

AIR FORCE ASSOCIATION

Columbus, Ohio

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Members and Friends of the
Air Force Association:

You are uncommonly generous to let me share this hospitality. My only claim to it is a tour of duty in Germany with a status which officers regard as the most obnoxious form of life -- a civilian with assimilated rank. My arms consisted of an identification card, which certified that if captured by the enemy I would be entitled to treatment as a prisoner of war with the rank of Major General. I never had to put that card to test. But I am here to speak to you tonight because one of merely assimilated rank could not disobey a command from Jimmy Doolittle -- a real General, by every test, if there ever was one.

Returning from Europe a year ago, I was astonished as others returning more recently have been, to hear so much more war-talk here than abroad. I do not believe that another war is imminent. In no country do the people want war and in no country would the masses support measures which they could recognize as causes of war. To be specific, I am satisfied that the Soviet

Union is not in a position, economically, militarily, or politically, to commence a war with us at the present time and that her leaders well know it.

The Society diplomatic representatives are difficult for us to deal with and often seem to be carrying a chip on the shoulder. They sometimes make reckless, ill-considered and belligerent statements. Their policy impresses us as aggressively expansionist, and, with our limited background in Russian history and affairs, to be deliberately provocative. These are the same things they profess to feel of us. The closed-frontier policy of the Soviet Union, so contrary to Western practice, naturally arouses suspicions and defeats any efforts at mutual understanding. Despite all these outward appearances, circumstantial evidence seems convincing that the Soviet leaders want, at all hazards, to avoid actual war with the United States, at least in the near future. We must remember that the war struck nearer to the heart of Russia than of the United States and that her wounds are slower to heal. Russian casualties have been responsibly computed at no fewer than five million military and nine million civilian dead. These are staggering figures. The economy of the country is dislocated, much as ours would be if we were invaded from the Atlantic Coast and destroyed as far as the Ohio River, including Pittsburgh and Youngstown. Before the war, the Russian dictatorship had ruthlessly driven the people,

under one five-year-plan after another, to strain every nerve and sinew to build up and modernize their industry. They were consoled with the promise that fulfillment of these plans would bring easier times to all. Because of the devastation of war, these weary and desolated people must begin all over again and rebuild most of their homes as well as a large part of their production plants. The Soviet government has admitted that its industry is lagging seriously in many branches. Labor discipline is so strict that absence, lack of punctuality, slowness or carelessly are severely punished. Returning soldiers who had come in contact with a different way of life, undoubtedly create social problems and discontents. All of these circumstances make it highly improbable that the Soviet government now desires renewal of war; and there is no other government that even is suspected of such a purpose.

We of the United States recognize that nothing we could possibly gain by another war would be equal to what we certainly would lose. Victorious nations find victory almost as exhausting and as fatal to their progress and prosperity as defeat is to their old enemies. Even the United States, most untouched

and unshaken among the victor nations, has found itself faced with post-war problems that create new tensions in our society. Our free-enterprise economy, our standard of living, our social stability, our civil liberties, our abundance of natural resources -- all would be put in serious jeopardy by another war. So I take it as clear that every sane person wants to avoid another war and recognizes that it would be disastrous to all civilization.

Yet, we cannot fail to recognize disappointing and disillusioning facts. The victors have come out of this war so torn with conflict and dissension that they have not been able to declare terms of peace to their principle enemy or even to so organize relations among themselves as to give us confidence in the stability or permanence of peace. The world was never vexed by more unsettled and seemingly insoluble, war-provoking problems. On numberless frontiers, nation is harrying nation. Internally, the world over, class strives against class, race battles against race, faith is arrayed against faith. Overshadowing it all is a fierce political and economic rivalry between the Soviet Union and the United States. Moscow, naturally, has become head and heart of the Eastern bloc of countries which have accepted, or been subjected to,

communist totalitarianism. They are fired with a fanatical missionary zeal to spread that system. The United States, just as inevitably, has succeeded to leadership of all that Western bloc of states in which private enterprise economy, civil liberty and free government survive. The conflict between these two systems is fundamental. Many in both countries are fearful that some day the rivalry between them may get out of hand and end in war.

In a situation so tense with competition and struggle, a slight fumble on either side might provide the "incident" that would precipitate an unwanted war. And if history teaches us to have confidence in anything it is in the almost infinite capacity of statesmen to fumble.

If such a war should come, it would be a war of unprecedented fanaticism and fury. The aim of our enemies would not be merely to defeat our military power; it would be to break thru that and destroy the basis of our national life as well -- to blot out American capitalism, American industrial production and the form of government that fosters them.

No one could dislike and deplore huge military budgets more than I do or have less belief that war will ever solve the problems of the world. Our country has made its most rapid progress during that happy century when it was most free of armament burdens because we thought we were safely sealed off from

European conflagration. But considering the condition of the world we live in, it would be suicidal to let down our defenses. No matter how much one hates war, if he has seen what defeat in our time means, he will demand such a degree of preparedness as will leave not one chance in a million that our land could ever be laid open to conquest or devastation.

I believe that the world has made progress, very significant progress, when we consider how slowly the law advances, in use of law to preserve peace. After the first World War shook modern civilization, statesmen sought by universal agreement to outlaw wars of aggression, which are particularly unjustifiable. Treaties, signed by all the important powers, laid down the principle that such wars are illegal and renounced use of military force as a means of carrying out foreign policy. On the basis of this general agreement to outlaw such war, the Agreement of London of August 8, 1945, provided, and the Nurnberg Tribunal held, that it is an international crime to plan, prepare, initiate and wage a war of aggression or to participate in a common plan or conspiracy to do so.

No nation has yet been ready to extend outlawry beyond this one kind of war -- the war of aggression. Nothing in the Agreement of London, or in the judgment of the Nurnberg Tribunal, denies or qualifies the right

of any nation to plan, prepare for and conduct a war of legitimate self-defense, or to go to the aid of victims of a war of aggression started by another power. Thus, we might say that after all these centuries, International Law has just caught up with domestic law in making mass-attacks criminal in war as individual attack is in peace. But it recognizes, as domestic law does, that evil men attack despite the law, and hence it allows one to defend himself and others against assault.

I hope I have not been rendered naive by successful negotiation of these principles with the Soviet and successful, though at times difficult cooperation with it in the prosecution of Nazi offenders. But I see no present indication that the Soviet Union intends to take any action which appears to its leaders to constitute an illegal war of aggression, tested by the principles to which she has so recently subscribed. To do so would stultify her before the contemporary world and before history.

In the light of the law of Nurnberg, however, the issue after another war, if one comes about, will not be whether aggression is illegal, but the question will be who was the aggressor and who acted in self-defense, just as the issue in our criminal courts often is who made the assault and who acted in defense.

Now, as I appraise Soviet behavior in the United Nations and in dealing with weaker countries, her statesmen show a keen awareness of the Nurnberg law and follow it and a studied policy not to allow themselves to be put in the wrong by its tests. To me, Russia appears to play her every card with care to put on the United States the onus of aggression. Certainly her propaganda is aimed at creating that impression of our policy in the minds of the peoples of the world. In this she is helped, of course, by careless, threatening or boastful words by Americans in places of responsibility. It is of utmost importance in retaining the confidence of the world and a good name in history that the policy of keeping the United States prepared to defend itself shall in no way be associated with any purpose or threat to become an aggressor and, furthermore, that it shall not bear any such appearance.

Many military men ask where the law of Nurnberg leaves them. They point to the conviction and execution of the German Generals - Keitel, Chief of the High Command and Jodl, Chief of its Operations Staff, - and ask if American officers would be guilty of international crime if they help the United States prepare for war. Of course, it is not preparedness that is the crime; it is aggression. And it was aggression of which Keitel and Jodl were convicted.

In fact, Hjalmar Schacht, who confessed doing more than any other man to rearm Germany, even in violation of her treaties, was nevertheless acquitted because the court had a doubt as to whether he knew and intended the preparation to be designed for aggression. But no such doubt remained as to the intentions and knowledge of Generals Keitel and Jodl. Hitler expressly told them long before that he would wage war for conquest of territory and for Eastward expansion. The Tribunal was at pains to point out that the war had no aspect whatever of defense and that both of these militarists promoted and encouraged, prepared and led a deliberately aggressive attack. They had gone so far as to plot incidents to furnish pretexts for attack as a propaganda cover for what they knew to be aggression, and in this connection even considered assassination of their own Minister at Prague to touch off an invasion of Czechoslovakia.

There has always been a significant difference between the traditional attitude of the American soldiery and that of the German military caste. The idea here has been to serve the nation; the idea there was to dominate it. The American idea has been that statesmen get us into wars and the job of the military is to get us safely out of them. But the

militarists of the Prussian tradition have taken the active initiative in the political, as well as the technical, aspects of hostilities. For years, under the Nazi-sympathizing leaders, the military caste was hell-bent for war, to recover the prestige lost before. The promotion of war always has been, I hope always will be, contrary to the decent military tradition of this country. Nothing in the Keitel or Jodle conviction for conspiring to bring on a war of aggression affects the right or duty of the United States to maintain its state of preparation. It only forbids, what we should not wish to do in any case, the use of that preparation to initiate aggressive attack upon and invasion of other countries.

But Russia apparently is fearful that war may come in spite of all legal obstacles. She has within the last few days demanded revision of the rules as to the manner in which war may be conducted. Andrei Gromyko, Soviet Deputy Foreign Minister, demands a pact that will prohibit, or control, use of the atomic bomb. This Soviet demand for new rules of warfare, significantly limited to one particular weapon, naturally raises the question as to whether the laws of war do not need revision or amplification in other respects. My experience at the Nurnberg trials indicates that they do.

Of course, there are those who contend that law and war are inconsistent and can have nothing to do with each other. Except for the Nurnberg experience, I might have shared that view which now seems cynical and superficial. The evidence leaves no doubt that agreement upon clear, modern and workable rules does tend to mitigate the horrors of war. It also indicates that our chief complaints of inhumane conduct by the regular armed forces of Germany were in matters as to which the agreed rules appear to be either defective, obsolete or unworkable. On either side. In this respect, of course, we must distinguish the regular services from such lawless brigands as the Nazi SS which showed no regard for any law or code of honor.

The proper function of law in any society, at peace or at war, is to guide and control the use of force, and the proper use of force is to back up and enforce the law. While law more often fails to function in war than in peace, it is hardly contestable that, at least among soldiers with a sense of chivalry, agreed rules do, to a greater degree than might be expected, control the use of armed forces in many circumstances; as for example, treatment of prisoners of war. Accepted rules become ingrained habits of soldierly thought and conduct, and often control the

individual even in heat of action. Such rules also afford strong moral support for more decent men in policy-making positions, and tend to bring about moderate and humane policies. They afford standards for neutral judgment and condemnation, for reprisal against the violating power and for prosecution of individual violators. But the laws fail their purpose and become only snares when they are obsolete or impractical. War crimes trials have demonstrated that some of our laws of war are as antiquated as muskets. I shall point out only enough examples to show the need for a much broader reconsideration of these rules than Mr. Gromyko has suggested.

Lawyers, like Generals, tend to think in terms of the most recent war rather than of the next one. But even allowing for this, the law lags far behind the facts of air warfare as practiced in the last war, not to mention the atomic age. In no respect are they more deficient than in failing to define the permissible or impermissible uses of modern air power. Hermann Goering, who made the German Luftwaffe the scourge of Europe but also won quick victories at small cost was confronted at Nurnberg with the Rules of Land Warfare. He replied that he knew no one could fight a modern war within them. He made no attempt to square

his conduct with those rules but appealed to what was, to him, the higher law of military necessity. The principle sources of these Rules of Land Warfare are the agreements known as the Hague Conventions of 1907. In dealing with older types of combat they are more complete and effective. But the state of mind of that day in reference to air power is illustrated by a quaint declaration that, for a 5 year period, none of the parties would "discharge projectiles and explosives from balloons or by other new methods of a similar nature." It was not generally signed and has no importance except to reflect the absurd underestimate entertained by influential men of that day as to the importance of air power in waging a war.

The lack of specific and explicit rules as to the use of air power certainly contributed to causing mistreatment of our captured airmen, one of the principal grievances which the United States had concerning German conduct toward our combat forces. Keitel circulated an order that "Commandos, including those landed by aeroplane or parachute, whether in or out of uniform, armed or unarmed, were to be slaughtered to the last man, even if they attempted to surrender." He directed captured paratroopers to be turned over to the SD, well understood to be their executioner. Fliess

who crash-landed were killed by mobs and such action was not only condoned but actively encouraged. There were German officers who argued against these policies, but the rules of combat were so deficient that those who favored these orders were enabled plausibly to argue that our airmen were merely being punished for themselves violating them. Thus, the defective state of the rules of warfare was an important factor contributing to the inhumane treatment of air force prisoners, as compared with that usually accorded by the Wehrmacht to ground forces.

Another kind of war crimes, of which Generals Keitel and Jodl were convicted, concerned the mistreatment of prisoners of war. It was not denied that they gave Russian prisoners treatment that was not in accord with the chief and most recent source of International Law as to treatment of prisoners of war, which the Geneva Convention of 1929 embodied. But the legal effect of it was not clear because the Soviet Government has never become a party to this Geneva Convention. The obligations it lays upon a capturing power she has not accepted. Some, at least, seem inconsistent with the general attitudes of the Soviet. Giving notice and information of capture, allowing prisoners to send and receive communications, parcels and books, permitting a protecting power to interview prisoners, hear complaints and visit facilities, would not appear to be within the general policies of the Soviet government. Of course international law, even in the

absence of a treaty, prohibits deliberate and affirmative killing, cruelty and starvation. But the whole mechanism by which the modern world has sought to give vitality to the principle of humane treatment of prisoners of war is at a standstill with Russia. It is doubtful also if the Geneva Convention standards of feeding and housing of prisoners of war would apply in view of the fact that the Soviet Union has not signed it. If not, then there is no agreed minimum of food and shelter for men captured by the Red Armies.

And it may well be that the provisions of the Geneva Convention as to food, shelter and labor of prisoners of war would not work out justly in any foreseeable war. The Convention, for example, requires each capturing power to supply prisoners of war rations "equal in quantity and quality to that of troops at base camps of the detaining power." Thus, captive Americans would be entitled to the diet of the Russian soldier. Captured Soviet prisoners, however, we would be obliged to supply the food and shelter of American soldiers.

No doubt these rules, which simply make the standard of the captor forces, are just and workable when the belligerents have approximately the same standard of living. They become increasingly unjust as the disparity between the belligerents' living standards increases. It is difficult, of course, whatever may

agreed, to get any people to feed its enemies better than its defenders. Perhaps there might be a scientifically-measurable minimum which all powers would agree a prisoner of war should have. At all events, if Russia desires new laws of war, her relation to existing ones should be clarified and settled.

But even if the nations adopt clear and modern laws of war to guide the use of force, we must not in the present state of the world, neglect ample strength to back up and enforce the law. The best law may remain a dead letter if there is not power to impose it on the unwilling. On the other hand, strength to carry out reprisals or retributions may sometimes enforce humane considerations even in the absence of the law. And example of the humanizing influence of superior power was the decision of the Germans not to resort to gas warfare even in face of invasion. That is not to be credited to the wisdom or foresight of the lawmakers.

The United States is not a party to any treaty now in force which prohibits use of gasses or chemicals. But it is well known that we regarded its use as inhumane and did not propose to initiate its use ourselves.

We learned at Nurnberg from the testimony of Albert Speer, Minister of Production, that three German factories were working at full speed in 1944 on production of two newly-invented gasses which he said produced "most frightful results" which no known respirator would protect against. But these gasses were never used. "All of the reasonable militarists", he testified in answer to my questions, "turned the gas warfare down as being utterly insane because, considering your superiority in the air, it would merely mean that the unprotected German cities would suffer the most tremendous catastrophe in no time at all."

This frank enemy-testimony that it was our air-superiority that spared all the Allied troops, including the Soviet, the horrors of gas and chemical warfare, was the most unanswerable argument I ever heard for an American air force second to none. Of course, civilization demands that we continue at every opportunity to develop more humane, modern and practicable rules of warfare, so long as we cannot be sure that war will come no more.

If decisive air superiority can prevent gas warfare, I do not see why an unquestioned air superiority, in view of its modern possibilities, may not be equally effective to prevent any way. The opportunity of the United States to contribute to a century of peace is great. It can be done only by wisely adopting and

firmly pursuing a statesmanship of peace and good will,
backed by such strength as will leave no doubt of its
capacity to prevail against any attack.