

Cantu, Natividad Cantu, Jose Angel Hernandez, Santos Cantu, Baltazar Lopes, and the Senoras Manuela Garza Viuda de Cantu, Petra Cisneros Viuda de Hinojosa, Francisca Fraustra Viuda de Bazan, Antonio Rodriguez Viuda de Cantu, and Antonio Garza Viuda de Hernandez. And that the said conveyance of said land and the said payment of said Five Thousand Dollars shall be and constitute a full liquidation and settlement of all damages occasioned to all of the owners of Mexican lands damaged by the unlawful acts of defendant, American Rio Grande Land & Irrigation Company.

Third. -- That defendant, American Rio Grande Land & Irrigation Company, do pay to the United States of America, Complainants, the sum of Two Thousand (\$2,000) Dollars to cover costs and expenses incident to surveying and marking the international boundary line now represented by the former bed or channel of the Rio Grande before the unlawful diversion of the stream was made by defendant, as aforesaid.

Fourth. — That as a penalty for violating the provision of the treaties, as aforesaid, in making, by artificial means, the unlawful change, diversion and interference with the natural channel, course and flow of the waters of the international boundary line stream, the Rio Grande, by reason of the wrongful acts complained of, that the defendant company pay to complainant, the United States of America, the sum of Ten Thousand (\$10,000) Dollars and court costs in the sum of Two Hundred (\$200) Dollars.

W. T. BURNS,
Judge.

THE USE OF BALLOONS IN THE WAR BETWEEN ITALY AND TURKEY

In a newspaper dispatch of March 21st, it is stated that the Italian forces have been dropping explosives from dirigible balloons upon Turkish forces, and that a bomb was dropped from a balloon over the town of Zanzour some fourteen miles west of the city of Tripoli; that the bomb fell into the street, killing four persons and wounding ten others, all of them noncombatants.

This item, whether true or not, calls attention to the possible use of balloons in warfare, and has given rise to a discussion whether the Italian forces are justified in dropping explosives from balloons. Whether balloons should be used in the prosecution of hostilities is a question which will not be discussed at present. The following paragraphs will be devoted to a brief examination of the law involved and the applicability of the Declaration, adopted by the First Hague Conference and renewed by the Second, forbidding the dropping of explosives from balloons. The First Hague Conference adopted the following declaration: "The contracting Powers agree to prohibit, for a period

of five years, the launching of projectiles and explosives from balloons, or by other new methods of a similar nature."

It is provided, however, that the Declaration shall be only binding upon the contracting parties in case of war between two or more of them, and that it is not binding against a non-contracting Power. This Declaration was signed by Turkey, but does not appear to have been signed by Italy. In any case, limited to a period of five years, it expired September 4, 1905, approximately two years before the meeting of the Second Hague Conference. The Second Hague Conference renewed the Declaration "for a period extending to the close of the Third Peace Conference." In view of the alleged actions of Italy, it is advisable to quote a portion of the Declaration which is in point: "The present Declaration is only binding on the contracting Powers in case of war between two or more of them. It shall cease to be binding from the time when, in a war between the contracting Powers, one of the belligerents is joined by a non-contracting Power." It is thus seen that the Declaration can be of no effect, unless it be a moral one, upon non-contracting Powers, and that contracting Powers are freed from the obligation in case of a war with a non-contracting belligerent. This Declaration, like its predecessor, was signed by Turkey, but it was not signed by Italy. In view of these circumstances, Italy is free to employ dirigible balloons and to drop projectiles upon Turkish soldiers, and to use the balloons as an instrumentality of warfare in any and all ways not forbidden by the laws of war. Turkey signed the Declaration, but as Italy is not a party to it, it is evident that by the express language of the Declaration, it is not binding upon Turkey in the war with Italy. Therefore, neither party is, during the present war, bound by the terms of the Declaration.

It is necessary, however, to examine the Convention Respecting the Laws and Customs of War on Land, and the regulations annexed thereto, adopted by the Second Hague Conference, because Italy and Turkey are signatories of it and it contains an article which has a direct bearing on the present question. Thus, Article 25 of the Convention of 1899 states: "The attack or bombardment of towns, villages, habitations, or buildings which are not defended is prohibited." This article was revised by the Second Hague Conference to read as follows: "The attack or bombardment, *by whatever means*, of towns, villages, dwellings, or buildings which are undefended is prohibited." It is thus seen that Article 25 of the Convention of 1899 was modified in 1907, and the pro-

ceedings of the Second Hague Conference show that the modification was introduced for the express purpose of prohibiting belligerents from bombarding undefended towns, villages, etc., by means of projectiles from balloons.

An interesting discussion arose in connection with the Belgian proposition to renew the Declaration of 1899. The Russian delegation proposed a project which is immaterial for the present discussion. The Italian delegation proposed the following articles: "1. It is prohibited to discharge projectiles and explosives from balloons which are not dirigible and manned by a military force. 2. The bombardment by military balloons is subjected to the same restrictions accepted for land and naval warfare in all ways which are compatible with this new mode of combat." It was suggested by the French delegation that the Italian proposition should be considered in connection with Article 25 of the Regulations Respecting the Laws and Customs of War on Land, and that it was only necessary to add to the text of the article the expression "by whatever means" in order to prevent the bombardment by balloons of undefended cities, villages, etc. After much discussion, the French view prevailed, Russia and Italy withdrew their amendments, and the clause proposed by the French delegation was, without dissent, added to Article 25. (*Deuxième Conférence de la Paix, Actes et Documents*, Vol. I, pp. 104-106.) Both Italy and Turkey signed, without reservations, the convention to which the regulations were annexed, and are therefore bound by Article 25.

In this connection Article 27 of the same convention should be considered: "In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes." In view of the discussions in the Conference, it would appear, therefore, that the belligerents have deprived themselves of the right to bombard "by whatever means" undefended cities, etc., and that in permissible sieges and bombardments certain classes of property are to be protected from the effects of war, as far as this is possible. It therefore follows that while either belligerent may use balloons, they must not launch projectiles upon undefended cities, towns, etc., and in sieges and bombardments of fortified cities and towns, unoffending property of the kind mentioned in Article 27 must be spared as far as possible.