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third resolutions as well as the resolution with regard to the tonnage of individual auxiliary craft, the committee was awaiting the receipt of instructions by certain of the delegations, and that as soon as the committee could take them up, the chair would call a meeting for that purpose. There was also the subcommittee dealing with the first resolution, as to submarine warfare, and whenever that committee was ready to report the chair would be advised.

In conclusion, the chairman, at the request of Mr. Root, announced that there would be a meeting of the subcommittee to which the first resolution regarding the rules of international law covering submarine warfare had been referred, on Saturday morning, December 31, at 11 o'clock in the Governors' Room, to which each member might bring any expert or experts he might desire.

The chairman assumed that there would be no objection to making public all that had been said at this meeting.

The committee then adjourned at 4.45 p. m., subject to the call of the chair.

FIFTEENTH MEETING—THURSDAY, JANUARY 5, 1922, 3.30 P. M.

PRESENT.

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

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). Accompanied by Sir Maurice Hankey, Capt. Domvile, Mr. Flint, Mr. Mousley.

France.—Mr. Sarraut, Mr. Jusserand, Admiral de Bon. Accompanied by Mr. Kammerer, Mr. Denaint, Mr. Ponsot, Capt. Odend'hal, Commandant Frochot.

Italy—Senator Schanzer, Senator Rolandi-Ricci, Senator Albertini, Vice Admiral Baron Acton. Accompanied by Marquis Visconti-Venosta, Count Pagliano, Commander Prince Ruspoli.

Japan.—Admiral Baron Kato, Mr. Hanihara, Vice Admiral Kato, Capt. Uyeda. Accompanied by Prof. Tachi, Mr. Sugimura, Mr. Shiratori, Mr. Ichihashi.

The secretary general, accompanied by Mr. Cresson and Mr. Osborne.

Interpreter, Mr. Camerlynck.

1. The fifteenth meeting of the Committee on Limitation of Armament was held in the Columbus Room of the Pan American Union Building on Thursday, January 5, 1922, at 3.30 p. m.

2. There were present: For the United States, Mr. Hughes, Senator Lodge, Mr. Root, Colonel Roosevelt, 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. Sarraut, Mr. Jusserand, Admiral de Bon; for Italy, Senator Schanzer, Senator Rolandi-Ricci, Senator Albertini, Vice Admiral Baron Acton; for Japan, Admiral Baron Kato, Mr. Hanihara, Vice Admiral Kato, Captain Uyeda.

3. The following secretaries and technical advisers were present: For the United States, Mr. Wright, Mr. Clark, Mr. MacMurray; for the British Empire, Sir Maurice Hankey, Capt. Domvile, Mr. Flint, Mr. Mousley; for France, Mr. Kammerer, Mr. Denaint, Mr. Ponsot, Capt. Odend'hal, Commandant Frochot; for Italy, Marquis-Venosta, Count Pagliano, Commander Prince Ruspoli; for Japan, Prof. Tachi, Mr. Sugimura, Mr. Shiratori, Mr. Ichihashi.

The secretary general, assisted by Mr. Cresson and Mr. Osborne, was present. Mr. Camerlynck, interpreter, was also present.

The Chairman, Mr. Hughes, said that the committee had met to continue the discussion of the resolutions which had been proposed relating to submarine warfare for the use of submarines in war. He suggested, in order that the committee might proceed as expeditiously as possible, that it take up the first of these resolutions for the purpose of discussing it separately and not for the purpose of discussing what might be embraced in other resolutions.

The chairman said that this first resolution purported to state existing international law. It had already been discussed at considerable length, and the matter had been referred to a subcommittee on draft to consider such verbal changes as might be found advisable in order to express succinctly but with complete accuracy the existing principles of law upon the subject to which the resolution referred.

The chairman then asked Mr. Root to present the resolution in the form upon which the drafting subcommittee had agreed.

Mr. Root said that in presenting the resolutions referred to it the subcommittee had divided what was included under No. 1 into two parts, making Resolutions I and II.

Mr. Root then read the first two resolutions, as follows:

"I. The signatory powers desiring to make more effective the rules adopted by civilized nations for the protection of the lines of neutrals and noncombatants at sea in time of war, declare that among those rules 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."

Mr. Root stated that the subcommittee had agreed unanimously on these two resolutions but that Senator Schanzer had requested that the following entries be made in the minutes of the subcommittee:

"It is declared that the meaning of article 2 is as follows: Submarines have the same obligations and the same rights as surface craft."

And:

"With regard to the third paragraph of article 1, it is understood that a distinction is made between the deliberate destruction of a merchant vessel and the destruction which may result from a lawful attack in accordance with the rules of the second paragraph. If a war vessel under the circumstances described in paragraph 2 of article 1 lawfully attacks a merchant vessel, it can not be held that the war vessel, before attacking, should put the crew and passengers of the merchant vessel in safety."

The chairman stated that the question before the committee was the adoption of this resolution, which, as now formulated, was in two sections. He supposed there would be no special point raised by the second section; but possibly, as there were two distinct sections, it might be well to deal with them separately. Therefore he would present for consideration the first provision as read by Mr. Root. The chairman then read Resolution I as given above.

The chairman asked Mr. Root whether it was the intention in Mr. Root's report to have the declaration made by Senator Schanzer as a part of the recommendation of the subcommittee.

Mr. Root replied that Senator Schanzer had merely asked that that entry be made in the minutes.

Senator Schanzer stated that the Italian delegation accepted Resolution I but that, so far as they were concerned, the application of the resolution was subject to the two statements made by him in the subcommittee as entered on the minutes of the first meeting (Dec. 31, 1921) of the subcommittee of five on drafting and as just read by Mr. Root.

Senator Schanzer stated, in addition, that the Italian delegation understood the term "*merchant vessel*" in the resolution to refer to *unarmed merchant vessels*.

Mr. Hanihara said that he wished to suggest that the word "seize" should be substituted for "capture" in the last paragraph.

Mr. Root, replying to Mr. Hanihara, said that the subcommittee understood the word "capture" to describe the whole process, one step of which was *seizure*, and that it was intended to make the term "capture" comprehensive.

Lord Lee said that there were only two points to which he wished to draw attention. The object of the signatory powers was stated to be to make more effective rules for the protection of the lives of neutrals and noncombatants at sea in time of war. So far as submarines were concerned, the resolution was a step in that direction. Having stated the principle, however, there appeared to be one serious omission in carrying it out, inasmuch as no provision was made for dealing with attack by aircraft. If it were impossible for a submarine to make provision for the safety of the passengers and crew, a fortiori, this was still more impossible for aircraft. Hence, if the committee were to lay down principles, it ought also to provide that in article 2 the words "and aircraft" should be inserted after the first two words "belligerent submarines," and also in the third line the words "or aircraft" should be added after "a submarine." Otherwise the committee would be permitting a peculiarly inhumane method of warfare, namely, attack on merchant ships by aircraft armed with torpedoes. That was the first point and perhaps it would be best to deal with that separately.

The chairman said he did not desire to press upon the committee a mere question of procedure, but he felt it was very important in the interest of progress that the committee should make its procedure as simple and as definite as possible. As the committee knew, a subcommittee on aircraft had been appointed, to consider the number and use of aircraft, and other questions which would naturally engage the attention of the delegates in relation to aircraft. He greatly feared that, if the question of aircraft were brought into this discussion, it would be very difficult to proceed to a solution of either question. He had no desire to forestall in any way the discussion of the important question raised by Lord Lee, but he suggested to the committee that possibly a separate discussion of the matter of aircraft might be useful,

unless Lord Lee intended to press the point that there should be no statement of the law relating to submarines unless some restriction were put upon the use of aircraft. That would make the proposition clearly germane. But, if it were not intended to go so far as that, the chairman hoped that the matter of aircraft, which presented difficulties of its own, would be reserved for a separate discussion. The chairman hoped Lord Lee would pardon him for this suggestion, but it was made merely in the interest of expedition.

Lord Lee said he certainly had no intention that the first resolution should not be adopted unless aircraft was dealt with therein. It would be improper to take such a stand. He had thought, however, that this would be the most convenient method of dealing with the question of aircraft, since the rules for submarines were applicable also to the latter. If, however, aircraft were to be dealt with in a separate discussion, he would not object to the procedure proposed by Mr. Hughes. He had only wished to draw attention to what appeared to him a very serious omission. If it was the general desire to deal with aircraft separately, he would not wish to contest it.

The chairman stated that it was quite impossible, of course, to forecast the result of a discussion with regard to the use of aircraft. There might be questions pertaining to aircraft of a different sort from those pertaining to submarines, so that no assurance could be given that this or that disposition would be made of the matter; the point was simply that the question of aircraft might profitably be considered by itself, without dealing with it in the same resolution in which the existing international law as to submarines was dealt with. With Lord Lee's permission, therefore, discussion, would be continued upon the original resolution as to submarines.

Lord Lee said he would now develop his second point. He was not sure if he had understood Senator Schanzer to say that the Italian delegation only accepted Resolution I on condition of a drastic change in international law under which merchantmen would not have the right to be armed against attack from any quarter. The arming of merchant ships was not a purely British practice; it was recognized in the Italian Code of 1877, which laid down that a merchant ship which was attacked might be ordered to defend itself and even to seize the enemy. He did not suppose that Senator Schanzer proposed to destroy the privilege allowed the merchantmen to defend themselves.

Senator Schanzer said that he would like to observe, with respect to what Lord Lee had said, that a limitation of the armament of auxiliary vessels had already been fixed. It had been agreed that they might not carry guns of more than 8-inch caliber.

No rules, however, had been established governing the principles to be applied to merchant vessels, nor had they been forbidden to carry armament above a certain caliber. This omission might be dangerous, and even change their character. There were merchant vessels of 45,000 tons which might carry armament even heavier than 8 inches. Were these merchant vessels or not? The committee had established that a submarine should not attack a merchant vessel except in conformity with a resolution which had been adopted. Yet a merchant ship with guns was a war vessel. Might not a cruiser attack such a vessel? This was a point which Senator Schanzer believed should be cleared up. He said that he could not agree that a merchant vessel, even one armed with 6-inch guns, had rights which a surface cruiser must respect. It was aimed to lay down rules for the advantage of a merchant vessel, not of vessels of war. He said that he felt that a declaration was necessary concerning this matter.

Lord Lee said he thought the difference between Senator Schanzer and himself was not really so great as appeared. Senator Schanzer appeared to him, perhaps, to have confused two things. It had been considered absurd to limit the armament of light cruisers and not to impose any limitation on the armament of merchant ships. When this question, which was a purely technical one, came to be discussed, he would be willing to apply the principle that the armed merchant cruiser must not be more powerful than the light cruiser. He understood, however, that Senator Schanzer had said that merchant ships must not be armed at all. That would involve an alteration of international law which the British Empire delegation could not possibly accept.

Senator Schanzer said he did not deny that under the existing rules of international law a merchant vessel might properly carry a limited armament for defensive purposes, but he wished to say that the Italian interpretation of the term "merchant vessel" took into account this limitation. He therefore repeated that the Italian interpretation was in accord with his preceding declaration and with the existing rules of international law.

The chairman stated that he supposed that this subject, which presented endless opportunities for exposition, might be left with the suggestion that, under this resolution, merchant vessels remained as they now stood under the existing rules of law, with all their rights and obligations; that the resolution then undertook to state what might be done by submarines in relation to merchant vessels thus placed. The chairman thought it hardly necessary that the committee should enter into a discussion of the question; although he had no desire to preclude discussion of any sort, yet he hardly thought it necessary to enter into a review of all the rules of international law as to merchant vessels and their rights

and obligations. He assumed that all the representatives present accepted the proposition that merchant vessels, as merchant vessels—a category well known—stood where they were under the law, and that this resolution defined the duties of submarines with respect to them.

The chairman thereupon put resolution I to vote.

The chairman assented on behalf of the United States.

Mr. Balfour assented for the British Empire.

Mr. Sarraut said that the French delegation would give its full adherence to resolution I, but that an interesting discussion had just taken place, the results of which he had not quite understood. He suggested that, if Senator Schanzer's statements were not attached to the resolutions, they should be recorded in the minutes.

The chairman replied that the question was on the adoption of the resolution, and asked whether France assented.

Mr. Sarraut replied that it did.

Senator Schanzer, speaking for Italy, and Mr. Hanihara, speaking for Japan, assented to Resolution I, and the chairman stated that the assent of the United States of America and the British Empire had been given and that Resolution I was unanimously adopted.

The chairman thereupon stated that Resolution II was the second part of the original Resolution I, and read it, as follows:

“The signatory powers invite all other civilized powers to express their assent to the foregoing statement of establishing 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.”

The chairman asked if the delegates were ready to proceed with the discussion of that resolution. There being no discussion he then asked if the committee was ready for action upon this resolution and said that the United States of America assented.

The other delegations being polled each assented, and the chairman declared Resolution II unanimously adopted.

The chairman then said that the time had come to consider a resolution which had not been submitted to any subcommittee and which had remained in this committee. It had been originally Resolution II, but had become Resolution III, and, as it had not been committed to any subcommittee, he would take the liberty of presenting it for the committee's consideration. In the form in which it had been amended at the last meeting, it read as follows:

“The signatory powers recognize the practical impossibility of using submarines as commerce destroyers without violating 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 such use shall be universally accepted as a part of the law of nations they declare their assent to such prohibition and invite all other nations to adhere thereto."

Mr. Sarraut then read the following statement :

"The Germans have made war on commerce almost exclusively with their submarines, which were instructed to sink without mercy the merchant vessels of the enemy, with the object of destroying that enemy's commerce.

"The abominable program was made worse by sinking without distinction steamers and hospital ships as well as vessels carrying cargo—neutral as well as those of the enemy.

"These ships were destroyed without the passengers and crew having been first put in a place of safety.

"France has already proclaimed and she has reiterated her denunciation of the barbarous methods thus used contrary to the law of humanity, and she has condemned the pitiless destruction of merchant ships as contrary to international law.

"With these views, the French delegation fully endorses the spirit of Senator Root's resolution and of the amendment proposed by Mr. Balfour.

"But the delegation considers it desirable that the sentiment of condemnation of the methods employed in the last war should be expressed in the resolution, and for this purpose it suggests the addition of the words 'as was done during the last war' at the end of the phrase.

"The first phrase of the resolution would then read as follows :

"The signatory powers recognize the practical impossibility of utilizing submarines as commerce destroyers without violating the rules universally adopted by civilized nations for the protection of the life of neutrals and noncombatants as was done during the last war.'"

The Chairman said that Mr. Sarraut had called attention to the amendment which had been proposed by Mr. Balfour. The resolution, as it had been read a moment before, had not included that amendment and therefore it should be restated; he would, therefore, read Resolution III with the amendment proposed by Mr. Balfour :

"The signatory powers recognize the practical impossibility of using submarines as commerce destroyers without violating 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 such use 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."

That was the resolution before the committee with the amendment suggested by Mr. Balfour. Mr. Sarraut had suggested that it should also embrace a reference to the methods adopted by the Imperial German Government in the last war which had received general condemnation. As he understood it, the resolution with the amendment of Mr. Balfour and the further amendment proposed by Mr. Sarraut would read as follows:

“The signatory powers recognize the practical impossibility of using submarines as commerce destroyers without violating the requirements universally accepted by civilized nations for the protection of the lives of neutrals and noncombatants in the manner that was employed in the last war, and to the end that the prohibition of such use shall be universally accepted as a part of the law of nations, they now accept it as henceforth binding as between themselves, and they invite all other nations to adhere to the present agreement.”

The question before the committee was the adoption of this resolution. Before the discussion proceeded, he wished to ask Mr. Sarraut whether the words which Mr. Sarraut desired inserted, to wit, “in the manner that was employed in the last war,” were to be inserted at the place which had been indicated.

Mr. Root said that Admiral de Bon and he had worked out a phrase on the exact line of Mr. Sarraut’s and he wondered whether it would not meet the purpose. After the word “violating” in the third line the words “as they were violated in the recent war of 1914–1918,” should be inserted, so that the resolution would read:

“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,” etc.

The chairman asked whether this wording was agreeable to Mr. Sarraut.

Mr. Sarraut assented.

The chairman said he would read the complete resolution, so that there would be no question upon what action was being taken.

“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 such use shall be universally accepted as part of the law of nations they now accept it as henceforth binding as between themselves, and they invite all other nations to adhere to the present agreement.”

Mr. Balfour said he wished to ask a question in regard to the amendments, now slightly modified, which Mr. Sarraut had proposed and which read as follows :

“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,” etc.

If that was intended merely as an illustration, it might be wise or unwise ; it might be necessary or unnecessary ; at any rate used in this manner it could do no harm. It added form and perhaps picturesqueness to the whole resolution. He wished to ask, however, whether it was not possible so to twist the phrase that the article would apply only to German methods. The ingenuity of man for wrongdoing was very great. Was it not unfortunate that the wrongdoers should be hampered only by the methods adopted by the Germans? Would it not be possible for them to say, “It is true we have used our submarines as commerce destroyers, but we have not used them as the Germans did, and consequently we are not violating this resolution.” Perhaps the question he asked was oversubtle, but it appeared to be worthy of consideration.

Mr. Root asked whether that question would not be obviated by simply repeating the words “The use of submarines as commerce destroyers” in the place of “of such use” ?

Mr. Balfour replied in the affirmative.

The chairman asked whether that amendment was acceptable.

Admiral de Bon said that his reasons, as already stated by Mr. Sarraut, were based upon the fear that the Germans might use the first draft suggested as a pretext to justify some of their actions during the recent war. They might claim that, if the Washington conference took the ground that it was not possible to use submarines otherwise than in contravention of actual international law, they were in a measure absolved. This was the only idea that he had sought to convey. In his opinion there ought to be a full and complete condemnation of these methods. It was for this reason that the French delegation had desired specifically to object to German practices and thus to remove all possibility of their being able to use the resolution in question to justify their conduct.

The chairman asked whether the amendment as suggested was acceptable. The amendment was that the clause “to the end that the prohibition of such use shall be universally accepted as a part of the law of nations” should read “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.”

The chairman said that the reason he asked whether this was acceptable was that it was an amendment to meet the amendment

suggested by Mr. Sarraut, and therefore really formed part of the amendment in the line suggested, and he thought it would be well to know whether there was any objection to the amplification of Mr. Sarraut's amendment in that manner.

Mr. Sarraut replied that he had no objection.

The chairman said that, in view of what had just been said by Admiral de Bon, it might be well to call attention to the fact that this resolution was not, and did not purport to be, a statement of existing law; it purported to go beyond existing law and to prohibit the use of submarines as commerce destroyers.

Lord Lee asked what was the precise meaning of the term “commerce destroyer.” In a recent speech Mr. Root had said that the submarine was unfitted for attacks on commerce. He did not know if “commerce destroyer” was a recognized legal term or whether it included the processes of attack and seizure referred to in the first resolution.

Mr. Root said he believed it covered the whole process. He thought that “commerce destroyer” was a perfectly well-known term.

Lord Lee said that doubts were being expressed in his delegation as to the precise meaning of the phrase “commerce destroyer.” He asked whether the term “for seizure or attacks on commerce” would not produce the same effect.

Mr. Root said he thought that if the committee undertook to go into the details of the processes, it would find itself involved in statements which were neither clear nor intelligible to the common mind, and that it really did not accomplish its purpose as well as would be done by the use of perfectly well-known terms, such as “commerce destroyers.” He did not think there was any more question about the meaning of that term than was inherent in the use of words in all statutes, constitutions, treaties, contracts, and wills, about which, it was true, the courts in all civilized nations had been for centuries seeking to know what the scope and effect of the terms might be. It was impossible to use any language in such a way that questions could not arise, and the use of a term according to its ordinary use was, he thought, altogether more satisfactory than to try to go into details.

Lord Lee said that it had been suggested by technical experts that in view of the paragraph in the first resolution in regard to putting passengers and crew in safety, the term “commerce destroyer” would apply only to that. If there were any doubts, it was desirable that they should be cleared up.

Senator Lodge said it seemed to him that if the committee began to enumerate the different processes which would be used by any vessel engaged in the destruction of commerce, it would simply be circumlocution, and if the conference once entered on that

course, it might come within the scope of a well-known legal rule, namely, that if a thing was not specified, it was excluded. He thought that when one came to making catalogues one ran a great risk, and that it was better, if possible, to use one general word which, in this case, was merely a descriptive word; it simply described them as "common destroyers." Probably that word was only familiar in the United States, but it was very familiar here, and was used to represent just what submarines had been used for.

Sir Auckland Geddes said that he thought the term "commerce destroyer" was a well-known legal term, but it was also a phrase used in a popular and loose sense. He would suggest that another term, "operations against commerce," would be equally suitable and was less liable to be used loosely. He wondered if that would suit Mr. Root.

The chairman said the suggestion was made that the amendment be as follows; leaving the general term as it now was in the first clause, the second clause, which defined the prohibition, should be made to read as follows:

"and to the end that the prohibition of the use of submarines in operations against merchant vessels shall be universally accepted as a part of the law of nations," etc.

That seemed, he said, to be acceptable as an amendment and in order to avoid any misapprehension, he would read the resolution in its present form, namely:

"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 in operations against merchant vessels 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 to the present agreement."

Mr. Hanihara said he desired to be informed with respect to the exact meaning of the term "commerce destroyers." As he had already pointed out in a previous discussion, he believed that the words were intended to apply to vessels suitable for the destruction of merchant shipping. He said that he thought it was also clear that merchant vessels engaged in giving military assistance to the enemy ceased, in fact, to be merchant vessels. There was, however, another point. It seemed apparent that, if the resolution were adopted, it excluded the use of submarines for purposes of blockade. It did not appear to him possible to use submarines for this purpose in conformity with rule 1. Mr. Hanihara then asked whether this interpretation was correct.

Mr. Root said he thought that the prohibition would apply to submarines attacking or seizing or capturing or destroying merchant vessels under any circumstances, so long as the vessel remained a merchant vessel; he also thought it was necessary to have an effective prohibition, to have it so apply. It was merely a question of the use of words. Germany, for instance, declared a blockade of the whole British Channel. One could say "blockade," and the rule would disappear.

Senator Schanzer said that he must decline, in the name of the Italian delegation, the above interpretation. The Italian delegation had accepted Mr. Root's third resolution with the amendments of Mr. Balfour and Mr. Sarraut. He asked that further amendments should not be insisted on. It was necessary for the Italian delegation to declare that it accepted only the original project and the amendments mentioned. It must also confirm, with respect to the question of blockade, that in its view, that question had nothing to do with the destruction of commerce. It was a military process. What if a merchant ship attempted to run a blockade? Was the use of submarines forbidden to prevent this act? In summing up, Senator Schanzer said he accepted Mr. Root's resolution, but he could not accept it without certain reservations in line with those indicated by his Japanese colleague, i. e., that the situation set up by blockade brought into play an entirely different set of principles of international law with respect to merchant vessels.

The chairman said the first question, then, was on the amendment proposed, i. e., that, instead of the words "commerce destroyers" in defining the prohibition, the words should be "the use of submarines in operations against merchant vessels." He understood that Senator Schanzer, on behalf of the Italian delegates, refused assent to that amendment.

Senator Schanzer said that a mistake had been made. Sir Auckland Geddes had just informed him that the term "commerce destroyers" was retained.

The chairman said that the term "commerce destroyers" remained in the second line, but it did not remain in the definition of the prohibition. The definition of the prohibition was as follows, according to the proposed amendment:

"And to the end that the prohibition of the use of submarines in operation against merchant vessels 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 to the present agreement."

The chairman asked whether that was acceptable to Senator Schanzer.

Senator Schanzer said that he was not satisfied because of the second line of the amendment.

The chairman said that of course the committee was acting only on the principle of unanimity, and therefore this amendment must be considered as defeated.

That brought the committee to the resolution in its original form, with Mr. Balfour's amendment and with the amendment proposed by Mr. Sarraut.

As he understood it, the substitution of the words "submarines for operation against merchant vessels," which referred to "Commerce destroyers," was not acceptable to Senator Schanzer.

He had further understood Senator Schanzer to present a reservation to the effect that the resolution should not apply in the case of a merchant vessel endeavoring to run a blockade. That was the purport of it, as he had understood it.

This matter should be carefully considered and thoroughly understood, because a blockade might be declared of such a general character as to make it impossible for merchant vessels to reach a particular coast; assuming that such a blockade could be effectively maintained by vessels that were regarded as legally used for the purpose of maintaining it, the use of submarines as against merchant vessels endeavoring to run a blockade of that sort would involve a very large activity for submarines as commerce destroyers. That matter should be faced because the value of the resolution might well be doubted, if that reservation was effective.

Senator Schanzer said he did not ignore the fact that during the last war nominal blockades of an absurd character had been declared. He believed that the whole of the United States and all of Italy had been declared blockaded. But under the rules of existing international law, a blockade to be legal must be effective. He did not ask that any exceptions be made to the present rules of international law and he hoped that this would appear in the minutes.

The chairman said that of course the point of effectiveness was very well taken, and he intended to have that clearly stated; but the question remained whether the submarine under the resolution was to have an opportunity to operate as against commerce in case an effective blockade had been declared—a blockade, indeed, made effective by the use of submarines.

Mr. Balfour said he confessed he had listened with considerable misgiving to Senator Schanzer's statement. Senator Schanzer did not wish to break the unanimity with which the second resolution had been accepted, but he had given it a meaning which to his (Mr. Balfour's) mind entirely destroyed its value, and Senator Schanzer had requested that his interpretation of that meaning should receive formal record in the minutes. Mr. Balfour could not imagine that in every respect Senator Schanzer saw the full extent of the proposition which he had laid down.

The chairman had pointed out—he would not say an absurdity—but one very obvious difficulty. Senator Schanzer's opinion was that a submarine could never be used to attack a merchant ship in the case of a blockade, but that it could begin to attack merchant ships as soon as a blockade was effective. It could, therefore, not assist in making a blockade effective; but when other ships had made it effective, it might come in and destroy what the other ships had left undestroyed. That surely was a most impossible position for international law to be placed in. It could not be said that a submarine could be lawfully employed in blockade only when the blockade had already been established by ships other than submarines. That was a theoretical objection to the proposed resolution which he himself would have thought would have been enough by itself to destroy it. He would ask Senator Schanzer to consider how the term "blockade" was now more or less used in international law. He agreed that it was not a probable supposition, but supposing Italy were at war with Germany, either with or without allies, and supposing the Germans declared a blockade upon Italy; they would use their submarines not always close to the coast; he imagined they would choose the Straits of Gibraltar and they would haunt the eastern part of the Mediterranean as well as the Gulf of Lyons and the Adriatic. For himself he could not quite understand Senator Schanzer's point of view. There was no international difficulty that he knew of in declaring all the coast of Italy blockaded. At all events, so long as there was an international law it would have to be tried in international courts. That was not an obvious absurdity on the face of it and, if that were admitted, it seemed to him, that, if Italy could be blockaded, if all the ships carrying merchandise could lawfully be stopped by submarines if they attempted to go to Italy, then he thought that they need trouble themselves no further with attempting to limit the use of submarines. Even after all these regulations were passed, or at all events after the first two were passed, submarines would remain absolutely free, so far as he could see, to work their will in the true German fashion upon every merchant ship which desired to carry to Italy the very necessaries of national existence. In these circumstances it seemed to him that their labors on the first two of these resolutions had been practically thrown away, if the matter were left as Senator Schanzer proposed to leave it. He hoped, and indeed he was confident, that the discussion of this question would extricate them from the present position and he hoped that the Italian delegation would on reflection see that, if they sincerely desired—as he was perfectly sure they did—to prevent submarines being used against merchant ships, they would modify in the most important degree and qualify to

an extreme extent the reservation which they had announced their intention to record upon the minutes.

Senator Schanzer said that the Italian delegation was inspired with a spirit of conciliation. He must, however, reply to Mr. Balfour. He did not think that all Italy could be effectively blockaded, as that term was understood in international law. He wished also to have it understood that he had never said that a blockade must first be established by surface vessels and then maintained by submarines. Submarines were military weapons and should be allowed the privileges of military weapons. They might even act in the same way as surface vessels. The entire question of blockade had been brought up by the Japanese delegate. His own delegation merely wished to be fully informed and to act in a conciliatory spirit. If the Japanese delegate withdrew his objections and all the other delegates agreed, the Italian delegation would not prevent the common resolve from being carried into effect.

Mr. Hanihara said that he had made his previous inquiry in order to be informed with respect to "commerce destroyers" and the use of submarines for the purposes of blockade. He had not, however, intended to enter any objection to the prohibition of the use of submarines for blockade.

The chairman said that he understood that, in the light of the statement by Mr. Hanihara Senator Schanzer would withdraw his suggestion as to the limitation of the prohibition, and he assumed that the resolution would then be acceptable to all the powers represented on the committee.

The chairman asked whether the committee would now act upon the resolution in the following form:

"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."

The delegations, being polled, each assented in turn and the chairman declared Resolution III unanimously adopted.

Lord Lee said he would like to express to Mr. Sarraut and Admiral de Bon his sincere appreciation of the statements they made the other day in repudiating the writings of Capt. Castex. He accepted their explanation, as given on behalf of the Government, with all his heart and wished to assure them personally that the matter had passed completely from his mind.

Mr. Sarraut replied that he had noted with sincere satisfaction the statement that Lord Lee had just made and he could only express regret that Lord Lee had not given the French delegation an earlier opportunity to express their sentiments by informing them in advance of the references that he intended to make to the entirely personal views of a naval officer who could, under any circumstances, only speak for himself and on his own responsibility without assuming in the slightest degree to express the views of the French Admiralty.

It gratified Mr. Sarraut to hear the statements of Lord Lee at the moment when the French delegation had just given their assent to a resolution containing a clause which bound together all the powers represented on the committee by prohibiting the use against each other of certain weapons which France, at least, had never thought of directing against her friends, a clause to which the French delegation subscribed with especial willingness.

Mr. Sarraut hoped that this interchange of statements would do away with certain misunderstandings and assist in clearing the atmosphere which, outside of this hall, had been befogged, and thus facilitate the establishment of a durable peace on earth—the work which all present had most deeply at heart and the consummation of which was their highest aspiration.

The chairman said that he was sure that all would be deeply gratified to have spread upon the minutes the statement made by Lord Lee and the response which had been made by Mr. Sarraut; these statements, which showed a mutual appreciation of the sentiments that were cherished by both, would greatly aid the committee as it continued its efforts to bring about results which would greatly promote not only the economic administration of the respective governments, but a better understanding and an enduring peace among their peoples.

He assumed that the committee might not care to have all the discussions that had taken place over various legal and other questions appear in the communiqué. There was, of course, no objection to it, if it was desired. Possibly it would be sufficient to say that these resolutions, now numbering three, were presented, discussed, and adopted. General assent was expressed.

The committee then adjourned until Friday, January 6, 1922, at 11 a. m.

SIXTEENTH MEETING—FRIDAY, JANUARY 6, 1922, 11 A. M.

PRESENT.

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