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LAW OF AERIAL WARFARE†

BY ELDRIDGE COLBY*

XIV. RULES OF WARFARE

IT does not take such a vivid imagination now, as Mr. H. G. Wells had when he wrote his fantastic tale of "The War in the Air" to tell of the destruction of a metropolitan city. Now, with the experiences of the World War behind us, even an unpoetic military man can visualize fairly accurately what might happen. The following description has recently appeared:

"I believe that, in future warfare, great cities, such as London, will be attacked from the air, and that a fleet of 500 airplanes each carrying 500 ten pound bombs of, let us suppose, mustard gas, might cause 200,000 minor casualties and throw the whole city into panic within half an hour after their arrival. Picture, if you can, what the result will be: London for several days will become a vast raving bedlam, the hospitals will be stormed, traffic will cease, the homeless will shriek for help, the city will be in pandemonium. What of the government at Westminster? It will be swept away by an avalanche of terror. Then will the enemy dictate his own terms, which will be grasped at like a straw by a drowning man. Thus may a war be won in forty-eight hours and the losses of the winning side be practically nil."²⁵⁹

Such is in general the status of the problem of aerial bombardment today, the problem of war and the problem of law. If it is true that accepted practice governing conduct in any one war becomes the standard for future codes and future conduct, we are indeed in a bad way. But it is not always true that the extreme practices become the precedents upon which future action is based. I am not inclined to be so pessimistic as Mr. James M. Beck, former solicitor-general of the United States, who said before the American Bar Association:

"During the World War, nearly all the international laws . . . were immediately swept aside in the struggle for existence; and civilized man, with his liquid fire and poison gas and his deliberate attacks upon undefended cities and their women and children, waged war with the unrelenting ferocity of primitive times."²⁶⁰

†Continued from 10 MINNESOTA LAW REVIEW 148 and 234.

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²⁵⁹Fuller, *The Reformation of War* 150.

²⁶⁰Quoted in the *New York Times*, September 1, 1921.

Nor do I think we can accept absolutely the opinion of Professor George Grafton Wilson, who has remarked:

"From August, 1914, international law, particularly relating to hostilities, was tested by the World War. The test showed the weakness and lack of adaptability to modern conditions of some of these conditions, while strengthening confidence in many of the long recognized principles of international law."²⁰¹

There were tests indeed, but they were not final tests. The subjects had not been brought to the court of the last resort, before the bar of reasonable public opinion. The tests were not complete. They will not be complete until the last dollar of indemnity is paid and the last remembrance forgotten of the rallying of neutral nations to the side of those who opposed the belligerent whose methods they were taught to fear.²⁰² There is no need for jumping hastily at conclusions and saying that the next war will be an aerial war and a horrible war.²⁰³ Whoever studies international law in time of war will discover that there are conflicting tendencies, theory on the one side and practice on the other, teachings of doctrine on the one side and historical facts upon the other. The theorist is sometimes of the excessive humanitarian type, and sometimes he is an excessive "horrors of war" man who lets his imagination run wild. Let us leave the "horrors of war" prophet for our conclusion, and deal with the legal humanitarian.

We should recognize as international law, we can tell this humanitarian, only whatever is in real life practicable and applicable and useful and reasonable, when we take all the circumstances into consideration, else the man in uniform will declare to the publicists of the printed book that the regulations and restrictions may be in print, but do not jibe with facts and conditions. Writing during the progress of the World War, a German writer claimed that aerial bombing "is unable seriously to further the war aim" and "can only serve to terrorize" and expressed a hope that aerial warfare would finally vanish and "that modern war law would again confine aerial navigation and flying to the service

²⁰¹Wilson and Tucker, *International Law*, 8th ed., p. 29.

²⁰²See on this point, John Bassett Moore's review of Hyde's treatise in 23 *Col. L. Rev.* 83—an excellent guide to proper interpretation of the "lessons" of the World War sadly too brief.

²⁰³Royse, *The Next War in the Air* in 116 *The Nation*, May 9, 16, 1923, pp. 537 ff., 566 ff.

of reconnoitering."²⁶⁴ In August, 1922, the International Law Association at its meeting at Buenos Ayres declared that the radius of operations of military aircraft ought to be restricted,²⁶⁵ and thus attempted to take from armies all the advantage which an airplane gives of penetrating deep into hostile territory, and from a certain type of airplane its most distinctive features and functions which its wide cruising range permits. These are vain and fruitless efforts to send the science of war backward in its steps. Bombing will very likely go on, bombing from either airships or airplanes. This bombing will be actually or ostensibly directed at objects of military value, some less and some more remote from the firing lines of opposing armies. And when this bombing continues we may recall the curious yet perfectly obvious and understandable similarity between the sayings of two men. An American artilleryman, now a judge, who is author of one of the standard treatises on certain phases of military law, remarked:

"In the bombardment of places it is difficult to save any particular structure. Every siege gives evidence of this. To destroy a city with all it contains is indeed an extreme measure, not to be resorted to except for cogent reasons, yet it is perfectly justifiable when no other method suffices to reduce the place and this reduction becomes essential to the successful prosecution of the war."²⁶⁶

And more recently an American professor has said:

"On account of the very nature of aerial warfare, the solution bristles with difficulties, and no regulations agreed upon, even if they are scrupulously observed by the belligerents, are likely to be entirely effective in safeguarding the rights of non-combatants and private property in all cases."²⁶⁷

With this idea firmly in mind, that any rules will be rules, only partially effective toward the ends for which they were devised, it is possible to examine the latest attempt to formulate regulations. A commission of jurists sitting at the Hague²⁶⁸ prepared a draft convention to cover the question of aircraft in

²⁶⁴Nippold, *Development of International Law after the World War*, tr. A. S. Hershey 144.

²⁶⁵The Times (London), August 30, 1922, p. 7e.

²⁶⁶Birkhimer, *Military Government and Martial Law*, 1st ed., p. 196.

²⁶⁷Garner, "Proposed Rules for Aerial Warfare" in 18 *Am. J. Int. L.* 66.

²⁶⁸16 *Am. J. Int. L., Supp.*, p. 74; 17 *Am. J. Int. L.* 638 (Rodgers article).

war, which had the following remarks on the question of aerial bombardment:

"Aerial bombardment for the purpose of terrorizing the civilian population, or destroying or damaging private property not of a military character or of injuring non-combatants, is prohibited."

"Aerial bombardment is permitted only when directed at a military objective, that is to say, an object of which the destruction or injury would constitute a military advantage to the belligerent. Such bombardment is legitimate only when directed exclusively at the following objectives: military forces, military works, military establishments, or depots, factories constituting important and well-known centers engaged in the manufacture of arms, ammunition or distinctively military supplies, lines of communication or transportation used for military purposes. . . . In cases where the objectives specified are so situated that they cannot be bombarded without the indiscriminate bombardment of the civilian population, the aircraft must abstain from bombardment."²⁶⁹

It will be noted that, as has already been observed, the new rules permit bombardment practically without stint in what military men call the "theater of operations" and set up the criterion of the military objective in what military men call the "zone of the interior."²⁷⁰ It will further be noted that the articles do not say that the bombs must *fall* exclusively on military objectives, only that they must be *directed* exclusively at such. They do not say that the bombardment of the civilian population is prohibited, merely that the *indiscriminate* bombardment of civilians is prohibited. Nor do they define the difference between a combatant and a non-combatant in accordance with modern terms, under modern "selective service" and modern "industrial mobilization" for war. By paying some deference to the factories making "distinctively military supplies" they do get away from the old distinction which rests solely on whether a man wore khaki or "cit's" clothing. And yet they overlook the woolen factories which make the field uniforms and keep the soldiers warm through the winter and fit for the spring drives. And they overlook the question of the national food supply as a military supply, as Great Britain claimed it to be, when she started exerting her very effective "economic pressure" on Germany. Furthermore,

²⁶⁹New York Times, June 24, 1923, Part II, p. 1a; 17 Am. J. Int. L., Supp., p. 242.

²⁷⁰Garner, Proposed Rules for Aerial Warfare in 18 Am J. Int. L. 56.

the old excuse of aiming at a military objective and hitting something else through sheer inaccuracy can still be advanced.

The bombing will ostensibly be at military objectives. If the manpower of the nation is reduced, if the manufacturing efficiency of the nation is hurt, if the morale of the nation is lowered, so much the better; but of course the strategic statesman and the commander who orders his planes out will speak only of military objectives and will wave the document as his justification. His reports will speak only of them. The newspapers of his own country will mention them and them alone. Truly, as Professor Garner has remarked:

“The rules proposed by the commission undoubtedly leave a large discretionary power to aviators. To a much larger degree than in land and naval warfare they are made the judges of the legitimacy of their attacks. They must determine in each case and with little opportunity for investigation and verification whether a particular object falls within the category of ‘military objectives,’ and if so whether it is situated outside the immediate zone of land operations, and if so whether it can be bombarded without ‘indiscriminate’ bombardment of the civilian population; and, finally, whether in the case of a city, town or building situated within the zone of land operations there exists the “reasonable presumption’ of military importance required by the rule. Manifestly, the most scrupulous aviator will commit errors of judgment under these circumstances if he resorts to bombardment at all.”²⁷¹

We cannot put too much trust on rules. Not that these are so likely to be disregarded in the heat of action, but rather more that the rules are too frequently inapplicable to the changed situations which arise when “the next war” really comes. There were rules of warfare prior to 1914, and as Lord Cave has said, “No one conceived of the possibility of an infraction by civilized people of the rules laid down.” Still, one nation employed a new naval weapon, the submarine, contrary to all existing laws regarding sea warfare. Another nation tried to starve the non-combatant population of its opponent into submission. A group of diplomats in Washington after the war declare that the use in war of toxic and asphyxiating gases has been condemned by the unanimous opinion of the civilized world, draw a treaty to banish gas from war, and the treaty has not yet been ratified by all the signatories! Indeed, as Lord Cave went on to remark,

²⁷¹Garner, Proposed Rules for Aerial Warfare in 18 Am. J. Int. L. 74.

"Experience has shown how little reliance can be placed upon the sanction of public opinion."²⁷² We are finally thrown, possibly more than we might wish, upon the ordinary decency of ordinary individual belligerents. As Mr. Spaight has said:

"In air warfare more than in its elder brethren of the land and the sea, the heart and conscience of the combatants are the guarantees of fair fighting, not any rule formulated in a treaty or in a manual."²⁷³

XV. CONTINUANCE OF LAW

These three arguments which have just been summarized at some length are the main arguments advanced to prove that war is getting more and more bitter from year to year and that the old distinction between combatants and non-combatants has been breaking down. Yet it will be noted that they are all arguments based upon very recent instances regarding the economic character of the World War and the "nation at war" character of that struggle. The observations upon which they are based are so recent that, in the mind of a man scanning the full perspective of history, they are unreliable. When we look at a bright light, our eyes are dazzled. Wherever our glance turns, we seem to see the image of that light. So has the turmoil of that war affected us. What has been the biggest event in our own lives and personal experiences, we still believe the biggest and most determining event in the history of the world. Yet we think and speak too exclusively on the basis of our own experience and of the few decades we remember or recall. Chronological perspective dwarfs the relative proportions of other events and makes the World War loom larger and more important simply because it is closer.

"Between the close of the Napoleonic wars and the recent war," writes Dr. John Bassett Moore in a letter, "most of the wars, with the exception of our Civil War, tended to create the impression that there might be an armed conflict together with an economic peace. As the Napoleonic wars receded more and more into the past, the comparatively short conflicts since 1815

²⁷² 8 Transactions of the Grotius Society p. xxii.

²⁷³ Spaight, *Air Bombardment in British Year Book of International Law, 1923-1924*, p. 32. Cf. "When the long row of hut hospitals, jammed between the Calais-Paris Railway at Etaples and the great reinforcement camp on the sand hills above it, was badly bombed from the air, even the wrath of the R. A. M. C. against those who had wedged its wounded and nurses between two staple targets scarcely exceeded that of our Royal Air Force against war correspondents who said the enemy must have done it on purpose." Montague, *Disenchantment* 176.

tended to create the impression that wars had not generally involved economic interests; and, when the recent war began, in which the economic element was so largely developed, the view came to prevail that the economic interest had suddenly assumed and would in future continue to fill the largest place in warfare."

The fact of the matter is that the distinction between combatants and non-combatants still persists. In 1921, General Pershing signed a report to the Washington Conference, advising against the use of poison gas, and stating as one of the reasons he advanced for the abolition of chemical warfare, his opinion that the use of poison gases "is fraught with the gravest danger to non-combatants and demoralizes the better instincts of humanity." The distinction has always persisted and will continue to persist. Sometimes the law has been violated. Sometimes there have been bitter struggles, like the Thirty Years' War and the so-called Napoleonic wars, where no repressive measure weighed against the necessities of the moment. At other times there have been struggles not so critical and not so exigent in their demands upon national manpower and national resources. In America, between the Civil War and the World War, we had the Spanish war. We must not think solely of the last struggle. We must regain our historical and legal perspective. We must remember that property of Tories in the colonies confiscated during the Revolution was the subject of adjustments made many years later as the result of the Jay treaty. We must remember that the French Spoliation claims were nearly a hundred years in adjustment and payment. We must remember that mixed commissions are even now determining and preparing for settlement, claims of offended American citizens against the German government. We must remember that, in spite of all the criticism of the Leipsic trials, the German government—when it had found it impossible to apprehend a delinquent submarine commander—actually of its own initiative brought to trial his subordinate officers and held them responsible, in spite of a legal provision which might have provided a loop hole, for a deed which threw a dark shadow on the honor of the German fleet. The law may be violated, but the law still persists. The occasional transgression of international law does not constitute the abolition of international law. In moments of stress the law may be broken, but afterwards the right principle is re-asserted, the law is re-affirmed, and the doctrine is justified. If, like the mariner of whom Web-

ster spoke in the opening remarks of his first reply to Hayne, we orient ourselves anew after the whirl and turmoil of the recent storm have passed, we find that no old distinctions have been broken down after all. The British incursions on the rights of neutrals during the World War, against which the United States so vigorously protested, do not set precedents. The same attitudes were taken during the last great Continental War. Napoleon issued his Berlin and Milan decrees; and the British issued their retaliatory Orders in Council, which a British Court said could only be justified on the assumption that international law permitted breaches of international law in the need for retaliation. Yet these did not set precedents or establish newer and more fearful laws or usher in a great ferocity in warfare. The law was re-affirmed as it stood before. So now, slowly and persistently, the law is being re-asserted again.

When differences between nations are adjudicated by the grim arbitrament of the battlefield, there have always been attempts to cross the border line of rule and regulation. Whenever the feverish intensity of struggle has outweighed careful judgment, these attempts have occurred and recurred. They are natural and normal transgressions brought on by attendant circumstances. Circumstances change from time to time. Human nature and human psychology remain the same. The law remains the same. The tendency towards humanization remains the same. There is simply a swaying back and forth like the swing of a pendulum. There is a consistent force of practicality tending to keep belligerent activities within specified bounds, permitting neither inordinate motion towards needless brutality, nor visionary theorizing into the realm of dreams and idealism. No par- either of the two directions. In the history of mankind, the World War covered the space of a fraction of a second. Just as war always brings a swaying back and forth between the rights ticular swing of a pendulum is a sign of definite progress in of neutral commerce and the strategical desires of belligerents, just so war also in the course of many centuries records a perpetual swinging back and forth between perfection and error. The consistent action of the pendulum is the real truth, neither the single swing in one direction nor that in the other. The test of the status of the rules of war, is a test of ideas not a test of facts. It is a test of feelings, not a test of successive events. And

here we revert to the remark of Mr. Spaight that "the heart and conscience of the combatants are the guarantees of fair fighting."

XVI. THE "HORRORS OF WAR"

In concluding, it is absolutely impossible to leave this subject without devoting some attention to the question of the horrors of war, as our pacifist friends like to play them up to frighten the feminine gender and the growing generations into more peaceful agitation. The remark of Mr. Spaight, quoted a bit back, about trusting to the decency of the military man is not an empty suggestion. As that other Englishman with an enchanting manner and a fiery pen has so aptly pointed out, while a propagandist in Berlin and another propagandist in London are hurling abusive epithets at each other the British Tommy trying to pick off the German sniper comes to dub his foe with an affectionate nickname, he gives him cigarettes if he captures him, and when a stray dog wanders across No Man's Land his owner becomes, not a brutal Boche, but simply "him that lost the dog" and a man to be sought earnestly in every open cafe in the occupied Rhineland, anti-fraternizing orders to the contrary notwithstanding. If I may be pardoned a personal experience, I should like to relate how after mingling with lawyers and young university liberals and editors of the progressive "intelligentsia" who were almost unanimous in thinking of the "horrors of the war" and the awful destruction new weapons might accomplish, I turned to mingle with military men charged with determining military policy and programs and found the latter thought of aircraft in a purely professional sense, as instruments to accomplish a certain end with as little confusion and terrorizing as possible. It is another instance of the theorist and the man who holds fast to facts. It is the imagination of the theorist and not the weapon of the soldier that runs wild.

Mechanical warfare has not obliterated the individual because the man who uses the mechanical device has a human heart, and also because mechanical contrivances on opposite sides of the opposing battle-line tend to counterbalance one another. It is perfectly true that the World War stimulated inventive genius as has no other conflict. For four years the most advanced and most intelligent peoples of the earth were committed to a struggle wherein each was seeking an advantage, scientific or otherwise.

The scientists of those nations exerted their expert, trained minds to turning their appliances toward the achievement of victory. The length of the struggle, its special conditions of almost static front lines, and the important role of mechanical instruments during its later periods, accentuated the importance of industry in warfare, and also unduly accentuated the mechanical means of fighting. It is folly to draw lessons too closely from the war-time fever for the invention of new instruments of warfare and to say with Lord Bryce that "we must end war or war will end us" because the same inventive, scientific, mechanical genius fights on both sides. The defense meets and overtakes the offense.

The modern rifle differs greatly, to be sure, from the sling-shot with which David slew Goliath, the modern tank from the Roman war chariot. That does not necessarily mean, however, that the casualties of war have increased in proportion to the increase of mechanical means of fighting. The more science develops weapons and implements of war, the more it also provides men with means of protecting themselves from those weapons. The cannon ball is deflected by armor, shrapnel by the "tin hat." The armor-piercing projectile is countered by better armor. The aerial bomber is met by swifter fighting planes. Accurate long range fire is partially vitiated by better defenses and sooner silenced by the aid of new sound-ranging devices. Improved means of observation are balanced by scientific camouflage. Effective use of telephone, telegraph, and radio communication is rendered difficult by newly designed listening-in apparatus that employs the induction coil to pick up the faint and fleeting electrical impulses. The deadliness of gas attacks is lessened by chemical genius which invents methods of protection against gas. Indeed, science fights on both sides. It aids the defense as well as the offensive. And, in addition, it provides improved medical technique and means to relieve man from the consequences of his wounds. The evidence of these facts is found in that very World War on which the imaginative mind bases its dreams of future horrors. In that conflict, applied science reached a stalemate, and victory was finally won by superiority in manpower. In that conflict, again, in spite of the mechanical means of fighting, the proportion of our casualties to the number of men involved was smaller than in any previous major war in which our nation was engaged.

Truly, we have come a long way from those crude days when wild armies went to war practically without organization and without other weapons than those they could conveniently find in their primitive forests, rocks for missiles, sticks for weapons, rushing into fierce agglomerations of hand-to-hand individual combats. Yet the approximate equality of offense and defense has remained the same. The elephants of Hannibal struck terror in the hearts of his opponents until they devised missiles that could pierce the elephants' hides, until they dug pits into which the elephants helplessly floundered, or until they resorted to the simple expedient of opening their ranks and letting the none too intelligent beasts run harmlessly through their lines. When the World War started and we heard of the modern and excellent fortifications at Liege and Namur being dashed to pieces with startling promptness by the big caliber guns of the Central Powers, the people all remarked that the war was a war of guns, that the heaviest artillery could batter all armies into helplessness. Yet, the defense was ready again to overcome the new advantages taken on by the offensive. The defense simply scattered its forces and had them dig little holes in the ground. Again it was a simple measure, the work of the individual with a small portable shovel, which was more effective for defense than concrete and steel fortifications. It was the poilu in the trench and not the engineer with his "plans" who made good the determination that the Teuton should not pass Verdun. Again, the submarine was invented and immediately pointed out as a terrible weapon that would decide the mastery of the sea, but then the defense remembered a simple fact learned in elementary high school physics, a fact as to the non-compressibility of water and the equal distribution of pressure through water, and the defense simply dropped overboard a large bomb which strained and tore the plates of the underwater craft and left the submarine sailors forever at the bottom of the sea. Yet again, the tank that was to ride rough-shod over all resistance, was countered like the elephants of old, by digging "tank traps" or pits, and by devising "anti-tank" guns which could disable them. The Zeppelin that was to have distributed horror in the shape of bombs, has practically become a thing of the past.²⁷⁴ To secure a huge carrying

²⁷⁴"Lighter than air machines do not have the military value of heavier than air machines."—Hearings, House Committee on Appropriations, 68th Congress, 1st Session, 1924, p. 72.

capacity and to be able to stand still and hover over his target the airman must give his craft such great size and so hamper its speed and mobility, as to render it helpless before the assaults of fast, fighting planes.

Gas was first let loose by the Germans from big tanks carried up to the front lines. The attack had a startling effect. People all over the world turned loose their imaginations. The obliteration of the allies was predicted. The first defense was a wet handkerchief pressed over the mouth and nose. The defense was overtaking the offense, for gas masks were soon invented, that protected against gas, and later masks that not only protected against gas but were also reasonably easy to wear during combat. Then precautions began to be taken against gas cloud attacks. The wind had to be right for an attack, and time was necessary for the gas cloud to pass from German to Allied trench across No Man's Land. Gas warnings were devised. Lookouts were specially charged with watching for gas clouds. Also it was discovered that the huge cylindrical tanks from which the gas cloud was launched could not readily be brought up to the front line through the narrow tortuous trenches without occasionally revealing their presence, either to the eyes of observing aviators or to the keen ears of advanced listening posts. The defense had overtaken the offense, and that kind of gas attack practically disappeared. Gas, however, started a new offensive. It appeared in the form of gas shells, not so easily detected and identified. It came in new forms and composed of new chemical combinations, more deadly, more difficult of detection, and more persistent than the elementary chlorine which drifted on the April breeze into the British ranks at Ypres. But again the defense got to work. An all-purpose canister was invented to accompany the mask and to absorb all of the new types of dangerous gases. The face covering was made tighter to offset the new penetrating qualities of the new gases. Means were discovered of overcoming the damage to other parts of the body than the head, caused by persistent gases. Every improvement in gas offensive was countered by an improvement in gas defense. The armies were not obliterated. Neither side was wiped out. The defense was at least equal to the offensive. And since the war, in increasingly better models, gas masks have been manufactured which eliminate the mouth-piece and the nose-clip and make the giving of

commands and the carrying on of conversation more easy than during the World War gas attacks. There has even been devised a large capacity, high speed filter capable of clarifying enormous quantities of atmosphere at rapid rates of flow. The defense is tending to counteract every advantage of the offensive. The gas scare ought to be about over, unless perhaps we shall have something to fear from the new "soporite" which will put whole armies to sleep,²⁷⁵ or from the "powerful melancholic" which will weaken the morale and spirit of the national legislature and make it over-ready to agree to terms of peace.²⁷⁶

After all, the really interesting thing about all of these inventions is the simplicity of the methods by which new devices are counteracted. The new invention is invariably complicated; the defense which vitiates its effectiveness is a simple thing, like the pit dug for the tank, the open lane down which the elephants ran themselves out of warfare, and the "fox holes" by which the infantryman protects himself from a long range, expensive shell, nicely calibrated in manufacture and carefully adjusted to its trajectory. The manufacture, transportation, and meteorological calculation of effective use of gas, is a complicated thing. The handkerchief to the nose is a simple device. The listening for the ringing of a cylinder against the walls of a trench is a simple human act. The very bars of iron and useless shell cases hung rudely at the corner of a traverse to be employed for the "gas alarm" are symbolical of the simplicity of defense against gas. The complicated new invention, with possibilities of infinite imaginary destruction, appeals to the sensational press, and the sensation seeking public. The simple defense against such a measure is so simple and ordinary that it is neither widely discussed nor extensively written up in the public press. The mechanical devices for offensive warfare and the "horrors of war" they are supposed to be capable of effecting are exaggerated out of all proportion to their true military or their practical value.

XVII. MODERN STRATEGY

All of this point of view has peculiar pertinency to the subject of aerial bombardment. Get you a huge dirigible to bomb your enemy's city; and his flying airplanes will bring it down.

²⁷⁵New York Times, August 12, 1923, sec. II, p. 20a; Providence Journal, August 15, 1923; Proc. Amer. Chemical Society.

²⁷⁶Fuller, *The Reformation of War* 186.

The newest American Barling Bomber has recently been said to be of small value in comparison with the greater number of pursuit or combat planes that could have been provided in its place.²⁷⁷ Get you a group of bombers and a host of fighting planes to protect them on their raid and then go out to bomb the enemy civilian population centers and what will be the practical result, from a purely military and strategical standpoint? In the first place the city has lost its importance in modern war, arguments about democratic government and popular morale and pressure to the contrary notwithstanding. Cities used to be the objects of campaigns; now the fighting field army of the enemy is the objective. Vauban's lines went out of the limelight while Marlborough was still on campaign. The Germans sweeping on Paris in 1914 struck not toward Paris, but toward what they figured would be exposed flanks of Joffre's forces. Cities have been destroyed; but now there are only gestures toward their destruction. And this is the second count. As your raiding squadron penetrates into enemy territory its dangers become greater. Its chances of success less. It must pass through successive lines of enemy planes and over successive sites of enemy fighting squadrons. Its effective force lessens just as did the cavalry force of Morgan's raid in 1863, where he started with 28,000 Confederate cavalymen and lost all but a little more than a thousand. Then you come to bomb the city of your choice. It is provided with defensive fighting planes which can rise from the ground with fresher pilots, greater speed, and fuller gasoline tanks. It is provided with anti-aircraft guns which make your raiding party keep aloft to such heights that your bombing will likely be ineffective. In 1918, Amiens was repeatedly approached by German planes who regularly turned off when the anti-aircraft artillery opened on them. What matter if the guns brought down not a single plane? They had protected Amiens just as well. A Gunemeyer or a Richthofen might disregard such an aerial barrage; but the average flyer does not. Then your raiding planes must come home through hordes of hostile aviators roused to head them off. The simple military fact is that the results are not worth the effort. If bombing could be continuously and effectively carried out civilian morale might be depressed; but occasional raids and occasional bombing only

²⁷⁷Hearings, House Committee on Appropriations, 68th Congress, 1st Session, 1924, pp. 71-72.

serve to stimulate the foe to greater efforts against you. And if your methods are forbidden by international conventions, or even by draft conventions—let us say—and disapproved by the “public opinion of the civilized world” you will find that your transgressions will be taken, as were the German transgressions, as “a challenge to all mankind.”²⁷⁸ Your foes will be surrounded by increasing numbers of allies, and you will go down to as sure and ignominious a defeat as Germany did.

When the imaginative gentleman from the impractical group of the intellectually young, says he is frankly looking facts in the face and predicts the advent of an era of general bombardment in spite of the conventions and treaties which indicate a public opinion to the contrary, we can at least find consolation in the military mind. I do not mean the partisan mind of the member of the chemical warfare service or of the young air service officer who has just won his wings, but I mean the mind of the mature strategist who will actually direct operations and issue the orders in the wars to come. That mind is convinced of the impracticability of extensive bombing operations against civilians. That mind considers simple causes and looks for definite tangible results. That mind places no credence in the pictures of the “horrors” of future war, and realizes that the defense and the offense are always so nearly equal that distant bombardment of huge cities would not only be atrocious but would be of scant value as compared with what might be done with those same bombs, and those same flyers, in the more immediate vicinity within the theatre of operations. The principle of the “military objective” is not only a phrase in the new rules for aerial warfare. It is a standard doctrine of modern military science, closely linked with that other military doctrine as to the economy of force. There are railway lines nearby that can be bombed so as to disrupt the movement of the enemy reserves. There are ammunition depots nearby in the theatre of operations that need to be bombed to cripple the effectiveness of the enemy artillery. So why waste materials, personnel, and time in vain attempts to destroy the Cologne bridges or Berlin factories?

I have said that we cannot put too much trust on rules for aerial warfare for we shall be disappointed as to their effectiveness. But now that the military men are rather thoroughly

²⁷⁸Robinson & West, Woodrow Wilson's Foreign Policy 384.

aware of the real characteristics, values, and limitations of air bombers, we can trust to their common sense to hew to the line and fight for the winning of the war along military lines. The chief hope of the new rules lies not so much in the fact that they were drawn by a set of very distinguished jurists, as in the fact that they conform so well to the principles of military strategy and tactics. They will be applied, not by barristers before a court, but by soldiers in the field. There will be errors in interpretation and errors in commission, as there are in every war, for the principles of strategy and tactics seem almost as regularly violated as they are observed. Yet the rules will tend to govern just the same.