

Hague Convention of 1899

Second Commission: Second Subcommission
Eighth Meeting, June 10, 1899, pp. 519 and 520, 521.

The President says that note will be taken of the declarations of Sir John Ardagh and his Excellency Mr. Beermaert.
He announces:

1. That Mr. Odier has proposed the following wording for Article 3:

With this object he shall maintain the laws which were in force in the country in time of peace. He may only suspend their enforcement to the extent and for the time that may be necessary for the purpose of maintaining order.

2. That Mr. Relin has proposed the following amendment to Article 3: 1/

The existing laws remain in force in the occupied territory, and if the occupant is induced, owing to the necessities of the war, to modify, suspend, or replace them, these measures shall be only of a purely provisional character, limited according to the extent and duration of the occupation.

The President asks the delegates who have proposed amendments in regard to Article 3, the maintenance of which has been provisionally adopted, to kindly give explanations regarding their propositions.

Mr. Relin recalls that the first draft of his amendment has been distributed. It was couched in the following terms:

The existing laws remain in force in the occupied territory, and if the occupant is induced, owing to the necessities of war, to modify, suspend, or replace them, the effect of these measures shall be limited to the extent and duration of the occupation.

To take into account the remarks of Mr. Lammasch at the close of the previous meeting, the end of the article was changed in the text now submitted to the subcommission. Apart from this explanation, Mr. Relin has nothing to add to what he said in the meeting of June 8 in support of his amendment to Article 3.

Mr. Odier recalls the fact that he favored the abolition of Article 3 and that he had proposed his wording in case it should be decided to maintain this article. He would like to have the text of the article in question submitted to a preliminary vote, whereupon a vote could be taken on the question of its maintenance.

Baron Bildt proposed the following amendment, the text of which is distributed during the meeting: Omit from Article 3 the words "and shall not modify, suspend, or replace them unless necessary"; and from Article 5, the words "as far as is possible."

Baron Bildt observes that opinions were divided at the last meeting. On the one hand guarantees were desired; on the other, objections were made to defining the limits of the rights of the victor, for by this act the Governments would be recognizing the belligerents in advance as having rights over their subjects.

It was from this standpoint that his Excellency Mr. Beernaert asked [101] that the article be abolished. The speaker expressed an opinion to the contrary, but in order to attain a real result, he proposed his amendment, which consequently is in the nature of a compromise. He hopes to receive the consent of all, unanimity being very desirable for the resolutions of this subcommission. Personally, he would not be opposed to maintaining the article.

Colonel Gress von Schwarzhoff remarks that it seems inadmissible to him to omit the last words of the article, which, without this restriction, forbids making any change whatever in the state of affairs in the invaded territory. The occupant would not even be allowed to declare martial law and would have for instance to respect the laws on recruiting, etc. In his personal opinion, the acceptance either of the amendment of Mr. Odier or that of Baron Bildt gives rise to many obstacles to the ratification of this act, not only on the part of Germany but elsewhere.

Mr. Biheurd, in order to bring together the different opinions as far as possible on this humane provision, proposes to omit Article 3 but to preserve its spirit by adding the following phrase to Article 2: "while respecting unless absolutely prevented the laws in force in the country."

His Excellency Mr. Beernaert endorses this proposition.

Baron Bildt and Messrs. Odier and Relin endorse the amendment of Mr. Biheurd.

On motion of Jenkheer van Karnebeek a vote is first taken on this amendment, the decision on this subject implying likewise that regarding the maintenance or abolition of Article 3.

The amendment of Mr. Biheurd is adopted by 23 votes against 1 (Japan).

Mr. Metene explains that he voted against the amendment for the following reason: The phrase added to Article 2 has in view only laws relating to public order and safety, whereas Article 3 seems to him to be more general in scope.

Mr. Beldiman, having made an appeal to the Japanese delegate in order to secure the desired unanimity, Mr. Metene modified his negative vote after some explanations had been made by Messrs. Beldiman and Bourgeois regarding the purport of the phrase added to Article 2 by Mr. Biheurd.

The amendment of Mr. Biheurd is therefore unanimously adopted by twenty-four votes, the delegate from Greece not being present.

The President thanks Mr. Metene for the spirit of conciliation which he was pleased to show.
