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DEPARTMENT OF THE AIR FORCE  
AIR FORCE HISTORICAL RESEARCH AGENCY  
MAXWELL AIR FORCE BASE, ALABAMA

26 August 2009

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John Greenewald  
[REDACTED]

Dear Mr. Greenewald,

I am writing in response to your FOIA request, which we received on 20 August 2009. We have assigned this request AFHRA inquiries reference number 65553. Since your request was made under provisions of the Freedom of Information Act it has been designated FOIA number 2009-3276F. Enclosed is a copy of the requested document, ""Chief of Air Corps," Iris number 121308, Call number 167.6-52. If you have any other questions, please let us know.

Thank you for your request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kevin Burge", is written above the typed name.

Kevin Burge  
Archivist  
AFHRA/RSA

Attachments:

1. ""Chief of Air Corps," Iris number 121308, Call number 167.6-52

ATTEMPTS AT CODIFICATION OF AERIAL WARFARE.

Attempts at codification of the war had their origin in the United States. They were the subject, in 1863, of an "Instruction for Armies in the Field, of the United States of America."

Unfortunately, despite the services that codification rendered, they were of value only as a unilateral rule and not that of an international undertaking.

The following year, 1864, it was the "Geneva Convention." "Although defective from several points of view (which is not surprising, since nothing is more difficult than to legislate for the first time on a subject itself complicated and dangerous), that convention performed great services, both in itself and by the precedent it established. (\*1)

In 1868, at Saint Petersburg, a military conference, at which France was represented by Major de Miribel, elaborated the declaration of Dec. 11, 1868. It prohibited explosive bullets. It declared "that the purpose of war would be overreached by the employment of arms that needlessly aggravated the sufferings of men put out of action or would make their death inevitable; that the employment of such weapons henceforward would be contrary to the laws of humanity."

In 1874, Russia completed the declaration of 1868 by convoking the Brussels Conference. Its organizers had hoped that it would result in a codification of the laws and customs of war already adopted. By reason of the opposition of England,

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(\*1) Louis Renault, professor of International Law, of the Paris Faculty of the Army War College (Ecole Supérieure de Guerre); Preface to "Laws of Continental Warfare," published under the Direction of the Historical Section of the General Staff of the Army, p. 10.

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it resulted only in a project for an International Declaration, which, nevertheless, did not prevent London from protesting to the whole world against the aerial bombardments she had to undergo 40 years later, in 1914-18.

But the Institute of International Law succeeded in counteracting English opposition by borrowing from that declaration the principles of international law, condensed in a "Manual of the Law of War," to which it lent its authority at the Oxford Session, in 1880.

A quarter-century after its elaboration, the 1874 project was consecrated. The Russian professor, F. de Martens, was its prime craftsman. He caused to be adopted, at the First Peace Conference, the convention of July 29th, 1899 and regulations therefore. Convention and regulations were revised at the second Peace Conference, in 1907.

It has been said: "The achievement of The Hague regarding continental war certainly is not perfect, nor have its authors pretended that it is. They themselves have declared that it was incomplete, regretting, in elevated prose, the spirit in which its shortcomings should be met. Doubtless there was not complete understanding on all points, which is not astounding when it is remembered that the agreement could not be total. (\*1).

#### LEGALITY OF AERIAL BOMBARDMENTS AND EMPLOYMENT OF APPARATUS

It was in 1870 that, for the first time, this question of the legality of aerial bombardments and the employment of apparatus was agitated.

We are familiar with the role that free balloons played during the Siege of Paris. On Nov. 19, 1870,

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(\*1) Prof. Renault, work cited, p. 12.

through the intermediary of Mr. Washburne, Minister of the United States, Bismarck made known to the French Government that he intended to treat aeronauts as spies. Certain writers, such as Bluntschli, suggest that "up to 3,000 or 4,000 feet (1,000 to 1,100 meters) the air becomes a part of the field of action of the occupying army."

As to this, Prof. Bonfils, of the Law Faculty of Toulouse, compared the aeronaut - this "messenger who, openly scales a mountain to examine the positions of the adversary." Thus he admits that it is quite all right to shoot at balloons and manufacture a special cannon to reach them. But, if the aeronaut falls and is captured, he must be treated as a prisoner of war. That was the theory accepted at the Brussels Conference, in 1874 (Articles 2 and 3), Rules of The Hague, 1899-1907 (Art. 29.)

Insofar as the use of material is concerned, the Institute of International Law, in its session at Madrid, in 1911, agreed that aircraft, especially balloons, would become an important combat instrument when they could be made capable of carrying material, weapons and passengers to serve them.

At this juncture publicists besought the prohibition of aerial warfare, because its effect would be more frightful than that of any other sort of warfare and would imperil the general security on land and sea.

Other writers insisted that it be retained, since "aerial engines definitely are no more frightful than mines and submarines."

In view of this diversity of opinions, it was proposed that vertical fire should be authorized, but that horizontal aerial warfare, i.e., combat between machines, should be interdicted, for the fire of these latter is necessarily blind, since one never knows on what earthly spot the projectiles exchanged may fall.

In the course of the same session, the Institute of International Law resolved the principle of aerial warfare in these terms: "Aerial warfare is permitted,

but on condition of not subjecting the people, or the property, of a pacific population to dangers greater than those involved in terrestrial or maritime warfare."

This meant, then, admitting of aerial warfare, but with limited fields of action recognized. But they overlooked announcing the conditions under which it might be practiced.

THE HAGUE CONFERENCE OF 1899. They tried to "meet the shortcomings." International conferences were held.

At the Hague, on July 29, 1899, after having declared (Article 62) that "bombardment is of a violence so extreme that it can be justified only in cases of absolute necessity," the Conference proclaimed certain rules of aerial warfare, of which the following were the principle:

Article 59. It is permitted to launch projectiles from the height of a balloon or aeroplanes on condition that the obligations contained in Articles 57, p. 1, 2, 8 - and 63 (\*1) are respected.

(\*1) Article 57, p. 1 - Prohibition against employment for their troops - the belligerents - all projectiles of less than 400 grammes that shall be either explosive or charged with fulminating (flashing) or inflammable matter (Declarations of St. Petersburg of Dec. 11, 1868).

P. 2 - Prohibition of the employment of projectiles or of materials calculated to cause unnecessary damage. (Art. 23, Hague Convention of July 29, 1899). Par. 8 adds "arms" to this prohibition. (Art. 23, Hague Convention, of Oct. 18, 1907).

Article 63 - It is prohibited to attack or to bombard by any means whatsoever, cities, villages and habitations that are not defended. It is, consequently, prohibited to launch projectiles from the height of a balloon, or an airplane, on cities, villages, habitations or buildings that are not defended - excluding however unfurnished buildings of immediate interest to the enemy army. There is no distinction, in this respect, between open cities and fortified cities. From the moment when a fortified place opens its gates, it is forbidden to use violence against it - even for reprisal. (a) The laws of continental warfare, op. cit. p. 57, et seq.

It seems, therefore, to have resulted very clearly from these doctrines, that Paris, like London, could not escape aerial bombardment.

The Germans gave these reasons:

"What was our intention in attacking enemy capitals?"

"Paris was at once a great fortified place, a knot of railways, the center of supply for the French Army, and the site of numerous factories engaged in war work. It was, therefore, an objective absolutely indicated for aerial attacks. If, up to then (we speak now of 1917) we abstained from attacking it persistently, it was solely out of humanity, and because we knew that an aerial bombardment directed at a city of that importance would also reach the civilian population. The G. Q. G. thus reserved to itself the exclusive right to give the order ~~for~~ the bombardment of Paris. When it decided to lift that restriction it was in reprisal for the attacks carried out by the French on open German cities. But, even so, we took care to bomb only objectives that were of importance from a military point of view." (\*1)

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(\*1) General von Hoeggner, op. cit. p. 172.

In speaking of London, the same author writes:

"Far more than Paris, the capital of Great Britain deserved the title of center of war industries. Did not Lloyd George expressly refer to it as a 'second Woolwich'? It was nothing other than a vast arsenal and, moreover, its ports and its docks were operated almost exclusively for war purposes. But in bombing London our purpose was not simply that of causing destruction. We did not have a right to neglect any means of dislocating the aerial forces of the Entente (Allies) since they were numerically superior to our own, and our attacks against the sources of their military power had forced England to maintain in the metropolis a great part of its aerial power (p. 173)."

It is certain that all the agreements attempting to regulate aerial warfare were lacking in precision, and that lack results in the fact that the German justifications were, in part, the direct outcome of negligence on the part of the various Congresses.

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\* Jules Poirier, Les Bombardements de Paris, Paris, 1930.