

officials or representatives fail to enjoy the protection which national states or *de facto* governments should accord them.

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THE DANUBE RÉGIME AND THE BELGRADE CONFERENCE

The Belgrade Conference of August, 1948, has added another and very unhappy chapter to the already long history of the régime of navigation on the Danube. For the Danube, flowing from the Black Forest to the Black Sea, has, as Europe's greatest river,¹ at all times played a great rôle in the commerce between Central and Eastern Europe, and has been of great importance, too, to Western Europe.

In the history of the Danube régime there may be distinguished four periods. Just as the principle of freedom of navigation on inland waterways in general found expression in bilateral treaties, long before the decree of the French Convention of November 16, 1792, and the Vienna Congress, so also the first period of the history of the Danube régime begins with bilateral treaties.²

A general regulation of freedom of navigation on international rivers³ (rivers traversing or separating more than one sovereign state) was achieved by Articles 108–116 of the Vienna Congress Acts of June 9, 1815.⁴ But these articles contain only principles which shall form the basis of international conventions concerning specific rivers.

The second period (1856–1920) begins with Articles 15–21 of the Paris Peace Treaty of March 30, 1856.⁵ Article 17 created the Permanent Riparian Commission and the provisional European Danube Commission. But it was the latter, continuously prolonged and reaffirmed in its competence,⁶ which became permanent and survived until the second World War.

¹ Apart from the Volga.

² The oldest are the Dutch-Turkish Capitulations of 1680. For a list from 1680 to 1920, see P. M. Ogilvie, *International Waterways* (New York, 1920), pp. 188–199.

³ Principal works on this topic: E. Carathéodory, *Du droit international concernant les grands cours d'eau* (1861); Ed. Engelhardt, *Du régime conventionnel des fleuves internationaux* (Paris, 1879); Van Eysinga, *Évolution du droit fluvial international 1815–1919* (Leyden, 1919); *idem*, *Les fleuves et les canaux internationaux* (Leyden, 1924); G. Kaeckenbeeck, *International Rivers* (London, 1918); Lederle, *Das Recht der internationalen Gewässer* (Mannheim, 1920); H. Wehberg, *Die Fortbildung des Fluss-Schiffahrtsrechts im Versailles Friedensvertrage* (Berlin, 1919); Rich. Hennig, *Freie Ströme* (Leipzig, 1926); H. Triepel, *Internationale Wasserläufe* (1931); Winiarski, "Principes généraux du droit fluvial international," *Hague Academy of International Law, Recueil des Cours*, 1933, Vol. III, p. 79 ff.

⁴ Martens, *Nouveau Recueil des Traités*, Vol. II, p. 436.

⁵ Martens, *Nouveau Recueil Général*, Series I, Vol. XV, p. 770.

⁶ See, particularly, London Conference, March 13, 1871, Arts. 4–7 (Martens, *op. cit.*, Ser. I, Vol. XVIII, p. 303); Berlin Congress Act, July 13, 1878 (Martens, *op. cit.*, Ser. II, Vol. III, p. 449); Convention of London, March 10, 1883 (Martens, *op. cit.*, Ser. II, Vol. IX, p. 392). See also D. A. Sturdza, *Recueil des documents relatifs à la liberté de navigation du Danube* (Berlin, 1904).

The European Danube Commission⁷ was an international administrative organ of the collegiate type, a composite organ;⁸ it had wide competence, exceeding that of most other international administrative organs. It had legislative competence, judicial functions in civil and criminal cases, in the first and second instance, taxing power, its own flag; it was not restricted to informational and ministerial functions, or, like other river commissions, to preparatory, supervisory, mediate functions; it not only coordinated activities of the member states, but replaced national administration, in full independence from territorial authority;⁹ its legislative acts were directly binding upon individuals.¹⁰ It did excellent work.

The third period of the Danube régime (from 1920 to the second World War) started with the corresponding articles of the Paris Peace Treaties¹¹ concluded after the first World War. These treaties definitely laid down the principle of freedom of navigation on international rivers for all flags, not merely for those of the riparian states, and expanded internationalization to the "river system." The whole Danube, from Ulm to its mouth, was internationalized.¹² The European Danube Commission¹³ was main-

⁷ There is a rich literature on the Danube régime prior to 1920: J. M. Wolfbauer, *Die Donau und ihre wirtschaftliche Bedeutung* (Vienna, 1880); E. Bontoux, *Le Danube* (Paris, 1878); J. A. de Vicq, *De Donau quaestie* (Thesis, Leyden, 1884); Geffcken, *La question du Danube* (Berlin, 1883); D. A. Sturdza, *La question des Portes de Fer* (Berlin, 1889); F. Bittel, *Über das Flussschiffsrecht der Donaumündungen* (Thesis, Mainz, 1899); G. Radu, *Die Donauschifffahrt in ihrer völkerrechtlichen Entwicklung* (Thesis, Berlin, 1909); G. Demorgny, *La question du Danube* (Paris, 1911); J. C. Maican, *La question du Danube* (Thesis, Paris, 1904); Bleyer, *Die zwischenstaatlichen Fragen des öffentlichen Donaurechts* (1916); L. Luger, *Die internationale Rechtsstellung der Donau* (Thesis, Würzburg, 1918); C. J. Baicoianu, *Le Danube* (Paris, 1917).

⁸ See Josef L. Kunz, "Experience and Techniques in International Administration," *Iowa Law Review*, Vol. XXXI, No. 1 (November, 1945), pp. 40-57.

⁹ Berlin Congress Act, 1878, Act 53.

¹⁰ See its police regulations, tariffs of navigation dues, pilotage regulations and navigation regulations, *Acte public relatif à la navigation des embouchures du Danube jusqu'à Galatz, 1865* (Martens, *op. cit.*, Ser. I, Vol. XVIII, p. 143); *Acte additionnel, 1881* (Martens, *op. cit.*, Ser. II, Vol. VIII, p. 207, Vol. IX, p. 253).

¹¹ Treaties of Versailles, Arts. 346-353; St. Germain, Arts. 291-308; Trianon, Arts. 275-291; Neuilly, Arts. 229-235.

¹² Literature of this period: H. Hajnal, *The Danube* (The Hague, 1920); Alex. Szana, *Die Internationalisierung der Donau* (Vienna, 1920); Joseph P. Chamberlain, *The Régime of the International Rivers: Danube and Rhine* (New York, 1923), pp. 13-134; Boshart, *Die völkerrechtliche Stellung der Donau* (Thesis, Würzburg, 1924); E. Morpurgo, *Danubio, Saggio storico-politico della questione danubiana* (Bologna, 1923); Jon G. Vidrasco, *La voie navigable maritime du Danube* (Bucharest, 1924); Walker D. Hines, *Report on Danube Navigation* (Geneva: League of Nations, 1925); V. M. Radovanovitch, *Le Danube et l'application du principe de la liberté de la navigation fluviale* (Geneva, 1920); J. Blociszewski, "Le régime international du Danube," *Académie de Droit International, Recueil des Cours*, 1926, Vol. I, pp. 255-340; Henri Hajnal, *Le Droit du Danube International* (The Hague, 1929); Solms-Braunfeld, *Die völkerrechtliche Stellung der Donau* (1931); Ottahal, "Die völkerrechtliche Stellung der

tained with its former jurisdiction over the "maritime Danube." A new Commission, the International Danube Commission,¹⁴ was given jurisdiction over the "fluvial Danube" from Ulm. This commission was composed of eleven members, eight of the riparian,¹⁵ and three of non-riparian states.¹⁶ The new commission had, by no means, the far-reaching competence of the European Danube Commission, but was restricted to preparatory and supervisory functions.

The Paris Peace Treaties provided only for provisional regulation. Article 349 of the Versailles Treaty provided that the Powers primarily interested in the navigation of the Danube should prepare a definitive régime. For this purpose an international conference was called in Paris,¹⁷ which elaborated the *Statut Définitif du Danube*.¹⁸ Finally, the Statute concerning the régime of navigable waterways of international interest, annexed to the Barcelona Convention of April 20, 1921,¹⁹ has to be taken into consideration.

The fourth period of the Danube régime began with the end of actual hostilities in 1945. Since that time shipping between the upper and lower part of the Danube had been deadlocked, and even within the Soviet-con-

europäischen und der internationalen Donau-Kommission," Jahrbuch der Konsularakademie (Vienna, 1936), p. 56 ff.; Jean Duvernoy, *Le régime international du Danube* (Paris, 1941); Fred L. Hadsel, "Freedom of Navigation on the Danube," Department of State Bulletin, Vol. XVIII, No. 468 (June 20, 1948), pp. 787-793, 797.

¹³ See *Bulletin de la Commission Européenne du Danube* (Galatz, 1927); *Règlement de navigation et de police applicable au Bas-Danube* (Galatz, 1923); *Tarifs des droits de navigation* (Galatz, 1928). See also *La Commission Européenne du Danube et son œuvre de 1865 à 1931* (Paris, 1931, pp. 526).

¹⁴ See *Le Danube International, Journal Officiel de la Commission Interalliée du Danube, 1920*; *Journal Officiel de la Commission Internationale du Danube, 1921*. See also *Commission Internationale du Danube: Dix Ans de Régime International sur le Danube Fluvial, 1920-1930*.

¹⁵ Two German States, one each of Austria, Czechoslovakia, Bulgaria, Hungary, Yugoslavia, Rumania.

¹⁶ Great Britain, France and Italy.

¹⁷ *Conférence Internationale pour l'établissement du Statut Définitif du Danube* (Paris, 1921, 2 vols.). This conference published also the following volumes: *Conventions et règlements relatifs à la navigation du Danube, 1718-1920* (Paris, 1920); *Traités relatifs à la Commission Européenne du Danube (1856-1921)* (Paris 1921). See also, *Treaties and Conventions relating to Navigation on the Danube, 1815-1947*, Department of State, Documents and State Papers, Vol. I, No. 4 (July, 1948), pp. 250-274.

¹⁸ Paris, July 23, 1921. It came into force on October 1, 1922. The "River System of the Danube," according to Art. 2 of the Statute, includes the Morava and Thaya insofar as they form the boundary between Austria and Czechoslovakia, as well as the Drave, Tisza and Maros.

¹⁹ M. O. Hudson, *International Legislation*, Vol. I, p. 638 ff. See J. Hostie, "Régime des voies navigables d'intérêt international," *Revue de Droit International et de Législation Comparée*, Vol. XLVIII (1921), p. 532; F. Corthésy, *Étude sur la Convention de Barcelone sur le régime des voies navigables d'intérêt international* (Thesis, Paris, 1927).

trolled area shipping had fallen down. It was the United States which most vigorously advocated freedom of navigation on the Danube. The Council of Foreign Ministers decided on December 6, 1946, that within six months of the coming into force of the peace treaties with Rumania, Bulgaria and Hungary, a conference to work out a new convention regarding the régime of navigation on the Danube should be called; this conference should be composed of the representatives of the seven Danubian states, and of the United States, Great Britain and France. The Paris Peace Treaties of 1947 contain nothing about this conference, but they do contain the following article:

Navigation on the Danube shall be free and open for the nationals, vessels of commerce, and goods of all States, on a footing of equality in regard to port and navigation charges and conditions for merchant shipping. The foregoing shall not apply to traffic between ports of the same State.²⁰

In the meantime the Soviet Union had consolidated its hold over Eastern Europe, had communized all the Danubian states, except Austria, whose governments are directed from Moscow. Behind the Iron Curtain the Soviet Union had practically secured a monopoly over Danube navigation. In consequence, as the Danube Conference was finally convoked at the end of July, 1948, there was no reason for optimism as to the results of this conference.

In fact, as Charles de Visscher has stated,²¹ the Danube has, among the great rivers of Europe, always been the stream which has met the greatest obstacles to a really satisfactory international régime. First of all, the régime of the river has always been divided: ²² from 1856 to 1920 only the lower Danube was internationalized; from 1920 on, there were two Danube régimes, two commissions. Second, political influences have always overshadowed economic interests; political influences have dominated and shaped the law of the Danube. The maintenance of the European Danube Commission ²³ and the strengthening of its functions had always been a part of British policy. On the other hand, Austria-Hungary dreamed of a

²⁰ Treaties of Peace with Bulgaria, Art. 34; with Hungary, Art. 38; with Rumania, Art. 36 (Treaties of Peace with Italy, Bulgaria, Hungary, Roumania and Finland, Department of State Publication 2743, European Series, 27, 1947); this JOURNAL, Supp., Vol. 42 (1948), pp. 192, 241, 267.

²¹ In his preface (pp. IX, X, XII) to Hajnal, *Le Droit du Danube*, cited in note 12 above.

²² This aspect is stressed by Duvernoy (*op. cit.* in note 12 above), who speaks of the " *caractère fractionnel*," " *le particularisme du droit danubien*."

²³ Hajnal speaks of the Commission as a "remnant of the European Concert." The Commission consisted originally only of the six European Great Powers and Turkey; only later was Rumania admitted.

policy of hegemony. The small Power, Rumania,²⁴ was in constant protest, first against Russia, later against Austria-Hungary.

The momentarily victorious Central Powers made an attempt to bring the Danube under their hegemony by Article 24 of the Peace Treaty of Bucharest of May 6, 1918.²⁵ This article abolished the European Danube Commission; its task was given to a new commission²⁶ consisting only of representatives of Germany, Austria-Hungary and the riparian states, Bulgaria, Serbia, Rumania and Turkey. The Entente protested (the similarity with the situation of 1948 is interesting), stressing that the Treaties of Paris and London could only be changed with the consent of all the contracting parties. But at that time, in contrast with 1948, the Allies were able to force the abandonment of this article of the Bucharest Treaty by the Armistice of November 11, 1918. The victorious Allies themselves allowed the European Danube Commission to be composed only of representatives of Great Britain, France, Italy and Rumania, excluding not only Austria, Hungary and Turkey, but also Germany and Russia.²⁷

Finally, National Socialist Germany denounced by her note of November 14, 1936,²⁸ the river régimes of the Paris Peace Treaties, withdrew the German representatives from the different river commissions and proposed to replace the treaties by bilateral conventions, on the basis of a general principle of reciprocity. This note touched the Danube régime only insofar as the *International Danube Commission*, after the German occupation of Austria in 1938, had to leave Vienna.

In Belgrade in 1948 the Soviet Union attempted to legalize her monopoly over the Danube and the Western Powers could this time only protest. At the Belgrade Conference the Soviet Union was not only the inviting, but

²⁴ See the great number of Rumanians among the writers on the Danube problem. See also, specifically, Const. Teodoreseu, *Rumänien und die Donauschiffahrt* (Thesis, Heidelberg); Armand Lévy, *La Russie sur le Danube (Protestation des Roumains)* (Paris, 1853); *idem*, *La Roumanie et la liberté du Danube* (Paris, 1853); F. V. Holtzendorff, *Rumäniens Uferrechte in der Donau* (Leipzig, 1883); Felix Dahn, *Eine Lanze für Rumänien* (Leipzig, 1883); G. Jellinek, *Österreich-Ungarn und Rumänien in der Donaufrage* (Vienna, 1884). In the period after 1920 there were difficulties between Rumania and the European Danube Commission: H. Hajnal, "Le conflit diplomatique entre le gouvernement de Roumanie et la Commission Européenne du Danube," *Zeitschrift für Völkerrecht*, Vol. XIII (1926); *idem*, "La Commission Européenne du Danube et le dernier avis consultatif de la Cour," *Revue de Droit International et de Législation Comparée*, Vol. IX (3rd ser.), 1928, p. 625; P. C. I. J.: Judgment No. 16, September, 1929, Series A, No. 23; Advisory Opinion, Series B, No. 14.

²⁵ Martens, *op. cit.*, Vol. X (1921), p. 856.

²⁶ *Commission des Bouches du Danube*.

²⁷ But at the Paris Conference of 1921 the representatives of Germany, Austria, Bulgaria and Hungary collaborated on the *Statut Définitif du Danube* "avec voix consultative."

²⁸ *Reichs-Gesetzblatt*, 1936, II, p. 361. See H. Mosler, "Die internationale Rechtslage der Rheinschiffahrt nach der Note vom 14. November 1936," *Niemeyer's Zeitschrift*, Vol. LII (1936), p. 144.

also the dominating Power. As in the Atomic Energy Commission, there were two opposite proposals, the American proposal and the Soviet draft.²⁹

First of all it is necessary to point out the manner in which the Conference was conducted. The chief Soviet delegate, Deputy Foreign Minister Andrei Y. Vishinsky, held from the beginning to the end a dictatorial position. Contrary to the position of the American Delegation, he declared that the problem of this Conference was essentially political.³⁰ The six Danubian states accepted *en bloc* everything the Soviet Union proposed and rejected *en bloc* every amendment of the Western Powers with the usual vote of seven to three³¹ without even considering these amendments. The Soviet Union fully enjoyed the "mechanical voting," against which it thunders at Lake Success. There were no genuine negotiations at all.³²

Not only was English excluded as a language of the convention, not only did Mr. Vishinsky constantly accuse the Western Powers of imperialism, economic penetration and violation of the sovereignty of the Danubian states, suspecting such motives behind every word of Western drafts or amendments, but he also often did it in the most abusive language. "The door is open for you to go out," he told the Western delegations. They have to accept or to leave; for "what is acceptable in the United States draft can be found in the Soviet draft and what is not in the Soviet draft cannot be accepted." The British delegate found it necessary to declare that Britain is not going to dance according to the Soviet whip. The Austrian observer was accused of sabotage and threatened with a deadly undertone which made the delegates shiver and the Austrian grow pale.

As none of the Soviet-dominated states made the slightest suggestion for a change in the Soviet draft and as all Western amendments were brushed aside, the convention adopted by the Eastern states is practically identical with the Soviet draft. The American proposal is highly superior, as far as the technique of legal drafting goes. While the Soviet draft (and, therefore, the convention) is unacceptable as to contents, it must be admitted that the Soviet Delegation came to Belgrade excellently prepared,

²⁹ This writer wishes to thank Mr. Walter A. Radius, Director, Office of Transportation and Communications, Department of State, and an American delegate at the Belgrade Conference, for kindly having sent him the texts of the American proposal as well as of the Soviet draft and the convention, the latter two in informal English translations from the Russian and French originals, respectively.

³⁰ See Lenin's dictum: "Law is politics."

³¹ There were 57 such votes.

³² Ambassador Cavendish W. Cannon, chief American delegate, protested at the end of the conference "against Soviet manipulation of the six votes of its puppet States. . . . The record shows plainly that the Soviet Delegation went to this Conference unwilling to negotiate. . . . The persistent efforts of the . . . Western Delegates to engage in genuine negotiations have been rebuffed, sometimes with the most abusive language. Every amendment submitted by the Western Powers has been summarily brushed aside. The meetings of this Conference have been characterized by constant Soviet dictation. The unhappy subservience of the Danubian peoples to Soviet imperialism was never more clearly manifested than at this Conference." Department of State Bulletin, Vol. XIX, No. 480 (Sept. 12, 1948), p. 333.

as far as the whole historical, political, legal and economic background of the Danube problem is concerned.

The American proposal and the Soviet draft have a number of points in common: both terminate the European Danube and the International Danube Commission; both create, at least in principle, a unitarian Danube régime for the whole internationalized Danube, under a single new Commission; both give to this new Commission much less far-reaching jurisdiction than that which the European Danube Commission possessed; both affirm the principle of freedom of navigation on the Danube.

But the points of divergence are of greater importance. We will deal first with problems of international law of a more general nature.

The American proposal (Article 25) provides that the Danube River Commission shall be brought into association with the United Nations, and that meetings of the Commission shall be open to representatives of the United Nations as observers; further, that differences as to interpretation and application of the convention shall be settled in accordance with the provisions of the United Nations Charter (Article 42). But the convention does not mention the United Nations and provides for the settlement of disputes by an *ad hoc* Conciliation Commission (Article 45).

The American proposal (Article 43) contains an article concerning the amendment of the convention, and another article (Article 44) allowing the accession by any state, member of the United Nations. The convention contains an article on revision (Article 46), but makes the convention a closed treaty. Under the American proposal the convention shall come into force upon the deposit of ratification of all the ten states participating at the conference and of Austria (Article 44). Under Article 47 of the convention, it shall come into force upon the deposit of six ratifications; this, of course, guarantees its coming into force despite the rejection by the Western Powers.

The supplementary protocol to the convention cancels all obligations of the International Danube Commission and all obligations of the European Danube Commission regarding the payment of credits granted to it by Great Britain, France, Russia and other states without compensation. The same protocol states that the Paris Convention of July 23, 1921, as well as all former acts providing for the establishment of the régime of the Danube is null and void. This provision is, of course, a flagrant violation of the norm of international law, according to which treaties can only be terminated by agreement of all parties thereto. Not only Britain and France, but also the United States, not a party to the Paris Convention of 1921,³³ protested.³⁴ At this point, however, it must be remarked from an

³³ Nothing is more significant as to the change of the American attitude in foreign affairs than the fact that the United States declined the invitation to send a delegate to the Paris Danube Conference of 1921.

³⁴ Ambassador Cannon on Aug. 18, 1948. Department of State Bulletin, Vol. XIX, No. 480 (Sept. 12, 1948), p. 333.

objective, scientific point of view, that the Western Powers themselves are not free from fault, when they agreed at the meeting of the Council of Foreign Ministers of December 6, 1946, that only the states which were in fact present at the Belgrade Conference be invited to a conference on the Danube. They themselves thereby agreed that signatories of the Paris Convention, in contradiction to its terms, should not be invited to a new Danube Conference. The states disregarded include not only Italy, but the Allies, Belgium and Greece. The two latter, in accordance with Article 349 of the Treaty of Versailles, had been invited by the Conference of Ambassadors to participate at the Paris Conference of 1921 and had exercised a good deal of influence on the elaboration of the *Statut Définitif du Danube*; they had, under Article 42,³⁵ a clear-cut right to be invited to any conference on the revision of the Danube régime.

There are, further, vital differences as to the Danube régime itself, between the American proposal and the Soviet draft (and hence, the convention).³⁶ This difference can already be seen in the preamble of the Soviet draft, which stresses full navigation on the Danube "in accordance with the sovereign rights of the Danube States." "The Danube for the Danubians" was the Soviet slogan. Against "Western imperialism" the Soviet Union insisted on "sovereignty";³⁷ and it is amazing that the six Eastern states, completely under Soviet domination—in many cases against the will of the majority of their populations—echoed the sovereignty slogan and thanked the Soviet Union. The very convention reaffirms the domination and monopoly of the Soviet Union over Danube navigation.

The first vital difference concerns the composition of the new Danube Commission. According to the convention, the Commission consists only of one representative of each of the seven riparian states (Article 5). The United States had fought hard to get Austria, one of the most important Danubian states, admitted to the Belgrade Conference not merely as an observer, but as a full member. When that proposal was rejected, the American Delegation, in accordance with Article 10 of its proposal, insisted many times that Austria become immediately a member of the new Commission. But Annex I of the convention provides merely that a repre-

³⁵ Art. 42 of the Paris Convention of 1921 reads: ". . . *Le présent Statut pourra être révisé . . . (by a) . . . conférence à laquelle tous les États signataires de la présente Convention seront invités à participer.*"

³⁶ See the declarations of Ambassador Cannon of August 5, 7, 13 and 18, Department of State Bulletin, Vol. XIX, No. 476 (Aug. 15, 1948), pp. 197-199; No. 477 (Aug. 22, 1948), pp. 219-223; statement by Mr. Radium, *ibid.*, pp. 223-24; No. 479 (Sept. 5, 1948), p. 283; and No. 480 (Sept. 12, 1948), p. 333. See also the article, "The Issues at Belgrade Were Clearly Drawn," by Walter A. Radium, Department of State Bulletin, Vol. XIX, No. 481 (Sept. 19, 1948), pp. 384-385.

³⁷ Just as in the United Nations Atomic Energy Commission and elsewhere. It is interesting to note that a Communistic state is today the principal champion of the most traditional conception of "sovereignty."

sentative of Austria shall enter the Danube Commission after the question of a treaty with Austria has been settled.

The United States insisted that Germany, another important Danubian state, should be admitted to full and equal membership in the Danube River Commission after the entry into force of the treaty of peace with Germany. The convention completely ignores Germany now and in the future.

The Western Powers insisted that the non-riparian states, Great Britain, France and the United States, be represented in the Commission, defended themselves against the accusation of imperialism and economic penetration, and justified their inclusion by economic interests, international responsibilities and treaty rights. The American proposal provided (Article 13) that the Commission, thus composed of eleven (later twelve) members, take resolutions and recommendations by a two-thirds' majority, which would have provided a security against Soviet domination. But the Commission created by the convention consists only of the representatives of the seven riparian states, among which the Soviet Union is the only Great Power. The Belgrade Conference has shown that the six other delegates will blindly vote for whatever the Soviet delegate proposes.

The second vital difference concerns the functions of the new Commission. The American proposal stood for a strong international Commission, with competence over the whole internationalized Danube, able to assure freedom of navigation on the Danube and uniformity of regulations. The Commission created by the convention, sitting at Galatz, is not only Soviet-dominated, but impotent; its functions are vague, it depends on the riparian states. Moreover, in the two most important parts of the Danube, namely, between Braïla and the mouth of the Sulina Canal, and in the Iron Gates section, two Special River Administrations are set up, composed only of the representatives of the two adjacent riparian states, Rumania-Soviet Union, and Rumania-Yugoslavia respectively.

The third vital difference concerns the régime of Danube navigation itself. The American proposal (Articles 1, 9) recognizes absolute freedom of navigation for all states on the entire "Danube River System," in accordance with the Paris Convention of 1921. But the convention (Articles 1, 2) restricts freedom of navigation to the Danube proper. The Soviet draft, and, hence, the convention, while paying lip-service to the principle of freedom of navigation for all states on a footing of equality (Article 1), severely restricts this freedom of navigation, whereas Article 1 of the American proposals adds to the words "freedom of navigation" the important words "without discrimination." First, the two states of the Special River Administrations have complete authority to control the Danube gateway from and to the sea and in the Iron Gates section. Then, while the vessels of all states have the right of *free navigation* on the Danube, vessels "entering ports for loading and discharge shall be en-

titled to use loading and unloading machinery, etc., on the basis of agreements, concluded with the appropriate transportation and expeditionary agencies" (Article 38, Soviet draft, Article 41, convention). But these "appropriate agencies" are Soviet-sponsored companies in Hungary, Rumania and Yugoslavia. These companies have varying degrees of Soviet ownership, but always effective Soviet control; the general manager is in all cases a Soviet citizen. These companies have been given privileged treatment and special (in the case of Budapest, nearly exclusive) privileges; they dominate the Danube fleets in the various countries and have obtained control of most of the useful ports and dock facilities. Thus, Western shipping is at the mercy of these companies.

The United States, under these conditions, naturally rejected the convention and "will not, of course, recognize for itself or for those ports of Austria and Germany which are under its control, the authority of any commission set up in this manner to exercise any jurisdiction in those portions of Austria and Germany."

The Belgrade Conference is a failure as far as the Danube problem is concerned. Although the convention will come into force among the seven Eastern states, the Danube remains divided and dead. But there is even more to it, which confirms the discouraging statement that international law, as far as the laws of war and many other parts are concerned, is in a deplorable state of retrogression. As Ambassador Cannon in his final rejection stated, "The Soviet attitude defeats and destroys the whole concept of international waterways which has been the public law of Europe for over 130 years."

The Belgrade Conference presents the picture of a caricature of an international conference under totalitarian domination. Last, though not least, the Belgrade Conference has once more shown the crisis of our whole Western Christian culture, the danger of a new era of barbarism, by the tremendous decline of good manners in diplomacy. Such decline is, as Anthony Eden has stated, "at the same time, one of the most troubling factors in the present situation of the world."

JOSEF L. KUNZ

RECOGNITION OF STATES: SOME REFLECTIONS ON DOCTRINE AND PRACTICE

"The recognition of a new state has been described as the assurance given to it that it will be permitted to hold its place and rank in the character of an independent political organism in the society of nations."¹ The practice of states demonstrates that the granting of recognition to a new state is productive of juridical consequences in international law, but

¹ Henry L. Stimson, Secretary of State, Address before the Council on Foreign Relations, Feb. 6, 1931. Department of State, Latin American Series, No. 4, p. 6.