

The Freedom of the SEAS

By James T. Shotwell

Professor of History at Columbia University and Authority on International Policy

THE forests of the Argonne are far away. In spite of the fact that in the last war we made that wilderness our battlefield, nevertheless, to the average American mind, great distances still separate us from it, and there is a deep-seated purpose not to let those distances be diminished. But, while the scene of war on land recedes in the perspective of both memory and imagination, the potential battlefields of the sea powers of the world reach to our very doors.

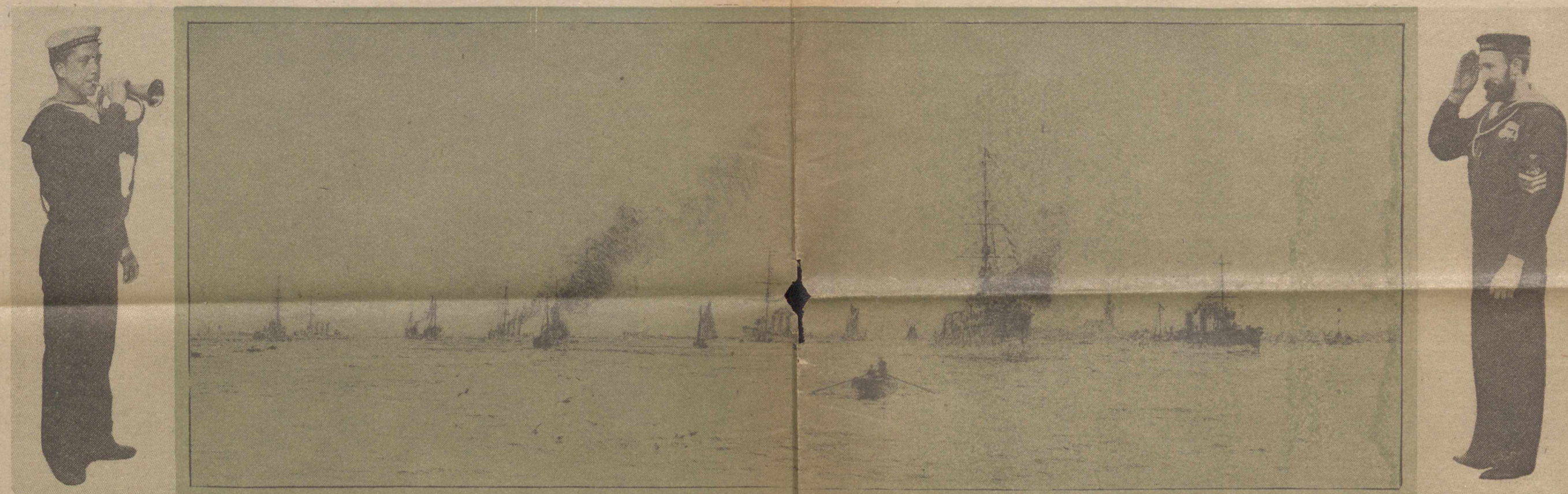
The open seas, which are to navies what the terrain of mountain, plain and river is to armies, are on the flank of every coast. A half hour's sail from any ocean port and we are in the "no man's land" of naval strategy; the thin stretch of territorial water which forms the protective glacis for the shore land behind is less than a cannon shot in width. When, therefore, the Sea Powers begin to talk about renouncing war there is something much more real in the proposition for us than in the pursuance of some far-away ideal in another part of the world. Our own navy is involved; and on the sea-ways that lead to peace we meet at once our more immediate and still unsolved problem of naval disarmament.

Above all, "the renunciation of war as an instrument of national policy" means to the Sea Powers a reformulation in terms suitable for our day of the old, historic doctrines of the "freedom of the seas." Originally, when the high seas were not the secure pathways of commerce that they are to-day, that doctrine was applied to times of peace as well as of war. But for more than a hundred years the peace-time aspects of the problem have practically disappeared and the only question that remains is that of the rights of belligerents and neutrals upon the high seas. It is a question of war-time conditions.

Now the Briand-Kellogg negotiations propose to cut the Gordian knot by eliminating war itself "as an instrument of national policy." If this were really accepted and applied throughout the civilized world, it would at very least so change the problem of sea power as practically to eliminate those nationalist elements which have made belligerency a menace to peaceful commerce on the high seas. It is a new era that is envisaged, which calls upon arbitrary power for a much greater renunciation than that involved in merely recognizing the rights of war-time trade at sea. The greater reform carries the lesser along with it; the elimination of national wars implies the freedom of the seas.

This fact has not been clearly seen as yet on this side of the Atlantic. But the British have begun to see it, coming to it the other way on, from the standpoint of a discussion of the freedom of the seas and through it reaching to the further and wider proposal of the elimination of national war. There is no more striking fact in the international debate now going on than that British statesmen and publicists are coming out in favor of the whole revolutionary proposal, fully aware that it would mean a reversal of the entire history of British naval strategy.

There is no soft streak in this discussion of a problem so vital to Britain, but a frank acceptance of the consequences, which are that the British fleet should never again be used as the instrument of a purely British blockade in a war waged by and for exclusively British aims and interests, but only in case its services were called into action by



An Etching by W. L. Wyllie

Courtesy of Harlow & Macdonald

the community of nations which registers its will to peace in a great anti-war treaty, the Covenant of the League, or other similar commitment. The days of Great Britain's empire of the sea are recognized as over at last, if in its place can be erected a commonwealth of sovereign states equally set upon the maintenance of freedom for commerce upon the high seas.

It is not necessary here to review the whole past history of this doctrine of the freedom of the seas, one of the oldest and most consistent doctrines of American foreign policy, older than the Constitution itself. Benjamin Franklin attempted to insert it in the treaty of peace with Great Britain in 1783, urging the adoption of a clause in that treaty that "all merchants or traders with their unarmed vessels, employed in commerce, exchanging the products of different nations, and thereby rendering the necessary conveniences and comforts of human life more easy to obtain and more general, shall be allowed to pass freely unmolested."

Although Britain did not grant this right, Franklin actually got the principle inserted into a treaty with Prussia two years later. The War of 1812 was largely due to the unsolved problem, which it left still unsolved. Throughout the nineteenth century the United States continued to urge the case of neutral rights upon the high seas, and when in 1856 the Conference of Paris reformed the law of the sea, the United States brought up again its insistent proposal that not only should privateering be abolished but that private property, when not contraband of war, should not be subject to seizure upon the high seas.

The question came to the fore again at the Hague Con-

ference through the insistence of the American delegation, and no more eloquent and convincing statement of America's case has ever been made than that of Mr. Choate in the Hague Conference of 1907, based not only upon Secretary Root's instructions and President Roosevelt's earnest insistence, but also upon a resolution of Congress of April 28, 1904, which had called upon the President of the United States to secure the "incorporation into the permanent law of civilized nations of the principles of exemption of all private property at sea, not contraband of war, from capture or destruction by belligerents." Mr. Choate quoted, on behalf of the American proposal, not only the precedent of his own country but the opinions of statesmen and eminent publicists in almost every civilized land.

The American proposal, however, met with the opposition of the British delegation at the Hague Conference, because it seemed to them to be somewhat self-contradictory, or at least incomplete. While denying the right of belligerents to seize the private property of the signatory powers at sea, the proposal made an exception of contraband of war and the right of commercial blockade. These two exceptions seemed to the British delegation to make the proposal itself an "equivocation capable of misleading ill-informed public opinion." They claimed that the abolition of the right of capture necessarily involved the abolition of commercial blockade, for the object of both measures is the same; and that as long as the term "contraband of war" is not confined to articles that can be used immediately for military purposes, but may include food-stuffs and raw materials as well, the exceptions to the rule might be as large as the rule itself.

Lord Reay described at length the widening field of contraband attendant upon the discoveries of modern science, showing remarkable prevision of the situation which was to develop in the early days of the World War. He pointed out, as well, the complications that would still exist in determining the character of articles of conditional contraband, and of making sure of the ultimate destination of innocent-looking shipments. The British solution for this complicated program was to propose that "contraband be abolished so that neutral commerce should regain the freedom it requires."

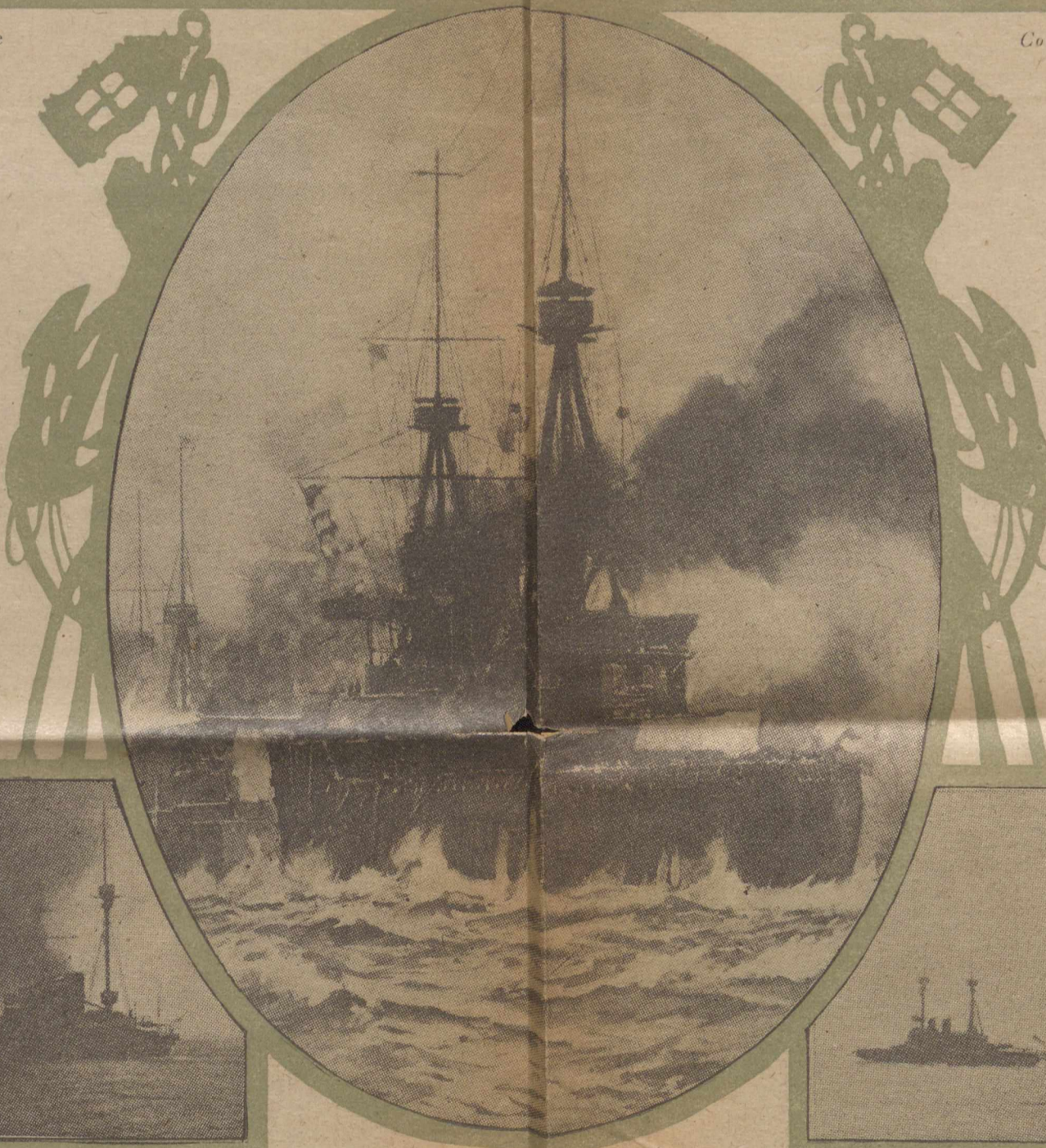
There is little more than historical interest now in this debate between the British and the American delegations at The Hague, for President Roosevelt refused to accept the British proposal as the British had refused the American formula. But, looking back over it, it seems to bear a fatal resemblance to the recent Disarmament Conference at Geneva; for in both cases there was a desire upon the part of the governments of Great Britain and the United States to reach the solution of a common problem, and each produced a formula suited to its needs.

What prevented agreement in both cases was an underlying, fundamental difference in naval strategy, employed on the one hand by an island power dependent upon the outside world for its sustenance, and on the other hand to maintain the external interests of a Continent, self-contained and self-sustaining.

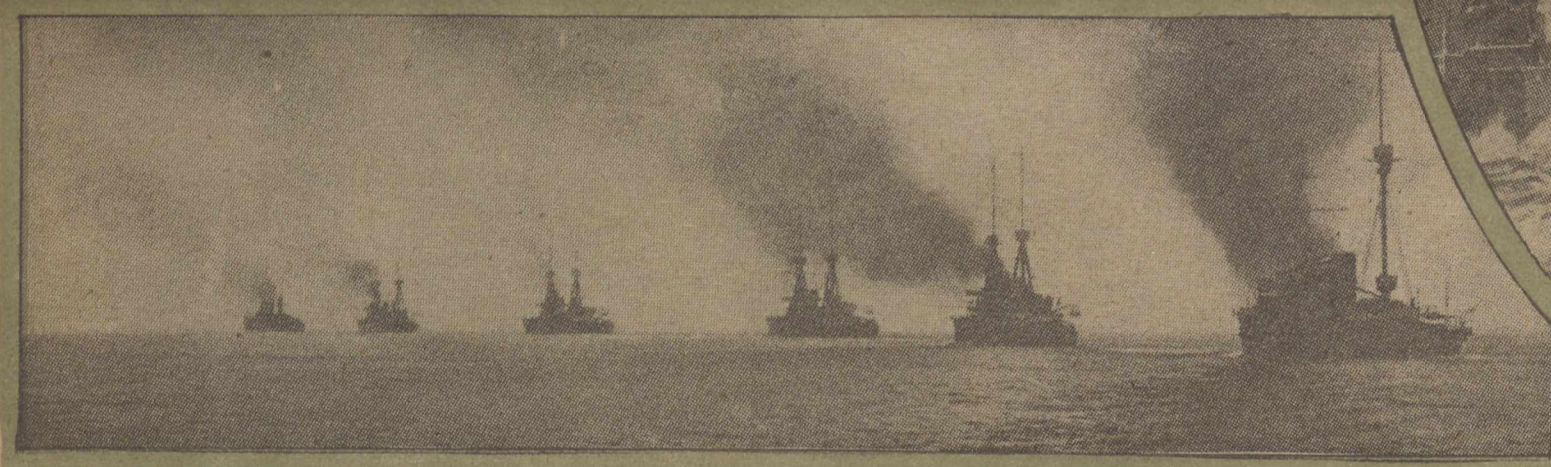
This is the Gordian knot; and so far the attempt to disentangle it by playing with both ends of the complicated skein has only added to the complications. The solution is now seen to lie in eliminating the knot altogether by the denial of the right of "private" warfare at sea under the terms of the Kellogg-Briand proposal.

The further history of this problem but emphasizes the points that have been made already. The Conference of London in 1908 left the law of the sea unreformed, and the World War revealed the danger which lay in this situation, a danger so real that it was only the existence of still more vital facts which prevented the involvement of the United States in the effort to make headway against the steady inroads of sea power upon neutral rights.

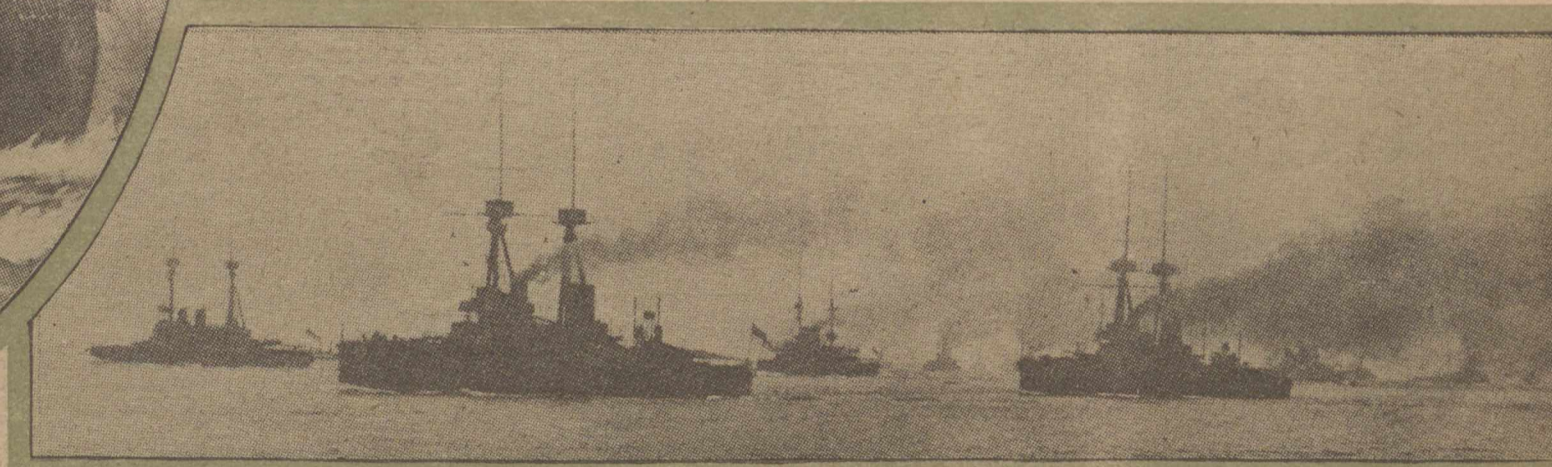
It was in the heart of this most serious phase of the war that Colonel House, at that time President Wilson's representative in Europe, attempted to revive the principle of the freedom of the seas and to use it as a formula of possible agreement between Germany and Great Britain. But his proposal found little response in England, owing both to the German diplomatic blunders of the hour and to the sinking of the Lusitania, and also to the fact that Great Britain was at that moment developing the blockade of the Central Powers as one of its other weapons of the war. A reform of this far-reaching nature needed peace-time conditions for its fulfillment—or else the overwhelming conviction on the part of the belligerents that in it lay the means of ending their tragic struggle. This conviction was lacking at the time, and the effort failed. Colonel House's insistence was not without effect when President Wilson made the principle of the freedom of the seas the second of his Fourteen Points, but in Paris the President dropped it from his program in the later days of the Peace Conference. With all the world organized in a League of Nations, there



Battle Cruisers Going Into Action



A Squadron Passing Out to Sea



A Glimpse of the British Fleet During Maneuvers