British officers and those of the other allied nations; nothing of the kind has ever been taught and never shall be.

"I beg to add one word. In the session of the 23d of December the chief of the British delegation—to whom I am bound by a friendship so ancient that since we began to know each other people were born who had time to grow up and cover themselves with glory in the course of the last war—mentioned that Great Britain alone was sufficiently equipped to combat submarine warfare, thanks to her gallant coast population, her fishermen, so expert in everything that concerns life at sea; and he said that Great Britain had used 3,676 submarine chasers, to the immense advantage of France, who had only 257, and that should the necessity ever again arise Great Britain would have to protect France again. On this point I collected information and found that at the beginning of the war all who could bear a rifle were sent to the front, and a good many of our sailors and fishermen are now sleeping their last sleep, not in the sea or along the coast, but in the trenches, facing north or east, facing Belgium and Alsace.

"When the pitiless submarine war was started by Germany we set to work and did our best to meet this new danger, helping ourselves and the common cause. We are still filled with admiration for England's sailors. All the world knows of our feelings for those gallant and heroic men at home, on the sea; a model of all nations. From common testimony, however, our population also, our Bretons and Normans, Gascons and Provencals did creditably, and they manned in the perilous waters of western or southern Europe not 257 ships but over 1,300.

"Our British friends, who live in a country of fair play while we live in the country of 'franc jeu,' will not find it amiss if I have found it necessary to present these few remarks. It is because we attach so much value to the friendship and considera-
tion of the great people that the British are that I have thought these rectifications indispensable."

Lord Lee said he was not aware that the matter just discussed was to be raised at that time, and therefore he was not in a position to reply in the detailed way which might have been possible if he had had with him the relevant papers or the actual articles to which Mr. Jusserand had referred. In any case, he did not think it would be necessary, in what he had to say, to take up point by point the various criticisms which Mr. Jusserand was good enough to make of his previous speech, and which Lord Lee took, if he might say so entirely in good part. He regarded Mr. Jusserand, of course, as fully justified in putting forward the opposite view. Still less had Lord Lee any desire to resurrect a controversy which could in any way impair the good relations which existed and which he hoped would always exist between their two countries.

He had to confess, however, that he was a little surprised at what seemed to him the whole-hearted and almost vehement defense which Mr. Jusserand had undertaken of the article which had been written by Commander Castex. It was true that Mr. Jusserand had said, at the commencement of his remarks, that there were certain passages with which he did not agree, but Lord Lee thought Mr. Jusserand would also admit that the burden of his speech that afternoon had been substantially a defense of the theories and the attitudes taken up by Capt. Castex in his article. He did not know whether his colleagues had all had an opportunity to read the article as a whole, but whatever might be the opinion with regard to this or that individual passage—and he would come to that in a moment—there could be no question whatsoever that the main thesis of the article, that its main purpose was, in the first place, to point out that the characteristics of German submarine warfare, that is to say, "unlimited submarine warfare," were inevitable in the circumstances of the late war and that the critics who denounced them were really taking up an unreasonable and almost absurd position. Capt. Castex ridiculed the objections to these methods of warfare, and even went so far as to claim that they had originated on the French side of the Rhine, like, as he said, so many other good ideas which the Germans had adopted. That was the general tone and the whole tenor of the article.

He could not believe, although his knowledge of French naturally did not equal that of M. Jusserand's, that there was any other possible interpretation of the whole spirit of the article, however full it might be of paradoxical observations. He suggested that it was a very dangerous thing to indulge quite so liberally in paradoxes on such a subject as this distinguished
Differences of Opinion.

Naval authority appeared to have done. It led to ambiguities and to misunderstandings, possibly of a very serious character.

His main point was—and he was prepared, of course, if he had misrepresented any particular passage or the bearing of any particular passage—to withdraw any observation that he might have made upon it; but he did not withdraw for one moment the general feeling of condemnation and horror which he thought anyone reading the article as a whole must have felt for the views which Capt. Castex there expressed—and championed. He was glad to see, moreover, that they were condemned by no one in more vigorous terms than by Capt. Castex's brother officer, Admiral de Bon, who described them as "monstrosities"—that was his phrase, if he recalled it aright; and it was almost as promptly, at any rate on the first opportunity, repudiated in the most formal manner by M. Sarraut, speaking on behalf of the French Government. It was, therefore, expressly condemned in the first place by the great service to which Capt. Castex belonged, and secondly, by the accredited representative of the French Government.

Directly that was done, Lord Lee took the first opportunity, here in this room, of accepting, in the most whole-hearted way, the repudiation by the French Government of the article and the sentiments contained in it. He further expressed the hope that the incident would be regarded as satisfactorily closed; and was so given to understand in the reply which M. Sarraut was good enough to make on that occasion.

Not having the article here, and not knowing the subject was coming up this afternoon, Lord Lee was not in a position to analyze the particular passages which M. Jusserand had just quoted, but his own view was that although some of them may possibly have been conceived in the spirit of paradox, they are also ambiguous, and that whatever might be M. Jusserand's view of them, from reading the article, Lord Lee could not conceive any doubt whatsoever as to what was in the mind of Capt. Castex, and that was that he was a whole-hearted supporter of the necessity of the German system of unlimited submarine warfare, which had been stigmatized as piracy by this conference in the formal resolutions proposed by Mr. Root.

M. Jusserand made it a further cause of offense that he, Lord Lee, suggested that Capt. Castex might be teaching these views to the officers' course, of which he has been appointed a principal lecturer. Well, if an officer held views of that character, which Capt. Castex thought of sufficient importance, and which were deemed of sufficient importance to be published in the representative service technical publication "under the authority of the general staff"—although they were careful in all such cases to say they did not necessarily take responsibility for what was
said—it was a fair assumption that, holding those views, and hav­
ing expressed them so prominently, Capt. Castex should continue
to expound them to the officers to whom he lectured in the course
of his duty. Lord Lee was very glad to know that such was not
to be the case, as it obviously could not now be the case, in view
of both the professional and the political repudiation of those
views by the Government under which Capt. Castex served.

He said that M. Jusserand had then spoken of another matter.
He had talked of the part that France had played in the late war
on the seas. No one who had not, like Lord Lee, had the honor of
representing the British Admiralty, could know what a great part
France had played, to the utmost limit of her ability. Nothing,
the speaker said, was further from his intention, or that of Mr.
Dalfour, than to suggest the smallest reproach of France for not
having been able, with all her other obligations, to put forth a
greater effort for the suppression of the submarine. All knew she
did her utmost. But this must be said in regard to the late con­
troversy on the submarine; The situation of the late war might
occur again in years to come. In that war practically the whole
burden of dealing with the submarine menace which had affected
France, as it had affected Great Britain, was thrown upon the
latter power. He remembered Admiral de Bon saying that no one
could recall without profound emotion the sacrifices, burdens, and
anxieties that were thrown upon Great Britain as the result of
that submarine campaign. In these circumstances, and knowing
how nearly that campaign had succeeded, he must remind France
that Great Britain might not be in a position to do it again,
and to put forth another effort sufficient to defend both France
and herself. He had therefore ventured to urge, in the interest of
both their countries, that submarines should be suppressed al­
together, because without that suppression that perilous situation
might recur.

That was the main, and the stated, reason for the desire of the
British to abolish submarines, and that was why the British Em­
pire delegation regretted so deeply that France, knowing all the
circumstances, should have refused their request and should have
insisted upon forcing this intolerable burden upon them in a
future war, if the circumstances should recur.

Lord Lee did not want to embark upon what might be con­
sidered a controvers'onal reply to M. Jusserand about France's
desire not to increase her naval armaments. He knew nothing
of the desire or motives of France in that matter. All the British
Empire delegation said was that as a matter of fact France was
proposing to treble her existing fleet of submarines. They ob­
jected strongly to that, and they had stated their objections,
and they did not wish, on this occasion, to enlarge upon them
DISCUSSION OF FRENCH POSITION.

again. They, on the other hand, desired in every way to limit armament. They had reduced their own navy drastically, at this conference, and had gone further, since the commencement of the conference, to show their good will and their desire to assist France and to relieve her from these unnecessary burdens. They had offered her a guarantee by the whole of their armed forces by land, sea, and air, to protect her against any aggression on her coasts. They had done everything that was possible in that way to show their good will and good faith, and they had desired in all these matters to work with and to assist France. Therefore, he would say as a final word, and with an apology to his colleagues for having detained them so long, that he desired from the depths of his heart to see not only maintained but improved the good relations that existed between Great Britain and her great neighbor across the Channel, and it was the desire of his country, and certainly his own desire, that no word should be said that could in any way impair that good feeling. He hoped, just as his French friends and Allies hoped, that Great Britain and France should go forward together in these matters, not only as friends and Allies, but hand in hand for the reconstruction of Europe and civilization.

Mr. Jusserand said "I shall say only one word. I note with profound satisfaction the last remark made by the First Lord of the Admiralty. With that I agree from my heart and I may assure him that all my compatriots will. But I can not admit the statement that if the submarine be preserved it is owing to France; one more of those many unpleasant things reported as having been caused by France, when such is not the case. As a matter of fact the vote against the British proposal was unanimous, including the United States, both through their delegation and their unanimous advisory committee. Lord Lee has again spoken of our intention of building a large number of submarines. We shall in reality build them or not in accordance with our needs and our means. That Commander Castex really condemned the submarine, German fashion, I can not better prove than by reading again the passage quoted a moment ago."

Lord Lee interrupted to say: "I only say he cited those special occasions as having spoiled the German case, which he otherwise thought was a good one."

Mr. Jusserand then remarked "I don't understand it that way," and continued with his speech:

"What I said of the paradoxical disposition of Commander Castex referred chiefly to his sweeping historical remarks, like those on 'perturbers' being represented as always mystical. I do not believe Napoleon was, nor Julius Caesar. As for the condemnation of Commander Castex by Mr. Sarraut and Admiral
de Bon, both condemned what was unexpectedly quoted of him, neither knowing then the real text. But I do not desire to insist. With Lord Lee, I am ready to leave the question to the judgment of our colleagues when they have a chance of reading the whole article under discussion. Allow me to close by repeating that, of the words uttered in this controversy, the last pronounced by Lord Lee are the ones which I chiefly want to remember."

The chairman called attention to the fact that there was still one matter which, perhaps, might be passed upon that afternoon. He brought this before the committee, knowing the general desire to conclude its work and hoping to assist, if possible, in attaining that end. This was a draft of a proposed treaty which embodied the resolutions previously adopted with respect to submarines and poison gas. He understood that the French text had received the approval of Mr. Kammerer of the French delegation.

Inasmuch as this treaty contained nothing new, the substantive matter being the resolutions which had been adopted and the formal matters being conventional, he would, with the committee's consent, read it. If the committee should desire to take it under further consideration, that would be done. If not, perhaps the committee would authorize its presentation at the plenary session the following day.

The chairman then read the draft treaty, as follows:

"The United States of America, the British Empire, France, Italy, and Japan, hereinafter referred to as signatory powers, desiring to make more effectively the rules adopted by civilized nations for the protection of the lives of neutrals and noncombatants at sea in time of war, and to prevent the use in war of noxious gases and chemicals, have determined to conclude a treaty to this effect, and have appointed as their plenipotentiaries (and so forth).

"Who, having communicated their full powers, found in good and due form, have agreed as follows:

"I.

"The signatory powers declare that among the rules adopted by civilized nations for the protection of the lives of neutrals and noncombatants at sea in time of war, the following are to be deemed an established part of international law:

"(1) A merchant vessel must be ordered to submit to visit and search to determine its character before it can be seized.

"A merchant vessel must not be attacked unless it refuse to submit to visit and search after warning, or to proceed as directed after seizure."
“A merchant vessel must not be destroyed unless the crew and passengers have been first placed in safety.

“(2) Belligerent submarines are not under any circumstances exempt from the universal rules above stated; and if a submarine can not capture a merchant vessel in conformity with these rules the existing law of nations requires it to desist from attack and from seizure and to permit the merchant vessel to proceed unmolested.

“II.

“The signatory powers invite all other civilized powers to express their assent to the foregoing statement of established law so that there may be a clear public understanding throughout the world of the standards of conduct by which the public opinion of the world is to pass judgment upon future belligerents.

“III.

“The signatory powers, desiring to insure the enforcement of the humane rules of existing law declared by them with respect to attacks upon and the seizure and destruction of merchant ships, further declare that any person in the service of any power who shall violate any of those rules, whether or not such person is under orders of a governmental superior, shall be deemed to have violated the laws of war and shall be liable to trial and punishment as if for an act of piracy and may be brought to trial before the civil or military authorities of any power within the jurisdiction of which he may be found.

“IV.

“The signatory powers recognize the practical impossibility of using submarines as commerce destroyers without violating, as they were violated in the recent war of 1914–1918, the requirements universally accepted by civilized nations for the protection of the lives of neutrals and noncombatants, and to the end that the prohibition of the use of submarines as commerce destroyers shall be universally accepted as a part of the law of nations they now accept that prohibition as henceforth binding as between themselves and they invite all other nations to adhere thereto.

“V.

“The use in war of asphyxiating, poisonous, or other gases, and all analogous liquidds, materials, or devices, having been justly condemned by the general opinion of the civilized world and a prohibition of such use having been declared in treaties to which a majority of the civilized powers are parties,
"The signatory powers, to the end that this prohibition shall be universally accepted as a part of international law, binding alike the conscience and practice of nations, declare their assent to such prohibition, agree to be bound thereby as between themselves, and invite all other civilized nations to adhere thereto.

"VI.

"The present treaty shall be ratified as soon as possible in accordance with the constitutional methods of the signatory powers and shall take effect on the deposit of all the ratifications, which shall take place at Washington.

"The Government of the United States of America will transmit to all the signatory powers a certified copy of the process-verbal of the deposit of ratifications.

"The present treaty, in French and in English, shall remain deposited in the archives of the Government of the United States of America, and duly certified copies thereof will be transmitted by that Government to each of the signatory powers.

"VII.

"The Government of the United States of America will further transmit to each of the nonsignatory powers a duly certified copy of the present treaty and invite its adherence thereto.

"Any nonsignatory power may adhere to the present treaty by communicating an instrument of adherence to the Government of the United States of America, which will thereupon transmit to each of the signatory and adhering powers a certified copy of each instrument of adherence.

"In faith whereof the above-named plenipotentiaries have signed the present treaty.

"Done at the city of Washington the ——— day of February, 1922."

The chairman stated that this was not presented for discussion at this time. It had been drawn by Mr. Root, and the chairman understood that it followed the text of the resolutions precisely, except in conventional matters, such as the introduction and conclusion. If any delegates desired this to be held over, it would be held over. If, however, the committee was ready to have it go in in that form, it would be presented at the next plenary session and that much more would be out of the way.

He asked the pleasure of the committee.

Mr. Balfour said that he was much embarrassed about this. He agreed, of course, to the substance of all the chairman had read. There was a question, however, that he would like to ask
Mr. Root. He asked if that would be in order and was assured that it would.

Continuing, Mr. Balfour said the question had been raised that morning at a meeting of the British delegation, and the point was this: The proposed treaty seemed to be perfectly clear and satisfactory as between the powers represented at this table. The difficulty was as follows: He was afraid it was very easy to conceive a case in which, for instance, one of the five powers represented around this table might be at war with another signatory power having as an ally some nation not agreeing to the treaty. An ambiguous and difficult situation would result. He would like Mr. Root’s opinion upon a point which seemed, at least to some of his friends, not to be without difficulty and embarrassment. The apparent difficulty would be almost unthinkable. It would mean one of these countries represented at this table being at war with another power at the table, who had an ally not represented at the table. He did not mean to press the matter, but he was given to understand that that was a point that was in the minds of many. He did not think it had received much consideration, and as the treaty would have to run the gauntlet of many severe criticisms, like other treaties, he would like to know what Mr. Root’s advice on the point was.

Mr. Root said he thought that was one of the things which it was quite impossible to provide for in the treaty. No agreement could be made in the application of which questions would not arise in the future. If the members of the committee were to try to guard against all conceivable situations to which this agreement between them was to be applied, they would make a treaty as long as the moral law. Now, they were making this treaty between themselves and they must assume that it would be carried out in good faith. If another power that was not bound by the treaty should come along and create a situation to which the treaty did not apply, then it would not apply; but that would have to be determined by the conditions and the facts as they arose. He could not believe that there would be any real embarrassment.

Mr. Balfour said that he would not press the matter.

Senator Schanzer stated that the Italian delegation shared the anxieties to which Mr. Balfour referred, and he thought that he had raised very opportune the question concerning the execution of the treaty in the case of war with a power which had neither signed nor adhered to the treaty itself. If one of the five great signatory powers should find itself in war with another of the five signatory powers and the latter should be allied with a nonsignatory or nonadherent power, it was clear that the first-
mentioned power could not afford to find itself bound by the duties imposed by the treaty. In effect, the nonsignatory or nonadherent powers would be free to make unlimited use of submarines, poisonous gases, etc., and would do it not only in its own interest, but also in the interest of the great powers to which it was allied. He wished to repeat that in these conditions it was clear that the execution of the provisions of the treaty would cease to be effective. He could agree with Mr. Root that it was not absolutely indispensable to provide for this case by a special stipulation in the treaty, but it was nevertheless desirable that the interpretation given to-day should be registered in the minutes of the committee.

The chairman stated that what had been said would be recorded in the minutes. He asked if the committee was ready to act upon the treaty and to accept it for submission at the next plenary session. All assented, and he declared further that the treaty was accepted and that course would be taken.

He then asked if the committee would consent to adjourn, so that a meeting of the Far Eastern committee might be held.

Sir John Salmond said he would like to raise one question before adjournment; that was whether these two treaties were to be given any distinguishing title or name by the committee. There were to be a number of treaties, and there ought to be some method of referring to them in public and of distinguishing them.

The chairman said that had been considered and it was thought inadvisable to put in the treaty anything like a popular name; but the treaties would be given names by the public just the same. Of course, already there was the name "The Four Power Treaty." There was the preamble which expressed the purpose of the treaty, to reduce the burdens of competition in naval armament. Of course, there would be the naval armament treaty and then the submarine treaty, as he supposed it would popularly be called. In other words, while it might not be just the thing for the committee to designate the treaties by any popular name, some appropriate name for them would undoubtedly be adopted.

He suggested that the committee might leave it to the public to name them.

Sir John Salmond thought the committee should not leave it to the public to name the treaties, but should name them itself, and asked if there was any objection to adding a subclause giving them a recognized name, or to effecting the same purpose by a resolution of the committee, that this should be known as so-and-so; for instance, the "Naval Treaty of Washington," and the second treaty as the "Declaration of Washington," not as the
submarine treaty, but as the “Declaration of Washington,” corresponding to the Declaration of Paris or the Declaration of London. In the same way the treaty with respect to the Pacific might be appropriately termed the Washington-Pacific treaty rather than the four power treaty or the four power pact, or some other popular name or misnomer that the newspapers might choose. He suggested that the committee itself ought to take the responsibility of naming and christening its work.

The chairman said that to bring this to a point—and he did not desire to be considered as hurrying the committee, but he was under obligation to release certain delegates as soon as possible—he would assume that Sir John Salmond had moved that the first treaty be regarded as the “Naval Treaty of Washington,” and asked if the committee was ready to act upon it.

Senator Schanzer stated that he did not agree with Sir John Salmond’s view that it was a tradition to give a name to a treaty, but that a treaty was named by the place, the date, and the parties that took part. It seemed to him there was no necessity for christening them, or at least it was not done in other countries.

The chairman said he understood that the Italian delegation voted “No” on the proposal of Sir John Salmon. (Senator Schanzer indicated that the chairman’s understanding was correct.) This was a tribunal—and he had in mind a legal friend who, he knew, would like to be a member of such a tribunal—where the dissenting opinion was the prevailing opinion. He declared the motion lost. He added that whether the committee resolved or did not resolve, these treaties would be named, and all the members of the committee could do, in his opinion, was to be as good prophets as possible in trying to hit the names that the public would adopt.

The committee then adjourned subject to the call of the Chair, and the chairman asked the Committee on Pacific and Far Eastern Questions to assemble.

TWENTY-FIRST MEETING—FRIDAY, FEBRUARY 3, 1922, 5.40 P. M.

PRESENT.

United States.—Mr. Hughes, Senator Lodge, Mr. Root, Senator Underwood. Accompanied by Mr. Wright.

British Empire.—Mr. Balfour, Lord Lee, Sir Auckland Geddes, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Satri (for India). Accompanied by Mr. Christie, Mr. Bajpai.