

THE DIPLOMACY OF GEORGE GRAY

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PREFACE

In common with all historical writings, this attempt to examine the application of irenic internationalism and to identify its qualities is shaped by the availability of resources. In this respect, the students of Oklahoma State University are well served because the holdings of the Edmon Low Library include the essential volumes of primary and secondary materials. Especially useful are the Papers Relating to the Foreign Relations of the United States, with the Annual Message of the President to Congress (cited as Foreign Relations), the Congressional Record, the Senate and House Documents, and the microfilms of The New York Times. Supplementing the published works are the papers of George Gray which have been collected in two depositories. Special thanks must be extended to Gladys Coghlan and Peyton Lewis of the Historical Society of Delaware, Wilmington, and to Stuart Dick of the University Library of the University of Delaware, Newark, for their kind assistance in making available research facilities and for helping to locate relevant material.

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CHAPTER I

INTRODUCTION

An ill and unfit choice of words leads men away into unnumerable and inane controversies and fancies.

Francis Bacon

Popular unfamiliarity with the name of George Gray is in part explained by the concept of diplomacy which he practiced during the period of America's emergence as a great power with a colonial empire. Irenic diplomacy, as distinct from the diplomacy of imperialism and the diplomacy of isolationism was not likely to attract the attention of later generations of historians, and those who applied its precepts were not likely to acquire a reputation which would survive their career. The natural tendency of historians to dwell on presidents and secretaries of state, on premiers and ambassadors, and an associated tendency to polarize the debate over imperialism have the effect of excluding the less dramatic names from the pages of the textbooks. Accordingly, the great debate of 1898 is reduced to a contest between the expansionists and the anti-expansionists, between Theodore Roosevelt and William Jennings Bryan, between Senator Lodge and Senator Hoar. Easily omitted from such an examination are other arguments which supported neither imperialism nor isolationism.

Irenic internationalism was positioned between the two extremes, and, while it shared qualities with them, it was also distinct from them. Although it would not command the same degree of attention from

later scholars, it nevertheless functioned as a viable alternative to imperialism and isolationism. A foreign policy based on international cooperation rather than on the competition for colonies was championed by a small number of articulate spokesmen, both within and without the government. Of these, George Gray, as United States Senator, federal judge, and private citizen, was actively involved in American diplomatic activities and consciously sought to influence the formulation of foreign policy. For over a decade he was the leading proponent of an internationalist foreign policy which would emphasize peaceful cooperation rather than imperialistic competition. The nature of this irenic internationalism, the extent to which it was applied by the United States Government, and its distinctions from other policies can therefore be revealed by an examination of the diplomatic career of George Gray, a man highly regarded in his own time but little known to later generations.

Unlike his more famous contemporaries, George Gray sought for his nation an active role in international affairs which avoided the excesses of both imperialism and isolationism. Although opposed to the transformation of America into an imperial republic, he could not accept the opposite extreme of denying American participation in the world community. Like the imperialists, he favored an America more active in international society; but unlike them, he opposed the imposition of American sovereignty upon unwilling and distant subjects. Like the isolationists he opposed the use of America's new military and industrial power to construct an empire on the European model; unlike the isolationists, he supported the use of American moral and

economic influence in world affairs. As distinct from both imperialism and isolationism, George Gray's irenic internationalism was predicated on the end and not on the means to attain that end.

As the spokesman for irenic internationalism in the United States, George Gray was part of the great peace movement which was increasing its activity and its influence, especially in Europe and North America during the last years of the nineteenth century and the early part of the twentieth century. This associated him with kindred spirits in other lands who, like himself, saw the benefits to accrue to mankind from a policy of international cooperation rather than international competition. The trend was not limited to the peace movement but embraced reformers of every conceivable description. Geographical barriers and political frontiers were ignored as visionaries and realists joined to bring to their respective populations better health, greater security, improved nutrition, and more comfort. Pacifists, humanitarians, businessmen, labor leaders, and scientists shared in common the cosmopolitan spirit of the age. The very forces which are most often pictured as divisive--industrialism and the resultant competition for raw materials and for markets--also served to foster cooperation and coordination to a degree never before experienced.

Although not confined to Europe, it was there that the new spirit was most evident. The huge population in a small area made it incumbent upon the various sovereignties to set aside their tradition of political and military competition in favor of cooperation on matters of common interest. Weights and measures were standardized, river and rail traffic were regulated, postal and telegraph systems were coordinated, patents and trademarks were reciprocally recognized. The

tradition was already strong within the scientific community, which by 1914 had created more than 100 international organizations to encourage the exchange of ideas and information. The labor movement also tended to blur national distinctions even before it culminated in the congresses of the Second International, and by 1910, 60 percent of Europe's unionized workers, representing 28 different trades, were linked through international federation. An associated development was the rapid organization of consumer and producer cooperatives, so that in 1913 over 4,000 of these were represented at an international conference. Parallel developments were also occurring within management and ownership. In 1905 the International Association of Chambers of Commerce was founded, followed in 1908 by the International Federation of Permanent Committees for Expositions. The desire for reform naturally attracted the attention of churches which recognized the value of international cooperation. The 1910 World Missionary Conference in Edinburgh launched the ecumenical drive which was to be such an important aspect of religious development in the twentieth century. Temperance, Zionism, and women's rights, especially suffrage, were causes which transcended national frontiers. The Olympic Games were reconstituted during this period, an indication of the thoroughness with which the spirit of internationalism permeated every form of communal activity. The formation of 317 international organizations, 13 governmental and 304 private between 1900 and 1914, make this period the most productive in the twentieth century.¹

The peace movement was, by its very nature, international in orientation and a natural magnet for those, such as George Gray, who advocated international cooperation through conferences, congresses,

arbitration, international law, etc. It was also elitist; its adherents tended to be educated and wealthy, with sources of information and with access to positions of power. Through extensive correspondence, through journal articles and books, and through public addresses they exercised an influence vastly disproportionate to their numbers. Because the movement utterly collapsed in 1914, and because it had never sought to enlist huge numbers in its cause, there has been a natural tendency to dismiss it, even to ignore it. The search for the causes of the Great War has focused attention upon the study of militarism, of nationalism, and of the alliance systems to the near exclusion of parallel developments within the international peace movement.

Recently, however, there has been something of a countermovement, applying a variety of Newtonian logic: the forces of war inspired an opposite and equal reaction--at least nearly equal. Thus, it is noted that the same governments which were most conspicuously caught up in the arms race, also provided the strongest support for the peace movement. Specifically, from 1890 to 1914 the per capita costs of military and naval establishments in the British Empire and in Russia increased two-fold, in the United States and in Germany three-fold; but all four powers were represented in the two Hague Peace Conferences. George Gray was a member of the generation which established universal military service in almost every major nation; but it was also the same generation which established the International Law Association, the Interparliamentary Union, and the Institute of International Law. Indeed, he was one of the founders of the American Society of International Law, serving for many years as a vice president and a member of

the executive committee, and maintaining his membership and interest until his death.

Still other examples of the parallel development of militarism and international peace can be cited. At the same time that competing alliances were being forged, Alfred Nobel was establishing the fund for his Peace Prize, and Andrew Carnegie was financing construction of the Peace Palace. The Carnegie Endowment for International Peace was established, and for years it listed as a vice-president and a trustee the name of George Gray.

At the time of his death, George Gray was a board member of two other organizations which fostered the cause of humanitarianism: the American National Red Cross and the Smithsonian Institution. As one of the original incorporators of the former, he had also served as the President of the Delaware Chapter. For 35 years he had served the latter as a member of the Board of Regents, and during his last 10 years he was the chairman of its executive committee.

In 1904 the militaristic impulses were evident in Europe, where France and Great Britain were forming their Entente Cordiale, as well as in Asia, where Russia and Japan were engaged in hostilities. In that same year, a parallel was to be found in the form of a conference at Lake Mohank, New York, which promoted the cause of international arbitratio. These conferences were held annually and attracted the active participation of the leading advocates of arbitration and of other irenic concepts, including Dr. Edward Everett Hale, John W. Foster, Oscar Straus, Nicholas Murray Butler, and James Brown Scott. As the presiding officer in 1904 and 1905, George Gray lauded the

support given to arbitration by Great Britain, and he strongly endorsed American ratification of recently proposed general treaties of arbitration.

In sum, the forces which generated the catastrophe of 1914 were not allowed to develop unchallenged. In every major nation there was a party of dedicated workers who labored in the cause of peace. Because it was a labor in vain, later generations have tended too much to ignore it altogether; but in the early years of the twentieth century there was much to suggest its ultimate success. More than one contemporary observer, intelligent and well-informed, but with a restricted vision that considered only the irenic evidence would subscribe to "the great illusion" and would conclude that ". . . the day is reasonably near when wars between civilized nations will be exceedingly rare."²

The dawning of the millenium was a beautiful vision, and universal peace was a worthy goal, but George Gray could not concur that their time had arrived. Although much had "been already accomplished in making war more difficult and arbitration more easy," he was "not so enthusiastic as to believe" that the possibility of war had been eliminated.³ His concept of irenic internationalism identified America's new activist role, the increased use of arbitration, and the general spirit of international cooperation merely as factors which encouraged peace but did not guarantee it.

George Gray had earlier supported irenic internationalism as a United States Senator, but his first opportunity to apply them as an active participant in diplomatic negotiations occurred in 1898. This

was especially significant, because that year has long been recognized as a turning point in American foreign policy--the year in which the United States engaged a European nation in a war with imperialistic overtones and acquired a true colonial empire. It was also the year of a less familiar confrontation with Great Britain in a Canadian boundary dispute. The new policy of international cooperation was continued in the following years as the United States participated in the two Hague Conferences, in the Algeciras Conference, and in the Permanent Court of Arbitration. In the Pacific, the United States consolidated its hold on the Philippines, annexed Hawaii, secured title to American Samoa, occupied Guam and Wake Islands, and issued the Open Door Notes.

This sudden increase of international participation, culminating in American involvement in the First World War and the Versailles Peace Conference, has long been a source of confusion--even of distortion. For example, authors of survey textbooks of United States history have traditionally found it difficult to handle the explanation of America's sudden emergence as a great power and as a participant in the race for colonies. The common approach is to follow the study of the Civil War and Reconstruction with a series of chapters dealing with the settlement of the interior of the continent, the expansion of capitalist enterprises, the growth of the metropolitan areas, and the tide of immigration.⁴ The result in many instances is to leave the casual student of history with the feeling that America discovered the outside world only in 1898.

This, of course, is a distortion of the truth. The fault is not necessarily that of the textbook author, since it is the nature of

such works to treat their subject topically instead of strictly chronologically. Any study of history at any level of sophistication must coordinate chronology with topical explanations. This is especially true of the study of American diplomacy in the last years of the nineteenth century. There is a strong tendency to view the dramatic events, especially of the war with Spain, separate from the broader currents prevailing within the nation at that time. A nation's foreign affairs are never conducted in a vacuum, immune from the contemporary issues of its domestic politics. Foreign and domestic events interact, especially in a democratic government.⁵

During the 1890s, America's involvement in the race for colonies was but one of several major trends. This was also the period in which the country's capitalist structure reached maturity, in which its industrial capacity rivalled Europe's, and in which the formation of trusts permitted powerful and narrow concentrations of wealth. The year 1889 had seen the first of the great land rushes into Oklahoma, and the next year the Census Bureau proclaimed that the frontier no longer existed. There was also a third movement, however, of even greater importance--a great demonstration of increased democratic sentiment which gave its name to the era: Populism.⁶

To view America's entry into the imperialistic struggle, labeled by critics as jingoism, without considering its relationship to the Populist crusade, would oversimplify reality. The desire to regulate the American business community reflected an intense confidence in the ability of government to right all wrongs, even in international affairs. Richard Hofstadter has pointed out that "it hardly seems an accident that jingoism and Populism rose together."⁷ As heirs to the

Populist spirit, the Progressives continued the tradition of using the government as an instrument of reform both at home and abroad. Noting that it was the result that mattered rather than the means, William E. Leuchtenburg draws the following parallel between Progressives and imperialism:

. . . Imperialism and progressivism flourished together because they were both expressions of the same philosophy of government, a tendency to judge any action not by the means employed but by the results achieved, a worship of definitive action for action's sake . . . and an almost religious faith in the democratic mission of America. . . . Since the United States was the land of free institutions, any extension of its domain was per se an extension of freedom and democracy. It was an age that admired results, that was not too concerned with fine distinctions and nice theories. The Progressives . . . admired anyone who could clean up the slaughterhouse or link two great oceans, who could get a job done without months of tedious debate and deference to legal precedents.⁸

But merely to recognize that domestic and foreign affairs are related does not in itself resolve the confusion associated with the events of 1898. Even among diplomatic historians there is little consensus of interpretation. Was America's sudden expansion really "The Great Aberration of 1898," or was the push into the Pacific but a continuation of a movement which could be traced back at least as far as 1803? The answer, more relative than absolute, is determined by the frame of reference adopted by the individual historian.

If the framework is that of westward movement, it is appropriate to trace a continuous chain of events: the Louisiana Purchase, the Mexican cession, the Gadsden Purchase, the Alaska Purchase, the annexation of Hawaii, and the annexation of the Philippines. It may even be appropriate to argue that the movement did not stop there but continued to lead Americans to entanglement on the Chinese mainland, to the occupation of Japan, and eventually to confrontation in Vietnam.

By contrast, a different frame of reference can be adopted which considers the population and the future status of the areas brought under the American flag. According to this rationale, expansion prior to 1898 had incorporated small populations which were politically unorganized and which would be assimilated into the American population. The land itself was contiguous to the United States, or at least (in the case of Alaska) on the North American continent, and it was anticipated that much of it would eventually enter the Union as states. Therefore, the acquisition of Hawaii and the Philippines, far distant from American shores and inhabited by alien populations which--it was assumed--could never be assimilated nor prepared for statehood, constituted the great aberration of America's foreign policy.⁹ The value of such interpretive dichotomies is to be found less in the acceptance of the one framework over the other than in an awareness of the existence of both.

Difficulty for the historian is compounded by semantic obstacles, particularly involving the response to the expansionist impulse. The abuse of the terms "isolation" and "isolationism" was not confined to a particular period nor to a single group of writers. It has been used to describe American foreign policy during the period preceding 1898, during the 1920s, and, more recently, in the years following the withdrawal from Vietnam. Thus, for Harold U. Falkner there was an obvious parallel between the 1920s and the early 1890s, as he detected a "return to an earlier policy of isolation."¹⁰ By contrast, the Beardes described the 1920s as a decade of aggressive American foreign policy, a position supported by Senator Henry Cabot Lodge.¹¹ American rejection

of membership in the League of Nations was described by at least one writer as "Isolation Perfected."¹²

Further examples of confusion are suggested by the writings of such historians as Richard Van Alstyne and William G. Carleton. The former described the "militant manifest destiny men" and "the isolationists of the nineteenth century."¹³ The latter defined the debate over the League of Nations as a contest not between isolationists and internationalists, but rather between nationalists and internationalists.¹⁴ Albert K. Weinberg is a noted authority on American diplomatic history in general and imperialism in particular, but his description of expansionism has been cited as an example of George Orwell's double-think: "Expansion . . . really was long a major expression of isolationism."¹⁵ Francis Bacon's warning against "an ill and unfit choice of words" could not have had a stronger relevance in his own time.

In spite of the frequency of its appearance in contemporary debates and in the pages of later histories, "isolationism" was more a myth than a policy. It has never existed as a consistent program in American foreign policy, but has served more effectively as a pejorative label used by advocates of increased involvement in foreign affairs.¹⁶ To Professor Weinberg, American isolation "is not a theory but a predicament." He continues in a more serious vein:

. . . Isolation is not a theory of American foreign policy. Isolation is a theory about a theory, misrepresentative even if taken only semiliterally, it has placed the discussion of American foreign policy in a sad predicament of abfuscation, not without its influence upon national decisions.¹⁷

That the United States practiced cautious diplomacy prior to 1898 is accepted almost without dissent. It was, however, a policy of

"national reserve," never of isolation. It was, in the words of a former Secretary of State, "a deliberate and more or less regular abstention from certain political relationships usually considered instrumental to either interest or duty."¹⁸ Even those who made frequent use of the term assumed that it referred only to political and military relationships, and not to America's heavy interest in international commerce in both hemispheres and on all the seas. It was entanglement with European political intrigues that was to be avoided from the very first. As Professor Weinberg notes, John Adams feared the proposed alliance with France even before the nation declared its independence.¹⁹ This form of isolation was given its strongest emphasis and acquired an almost sacred quality by George Washington's famous query in his "Farewell Address": "Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?"²⁰

In the debate over the League of Nations, two of the most prominent United States Senators were William E. Borah of Idaho and Henry Cabot Lodge of Massachusetts. Both opposed the terms of membership incorporated in the proposed Treaty of Versailles, and both were sensitive to the charges of isolationism. Senator Borah rejected the concept of isolation and recommended in its place a concept of "freedom of action."²¹ Senator Lodge recognized that "isolationist" was a political epithet:

. . . Those who favor our taking part in European politics and wish the United States to become an integral part of the European political system, use the word "isolationist" in order to discredit those who differ with them. There

is no such thing as an 'isolationist,' of course, in the United States, and there never has been, because 'isolationist,' if strictly interpreted, means naturally that those to whom it is applied believe that the United States should pursue a policy of isolation and separate itself from the doings and interests of the rest of the world. I repeat, there is no such thing as an 'isolationist' in the United States and there never has been, and the United States has never been isolated. The rest of the world could not isolate us and we have never done it or thought of doing it ourselves.²²

To support his position, Senator Lodge compiled a statistical summary which revealed that the Senate gave its advice and consent to 582 treaties, conventions, and international agreements during the years 1789-1923. In 136 years, he noted, only 11 treaties had been rejected by the Senate. The reaction caused by the rejection of the Treaty of Versailles obscured the fact that this act was followed by 45 treaties, conventions, and international agreements into which the United States entered during the first half of the 1920s. "To say, in the presence of these statistics, that the United States is 'isolated' would seem to be more picturesque than veracious."²³

Cursory treatment by textbooks, interpretive dichotomies, and semantic obscurities do not exhaust the list of confusions presented by the events of 1898. The extent to which those events captured the public attention and the extent to which the public involved itself in contemporary debate have the effect of blurring the subject for later generations and of adding an element not present when decisions of policy are left to bureaucrats and technocrats. Long after the war with Spain, the debate continued among all strata of society, in the press, both academic and popular, in Congress, and within other agencies of the government. No other issue of foreign affairs has ever

dominated public debate during peacetime as has the question of the proper form of American internationalism. The question transcended traditional party lines and attracted the attention of seemingly every prominent figure. The list of distinguished expansionists included Presidents McKinley and Roosevelt, Senators Lodge and Beveridge, and intellectuals such as Brooks Adams and Henry Adams. Aligned in opposition were men of at least equal brilliance, including President Cleveland, Senator Hoar, Speaker Reed, William Jennings Bryan, and Andrew Carnegie.

The expansionist leaders tended to come from conservative, well established families from the eastern part of the nation, whose concept of reform was not limited by national borders. Cultured, educated, imbued with the theories of Captain Alfred Mahan, this patrician community viewed the world scene with an Anglo-Saxon bias. Although they tended to be registered Republicans, there were prominent exceptions, such as Walter Hines Page, the Democratic editor of the Atlantic Monthly. Even before 1898, they had advocated a large and modern navy, had defined the need for strategically located coaling and cable stations, had considered the possibility of an American canal at the isthmus, and had identified Hawaii, Samoa, and the Caribbean islands as appropriate targets for American expansion. The most aggressive among them would have added Canada to the list. "We have a record of conquest, colonization, and territorial expansion unequalled by any people in the nineteenth century," wrote Senator Henry Cabot Lodge.

We desire no extension to the south, for neither the population nor the lands of Central or South America would be desirable additions to the United States. But from the Rio Grande to the Arctic Ocean there should be but one flag

and one country. Neither race nor climate forbids this extension and every consideration of national growth and national welfare demands it.²⁴

But this robust enthusiasm for foreign conquest was not a consequence of dynamic American capitalism, as some have argued. Contrary to the expectations of Vladimir Lenin and other varieties of economic determinists, the leading capitalists took scant notice of imperialist opportunities before the Spanish-American War. ". . . The rise of expansionist philosophy in the United States owed little to economic influences." So concluded Julius Pratt after a thorough study of business journals and private correspondence among the leaders of the business community.

In fact, . . . business interests in the United States were generally opposed to expansion, or indifferent to it, until after May 1, 1898. The need of American business for colonial markets and fields for investment was discovered not by business men but by historians and other intellectuals, by journalists and politicians.²⁵

On this point a careful distinction must be noted: once the war with Spain began the business leaders were not slow to realize the opportunities presented by a policy of expansion.

American business had been either opposed or indifferent to the expansionist philosophy which had arisen since 1890. But almost at the moment when the war began, a large section of American business had . . . been converted to the belief that a program of territorial expansion would serve its purposes.²⁶

The argument presented by anti-imperialists focused on anticipated harm to the Republic and its institutions. Several found it inconsistent for a republic based on the consent of the governed to possess colonies. ". . . Our Government was formed for the express purpose of creating in a new world a new nation, the foundation of which should

be man's self-government . . .," was the position of former President Grover Cleveland. The United States must not "abandon its old landmarks" and should resist "the lights of monarchical hazards."²⁷ As the most prominent Republican official to oppose expansion, Speaker Thomas B. Reed found it difficult to oppose openly the policy of his party, but privately regretted its incompatibility with the "foundation principles of our government."²⁸

Rarely in the history of public debate over governmental policy has any issue attracted the attention of intellectuals as did the question of expansion. The cause of anti-imperialism was adopted by university presidents, such as David Starr Jordan of Stanford University and Henry Wade Rogers of Northwestern University; by professors such as William Graham Sumner, William James, and Charles Eliot Norton; and by such literati as Mark Twain, William Dean Howells, and Finley Peter Dunne. To promote their efforts they created the Anti-Imperialist League, financed at least in part by Andrew Carnegie. Intense lobbying against the treaty with Spain proved unsuccessful, as did William Jennings Bryan's effort to make imperialism the primary issue in the presidential campaign of 1900. Shortly thereafter, imperialism faded from the forefront of public consciousness as it was replaced by other issues of public controversy.²⁹

Imperialism was but the most extreme form of internationalism, and thus it created the most heated debate. The participation in the debate by intellectuals and personalities of genteel breeding did not preclude rancor and exaggeration. Those who opposed expansion frequently carried the argument into opposition to all forms of internationalism, and proponents of expansion on more than one occasion

allowed themselves to be swept up by visions of the benefits to be realized from a policy of imperialism in particular and internationalism in general.

The most dramatic examples of the latter form of exaggeration were those who justified American involvement on racist grounds. To John O'Sullivan's concept of manifest destiny were grafted new theories of national superiority, which received inspiration from the writings of Charles Darwin, Herbert Spencer, John Fiske, and William Graham Sumner. Although Charles Darwin would certainly never have recognized the distorted interpretations of his theories, his appreciation of the American spirit was well calculated to flatter a nation poised on the brink of territorial expansion:

There is apparently much truth in the belief that the wonderful progress of the United States, as well as the character of the people, are the results of natural selection; for the more energetic, restless, and courageous men from all parts of Europe have emigrated during the last ten or twelve generations to that great country, and have there succeeded best.³⁰

The extent to which such theories actually influenced those who were in a position to determine national policies can never be determined. In a recent study of the historiography of imperialism, James A. Field has directed attention to the tendency to overemphasize the relationship between professors and politicians.

The standard ideologists who are alleged to have infected the American people with the disease of Darwinist expansionism were few in number and of doubtful leverage, and the standard quotations from their works are selective and unrepresentative.³¹

While this may be true, it is an equal fallacy to suggest that no such relationship has ever existed. For example, more than casual relationships can be demonstrated between the president most widely associated

with imperialist tendencies, Theodore Roosevelt, and three imperialist writers--a professor of political science, a sociologist, and a naval strategist.

The first was John W. Burgess, a political scientist at Columbia University. Having made a study of the political talents of several European ethnic groups, he concluded that only Germans and Anglo-Saxons could create a true national state, which he regarded as "the most modern and the most complete solution of the whole problem of political organization which the world has as yet produced." Other attempts were inferior: Greeks, Celts, and Slavs could organize only on the local level; Romans could organize on the world level, but only in the form of empire. It was the Anglo-Saxon and the German, whom he collectively labeled the Teutons, who were "particularly endowed with the capacity for establishing national states," and who were "especially called to that work . . . intrusted, in the general economy of history, with the mission of conducting the political civilization of the modern world." The Teutonic nations had been "called to carry the political civilization of the modern world into those parts of the world inhabited by unpolitical and barbaric races; i.e., they must have a colonial policy."³² To those reluctant to undertake such a mission, Professor Burgess argued the crying need of the world:

. . . By far the larger part of the surface of the globe is inhabited by populations which have not succeeded in establishing civilized states; which have, in fact, no capacity to accomplish such a work; and which must, therefore, remain in a state of barbarism or semi-barbarism, unless the political nations undertake the work of state organization for them. This condition of things authorizes the political nations not only to answer the call of the unpolitical

populations for aid and direction, but also to force organization upon them by any means necessary, in their honest judgment, to accomplish this result. There is no human right to the status of barbarism.³³

To John Burgess there was a clear concept of noblesse oblige among the community of advanced nations. "Indifference on the part of Teutonic states to the political civilization of the rest of the world is, then, not only mistaken policy, but disregard of duty, . . ."³⁴

The definition of national duty offered by Professor Burgess found an echo in the following decade, as President Theodore Roosevelt announced his corollary to the Monroe Doctrine in a message sent to Congress:

If a nation shows that it knows how to act with reasonable efficiency and decency in social and political matters, if it keeps order and pays its obligations, it need fear no interference from the United States. Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation. . . .³⁵

The parallel messianic impulses expressed in the presidential address and the professorial essay could be attributed to the general intellectual environment in which both figures moved. However, when it is recalled that while at Columbia University, Theodore Roosevelt was a student of John Burgess, the conclusion appears inescapable that here was a direct association between an ideologist and public policy.³⁶ This was certainly the conclusion of Nicholas Murray Butler, who, as President of Columbia University, was closely associated with Professor Burgess. Plans were made for the professor's study to be reprinted in 1917, because President Butler felt his interpretations had made "a most profound impression . . . both in Europe and in the United States."³⁷ Perhaps more profound than they had anticipated.

The project was suspended when it was pointed out by a typesetter that ". . . everything done by the Germans in the present war found its justification in that book."³⁸

Social Darwinism was the isomorphic bond between Burgess and an English sociologist, Benjamin Kidd. His principal work, Social Evolution, anticipated that the growth of the world's population would soon make the tropics essential as a source of food. The indigenous population, he had no doubt, would be unable to utilize the resources of the areas, therefore it was incumbent upon the British and the Americans to provide the organizational skill. Benefits would accrue to all mankind, and the assumption of responsibility by the Anglo-Saxons was especially fortuitous because they would exploit the nutritional potential without exploiting the population.³⁹ The conclusion reached by James Field's study--that imperialist theoreticians had little impact on the actual course of events--is not sustained by the reception given to the efforts of Benjamin Kidd. In less than two years, his work had run through at least 14 printings and had been reviewed in the North American Review by a writer with mixed reactions. The reviewer found Benjamin Kidd "burdened by a certain mixture of dogmatism and superficiality," although some themes were handled "very well," including an "excellent chapter on modern socialism."⁴⁰ The writer was the future president, Theodore Roosevelt, and he would be carrying Benjamin Kidd's ideas to the White House within six years.

A third influence operating on the future president was that of the legendary Captain Alfred Thayer Mahan. Again, James Field is inclined to discount the effectiveness of Captain Mahan's influence

because his writings did not attempt to focus America's attention on imperialism in general and particularly on the growing importance of the Pacific Ocean. On the other hand, there can be no doubt that Theodore Roosevelt was approvingly conscious of the points which Captain Mahan did stress: the need for a large and modern navy, for coaling stations, and for cable stations. Theodore Roosevelt heaped praise on Captain Mahan in his review of The Influence of Sea Power Upon History.⁴¹ To his friend, Senator Henry Cabot Lodge, Theodore Roosevelt described a contemporary essay by Captain Mahan on the "yellow peril" as "a really noble article."⁴² He corresponded with the Captain in terms of mutual understanding and sympathy.⁴³ It is surely no exaggeration to suggest that Captain Mahan--along with sociologist Kidd and political scientist Burgess--were among a small group of influential writers who helped to mold the thinking which would soon be leading America into new adventures of expansion. Given the similarity between their writings and future policies, the timing of their publications, and their known association with Theodore Roosevelt--to consider just one public figure--it is difficult to accept James Field's conclusion that ". . . the claimed impact of the so-called 'imperialist' tracts on either the American people or important figures in government tends to dissolve on inspection. . . ." ⁴⁴

Racial affinity led several British observers to applaud American expansion, frequently noting that the United States was merely following the pattern of the mother country. "The isolation of the United States from the affairs of the world is no longer possible. They must and they will assume their rightful position among great

nations, with the responsibilities and the difficulties entailed," observed a British nobleman, to whom "rightful position" implied expansion. "The inherited instincts of the race are forcing the American people onward and outward. . . . Race energy and race aptitudes, not blind chances, have made the United States second only to the mother country as a commercial power." Like Great Britain, the United States, inhabited by the same racial stock, was destined for greatness. "The same forces that have created the British Empire have built up the great Republic, and will irresistibly bring it into the front rank of the States of the world."⁴⁵ Another writer concurred; the world would benefit from the Anglo-Saxon mission, which had done "more than any other cause to promote civilization and progress."⁴⁶ ". . . It is alike the destiny and the duty of the two branches of the Anglo-Saxon race to govern and convert to civil uses the inferior races."⁴⁷ The presence of common blood reduced the competitive antagonism and made potential rivals into "fellow-labourers in the work of the better ordering of the world."⁴⁸

To these vague concepts of national mission were added closely related assurances that the mission was divinely directed. Reverend Josiah Strong, never noted for his lack of enthusiasm or for thinking on a small scale, looked forward to the day when the whole of mankind would be "Anglo-Saxonized," by which he apparently meant that everyone would possess "a pure spiritual Christianity."⁴⁹ War was ordinarily unacceptable to the Methodist Church, but an exception could be made for the sake of a moral campaign, such as the liberation of the Cubans. ". . . Our cause will be just, and Methodism will be ready to do its

full duty. Every Methodist preacher will be a recruiting officer."⁵⁰ The willingness to carry the crusade to the battlefield was not confined to just one church. According to one editor in 1898, the churches were almost unanimous in recognizing that ". . . the Nation has been moved to battle by the demand of an awakened conscience answering to the call of outraged humanity."⁵¹ The opportunity for Christian service is ours, proclaimed a Baptist publication, ". . . the divine agencies are available; and Christ's leadership is apparently assured."⁵² Such was the duty of the American people "by virtue of the call of God," assured another Baptist writer. "This call is very plain. The hand of God in history has ever been plain."⁵³ What God has ordained, no people would dare to resist.

Woe to any nation brought to a pass where it is called to guide a weaker people's future which hesitates for fear its own interests will be entangled and its own future imperilled by the full discharge of an unmistakable duty. . . . The power and wealth, the intelligence and the wisdom of the United States, are a solemn trust for the upbuilding and civilization of the world.⁵⁴

National, racial, and religious enthusiasms were not the only prerequisites for jingoism. For some, war appeared to have positive benefits and therefore did not need national missions, nor racial energies, nor unconverted heathens to justify it. Like the refiner's fire, it served as God's test for the nations, and victory indicated efficiency, which in turn resulted from a spiritual quality. "Efficiency in war, or, rather, efficiency for war, is God's test of a nation's soul. By that test it stands or by that test it falls." Should the dreams of the sentimental pacifists become reality, "the machinery by which national corruption is punished and national virtue is rewarded would be ungeared. The higher would cease to supersede

the lower and the course of human evolution would suffer arrest." Decadent societies would rationalize that Christianity was incompatible with militarism, but virile societies would face the truth unafraid.⁵⁵ Such examples of martial rhetoric can be easily dismissed when written by a British citizen for a British publication; it is a different matter when the statement is attributed to Theodore Roosevelt: "No triumph of peace is quite so great as the supreme triumphs of war."⁵⁶

The lust for war was not confined to academic journals and religious periodicals. The excitement preceding the war with Spain is closely associated with the expression "yellow journalism," and with the newspaper battles between William Randolph Hearst and Joseph Pulitzer. As the Journal and the World raced to satiate the public hunger for horror stories from off the coast of Florida, New York City became the principal theater for the struggle.

It was a battle of gigantic proportions, in which the sufferings of Cuba merely chanced to furnish some of the most convenient ammunition. Whenever one side sprang a sensation the normal reply was, of course, for the other to spring a better one.⁵⁷

Among the several familiar examples from this period, that involving the famed artist Frederic Remington, is probably the most revealing. He was sent by Hearst to Cuba to procure pictures of Spanish atrocities but found it difficult to locate suitable subjects. After a short stay he telegraphed his boss from Havana: "Everything is quiet. There is no trouble here. There will be no war. I wish to return." Hearst replied: "Remington, Havana: Please remain. You furnish the pictures and I'll furnish the war." Remington obliged with inflammatory pictures--entirely from his own imagination.⁵⁸

The excesses of enthusiasm, the recourse to rancorous rhetoric, and the theories of radical racism were themes common to both sides of the expansionist debate. Both sides exaggerated, as prejudice tended to produce an equal but opposite prejudice. Shortly before the outbreak of hostilities with Spain, a sympathetic British observer of American expansionist sentiment counseled his friends to reconsider, not because they might do damage to colonial subjects, but because such subjects were unfit to receive the blessings of American imperialism:

Possessing on her own continent an enormous territory of unequalled natural resources, and capable of easily supporting more than twice its present population, the United States needs no transmarine domains in which to expand. One sometimes hears it said that her mission is to spread democratic principles. Polynesians and Asiatics, Creole Spaniards and mulattoes are not fit to receive those principles. Neither are negroes fit, as the history of Hayti and of most of the South-American so-called 'republics' proves.⁵⁹

The new role of imperialist power seemed to arouse several men of letters as no domestic issue ever had. Most prominent of these literati whose writings were to challenge the imperialists was Mark Twain. In Europe when America went to war against Spain, he delighted at first in the high moral purpose of his countrymen, but then abruptly changed when it was determined that the Philippines would be retained as a spoil of conquest.

When the United States sent word to Spain that the Cuban atrocities must end she occupied the highest moral position ever taken by a nation since the Almighty made the earth. But when she snatched the Philippines she stained the flag.⁶⁰

Much of Mark Twain's criticism of imperialism was withheld from publication by the moderating hand of his wife. However, his biographer has provided this example, a description of "Christendom":

A majestic matron in flowing robes drenched with blood.
On her head a golden crown of thorns; impaled on its

spines the bleeding heads of patriots who died for their countries--Boers, Boxers, Filipinos; in one hand a slung shot [sic], in the other a Bible, open at the text 'Do unto others,' etc. Protruding from pocket bottle labeled 'We bring you the blessings of civilization.'⁶¹

To Kipling's familiar jingo jingle, an American poet replied with this paraphrase:

Take up the White Man's burden,
Send forth your sturdy kin
And load them down with Bibles
And Cannon-balls and gin.
Throw in a few diseases
To spread in tropic climes,
For there the healthy niggers
Are quite behind the times.

And don't forget the factories
On those benighted shores
They have no cheerful iron milles,
Nor eke department stores.
They never work twelve hours a day
And live in strange content
Altho they never have to pay
A single sou of rent.

Take up the White Man's burden,
And teach the Philippines
What interest and taxes are
And what a mortgage means
Give them electrocution chairs,
And prisons, too, galore,
And if they seem inclined to kick,
Then spill their heathen gore.⁶²

Disappointment with American expansion, distrust of the sincerity of the religious leaders, hatred for all imperialists--all these combined to produce in Henry Black Fuller a bitterness so severe that no publisher would accept his works, and he was forced to finance their printing at his own expense. Imperialists were to Fuller no better than hogs:

This is not the age of romance, of the lofty but illogical lion, but of the practical hog. . . . A lion eats when he is hungry and so far he is a good Imperialist; but he stops there. When a hog satisfies his hunger he has only begun.

After the needs of nature comes Benevolent Assimilation-- duty seconds appetite--his higher nature comes in (or rather out). He considers what he owes to the world and so he goes right on eating, and so does the Imperialist.⁶³

Two imperialists in particular caught Fuller's attention. Theodore Roosevelt he labeled a "Megaphone of Mars," who delighted in "the spatter of brains upon the plains--and the gore that is mushy and thick."⁶⁴ For President McKinley, Fuller dipped deepest into his cess-pool of vituperation:

Thou sweating chattel slave to swine!
 Who dost befoul the holy shrine
 Of liberty with murder!
 What canting lies can save thee now,
 Red handed as thou art, thy knife
 Drinking the struggling patriot's life!
 What shame can reach thy soddened heart
 In shame, blood scarlet as thou art!
 Who for a coral bead or rattle
 'Gainst unarmed babes doth march to battle!
 Calling with sanctimonious face
 On God to sanction thy disgrace.
 May he inflict on thee again
 The curse of thine own brother Cain!⁶⁵

Voices of moderation existed also--less dramatic, less shrill, less inflammatory, and therefore often less noticed by their contemporaries and by historians. It was possible to argue the question of expansion without racist slurs, without hatred for the opposition, without cursing the flag and the altar. Sincere patriots there were who despaired of their country's policies and who could appeal to both the heart and the mind. Their counsel, tinged with disappointment, reflected at the same time criticism for past errors and a hope for future corrections:

Americans, you once were free--
 Free as the broad plains and the forest profound--
 And then, after your Revolution, you led the world.
 Your example freed France, and France set Europe aflame.
 Without battalions or men of war you were in the van of
 nations.

Think you to lead again by dint of armies and navies and
coast defences?

Not so is the world mastered.

Speed your frontiers, take Cuba and Hawaii,
bring in Canada if you can, push on over the great
Southern Hemisphere;

Will these lands be yours?

There is only one possession in them worth the capturing,
and that is the hearts of men;

And these hearts can never be won by a nation of slaves.
Be free, and all mankind will flock to your standard.⁶⁶

Similarly, among the intellectuals it was possible to find the voice of reason which did not permit opposition to war to obscure other considerations. For example, William James had no doubt that Americans sincerely wanted to free the Cubans--and equally sincerely wanted to go to war to do it:

The basis of it all is, or rather was, perfectly honest humanitarianism, and an absolutely disinterested desire on the part of our people to set the Cubans free. . . . We were winning the most extraordinary diplomatic victories, but they were of no use. We were ready (as we supposed) for war and nothing but war must come.⁶⁷

In a speech delivered before the Phi Beta Kappa Society of Yale University, William Graham Sumner referred to the conquest of the United States by Spain. The decision to retain the Philippines, he suggested, would lead to endless difficulties and would constitute, in effect, Spain's revenge:

Expansion and imperialism are at war with the best traditions, principles, and interests of the American people, and . . . they will plunge us into a network of difficult problems and political perils, which we might have avoided, while they offer us no corresponding advantage in return.⁶⁸

Mr. Dooley, the satirical creation of Finley Peter Dunne, could not resist directing his gentle barbs at public officials, and a figure as prominent as Theodore Roosevelt was an especially inviting target. Mr. Dooley suggested a title for the Rough Rider's war memoirs:

Alone in Cuba. For the same anticipated work, Henry Blake Fuller had proposed How to Make a Mountain Out of the Mole-Hill I Climbed in Cuba, in 20 volumes.⁶⁹ Neither were all newspapers infected with the war-mongering spirit of William Randolph Hearst. Mature and responsible journalism characterized the story of the sinking of the Maine which appeared in The Daily Oklahoman,⁷⁰ one of numerous journals which successfully resisted the opportunity to fan the flames of war.

The debate over America's imperialism encouraged the type of extremism which affected not only the thinking of contemporaries but also the view of later generations. The tendency to polarize, to accept no third alternative, and to sort events and personalities into but two mutually exclusive camps, persisted in later historians. The effect has been to overlook men like George Gray, his counterparts in other nations, and the option of a via media.

Irenic internationalism placed peace above colonies, above coaling stations, above the euphoria of splendid little wars. An examination of its application by George Gray permits a clarification of its style as well as its distinctions from contemporary alternatives. Although he never occupied nor sought the very highest position of power--the office of president, the office of secretary of state--George Gray played an important role in the foreign affairs of the United States at a crucial stage of its development. The study of his career therefore presents an exceptional opportunity to examine the relevant events from a perspective not usually considered. Three missions in particular--the Joint High Commission with Canada, the Paris Peace Conference with Spain, and the Permanent Court of Arbitration--illustrate irenic internationalism as practiced by George Gray, a diplomat whose influence has outlived the popular familiarity with his name.

ENDNOTES

¹Oron J. Hale, The Great Illusion, 1900-1914, The Rise of Modern Europe series, ed. William L. Langer (New York: Harper & Row, Publishers, 1971), p. 16. The general pattern of international organization is thoroughly examined in section 3, "Nationalism and Internationalism," pp. 11-21.

²Albert K. Smiley, quoted in "Prospects for Permanent Peace: A Symposium," World's Work, December, 1911, p. 164. For a consideration of the narrowness of the victory of the militarists over the pacifists, see Denys P. Myers, "The Origin of the Hague Arbitral Courts," American Journal of International Law, 10 (April, 1916), p. 309. George Gray's participation in the international peace movement is summarized in Wilson Lloyd Bevan, History of Delaware; Past and Present, 4 vols. (New York: Lewis Historical Publishing Company, Inc., 1929), 3: pp. 197-98. For the Lake Mohank Conferences, see The New York Times, 2 June 1904, p. 6; 1 June 1905, p. 6; also see 4 June 1904, p. 6. For individual participants in the Conferences, see the following notices in The New York Times: Dr. Edward Everett Hale, 1 June 1899, p. 1; 3 June 1899, p. 5; John W. Foster, 8 June 1902, p. 31; 28 May 1903, p. 3; 31 May 1906, p. 4; Oscar Straus, 3 June 1905, p. 8; 27 May 1911, p. 7; Nicholas Murray Butler, 12 April 1909, p. 2; 19 May 1909, p. 2; 20 May 1909, p. 1; 21 May 1909, p. 9; 22 May 1909, p. 6; 24 May 1909, p. 6; 16 May 1910, p. 8; 19 May 1910, p. 8; 21 May 1910, p. 5; 22 May 1911, p. 20; 25 May 1911, p. 5; 26 May 1911, pp. 4 and 12; 28 April 1912, sec. 3, p. 4; 13 May 1912, p. 3; 16 May 1912, p. 9; 17 May 1912, p. 7; 18 May 1912, p. 7; 26 May 1912, sec. 1, p. 2; James Brown Scott, 20 May 1910, p. 7. For other relevant articles, see 30 May 1901, p. 6; 1 June 1901, p. 8; 30 May 1902, p. 2; 31 May 1902, p. 8; 30 May 1903, p. 8; 23 May 1911, p. 10; 28 May 1911, p. 12; 10 October 1911, p. 1; 19 May 1912, p. 9.

³Quoted in "Prospects for Permanent Peace," World's Work, p. 159.

⁴For example, see Oscar Handlin, The History of the United States, 2 vols. (New York: Holt, Rinehart and Winston, 1968) in which the chapter on imperialism follows those on agricultures, industry, and labor. A similar pattern is followed by Richard B. Morris and William Greenleaf, U.S.A.: The History of a Nation (Chicago: Rand McNally & Company, 1969).

⁵For Theodore Roosevelt's understanding of this relationship and for the position this understanding would have in the determination of his foreign policy, see Howard K. Beale, Theodore Roosevelt and the Rise of America to World Power (New York: Collier Books, 1957), p. 385.

⁶These domestic currents are summarized by Richard Hofstadter, "Manifest Destiny and the Philippines," in Daniel Aaron, ed., America in Crisis: Fourteen Crucial Episodes in American History (New York: Alfred A. Knopf, 1952), pp. 173-74. Similar relationships between the frontier and industrialism on the one hand and imperialism on the other are noted by the Cambridge historian, David K. Adams, America in the Twentieth Century: A Study of the United States since 1917 (Cambridge: Cambridge University Press, 1967), p. 28, and by the Oxford historian Harry C. Allen, The United States of America: A Concise History (New York and Washington: Frederick A. Praeger, Publishers, 1965), p. 197.

⁷Hofstadter, "Manifest Destiny," p. 177.

⁸William E. Leuchtenburg, "Progressivism and Imperialism: The Progressive Movement and American Foreign Policy, 1898-1916," The Mississippi Valley Historical Review 39 (December 1952), p. 500. Although his approach is different, John Braeman also draws parallels between the domestic and the foreign policies of notable Progressives; see his review article, "Seven Progressives," Business History Review 35 (Winter 1961), p. 582.

⁹See Chapter 26, "The Great Aberration of 1898" in Samuel Flagg Bemis, A Diplomatic History of the United States, 5th ed. (New York: Rinehart and Winston, 1965). For an example of an opponent of the great aberration approach, see Walter LaFeber, "Comments," The American Historical Review 83 (June 1978), pp. 669-70.

¹⁰H. U. Falkner, American Political and Social History, 5th ed. (New York: Appleton-Century-Crofts, Inc., 1948), p. 700. There is almost no end to the number of examples in which the specter of isolationism is to be found. As the election of 1952 approached, Selig Adler feared a return to a policy of isolation; see his article, "Isolationism since 1914," American Scholar 21 (Summer 1952), pp. 335-44. Also see his book, The Isolationist Impulse: Its Twentieth Century Reaction (New York: The Free Press, 1957). The influential editor of the New Republic, Herbert Croly, anticipated in 1909 that America would be forced to abandon her traditional policy of isolation; see his book, The Promise of American Life (Cambridge, Mass.: Harvard University Press, 1965), pp. 310-13; quoted by Adler, The Isolationist Impulse, pp. 33-34.

¹¹Charles A. Beard and Mary R. Beard, The Rise of American Civilization, new ed., rev. & enl. (New York: The Macmillan Co., 1934), pp. 681-83; Henry Cabot Lodge, "Foreign Relations of the United States, 1921-1924," Foreign Affairs, 2 (June 1924), p. 526.

¹²See Chapter 6, "Isolation Perfected," in Denna Frank Fleming, The United States and World Organization: 1920-1933 (New York: Columbia University Press, 1938). These examples were cited by Professor William Appleman Williams of Davis College (California) in a paper read before the December 1953 meeting of the Pacific Historical Association and later published as "The Legend of Isolationism in 1920's," Science and Society 18 (Winter 1954); pp. 1-20.

¹³Richard W. Van Alstyne, "The Significance of the Mississippi Valley in American Diplomatic History, 1686-1890," The Mississippi Valley Historical Review 36 (September 1949), p. 238.

¹⁴William G. Carleton, "Isolationism and the Middle West," The Mississippi Valley Historical Review 33 (December 1946)pp. 381-82.

¹⁵Albert K. Weinberg, Manifest Destiny. A Study of Nationalist Expansion in American History (Baltimore: Johns Hopkins Press, 1935), p. 454. The comparison with Orwell is made by Professor Williams in "Legend," p. 3. The reference is, of course, to George Orwell's novel 1984 (New York: Harcourt, Brace & World, 1963).

¹⁶Dr. Edwin M. Borchard, professor of law at Yale University, refutes the existence of a period of isolationism; see his article "United States Foreign Policy," American Journal of International Law 43 (April 1949), p. 334.

¹⁷Albert K. Weinberg, "The Historical Meaning of the American Doctrine of Isolation," American Political Science Review 34 (June 1940), p. 539.

¹⁸The quotation, including the expression "national reserve," is from John Forsyth, Secretary of State, 1834-41, and appears in Weinberg, "Historical Meaning," p. 539.

¹⁹John Adams, The Works of John Adams, ed. Charles Francis Adams, 10 vols. (Boston: Little, Brown and Company, 1856), 2, p. 505.

²⁰George Washington, "Farewell Address" in James D. Richardson, A Compilation of the Messages and Papers of the Presidents, 1789-1904, 10 vols. (Washington: Bureau of National Literature and Art, 1897), 1, p. 223.

²¹From a speech before the Council on Foreign Relations in New York City, 8 January 1934; see William E. Borah, "American Foreign Policy in a Nationalistic World," Foreign Affairs 12 (January 1934), pp. iii-xii. The reference to "freedom of action" is on p. xi.

²²Lodge, "Foreign Relations," p. 535.

²³Ibid., pp. 535-36.

²⁴H. C. Lodge, "Our Blundering Foreign Policy," Forum 19 (March 1895), pp. 16-17.

²⁵Julius W. Pratt, Expansionists of 1898: The Acquisition of Hawaii and the Spanish Islands (Baltimore: The John Hopkins Press, 1936), p. 22. Chapter 7 of this work, entitled "The Business Point of View," effectively deals with the attitude of the business community toward expansion. Professor Pratt's conclusion, that ". . . the financial and business interests of the country were opposed to

the war," is supported by James Ford Rhodes, who, besides being a noted historian, was also brother-in-law to the prominent financier, Mark Hanna. See James Ford Rhodes, The McKinley and Roosevelt Administrations: 1897-1909 (New York: The Macmillan Company, 1923), p. 55. Also see Herbert Croly, Marcus Alonzo Hanna (New York: The Macmillan Company, 1912), p. 278; and Thomas Beer, Hanna (New York: Alfred A. Knopf, 1929), pp. 199-200. The names of prominent imperialists, their opponents, and the summaries of their qualities are provided by Fred H. Harrington, "The Anti-Imperialist Movement in the United States, 1898-1900," The Mississippi Valley Historical Review 22 (September 1935), pp. 211-30; by Hofstadter, "Manifest Destiny," p. 183; and by Carleton, "Isolationism," p. 377. For the theories of A. T. Mahan, see his two most effective works, The Influence of Sea Power upon History, 12th ed. (Boston: Little, Brown and Company, 1918); and The Interest of America in Sea Power, Present and Future (Boston: Little, Brown and Company, 1898). The reference to Lenin is specifically to his work, Imperialism, the Highest Stage of Capitalism (New York: International Publishers, 1939), which Richard Hofstadter has described as naive; see his article, "Manifest Destiny," p. 197.

²⁶Pratt, Expansionists, p. 233.

²⁷From address by Grover Cleveland at Lawrenceville, New Jersey, June 1889; printed in "Views of Prominent Men on the Policy of 'Imperialism,'" Literary Digest, 2 July 1898, p. 2.

²⁸Quoted by Samuel W. McCall, Thomas B. Reed (Cambridge, Mass.: Houghton Mifflin, 1914), p. 258.

²⁹The details on the decline of imperialism as a popular issue are provided by Harold Baron, "Anti-Imperialism and the Democrats," Science and Society 21 (Summer 1957), pp. 228, 236-39; and by Harrington, "Anti-Imperialist Movement," pp. 226-30.

³⁰Charles R. Darwin, The Descent of Man and Selection in Relation to Sex, 2d ed., rev., 2 vols. (New York: J. A. Hill and Company, 1904), 1, p. 144. Chapter 1 of Pratt's Expansionists, entitled "The New Manifest Destiny," provides a good description of John O'Sullivan and of the origins of manifest destiny. The distinction between manifest destiny in the 1840s and the 1890s is examined by Weinberg, Manifest Destiny, p. 254.

³¹James A. Field, Jr., "American Imperialism: The Worst Chapter in Almost Any Book," The American Historical Review 83 (June 1978), p. 647.

³²John W. Burgess, Political Science and Comparative Constitutional Law, 2 vols. (Boston: Ginn & Company, 1891), Chapters 3 and 4. These quotations from Burgess have been collected by Pratt, Expansionists, pp. 7-9, who notes (p. 10, n. 18) that one reviewer compared Professor Burgess to Pizarro; see "Burgess's Political Science," Atlantic Monthly, 24 September 1891, p. 240. Concepts of race have altered considerably since the generation of Professor Burgess. Throughout much of the

writing under consideration, the term "race" is used where modern writers would be more inclined to use "nation" or "people." E.g., few modern writers would refer to an "American race." Similarly, such terms as "Teutonic," "Nordic," "German," and "Anglo-Saxon," must be approached with caution: precise definitions will vary according to the author, and even a given author will vary in his choice of terms during a span of years. The important concept to keep in mind is that the use of such expressions usually connotes exclusiveness, superior-inferior relationships, and--in the case of the expansionists--rationalization. For Roosevelt's concept of race, see Beale, Roosevelt, pp. 41-42.

³³Burgess, Political Science, 1, p. 46.

³⁴Ibid., p. 48.

³⁵39 Cong. Rec. 19 (1904) (message of President Theodore Roosevelt). Prominent among the United States Senators who held similar views was Albert J. Beveridge. "God has not been preparing the English-speaking and Teutonic peoples for a thousand years for nothing but vain and idel self-contemplation and self-admiration." Rather, the senator was confident that God "has made us the master organizers of the world to establish a system where chaos reigns. . . . He has made us adepts in government that we may administer government among savages and senile peoples." Quoted in Claude G. Bowers, Beveridge and the Progressive Era (Cambridge, Mass.: The Riverside Press, 1932), p. 121.

³⁶The points that Roosevelt was a student of Burgess and that his address reflected the theory of his mentor are made by Pratt, Expansionists, p. 10, n. 18.

³⁷Nicholas Murray Butler, Foreword to The Foundations of Political Science, by John W. Burgess (New York: Columbia University Press, 1933), p. v.

³⁸John W. Burgess, Reminiscences of an American Scholar (New York: Columbia University Press, 1934), pp. 256-57. (The reprint was delayed until 1931, the year in which Burgess died.)

³⁹Benjamin Kidd, Social Evolution, new ed. (New York: The Macmillan Company, 1900), pp. 331-40. Also see Benjamin Kidd, The Control of the Tropics (New York: The Macmillan Company, 1898).

⁴⁰Theodore Roosevelt, "Kidd's 'Social Evolution,'" North American Review, July 1895, pp. 94, 108.

⁴¹Theodore Roosevelt, review of The Influence of Sea Power upon History, by A. T. Mahan, in Political Science Quarterly 9 (March 1894), pp. 171-73. Professor Pratt includes several examples of Mahan's impact on the intellectual world and on the political world in Expansionists, pp. 20-21. By contrast, a British writer saw Mahan's influence as incendiary; see "The Looker-on," Blackwood's Edinburgh Magazine, April 1898, pp. 563-65.

⁴²Theodore Roosevelt to Henry Cabot Lodge, 26 August 1897, in Henry Cabot Lodge, ed., Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884-1918, 2 vols. (New York: C. Scribner's Sons, 1925), 1, p. 274. For the essay, see A. T. Mahan, "A Twentieth Century Outlook," Harper's New Monthly Magazine, September 1897, pp. 521-33.

⁴³H. W. Pringle, Theodore Roosevelt: a Biography (New York: Harcourt, Brace and Company, 1931), pp. 171, 173, 293.

⁴⁴Field, "American Imperialism," p. 650. For examples of historians who cite Mahan as an influence in the development of American imperialism, see Louis Martin Sears, A History of American Foreign Relations (New York: Thomas Y. Crowell, 1927), p. 435; Harold Underwood Faulkner, The Quest for Social Justice, 1898-1914 (New York: The Macmillan Company, 1931), pp. 310-11; and Carl Russell Fish, American Diplomacy, 5th ed. (New York: Henry Holt and Company, 1929), pp. 423-24; and Julius W. Pratt, "The 'Large Policy' of 1898," The Mississippi Valley Historical Review 19 (September 1932), pp. 219-42.

⁴⁵G. S. Clarke, "England and America," Nineteenth Century 44 (August 1898), pp. 193-94; as quoted by Geoffrey Seed, "British Reactions to American Imperialism Reflected in Journals of Opinion, 1898-1900," Political Science Quarterly 73 (June 1958), p. 257.

⁴⁶Edward Dicey, "The New American Imperialism," Nineteenth Century 44 (September 1898), p. 499.

⁴⁷"America and the Terms of Peace," The Spectator, 30 July 1898, p. 136. The Spectator was a British weekly which favored American retention of territories wrested from Spain.

⁴⁸Quoted by Seed, "British Reactions," p. 260.

⁴⁹Josiah Strong, Our Country: Its Possible Future and Its Present Crisis, rev. ed. (New York: The Baker & Taylor Company, 1891), pp. 208-09.

⁵⁰Quoted by Pratt, Expansionists, p. 282.

⁵¹"The Church in the War," Outlook, 21 May 1898, p. 157.

⁵²Quoted by Pratt, Expansionists, p. 294.

⁵³S. A. Perrine, "A Case of Manifest Destiny," Baptist Missionary Review; quoted by Pratt, Expansionists, p. 294.

⁵⁴Quoted by Pratt, Expansionists, p. 306. This editorial, from an Episcopal publication, was written as a rebuttal to the Episcopal Bishop Potter from New York, who had delivered an anti-imperialist address. After visiting the Philippines with Jacob G. Schurman, the

president of Cornell University, Bishop Potter reversed his position and favored retention of the islands. See Dorothea R. Muller, "Josiah Strong and American Nationalism," Journal of American History 53 (December 1966), p. 498.

⁵⁵Harold F. Wyatt, Nineteenth Century and After, quoted in "A Review of the World," Current Literature, September 1911, p. 234. In a somewhat different vein, H. H. Powers described the war with Spain as the result of historic and natural forces; see his article, "The War as a Suggestion of Manifest Destiny," The Annals 12 (September 1898), pp. 173-92.

⁵⁶Quoted by Pringle, Roosevelt, p. 1972; and by Hofstadter, "Manifest Destiny," p. 185.

⁵⁷Walter Millis, The Martial Spirit; a Study of Our War with Spain (Boston & New York: Houghton Mifflin Company, 1931), p. 68.

⁵⁸Quoted by Bemis, Diplomatic History, p. 442, n. 2. Less known and less dramatic is the essay by Edward Dicey, who cites a dialogue with an American financier who favored war with Great Britain; however, as long as the United States could "get a war with somebody, it does not matter much with whom it is waged." See Edward Dicey, "New American Imperialism," pp. 496-97. The editorial policy of the Chicago Times-Herald generally reflected the policy of the McKinley administration. A sample of its jingoism is quoted in "The Newspapers and the Issue of 'Imperialism,'" Literary Digest, 9 July 1898, p. 33.

⁵⁹James Bryce, "The Policy of Annexation for America," The Forum 24 (December 1897), p. 394.

⁶⁰Quoted by Albert Bigelow Paine, Mark Twain: A Biography, 2 vols. (New York and London: Harper & Brothers Publishers, 1912), 2, p. 1064; and by Fred Harvey Harrington, "Literary Aspects of American Anti-Imperialism, 1898-1902," New England Quarterly 10 (December 1937), p. 660. Also see Mark Twain's better known satire, "To the Person Sitting in Darkness," North American Review, February 1901, pp. 161-76.

⁶¹Quoted by Paine, Mark Twain, 2, p. 1149; and by Harrington, "Literary Aspects," p. 661.

⁶²Ernest Crosby, "The Real White Man's Burden," in Swords and Plowshares (New York: Funk & Wagnalls, 1902), pp. 33-34.

⁶³Quoted by Harrington, "Literary Aspects," p. 654, n. 7.

⁶⁴Quoted by Harrington, "Literary Aspects," p. 655.

⁶⁵Quoted by Harrington, "Literary Aspects," pp. 654-55.

⁶⁶Ernest Crosby, "The New Freedom," in Plain Talk in Psalms and Parable (Boston: Small, Maynard & Company, 1899), pp. 58-59. It should be noted that Crosby was also the author of the less moderate

poem, "The Real White Man's Burden," supra n. 60. Other examples of literary quality which Harrington includes in his study are works by William Vaughn Moody, especially "An Ode in Time of Hesitation," Atlantic Monthly, May 1900, pp. 593-98; reprinted in The Poems and Plays of William Vaughn Moody, 2 vols. (Boston and New York: Houghton Mifflin Company, 1912), 1, pp. 15-25. Moody's anti-imperialist sentiments did not diminish his appreciation for the American soldier fighting Filipino rebels; see his ode, "On a Soldier Fallen in the Philippines," Atlantic Monthly, February 1901, p. 288, reprinted in Poems and Plays, 1, pp. 29-30.

⁶⁷Quoted by Ralph Barton Perry, The Thought and Character of William James, 2 vols. (Boston: Little, Brown, and Company, 1936), 2, p. 307; and by Hofstadter, "Manifest Destiny," p. 182, n. 8. Hofstadter goes on to note that James also anticipated that the country would be swept away by the excitement of the war, that Cuba would not be annexed, and that Puerto Rico and the Philippine Islands would. See William James, The Letters of William James, ed. Henry James, 2 vols. (Boston: The Atlantic Monthly Press, 1920), 2, pp. 73-74.

⁶⁸William Graham Sumner, The Conquest of the United States by Spain and Other Essays, ed. with an Introduction by Murray Polner (Chicago: Henry Regnery Company, n.d.), pp. 165-166. Carl Schurz regarded imperialism "as pernicious as slavery itself was." The New York Times, 23 October 1898. See his scholarly rebuttal to the expansionist argument, "The Issue of Imperialism," in Speeches, Correspondence, and Political Papers of Carl Schurz, ed. Frederick Bancroft, 6 vols. (New York and Longon: G. P. Putnam's Sons, 1913), 6, pp. 1-36. Also see his eloquent essay, "Thoughts on American Imperialism," The Century Magazine, September 1898, pp. 781-88.

⁶⁹Harrington, "Literary Aspects," p. 664. Examples of Finley Peter Dunne's anti-imperialist sentiment are to be found in Mr. Dooley's Opinions (New York: R. H. Russell, 1901), p. 26; Mr. Dooley's Philosophy (New York and London: Harper & Brothers Publishers, 1902), pp. 115-20; and Mr. Dooley in Peace and War (Boston: Small, Maynard & Company, 1899), pp. 39-47.

⁷⁰The Daily Oklahoman (Oklahoma City), 18 February 1898, p. 1.

CHAPTER II

CAREER

There is no simple formula for peace, and no single act that will assure peace.

John Foster Dulles

George Gray first came to national attention in the early 1880s, not as a diplomat engaged in negotiations of international import but as a delegate to the Democratic National Conventions of 1880 and 1884. In each case, he addressed the assembly, championing the cause of his political mentor, Thomas F. Bayard, Senator from Delaware. At the time, he was serving as the Attorney General of Delaware, but soon after the 1885 Convention he entered the United States Senate, and his national reputation experienced a similar growth.

Politics came naturally to George Gray by reason of his training and his paternal inheritance. His father Andrew, born of "Revolutionary stock," was a lawyer and a businessman, serving as president of the Chesapeake and Delaware Canal Company.¹ George's grandfather, also named Andrew, was a planter, a state legislator, and an authority on political science and economics, subjects on which he wrote numerous works. It was George's great-grandfather, William Gray, who initiated the generations of public service by immigrating from County Antrim, Ireland, to Delaware, where he settled in Kent County around 1740.

Young George was educated in the common schools and then entered the College of New Jersey (later renamed Princeton University), from

which he received an A.B. degree in 1859. In 1863 he received an A.M. degree from that institution and was admitted to the Delaware Bar, having read law for three years in his father's office and for one year at Harvard Law School. His law practice was begun in New Castle and was later transferred to Wilmington. In 1879, the young attorney's first wife, the former Harriet L. Black, passed away. The second Mrs. George Gray, Margaret J. Black, was the sister of the deceased and remained his lifelong companion, preceding him in death by about three years.

George Gray began his political career in 1879, the year of his appointment by Governor Hall as Delaware's Attorney General. He was reappointed by Governor Stockley in 1884, but served only a portion of the term. Grover Cleveland, having been elected to his first term as president in 1884, appointed Thomas F. Bayard of Delaware, as his Secretary of State. While vacating his senatorial office, Bayard used his influence with the Legislature to secure the election of the man most likely to provide the finest representation for Delaware, Attorney General George Gray. Bayard's respect for Gray's ability is reflected in a statement he wrote several years later:

His record as Attorney-General was not only a matter of pride to his friends and admirers, but to all citizens of the State regardless of party, and the learning and abilities which he displayed readily led to his appointment as United States Senator from Delaware in 1885. . . .²

The Legislature apparently concurred with the new Secretary of State and reelected Gray for a full term in 1887 and again in 1893. Thus, for 14 years, George Gray pursued a career in the United States Senate--a service marked with distinction and with the promise of other forms of service to follow.

George Gray's participation on the national level of partisan politics began with the 1876 National Convention of the Democratic Party. Held in St. Louis, this Convention nominated Governor Samuel J. Tilden of New York, whose narrow defeat a few months later resulted in a major constitutional crisis. At Cincinnati four years later, the Democrats conducted one of their most spectacular and noisy conventions. After three days of what The New York Times called a "howling brawl," the roll call of states reached Delaware. George Gray, a "big, handsome man of commanding presence," took the floor to nominate Thomas F. Bayard for president. As he spoke, the bedlam subsided. "He looked youthful, but he looked magnificent, too, and sternly impressive."³ The Bayard candidacy was blocked by Southerners, and the Party turned to another unsuccessful nominee, General Hancock. The pattern was repeated in 1884 at Chicago. Once again Gray nominated Senator Bayard, and once again the Democrats chose otherwise--this time more fortunately. Their nominee, Grover Cleveland, was destined to defeat James G. Blaine and lead his party to the White House for the first time since James Buchanan's victory a generation earlier.

It was the decade of the 1890s which provided for George Gray and many other Democrats the most difficult test of their party loyalty. In 1892, from Omaha, came indications of grassroots support for new concepts of national currency based on bimetallism, a concept embraced by a new third party, the People's Party, or--as it was to be familiarly known--the Populist Party. By 1896, this group had sufficient strength to think of associating with either of the two major parties for a concerted bid for the White House. The Republicans, managed from behind the scenes by the Ohio millionaire, Marcus A.

Hanna, rejected the Populist overtures. For the Democrats, meeting in Chicago, it was a different story. Torn between the silver and gold wings of the party, the delegates debated in the July heat. Finally, after the "Cross of Gold" speech, the Democrats found their candidate--and lost their gold supporters. William Jennings Bryan had engineered the fusion between the Populists and the Democratic Party, but in the process he had alienated powerful eastern forces which now bolted the party. Loyalty to President Cleveland, commitment to sound money, and a belief that William Jennings Bryan was a radical led to the formation of the National (Gold) Democratic Party, whose supporters included Senator George Gray. It was principle, not party, which commanded the Senator's allegiance. "I cannot change those beliefs, even at the bidding of a Democratic National Convention," he said. "Convictions cannot be compromised."⁴ Though he declined to serve as the candidate of the Gold Democrats and even refused to be a delegate to their Indianapolis convention, he did support their eventual nominee, his senatorial colleague from Illinois, John A. Palmer.⁵ William McKinley's defeat of William Jennings Bryan was decisive, John Palmer failed to receive a single electoral vote, the silver issue rapidly faded, and the Democratic Party reunited. The period of apostasy was over, and the prodigals, Senator Gray included, were welcomed back to the fold.⁶

Senator Gray's opposition to the silver forces was based on conviction regarding the issues rather than merely his distaste for William Jennings Bryan. He had sailed to England during the previous summer to study the silver question in its international setting and make an assessment of the probable future of bimetallism among America's more

important trading partners. His interest in the subject continued beyond the election of 1896, and he made reference to it in a later interview held in London. He also spoke of American friendship for the British--a friendship which had recently been strained by the boundary dispute between Venezuela and British Guiana. His support for efforts to frame a new Anglo-American treaty of arbitration anticipated by several years his very active participation in this technique of solving international disputes.⁷

Although quiet and unobtrusive by nature, George Gray was an acknowledged leader of the Senate during his 14 years of service. It was his style to support policies and specific items of legislation rather than to initiate them. This earned for him the respect and appreciation of his colleagues, while at the same time it denied him a national reputation. No famous bills bearing the name George Gray would preserve his image for future generations, even though the effect of his service would continue for many years. After George Gray's retirement from the Senate, a contemporary journalist would summarize his style:

It must be said of him . . . that he has never headed any advance movement of which the fruits will carry his name into history. His activities were mainly directed toward shaping legislation which others had initiated, and unquestionably his effective intervention has often saved the country from bad laws and made some good ones better.⁸

George Gray's support for President Cleveland identified him as an administration senator, but it was also recognized that this support was based on common principles, generally conservative, rather than on selfish motive. Writing at the half way point of Grover Cleveland's second administration, a contributor to Harper's Weekly observed:

Senator Gray did not become Mr. Cleveland's friend because the latter was President, or because he was the friend and successor of the Secretary of State. He was and is an administration Senator because he believes in the political principles which triumphed in Mr. Cleveland's election.⁹

Because of the community of interest between President and Senator, it was to be expected that Grover Cleveland would make an attempt to include Senator Gray in his official family. During the second administration, George Gray was invited to become Attorney General, but declined. Earlier, at the conclusion of the first administration, he had just missed being nominated for Chief Justice, a position for which he was well suited and one which he would likely have accepted. While it is clear that President Cleveland gave George Gray the strongest consideration and even signed the nomination, the political reasons which compelled him to withdraw it are not so clearly understood. At any rate, whether by his own choice or as a result of forces over which he had no control, George Gray was to remain in the United States Senate until 1899.¹⁰

Senator Gray's support for the Administration's policy on Hawaiian annexation is especially illuminating. At a time when the spirit of jingoism was growing it was difficult to resist the tide of emotion and to recognize that these distant islands, small, defenseless, and of great potential value to the United States, were nevertheless entitled to the same rights of self-rule as all other nations. The request for annexation, made by a small group of white revolutionaries who had overthrown the Hawaiian monarchy, was debated by the Senate in 1894. In opposing annexation, Senator Gray not only recognized the unfairness of the action to the native population, he unconsciously

provided an indication of his position in the subsequent debate over annexation of the Philippine Islands. Political impotence, he argued, could not provide an excuse for depriving a people of their territory and their government. On the floor of the Senate, he urged his colleagues to "sustain the honor of our country and our flag" by treating Hawaiian interests with the same respect accorded a powerful empire. To show less consideration would be dishonorable for the United States.¹¹

As a member of the Senate Committee on Foreign Relations, George Gray continued to represent the view that America's policy toward Hawaii must be predicated on the highest concept of integrity. He was concerned that a grave injustice had been done to the Hawaiian queen, and he was especially disturbed by the role of American troops during the coup. Their presence had been arranged by the American Minister in Honolulu, John L. Stevens, an avowed annexationist, ostensibly for the purpose of protecting American life and property; in reality their presence had the effect of intimidating the deposed Queen and of consolidating the revolution. Without proper authorization, Minister Stevens accorded official recognition to the new government and even proclaimed an American protectorate over the islands. Lacking the support of the White House, which was now occupied by the highly principled Cleveland, the proclamation had no effect except to place the investigating senators in a tight position. The Democrats, who comprised the majority party, found it difficult either to refuse so rich a prize as Hawaii or to oppose the position of their own president. The result was a carefully worded report which approved the

actions both of President Cleveland, who had blocked annexation, and of Minister Stevens, who had pushed annexation to the very brink of fulfillment.

Senator Gray was less inclined to straddle the fence, and in a minority report he took issue with his Democratic colleagues, especially regarding the usurpation of authority by Minister Stevens. As the debate continued on the floor of the Senate, he called for a definite commitment to reject the annexation of Hawaii. It was a futile effort, however, as restraint had never been a tradition of the Senate. At length, a compromise was achieved: there would be no annexation and there would be no interference with the new Americanized Republic of Hawaii. Senator Gray recognized that the victory over the annexationists was less than complete. Although delayed for the present, annexation was certain to be proposed again and as equally certain to arouse his opposition. Senator Gray summed up his position thus:

I believe that our policy is a continental one, and that we are not called upon by anything in our past history or by anything in the necessities of our situation to step off this continent in a career of colonial aggrandizement. That belongs to a past age; it belongs to other forms of government.¹²

It was a position doomed to ultimate failure, as the islands were annexed before the end of the decade. At the same time, however, it demonstrated the courage of its proponent. Ten years later, The New York Times cited Senator Gray's opposition to annexation as an effort to inject conscious morality into statecraft and compared his eloquence with that of Pitt and Burke.¹³

In domestic legislation, Senator Gray's most significant contribution to his party resulted from his opposition to the Force Bill.

This legislation sponsored by Henry C. Lodge authorized federal troops to supervise elections in the South. Although the stated purpose of such intervention was to protect the franchise of the Blacks, to Senator Gray and to a small group of fellow Democrats with whom he met privately in an upstairs room in the Capitol, the Bill was a Republican device for undermining the Democratic strength in the South. Besides, and of greater consequence, the Bill was an obvious encroachment on states' rights. On the Senate floor, when it appeared certain that the Lodge forces would be successful, Senator Gray rose at the last minute. His speech lasted three days and was "intellectual and unimpassioned." It gave the opposition forces the time needed to consolidate victory, and the Force Bill went down to defeat. Characteristically, it was not Senator Gray who received the public acclaim for this service, but rather Senator Gorman, who had furnished the technical leadership. That was not the first nor the last time that others reaped the credit for his efforts.¹⁴

George Gray approached the end of his senatorial career with a reputation for impartiality and determination to assess both sides of any argument. Equally evident was his courage to withstand the pressure of public sentiment when he believed it to be founded on blind emotion rather than objective considerations. His was the ability to remain collected while others about him demonstrated less discipline. When a Negro was lynched in his home town of Wilmington, everyone was appropriately appalled. However, George Gray was able to move beyond outrage and in a public interview carefully analyzed the social conditions which had made the atrocity possible.¹⁵ For him it was not

sufficient that the lynching be deplored; indignation had to be utilized as to reduce the chances that it would ever be repeated. This academic quality was not always understood or appreciated by those who favored quick and decisive action, a criticism noted by a popular periodical:

With Gray . . . politics is an ingrained part of life. He cannot separate and differentiate between his character as a man, a judge and a politician. He is often so deliberate in making up his mind as to provoke criticism for what seems to the public like vacillation. This is an injustice to him. The vacillator is a man who is one moment of one opinion and the next moment of another. Gray does not reach an opinion promptly, but once reached it sticks, whatever it may be, and its unpopularity will not tend to hold it back.¹⁶

The last years of the nineteenth century were not lacking other opportunities to prove the validity of this assessment, and one of the richest sources lay 90 miles off the coast of Florida. Since 1895 Cuba had been in revolt against a Spain whose pride would not permit the colony to leave her diminished empire and whose resources were not sufficient to quell the rebellion. Almost daily, the American people learned of fresh atrocities from the south, some genuine and some manufactured, with the result that anything and anyone associated with Spain was linked in the public's mind with the devil himself. Especially unfortunate was the figure of Dupuy de Lome, Spain's Minister in Washington. Although not lacking in talent, Minister de Lome committed a series of indiscretions, some oral, some in writing, of which the notorious letter of February, 1898 was merely the most infamous--and consequently the final--example. For several years, he had been the subject of criticism by United States Senators who were alienated by his aloof bearing and sharp tongue. George Gray, however,

was able to see the beleaguered diplomat as a natural product of the Old World--of forces and of a background foreign to American traditions. He recognized that de Lome's task in Washington, extremely difficult under the best of circumstances, was made nearly impossible by the intransigence of his home government. He defended de Lome in Congress, and he doubtless would have concurred with former Secretary of State Richard Olney that the diplomat "must realize how much worse a blunder can be than a crime."¹⁷

This sense of objectivity determined Senator Gray's course of action during the difficult days immediately preceding the declaration of war against Spain. De Lome's letter and the destruction of the Maine made the outbreak of hostilities more a question of date than of possibility. For all his abhorrence of war, George Gray could not accept unqualified pacifism if it meant the continued suffering of Cuba's population. "We intervene, . . ." he explained on the floor of the Senate in April, 1898, "in the cause of outraged humanity which we attempt to succor." Nor would he allow his position to be swayed by partisan politics. The political affiliation of the occupant of the White House was blurred by the threat posed by a foreign foe. It was not a Republican president he was supporting, but rather "an American President, the leader of 70,000,000 of people, inducted into his high office by their will and by the laws of his country." Conceding that his position appeared "hackneyed," he nevertheless made it clear: ". . . Partisan politics halt at the shore line. . . ."

His position won applause from the galleries and plaudits from his Republican colleagues, but it was not an attempt to play to the

grandstands. There was no need, he cautioned, to make such a speech. "We do not need to lash running horses." What was needed was "a truce between the political parties of this country until we can settle our account with Spain." This reasoned appeal for bipartisanship did not fall on deaf ears, and on April 25, Democrats and Republicans joined to give unanimous Senate approval to the resolution declaring war against Spain.¹⁸

The importance of bipartisan support was not lost on President McKinley, who rewarded Senator Gray with a series of appointments. The first was an appointment in July, 1898, to the Joint High Commission to settle a boundary dispute with Canada. The following September the senator received his second appointment--to the Peace Commission to conclude the war with Spain. The third appointment, to a federal judgeship, came in March, 1899. The fourth was to the Permanent Court of Arbitration in August, 1900. Thus, within two years, George Gray was called to play three important roles in international jurisprudence and one involving primarily domestic concerns. His service on the world stage must be considered separately and at greater length, but his service on the federal judiciary deserves consideration at this point.

Although the four appointments collectively provide a clear indication of the administration's esteem for George Gray's talents, the third was of greatest personal importance to the senator. The elections of November, 1898, had given the Republicans control of the Delaware Legislature, thus signalling that his career in Washington would not be extended beyond his current term which would expire in

March, 1899. Fortunately, the President and the Senator, even though political opponents, agreed in giving a higher priority to merit than to party affiliation. Thus, on March 3, 1899, just one day before his term expired, it was announced that George Gray would be appointed United States Circuit Judge for the Third Judicial Circuit.¹⁹ The position was only one level lower than the Supreme Court of the United States, and its jurisdiction included George Gray's home state of Delaware as well as New Jersey and Pennsylvania. It provided an appropriate sequel to 14 years of outstanding service in Congress. For the next 15 years, Judge Gray served the public with the same sense of dedication, the same highminded morality, and the same degree of efficiency that had earlier been the hallmarks of Senator Gray.²⁰

As a federal judge, George Gray specialized in a branch of jurisprudence not likely to earn for him a national reputation. His knowledge of utility and railroad law commanded the respect of his colleagues but kept his name from the headlines. During these years, he found time to write, to teach, to speak on issues which attracted his attention, and to serve as an army officer and a military appraiser. "Substantial justice between men and classes of men and nations" was his goal, not publicity. As a Federal Circuit Judge, "he may have . . . missed the striking reward he so well deserved," but his compensation came in another--a higher--form.²¹

In spite of the relative anonymity of the judicial bench, circumstances continually arose which had the effect of thrusting George Gray into the spotlight of public awareness. The most important of these events was the Anthracite Coal Strike of 1902. By the

standards of later generations, the demands of the strikers appear moderate: a 20% increase in wages, elimination of the ten hour work day, and recognition of the United Mine Workers as legal representative and bargaining agent. Nevertheless, the operators were determined to destroy the infant union by exhausting its treasury and by breaking the strike through the long process of attrition. Throughout the early fall of 1902 President Theodore Roosevelt observed the struggle with keen concern. At a time when coal was needed to heat homes, schools, and other public buildings and to power trains and factories, the seriousness of the strike can hardly be overestimated. By October, he had received confidential warnings from New York and Massachusetts that fuel riots could be expected if the strike were not immediately settled. Finally he could hold back no longer. Although lacking authority either by legislation or by precedent, he determined to intervene with the full weight of his administration. Working closely with J. P. Morgan, whose support was essential to any settlement, the President allowed it to be known that he was prepared to use the army to seize and to operate the mines unless both sides were willing to submit to arbitration. The strikers readily agreed, but the operators hesitated. Under no circumstances would they recognize the UMW as the bargaining agent. At the last minute, the President was able to reach a compromise in which the UMW president would be recognized as the spokesman for the miners but would not be officially recognized as the union leader. On October 23, the miners returned to work, ending a crisis which President Roosevelt considered "as dangerous a situation as I ever dealt with."²²

It was, however, a precarious peace the permanence of which depended in large measure upon the membership of the arbitration commission. Like his predecessor, President Roosevelt turned to a member of the opposition party and appointed George Gray the chairman. It was a fortunate decision for the Administration, the strikers, the operators, and the entire nation, but accepting was not an easy decision for Judge Gray. His strict construction of the Constitution recognized no presidential authority to intervene in a labor dispute. On the other hand, the presence of a grave national peril provided a justification. The President's position, he later noted, "gave him an influence, a leadership, as first citizen of the republic . . . that enabled him to appeal to the . . . good sense of the parties to the controversy." It was only appropriate that the President should place upon labor and management "the moral coercion of public opinion." Regardless of their differences in other areas, and regardless of their conflicting interpretation of constitutional authority, Judge Gray did not hesitate to lay credit where it belonged: "I do not think that any President ever acted more wisely, courageously, or promptly in a National crisis. Mr. Roosevelt deserves unstinted praise for what he did."²³

Under Judge Gray's leadership, the Commission lost no time in settling the issues in dispute. Its investigation opened the very day after the miners returned to work, hearings were conducted in Scranton and Philadelphia, testimony was received from 558 witnesses, and the awards were handed down in March, 1903. The workers received a pay increase of 10%, and the ten hour work day was reduced to nine hours for some groups, eight hours for others. In addition, a

sliding scale was prepared which permitted wages to rise as the selling price of coal rose. Finally, an arbitration procedure was arranged to settle future disputes.

Remarkably, the settlement was hailed by both sides as a victory. The operators had delayed recognition of the UMW, and the workers had won benefits which they readily recognized would not have been attained by the strike. Of even greater importance, recognition of their union appeared likely in the near future. Although the agreement was binding for only three years, its provisions were so well received that they remained in effect long after the deadline passed.²⁴

The successful arbitration between workers and mine operators was one of the most brilliant accomplishments in George Gray's long career of public service and earned for him unqualified accolades from all elements of society. The New York Times hailed him as the most popular citizen in the country with the working classes and considered him to be more appreciated by the capitalists and the employers than even the president himself.²⁵ President Roosevelt, who was hardly noted for extravagant compliments, wrote to express his appreciation:

When you were appointed, we were within measurable distance of a great National calamity. By your acceptance of the position and the wisdom, fearlessness, and absolute fairness of your course since, you not only averted that calamity but performed great and lasting service to the Nation.²⁶

As for his own role in ending the crisis, Judge Gray spoke or wrote very little. His service in that regard was simply an application of his belief in the peaceful settlement of disputes. "I am confident," he insisted, "that there is a bottom fact in human nature in

which we can find an alternative of violence and the strong hand."²⁷ Apparently others agreed, for he was soon flooded with requests for his service as an arbitrator. Some requests were typed on formal stationery, some were handwritten on plain paper, some were from employers, some were from the workers, but all had in common a respect and a confidence for Judge Gray's impartial abilities.²⁸ Unable to respond to all of the calls, he nevertheless rendered assistance whenever his judicial docket would permit. Of special significance was his service as practically the sole arbitrator in two additional mining strikes, one in Alabama and the other in Illinois.

During this same period, Judge Gray was also called to participate in an arbitration of an international nature. The Dominican Republic had for years been marked by political instability and fiscal irresponsibility during which the customary seizures of private property were made. In one such instance, the nationalization of a railroad owned by a corporation known as the Improvement Company, the United States Government felt obliged to intervene. As the result of negotiations conducted under American auspices, the Improvement Company and the Dominican government agreed on the sum to be paid to satisfy the company's claims and further agreed to submit to arbitration the manner of payment, the amount of the installments, and the nature of the security offered to assure payment. The panel of arbitration consisted of three members and included George Gray. Its award, announced in 1904, specified the details of compensation and was reluctantly accepted by the hard-pressed government.²⁹

Twelve years later George Gray was again appointed to deal with a Latin American nation, but this time the issue was much more

complicated and the result was much less satisfying. In Mexico, the excesses of the revolution had already caused serious tensions with her northern neighbor when a series of atrocities led to armed intervention. In January, 1916, 18 American mining engineers were massacred by the followers of the rebel, Francisco Villa, and two months later he led his band of cutthroats north of the border to sack Columbus, New Mexico. In response, General John Pershing led a punitive expedition deep into Mexico and was continuing to occupy Mexican territory. Venustiano Carranza was in power in Mexico City, and the Wilson Administration, having granted him de facto recognition, sought to launch talks which would make it possible to withdraw the troops and to end the border incursions.³⁰

The opportunity was readily seized by the Mexican Government, and in August, 1916, both sides appointed members of a Mixed Commission. The American appointees included Secretary of the Interior Franklin K. Lane and Dr. John R. Mott, who was the General Secretary of the International Committee of the Y.M.C.A. President Wilson had originally wanted former Secretary of State Richard Olney on the Commission, but he had declined because of unfamiliarity with the issues. Also, an effort to secure the participation of Justice Louis Brandeis was thwarted by a conference with Chief Justice White, who insisted that his duties would not permit such service. George Gray's willingness to serve could be taken for granted. "I could not well decline the call upon me, any more than I could have declined an order to the Front, if I had been drafted into the service."³¹ His appointment was applauded by The New York Times because of his diplomatic experience with America's neighbor to the north and because of his familiarity

with the process of international arbitration. "He is an old-fashioned Grover Cleveland Democrat," explained the writer, "a profound lawyer and judge; a man of crystalline intellect, experienced, wary, suave, just, an arbitrator by temperament."³² Judge Gray had been studying the Mexican situation for weeks before his appointment, and had concluded with his usual insight that it was a mistake to maintain the occupation over a prolonged period. When it appeared there was no longer any hope that the rebels could be captured, it would have been better, he felt, to withdraw the force to the border, "where they can hold Carranza's Government to the performance of its duty in suppressing Mexican banditry." Continued occupation was a clear violation of Mexican sovereignty, and ". . . the public opinion of the World will accuse us of insisting, against a weak and distracted Country, that we shall maintain a punitive expedition on its soil. . . ." ³³

Carranza, of course, gave the highest priority to the early withdrawal of American troops, but he was nevertheless willing to cooperate with President Wilson's request that the scope of the Commission be broadened to include other questions. Americans had endured a series of outrages during the course of the Mexican Revolution, and the heavy hand with which the Mexican Government was dealing with the Church created much bitterness on both sides of the border. Under the circumstances, however, the Commission, which convened in September in New London, Connecticut, and then transferred to Atlantic City, New Jersey, could do little more than to provide a dialogue between the two governments. The United States was reluctant to commit itself to a specific date by which the troops should be removed until the Mexican

Government should provide assurances that the border depredations would not continue. For its part, the Carranza Government sought a definite understanding regarding the right of hot pursuit, specifically the mutuality of the right and a time limit within which the pursuit must be commenced. The failure of the Commission to overcome these obstacles bore heavily on Judge Gray: "I am still sadly of the opinion that we have failed where we might have succeeded in making an agreement as to border control and withdrawal satisfactory to the Mexican Government," he confided. "I hope I am mistaken in all this, but I feel discouraged by the outcome of our long weeks of negotiation. We need not have sacrificed anything of honor or advantage to have had it different. However, nous verrons."³⁴

In effect, the Revolution was permitted to run its course against much interference from the United States. American troops were withdrawn in February, 1917, but left behind a legacy of bitterness and suspicion. The failure of the negotiations was scarcely noticed by a public now more concerned with events in Europe than in Mexico. In the spring of 1917, German submarines were replacing Mexican bandits as the focus of American apprehension, leaving little room in the public consciousness for the Mexican-American Commission. It is viewed today as just one of a series of events which marked the course of the Mexican Revolution--one of a series of attempts by George Gray to improve international relations.

Another element of the series, somewhat incongruous for the retired judge, was the Pan-American Scientific Congress to which the Wilson Administration, in November, 1915, invited George Gray to

serve as a delegate. Not surprisingly, he hesitated to accept, doubting that he possessed the proper qualifications. Unless the purposes were broader than the name suggested, he did not feel his participation would be of advantage for the United States.³⁵ Indeed, he was informed, the purposes of the Congress were broad and included a section on international law. Here was an opportunity to improve international relations in the New World, and his acceptance could not be long withheld. Secretary of State Lansing appointed him chairman of the American delegation. The sessions were held for two weeks in Washington and included a full schedule of social and public functions. Although he confessed that he was "a little tired" when he returned home, Judge Gray was satisfied with the results of the Congress. Not only had it brought together the scientists of two continents, it had promoted "the rapprochement between the peoples of North and Latin America." At a time when the very quality of civilization seemed threatened by the war then raging in Europe, the role to be played by the nations of the New World was especially significant:

It looks very much as if it would fall to the Americas to make a salvage, not only of International Law, but of our very civilization, out of the chaos of this bloody struggle that is devastating the rest of the civilized world.³⁶

The war in Europe also brought into sharp relief the peace which had prevailed for a hundred years between the United States and Great Britain. At the time of the signing of the Treaty of Ghent in 1814 which concluded the War of 1812, John Quincy Adams offered a prayer, based more on hope than on probability, that the event would commence a century of peaceful relations. That it did was an achievement the recognition of which could not be abated by the European conflagration;

if anything, the Great War increased the incumbency of recognition. By treaty, the United States and Great Britain formed in 1915 a Commission for the Advancement of Peace. As one of the individuals who had rendered the greatest service in the cause of Anglo-American friendship, Judge Gray was included on the Commission. Shortly before his retirement in 1914, he had been a speaker at a grand celebration of Anglo-American accord which was held at the Hotel Astor in New York City. Here he had defined the meaning of Anglo-American friendship in terms of its effect on the world peace movement to an audience which included Secretary of State William Jennings Bryan, Joseph H. Choate, who had served as Ambassador to Great Britain, Walter Hines Page, who had just been appointed to that post, former presidential candidate Alton B. Parker, labor leader Samuel Gompers, and financiers Cornelius Vanderbilt and Andrew Carnegie.³⁷

Throughout the range of his activities, and in spite of its considerable variety, George Gray was able to maintain a careful balance between a constant political philosophy and a sense of pragmatism. Although he could be flexible as the coal arbitration demonstrated, he was essentially a conservative, and as such he was an opponent of the centralizing forces which had become prominent in American life. Especially within the federal bureaucracy he saw an alarming expansion of power at the expense of the states. Although he understood that governmental agencies had to expand as the great corporations and labor unions assumed national proportions, he also understood the strains this expansion placed on federalism. If continued unchecked, the trend could reduce the states to mere provinces, governed by satraps.

Judge Gray summarized his warning:

The danger of this centralizing sentiment is that it appeals to the selfishness of human nature and to the willingness to be relieved of the burdens and responsibilities of self-government. But I am persuaded that the prevailing sentiment of the American people does not favor the exchange of our self-government communities and the individual liberty that they foster for the paternalism of a national Government, which suppresses the one and must, in the nature of things, tend to extinguish the other. . . .³⁸

The centripetal quality of the federal bureaucracy was paralleled by similar movements within American business, labor, and the society in general. The restrictive nature of the labor unions in particular was the subject of a remarkable speech by Judge Gray a few months after the coal arbitration awards were announced. Addressing a workingclass audience in the very heart of union territory, he stressed that liberty was only meaningful on the individual level. On the collective or corporate level, liberty was reduced in accordance with the strength of the group, whether a social class or a labor union. It was the threat to individual liberty which Americans should fear, not some unseen foreign foe. Defense should be erected against those "insidious enemies" who proffered the security of a class, a corporation, or an association in the "vain hope" that such subordination would bring happiness to those whose character was being weakened and destroyed.

Labor unions, like other forms of association, were capable of abridging the freedom of their own members, and it was this abuse to which Judge Gray was opposed. It could be avoided, he maintained, by recognizing the rights of others. Personal and individual liberty "can only be safeguarded by a willing and generous recognition of the

like liberty of your neighbor or fellow citizen." One's liberty was assured, he concluded, by the "homage" paid to the rights of others.³⁹

His appreciation for the mutuality of rights separated George Gray from the class consciousness so characteristic of the early twentieth century. He could never divide society into rigid classes of capitalists and laborers, preferring instead to view his fellow citizens as individuals. This coincided with his view of the aims of the Founding Fathers, who had built a society and a government on individual liberty, not on class liberty, nor on corporate liberty, nor on guild liberty. A few years after his Pennsylvania address, The New York Times published a lengthy feature article which included Judge Gray's list of rights possessed by all citizens. Similar in structure to the Bill of Rights, it placed greater emphasis on the individual: the right to his home; the right to come and to go; the right to worship God according to the dictates of conscience; the right to work or not to work; the right to be exempt from interference by others in the enjoyment of these rights; the right to be exempt from the tyranny of one man or a few men; the right to so live that no man or set of men shall work his or their will on him against his consent.⁴⁰

Outside the realm of industrial conflicts, his reputation was no less appreciated. In a front page item, The New York Times noted that he was being considered for the position of chairman of the Board of Directors of the Equitable Life Assurance Society, along with such men as Governor Myron T. Herrick of Ohio and Secretary of the Treasury Leslie M. Shaw. The membership of the Board resembled

a Who's Who of American capitalists: Gould, Vanderbilt, Hill, Belmont, Harriman, and Astor.⁴¹ Moral strength was a quality the recognition of which was not dependent upon social class.

The wide range of George Gray's popularity and his appeal to both workers and capitalists inevitably began to associate his name with a campaign for the presidency. He had been actively involved in presidential politics for three decades, but usually as a figure behind the scenes. Still, as early as 1892, Grover Cleveland's supporters had regarded George Gray as "the legitimate heir to the nomination" if their first choice did not get it.⁴² By 1904 the Democratic Party had healed the wounds caused by the defection of the "Eastern gold-buts" eight years earlier. Twice the party had been led to defeat by William Jennings Bryan, and there was a consensus that it was time to try a new name. Several were available, including publisher William Randolph Hearst, former Secretary of State Richard Olney, and Cleveland Mayor Tom L. Johnson. George Gray favored a third term for Grover Cleveland, but his fellow Democrats from Delaware supported Judge Gray himself and instructed their delegation to the National Convention accordingly. The Judge refused to campaign in his own behalf: "I have repeatedly stated that I am not and will not be a candidate for the Presidential nomination."⁴³ But this did not prevent his name from being mentioned prominently in several national journals and from being placed in nomination at the St. Louis Convention.⁴⁴ However, the party turned instead to another conservative judge, Alton B. Parker of New York. The year 1904 was not destined to be a good year for the Democrats. In Chicago, the GOP Convention

nominated the incumbent president, Theodore Roosevelt, by acclamation and went on to achieve a sweeping victory.

On election day, President Roosevelt proclaimed that he would not accept another nomination in 1908. For the supporters of George Gray, the stage was now set for a concerted effort. William Jennings Bryan had lost twice, and no other Democrat could match George Gray's popularity throughout the nation. There was only one problem: Judge Gray insisted he was not interested in the White House, and he consistently refused to encourage his supporters. Nevertheless, a strong campaign was mounted on his behalf; there was always the hope that he could be persuaded to accept a genuine national draft.

The campaign began small. In the spring of 1907, The New York Times printed a letter to the editor favoring Judge Gray's candidacy; six months later, the same newspaper ran a lengthy biographical essay entitled: "Ever Loyal to His Party and a Brilliant Defender of Conservative Principles, He Looms Large as a Presidential Possibility."⁴⁵ A spontaneous boom for Judge Gray was informally launched at the meeting of the Democratic National Committee at French Lick Springs, Indiana, in November, 1907. A more formal launching was scheduled for the following month in Washington. Richard R. Kenney of Dover, Delaware, was the power behind the Gray boom. A member of the Democratic National Committee and a former U.S. Senator, Kenney recognized that Gray was not actively seeking the nomination but hoped he would accept it as a matter of duty.⁴⁶

As election year approached, three personalities emerged as the most likely to lead the Democrats into the campaign to succeed President Roosevelt: a governor, Johnson of Minnesota; a federal judge,

George Gray of Delaware; and a "Great Commoner," the ubiquitous and indefatigable Bryan. Nowhere is the elasticity of the Democratic Party better demonstrated than its ability to embrace George Gray and William Jennings Bryan--two exponents of widely differing political philosophies and styles.

Gradually, the cumbersome machinery of democratic partisan politics began to demonstrate the strengths and weakness of the three candidates. For Gray supporters, the campaign was unique: their candidate remained undeclared and refused to support or encourage their efforts. Nevertheless, the grassroots demonstration of support for Gray was as enthusiastic and sincere as if it had been professionally managed from behind the scenes. Delaware led the way, where the Democratic state organization early endorsed Judge Gray for the presidency. The State Central Committee noted that Judge Gray did not desire the nomination but it also maintained that ". . . if nominated he would lead his party to victory at the polls, and if elected he would make a great, wise and good President." Therefore, in the interests of the party and the country and not for his personal gratification, his candidacy was being urged.⁴⁷ After the party primaries the Democrats met in state convention, where it was obvious that most delegates subscribed to the Central Committee's summary of Judge Gray's qualities. The sentiment was doubtless flattering, but Judge Gray responded with a letter to the Convention chairman: ". . . I am unwilling that the delegates from this State to the Denver Convention be instructed for me. . . ." ⁴⁸ Undeterred and amidst prolonged cheering, the Convention instructed the delegates to vote as a unit for

Judge Gray as long as he had a chance of being nominated; then they were to support the acknowledged front-runner, William Jennings Bryan.

In neighboring Pennsylvania, there was a strong popular support for the man who had settled the coal strike. "Coal Miners Boom Gray," read the front page item in The New York Times.⁴⁹ The movement there began with a gushing resolution passed by the Democratic Committee of Lackawanna County:

He has reconciled capital and labor in the bitterest industrial wars of modern times. Noteworthy among these reconciliations is that accomplished by the Anthracite Strike Commission of which he was Chairman. No peacemaker in the whole range of American history ranks with this man in the service he has rendered to his country.⁵⁰

In February, The New York Times editorialized in favor of the ticket which it felt represented the best opportunity to stop the Bryan bandwagon and to defeat William Howard Taft in November: Governor Johnson and Judge Gray. The editor anticipated that George Gray, as the nominee for the second position, would be able to attract the support of organized labor. A letter from a laborer to the Philadelphia Record said that the working class had had enough of William Jennings Bryan and Theodore Roosevelt. The editor also quoted the Harrisburg Patriot, which described Judge Gray as "a sterling Democrat of the same type as Grover Cleveland" and predicted that his presence on the ticket "would harmonize the party and assure the election of a Democratic President and House of Representatives."⁵¹

Three months before the Democrats were to convene in Denver, The New York Times ran its second major biography of Judge Gray. It began by listing the reasons for the judge's strong showing in his home state: he was a "Jeffersonian Democrat," he was "progressive without

being radical," he was "conservative without being retroactive," he was "sound of view as he has been sound of action," he represented "the best type of American." The unnamed writer of the article explained that he had wired the judge requesting an interview. In spite of the inevitable refusal, he went anyway and found Judge Gray in his office in the Wilmington Post Office. Obviously, Judge Gray would not throw him out, and thus the Times reporter achieved what many would have thought impossible: an interview with a man who refused to grant interviews about the presidential campaign of a man who refused to campaign.

From the beginning, George Gray made it clear that he was not to be quoted and that he must not appear to be seeking the presidency. The reporter concluded that Judge Gray was a born diplomat. In spite of leading questions and a deliberate effort to draw him out, the Judge refused to discuss his own achievements. He was not equivocal-- he just would not talk about himself. This led the journalist to formulate mental pictures of the three leading Democrats: William Jennings Bryan, he said, had the appearance of a politician, Governor Johnson the appearance of an administrator, and Judge Gray the appearance of a statesman. "The Delawarian shows a trust, a confidence in human nature that testifies the truth of what his friends say, that he never has sought politics; that politics have sought him. He would not lift his hand for the nomination."⁵²

In Washington, a headquarters was established to coordinate the Gray campaign, headed by Richard J. Beamish of Philadelphia, a newspaperman, lawyer, and close friend of the candidate. A week later, the George Gray League was sending campaign material to members of

Congress and to the delegates to the National Convention. John Cadwallader, the former Collector of the Port of Philadelphia, was President of the League, and Vance E. McCormick, former mayor of Harrisburg, served as chairman of the executive committee.⁵³ In spite of their efforts, the Judge stubbornly refused to act in any way which might be construed as lending support to his own candidacy. Earlier, he had declined to attend a dinner honoring William Jennings Bryan because he was not sympathetic to the Nebraskan's politics and because he did not attend political functions. However, non-political functions remained on his agenda; for example, the 34th annual dinner of the Princeton Club of Western Pennsylvania held in Pittsburgh. As a notable guest, in company with the University's President, Dr. Woodrow Wilson, Judge Gray could not avoid the inevitable question: was his decision not to be a candidate for president irrevocable? "Emphatically it is," he replied. "I am out of politics and I am going to stay out."⁵⁴ The denial made its way to Beamish in Washington, who confirmed that it should be taken seriously. Nevertheless, he remained confident that his candidate could be drafted to accept the nomination.⁵⁵

In the final days preceding the National Convention, Beamish transferred his headquarters to Denver, accompanied by another close friend of George Gray, Josiah Marvel of Delaware. It was impossible to ignore Bryan's commanding strength, but the Democrats could only nominate with a two-thirds vote of the Convention, and that factor kept alive the hopes of the other two camps. As they made their way westward, Beamish and Marvel insisted--most significantly at a stop

in Lincoln, Nebraska--that Bryan had overestimated his strength, that he could not muster the two-thirds necessary, and that the Convention would turn to Gray to avoid a deadlock. Once in the convention city, with headquarters established in the Savoy Hotel, the Gray campaign moved into full swing, achieving what was expected to be the first of several victories: Gray's likeness was the first to appear in the various hotels, the result of the work of "a corps of expert billstickers."⁵⁶

It was brave talk, accompanied by brave gestures, but Beamish and Marvel and their co-workers were destined to be disappointed from the very beginning. For the Bryan camp, the question was not who would occupy the number one position--they were certain that had already been determined. Rather, their concern was to fill the number two position with a viable candidate who would balance and strengthen the ticket. On June 30, the word circulated that the vice-presidential nomination would go to a New Yorker if that delegation could agree on a man; otherwise, it was to go to George Gray. The next day, there was some indication that George Gray was William Jennings Bryan's first choice to share the ticket. Throughout, Beamish and Marvel insisted that Bryan had his priorities reversed: the only ticket which could defeat William Howard Taft was Gray-Bryan, not the reverse. "There is vitality in the Gray organization," reported The New York Times, "and the Gray managers here are going to try to infuse enough of it into the body of delegates to cure the party's suicidal mania."⁵⁷

Doubtlessly, Judge Gray could have had the second position if he had but given his assent. By the time the issue was settled, over 60 names had been considered by the Denver delegates, but a single

nod from Wilmington would have ended the speculation. Far removed from the excitement of the Convention, Judge Gray remained aloof from the Bryan overtures, a position which The New York Times took for granted:

Judge Gray is a man of principle. That forbids him to have anything to do with Bryan and Bryanism. No Eastern Democrat loyal to the old-time faith of the party, and mindful of his own reputation, will let his name go upon the ticket with that of Mr. Bryan. If Mr. Bryan is to be nominated the offer of the second place to a Democrat like Judge Gray would be an insult, its acceptance a degradation.⁵⁸

The foregone conclusion became official on July 10, when Bryan won the nomination on the first ballot. The resulting demonstration of 70 minutes sharply contrasted with the one minute ovation accorded Judge Gray when his name was placed before the Convention. On the other hand, the timing and the schedule did not encourage lengthy demonstrations: it was almost midnight, and the Convention still had to hear the report from the Resolutions Committee.⁵⁹ The Gray boom had burst, and with it passed the last serious effort to draft the reluctant judge. He had never attracted more than the six delegates from his home state. Still, this was more than he had sought, and it cannot be denied that a vigorous campaign on his part would have made him a serious contender for the nomination. For several months preceding the Denver Convention, his name was the most prominent among the Democrats discussed by The New York Times. Even six years later, in a poll conducted to determine the popular sentiment concerning the Democratic nominee for the 1916 election, George Gray was ranked in the top five.⁶⁰

Other areas of service attracted George Gray's interests more than the White House; his work as a United States Senator and as a federal judge. At the same time, he operated on another level in

behalf of his country. Twice while serving in the Senate, he was called to represent the United States in negotiations with foreign powers. As a federal judge, his skill as an arbitrator was applied to domestic industrial disputes during the same period that it was applied to international disputes. On both levels, his purpose was the same: to exorcise those conditions which contributed to an atmosphere of violence. On the one hand, the potential violence was labor strife, on the other hand, it was international war. The steadfastness of purpose, the flexibility of approach, and--above all--the determination to achieve a just peace characterize George Gray's political philosophy, whether considered domestically or internationally. Three applications examined in detail demonstrate this irenic approach to international problems: the Quebec Conference with Canada, the Paris Conference with Spain, and the Permanent Court of Arbitration.

ENDNOTES

¹Thomas F. Bayard, "George Gray," North American Review, June 1908, p. 827.

²Ibid., p. 828. For the standard biographical outlines, see: Biographical Director of the American Congress, 1774-1961, 1961; Concise Dictionary of American Biography, 1964; Harper's Encyclopaedia of United States History, new ed., rev. and enl. (1901); The National Cyclopaedia of American Biography, 1937; New Century Cyclopaedia of Names, 1954; Webster's Biographical Dictionary, 1st ed. (1959); Who Was Who in America, 1943. Other biographical material is included in The New York Times, 30 March 1899, p. 8; 8 August 1925, p. 11; and 11 August 1925, p. 21; also see "Senator George Gray," Harper's Weekly, 3 March 1894, p. 196; and H. Clay Reed, Delaware: A History of the First State, 3 vols. (New York: Lewis Historical Publishing Company, Inc., 1947), 3, pp. 178-80.

³The New York Times, 1 December 1907, sec. 5, p. 5.

⁴Quoted by The New York Times, 14 July 1896, p. 5.

⁵For George Gray's position on the silver question and the candidacy of William Jennings Bryan, see The New York Times, 30 March 1896, p. 9; 14 July 1896, p. 5; 12 August 1896, p. 5. For his support of the Palmer-Buckner ticket, see The New York Times, 2 October 1896, p. 8. For the possibility of George Gray's third party candidacy, see The New York Times, 1 December 1907, sec. 5, p. 5; 2 September 1896, p. 2.

⁶By 1900, George Gray was reconciled to the nomination of William Jennings Bryan, for whom his son Andrew campaigned; see The New York Times, 19 October 1900, p. 1.

⁷The New York Times, 14 August 1897, p. 1. Two days later, the same newspaper published an editorial which mildly rebuked Senator Gray's attitude of friendship toward the British: ". . . With something more of good intention than of accuracy he has been telling the Britishers that Americans do not dislike them." That was only partly true, according to the editor, as Americans still opposed some British traits. "England could get our ardent love in a week if she thought it worth her while." The New York Times, 16 August 1897, p. 4. For the 1895 voyage, see The New York Times, 22 July 1895, p. 9. For a later relevant statement, see 30 March 1896, p. 9.

⁸"The Democrats and the Presidency," Independent, 19 May 1904, p. 1119.

⁹"Senator George Gray," Harper's Weekly, p. 196.

¹⁰For the offer of the cabinet position, see Robert McElroy, Grover Cleveland, the Man and the Statesman, 2 vols. (New York and London: Harper & Brothers Publishers, 1923), 2, p. 5; also see The New York Times, 9 August 1925, sec. 2, p. 4. For the Supreme Court nomination, see Lawrence F. Abbott, "Little Delaware," Outlook, 28 November 1923, pp. 528-29; and The New York Times, 12 April 1908, sec. 5, p. 1. For examples of Grover Cleveland's admiration of George Gray, see Randall L. Broyles, Concepts of Delaware (West Palm Beach, Fla.: Universal Publishing Associates, 1974), p. 206; and George H. Bates, "Judge George Gray," The Green Bag, June 1908, pp. 280-81.

¹¹26 Cong. Rec. 2084 (1894).

¹²27 Cong. Rec. 628 (1895). For the report of the Senate Committee on Foreign Relations, see Sen. R. No. 227, 53d Cong., 2d sess., pp. 1-3 (1894). For Senator Gray's minority report which was sharply critical of Minister Stevens, see *ibid.*, pp. 35-36. For the Senate debate of the issue of annexation, see 27 Cong. Rec. 5246, 5434 (1895). The entire issue of Hawaiian annexation is effectively reviewed by Foster Rhea Dulles in his work, America in the Pacific, a Century of Expansion (Boston and New York: Houghton Mifflin Company, 1932), pp. 169-86.

¹³The New York Times, 1 December 1907, sec. 5, p. 5.

¹⁴The New York Times, 9 August 1925, sec. 2, p. 4, editorial. Other brief accounts include The New York Times, 1 December 1907, sec. 5, p. 5; and Tattler, "George Gray of Delaware," Nation, 21 September 1916, p. 278. Benjamin Harrison's biographer cites the Force Bill as one of the errors of the Republicans which would make Grover Cleveland's return to the presidency possible; see Harry J. Sievers, Benjamin Harrison: Hoosier President (Indianapolis: The Bobbs-Merrill Company, Inc., 1968), pp. 151, 248.

¹⁵"Democrats and the Presidency," Independent, p. 1116.

¹⁶*Ibid.*

¹⁷Richard Olney to Grover Cleveland, 19 February 1898; quoted by H. Wayne Morgan, America's Road to Empire (New York: John Wiley and Sons, Inc., 1965), p. 43. For Senator Gray's defense of de Lome, see 28 Cong. Rec. 2630-34 (1896). De Lome's famous letter was given the most sensational treatment by the Journal (New York), 9 February 1898, p. 1. The letter was also given front page treatment by The New York Times, 9 February 1898, but without a headline it appeared of equal importance with other items of news on the same page, most interestingly of the trial in France of Emile Zola growing out of the Dreyfus Affair. The letter is reprinted in Foreign Relations 1898, pp. 1007-08, where the version is slightly different due to the latitude of translation. For the details of the de Lome incident, see H. Wayne

Morgan, "The deLome Letter: A New Appraisal," Historian 26 (November 1963), pp. 36-49; and Horatio S. Rubens, Liberty: The Story of Cuba (New York: Brewer, Warren & Putnam, Inc., 1932), pp. 287ff. Horatio Rubens was the leader of the Cuban Junta in New York and was the individual who provided copies of the letter for the newspapers. President McKinley's patience with the Spanish is sympathetically treated by Professor Morgan, "DeLome," p. 42. By contrast, many recent historians find William McKinley an object of ridicule; for example, Professor Bailey notes that ". . . McKinley, to put it charitably, was slightly confused." Thomas A. Bailey, "America's Emergence as a World Power: The Myth and the Verity," Pacific Historical Review 30 (February 1961), p. 12.

¹⁸31 Cong. Rec. 4244 (1898); for George Gray's remarks, see especially pp. 3840, 3843, 3888.

¹⁹The New York Times, 3 March 1899, p. 5; also see 30 March 1899, p. 8. For details of the voting within the Delaware Legislature, see Walter A. Powell, A History of Delaware (Boston: The Christopher Publishing House, 1928), pp. 326, 330.

²⁰The judicial appointment had the effect of ameliorating George Gray's disappointment over the conclusion of his senatorial career. Expressions of congratulations have been collected by the Historical Society of Delaware and are to be found in Folder 2, Box 2 of the Gray Collection. For an example of the strong endorsement his appointment to the bench received from the legal profession, see "George Gray," Case and Comment 6 (July 1899), p. 13.

²¹The New York Times, 9 August 1925, sec. 2, p. 4. Also see "George Gray of Delaware," Outlook, 19 August 1925, p. 545.

²²Quoted by Abbott, "Little Delaware," p. 529. For the full treatment of the coal strike see Joseph Bucklin Bishop, Theodore Roosevelt and His Time Shown in His Own Letters, 2 vols. (New York: Charles Scribner's Sons, 1920), chap. 19.

²³Quoted in "George Gray of Delaware," Outlook, p. 545.

²⁴Joseph G. Rayback, A History of American Labor (New York: The Macmillan Company, 1966), pp. 212-13; Arthur E. Suffern, Conciliation and Arbitration in the Coal Industry of America (Boston and New York: Houghton Mifflin Company, 1915), pp. 252-54. Samuel Yellen concludes that the workers were disappointed by the settlement and that they felt betrayed by the principle of arbitration. This seems unlikely. Since the UMW president was not officially recognized when the agreement was reached, the issue of union recognition was dead, as both sides must have realized; see his study, American Labor Struggles (New York: Harcourt, Brace and Company, 1936), pp. 168-70.

²⁵The New York Times, 1 December 1907. sec. 5, p. 5, under a heading, "Favorite of All Classes."

²⁶Quoted in "George Gray of Delaware," Outlook, p. 545.

²⁷Quoted in The New York Times, 1 December 1907, sec. 5, p. 5.

²⁸These letters are collected in Folder 9, Box 2, Historical Society of Delaware. An example of George Gray's involvement in later industrial arbitrations is cited by The New York Times, 31 July 1903, p. 6.

²⁹Sumner Welles, Naboth's Vineyard: The Dominican Republic, 1844-1924, 2 vols. (Mamaroneck, N.Y.: Paul P. Appel, Publisher, 1966), 2, pp. 585-86, 614-15. Documents related to the Dominican arbitration, including a draft of the proposed award, dated June 1904, have been collected by the University of Delaware, Newark.

³⁰For the difficulties which beset the Wilson Administration, see Stephen Goodell, "Woodrow Wilson in Latin America: Interpretations," Historian 28 (November 1965), p. 97; Julius W. Pratt, A History of the United States Foreign Policy, 2d ed. (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1965), p. 431; Bailey, Diplomatic History, pp. 554-62.

³¹George Gray to B. F. Macfarland, 28 August 1916; photostatic copy provided by the Historical Society of Delaware. For material on Richard Olney and Louis Brandeis, see P. Edward Haley, Revolution and Intervention: The Diplomacy of Taft and Wilson with Mexico, 1910-1917 (Cambridge and London: The MIT Press, 1970), p. 229. For examples of the contemporary press, see "Current Events Pictorially Treated," Outlook, 6 September 1916, pp. 22-23; "Independent-Harper's Weekly News-Pictorial," Independent, 4 September 1916, p. 337; Tattler, "George Gray of Delaware," p. 278. A survey of the press is found in "Talking Things Over with Mexico," Literary Digest, 2 September 1916, pp. 546-47.

³²The New York Times, 24 August 1916, p. 8; also see 23 August 1916, p. 1; and related comments in 13 September 1913, p. 7; and 18 March 1914, p. 2.

³³George Gray to Elihu Root, 5 July 1916; photostatic copy provided by the Historical Society of Delaware.

³⁴George Gray to Dr. L. S. Rowe, University of Pennsylvania, 28 September 1916; photostatic copy provided by the Historical Society of Delaware. Additional material, including memoranda and drafts detailing the loss of private property, suggesting points of discussion, and stating positions and proposed agreements, have been collected by the University of Delaware. Most are unsigned and many lack dates, and there is little indication which items were used and which were discarded.

³⁵George Gray to Secretary of State Robert Lansing, 4 November 1915; photostatic copy provided by the Historical Society of Delaware.

³⁶George Gray to Judge Joseph Buffington, 12 January 1916; photostatic copy provided by the Historical Society of Delaware. Judge Gray's acceptance is also explained in his letter to James Brown Scott, 12 November 1915; photostatic copy provided by the Historical Society of Delaware. Three letters from Secretary Lansing relating to the Scientific Congress and to Judge Gray's chairmanship of the American delegation are in Folder 4, Box 4, Historical Society of Delaware, dated 5 November 1915, 7 December 1915, 17 December 1915.

³⁷The New York Times, 10 May 1913, pp. 1, 2.

³⁸Quoted by Bayard, "George Gray," pp. 828-29.

³⁹"Judge Gray on Some National Problems," Harper's Weekly, 25 July 1903, p. 1215.

⁴⁰The New York Times, 12 April 1908, sec. 5, p. 1.

⁴¹The New York Times, 7 June 1905, pp. 1, 2.

⁴²"Democrats and the Presidency," Independent, p. 1115.

⁴³Quoted in The New York Times, 28 June 1904, p. 1.

⁴⁴"Comment," Harper's Weekly, 26 September 1903, p. 1535; "Democrats and the Presidency," Independent, 19 May 1904, pp. 1111-20; "Judge Gray on Some National Problems," Harper's Weekly, p. 1215; "Will the Democratic Party Split in Two?" World's Work, 6 October 1903, pp. 3932ff.

⁴⁵Letter to the Editor, from F. Julien Bailey, Philadelphia, in The New York Times, 4 May 1907, p. 8; biographical essay in The New York Times, 1 December 1907, sec. 5, p. 5.

⁴⁶The New York Times, 20 November 1907, p. 6.

⁴⁷Printed in Bayard, "George Gray," pp. 830-31. For other notices of support, see The New York Times, 12 April 1908, sec. 5, p. 1; and 11 December 1907, p. 1.

⁴⁸Printed in The New York Times, 15 April 1908, p. 2; also see 14 April 1908, p. 2.

⁴⁹The New York Times, 13 February 1908, p. 1.

⁵⁰Printed in The New York Times, 13 February 1908, p. 1.

⁵¹Printed in The New York Times, 18 February 1908, p. 6. Indications of similar support are to be found from heterogeneous groups.

From Harvard came word of the organization of the George Gray Law Club. Rollo F. Hurst to George Gray, 19 March 1908. Historical Society of Delaware. Folders 1 and 2, Box 3 contain numerous letters and telegrams from editors and politicians supporting George Gray for president. According to one contemporary article, "the conservative Democrats of the East are rallying strongly about the name of Judge George Gray, of Delaware, although this admirable public man is unwilling to be a candidate." "The Progress of the World," The American Review of Reviews, May 1908, p. 527.

⁵²The New York Times, 12 April 1908, sec. 5, p. 1.

⁵³Ibid., 6 April 1908, p. 2; 13 April 1908, p. 5.

⁵⁴Quoted in The New York Times, 3 May 1908, sec. 1, p. 1. For the Bryan dinner, see 14 January 1908, p. 1.

⁵⁵The New York Times, 4 May 1908, p. 3.

⁵⁶Ibid., 1 July 1908, p. 1. For the move westward, see 15 June 1908, p. 4; 30 June 1908, p. 1.

⁵⁷Ibid., 3 July 1908, p. 1. Daily dispatches describing the Convention, all on the first page, are to be found in 2-7 July 1908. For similar reports confirming William Jennings Bryan's wish to have George Gray on the ticket, see the Tulsa Daily World, 1 July 1908, p. 1; for related comment on the Convention, see 5 July 1908, p. 1; 7 July 1908, p. 1; 8 July 1908, p. 1.

⁵⁸Editorial entitled "No Compromise," The New York Times, 2 July 1908, p. 8. It should be noted that in the eyes of many Democratic leaders, William Jennings Bryan had earned his party's support by his loyalty during the 1904 campaign; for his endorsement of Judge Parker, see "Mr. Bryan's Campaign in Indiana," Literary Digest, 22 October 1904, p. 518.

⁵⁹The New York Times, 10 July 1908, p. 1.

⁶⁰Ibid., 20 December 1914, sec. 2, p. 1.

CHAPTER III

THE JOINT HIGH COMMISSION

Speak softly, and carry a big stick.
Theodore Roosevelt

As if by deliberate intent, George Gray's first two diplomatic assignments could not possibly have provided greater contrast. Although there were points of similarity--both conferences were held in the summer of 1898, and both were conducted in French-speaking cities--the areas of difference are much more significant. The first conference, held in Quebec, was with a friendly neighbor; the second, held in Paris, involved a hostile enemy. The Quebec Conference was called to prevent difficulties from escalating; the Paris Conference was conducted to conclude a war. George Gray's service in Canada would be brief and would be interrupted before the conference adjourned, but in France he would remain from the opening session until the last. The two conferences also contrasted in terms of their success; the first would fail, and the second would succeed. The Quebec Conference, brief, unsuccessful, and of secondary interest to a public emerging from war with Spain, nevertheless assumes an importance because it served as the point of introduction for George Gray's diplomacy. At the time of his appointment to the Joint High Commission in July 1898, Senator Gray had no way of anticipating the brevity of his participation nor the eventual failure of the negotiations.¹ Thus the tasks which confronted him, study of the points in dispute and acquaintance

with his colleagues, both American and British, could not in any way be affected by the events which were to transpire a few weeks later.

The Quebec Conference had been called in an effort to resolve a number of problems, most of a minor nature, which were disturbing the otherwise peaceful relationship existing between the United States and Canada. Twelve topics were included in an agenda which was to be considered by a Joint High Commission, but of these 12 a single item, the boundary between Alaska and Canada, loomed ominously as the most difficult and the most important. Although Canada's southern border, the one which she shared with the northern tier of states, had been determined for several generations and posed no difficulty, her northwestern border with Alaska was a different matter. To any casual observer, the boundary between Canada and the southern Panhandle of Alaska appears so arbitrary as to make territorial disagreements inevitable. In fact, the meandering nature of this line did give rise to disagreement which, if left unreconciled, could easily have developed into a serious confrontation, not without the threat of armed intervention. Fortunately for both sides, calmer counsel prevailed, and a peaceful settlement was achieved. This was not accomplished easily, for it required months of patient negotiations stretched over a period of several years. The Joint High Commission was just one step, albeit an unsuccessful one, along the path toward an eventual agreement. Other attempts would include the use of the regular channels of diplomacy, the use of Theodore Roosevelt's peculiar form of personal diplomacy, and finally the use of a mixed tribunal. That the boundary was resolved without violence is an indication of the willingness of the American and British people to solve all such international

disputes peacefully and has served as a positive example for the rest of the world.

As George Gray prepared to fulfill his responsibility as a member of the Joint High Commission, his first step was to acquaint himself with the historical antecedents of the disputed boundary. Specifically, what were the circumstances which had resulted in such a peculiar line of demarcation? What were the international agreements that had drawn the two neighbors into the dispute? What were the intentions and motives of the diplomats who had drawn up these agreements? What were the prior understandings which had permitted decades of peaceful co-existence along this frontier? The same prerequisite of historical knowledge which applied to George Gray as he sought to resolve the dispute applies also to the student of a later generation who seeks to understand the tension that developed between the United States and Canada in the final years of the nineteenth century.

The boundary between Canada and Alaska was the product of the era of colonization during which North America was divided among the competing empires of Europe. Great Britain had entered from the east, and her Canadian subjects had slowly extended her authority across the interior until, early in the nineteenth century, it was approaching the Pacific Ocean. From Siberia, the Russian Empire had crossed the Bering Strait and gradually pushed its way southward along the Pacific coast and eastward to confront the British advance. The southern border of Alaska was in effect the result of two empires which began in Europe and extended in opposite directions until they met on the other side of the globe. Both governments recognized that a boundary would have to be drawn in time, but early in the century there was no

reason to give it immediate attention. The Napoleonic conflict and its aftermath monopolized the energies of government officials and dwarfed the concerns of the few distant subjects involved in the fur trade.

In 1821, however, a ukase from Czar Alexander I radically altered the situation, as it claimed the Pacific coastline as far south as the 51st parallel, thus materially expanding the extent of the Russian claim. The challenge from St. Petersburg was met by the United States and Great Britain which shared a common determination that the extravagance of the Russian claim would not be permitted. Fortunately, American and British foreign affairs were then being conducted by two men who were to establish peerless reputations and who were more than equal to the task of restraining Russian ambitions: John Quincy Adams and George Canning. Negotiations were soon launched in Washington, in London, and in St. Petersburg which were to result in two treaties, one between Russia and the United States signed on April 17, 1824, and the other between Russia and Great Britain signed on February 28, 1825. The effect of the treaty settlement was to permit Russia a graceful exit from an extravagant and untenable position. Her territorial claims were withdrawn to the southern tip of Alaska (54 degrees 40 minutes). More importantly, an agreement was reached regarding the Alaskan boundary--an agreement which had been postponed from the earlier decades--an agreement which was to cause serious disruption of Anglo-American harmony 75 years later.²

Accordingly, the southern boundary between Russian Alaska and British Canada was to follow the crest of the coastal mountains, except that nowhere was the line to be drawn further than ten marine

leagues from the coast. The effect was to bar British access to the ocean everywhere north of 54 degrees 40 minutes, but this was totally unacceptable to London as the goal had always been to pressure Russia to abandon the extravagance of the 1821 ukase.³ The boundary definition was accepted with satisfaction by both sides, and no protest was registered during the 40 years in which Russia continued to rule Alaska.

When the United States acquired Alaska in 1867, the treaty of purchase included the same boundary description which had appeared in the Anglo-Saxon Russian Treaty of 1825. Thereby the United States came into possession of precisely the same territory which Russia had held, with the identical boundary--as it developed--with the same problems resulting from that boundary. In the first place, it proved impossible to draw the southern extremities of the boundary in exact conformity with the provisions of the Treaty of 1825, a result of the fact that the negotiators in St. Petersburg were confused about some of the points of geography. In addition, there was some confusion over terminology. Was the Portland Channel the same as the Portland Canal? Both terms had been used, but there had been no definition of either. However, these concerns were minor compared with the problem of the land boundary. Since the crest of the mountain chain lay further into the interior, the limit of ten marine leagues was applied. But from what point was the measurement to be made in the case of inlets, particularly of those fiords which extended well beyond the coastline? Was the measurement to be made from the mouth of the inlet, or from the head? Stated in other terms, did the boundary cross these inlets, thus permitting the British to exercise jurisdiction

over the headwaters? By still another distinction, was any of the tide-water along this narrow strip of land subject to British authority?

In the 1880s, maps began to appear in British Columbia which deviated from previous editions by showing that the boundary bisected the inlets. The seriousness of the conflict was exacerbated by the discovery of gold in the Klondike region farther north. The discoveries were not in the disputed area, but the excited movement of men and commerce in that general locale had drawn increased public attention to a previously obscure corner of the continent. Also, Canadian plans to construct a new transcontinental railroad were jeopardized because of the proximity of the proposed western terminus to foreign territory. Finally, at least two populated places were involved. If the British interpretation of the boundary prevailed, jurisdiction over these settlements would be shifted from the United States to Canada.⁴

In recognition of the importance of eliminating all confusion regarding the boundary, Great Britain and the United States agreed in 1892 to a joint survey of the disputed Alaskan border.⁵ Unfortunately, this failed to remove the primary source of conflict. Were the surveyors to measure from the head or from the mouth of each inlet? Taku Inlet, for example, extended inland approximately 23 miles, Glacier Bay approximately 45 miles, and Lynn Canal approximately 70 miles. Hence, the distances--and differences--involved were considerable.

Furthermore, according to the Canadian argument, the United States was contradicting itself by claiming these fiords as territorial waters and then measuring the border from the head. If American jurisdiction began at the head, the waters would be part of the high seas;

if the Americans exercised jurisdiction over the fiords, American sovereignty had to extend to the mouth of the fiord, and the survey should be measured from that line. By this argument, the boundary would bisect the inlets; Canada would receive territory currently occupied by the United States and would acquire free access to the sea. International authority and even the United States Supreme Court were cited by British advocates, but Washington could not so easily be persuaded to part with territory over which it had once exercised jurisdiction. ". . . The feeling regarding the retention of territory, over which the Stars and Stripes have once flown, amounts to a religion," complained the British.⁶

In spite of Washington's rejection of the British claim, and Britain's obvious inability to defend the claim militarily, the fact that it came from a great power and from a government with which Washington desired good relations meant that it could not be ignored. To resolve the difficulty, the two governments agreed in July, 1898, to constitute a Joint High Commission to deal with outstanding problems between Canada and the United States. By its appointments to the Commission, the Crown indicated the importance of the Commission and the willingness of the government to flatter America and to seek an amicable solution to the difficulties. Chief among the Canadian members was Sir Wilfrid Laurier, the Premier. During a recent visit to Washington, he had spoken favorably of a commission and could be expected to exert the full weight of his office in behalf of the conference. As a member of Parliament for a quarter of a century, he was an admirer of Abraham Lincoln, and he had made no secret of his respect for the

United States in general. Cordiality could also be expected from the other Canadian members, Sir Richard J. Cartwright, Minister of Trade and Commerce and experienced member of Parliament, Sir Louis H. Davies, Minister of Marine and Fisheries and member of Parliament, and John Charlton, member of Parliament since 1872. Like Premier Laurier, they shared a respect for the United States with whose institutions and history they were conversant. An awareness of American military potential and territorial sensitivity increased their desire to maintain friendly relations.⁷ Because Canadian foreign affairs in 1898 were still handled from London, the Crown appointed Lord Herschell, the former Chancellor of Great Britain, to represent imperial interests. The final member of the British delegation, added after the others had been announced, was Sir James Winter, the Premier of Newfoundland which was not yet part of the Dominion of Canada.

As if to emphasize the relative insignificance of the negotiations for the United States, which after all was almost totally preoccupied by the concurrent Spanish-American War, President McKinley appointed a set of commissioners whose credentials were not as impressive as their counterparts. Although not lacking in competence or sincerity, none of the American commissioners held rank as high as that of Premier Laurier, nor was there even a cabinet member. This can only partly be explained by the war with Spain, which naturally tended to distract the attention of the government and of the public. It was also an indication that a boundary dispute between Alaska and Canada could not be expected to be of equal importance to the two governments involved. The announcement of President McKinley's appointments to the Joint High Commission was carried by The New York Times on page six,

under an ad for ladies' shoes (selling for \$1.98 a pair).⁸ The casualness of the American attitude toward Canada was described for his readers by a newspaper correspondent from Toronto: "The people of Canada can scarcely understand the feeling of absolute indifference toward Canadian affairs that one continuously encounters here. . . . To the average American in public life the Dominion does not exist."⁹

George Gray was one of the two United States Senators to serve on the commission. As a ranking Democrat on the Foreign Relations Committee, he was held in high esteem by President McKinley, who had complete confidence in his ability to transcend party affiliation in favor of national policy. The other senator was Charles Warren Fairbanks, a personal friend of the president. Long a power in Indiana politics, Senator Fairbanks was a member of the Republican Old Guard and in 1904 would be Theodore Roosevelt's successful running mate. Another powerful Republican member of Congress who received appointment to the commission was Maine's Nelson Dingley. As Chairman of the House Ways and Means Committee, he was an authority on tariff legislation and an appropriate choice to deal with a major trading partner of the United States. Two former officials were included in the original list of American delegates: John A. Kasson, former Assistant Postmaster General, former Minister to Spain, to Austria, and to Germany, and expert on international weights and measures; and John Watson Foster, former Secretary of State under Benjamin Harrison. A sixth name, that of Thomas Jefferson Coolidge of Boston, was added to balance the addition of Sir James Winter to the British delegation.

As he prepared for the first meeting of the American delegation, scheduled for July 22, 1898, at the State Department, George Gray must

have reflected on the meaning of his appointment. John Kasson and John Foster had loyally served the Republican Party for years, and Senator Fairbanks and Congressman Dingley were among its most prominent spokesmen. But it was not merely party affiliation which served to distinguish Senator Gray from his fellow delegates. Earlier he had opposed Nelson Dingley's efforts to enact a protective tarriff and had voted against the legislation establishing the tariff which bore the Congressman's name. Although he could not know it at the time, this was to be George Gray's first experience with a practice President McKinley would repeat later in the summer when he was constituting the Paris Peace Commission, not in terms of an equal number of votes but in such a manner as to assure that both sides of a major question would be heard. Bipartisanship to the McKinley Administration in 1898 meant inclusion of a personality from the opposition party who would represent interests not otherwise considered, and who could work harmoniously within the delegation for the common good. The assignment given to George Gray in July, 1898, sensitive as it was, proved merely a harbinger of a similar but even more difficult assignment which would follow in a few weeks. The diplomatic skills which George Gray would be called upon to exercise in Quebec, particularly those of opposition and accommodation, would be needed in greater abundance in Paris.

Once assembled in Washington, the American delegation proceeded to perfect its organization. Senator Fairbanks, as the first member appointed, presided, Chandler P. Anderson of New York was elected secretary, and a technical expert, Charles H. Butler, was assigned to

assist in the preparation of the American position on each of the issues to be considered by the Joint High Commission. The issues themselves were not made public at this time, establishing a precedent for secrecy which was to extend to the joint sessions with the British. Having completed the necessary preliminaries, the delegation adjourned in the evening. It would reassemble the following month in Quebec.¹⁰

August 23, 1898, was set as the date on which the Joint High Commission would convene, and as the pace of the preparations mounted, so did expectations, especially among Canadian observers. One hailed it hyperbolically:

It is a movement reflecting the best spirit of the highest existing form of civilization. Perhaps no diplomatic conference has ever been entrusted with more important functions. Upon the issues of its deliberations hang consequences of the deepest importance to the present, and consequences that will reach far down into the future, the unfolding of whose mighty issues mankind will watch with bated breath.

With greater faculty for rhetoric than for political realism, the Canadian observer continued:

The dictates of reason, the ties of consanguinity, the bonds of a common language and race, and the high claims of religion and humanity have with sudden and startling effect swept away the prejudices, the animosities and the jealousies that have kept these two mighty nations apart, and in place of all these we have the dawn of an era of good will, and of a common desire to act for a common purpose from the highest of motives.¹¹

It was an unrealistic appraisal, of course, notwithstanding the fact that most of the topics before the Commission were not expected to cause much difficulty. An end to the wasteful and cruel destruction of wildlife caused by pelagic sealing among the Pribilof Islands in the Bering Sea was a goal which appealed to both governments. Of

greater difficulty were those questions relating to fisheries. Canadian officials felt that the United States was negligent in protecting the resources of the Great Lakes. On the North Atlantic Coast of Canada, American fishermen had been enjoying privileges granted by a treaty of 1818, and Canadian interests felt it was time to curtail these rights. Left unresolved by the Joint High Commission, the dispute over fishery rights would continue and expand until finally eliminated in 1910 through the process of arbitration. Appropriately, George Gray would serve as a member of the panel of arbitrators.

The immense quantity of commerce which flowed across the border, while of obvious mutual advantage to the United States and Canada, also produced technical difficulties which were laid before the Joint High Commission. Even before the twentieth century, Canada traded less with Great Britain than with the United States, which accounted for over half of her imports. Already measured in the tens of millions of dollars, the value of the trade was expected to increase if the two governments could agree to a joint reduction of the tariff. So controversial was this issue of reciprocity that American newspapers tended to dwell on this point rather than on the boundary question, a further indication of the differing priorities.¹² Another technical problem closely related to the flow of commerce was the question of bonding regulations. Most of the wheat crop from Manitoba arrived in New York City by way of the Hudson River and the Great Lakes. Similarly, the products of Ontario and Quebec, including lumber, were passed through Lake Champlain and New York City to markets in the West Indies and South America. Canadian railroads and canals reciprocated

by providing the most direct route between Minneapolis and New England. Hence, it was of the greatest importance to both countries that bonding regulations be set on a firm and permanent basis.

Other questions included alien labor laws, the mining rights of foreigners, readjustment of customs duties, naval regulations on the Great Lakes, the conveyance of foreign prisoners, wrecking and salvage rights, etc.¹³ In all, there were approximately 12 topics to be considered, the number varying according to the manner in which the questions were grouped. Above all, of course, was the Alaskan boundary question which subordinated the other considerations. On this vital question, it was probably unreasonable to expect that the Commission could reach a solution. Alaska had become intertwined with Anglo-American involvement elsewhere, specifically at the opposite end of the continent, where there was much interest in an isthmian canal.

By the Clayton-Bulwer Treaty of 1850, both nations were pledged to permit joint control over any future canal, but now the United States was determined to exercise unilateral control. Great Britain, if pressured to make concessions in the south, could expect concessions in the north. Increasingly, Congress was demonstrating its impatience with the diplomatic efforts of the administration to reach an accord with London. A resolution was considered by the House of Representatives which called on the government to commence construction of the canal in defiance of the Clayton-Bulwer Treaty, and, although Secretary Hay opposed such a move, he used the proposed legislation as leverage against the British. In addition, he even threatened to resign if the British would not cooperate, thereby permitting the president to appoint a new secretary of state less sympathetic to Anglo-American unity.¹⁴

These pressures, however, were behind the scenes and were not at all in evidence as George Gray and his American colleagues moved into the 35 rooms which had been reserved for them at the Chateau Frontenac, Quebec's largest hotel. Once settled, he joined with the others in a routine which was soon to be repeated in Paris. Although there was much hard work and although the daily sessions were to be marked by tough bargaining on both sides, the social amenities of the occasion were not to be slighted. On August 22, the day before the Joint High Commission was to convene, its individual members were treated to a sight-seeing tour. In the succeeding weeks, this would be followed by a series of ". . . balls and receptions, moonlight cruises on the St. Lawrence, and excursions into the mountains."¹⁵ In time, as the hostesses of Quebec vied with one another, the social events took on more of the quality of competition and less of entertainment. The grandest spectacle was reserved for the public unveiling of a statue of Samuel de Champlain, which was attended by the highest officials of the Canadian government, as well as representatives of the Crown. As if to underscore the seriousness of the deliberations which were being hosted by the city which Champlain had founded, the occasion also featured a parade of British and American warships. Less successful, but spectacular in its own way, was a chess game which was staged on another occasion by a local hostess. Her idea for using living pieces was original, but a sudden rain-storm caused the figures to break character and scurry for shelter. No wonder one historian has concluded that ". . . some of the gruff repartee at the morning conference table may have been due as much to

upset stomachs and aching heads as to reasons of state."¹⁶ In September, 1898, the commissioners recessed to transfer their deliberations to Washington. Here in January, 1899, their labors resumed, as did their entertainments. President McKinley entertained with a ball, and this was followed by so many social engagements the reporter from Toronto was unable to keep track of them.¹⁷

The display of cordiality among the commissioners contrasted sharply with the secret nature of their deliberations. As a result, the public was prevented from forming an accurate understanding of the course of the negotiations which were being conducted in the Parliament Building. At the initial session of the Joint High Commission, held August 23, 1898, Senator Fairbanks nominated Lord Herschell to be the permanent president, and the other delegates concurred. Three secretaries were named, and a Committee of Four was formed to prepare a plan of procedure. However, the press was not allowed to view the daily negotiations; it was told it would have to await the finished product which would be revealed at the conclusion of the sessions. Presumably this would be in the form of a treaty which would be submitted to the respective governments for ratification. Lord Herschell and Senator Fairbanks were selected to provide press releases, but at the end of August, The New York Times lamented that ". . . so far there has been nothing which the commission has considered wise to reveal." When the two spokesmen were approached by reporters, each praised the hospitality of the other side but refused to give any indication of the events transpiring behind the closed doors.¹⁸

Inevitably in such an atmosphere, rumors arose to supplement, but more often to distort, the meager facts. Throughout the speculation, the press focused on the presumed differences between Congressman Dingley and the British regarding the issue of reciprocity of trading arrangements. On August 30, The New York Times observed that books and documents relating to the Bering Sea sealing arbitration of 1893 were much in evidence. This was the first indication that it was not reciprocity that would be the stumbling block but another issue--an issue which was of common interest to the arbitrators of 1893 and the commissioners of 1898: the Alaska boundary.¹⁹

The issue of the boundary was soon distilled by the commissioners to a single point, and the whole matter of the negotiation in retrospect can be easily summarized. Although they maintained that the true boundary bisected several inlets, the British chose to press their case in favor of only one, Lynn Canal. If the United States would recognize the British claim to a small port on this Canal, Pyramid Harbor, the other claims could be compromised, and the Commission could proceed to consider the other issues which had been laid before it. The United States proposed that Pyramid Harbor and two other coastal communities be made free ports, that British vessels be given the same privileges as American vessels, and that the British be permitted to maintain a customs establishment at these points. In other words, the British would have free and unqualified use of the ports but not the sovereignty. It was a generous offer, particularly considering the weakness of the British claim and the fact that the territory was already in the possession of the

United States. When news of the American proposal was leaked to powerful commercial interests on the West Coast, the negative reaction was immediate and vigorous and caused the proposal to be withdrawn. It was of little consequence, however, as the British were indisposed to accept anything less than a hundred year lease of Pyramid Harbor.²⁰

Having reached an impasse which was not at all affected by the transfer to Washington, the commissioners turned to a consideration of an alternate mechanism whereby the boundary question could be resolved. The obvious course and the one suggested by the British delegation was arbitration. This was deemed particularly appropriate since the United States only a few years earlier had induced Great Britain to arbitrate the boundary dispute between Venezuela and British Guiana. But the American commissioners professed that they failed to see an analogy, and, as a practical matter, it was extremely unlikely that the Senate would have supported any arbitration which could result in the loss of American territory.²¹

On February 20, 1899, the Commission recessed. As the recess lengthened, it was gradually recognized as permanent. The failure of the Commission was most keenly felt by those who had hailed its formation as the dawn "of an era of better feeling between the two great Anglo-Saxon commonwealths."²² The Alaskan boundary remained as controversial as before, and there was nothing on the surface to suggest a quick and smooth solution. Fortunately, this negative appearance was somewhat deceiving. In actuality, the necessary foundations had been laid upon which the final solution was achieved in 1903. The two sides had been drawn close enough together by the Joint High Commission to permit a *modus vivendi*, reached in an exchange of

notes in October, 1899, which preserved the rights of both parties and reduced the level of tempers in Ottawa and Washington. The arrangement was sufficiently commodious to insure the status quo for the next three years, during which time the parties involved experienced considerable change. Death by natural causes had removed Congressman Dingley, Lord Herschell, and Queen Victoria, and death by an assassin's bullet had removed President McKinley. The United States had won an easy victory over Spain and had acquired a distant colonial empire. Great Britain had won a difficult victory over the Boers, and both nations had been the target of the Boxers. But the biggest change of all was in the White House, now occupied by Theodore Roosevelt.

In reply to the British offer of arbitration, the United States had proposed a unique variation: a mixed tribunal of three members from each side but without a neutral umpire. Precedent for this scheme lay in an unratified treaty signed by Secretary of State Richard Olney and British Minister Pauncefote. By its provisions, a decision would require the concurrence of any five members. Intended for use in the most sensitive situations which could not be resolved through traditional diplomatic channels, the mixed tribunal was proposed by the Roosevelt Administration. British leaders, including Canadian Premier Laurier, eagerly accepted this opportunity to escape from an embarrassing impasse with dignity. The arrangement was formalized by the exchange in March, 1903, of ratifications of a convention which simplified the procedure by permitting a decision based on a simple majority. The two Canadians and one Englishman appointed

by King Edward and the three Americans appointed by President Roosevelt included none of the members of the Joint High Commission. The tribunal convened in London, accepted a Case, a Counter-case, and an Argument from each side, listened to oral arguments, voted, and adjourned within eight months from the exchange of ratifications--a dizzying pace for the mechanics of international relations. The decision, rendered by a vote of the three Americans and the Englishman, sustained the American interpretation of the boundary, although there was some slight variation.

The triumph was extravagantly hailed by President Roosevelt as "the greatest diplomatic victory of the United States during the present generation."²³ He would have been closer to the truth had he proclaimed it a justification of his Big Stick philosophy. Speaking quietly, i.e., without fanfare, he had, during the previous year, garrisoned military posts in southern Alaska, so that America's military strength in the area outnumbered Canada's 20 to 1. In addition, during the spring of 1903 he had written letters to Americans in London--letters which he could assume would be seen by British leaders. In one of these he asserted that if the London tribunal failed, he would "request Congress to make an appropriation which will enable me to run the boundary on my own hook . . . without any further regard to the attitude of England and Canada."²⁴ In effect, he had guaranteed the decision before the tribunal ever assembled.

Still, the position of arbitration, a cause advocated by George Gray, had been enhanced, not in terms of abstract justice, but in terms of power politics. It was a demonstration of a technique by which

democratic governments, sensitive to pressures from within their own body politic, could extract themselves with honor and dignity from indefensible positions. It was, to be sure, a painful lesson for the Canadians. Even before the London tribunal had been organized, a conservative Canadian journal in a suicidal rage had called for war against both Great Britain and the United States. Canadian interests had clearly been sacrificed to preserve harmony between London and Washington. At the same time, it was equally clear that Canada had the most to benefit from that harmony. Ironically, she paid the most and received the most.²⁵

Finally, and most satisfying to the peaceful instincts of George Gray, the London decision affirmed the validity of irenic diplomacy. Although the territorial dispute may have appeared trivial to most Americans during the summer of the Spanish-American War--certainly not a worthy casus belli--history was replete with examples of nations which had raced to the battlefield over far less. That war had been averted could be explained in terms of a single generalization which Senator Gray could extrapolate for later application: irenic diplomacy would depend more on the gradient than on the group coup. Peace, even between America and her northern neighbor, was to be achieved neither by a single sweeping gesture nor by a single inspired thought. Its achievement would rest upon a foundation which had been constructed slowly and with the greatest attention to detail.

What irenic diplomacy lacked in dramatic headlines it compensated for in permanence. The principle of achieving diplomatic success through incremental steps was easily obscured by its simplicity.

Thus, President Wilson would opt for the grand coup 20 years later at Versailles, and it can be argued that much later, in attempts to resolve tensions in the Middle East, for example, the principle of increment would be ignored in favor of a sweeping gesture to the grandstand. For Senator Gray, the end justified the means, and time was a small price to pay when the reward was to be measured in terms of Anglo-American comity. Within this framework Quebec had an importance not because of George Gray's role in settling the boundary dispute, but because of the influence of the Conference on him. The London tribunal would, in time, confirm his principles, but in the summer of 1898 it was not necessary, as patience was already an important part of Senator Gray's personality. Before the Joint High Commission had recessed, he had been called to exercise this virtue and to apply irenic diplomacy elsewhere--in Paris.

ENDNOTES

¹The original list of commissioners was announced by President McKinley on July 16, 1898; see The New York Times, 17 July 1898, p. 6.

²The complexities of international diplomacy in the 1820s, specifically the relationship between the Czar's ukase and Ipsilanti's revolt in Greece, are examined by Anatole G. Mazour, "The Russian-American and Anglo-Russian Conventions, 1824-1825: An Interpretation," Pacific Historical Review 14 (September 1945), pp. 303-10.

³Sen. Exec. Doc. No. 177, 53d Cong., 2d sess. p. 448 (1893). Popularly known as the Fur Seal Arbitration Papers, these documents were collected and published shortly before the creation of the Joint High Commission. For the details of the negotiations which resulted in the two Russian treaties, see John W. Foster, "The Alaskan Boundary," National Geographic Magazine, November 1900, pp. 425-53. Similar details are also examined by J. B. Moore, "The Alaskan Boundary," North American Review, October 1899, pp. 501-15; and by Thomas Willing Balch, The Alasko-Canadian Frontier (Philadelphia: Press of Allen, Lane, and Scott, 1902). These three authors, after objective and scholarly analyses of the conflicting claims, concur in condemning the British argument as groundless. For additional insight into the Anglo-Russian negotiations, including the influence of the Hudson's Bay Company on British policy, see Charles Cheney Hyde, "Concerning the Alaskan Boundary," Harvard Law Review 16 (April 1903), pp. 421-31.

⁴Maps of the disputed area, prepared at different dates during the nineteenth century, are described in detail and several are reprinted in Foster, "Boundary," pp. 439-48. As late as the summer of 1898, a British publication printed a map which supported the American interpretation of the boundary; see Wm. Ogilvie, "The Yukon District," Scottish Geographical Magazine, July 1898, pp. 337-46.

⁵The patient efforts of Canada to arrange for the joint survey are examined by Thomas Hodgins, "The Canada-Alaska Boundary Dispute," Contemporary Review, August 1902, pp. 190-206.

⁶Horace Townsend, "The Alaskan Boundary," Fortnightly Review, 1 September 1899, p. 498. The United States Supreme Court, Daniel Webster, and several other authorities on international law are cited by Hodgins, "Boundary," pp. 195-97. The Canadian argument relating territorial waters with the point of measurement deserves greater consideration than it has been given by American scholars. See Bemis, Diplomatic History, p. 425; and John Bassett Moore, "John Hay: An Estimate," Saturday Review of Literature, 11 November 1933, p. 250.

⁷The willingness of the Canadian commissioners to cooperate with the United States was the cause of some abuse in the Canadian press; see "The Anglo-American Joint High Commission," North American Review, August 1898, p. 170.

⁸The New York Times, 17 July 1898, p. 6.

⁹Quoted by H. George Classen, Thrust and Counterthrust: The Genesis of the Canada-United States Boundary (Don Mills, Ontario: Longmans Canada Limited, 1965), p. 328.

¹⁰The New York Times, 23 July 1898, p. 5.

¹¹"Commission," North American Review, p. 165.

¹²For example, see the editorial on the importance of reciprocity in The New York Times, 29 August 1898, p. 4.

¹³"Commission," North American Review, pp. 171-75.

¹⁴H. C. Allen, Great Britain and the United States: A History of Anglo-American Relations (1785-1952) (New York: St. Martin's Press, Inc., 1955), pp. 599-600.

¹⁵Classen, Thrust, p. 327; also see The New York Times, 23 August 1898, p. 7.

¹⁶Classen, Thrust, p. 327.

¹⁷Ibid., p. 328.

¹⁸The New York Times, 30 August 1898, p. 12; also see related material in 24 August 1898, p. 7; 25 August 1898, p. 5; 26 August 1898, p. 7; and 27 August 1898, p. 7.

¹⁹The New York Times, 30 August 1898, p. 12; for Congressman Dingley's position, see 27 August 1898, p. 7; and 29 August 1898, p. 4.

²⁰The course of the negotiation of the Alaskan boundary question is provided by Classen who is of the opinion that the British were not sincere in the extravagance of their claim; see Thrust, pp. 326-33. Also see A. Gordon Dewey, The Dominions and Diplomacy; The Canadian Contribution, 2 vols. (London: Longmans, Green and Co., 1929), pp. 203-04; and James Morton Callahan, American Foreign Policy in Canadian Relations (New York: The Macmillan Company, 1937), pp. 470-74; and Hugh L. Kennleyside, Canada and the United States; Some Aspects of the Republic and the Dominion (New York: A. A. Knopf, Inc., 1929), p. 176. Especially suspect was the behavior of Lord Herschell, who was the object of much complaining by the Americans and even by the Canadians; see Classen, Thrust, p. 329; and Callahan, American Foreign Policy, pp. 473-74. Also see John Hay to Henry White, 3 December 1898 and 3 January 1899; quoted by William Roscoe Thayer, John Hay, 2 vols. (Cambridge, Mass.: Houghton Mifflin Company, 1915), 2, pp. 204-5.

²¹Lionel M. Gelber, Rise of Anglo-American Friendship, 1898-1906 (London, New York: Oxford University Press, 1939), pp. 42, 47; William Archibald Dunning, The British Empire and the United States: A Review of Their Relations during the Century of Peace Following the Treaty of Ghent (New York: Charles Scribner's Sons, 1914), p. 328. Also see Thayer, Hay, 2, p. 207, for Secretary Hay's opposition to arbitration of the Alaskan boundary.

²²"Commission," North American Review, p. 175.

²³Quoted by J. W. Foster, "The Alaskan Boundary Tribunal," National Geographic Magazine, January 1904, p. 11. For the appointment of the American and British members of the tribunal, which was a source of considerable controversy, and for other relevant details, see Allen, Great Britain and the United States, pp. 611-14; H. C. Allen, The United States of America: A Concise History (New York and Washington: Frederick A. Praeger, Publishers, 1965), pp. 202-03; A. L. P. Dennis, Adventures in American Diplomacy, 1896-1906 (New York: E. P. Dutton and Company, 1928), pp. 145-47; Tyler Dennett, John Jay: From Poetry to Politics (New York: Dodd, Mead, and Company, 1933), pp. 224-39; Allan Nevins, Henry White: Thirty Years of American Diplomacy (New York and London: Harper and Brothers Publishers, 1930), pp. 194-95; Foster, "Tribunal," National Geographic Magazine, pp. 1-2, 4-12; Classen, Thrust, pp. 337-51; Dewey, Dominions and Diplomacy, pp. 204-05; Callahan, American Foreign Policy, pp. 480-89; and Kennleyside, Canada and the United States, p. 177.

²⁴Quoted by Gelber, Anglo-American Friendship, p. 150; and by Allen, Great Britain and the United States, p. 612.

²⁵For the threatened declaration of war, see "The Canadian Boundary Controversy," Public Opinion, 8 June 1899, p. 711. For Canadian criticism, see George W. Smalley, Anglo-American Memories (New York and London: G. P. Putnam's Sons, 1911), pp. 270-76. Later Canadian historians have demonstrated greater moderation; see Hugh L. Kennleyside, Canada and the United States, pp. 210-29. The American press naturally approved the decision; examples are cited in "Alaskan Boundary Verdict," Literary Digest, 24 October 1903, p. 535.

CHAPTER IV

THE PARIS PEACE CONFERENCE

Take up the White Man's burden.
Rudyard Kipling

George Gray received his second presidential summons in September, 1898. As before, he was called to assume a position on a commission, but this time the responsibilities were far greater. The war which had been conducted against Spain during the summer months had been successful on land and on sea, an armistice had been arranged through the efforts of the French government, and the Peace Conference was to assemble no later than October 1 in Paris. Although Senator Gray's work in Quebec had only recently begun, the importance of concluding a peace with Spain and the immediacy of the approaching deadline compelled President McKinley to terminate his service on the Joint High Commission in favor of a position on the Peace Commission. The appointment was announced by the press on September 10, 1898, and the next few days were crowded with preparations, interviews, and travel as Senator Gray transferred from Quebec to Washington and then to Paris. The rapid and varied pace of American diplomacy in the pivotal year of 1898 is nowhere better demonstrated than in the sudden and unexpected shifts of responsibility experienced by Senator Gray. From the Quebec conference with a friendly neighbor he abruptly transferred to the Paris confrontation with a defeated enemy--all within the span of a single month.

It was in 1783 that the United States first used the French capital as the site for negotiations with a foreign enemy, and the precedent established by John Adams, Benjamin Franklin, and John Jay was followed 115 years later by five commissioners who were also charged with the responsibility of concluding a peace with a European power. Like Great Britain, Spain was an imperial power with traditional interests in the New World. Unlike Great Britain, Spain had long since passed the period of her greatness; what was left of her empire was dissolving, and the only comforts allowed her were the memories of a glorious past. Her defeat by the United States had been rapid and thorough, and all that remained for the Paris Commission was to reflect on paper what had already occurred on land and sea. The simplicity of the task awaiting both sets of commissioners, however, was negated by the complexity of European diplomacy and American politics. The possibility of a renewal of hostilities, perhaps with other European powers, and the difficulty of securing Senate acceptance of the completed treaty compelled the McKinley Administration to select the American commissioners with the greatest care. As finally constituted, the American delegation consisted of five members: Senator George Gray, Senator Cushman Davis, Senator William Frye, former Secretary of State William Day, and editor Whitelaw Reid.

With the appointment of Senator Gray, the President was able to satisfy several requirements of a balanced Commission. In the first place, Gray was the ranking Democrat on the Foreign Relations Committee, and his membership was a recognition of the bipartisan support given to the President during the war. In addition, Senator Gray

was the symbol of anti-imperialism, and his presence in Paris would assure that any decision to retain territory would be made only after a thorough review of both sides of the issue. The advantages of his participation were sufficiently evident that the President refused to be satisfied with the Senator's initial rejection of appointment. Supreme Court Justice Edward D. White was the President's second choice for the position, and it was even announced that his appointment had been accepted. However, the original invitation was kept open, and on September 10 the White House issued the statement that Senator Gray had accepted the call and would be the fifth member of the Commission rather than Justice White. The Senator anticipated that the Paris Conference would be the most difficult assignment of his career, and the President believed that Democratic representation on the Commission would facilitate Senate approval of the treaty. In time, the expectations of both would prove correct.¹

In common with George Gray, his two senatorial colleagues, William P. Frye from Maine and Cushman K. Davis from Minnesota, were members of the Foreign Relations Committee. Unlike George Gray, however, they were expansionists and Republicans. With Senator Davis in particular, George Gray was in sharp disagreement regarding the proper course of American foreign policy. Earlier, Senator Davis had written an article which criticized President Cleveland's resistance to the annexation of Hawaii and Samoa. "The conduct of our foreign relations during the last two years," he wrote of the Democratic Administration, "has not reflected honor upon this country." Senator Gray had responded in behalf of the Administration, describing Cleveland's Hawaiian policy as "an example of civil courage and

conscientious discharge of high public duty." It was not Democratic restraint that was to be feared, he asserted, but rather the tendency of Republican diplomacy to thrust American institutions forcefully upon alien populations:

It is meddlesome and aggressive; it is envious and suspicious; it is covetous and not very scrupulous; it exemplifies the evil of power without self-control, and of susceptibility to insult without a due proportion of self-respect. Its spirit is that of conquest; its first reason, as well as its last, is force. . . . It overthrows by force a Queen in Hawaii in the name of liberty and annexation, and maintains by force a King in Samoa in the name of independence and autonomy. If this be Republican diplomacy, and we are to have more of it, God help the American Republic!²

In one of the ironies common in the world of politics, these two articulate exponents of conflicting solutions to the most difficult issue resulting from the recent war found themselves as fellow laborers toward the goal of a lasting peace.

Because of its informal organization, the Commission presidency devolved by consensus upon the erstwhile Secretary of State, William Rufus Day. As a member of President McKinley's Ohio coterie, Judge Day was involved in the successive changes of leadership through which the State Department passed during the first two years of the Administration. The President had originally named Senator John Sherman to head the Department. Like the President, he was an Ohioan, but he was also past 70, and his appointment was necessary to create a Senate vacancy which could be filled by the President's friend, Mark Hanna. As the Assistant Secretary, Judge Day had already been handling much of the important business of the Department prior to his term as Secretary which began in April, 1898. With the appointment five months later to the Peace Commission, his term ended, and

he was replaced by John Hay, whose five-year term brought stability to the Department.

It was another member of the Commission, not the presiding officer, who exercised the greatest influence on his colleagues and on the result of the deliberations. Whitelaw Reid was a man of commanding personality, not untinged by arrogance, who had already gained diplomatic experience in Paris, where he spoke the language fluently and where he had made the personal acquaintance of the Spanish Ambassador, Senor Leon Y. Castillo. As the editor of the New York Tribune, he had long favored American expansion, including the retention of the Philippines. ". . . We must strike and cripple Spain wherever we can," he wrote in June, 1898. "We have already struck her in the Philippines, and what we seize we shall certainly hold, so long as it serves our purpose, and so far as the responsibility in destroying the existing government may carry us."³ A month before his appointment to the Commission, he had written to John Hay in London:

I haven't in the least undertaken to shut people's eyes to the difficulties and dangers of the Philippine business; but I don't see how we can honorably give them back to Spain, or do anything with them but try to make the best of what Dewey flung into our arms.⁴

Ever the journalist, Whitelaw Reid kept a prolix diary of the Paris proceedings which predictably credited its author with the success of the Conference--a conclusion as accurate as it was immodest.⁵

Traditionally, the secretary of a diplomatic commission was little more than an amanuensis--at most, the supervisor of a staff of stenographers. The appointment of John Bassett Moore guaranteed that

on this occasion the position would have much greater significance. His command of international law was probably the most impressive of any American scholar, and his presence made available to the Commissioners the most expert opinion on technical matters. Years later, George Gray, in a letter to Professor Moore, confirmed his high opinion of his friend's contribution:

On the numerous points of difference between the American and Spanish Commission, no discussion was had, except upon the basis of an argument prepared by you, and the frequent occasions upon which you worked all night, in order to have material prepared for our meetings the next day, were noticed and commented upon by every member of our Commission.⁶

The problem of language was greatly reduced by the appointment of Arthur Ferguson as the American interpreter. None of the American delegates spoke Spanish, and only two or three of their counterparts were said to speak English. Although a few members of both delegations were said to speak French, it was decided that it would be best to conduct the sessions in the language of the victorious nation. Nevertheless, it was essential that the Americans have at their disposal trustworthy translations from the Spanish, and here Arthur Ferguson served them well. "His command of Spanish was complete, extending to the subtlest nuances of the language, and his alert skill had a clarifying and most helpful effect at important moments."⁷

The decision to hold the conference in Paris was not at first approved by all the commissioners. The French press had been strongly pro-Spanish throughout the conflict, and many of the traditional elements of French society had criticized Yankee imperialism. It had been, after all, the French Ambassador in Washington who had approached President McKinley in behalf of the Spanish to ascertain the

terms of peace. Although Whitelaw Reid preferred a neutral site such as Berne or The Hague, Paris proved to be a fortunate choice.⁸ In 1898 the city was more than just another European capital. For two generations she had been the City of Light, and now she could lay claim to another sobriquet: the City of Reconciliation. It was Paris which had reconciled its population with its new landmark, the Eiffel Tower--at first a symbol of considerable controversy but now the central feature of a new international exposition scheduled for 1900. It was to Paris that London, Vienna, and Rome looked for cultural leadership. It was only appropriate that Paris would be the setting of a reconciliation between the forces of the Old World and the New.

The American delegation took up quarters in the Hotel Continental, against the wishes of the frugal George Gray, who would have preferred a less expensive hotel. From there, they were able to watch in relative comfort and safety the convulsions which accompanied the greatest political scandal of the Third Republic--the Dreyfus Affair. In a letter to his son, George Gray described the scene:

The French troops occupied all the approaches to House of Deputies. The Place de la Concorde was full of soldiers, and cavalry and infantry were in evidence all day as tho there was a state of seige. It was said that 10,000 were in about the Place de la Concorde & the buildings across the Seine.⁹

Notwithstanding the potential danger, George Gray found the Gallic temperament "rather amusing." He and Judge Day took advantage of the opportunity to attend a judicial hearing on the Dreyfus Case, a real privilege for the Americans since few spectators were permitted into the courtroom.

In spite of the Dreyfus excitement and the pro-Spanish sentiments of the press and population, the French government followed

scrupulously correct protocol. This official impartiality was confirmed by Monsieur Delcasse, the French Minister for Foreign Affairs, at his reception for the American delegates held on September 28. The next day he hosted a luncheon at which the two Commissions met for the first time. It was "a beautiful affair," wrote George Gray, "and admirably accomplished what was intended." The Queen Regent of Spain had appointed five eminent personalities to ease as best they could the pain of dismantling the Spanish Empire. Don Eugenio Montero Rios headed the Commission, and the other four included Don Buenaventura Abarzuza, Don Jose de Garnica, Don Wenceslao R. de Villa-Urrutia, and General Rafael Cerero. But as he approached the first joint session, arranged for October 1, Gray confided to his son: "I am not happy over the outlook."¹⁰ His apprehension anticipated the impending conflict with his colleagues as much as with the defeated enemy.

Facilities for the negotiations were provided by the host government at the Quai d'Orsay, a short distance from the Continental. The conference room, which overlooked a pleasant terrace, was decorated with typical French grandeur: heavy draperies, a rich rug, marble trim. High windows afforded a view of the river, and from the ornate ceiling was suspended a massive chandelier. Beneath this stood the conference table covered with green felt on which the diplomats would attempt during the next several weeks to conclude a treaty of peace.¹¹

Because Spain had been decisively defeated in the field of battle, it appeared to some that the Peace Conference was a mere formality. All that remained to be accomplished was to confirm in writing

what had already been decided in combat. However, there were several questions which the guns could not answer, and two in particular were of major importance. On the first of these, the question of the Cuban debt, the American delegation was united. On the second, the question of the disposition of the Philippine Islands, no such unity existed--an unfortunate circumstance which was to complicate the proceedings.

The initial joint session was held on the first day of October, 1898. Cordiality was much in evidence as the commissioners dealt with decisions of a procedural nature. George Gray had already explained to his colleagues the manner in which the Joint High Commission had operated in Quebec. In that instance, Lord Herschell had been elected the president of the Commission. However, it was decided that this precedent would not be followed and that the joint sessions would have no presiding officer. Judge Gray suggested that each Commission designate one member to draw up a brief order of procedure to be submitted at the next session. This suggestion was accepted, and Villa-Urrutia and Judge Gray were named. With the procedural matters out of the way, each side read an opening statement, and the commissioners were confronted for the first time with the unpleasantness of their respective tasks. To the Spanish effort to retain Manila, the Americans replied that the topics should be handled in the order in which they had appeared in the armistic--i.e., that Manila and the Philippines would follow Puerto Rico and Cuba. "Montero Rios," recorded Whitelaw Reid, "looked as if he was losing his last friend on earth, and the others obviously experienced considerable

emotion also at being thus brought face to face with the results of the war."¹²

About Puerto Rico, there was no substantial argument, since the armistice had clearly stated that it was to be ceded to the United States.¹³ About Cuba, there was no argument that she was no longer to be within the Spanish Empire, but beyond that nothing had been arranged. The Spanish hoped that the United States would assume sovereignty over the island and thus appear as traditional imperialists. But the Teller Amendment precluded this, and there was no alternative to Cuban independence, notwithstanding the creation of a temporary American protectorate until the conditions of peace could be stabilized. Spain had amassed a debt of about \$400,000,000 as a consequence of subjugating the Cubans, and she was naturally desirous that this debt should be transferred along with sovereignty over the island. Therefore, if the United States would not assume sovereignty and the debt, it must reside with the Cubans. The Americans argued that this in effect made the Cubans pay for the oppression which the Spanish had inflicted upon them. So inflexible were the two sides on this initial dispute, that it appeared the Conference might be wrecked before the greater question of the Philippines was even considered. This would have been tragic, of course, but the Americans were willing to accept this if necessary. On this point, George Gray agreed with his colleagues: better that the Conference be disrupted on the question of the Cuban debt than on some more abstract question or on the question of the Philippines. Whitelaw Reid sent the consensus to the State Department:

Our probable line of procedure, if you do not disapprove and if we think emergency has arisen, will be to repeat

that our position on Cuban debt is final, and that, if now again rejected, nothing is left to us excepting to give notice of only one more meeting, to close the protocol.¹⁴

The reply from Washington was favorable, and the Conference appeared almost certain to be of short duration. At the last minute, however, a personal appeal by Ambassador Castillo to his friend, Whitelaw Reid, provided the opportunity whereby the Spanish Commission could learn that American intransigence was not mere bluff. Reid left this account of the interview:

I tried to explain to him our point of view--that the debt was purely and simply a debt created by Spain for the purpose of maintaining a rule in Cuba which we found so bad and tyrannical that we had been at last compelled to intervene to upset it--that it was not a Cuban debt at all since the Cubans had had no voice in the creation of it, and had derived no benefit from it. That now they had been freed from the rule this debt was created to maintain and perpetuate, it would be monstrous to saddle the debt upon them.¹⁵

Convinced that there was no room for bargaining, and unwilling that the Conference should be wrecked over the question of the Cuban debt, the Spanish had no choice but to acquiesce. The very next day after the Castillo-Reid interview, the Spanish Commission indicated its acceptance of the debt during the joint session. While the statement was being read, Senator Gray leaned over to Reid, pressed him arm, and whispered: "There is the result of your conversation with the Spanish Ambassador."¹⁶ Regarding the next major point, the proper disposition of the Philippine Islands, the two commissioners were to evince considerably less accord.

Although they were not negotiating from a position of strength, the Spanish commissioners were not entirely without hope. The French press continually supported their cause and kept alive the

faint hope that at least part of the Philippines might yet be saved for the Empire. It was not merely sympathy for the underdog that determined the emotions of the French and their fellow Europeans. Investments in the bonds which were the substance of the Cuban debt had not been limited to Spanish bankers, and there was also the dynastic factor. The Queen Regent of Spain was the niece of Emperor Franz Joseph of Austria, and through this Hapsburg connection she was related to every important royal house in Europe.

Aligned with public sentiment was a second Spanish ally: time. The American electorate was notoriously impatient, and the diplomatic questions in Paris could not be expected to hold its attention over a long period of time. The mid-term elections were scheduled for November, and if they followed the traditional pattern, they would weaken the party of the Administration and partially undermine the authority of the Commissioners. At any rate, the Spanish were well justified in resorting to a strategy of delay and playing on public sympathy. Even if the Conference were aborted, there was always the alternative of arbitration--a diplomatic device which the United States had long championed. By this technique, Spain had nothing to lose. Besides, an even more exaggerated sequence of possibilities--however unlikely--had occurred to both sets of commissioners. If the Conference failed, if the United States then refused to arbitrate, and if the Americans expanded their military force beyond Manila to encompass the entire archipelago, sympathy for the prostrate Spanish might well be irresistible. Conceivably, a coalition of Great Powers involving any possible combination of France, Germany, Russia, and Japan would rise up to thwart the greedy Yankees. A similar concerted effort had

resulted earlier in a diplomatic note from six Great Powers to President McKinley expressing grave concern over American intentions in Cuba. The threatening tone of the note had been somewhat reduced by the insistence of the British Ambassador in Washington, Lord Pauncefote, but nevertheless the White House was made aware of foreign sympathy toward the Spanish Empire. The Powers had earlier combined to prevent Russia from annexing portions of the decaying Turkish Empire and again more recently to prevent Japan from acting similarly towards China. In the autumn of 1898, an immediate future of disaster or triumph for the United States could be determined by the careful deliberations of five of its representatives in Paris.

The difficulties which confronted the American diplomats were at the same time ameliorated and compounded by the Paris setting. The press predicted that the Spanish would sign no treaty by which they would surrender the Philippine Islands, and the journalistic hostility grew so intense that the Americans considered transferring the negotiations to Nice.¹⁷ Still, there was never any hint of hostility directed toward the American Commissioners personally, and they chose to remain in the French capital and to savor its attractions. For example, on a Sunday afternoon, Whitelaw Reid escorted Judge and Mrs. Day to the Invalides where Mrs. Day, overcome with emotion at the sight of Napoleon's tomb, wept for several moments. Perhaps as an escape from the awesome surroundings and from the pressures of dismantling an empire, their conversation centered on less grandiose topics, specifically the scandalous news that the President's brother-in-law had just been killed in Canton, Ohio, by a jealous mistress. Judge Day, who was from Canton and who was an intimate of the McKinley

family, talked "with a good deal of candor about the murder" and said ". . . it was exactly what everybody expected, and . . . had been threatened long before."¹⁸

Diplomacy functions best where the evening activities of the negotiators are not ignored, and no city was less likely than Paris to ignore this factor of international relations. On October 12, a soiree was arranged for both delegations which consisted of musical presentations from Spain and the United States. Whitelaw Reid's description reflects the critical eye of the journalist and the condescension of the man of cultivated taste:

There was some graceful and rather unusually risqué Spanish dancing. There were also Spanish songs, and the Spaniards had decidedly the best of it, so far as the entertainment went. When at last the American part of it came, it proved to be in the person of Miss Loie Fuller, who told in bad French, and subsequently in not very good English, one or two little anecdotes about on the intellectual level of a rather vulgar child's newspaper. Then the hall was darkened, the lights were thrown on her, and she gave her queer dance with 'Star Spangled Banner' variations. Then the other national colors were from time to time thrown on her waving skirts, and again the 'Star Spangled Banner' was introduced.

The musicale was a disappointment to the editor, but the worst was yet to come:

If it had stopped then it would probably have been considered by most of the audience a success. Unfortunately, as the people were on the point of leaving, she felt it incumbent upon her to ask them to wait a moment, and proceeded to make a sort of stilted, and yet childish stump speech about the beauties of peace, winding up, to the amazement of the Commissioners, with an appeal for having the questions at issue sent to arbitration. It was a gratuitous and incredible piece of folly and bad taste.¹⁹

Miss Fuller could be ignored as a bubble-headed entertainer, but similar expressions came from other sources not so easily dismissed. When the German Embassy hosted the American delegation at a dinner,

the hostess admitted that her sympathy was not with the United States but rather with the little dog. To Whitelaw Reid's suggestion that the little dog should not have picked a fight with the big dog, she replied: "Well, I wish he had taken a bite out of you anyway."²⁰

While these experiences were disconcerting to all of the Commissioners, it was George Gray who would be most sorely tested. Early in the proceedings, he had been confined to bed with a toothache and had missed a morning session of his colleagues. When he reappeared in the afternoon, it was "with a badly swollen face." But the afflictions of the body were insignificant compared to the political shock he was to experience in November. The elections had resulted in a Republican majority in the Delaware Legislature, and this signaled the end of George Gray's senatorial career. Although the work of the Commission remained paramount, his disappointment was evident--so much so that Whitelaw Reid noted his depression. Although his colleagues felt "very general sympathy" for his political defeat, they made no reference to it as the work of the Commission continued.²¹ With no way of knowing of his impending appointment as a federal judge, George Gray could only view the election with regret and his future with apprehension. His concern is reflected in a letter to his son:

I can not understand how after a registration so much in our favor, the Republicans . . . have achieved such an overwhelming victory. You must have been overconfident, and the enemy got their work in while you slept. . . . I hope that law business is looking up, as I feel depressed about my future.²²

The coincidence of political defeat and the necessity for a resolution of the Philippine question weighed heavily on George Gray, but

the burden was to be made heavier still by decisions being reached within the White House. The armistice agreement had left the final disposition of the Philippines to the future: "The United States will occupy and hold the city, bay and harbor of Manila, pending the conclusion of a treaty of peace which shall determine the control, disposition and government of the Philippines." When President McKinley had first formed the Peace Commission, he summoned its members to the White House and specifically solicited their individual opinions regarding the proper American policy. Whitelaw Reid provided the strongest and most sweeping argument for taking the entire archipelago. William Frye also favored retaining the entire group, and Cushman Davis was of a similar opinion, except that he had some reservations about the advisability of taking the southern islands. William Day advised against taking any portion. Because of obligations in court, George Gray was unable to be present, but his ideas were known--he opposed the retention of any portion of the Islands. The President then indicated that he did not see how the United States could give up Manila or Luzon, the island on which it was located.²³

No decision was made at the interview. Instead, it was left to the commissioners to decide what Professor Bemis has described as ". . . the most important question in foreign policy which the nation had been called upon to decide since its independence."²⁴ In the process of reaching a decision, the commissioners spent many hours discussing the issue among themselves and interviewing expert witnesses. Of greatest importance was the testimony of General Wesley Merritt, who had commanded the American army in the capture of Manila

and whose position reinforced the belief of the three imperialists that it was impractical to retain Manila without retaining all of Luzon and impractical to retain Luzon without retaining the entire archipelago.

As the American commissioners, meeting separately from their Spanish counterparts, took turns questioning General Merritt, the division of opinion among themselves became increasingly evident. Senator Gray inquired as to the ability of the Filipinos to govern themselves, to which General Merritt replied that time and education would be required before they could assume such a responsibility. The General suggested that a temporary protectorate would be acceptable to the natives. On the other hand, he predicted that the native leader Aguinaldo would forcibly resist a permanent occupation by the United States or a return to rule by Spain. The dialogue between Merritt and Gray appeared to have disturbed Whitelaw Reid, who felt that the Senator "was doing his best to entrap the General." Reid began to make "a few notes in order to be prepared to draw out the argument" in support of the imperialist position. It was a successful effort, he confided to his diary, as it gratified his colleagues and tended to inhibit Senator Gray, ". . . since it showed that two could play at the same game." The immodest verdict is not confirmed by the published transcript of General Merritt's testimony, as Whitelaw Reid's questioning was largely restricted to the details of Manila's water supply.²⁵

General Merritt was followed by John Foreman, an American citizen who had lived in the Philippines for 11 years and was familiar with

the local traditions. Of this witness, Senator Gray asked for the details of the mahogany trade and inquired about the land titles possessed by religious groups. The interrogation, in which Whitelaw Reid scarcely participated, was routine and informative.

Senator Gray's impatience with the imperialist rationalization was most clearly demonstrated during the testimony of the spokesman for the United States Navy, R. B. Bradford. Not surprisingly, his advice was to take the entire archipelago rather than a single port or a single island. His justification--that such a move would eliminate the possibility of bad neighbors--was quickly challenged by Senator Gray, who argued that the goal could be better attained by not annexing any of the Philippines. The problem of protection for the new Pacific possessions was also considered, as the witness insisted that annexation would not require an expansion of the Navy. George Gray inquired if it were reasonable to believe that both the Philippines and Hawaii, which had only recently been annexed, could be protected without increasing the naval capacity. R. B. Bradford was progressively pushed away from his initial assertion and was forced to admit that such an increase might be necessary after all.

In an attempt to assist the beleaguered witness, Whitelaw Reid suggested that Hawaii provided protection for the entire West Coast of the mainland, but George Gray countered: whatever rationalization about protection might be offered, it could not be denied that the Navy was being called on to protect a vastly increased area and could do so effectively only with vastly increased appropriations. This heated exchange of opinions, in which Senator Gray singly upheld the

anti-imperialist position, did little to alter the positions of the participants, but it fulfilled the wishes of the President that both sides of the annexation issue be thoroughly aired. The product of lengthy legal and parliamentary experience, Senator Gray's talent for partisan debate was immediately apparent. In addition, his talent for anticipating future developments with clear-sighted accuracy would be affirmed in a later generation by a series of military tragedies; even with an expanded Navy, the Philippine and Hawaiian Islands remained vulnerable.

A few days later, while the Commission continued to wrestle with the archipelago imbroglio, Senator Gray expanded his position to include moral arguments. Referring to the resolutions of Congress, he reminded his colleagues that the war had begun on a high ground of unselfishness. He found it difficult to permit it to degenerate into a traditional campaign of conquest, in which the original motives were submerged in favor of less worthy purposes. It appeared ludicrous to fore swear annexation of Cuba only to demand cession of the Philippines. Such a move not only undermined America's moral leadership, it constituted a denial of this country's traditional political philosophy, that government was based on the consent of the governed. Whitelaw Reid summarized his adversary's position in his diary: ". . . It would be a very unfortunate possession for the United States, and one that we could now govern in conformity with our old theories of our form of government."²⁶

Although Whitelaw Reid faithfully recorded his colleague's position, he was totally unwilling to deviate from his own insistence that the United States should retain the entire archipelago. Nor was

George Gray any more successful in attracting the support of his two senatorial colleagues, Davis and Frye. Even Judge Day seemed to be gravitating toward the expansionist position from his original desire that the United States retain only a coaling station. Paralleling these developments in Paris, events were transpiring in Washington which were to guarantee the acceptance by the Administration of the imperialistic position and which would, in the process, further isolate and further burden the voice of dissent.

At the request of the President, each member of the Commission was to send to Washington a written expression of his individual opinion regarding the proper disposition of the Philippines. Because the views of Senators Davis and Frye were so close to those of White-law Reid, they merely endorsed his dispatch. Judge Day and Senator Gray each wrote individual expressions, and the entire package was cabled on October 25.²⁷ On the same date, probably without seeing the Paris dispatches, President McKinley sent a note to Judge Day which gave positive evidence of the direction in which the Administration was leaning: ". . . The United States, whatever it might prefer as to the Philippines, is in a situation where it cannot let go." Furthermore, in the President's judgment, the majority of the public concurred: ". . . Duty requires we should take the archipelago."²⁸

The following day, October 28, Secretary Hay drafted a message intended for the Paris Commission. Although it was never sent, its contents are widely quoted still and provide an articulate expression of the Administration's final and absolute determination to demand the

cession of the entire archipelago. The retention of Luzon singly, Secretary Hay wrote, would leave the remainder of the islands either under Spanish rule or subjected to future contention. For political, commercial, and humanitarian reasons, the Islands would have to be treated collectively. Either the entire archipelago would be ceded to the United States or none of it. "The latter is wholly inadmissible," he concluded, "and the former must therefore be required."²⁹

The mental process by which any decision is reached is always difficult to trace, particularly when the subject has not left a diary or an extensive set of correspondence. This is emphatically the case with William McKinley and the decision to retain the Philippines. Professor Morgan concludes that President McKinley had reached his decision at the time of Admiral Dewey's victory on May 1, and that he maintained it without waver while the Commission was being formed. By contrast, Professor Pratt concludes that "William McKinley was not, by temperament or inclination, an imperialist. . . . He had looked forward to his term of office as a period of 'domestic amelioration.'" It was not an instinct for expansion that led to his final decision, but rather a lack of foresight: "McKinley did not foresee, as Lodge, Roosevelt, and Beveridge foresaw, the destination to which the war with Spain was to lead."³⁰

The President's recently completed tour as far west as Omaha is also interpreted variously either as an effort to assess public opinion or to direct it. Richard Hofstadter, in denying that the President was an aggressive leader of public opinion, repeats a contemporary riddle: "Why is McKinley's mind like a bed? Because it has to be

made up for him every time he wants to use it."³¹ Another observer claimed McKinley's ear was so close to the ground it was full of grasshoppers.³² These evaluations, which constitute the standard historical explanation of President McKinley's decision to retain the Islands, are not accepted by Professor Morgan. William McKinley, he argues, "was far more subtle," than the standard explanation allows. Rather, he was a master of public relations, and he carefully cultivated the support necessary for his policy of expansion through his western tour, through his instructions to the Peace Commission, and through his private correspondence.³³

Whether President McKinley was the master or the victim of circumstances, it cannot be denied that he materially deviated from his original instructions to the Commission. There had been no indication, either in those instructions nor in the earlier armistice agreement, that the demand for all the Islands would be made--a demand which removed the disposition of the Islands from the topics to be negotiated. When, towards the end of October, the notice of the President's determination to retain the entire archipelago reached Paris, it was received with mixed emotion by the Commissioners. For Whitelaw Reid it was a gratifying endorsement of his imperialist position, but for George Gray it was the fulfillment of months of misgivings. His advice, already rejected by his colleagues, had fared no better in Washington. Although he maintained his composure in the face of this defeat, he must have viewed the President's directive as something of a betrayal. Had he not been appointed to the Commission to assure that the anti-imperialist position would be

represented? Was not his appointment considered essential if the representatives of the Republic were to make an informed decision? Then, why eliminate the question of acquisition entirely by demanding total cession? Where was there any room in such a stance for the exercise of diplomacy?

Regardless of the manner in which the decision was made, it was the substance which most alarmed the Senator. His reply to the presidential directive, cabled to Secretary Hay, efficiently enumerated the results which could be expected as a consequence of annexation:

The undersigned cannot agree that it is wise to take the Philippine Islands in whole or in part. To do so would be to reverse the accepted continental policy of the country, declared and acted upon throughout our history. Propinquity governs the case of Cuba and Puerto Rico. Policy proposed introduces us into European politics and the entangling alliances against which Washington and all American statesmen have protested. It will make necessary a navy equal to the largest of the Powers; a greatly increased military establishment; immense sums for fortifications and harbors; multiply occasions for dangerous complications with foreign nations and increase burdens of taxation. Will receive in compensation no outlet for American labor in a labor market already overcrowded and cheap; no area for homes for American citizens; climate and social conditions demoralizing to character of American youth; new and disturbing problems introduced into our politics; church question menacing. On the whole, instead of indemnity--injury.³⁴

The financial burden incurred through annexation was secondary, his argument continued, to the moral considerations. Having renounced any interest in the acquisition of Cuba, the United States had approached the war as "a great, powerful and Christian nation," acting entirely on unselfish motives. It was a position of "moral grandeur" which was not being sacrificed in exchange for "doubtful material advantages." The crusade to reduce the suffering of humanity would

now be viewed by the world as just another example of "the vulgar and selfish greed for territory" which was usually associated with European imperialism. America had demonstrated that she could amass the military might necessary to support imperialistic ambitions, and she therefore had the opportunity to use the Paris Conference to exhibit to the world "magnanimity and moderation in the hour of victory."

"Let us simply keep our word," he urged. The United States had agreed in the armistice to negotiate with Spain concerning the proper disposition of the Philippines. It would be erroneous and injurious--even "absurd" now to say: ". . . We will not negotiate, but will appropriate the whole subject-matter of negotiation."³⁵

Though ignored by the Administration, Senator Gray's dissent was better received in other quarters which were less imbued with the expansionist fervor. Captain French E. Chadwick, who had served on the Court of Inquiry which had investigated the Maine tragedy, later published an authoritative study of the diplomatic relations between the United States and Spain. To him there was "no questioning the cogency of Judge Gray's argument, nor the nobility of its sentiment." In a similar vein, The New York Times editorialized: "It is doubtful if any public man ever gave a more lucid and powerful exposition of his own highmindedness, and that most modestly, and strictly within the lines of necessary duty."³⁶

Even more evident than George Gray's disappointment with the new set of instructions was his commitment to a successful peace. For the remainder of the Conference his qualities of self-discipline would be taxed as he forced himself to participate in negotiations in

which he felt his country was committing a fundamental error. At one point, during the deliberations with his colleagues, he "broke out in the most earnest and vehement expression." In a tirade recorded by Whitelaw Reid, he accused the government of hypocrisy, "really striving for the utmost conquest possible, while professing to be controlled solely by motives of duty and humanity. He ended with the exclamation: 'If you do get such a treaty you won't get it ratified.'"³⁷ It was a threat made in frustration, not in sincerity, but it demonstrated the pressures under which he was now forced to labor. Fortunately for the further conduct of the peace negotiations, George Gray's colleagues were sensitive to his dilemma and were fully prepared to accord him a generous quantity of patience. After a brief but awkward silence, the Commission resumed its discussion, its dissenting member as "placid" as the others.

The next day, Whitelaw Reid decided that the time had arrived for him to share with the President his opinion of each commissioner. In a letter dated November 15, 1898, he wrote of his adversary:

. . . Senator Gray, who generally starts out on every question by stating the Spanish side of it, generally lands on ours--though often with many a protest and reservation. But, considering his politics and position, he is really doing wonderfully well and personally he is most delightful, while nobody can help admiring his honest effort to be fair-minded and judicial.³⁸

As the Conference began its third month, Whitelaw Reid recorded other examples of George Gray's distress. Perhaps it was only natural that the Senator's impatience would be most strongly directed toward Judge Day, his friend whose position regarding the Philippines had been closest to his own. To Judge Day's everlasting credit, he accepted these barbs with understanding--even with humor, as he once

attributed his behavior to indigestion. It was apparently during the December 6 session of the American delegation that the most difficult moment came, as Senator Gray quietly arose and left. The work continued, but an unspoken fear permeated the atmosphere: was the Senator abandoning the Commission? Such a move would be tragic for the continuation of the Conference, it would immeasurably strengthen the position of the enemy, and it would seriously reduce the probability that a treaty of annexation would be ratified. At length, Judge Day broached the subject of his colleague's continued absence, as well as the Senator's "frequent provocations." There had been several difficult moments, and although the Chairman had exercised the most admirable restraint, the strain was beginning to show. Nevertheless, each member of the Commission was determined that every allowance was to be made in an effort to help their recalcitrant colleague to bridge the gap. They had known from the beginning that he opposed the annexation of any Filipino territory. In the fullness of time, they hoped, his opposition to annexation would be subordinated to his desire for peace and justice.³⁹

It was a hope soon to be realized. When Senator Gray appeared for lunch, he had returned to his former pleasant disposition. His opposition to the annexation of foreign territory would not prevent his support for the instrument of peace. Anti-imperialism would remain a fundamental tenet of his personal foreign policy, but it would be tempered by his appreciation for practical politics. The Administration was going to have its way with the Treaty, in spite of his opposition, and therefore it appeared most prudent for the

diplomat-politician to make the most of a regrettable situation. He would support the President, he would support the Treaty, and he would support the annexation. To do otherwise would be to render the situation even more regrettable, as it would endanger the continuation of the Peace Conference and would throw the Philippine question into the uncertainties of international politics. Besides, once acknowledged as a possession of the United States, the Islands could be handled as a strictly domestic question, subject to the jurisdiction of the American Congress on which pressure could be applied which favored the early emancipation of the subject population. It would be difficult, he anticipated, to get such a program by the Congress, and his own voice would be removed from the Senate after March, 1899. Nevertheless, it was the most he could expect in view of his failure to prevent annexation. For better or for worse, a treaty of expansion would receive his support. He had bridged the gap.

Having reconciled their own colleague to the inevitable cession of the Philippines, the American commissioners conceivably viewed the Spanish as less of a challenge. Of course, there was resistance, and as late as December 8 there was fear that the negotiations would be discontinued. But on that day the Queen Regent, recognizing that further delay was futile, sent instructions to Rios to sign the treaty. The November elections had strengthened, not weakened, the President's position, and the Powers had shown no willingness to provide military support for the Spanish. As a further inducement, the Americans had offered \$20,000,000 as compensation for permanent improvements in the Philippines, and this, coupled with a secret German offer to purchase the Carolines, was sufficient to induce the monarchy to withdraw

Spanish authority from the Orient. Thus, within a few days in December, 1898, the Spanish Empire disappeared from the Pacific Ocean--an empire which had originated four centuries earlier with Magellan and Balboa.⁴⁰

With the signing of the Treaty on December 10, the work of the Commission was concluded but not the work of the commissioners, as three of them would continue the struggle on the floor of the United States Senate. Senators Frye and Davis, Republicans and expansionists, could be expected to support the Treaty. As a Democrat opposed to expansion, Senator Gray was in a more difficult position, although there was never any doubt that he would support the document he had signed. His testimony, provided in executive session of the Senate, was not as detailed as that of his two colleagues, but there was no equivocation in his support for the Treaty. He admitted that he "had utterly failed" to sway the opinions of the other commissioners. As this had made the cession of the Islands inevitable, his only acceptable alternative had been to join ranks with the majority, to sign the Treaty, and to support it in the Senate. It was typical of his judicial style that he was able to couple a desire for Filipino independence with a caution to avoid precipitous commitments. Permanent occupation of a hostile and distant region was out of the question, but neither should the decision to limit occupation be made prior to a study of the situation. When the native population had demonstrated its capacity for self-government, the American people would, he was confident, grant them their independence. In the meantime, the United States would manage the Islands' affairs in behalf of their

inhabitants. As the natives advanced toward civilization, they would also move toward full independence.⁴¹

These two justifications--that a treaty of acquisition was better than no treaty at all, and that the exercise of sovereignty over the Islands need not be permanent--were further amplified early in 1899. The occasion was the 13th annual banquet of the Ohio Society of New York, held in the grand banquet hall of the Waldorf-Astoria Hotel. Because the President was from Ohio, and because Commissioners Day and Reid had also originated from that state, the dinner became a celebration of the recent military and diplomatic triumphs. The hall was festooned with the national colors, and nearly 500 members and guests mingled with each other. The head table accommodated General Merritt, Governor Bushnell of Ohio, and the two diplomats who had originally represented the opposite extremes of the Peace Commission: Whitelaw Reid and George Gray. Their respective comments reveal the gulf which remained between their respective philosophies as well as the common ground which had permitted Senator Gray to accept the imperialistic settlement. Whitelaw Reid's comments, as might be expected, reflected the magnanimity of the victor--not only towards the defeated enemy on the battlefield but also towards his colleague. Spain he characterized as "historic" and "courageous," and George Gray was defined as "the regulator and balance wheel of the Commission." When Senator Gray had offered objection, the Commission reexamined; when he had assented, his colleagues knew they "were on solid ground and went ahead."

The "solid ground" of assent was, of course, the acquisition of the Philippines. "Renunciation under such circumstances," argued

Whitelaw Reid, "would have been equivalent in international law to abandonment, and that would have been equivalent to anarchy and a race for seizure among the nations that could get there quickest." Although Senator Gray had approached the subject from the opposite direction, his position was identical: the United States had driven out the European master and could not now abandon the colony. To do so would be to create a vacuum which would attract any of several foreign powers.

The diners that night demonstrated their delight with the Administration's policy, as applause interrupted frequent jingoistic utterances. Even George Gray, the erstwhile opponent of all forms of expansion, was "vehemently cheered" when he stated "we have got the Philippines, and we have got them bad." He made no attempt to hide his previous opposition, however, nor his conflict with his colleagues. There had been a free and open exchange of opinions within the American delegation, and this had meant inevitable disagreement. But ". . . private opinion sank into insignificance . . ." when the Spanish were confronted. Without detailing the difficulty with which he had forced himself to accept a treaty of expansion, he informed his listeners that the five American delegates had operated as "a single Commissioner."

A similar frankness characterized his explanation of the constitutional issue: Did not the acquisition violate the American principle of government by the consent of the governed? Yes, it did, he conceded. But such violation was justified by the low state of preparation for self-rule and by its temporary nature. At the proper time, the United States would apply this hallowed principle, but first

it was necessary "to show . . . what we mean and what we intend to do before we commence to talk to them about the Government resting upon the consent of the governed."

The manner in which the United States would show "what we mean" was considered in the remarks offered by General Merritt. Having defeated the forces of haughty Spain, and now safely ensconced among the decorations of American beauty roses, he gave free rein to his disgust with the Filipinos. Instead of accepting Yankee imperialism with gratitude, these people had recently begun a military resistance under the leadership of Aguinaldo, who had earlier cooperated with Admiral Dewey in his hope for an independent republic with himself at his head. Displaying the traditional impatience of the soldier toward civilian idealism, General Merritt concluded that constitutional niceties about government resting upon the consent of the governed were inappropriate at this time. Because the Filipinos could not understand what Whitelaw Reid and George Gray had been saying, ". . . a realization of the situation and of the truth that we are acting for their good will have to be knocked into them." By contrast, Senator Gray reminded his audience: "We are their friends. They have shed our blood, and yet for them, I bespeak the consideration that should come from a great Nation like ours."⁴²

These were the same sentiments which George Gray presented at his own testimonial dinner, held in January, 1899, to mark the conclusion of his senatorial service.

I ardently desired that we might escape the necessity of taking the Philippine Islands and assuming the burden that their taking will impose upon us, and I know that the President of the United States was equally anxious

to the same end. But it became apparent that, without our seeking, unexpected changes had been created, and out of these conditions unquestionably duties had sprung which could not be avoided or evaded by the United States.

Anticipating the lengthy rebellion and sensing the strategic vulnerability of the new acquisition, he recalled "that the performance of duty is not only sometimes unpleasant, but has dangers attendant upon it; nevertheless, a brave man and a brave nation will not shrink from it on that account." His acceptance of the policy of acquisition had been made easier by his confidence that the retention need not be permanent, even though Congress was displaying no inclination to limit the period of its jurisdiction. Possession of the distant Islands did not mean that the country was committed to "a colonial policy," nor that the American people were abandoning the "great principles of liberty and self-government." President McKinley, he assured, "is committed to no policy, calculated to discourage, much less to strike down, the aspirations of liberty-loving people all over the world."

In the midst of the popular euphoria which followed the conclusion of the successful war, there was little evidence that America would in the future allow herself to be restrained by concepts of moderation. But George Gray's prophecy was the result of a fundamental understanding of his countrymen, and its accuracy would eventually be proved. He had no doubt that the American people had the capacity to "curb the ambition of territorial aggrandizement." In place of selfishness, the United States would exhibit to the world a policy "of moderation, justice and self-restraint that will be worth . . . in moral strength more than all the islands of the sea."⁴³

Somewhat surprising to later generations was the difficulty with which the Administration secured Senate approval of the Treaty of

Paris. The issue of an American colonial empire transcended party lines and excited heated debate within the Senate chamber. Strong convictions were held seemingly by every public figure, and both sides drew support from interpretations of such hallowed American institutions as the Declaration of Independence, the Constitution, Washington's Farewell Address, and tradition. Support of the Treaty had the effect of uniting Senator Gray in a rare common cause with the expansionists, led by Senator Lodge, who complimented him for coming out "in a splendid way."⁴⁴ The debate would continue into succeeding generations, but the approving vote was finally secured in February, 1899: 57 to 27, one more than the necessary two-thirds. The Bacon Amendment, which would have declared America's intention to exercise only temporary jurisdiction over the Philippines, was narrowly defeated by the tie-breaking ballot of the presiding officer, Vice-President Garret A. Hobart. Nevertheless, the confidence expressed by Senator Gray--that the United States would hold no nation in permanent subjugation--was eventually justified in 1916 by the passage of the Jones Act which promised independence after the establishment of a stable government.⁴⁵

The conclusion of debate on the Treaty of Paris coincided with the conclusion of George Gray's service in the Senate. His final months had been marked alike by the most difficult decisions and by the most valuable contributions. To several observers, he had contradicted himself by supporting the Treaty after having earlier opposed expansion. With his appointment to the bench the following month, it was inevitable that some would suspect a relationship of cause and effect--specifically that Senator Lodge had arranged his appointment

in return for his support of the Treaty.⁴⁶ Such suspicions ignored the chronology of events, particularly the fact that George Gray's support dated back to the Paris Conference. Although McKinley admired Delaware's Democratic Senator and appreciated his labors at the Peace Conference and on the floor of the Senate, he and George Gray were never political allies. The President declined to attend the Senator's testimonial dinner, and similar responses were received from the members of the Cabinet and from the four Republican Peace Commissioners. Partisan considerations were never entirely absent, but this did not prevent the White House from appointing to the Circuit Court bench the individual most qualified by reason of training and temperament.

The judicial appointment was a happy conclusion to a most difficult experience in George Gray's career, and it served as a form of official recognition that he possessed that talent which was as needed on the bench as it was in diplomacy. Friend and adversary alike admired him for his sense of determination which was tempered by flexibility. In addition, he had managed to preserve his sense of priorities. While an acknowledged opponent of expansionism, he was also a recognized proponent of peace. Given the difficult alternative of a peace settlement with imperialistic overtones or of a resumption of hostilities, his preference was natural and predictable. The settlement did not ordain a permanent retention of the Philippines, a point overlooked by later generations of historians, but it did ordain a higher condition which George Gray respected above all else: peace.⁴⁷

The inauguration of George Gray's new domestic career had a parallel on the international level, made possible by his rare combination of judicial talent and diplomatic experience. As arbitration was not becoming the focus of those statesmen seeking pacific resolutions of international disputes, it was appropriate that each nation should begin to prepare lists of names of potential arbitrators. It was equally appropriate that the name of George Gray be entered on such a list.

ENDNOTES

¹Justice White's appointment is announced in "Calendar of the War," Literary Digest, 3 September 1898, p. 277; and in "Various Topics," Public Opinion, 15 September 1898, p. 328. For Senator Gray's appointment, see Randolph Greenfield Adams, A History of the Foreign Policy of the United States (New York: The Macmillan Company, 1924), p. 275. Senator William E. Chandler criticized the inclusion of his colleagues on the Commission as a conflict of interest; see Paolo E. Coletta, "McKinley, Peace Negotiations, and Acquisition of the Philippines," Pacific Historical Review, 30 (November 1961), pp. 343-44. The New York Times states Senator Gray was President McKinley's first choice for the Commission; see 1 December 1907, sec. 5, p. 5.

²George Gray, "Two Years of American Diplomacy," North American Review, April 1895, pp. 416, 423, 424; for the Republican article, see Cushman K. Davis, "Two Years of Democratic Diplomacy," North American Review, March 1895, pp. 270-84. William P. Frye was the President pro tempore of the Senate.

³Published in Le Matin, June 1898, and quoted by Royal Cortissoz, The Life of Whitelaw Reid (New York: Charles Scribner's Sons, 1921), p. 224.

⁴Whitelaw Reid to John Hay, 11 August 1898; quoted by Cortissoz, Reid, pp. 224-25.

⁵Whitelaw Reid, Making Peace with Spain: The Diary of Whitelaw Reid, September-December, 1898, ed. H. Wayne Morgan (Austin: University of Texas Press, 1965). Whitelaw Reid's obsession with protocol and his personal status is reflected in the detailed attention with which he recorded seating arrangements; for example, on p. 26 he wrote that the president indicated that he was to sit to his immediate right; on p. 37, he wrote that he sat next to Judge Day who sat next to Foreign Minister Delcassé; on p. 39 he wrote that he sat next to Judge Day who sat next to Premier Brisson; etc.

⁶George Gray to John B. Moore, 9 November 1909, photostatic copy provided by the Historical Society of Delaware.

⁷Cortissoz, Reid, p. 230.

⁸Cortissoz, p. 228. Also see Louis Martin Sears, "French Opinion of the Spanish-American War," Hispanic American Historical Review 7 (February 1927), pp. 25-44; and Willis F. Johnson, America's Foreign Relations, 2 vols. (New York: The Century Co., 1916), 2, pp. 264. Of course, there were a few pro-American French citizens; for an example see the essay by a former French premier: Emile Ollivier,

"America, Spain, and France," The Century Magazine, September 1898, pp. 776-80. For references to the French role in arranging the armistice, see Bemis, Diplomatic History, p. 463; Pratt, Expansionists, p. 328; and Graham H. Stuart, French Foreign Policy from Fashoda to Serajevo (New York: The Century Co., 1921), p. 19.

⁹George Gray to Andrew Gray, 31 October 1898. For the description of the hotel accommodations, see George Gray to Andrew Gray, 30 September 1898; photostatic copies of both letters provided by the Historical Society of Delaware. Cortissoz also refers to the Dreyfus Affair and to the Fashoda crisis. Although one could talk about the latter topic, it was best to avoid any mention of Dreyfus; Cortissoz, Reid, p. 238.

¹⁰George Gray to Andrew Gray, 30 September 1898; photostatic copy provided by the Historical Society of Delaware.

¹¹Reid, Making Peace, p. 15.

¹²Quoted by Cortissoz, Reid, p. 232. The verbatim reports of the 22 sessions of the Peace Conference are printed in Sen. Doc. No. 62, 55th Cong., 3d sess. pp. 12-271 (1899).

¹³The armistice Protocol of 12 August 1898 is found in Foreign Relations 1898, pp. 828-30, and is reprinted in Appendix I of Reid, Making Peace, pp. 231-32. Its contents are analyzed by Bemis, Diplomatic History, pp. 463-64.

¹⁴Quoted by Cortissoz, Reid, p. 239. For the relationship between the Cuban debt and the traditional form of indemnity imposed by the victor on the vanquished, see Charles A. Conant, "Cost and Finances of the Spanish War," The American Monthly Review of Reviews, September 1898, pp. 314-20.

¹⁵Quoted by Cortissoz, Reid, pp. 239-40.

¹⁶Quoted by Cortissoz, Reid, p. 242. Predictably, Whitelaw Reid regarded his handling of the Spanish Ambassador as the salvation of the Conference, an opinion supported by Secretary Hay: "Your talk with the Spanish Ambassador was to my mind the turning point of the negotiations." Cortissoz, Reid, p. 256. Professor Morgan is of the opinion that Whitelaw Reid's interview with Castillo merely hastened Spain's inevitable capitulation:

As is only human, perhaps, Reid assigned too much importance to his conferences with Castillo, though his firm talk did doubtless impress the Spaniards that the Americans were not bluffing. Secretary Hay himself considered the conversations important. . . . This judgment seems excessive. The Spanish would doubtless have capitulated on the Cuban debt question in any event. (Morgan in Reid, Making Peace, p. 117, n. 20.)

¹⁷Cortissoz, Reid, pp. 245-46. Throughout the war and the Peace Conference, there was considerable speculation in the popular press that the Spanish would profit by delay; for example, see "A Forecast of the War," The Spectator, 23 April 1898, p. 565.

¹⁸Reid, Making Peace, p. 65.

¹⁹Ibid., p. 70. The Americans experienced a similar musical defeat and embarrassment at a reception given for both sets of commissioners by the management of Le Figaro. After a series of Spanish songs and dances, the speaker urged that the remaining questions be submitted to arbitration. See Cortissoz, Reid, p. 233.

²⁰Quoted by Cortissoz, Reid, p. 233.

²¹Reid, Making Peace, p. 143. The reference to Senator Gray's toothache is on p. 52. Judge Day also became ill and had to be confined to bed for several days; see pp. 147-58.

²²George Gray to Andrew Gray, 1 December 1898; photostatic copy provided by the Historical Society of Delaware.

²³Reid, Making Peace, pp. 26-31. Throughout this interview and on several other occasions, the suggestion was made that only a coal-
ing station should be retained. For an opinion that such a station was too far south for the main American trade, which was in northern China and Manchuria, see Seward W. Livermore, "American Naval-Base Policy in the Far East, 1850-1914," Pacific Historical Review 13 (June 1944), p. 117.

²⁴Bemis, Diplomatic History, p. 468. The instructions to the Commission are printed in Foreign Relations 1898, pp. 904-08; and in Reid, Making Peace, Appendix II, pp. 233-38.

²⁵Reid, Making Peace, pp. 59, 60.

²⁶Ibid., pp. 88-89.

²⁷Foreign Relations 1898, pp. 932-35; also see Appendix III of Reid, Making Peace, pp. 239-42.

²⁸Quoted by Charles S. Olcott, The Life of William McKinley, 2 vols. (Boston and New York: Houghton Mifflin Company, 1916), 2, pp. 107-08; also quoted by Pratt, who was of the opinion the President had not seen the Paris dispatch before he wrote to Judge Day; Expansionists, p. 337. Regarding President McKinley's statement that the "opinion of the majority would be that duty requires we should take the archipelago," it is doubtful that any such clear majority existed, at least until the Senate began debate on the Treaty in December. An August poll of newspapers revealed that 43% favored retention, 24.6% opposed retention, and 32.4% were undecided; see Hofstadter, "Manifest Destiny," pp. 187-88. By December the percent of newspapers favoring retention had risen to 61.3, according to a poll conducted by the New

York Herald. None of the polls reveal an overwhelming majority which favored retention. See "A Newspaper Plebiscite on the Philippines," Literary Digest, 10 September 1898, pp. 32-38; this poll was cited by Hofstadter, "Manifest Destiny," p. 188; and by Bemis, Diplomatic History, p. 470, n. 1; also see "How the Press Regards 'Imperialism,'" Public Opinion, 4 August 1898, p. 135; and "The Newspapers and the Issue of 'Imperialism,'" Literary Digest, pp. 32-38.

²⁹Sen. Doc. No. 148, 56th Cong., 2d sess. 35; Foreign Relations 1898 p. 935. For evidence that Secretary Hay's message was never sent, see the statement by Professor Morgan in Reid, Making Peace, p. 128, n. 3.

³⁰Pratt, Expansionists, p. 326. For Professor Morgan's position, see Reid, Making Peace, p. 102, n. 16, and p. 25; also see H. Wayne Morgan, William McKinley and His America (Syracuse, N.Y.: Syracuse University Press, 1963), pp. 398-99, 402-12; and H. Wayne Morgan, America's Road to Empire. President McKinley claimed he had no idea where the Philippines were at the time of Admiral Dewey's victory: "I could not have told," he is quoted as saying, "where those darned islands were within 2,000 miles." Quoted by H. H. Kohlsaat, From McKinley to Harding (New York, London: Charles Scribner's Sons, 1923), p. 68; and by Pratt, Expansionists, p. 326. In view of the preparations of the Navy prior to the outbreak of hostilities, his confession is hard to accept. As early as 1896, the Navy had already drawn up plans for the conquest of Manila; see William E. Braisted, The United States Navy in the Pacific, 1897-1909 (Austin: The University of Texas Press, 1958), pp. 21-22. Also see Coletta, "McKinley, Peace Negotiations," p. 342. Furthermore, in the fall of 1897, the president discussed Manila with the Assistant Secretary of the Navy, Theodore Roosevelt, and a few months later he approved orders to launch an offensive against the Spanish in the Philippines in the event of war. Theodore Roosevelt to Henry Cabot Lodge, 21 September 1897, in Lodge, Selections, 1, p. 278. Also see George Dewey, Autobiography of George Dewey (New York: AMS Press, Inc., 1969), pp. 169-70; Margaret Leech, In the Days of McKinley (New York: Harper & Brothers, 1959), pp. 191-95; John D. Long, The New American Navy, 2 vols. (New York: The Outlook Company, 1903), 1, pp. 165-66, 178-82. In addition, scholarly interest in the Philippines had focused attention there well before the war; for example, see John Barrett, "The Cuba of the Far East," North American Review, February 1897, pp. 173-80. Although President McKinley may have been unprepared for America's sudden thrust into the Western Pacific, officials had much earlier made an effort to focus Washington's attention in that direction. For examples of three such efforts, by Commodore Matthew C. Perry, by Dr. Peter Parker, the American Commissioner to China, and by Commodore R. W. Shufeldt, see Tyler Dennett, Americans in Eastern Asia: A Critical Study of the Policy of the United States with Reference to China, Japan and Korea in the 19th Century (New York: Barnes & Noble, Inc., 1922), pp. 462-63, 615-16; William S. Rossiter, "The First American Imperialist," North American Review, February 1906, pp. 244-45; Paul H. Clyde, ed. United States Policy Toward China: Diplomatic

and Public Documents, 1839-1939 (New York: Russell & Russell, Inc., 1964), pp. 37-38, 160-64; Dictionary of American Biography, 1926; E. M. Barrows, The Great Commodore, the Exploits of Matthew Calbraith Perry (Indianapolis, New York: The Bobbs-Merrill Company, Publishers, 1935), pp. 295-96; and Charles O. Paullin, Diplomatic Negotiations of American Naval Officers, 1778-1883 (Baltimore: The Johns Hopkins Press, 1912), pp. 324-25; all cited by Livermore, "American Naval-Base Policy," pp. 113-14. Still other evidence of familiarity with the Philippines is provided by Foster R. Dulles, America in the Pacific, p. 135; and C. C. Tansill, The Foreign Policy of Thomas F. Bayard, 1885-1897 (New York: Fordham Univ. Press, 1940), pp. 369-80; both cited by Livermore, "American Naval-Base Policy," pp. 114-15.

³¹Hofstadter, "Manifest Destiny," p. 188.

³²Attributed to Congressman Joseph G. Cannon of Illinois; cited by Professor Morgan in Reid, Making Peace, p. 102, n. 16.

³³Professor Morgan in Reid, Making Peace, p. 102, n. 16. For other examples of "the standard historical explanation," see Adams, Foreign Policy, p. 276; James Truslow Adams, The March of Democracy: A History of the United States, 4 vols. (New York: Charles Scribner's Sons, 1933), 4, p. 94; Coletta, "McKinley, Peace Negotiations," p. 345; and Pratt, Expansionists, p. 329. Thomas A. Bailey anticipates Professor Morgan's interpretation; see his work, A Diplomatic History of the American People, 7th ed. (New York: Appleton-Century-Crofts, 1964), p. 473. Foster Rhea Dulles leaves the question unanswered and concludes only that President McKinley and the majority of citizens were agreed that the Philippines should be annexed; see America in the Pacific, p. 240. William McKinley's own familiar version regarding the decision to retain the Philippines, that it was the result of a night of prayer and meditation, appears in the Christian Advocate, 22 January 1903, and is quoted by Olcott, William McKinley, 2, pp. 108-11; and by Bemis, Diplomatic History, p. 472; it is also quoted, with obvious skepticism, by Aguinaldo; see Emilio Aguinaldo and Vincente Albano Pacis, A Second Look at America (New York: Robert Speller & Sons, Publishers, Inc., 1957), p. 65.

³⁴Foreign Relations 1898, p. 934. For authoritative opinion regarding President McKinley's alteration of his original instructions, see French Ensor Chadwick, The Relations of the United States and Spain--Diplomacy, 2 vols. (New York: Russell & Russell, 1909, 2, p. 641; Foster R. Dulles, America's Rise to World Power, 1898-1954 (New York: Harper & Row, Publishers, 1955), p. 49; Leech, McKinley, p. 191; Millis, Martial Spirit, p. 74; Rhodes, McKinley and Roosevelt Administrations, pp. 41, 148; all cited by Coletta, "McKinley, Peace Negotiations," p. 342. Whitelaw Reid describes George Gray's reactions, which were very restrained, as he first heard the new set of instructions; Making Peace, pp. 127-28.

³⁵Quoted by The New York Times, 1 December 1907, sec. 5, p. 5. Of course, the Filipinos under Emilio Aguinaldo argued that the American obligation could only be fulfilled by the granting of independence.

The views of this insurgent leader, whose representatives were not permitted to testify before the Peace Commission in Paris, are especially interesting because he lived long enough to see his bitterness over American occupation change to gratitude as a result of American generosity during World War II. See Aguinaldo, Second Look, p. 192.

³⁶The New York Times, 1 December 1907, sec. 5, p. 5. George Gray's prediction of the cost of maintaining the distant colony is confirmed by Professor Bemis: the subsequent two year rebellion against American occupation cost 1,000 lives and \$170,000,000; during the next half century, the United States would pay over \$3,000,000,000 in pensions; see Diplomatic History, p. 473. A 1929 study concluded that the cost to the United States "far exceeds the commercial benefit derived or likely ever to be derived." See Rufus S. Tucker, "A Balance Sheet of the Philippines," Harvard Business Review 8 (October 1929), p. 23.

³⁷Reid, Making Peace, pp. 149-50.

³⁸Whitelaw Reid to William McKinley, 15 November 1898; quoted by Professor Morgan in Reid, Making Peace, p. 146, n. 16.

³⁹Reid, Making Peace, pp. 179-80, 206-08.

⁴⁰Cortissoz, Reid, p. 252. For the details of the German-Spanish agreement, and for a description of America's lost opportunity to acquire the Carolines, see P. E. Quinn, "The Diplomatic Struggle for the Carolines, 1898," Pacific Historical Review 14 (September 1945), pp. 290-302.

⁴¹The New York Times, 1 February 1899, sec. 5, p. 3.

⁴²The banquet is described in detail by The New York Times, 26 February 1899, pp. 1, 2. The argument offered by both Whitelaw Reid and George Gray, that the Philippines were likely to be absorbed by another power, was well founded. Among the Great Powers, England alone supported the United States during the war and favored American retention of the islands. See "England's Attitude and the War," The Spectator, 23 April 1898, pp. 561-63; also see John Hay's assurances of British sympathy in Dennett, Hay, p. 191. Germany's intentions were a source of considerable concern throughout the war and the peace negotiations. Although Professor Bailey regards the German threat at Manila as no more than a suggestion, and although Professor Morgan regards them merely as a nuisance, it is apparent that there was ample cause to justify the commissioners' fears. See Thomas A. Bailey, "The United States and Hawaii during the Spanish-American War," The American Historical Review 36 (April 1931); pp. 558-59; and Reid, Making Peace, p. 177, n. 2. Fuller analyses of German involvement are provided by T. A. Bailey, "Dewey and the Germans at Manila Bay," The American Historical Review 45 (October 1939); pp. 59-81. Editorial comment from Russia tended to favor the American presence in the Philippines; although editorial support was not entirely lacking in Japan, there

was no doubt that that nation was keenly interested in the Philippines; see "Foreign Comment," Public Opinion, 12 May 1898, pp. 585-86; "Foreign Affairs," Public Opinion, 18 August 1898, pp. 203-06; "Japanese Aggression," Literary Digest, 30 January 1897, p. 407; "Japan as a Colonial Power," Literary Digest, 17 April 1897, pp. 743-44; and "Japan as the Coming Sea-Power," Literary Digest, 23 October 1897, p. 759. The interests of the Japanese, the French, the Germans, and the British are surveyed in "The Rising in the Philippines," Literary Digest, 3 April 1897, pp. 681-82. For the legendary confrontation between Admiral Dewey and the Germans, see Lester Burrell Shippee, "Germany and the Spanish-American War," The American Historical Review 30 (July 1925), pp. 754-77; Edwin Wildman, "What Dewey Feared in Manila Bay: As Revealed by His Letters," The Forum 59 (May 1918), pp. 518-19. Representative contemporary accounts include John Barrett, "Admiral George Dewey," Harper's New Monthly Magazine, October 1899, pp. 799-813; Edward W. Harden, "Dewey at Manila," McClure's Magazine, February 1899, pp. 369-84; and John T. McCutcheon, "The Surrender of Manila," The Century Illustrated Magazine, April 1899, pp. 935-42. Although lacking objectivity, Admiral Dewey's own account cannot be dismissed; see Dewey, Autobiography, pp. 234-82. The publication of this work stirred up heated memories on both sides of the Atlantic; see The New York Times, 18 February 1914, p. 1; 19 February 1914, p. 4; 26 February 1914, p. 4; 1 March 1914, p. 1; 4 March 1914, p. 4. Related comment had earlier appeared in The New York Times, 17 January 1906, p. 1. Also see "Ex-Kaiser Wilhelm II. Breaks His Silence," Current History 21 (November 1924), p. 174; "Personal and Pertinent," Harper's Weekly, October 6, 1906, p. 1415; and James Middleton, "The Mailed Fist in American History," World's Work, June 1916, pp. 145-52.

⁴³The New York Times, 15 January 1899, p. 5. In time, even Theodore Roosevelt would acknowledge the wisdom of divestiture of the Philippines; see Foster Rhea Dulles, The Imperial Years (New York: Thomas Y. Crowell Company, 1956), pp. 224-25.

⁴⁴Quoted by Paolo E. Coletta, "Bryan, McKinley and the Treaty of Paris," Pacific Historical Review 26 (May 1957), p. 141. Senator Lodge maintained that it would be disgraceful not to ratify what the president had negotiated in Paris, ". . . an opinion which he was conveniently to forget on another occasion 20 years later when another President, Mr. Wilson, had also been negotiating at Paris." James Truslow Adams, The Epic of America (Boston: Little, Brown, and Company, 1933), pp. 337-38. Support of the Treaty made temporary allies of several other unlikely pairs of public figures, e.g., White-law Reid and William Jennings Bryan. For an example of the excoriation which the latter had earlier suffered from the New York Tribune, see "A Cycle of Bryan," Christian Century, 13 May 1934, p. 655.

⁴⁵Bemis, Diplomatic History, p. 473. The Baltimore Platform of the Democratic Party in 1912 called for "an immediate declaration of the nation's purpose to recognize the independence of the islands as soon as a stable government can be established." Quoted by Roy Watson Curry, "Woodrow Wilson and Philippine Policy," The Mississippi

Valley Historical Review 41 (December 1954), p. 435. Illustrative insights into the relevant positions of other major public figures are provided by Padriac Colum Kennedy, "La Follette's Imperialist Flirtation," Pacific Historical Review 29 (May 1906), pp. 131-44; and U.S. Senator John T. Morgan, "What Shall We Do with the Conquered Islands?" North American Review, June 1898, pp. 640-49. The debate was not limited to the floor of the Senate and attracted the active participation of William Jennings Bryan, who had voluntarily served in the army and now supported the Treaty. See Selig Adler, "Bryan and Wilsonian Caribbean Penetration," Hispanic-American Historical Review 20 (May 1940), pp. 198-226. W. J. Bryan hoped to make imperialism the dominant issue in the election of 1900, but, because of the continuing silver controversy, no clear public consensus could be determined. See W. J. Bryan, "The Issue in the Presidential Campaign," North American Review, June 1900, pp. 753-71; "Mr. Bryan to the Populists," Literary Digest, 1 September 1900, p. 243; The New York Times, 7 September 1900, p. 2; and Thomas A. Bailey, "Was the Election of 1900 a Mandate on Imperialism?" The Mississippi Valley Historical Review 24 (June 1937), pp. 43-52. Also see Paolo E. Coletta, "Bryan, Anti-Imperialism and Missionary Diplomacy," Nebraska History 44 (September 1963), pp. 167-87; and Merle Eugene Curti, Bryan and World Peace, Smith College Studies in History, no. 16 (1931), pp. 127ff. Significantly, William McKinley's two predecessors--one a Democrat, the other a Republican--opposed his expansionist policy; see Allan Nevins, Grover Cleveland: A Study in Courage (New York: Dodd, Mead & Company, 1934), p. 746; and Benjamin Harrison, Views of an Ex-President (Indianapolis: The Bowen-Merrill Company, Publishers, 1901), pp. 185-270. In addition to those provided by the Baron and Carleton articles (supra, Chapter I), good analyses of the entire debate over the Philippines are provided by Harrington, "Anti-Imperialist Movement," pp. 221-25; and Christopher Lasch, "The Anti-Imperialists, the Philippines, and Inequality of Man," Journal of Southern History 24 (September 1958), pp. 319-31; and Pratt, Expansionists, pp. 345-60. Also see Richard E. Welch, Jr., "Senator George Frisbie Hoar and the Defeat of Anti-Imperialism, 1898-1900." Historian 26 (May 1964), pp. 362-80. Representative samplings of the contemporary press are provided by "What Shall We Do with the Philippines?" Public Opinion, 12 May 1898, pp. 583-85; "What Shall We Do with the Philippines: Further Comment," Public Opinion, 19 May 1898, pp. 617-18; "The Terms of Peace," Public Opinion, 4 August 1898, pp. 132-34; and "The Vote on the Treaty," Public Opinion, 2 February 1899, pp. 133-35.

⁴⁶Coletta describes the suspicions of George F. Hoar and Richard Olney in "Bryan, McKinley," p. 139; also see John Arthur Garraty, Henry Cabot Lodge: A Biography (New York: Alfred A. Knopf, 1953), p. 201; and George F. Hoar, Autobiography of Seventy Years, 2 vols. (New York: Charles Scribner's Sons, 1903), 2, pp. 313-15. Professor Morgan also concludes that the judicial appointment was not payment for his work on the Commission: "In view of his steadfast opposition to the President's policy this seems untrue." In Reid, Making Peace, p. 143, n. 14. Carl Schurz saw the appointment as "a

reward for his compliance! The man who does such things has a weak spot in his character which makes him an uncertain quantity." Still, Carl Schurz was prepared to support George Gray for the presidency. Carl Schurz, Speeches, Correspondence and Political Papers of Carl Schurz, 6, p. 307.

⁴⁷For example, Morris and Greenleaf erroneously write: ". . . Gray, who was an anti-imperialist at the outset, had gone over to expansionism by the end of the peace conference," U.S.A., 2, p. 396; and Harrington similarly errs: ". . . George Gray, the only anti-expansionist on the peace commission, completely deserted the movement on the issue, and took no further part in anti-imperialist activities." "Anti-Imperialist Movement," p. 221.

CHAPTER V

THE PERMANENT COURT OF ARBITRATION

It is wicked to proceed against him as a wrongdoer who is ready to refer the question to an arbitrator.

Thucydides

When George Gray accepted appointment to the Permanent Court of Arbitration in August, 1900, he became associated with an American project the origins of which extended back to the very foundations of the Republic. For more than a hundred years the United States had been in the vanguard of those enlightened states which were seeking methods to facilitate the pacific settlement of international disputes. Among the methods advanced, arbitration had always enjoyed a special prominence both in theory and in practice and had been long implemented both at home and abroad.

Precedent was provided by the period preceding the adoption of the Federal Constitution, when there was no Supreme Court to settle disputes among the constituent states of the new nation. Because such disputes were certain to arise, the Articles of Confederation provided for tribunals of arbitration to be composed from a list of 39 commissioners or judges, and this provision was actually invoked.¹

The adoption of the Constitution and the creation of the Supreme Court rendered arbitration among the states obsolete, but the new government recognized its utility in foreign affairs. As early as 1795, in Jay's Treaty with Great Britain, the United States committed

itself to the use of arbitration to resolve three disputes which had remained as an aftermath of the Revolution. The precedent was reinforced in the next generation when the Treaty of Ghent, concluding the War of 1812, referred four unresolved disputes to settlement by arbitration. Fifty years later the Civil War gave rise to the Alabama Claims, which were arbitrated to the mutual satisfaction and benefit of both the United States and Great Britain and which had the additional effect of strengthening the determination on both sides of the Atlantic that there was no question among the English-speaking nations which could not be peacefully resolved. The practice was even more effectively used in the final decade of the century when the United States and Great Britain arbitrated the fur seal fisheries dispute and the Alaska-Canadian dispute. In addition, Great Britain, responding to pressure from the United States, consented to arbitrate the boundary dispute between British Guiana and Venezuela.

Although it was the United States and Great Britain which had made the most effective use of arbitration, the attraction of its utility was much broader and much older. Having been introduced to Europe by the ancient Greek city-states, its value was reduced by the unity provided first by the Roman Empire and then by the universal Church. As this unity declined, the practice of arbitration, especially by the papacy, increased. During the period of the Renaissance, Hugo Grotius, the Dutch theoretician who was to become known as the Father of International Law, emphasized the utility of arbitration as an alternative to war. His contemporary, King Henry IV of France, made arbitration an important element of his Great Design, an advanced concept of international cooperation which would have involved 14

European states. Most significantly, this scheme had received the endorsement of England's Queen Elizabeth before Henry was assassinated in 1610.² By the nineteenth century, the use of arbitration in Europe had become common, largely as a result of the Anglo-American influence, and the number of applications grew rapidly in the latter half of the century. According to one source, there were 43 cases of arbitration during the years 1794-1860 and 134 cases from 1861 to 1900. A similar pattern was developing at the same time in the New World, where American states were parties to 19 arbitrations before 1850 and to 209 after that date.³

As the great majority of arbitrations were handled on an ad hoc basis, in which a tribunal would be called into existence to determine a particular question and would then dissolve, there soon arose efforts to regularize procedure. Gradually, the practice developed by which states agreed in advance to arbitrate a narrow range of certain questions, usually of a technical nature. Europe took the lead in developing a form of multipartite instruments which included provisions for arbitrations; e.g., the 1874 Universal Postal Convention, the General Act of Brussels of July, 1890, and the Convention on Railway Freight Transportation of October, 1890.⁴ Although it was never brought into force, a similar multipartite arbitration treaty was concluded by 11 nations in April, 1890, at the Washington Conference of American States.⁵ The effect of these agreements was to lend additional credence to the process of arbitration, to stimulate its use, and to culminate in the creation of the Permanent Court of Arbitration.

George Gray's appointment was made as a result of American adherence to the Convention for the Pacific Settlement of International

Disputes of July 29, 1899. This instrument was the most significant achievement of The Hague Peace Conference which had been convened in response to a call from Czar Nicholas II. Disarmament rather than arbitration had been the primary goal of the Conference, and the opportunity to avoid a continuation of the expensive arms race was greeted with enthusiasm by those nations which were least able to compete. Conversely, the governments with the strongest commitments towards militarism tended to view the Conference with disdain. For example, the German delegate wrote to Whitelaw Reid to express his opinion that disarmament was "out of the question," and that it was "hopeless" to expect an understanding on arbitration. Cynicism rather than optimism accompanied several other delegations as they made their way to The Hague. Nevertheless, respect for the Czar meant that the Conference could not be treated with contempt, and the German delegate would not be alone in his effort to cover the meeting "with a peaceful-looking cloak."⁶

In addition to disarmament, other items of common concern were also to be considered. Last on the agenda of eight topics was the proposal for "voluntary arbitration . . . with the purpose of preventing armed conflicts between nations."⁷ To facilitate the use of this technique, an effort would be made to reach an agreement regarding the uniform practice of arbitration. To the McKinley Administration, this could best be achieved through the establishment of an international tribunal, and the American delegates were instructed "to use their influence in the Conference in the most effective manner" to secure its adoption.⁸ Similar proposals were also advanced by the British and Russian delegations, so that the final result did not reflect the

exclusive influence of any one of the three. Nevertheless, there was ample justification for the pride exhibited by the American delegation which had countered the skepticism of the Old World with the enthusiasm of the New. On the other hand, the Conference had failed to achieve disarmament, a point which pleased the German delegate. In a second letter to Whitelaw Reid, he expressed his relief that the Conference had ended without doing any harm. The editor agreed with him and found the results of the Conference trifling, the new international tribunal notwithstanding.⁹ The establishment of the Permanent Court of Arbitration was an achievement the value of which had yet to be demonstrated.

American reservations to the Convention for the Pacific Settlement of International Disputes, expressed at the time of the signing, reflected traditional reluctance to become entangled in European political affairs as well as traditional support for the peaceful resolution of disagreements. The delegation's statement was entered into the protocols:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in, the political questions or policy or internal administration of any foreign state; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of America of its traditional attitude towards purely American questions.¹⁰

Without attaching any additional reservation, the Senate quickly approved the Convention, along with two other instruments submitted by the Conference. Although there was no clear provision within the Convention as to the number of adherents required for the Court to come into existence, by September 4, 1900, 17 ratifications had been

deposited at The Hague--a clear endorsement of the Conference's decisions. Additional ratifications were received from nine other governments, and the process of selecting the panel of judges immediately followed.¹¹

To the list of arbitrators each adhering state was permitted to name up to four eminent jurists "of known moral reputation and disposed to accept the duties of Arbitrator."¹² The details of service specified a term of six years with no limit placed on reappointments. However, no provision was made for salaries; each arbitrator was to be paid a generous honorarium by the parties to a dispute.

The limited secretarial chores were assigned to the International Bureau which consisted of a Secretary-General and a small staff. The small annual expense of the Bureau was divided among the adhering states according to the proportion already observed by the International Bureau of the Universal Postal Union. General supervision was exercised by the Administrative Council, which consisted of the diplomatic representatives from the adhering states resident at The Hague with the host Minister of Foreign Affairs serving as the presiding officer.¹³

The original situs of the Permanent Court of Arbitration at The Hague reflected the tranquility within which its decisions were to be reached. No dramatic label was attached to the house at No. 71 Prinsegracht which would reveal to the quiet neighborhood the importance of the proceedings within. Austerity in the form of rather plain furnishings marked the interior as well. Double drawing rooms on the main floor served as the courtroom and contained the only concessions to elaborate decoration. The chairs which were to serve the arbitrators

were of appropriate dignity, with uniform construction and with backs on which had been embroidered in color the coats of arms of the participating states. The portraits on the walls were of the delegates to the Peace Conference and of the heads of the signatory states, the entire gallery dominated by the likenesses of the Czar, who was "the father of the Tribunal," and of the host sovereign, Queen Wilhelmina. In time, thanks to the generosity of Andrew Carnegie, the Court would move to a grander setting, variously called during its construction the "Temple of Peace," or the "Peace Palace."¹⁴

The procedure under which the Permanent Court of Arbitration was to function was carefully considered by the framers of the Convention for the Pacific Settlement of International Disputes in an effort to achieve a balance between discipline and flexibility. The Court was specifically designed to be attractive through its utility, and thus sufficient latitude was provided to permit the participating powers to choose between the established rules of procedure and any alternatives of their own preference.¹⁵

The specific details of procedure would be contained in a protocol, often called a compromis, signed by the participating states. This would state the number of arbitrators to be selected, the extent of their powers, the precise questions to be considered, the relevant deadlines, etc. Customarily, when there were only two parties to a dispute, each side would select two arbitrators from the Court's panel, and these four would then select a president or an umpire. Should the four be evenly divided on this selection, the choice of umpire would be left to a third party selected by agreement among the four arbitrators. If it should prove impossible to reach this agreement, each

side would choose a different party, and these two parties would select an umpire.¹⁶ Obviously, the framers had made an effort to anticipate every contingency.

Each side was permitted to file a written case together with relevant supporting documents and then was permitted to file a counter-case. Oral arguments followed, which presented language difficulties. French was specified as the language of the Court unless the parties designated an alternative. After deliberation, the tribunal would announce the decision, and it would then be published by the International Bureau.¹⁷

The effect of these rules of procedure was to provide for George Gray those elements of negotiation and deliberation with which he was already most familiar. On the one hand, they employed the adversary principle of conflicting arguments embodied in cases and counter-cases which were analogous to the petitions and claims common to the American judiciary. On the other hand, the presence of oral debate suggested his experiences as a United States Senator. In addition, there was the element of compromise, of which he was a skilled practitioner. In short, the abilities and interests of George Gray were especially suited to his new role as member of the Permanent Court of Arbitration.

One other element was also present to which Judge Gray was no stranger: controversy. Whereas the Hague Peace Conference had been received with less than unanimous approval, it was hardly to be expected that its creation, the Permanent Court of Arbitration, would do otherwise. Not every observer of the recent events at The Hague was prepared to endorse this assessment of the Court which appeared in the

contemporary press:

This tribunal is undoubtedly the most august tribunal on earth; for before it the nations of the world voluntarily come to judgment. Its judges are among the most enlightened and distinguished of living jurists and statesmen, chosen by the heads of their respective governments because of their reputations for profound learning, probity and high moral character.¹⁸

Without impugning the "profound learning" or the "high moral character" of its members, it was possible to level criticisms, several of an obvious nature, against the Court. The first of these was the blatant misnomer by which the tribunal was known. In no sense of the words was it permanent, nor was it a court. Its members never met as a single body, although there was some suggestion that an inaugural assembly might be appropriate. Rather, the Permanent Court of Arbitration was a list of qualified and willing jurists from which nations were invited to make selection. Most of the names on the list would never actually serve as a member of an arbitration tribunal. In fact, during the first 33 years of the Court's existence, only 29 of the approximately 450 names which appeared on the list were called for service.¹⁹

A second fault was the failure of the International Bureau to publish the awards in a uniform and consistent style. Manley O. Hudson, Professor of International Law at Harvard University, noted that the awards "lack the continuity and consistency which would constitute them a body of cumulating jurisprudence, and in some of the cases they were not adequately grounded on citations of existing law."²⁰ This failure was especially troublesome to American and British lawyers, who were accustomed to the Anglo-Saxon tradition of jurisprudence based on the common law--a tradition which therefore placed a premium on the reliability and uniformity of court reports.

However, these concerns were secretarial in nature and could be corrected without much difficulty. Of greater significance were those criticisms directed at the very rationale of the Court. For example, in making arbitration more attractive did the framers of the Convention really solve an existing problem? Was there any real reason to believe that the nations of the world had hitherto neglected arbitration because there did not already exist a list of willing and qualified arbitrators, because there was not already a suitable location to house the tribunal, or because the decisions of previous arbitral tribunals were not readily available in a uniform style? Of course there was no accurate analysis which could provide an answer to these questions. On the other hand, even if it were admitted that the detractors were right, i.e., that the process of arbitration had never been related to its attractiveness, it cannot be denied that the pace of international arbitrations rapidly quickened immediately after the formation of the Hague Court. Through the deliberations of the Peace Conference, the focus of world attention had been directed to the utility of arbitration, and the various governments were soon taking advantage of the opportunity presented to them.²¹

Any evaluation of the efficacy of arbitration as a tool whereby to settle international disputes must consider its natural limits. From the beginning, its supporters recognized that each nation had certain principles which it would never submit to a panel of arbitrators--principles involving concepts of national honor. There was never any serious or responsible suggestion that arbitration would serve with equal success to remove every international difficulty. The Convention recognized arbitration as "the most equitable method

of deciding controversies which have not been settled by diplomatic methods."²² Governments were not expected readily to submit to arbitration such sensitive issues as boundary disputes, which touched on the question of territorial integrity, nor were such hallowed traditions as the Monroe Doctrine expected to be subjected to review. On the other hand, arbitration was expected to function best in those areas in which it had proved most effective in the past--areas related to technical questions, to interpretations of treaties, and to the resolution of disputes not likely to inflame public opinion. To admit that arbitration was not suitable for all disputes was not the equivalent of admitting that arbitration was not suitable for any disputes. There was a clear sphere of international dispute which had been effectively served in the past by arbitration, and the formation of the Hague Court was a positive step to increase its effectiveness within that sphere.

Arbitration provided a special form of service the nature of which could not always be admitted by the participating states. This refers to its usefulness in providing a government with an escape from an untenable position, thereby saving face abroad and placating its own public. At the time of the Alaskan boundary controversy, neither Theodore Roosevelt nor his British counterparts could admit that arbitration was being used to permit both to back away from the brink of confrontation, but later generations would be less hesitant to make such a confession. The Boxer Rebellion in China ultimately provided another example of the unadmitted influence of arbitration. According to The New York Times, in a 1902 article entitled "Progress of International Arbitration," Russia and the United States had threatened to

refer the issue of China's indemnity to the Hague Court and thus had moderated the demands leveled by the other Powers.²³ Such unseen influences, lacking any form of official acknowledgment, prevent an objective measurement of the success of arbitration.

Arbitration was attractive to many circles not merely because of its utility to the contemporary world, but because of its potential for the future. Whether it was interpreted as the initial step or as one of a succession of intermediate steps, several observers saw in the Permanent Court of Arbitration the antecedent of a genuine court of international justice--a true world court which would base its decisions on a recognized and structured body of international law. This expectation provided at the same time both a source of reward and frustration. The supporters of the Court recognized that arbitration was not a synonym for the practice of law, but rather that arbitrators traditionally balanced considerations of law and precedent with considerations of equity. Compromise and conciliation were frequent concomitants of arbitral proceedings, a feature which tended to make this form of international machinery less rigid than would be a true world court of international law. Nevertheless, many of the Court's most prominent supporters viewed it as a means to an end, specifically as a stepping-stone to a court of international justice. This expectation was described in an analysis of the Court which appeared in a 1912 issue of the American Journal of International Law:

Indeed, arbitration stands midway between self-redress, whose excesses it has stayed, and judicial decision, whose disinterestedness and impartial determination it foreshadowed. Arbitration is, therefore, not an end in itself, it is but a means, and marks a stage of transition from private lawlessness to public peace.²⁴

However worthy the expectation thus applied to the Hague tribunal, it was doomed to disappointment primarily because of the difficulty of structuring a world court which could reconcile the various distinct legal systems prevailing among the different nations of the globe. Still, the patience and determination of this group of international lawyers would in time be rewarded with the formation of the Permanent Court of International Justice as a result of the Versailles Peace Conference. Assessment of the influence of the Permanent Court of Arbitration upon the development of a true world court must carefully consider the published intention of its creators. Regardless of the designs for future development which were fostered in many circles, it was unfair to evaluate the Court on any basis other than that for which it was organized--a specific goal of narrow dimensions which it admirably met.²⁵

Notwithstanding this apologia, it is possible--even appropriate--to argue that the Permanent Court of Arbitration did indeed facilitate the creation of a recognized body of international law as well as a tribunal to apply it. It was hardly to be expected that the delegates at the 1899 Peace Conference would create a world tribunal of such sweeping jurisdiction, fully aware that several governments, including that of the United States, would immediately perceive it as a threat to sovereignty. The formation of a world court of international law could only be achieved through evolution, not through a single stroke. Trial and error accompanied by patience would in time demonstrate a need for such a tribunal--a need which would be accorded widespread recognition. The hesitant efforts of the independent governments to define a commodious relationship between sovereignty and international

law seemed to some observers to parallel similar efforts among the 13 American states immediately after the Revolution. Where it could not be expected that the states would move immediately from a position within the British Empire to a position within a centralized American federation, neither could it be expected that the independent governments could precipitously construct a world court to apply a recognized body of international law. In both situations, an agency of transition was required: the Articles of Confederation in the one instance, and the Permanent Court of Arbitration in the other. In both situations, a more advanced level was attained in the fullness of time; the Federal Constitution and the Permanent Court of International Justice. The analogy is not exact, of course; whereas the Articles of Confederation passed out of existence, the Permanent Court of Arbitration continued to function. The court of arbitration complemented the court of law, the existence of which it had helped to facilitate, and the presence of the twin tribunals provided disputants with a choice whereby to settle issues peacefully. By either logic--that of the narrow goal or that of the agency of transition--the Permanent Court of Arbitration rendered a valuable service to the cause of world peace. Although infrequently used, its existence has continued into the 1970s.

As is often the case with irenic institutions, the service was neither immediately nor universally recognized. The skepticism which attended the 1899 Conference had already appeared justified by the failure of the delegates to reach decisions of substance regarding disarmament, and it was further reinforced by the outbreak of hostilities between Great Britain and the Boers of South Africa. The

delegates had anticipated that a second conference would be called in five years, a move endorsed by President Roosevelt, who contemplated issuing the call himself. Instead, he deferred in favor of the Czar, but Nicholas was forced to delay, since he found it awkward to invite the world to a peace conference at the same time that he was waging war against Japan and against his own rebelling subjects in 1904 and 1905. As a consequence, the second Peace Conference did not assemble until 1907. Once again it was held at The Hague, and once again it was subjected to abuse. As before, much of the criticism was predicated on the fallacy that the delegates were seeking a panacea for the ills of the world. Nothing could have been further from the truth. Although the Conference leaders issued statements reflecting an awareness of the realities of world politics and scrupulously avoided claims for the Conference which might be interpreted as utopian folly, the Times of London saw fit to denounce the assembly as a sham. To this, the Chairman of the American delegation, Joseph H. Choate, replied: "Because we did not do everything, the London Times said we did nothing."²⁶

Fortunately, the Times was in no sense representative of the general response which followed the two Hague conferences and which appraised the work of the Permanent Court of Arbitration. Nevertheless, the American officials recognized the importance of preventing an unjustified rise of the public's expectations. Elihu Root, as Secretary of State, included a caution in his instruction to the delegates to the second Hague Conference:

The immediate results of such a conference must always be limited to a small part of the field which the more sanguine have hoped to see covered; but each successive conference

will make the positions reached in the preceding conference its point of departure and . . . as each conference will inevitably make further progress by successive steps, results may be accomplished which have formerly seemed impossible.²⁷

This emphasis on the potential rather than the immediate benefits of The Hague activities had appeared in earlier statements. In 1901 a writer in the Outlook predicted that it would be "clear enough . . . twenty years hence, that the organization of the first international Court of Arbitration was one of the turning-points in the history of the race."²⁸ A like prediction appeared in The New York Times: "The Constitution of the Hague Tribunal was an epoch-making event in the world's history, and I have faith to believe that it will grow in favor and attract more and more attention as the years go by."²⁹ This latter assessment was made by George Gray, who had previously been appointed as one of the original American members of the Permanent Court of Arbitration and whose experiences in politics, on the bench, and in diplomacy, had conditioned him to appraise the Court in realistic terms. Although its original scope was narrowly circumscribed, the Court was fulfilling its intended responsibility, and its continued utilization augured well for the future. Here was a project which naturally appealed to Judge Gray's irenic sentiments and which would receive his fullest support.

If the Permanent Court of Arbitration were to be judged on the basis of the quality of the American appointments, it is difficult to see how a higher evaluation could be made. The initial list of four appointees reflected the Administration's confidence in the new tribunal as well as its effort to dignify its existence by sending to it

American jurists of unimpeachable public record and of undoubted competence. In addition to Judge Gray, President McKinley appointed in August of 1900, Melville W. Fuller, who had been Chief Justice of the Supreme Court since 1888, and John W. Griggs, who had served in the Cabinet as Attorney-General since 1898. An effort to secure the bipartisan participation of two former presidents was unsuccessful. Whereas Benjamin Harrison accepted appointment, Grover Cleveland declined, and--as it turned out--the former passed away seven months later, in the same year in which President McKinley was assassinated. To replace Benjamin Harrison, Theodore Roosevelt appointed Oscar S. Straus, who would later serve in his Cabinet and would be named Ambassador to Turkey.³⁰

The frequency of reappointments lent a degree of stability to the American representation and indicated satisfaction with its work. It became somewhat customary for the members to be continually reappointed and to retain their positions, like federal judges, for life. Of the original five members, only John W. Griggs lived beyond the expiration of his term of appointment. The second generation of appointments continued the tradition established by Presidents McKinley and Roosevelt. Former Secretary of State Elihu Root received appointment from President Taft as did John Bassett Moore, who was universally regarded as the foremost authority on international arbitration. Following the First World War, there began a gradual tendency to appoint legal technicians who possessed unqualified competence but whose names were less familiar to the general public. The most notable exception to this new pattern was the appointment in 1926 of the former Secretary of State, Charles Evans Hughes, to replace Judge Gray. His resignation

four years later, upon his appointment as Chief Justice of the Supreme Court, demonstrated some of the confusion associated with service at The Hague. Although Justice Fuller had served on both courts for a period of ten years, Justice Hughes was still inclined to regard the two positions as incompatible. Also fearing a conflict of interest, the distinguished jurist, Benjamin N. Cardozo, in 1927 declined appointment "with a pang of regret."³¹ Another peculiarity which contributed to some confusion was a provision permitting governments to appoint citizens of other countries--including Americans--to the Hague Court. Accordingly, five American citizens received appointment from the King of Siam.³²

For a year following its creation, the Permanent Court of Arbitration languished unused, a period disconcertingly lengthy to its contemporary proponents, but of little consequence in retrospect. Appropriately, its first case, which was presented in 1902, involved a dispute between the United States, which was the foremost champion of the institution of arbitration, and Mexico. Known as the Pious Fund Case, this settled a relatively minor controversy between the two republics. Its resolution not only removed an obstacle to harmonious relations between the two neighbors; it demonstrated that the machinery of the Hague Court actually worked. The second case was of considerably greater importance, and involved the United States in a difficult controversy with several of Europe's Great Powers. The cause of the dispute was the chronic fiscal irresponsibility of Venezuela, which had led to the application of military force by three of her creditors, Great Britain, Germany, and Italy. In spite of assurances offered by the three intervening powers that there was to be no permanent seizure

of territory, President Roosevelt recognized that the incursions were likely to be interpreted by the American public as a challenge to the Monroe Doctrine. This accounts for his determined action in pressuring the parties to refer the whole matter to the Permanent Court of Arbitration--a decision which satisfied the belligerents, which encouraged the other creditor nations not involved in the hostilities, and which offered relief to the Venezuelan government. While the Court's ultimate decision, which was rendered in 1904, was not received with unanimous acclaim, it was clear that its presence had helped to alleviate an embroglio which possessed an obvious potential for escalation. By comparison, the next four cases handled by the Hague Court were relatively insignificant, although the disputants were not: France, Germany, Great Britain, Japan, Norway, and Sweden.³³

The seventh referral provided the Tribunal with its most important case and provided George Gray with his most significant experience as an international arbitrator. For over a century, the United States and Great Britain had argued over the fishing rights which were to be accorded to Americans off the coasts of Canada and Newfoundland. As early as the negotiations which resulted in the Treaty of 1783, whereby Great Britain recognized the independence of the United States, Commissioner John Adams had refused to put his hand to any treaty which did not recognize American fishing rights in the northern waters. His stance was more than just New England stubbornness; it reflected the importance of these rights to the developing prosperity of his region of the new republic. Although the British acquiesced, they argued in the following century that the rights had been abrogated by the War of 1812. Once again an Adams accepted the challenge. As commissioner in

Ghent, John Quincy Adams was unable to secure confirmation of the American rights and had to accept a treaty which made no mention of the issue. A few years later, however, as Secretary of State, he was more successful in concluding the Treaty of London of 1818. In return for the American renunciation of the right to fish in other territorial waters, Britain specified in Article I the coasts along which American rights would be recognized. American vessels were to be permitted to enter the restricted areas to secure shelter, to make repairs, and to provision with wood and water, but for no other purpose. These rights were also addressed by the Anglo-American Treaty of 1871, and when it expired the terms of the 1818 Treaty again prevailed.

But since the captains of the vessels were not well versed in the intricacies of international law, it was hardly surprising that the northern waters became the scene of difficulties of expanding proportions. The local governments harassed the Americans with tedious police regulations, and the populace refused to sell bait and supplies. Transshipment of cargo was also interrupted, and American entry was denied into certain bays which the United States had always considered part of the high seas. Confiscations and a mounting number of protests threatened to disrupt the Anglo-American harmony only recently achieved by the definition of the Alaskan boundary, and both governments readily recognized the opportunity presented by arbitration.

The details of the arbitration were specified in the compromis, which was signed in January, 1909, under the authority of a general Anglo-American treaty of arbitration which was less than a year old.

Accordingly, seven specific questions were to be decided by a tribunal composed of members of the Permanent Court of Arbitration. The selection of the five arbitrators, made jointly by the British Ambassador in Washington and Elihu Root, who would soon resign as Secretary of State, included one Canadian, three citizens of neutral nations, and one American, George Gray. Since all five spoke English, the participants anticipated that no language problems would be present. It is doubtful, however, that they anticipated the huge quantity of material which would be presented for their consideration. Each side, prior to the opening of the hearings, had amassed impressive collections of documents, consisting largely of treaties, court decisions, correspondence between government officials, analyses by venerated authorities, maps, charts, statistics of commercial fishing activities, police regulations, ordinances, statutes, etc. The great body of Anglo-American jurisprudence was treated as a single entity with the result that both sets of counsel freely cited authority without regard to nationality. This caused one member of the American counsel to complain that both sides quoted Hugo Grotius and every writer since.³⁴

The dimensions of the written arguments were paralleled by the oral presentations. The opening statement presented by the British counsel, which numbered 16 members, consumed two weeks, a feat duplicated by the slightly less numerous American counsel. Because the regular quarters of the Court were inadequate for a proceeding of such vast proportions, the host government prepared alternate facilities at The Hague's Hall of the Knights. There, over a period of ten weeks, the public was invited to witness the representatives of two powerful

and proud nations as they demonstrated the practical utility of arbitration in the resolution of a serious dispute.

The sessions were held each morning and afternoon, four days each week, and consisted of arguments offered by three members of the British counsel who alternated with three members of the American counsel. The presentations, of necessity, were tedious and technical, and extended in scope from the great theories of international relations to the subtle nuances of a specific word appearing in an aged document. Any one of the arbitrators could have been forgiven if he had allowed his mind to wander during the presentations, and doubtless each was occasionally guilty of inattention. Nevertheless, the printed transcripts of the oral arguments, which run to over 5000 typewritten pages, reveal an incredible performance of attentive and enlightened interest on the part of one of the arbitrators. More than any other member of the panel--even more than the President of the Tribunal--George Gray was actively involved in the deliberations, and none of the six individual arguments escaped his scrutiny. Of Sir George Finlay he inquired as to the contents of a letter which was being cited as evidence, he helped the counsel to locate a specific page in a report being used as reference, and he discussed with him the distinctions between international law and municipal law. Of the American counsel, George Turner, Judge Gray inquired as to the corporate nature of the United States under its two constitutions, and asked for the details of Canada's right to police her own waters and the alleged abuses of that right. Of Sir James Winter, Judge Gray asked for a clarification of some fine points of geography and inquired about the meaning of a statute which appeared to favor Canadian fishermen. Of the American

counsel, Charles B. Warren, Judge Gray asked for additional clarifications of points of geography and for the distinctions between territorial bays and high seas. Of the British counsel, John S. Ewart, Judge Gray inquired as to the thoroughness of a document which had been introduced and asked for an explanation of a memorandum written by Daniel Webster. Of the American counsel, Samuel J. Elder, Judge Gray asked for details regarding the alleged right of the American fishermen to purchase bait and to hire Canadian citizens. Of Sir William Robson, Judge Gray inquired as to the existence of international servitudes and the nature of sovereignty and easements. Of the American counsel, Elihu Root, Judge Gray inquired as to the meaning of a conveyance made in perpetuity and discussed with him the Newfoundland Act of 1862.³⁵

As the hearings reached the halfway point, a letter from the Judge to his son William reflected something of the author's weariness:

Do write often, as I am getting very weary of this prolonged stay at the Hague. I have no prospect of any holiday. The arguments will not conclude before August 7th and it will take more than a month to get thro with our conferences and formulate our decisions.

Although it was the middle of the summer, it was also Holland and not Delaware. The cool damp climate and a "regulation" cold which had kept him confined to bed for a day, were included in his list of difficulties. Although he had played golf three times, it had been two weeks since his last game. It was an efficient survey of complaints, but it only has meaning when it is recalled that the writer had just recently celebrated his 70th birthday.³⁶

At length, the Tribunal awarded its decisions and published its proceedings in 12 volumes--described by Professor Bemis as "a textbook

for the student of international law." The two most important questions, including the definition to be applied to determine whether a bay is part of the high seas, were decided against the United States; the other five favored the American position. On a higher plane, of course, the decision was a victory for both nations, for the status of arbitration, and for the members of the Court. In writing of the details of the entire procedure, one member of the American counsel concluded: "It would be difficult not to pay tribute to the learning and industry of the tribunal. Each one of the arbitrators has justified his high repute in the field of international jurisprudence."³⁷

Even before the Hague Tribunal achieved the heights of the North Atlantic Fisheries decision, its influence was manifest in other areas of international relations. The success of institutionalized arbitration spawned related projects which were likely to attract the attention and support of George Gray, and one of these was the attempt to conclude a series of bilateral arbitration treaties. Because of the Senate's perpetual reluctance to commit the United States in advance to a particular course of action and thereby to lose a measure of its control over foreign policy, the campaign to secure approval of the treaties extended over several years and occupied the attention of Secretary Hay and his successor, Elihu Root. During the election campaign of 1904, amidst the customary partisan debate over domestic and foreign issues, Judge Gray was able to view the first of these proposed treaties--with Great Britain--from a perspective superior to that of the typical politician, and therefore he was able to contribute his support to what was essentially a project of the

Republican administration. Two addresses especially reveal his continuing confidence in the role to be played by arbitration with Great Britain. In June, 1904, he spoke of the beneficial influence the treaty would have on the rest of the world:

What imagination is not kindled, what heart does not glow, at the thought of an arbitral agreement between the two great English-speaking nations of the world. Too powerful to be animated by any other motive than a brave and worthy one, the moral effect of their agreement in such a treaty could not fail to advance the cause of international arbitration to a world-wide acceptance.³⁸

Following President Roosevelt's triumph in the November election, the treaty proponents organized a rally at Carnegie Hall to demonstrate to a reluctant Senate the extent of public support. Mayor McClellan presided, and Judge Gray was scheduled to be a featured speaker, but his turn at the rostrum did not come until after Archbishop Ireland's. After greeting the prelate with hearty applause, the audience apparently found his remarks too generous in quantity. A voice shouted, "For heaven's sake, give somebody else a chance!" Another concurred with "amen." From the first row: "Time! Time!" Fortunately for the remainder of the program, the Archbishop took the hint. "I will retire," he replied, "thanking your for your implied promise of further indulgence." He was followed by Judge Gray, who spoke of the importance of the Hague Tribunal and--most significantly, considering the mood of his listeners--of courage:

I do not fear that the courage of manhood is going to die out in this generation, but I do believe that courage and true manhood will die out in this land, and every other land, if we oppose that progress of humanity and of civilization which is marked so significantly by the establishment of the permanent court of arbitration at The Hague.³⁹

Although the general arbitration treaties with Great Britain were finally approved in 1908, President Taft's effort to secure a

later series was unsuccessful, because it would have deprived the Senate of the right to approve the compromis preceding an arbitration. With the Democratic victory in 1912, similar efforts were renewed in the form of the so-called Bryan "cooling-off" treaties, which were approved by the Senate but were never invoked. For the supporters of the peaceful settlement of international disputes, the path of least resistance appeared to lie in other directions, specifically in the direction of a world court of international law. Although several schemes were advanced and although the project had supporters in every major nation, the difficulty of providing representation for each of the world's legal systems proved insurmountable until the general readjustment of international society which followed the First World War. Appropriately, it was the American statesman, Elihu Root, who proposed the formula which made the World Court a reality.⁴⁰

The formation of the new tribunal in 1921, formally entitled the Permanent Court of International Justice and bearing the sobriquet of the "World Court," called into question the continued existence of the Permanent Court of Arbitration. Because of the distinctions between jurisprudence and diplomacy, the decision was early reached that the older body should be retained, and, in accordance with this consensus, the League of Nations defeated an attempt by Argentina to dissolve the arbitration tribunal. The wisdom of this course of action was confirmed by experience, as the passage of time demonstrated that the two courts were complementary, not competitive. Both were housed in Carnegie's Peace Palace at The Hague, permitting the representative of a disputing nation literally to make his selection while standing in the entrance--a turn to the right for the World Court, a

turn to the left for the Court of Arbitration. Each state was free to select the machinery best suited to its particular grievance, a recognition of the truism that there was no universal solution for all international disputes. "Law fares rather badly in diplomacy," observed one writer. "It seeks to correct human weaknesses; diplomacy accommodates them."⁴¹

The two courts were associated in another manner. Members of the World Court were to be nominated by the national groups of the Permanent Court of Arbitration, with a special arrangement for those nations not participating in the latter body. The nominations were then submitted to the General Assembly and the Council of the League of Nations, a process which permitted participation by the smaller nations. The first opportunity for the American contingent of arbitrators to exercise this function arrived in 1921, and appropriate invitations were sent to Elihu Root, Oscar Straus, John Bassett Moore, and George Gray. Collectively, they were permitted to nominate a total of four candidates, no more than two of whom could be Americans, and Judge Gray indicated that the invitation would be welcomed:

I do not see how the United States, the wealthiest, the most powerful and most influential nation in the world, can stand aside and not participate in the deliberations of the nations of the world that are trying to prevent war as a method of settling international disputes.⁴²

However, complications immediately arose. Since the United States had only recently rejected membership in the League and had refused to adhere to the document establishing the World Court, it was not clear if the invitation to submit nominations could or should be accepted. As an act of courtesy, the League's Secretary-General had sent the invitations to the Department of State, with the request that they be

forwarded to the individuals concerned. Whether by deliberate intent or by bureaucratic inefficiency, the invitations disappeared, and the State Department came under fire for treating the League contemptuously. The invitations were eventually located in the office of Secretary Charles Evans Hughes and were tardily delivered. Nevertheless, Secretary Hughes maintained that he was not responsible for the delay, and he emphasized his innocence by banishing a Department official to a post in Egypt.

In the meantime, the Secretary-General, having learned that the messages had not been delivered, cabled a second invitation directly to the four arbitrators.⁴³ The four judges convened in New York City at the Bar Association and made their selections, but they hesitated to go further until they had consulted with Secretary Hughes. To this end, Root journeyed to Washington only to learn that the Secretary felt ". . . it would be distasteful to the Administration to have the nominations made."⁴⁴ Secretary Hughes explained his position the following year: "The point was that the American Judges had been appointed under another treaty to which the United States was not a party."⁴⁵ The four judges respected the Administration's wishes, but only with reluctance and, as Judge Gray suggested in a letter to Elihu Root, with a suspicion regarding its real motives:

. . . This interpretation of the Administration is most unfortunate and will subject it to a criticism, whether just or not, that will be embarrassing. It will certainly be viewed by a large number of our people as evidence that their country has been prevented by partisan and personal consideration from giving its sympathy to a hopeful effort to attain an object which the good and intelligent the world over have so long desired.⁴⁶

Of the four judges, John Bassett Moore was the least inclined to be influenced by the Administration's position. Having been

nominated to the World Court by another national group, he sent his acceptance to Geneva before he notified Washington. His candidacy was successful, and thus a single American citizen secured election to the original Permanent Court of International Justice in spite of the discouragement of his own government.⁴⁷

The potential for a repetition of this awkward sequence of events occurred two years later when the League again invited the judges of the arbitration tribunal to nominate candidates to fill a vacancy on the World Court. This time, however, the parties involved were better prepared, and the four judges were permitted to submit their nomination, which was ultimately accepted by the League, without hindrance from Washington. Although every president from 1923 to World War II recommended that the United States should adhere to the World Court, the Senate consistently refused to vote its approval. This did not prevent participation of individual citizens, however, and several prominent American jurists served with distinction--most notably, John Bassett Moore, Frank B. Kellogg, and Manley O. Hudson--most ironically, Charles Evans Hughes.⁴⁸ A long-time supporter of the concept of a genuine international court of law, George Gray, now in his eighties, could not be considered for membership.

As a result of the general restructuring of international society which followed World War II, the World Court was renamed the International Court of Justice and became associated with the United Nations. The American response to internationalism had also undergone a restructuring. The United States had taken a prominent role in the creation of the United Nations and its adjunct agencies, and the Senate

readily approved American participation.⁴⁹ The ease with which adherence was obtained contrasted sharply with the debates of the previous generation and appeared to many as a revolution in Washington's foreign policy. But America's new role as active leader in world affairs resulted more from evolution than from a revolution. The internationalism of the 1940's reflected the debate and experimentation which extended back through several decades. Throughout the evolutionary period, intertwined with the tedious details of policy formulation, and positioned midway between the extreme predictions of world calamity and world comity, was the figure of George Gray. Having advanced to an age which would have more than justified idle retirement, he continued to exercise his influence in the interest of peace. His work in behalf of arbitration and his support of the League of Nations and the World Court were conducted without hope of personal gain. With his political career behind him and having retired from the bench of the Circuit Court in 1914, he continued his efforts to influence the foreign policy of his government so as to reduce the causes of war. Even the presence of two world wars and of a host of smaller conflicts cannot invalidate the verdict that it was a worthy labor.

ENDNOTES

¹Articles of Confederation, art. IX. See James Brown Scott, "The Evolution of a Permanent International Judiciary," American Journal of International Law 6 (April 1912), pp. 337-38.

²Edward Everett Hale, "Out of the Mouth of Czars," New England Magazine, n.s., January 1899, p. 582. There are 75 arbitrations recorded from ancient Greece; see Charles Hodges, "Two World Tribunals," Nation, 9 March 1927, p. 270.

³Manley O. Hudson, "The Permanent Court of Arbitration," American Journal of International Law 27 (July 1933), p. 440. Other summaries of international arbitrations are found in W. E. Darby, International Arbitrations are found in W. E. Darby, International Tribunals, 4th ed. (London: J. M. Dent and Co., 1904), pp. 771-900; John Bassett Moore, History and Digest of the International Arbitrations, 53d Cong., 2d sess., 1898, House Miscellaneous Document No. 212, 5, pp. 4851ff. The ancient and medieval use of arbitration is briefly surveyed by Frederic R. Coudert, "The United States and the Permanent Court of International Justice," American Bar Association Journal 18 (June 1932), p. 415; and by J. L. Simpson and Hazel Fox, International Arbitration (New York: Frederick A. Praeger, Publishers, 1959), pp. 1-8. The spirit of internationalism, within which arbitration was to function and with which the United States had little involvement, is examined by Clark E. Persinger, "Internationalism in the 60's," Historical Outlook 20 (November 1929), pp. 324-47.

⁴Cited by Hudson, "Permanent Court," p. 440.

⁵Ibid., p. 441.

⁶Quoted by Cortissoz, Reid, pp. 258-59. For the opposition offered by Germany and Austria-Hungary, see Denys P. Myers, "The Origins of the Hague Arbitral Courts," American Journal of International Law 8 (October 1914), pp. 793-96.

⁷Foreign Relations 1898, p. 553; quoted by C. R. Dean, "Preserving the World's Peace," World's Work, March 1905, p. 5928.

⁸Foreign Relations 1899; Sen. Doc. No. 444, 60th Cong., 1st sess., pp. 18-23 (1899-1900).

⁹Cortissoz, pp. 259-260. The American, British, and Russian proposals are compared and analyzed by Myers, "Origins," pp. 788-89.

¹⁰Quoted by John W. Foster, A Century of American Diplomacy: Being a Brief Review of the Foreign Relations of the United States, 1776-1876 (Boston and New York: Houghton Mifflin Company, 1900), p. 475. Full text of the Convention for the Pacific Settlement of International Disputes is in Statutes at Large, 32 pt. 2, pp. 1779ff.

¹¹Hudson, "Permanent Court," p. 441; and Dean, "World's Peace," p. 5928. The list and number of ratifying nations will vary slightly because of the separation of Norway and Sweden into separate governments. For the Senate acceptance of the three conventions, see Bemis, Diplomatic History, p. 423.

¹²Quoted by Simpson, International Arbitration, p. 12.

¹³Dean, "World's Peace," pp. 5929-30; and Hudson, "Permanent Court," pp. 442-44.

¹⁴Dean, "World's Peace," pp. 5929-30.

¹⁵Wayne MacVeagh, "International Arbitration Made Attractive," North American Review, February 1904, p. 163.

¹⁶Simpson, International Arbitration, p. 13. Additional technical details are provided in "The Hague Court's Record," Outlook, 7 September 1912, p. 4.

¹⁷Dean, "World's Peace," p. 5929. The excessive length of some of the oral arguments led to stenographic and budgetary problems; see W. T. Stead, "The Hague Arbitration Tribunal," Independent, 5 November 1903, p. 2614.

¹⁸Dean, "World's Peace," p. 5928.

¹⁹Hudson, "Permanent Court," p. 443.

²⁰*Ibid.*, pp. 458-59.

²¹A statistical summary of international arbitrations is provided by Professor Hudson; see *ibid.*, pp. 440-41.

²²Quoted by MacVeagh, "International Arbitration," p. 162. Questions of national honor which were not considered appropriate for arbitration are examined in "Arbitration and Disarmament," Nation, 1 June 1899, p. 410.

²³The New York Times, 1 June 1902, p. 27.

²⁴Scott, "Evolution," p. 318.

²⁵For an examination of the distinctions between judicial and diplomatic settlements, see Elbert F. Baldwin, "France and America at the Hague," Outlook, 31 August 1907.

²⁶Quoted by Adams, History of Foreign Policy, p. 362. Full text of the 1907 Convention is in Statutes at Large, 36 pt. 2, pp. 2199-2240; although this provided for procedural changes in the Permanent Court of Arbitration, it left it substantially unchanged. Discussion of the agenda for the second conference preceded the assembly by two years; see "A Programme for the Hague," Outlook, 7 October 1905, pp. 297-98. Japan, Russia, and Germany indicated early support for a proposed second conference; see The New York Times, 24 December 1904, p. 2, and 16 April 1905, p. 2. An example of informed and restrained response to the Czar's original call is provided by Dr. Lyman Abbott, editor of Outlook; see The New York Times, 2 June 1899, p. 7. The year 1907 was also the first year of issue for the American Journal of International Law, and its first volume contained three articles by Simeon E. Baldwin which reflected the growing importance of international meetings: "The International Congresses and Conferences of the Last Century as Forces Working toward the Solidarity of the World," pp. 565-78; "List of Memorable International Conferences, Congresses, or Associations of Official Representatives of Governments, Exclusive of Those Mainly Concerned in Dealing with the Results of a Particular War," pp. 808-17; "List of the More Important International Congresses, Conferences or Associations of the Past Century, Composed of Private Individuals," pp. 817-29.

²⁷Foreign Relations 1907, pp. 1130, 1135. Secretary Root also noted the need for court decisions free from diplomatic compromises; see *ibid.*, p. 1135. For additional suggestions for the strengthening of the Hague Court, offered by a former Secretary of State, see John W. Foster, Arbitration and the Hague Court (Boston and New York: Houghton, Mifflin and Company, 1904); also a review article: Walter T. Arndt, "Arbitration and the Hague Court," Current Literature, 6 March 1905, pp. 214-16. Examples of moderate and careful approval in the American press relative to the first Hague Conference are provided by "Foreign Affairs," Public Opinion, 8 September 1898, pp. 298-302; "Arbitration at the Peace Conference," Public Opinion, 25 May 1899, p. 649; "Arbitration at the Peace Conference," Public Opinion, 8 June 1899, pp. 709-10. Useful as a summary of the volatile European atmosphere immediately following the second conference is William C. Askew and J. Fred Rippy, "United States and Europe's Strife, 1908-1913," Journal of Politics 4 (February 1942), pp. 68-79.

²⁸"A Great Court," Outlook, 16 February 1901, p. 389.

²⁹George Gray to Alfred H. Love, Philadelphia, President of the Universal Peace Union, 28 March 1903; reprinted in The New York Times, 13 April 1903, p. 9. For other evaluations, see Amos S. Hershey, "Convention for the Peaceful Adjustment of International Differences," American Journal of International Law 2 (January 1908), p. 30; and Hayne Davis, "The Foundations of International Justice," Independent, 10 March 1910, pp. 504-13.

³⁰In spite of his acceptance of appointment, Benjamin Harrison had misgivings about arbitration; see his article, "Musings upon Current Topics," North American Review, February 1901, pp. 177-90. On

the other hand, Grover Cleveland was considered a friend of arbitration; see Nelson M. Blake, "Background of Cleveland's Venezuelan Policy," The American Historical Review 47 (January 1942), p. 259.

³¹Quoted by Manley O. Hudson, "American Members of the Permanent Court of Arbitration during Forty Years," American Journal of International Law 35 (January 1941), pp. 135-39; see The New York Times, 13 September 1927, p. 16; Baldwin, "France and America," p. 960; Dean, "World's Peace," p. 5929; and "The Progress of the World," The American Monthly Review of Reviews, December 1900, pp. 643-63. Representative of the contemporary press are the following accounts, all from The New York Times: for President Taft's appointment of Elihu Root, see 4 December 1910, sec. 4, p. 14; for his appointment of George Gray, see 5 March 1913, p. 4; for President Wilson's handling of a series of appointments which had been allowed to lapse during the World War, see 22 January 1920, p. 2; for Coolidge's appointment of Charles Evans Hughes, see 1 October 1926, p. 1; and also 2 October 1926, p. 5. For more recent appointments, see "New Members of the Permanent Court of Arbitration," American Journal of International Law 45 (October 1951), pp. 778-79.

³²Hudson, "American Members," pp. 138-39.

³³Professor Bemis is critical of the Court's decision which favored the intervening powers in the Venezuela Preferential Claims Case; see Diplomatic History, pp. 522-25. Also see a similar criticism in The New York Times, 24 February 1904, p. 8. Also see Baldwin, "France and America," p. 960; Dean, "World's Peace," pp. 5930-31; W. L. Penfield, "The Hague Tribunal," Independent, 17 December 1903, pp. 3001-03; and W. T. Stead, "The Hague Arbitration Tribunal," pp. 2612-16. According to some authorities, it was to Venezuela and not to President Roosevelt that credit was due for referring the case to arbitration; see Herbert W. Bowen, "Venezuela and The Hague," Independent, 20 December 1906, pp. 1472-74. President Roosevelt's role is upheld by former Secretary of State John W. Foster, "President Roosevelt and The Hague," Independent, 20 December 1906, p. 1472; also see The New York Times, 18 September 1904, p. 4. For the role of the United States and Mexico in rescuing the Hague Court from desuetude, see Adams, March, 4, p. 98. Also see W. S. Penfield, "The First Session of the Hague Tribunal," Independent, 27 November 1902, pp. 2808-11; and W. T. Stead, "The United States and Mexico at the Opening of the Hague Court," The American Monthly Review of Reviews, October 1902, pp. 419-24. For a suggestion that the Pious Fund Case was not the Court's first referral, see The New York Times, 27 December 1902, p. 3; and an earlier reference in 2 December 1902, p. 3.

³⁴Samuel J. Elder, "The Fisheries Arbitration at the Hague," New England Magazine, November 1910, p. 274.

³⁵These examples are merely a sample of the involvement of George Gray in the deliberations before the Tribunal of Arbitration. The complete transcripts are reprinted in Sen. Doc. No. 870, 61st Cong., 3d sess. (1910-11).

³⁶George Gray to Andrew Gray, 21 July 1910; photostatic copy provided by the Historical Society of Delaware. On his return trip, Judge Gray was able to work in some golf in Scotland; George Gray to Andrew Gray, 1 October 1910, in Folder 6, Box 3 at the Historical Society of Delaware. Other material in Box 3 include technical documents related to the Fisheries Case and related to the financial arrangements associated with the case, which were apparently bogged down by bureaucratic inefficiency.

³⁷Elder, "Fisheries Arbitration," p. 276. Peculiarly, likenesses of the American counsel were displayed on p. 268 and included George Gray who was, of course, an arbitrator, not a member of the counsel. Also see R. B. Mowat, The Diplomatic Relations of Great Britain and the United States (London: Edward Arnold & Company, 1925), pp. 309-10. The Court is praised editorially by The New York Times, 14 June 1910, p. 10; also see a related notice in 22 January 1910, p. 10; however, the Court is described as "the laughing stock of the world" by a member of the clergy quoted in 3 May 1915, p. 2; also see Woodrow Wilson's criticism of the work of the First Hague Conference in Roland N. Stromberg, "The Riddle of Collective Security," 1916-1920," in Issues and Conflicts: Studies in Twentieth Century American Diplomacy, ed. George L. Anderson (Lawrence: University of Kansas Press, 1959), pp. 154-55; and Albert Bushnell Hart's criticism of arbitration in his article, "World Courts or Conferences?" The New York Times, 23 January 1921, sec. 3, p. 9; scholarly and technical is L. Oppenheim's essay, "The Science of International Law: Its Task and Method," American Journal of International Law 2 (April 1908), pp. 313-56. John Bassett Moore acknowledges the contribution made in the Fisheries Case both by Judge Gray and by his political mentor. Thomas Bayard, who had earlier negotiated a treaty with Great Britain which had been rejected by the Senate; see his review article, "John Hay," p. 250. An excellent summary of the Court's first 21 cases is provided by Professor Hudson, "Permanent Court," pp. 447-58. Representative of the contemporary press accounts regarding arbitration are The New York Times, 7 November 1909, sec. c, p. 3; and "The Hague Court Works in War Time," Outlook, 8 March 1913, pp. 513-14. Extremely controversial was the decision rendered in a dispute between the United States and Norway; see James Brown Scott, "United States-Norway Arbitration Award," American Journal of International Law 17 (April 1923), pp. 287-90; "Award of the Tribunal of Arbitration between the United States of America and the Kingdom of Norway under the Special Agreement of June 10, 1921," American Journal of International Law 17 (April 1923), pp. 362-98.

³⁸Quoted by The New York Times, 2 June 1904, p. 6. The treaty had earlier received this paper's editorial support; 11 January 1904, p. 6. Also see related comment, 27 November 1904, p. 4.

³⁹Quoted by The New York Times, 17 December 1904, p. 2, which also provided the details of the rowdy assembly. For related accounts, see 1 May 1905, p. 4, and 12 February 1908, p. 4.

⁴⁰For the 1908 treaties and for earlier unsuccessful attempts by Secretary Hay, see Bemis, Diplomatic History, p. 428; for the Bryan treaties, see pp. 429-30; for the related Kellogg treaties, see pp. 728-29. The treaties are found in Sen. Docs. Nos. 91 and 92, 62d Cong., 1st sess. (1911). The relevant report of the Senate Foreign Relations Committee is found in Sen. Doc. No. 98, 62d Cong., 1st sess. (1911). Authoritative but controversial analysis of the terms of the treaties is provided by John B. Moore, "The Peace Treaties," Independent, 17 August 1911, pp. 344-46. The Taft treaties were opposed by Theodore Roosevelt and partially accounted for the alienation of the erstwhile friends; for a thorough analysis of the debate over Senate approval, see John P. Campbell, "Taft, Roosevelt, and the Arbitration Treaties of 1911," Journal of American History 53 (September 1966), pp. 179-98. Also see Leuchtenburg, "Progressivism and Imperialism," p. 491; Dulles, Imperial Years, p. 235; George E. Mowry, Theodore Roosevelt and the Progressive Movement (Madison: The University of Wisconsin Press, 1946), p. 307. Theodore Roosevelt wrote three relevant articles for the Outlook: "The Arbitration Treaty with Great Britain," 20 May 1911, pp. 97-98; "The Peace of Righteousness," 9 September 1911, pp. 66-70; and "A Proper Case for Arbitration," 14 October 1911, pp. 365-66. Also see the editorial: "Mr. Roosevelt, the Outlook and the Peace Treaties," Outlook, 23 September 1911, pp. 148-49. President Taft's defense of his diplomacy appears in W. H. Taft, The United States and Peace (New York: C. Scribner's Sons, 1914), p. 104; also see Henry F. Pringle, The Life and Times of William Howard Taft, 2 vols. (Hamden, Conn.: Archon Books, 1964), 2, p. 744. Relevant contemporary comment appears in The New York Times, 25 May 1911, p. 5, and 8 March 1912, p. 1; also see "A Review of the World," pp. 231-35. For a contemporary criticism of the Bryan treaties, see George W. Wickersham, "Our Compulsory Arbitration Treaties Should be Amended," The Annals 72 (July 1917), pp. 200-07.

⁴¹Quoted by Selig Adler, The Uncertain Giant: 1921-1941; American Foreign Policy between the Years (New York: The Macmillan Company, 1965), p. 293. Also see The New York Times, 23 June 1920, p. 17. Prior to the creation of the World Court, international lawyers had examined various alternatives to settlement by arbitration. Their efforts, usually of a technical nature, are represented by the following: William Cullen Dennis, "The Necessity for an International Code of Arbitral Procedure," American Journal of International Law 7 (July 1913), pp. 285-300; Elihu Root, "The Function of Private Codification in International Law," American Journal of International Law 5 (July 1911), pp. 577-89; Elihu Root, "The Real Significance of the Declaration of London," American Journal of International Law 6 (April 1912), pp. 583-94; Denys P. Myers, "The Origin of the Hague Arbitral Courts; II. The Proposed Court of Arbitral Justice," American Journal of International Law 10 (April 1916), pp. 270-314. Also see W. H. Taft's statement in The New York Times, 27 March 1914, p. 6; and the response of a critical editor, The New York Times, 30 March 1914, p. 8. For the Argentine effort, see Hudson, "Permanent Court," pp. 459-60; and Laurent Jully, "Arbitration and Judicial Settlement:

Recent Trends," American Journal of International Law 48 (July 1954), p. 381, n. 3. The distinctions between the two courts are examined by Charles Hodges, "Two World Tribunals," pp. 270-74; and by Carl L. W. Meyer, "Differences between the Two World Courts: The Permanent Court of Arbitration and the Permanent Court of International Justice." The American Review of Reviews, June 1927, pp. 629-34. Also see The New York Times, 11 February 1922, p. 2. Descriptions of the furnishings at the Peace Palace are provided by Claire Price, "Two World Courts Work Side by Side," New York Times Magazine, 21 November 1926, p. 3.

⁴²Quoted by The New York Times, 21 June 1921, p. 3. For earlier related notice, see The New York Times, 20 June 1921, p. 1. The Permanent Court of International Justice was established by Article 14 of the Covenant of the League of Nations which was in turn incorporated into the Treaty of Versailles. See Hunter Miller, Treaties and Other International Acts of the United States of America, pp. 3336ff; and Sen. Doc. No. 384, 67th Cong., 4th sess. (1922-23). For the details of the nomination and election process, see Articles 4 and 5 of the Statute of the Court; also see Coudert, "The United States and the Permanent Court," pp. 416-17.

⁴³See Raymond B. Fosdick, "Fosdick Arraigns Hughes on the League," The New York Times, 19 October 1924, sec. 9, p. 1. Throughout the Harding Administration, there was vague discussion of the formation of additional international assemblies in which the United States would participate. For the comment of the contemporary press, see The New York Times, 29 August 1920, p. 1; 22 October 1920, p. 3; 26 October 1920, p. 3; and 5 March 1921, p. 4. More detailed is the notice of 26 November 1921, p. 1. Also see 12 August 1923, sec. 7, p. 11. Correspondence related to the misplaced invitations is reprinted in The New York Times, 15 July 1922, p. 3; 19 July 1922, p. 2; 20 July 1922, p. 19. Authoritative comment is provided in two editorials by James Brown Scott in the American Journal of International Law: "President Harding's Foreign Policy," 15 (July 1921), pp. 409-11; and "The Foreign Policy of the United States," 15 (July 1921), pp. 232-34.

⁴⁴The New York Times, 19 July 1922, p. 2.

⁴⁵Charles Evans Hughes to Hamilton Holt, 19 July 1922; quoted by The New York Times, 20 July 1922, p. 19.

⁴⁶George Gray to Elihu Root, 13 September 1921; quoted by Fosdick, "Fosdick Arraigns Hughes," p. 5.

⁴⁷Fosdick, "Fosdick Arraigns Hughes," p. 5.

⁴⁸Bemis, Diplomatic History, p. 729. Also see The New York Times, 26 June 1923, p. 12. For examples of support for American adherence to the World Court, see William I. Hull, "The Permanent Court of International Justice as an American Proposition," The Annals 147 (July 1924), pp. 147-49; Edwin L. James, "Butler Decries League to

French," The New York Times, 4 January 1921, p. 3. Examples of the debate in the contemporary press are The New York Times, 6 December 1923, p. 7; 19 January 1924, p. 11; 23 May 1924, pp. 1 and 4; 3 April 1925, p. 13; 10 May 1925, pp. 1 and 16; 6 June 1925, p. 15; 4 October 1925, p. 27; editorial of 5 October 1925, p. 20. The debate attracted the participation of future president Franklin D. Roosevelt, "Our Foreign Policy," Foreign Affairs 6 (July 1928), pp. 581-82. In 1926, the Senate did approve a resolution of adherence, but attached so many reservations that it failed to have effect: see Meyer, "Differences between the Two World Courts," p. 629.

⁴⁹Technical comment relevant to international jurisprudence following World War II is represented by three articles by Kenneth S. Carlston, Professor of Law at the University of Illinois, all in the American Journal of International Law: "Procedural Problems in International ARbitration," 39 (July 1945), pp. 426-49; "Codification of International Arbitral Procedure," 47 (April 1953), pp. 203-50; "Draft Convention on Arbitral Procedure of the International Law Commission," 48 (April 1954), pp. 296-99. Criticisms of arbitration, especially of procedure, are represented by J. H. Ralston, The Law and Procedure of International Tribunals (Stanford University: Stanford University Press, 1926), pp. 191-213; M. O. Hudson, International Tribunals: Past and Future (Washington: Carnegie Endowment for International Peace and Brookings Institution, 1944), pp. 84-98; Frederick Kenelm Nielsen, International Law as Applied to Reclamations, Mainly in Cases between the United States and Mexico (Washington: J. Byrne & Company, 1933), pp. 67-69, 72-74; all cited by Carlston, "Procedural Problems," p. 426, n.3. Technical and detailed comparisons are provided by William D. Coplin and J. Martin Rochester, "Permanent Court of International Justice, the International Court of Justice, the League of Nations and the United Nations: A Comparative Empirical Survey," American Political Science Review 66 (June 1972), pp. 529-50. In recent years, use of the Permanent Court of Arbitration has greatly declined; see "Permanent Court of Arbitration: Circular Note of the Secretary General," American Journal of International Law 54 (October 1960), pp. 933-41.

CHAPTER VI

CONCLUSIONS

The advance of civilization is not by leaps and bounds,
and we have reasons for encouragement if we make a
measurable advance in the right direction.

George Gray

George Gray's irenic diplomacy was as multifarious as the opportunities for its application would permit. Beginning with his service on the Joint High Commission in Quebec, and continuing through the Paris Peace Conference, the Dominican arbitration, the North Atlantic Fisheries arbitration, the Mexican-American Commission, the Pan-American Scientific Congress, the Anglo-American International Commission for the Advancement of Peace, the Lake Mohawk Conferences, the Carnegie Endowment for International Peace, the American National Red Cross, the Smithsonian Institution, and the American Society of International Law, he demonstrated the considerable diversity of his efforts and his willingness to work with any institution which could contribute to world peace. As a senator, as a federal judge, and as a private citizen he was able to apply a diplomacy which associated the qualities of a career diplomat with those of a scholar and which therefore brought to the level of application an unusual combination of pragmatism and acumen.

George Gray's diplomacy, though varied, maintained a fixed destination regardless of the path chosen. The roads to peace were scattered, poorly marked, and characterized at every turn by detours

and dead ends. But if one road failed to advance the cause sufficiently, there was always another and another, and they all led, some directly and some indirectly, in the same direction--towards peace.

Proliferation of effort and fixity of purpose were but two of the qualities characterizing George Gray's irenic diplomacy. A third was practicality--a consciousness of limitations. As a successful politician and a respected judge, he could not allow himself the comforts of visionary excesses. Since he cherished no illusion that he was reforming the world, he could avoid the sense of crushing failure. Comparison with the tragic conclusion of Woodrow Wilson's career is inescapable. Never more evident than at the Paris Peace Conference, where he recognized the futility and the danger of opposing the imperialists, George Gray's sense of pragmatism prevailed. Here was recognition that compromise had its proper place; here was the fulfillment of the familiar prayer, in which the supplicant asks for the strength to change what he can, the patience to accept what he cannot change, and the wisdom to know the difference.¹

At the same time, this occasion also demonstrated yet another quality, his perspicacity. While others about him were predicting untold national wealth as a consequence of the acquisition of the Philippines, he anticipated losses: expenditures in behalf of the welfare of the Filipinos, appropriations to support an expanded military force, and bloody resistance to American rule. His support of arbitration was always tempered by the hope that it would move the world to a higher level of international cooperation--for example, to a World Court, a League of Nations. His support of these institutions

was similarly inspired by the hope that they too would be but steps upward on the ladder of international cooperation.²

George Gray's diplomacy--varied in its application, fixed in its direction, practical, and realistic--was a plea for moderation in an immoderate era. Swept along by the enthusiasm which followed the successful war with Spain, the Republic applied a foreign policy more internationalist than ever before. But it was the imperialist variety, not the irenic; it was the policy of expansionism, of Henry Cabot Lodge and Theodore Roosevelt, rather than of George Gray. Another generation would pass before American foreign policy acquired the maturity of restraint which George Gray counseled. In time, the expansionist urge would wane, the Filipinos would receive their independence, and American foreign policy would be marked by a greater commitment to the irenic settlement of international disputes.

Americans who were slow to recognize the merits of irenic internationalism showed less reluctance in accepting the merits of its chief advocate. Of all his contemporaries, it is doubtful if anyone at his level of public service could command the public trust to the extent that George Gray did. As a politician he had opponents; as a lawyer he had adversaries; but as an irenic diplomat he had no enemies. His magnanimity was compared to Lincoln's and accounts for his remarkable success in dealing with the broadest range of public officials--such as the series of presidents, Cleveland, McKinley, Roosevelt, Taft, Wilson. If a common cause in the interests of peace could be attained, party labels and class distinctions evaporated. In the tradition of George Washington, George Gray could rise above partisan considerations

and could move comfortably and freely in a rarefied atmosphere known only to a few in the nation's history.

The immense popularity of George Gray in his own time and the high regard in which he was held by his contemporaries provide a peculiar contrast to the later obscurity of his name. Skeptical of the contribution of any figure not associated with high political office, the student of a later generation may hesitate to accord to George Gray the full credit which he merits. To be sure, his public career, brilliant and productive as it was, was also that of a human being, and there were occasions, rare indeed, when his behavior was a disappointment to his admirers. His impatience toward his colleagues during the difficult days in Paris is an obvious example. Of equal certainty, there were contemporaries whose respect was guarded. For them, George Gray's courage and steadfastness were better described as stubbornness; his ability to discontinue futile resistance and to capitalize from reverses they felt was indecision. His integrity, however, they would concede. Undoubtedly, most of George Gray's contemporaries formed a well-balanced picture of him, and only a few of his supporters would ascribe to him the capacity for walking on water. What is of importance here is that his detractors would be likely to concede the same talent, though with the qualification that it probably meant he could not swim. In writing a multivolumed history of the state of Delaware, a contemporary historian reached this conclusion:

Could the verdict of all classes within the borders of the Diamond State irrespective of party affiliations be had, a consensus of opinion would undoubtedly nominate George Gray to the post of honor of Delaware's first living citizen."³

The generation of George Gray was crowded with giants of American history, and the historian who is attracted to the drama and sweep of these commanding figures can easily be forgiven for passing over personalities of a reticent nature. The attention of the student, whether lay or professional, is more often attracted by the blustering personality of Theodore Roosevelt with his Rough Riders and his African safari, by Henry Cabot Lodge with his New England efficiency and aloofness, by William McKinley with his Midwestern affability and tragic demise, by Woodrow Wilson with his League of Nations, and by John Hay with his splendid little war. All of these, as well as William Jennings Bryan, William Howard Taft, and Andrew Carnegie, have been so exhaustively treated that they appear as stereotypes to the general public. The historian's craft, when properly applied, will go beyond these towering names to others of equal merit and, in doing so, will contribute to the image of the obscure without detracting from that of the famous.

If, in recounting the life and career of George Gray, the result takes on a hagiographical appearance, it is a natural consequence the appropriateness of which is accorded nearly unanimous recognition. Although there are many selections from which to choose, the following excerpt, written by a historian shortly after George Gray's death, is atypical only because of its eloquence:

The modesty with which he bore his honors, his untiring helpfulness to his fellow-men, his forgiving disposition, the gentleness as well as justice of his judgments and estimates of others, the courage which which he followed his convictions, the purity of his private and public life, and all the qualities which were his and which are tributary to the character of a gentleman, have left the impress of his character and personality upon the history and people of his generation.⁴

As he announced his retirement, effective June 1, 1914, George Gray could look forward to days of comparative ease. He would return to the Wilmington law firm of Ward, Gray, and Neary, of which his son Andrew was a member, and of which he had also been a senior member 15 years earlier, prior to his appointment to the bench. Now in his 74th year, with the active years of his public service behind him, he could enjoy a leisurely schedule of correspondence interrupted with an occasional speaking engagement. With friends and colleagues he could reminisce at length about the days in Congress or diplomatic activities abroad.⁵

It was a reasonable expectation, of course, but it was not to be reality. The year 1914 was not good for irenic diplomats. George Gray was called to serve as a delegate to the 1915 Pan-American Scientific Congress and again in 1916 to serve on the Mexican-American Commission. In addition, he continued his active participation in several of those organizations which he had served before his retirement. Hence, the next 11 years were but an extension of his earlier personal life. ". . . Still straight as an arrow," and unbent by the weight of time, he combined ". . . with the dignity that is always becoming to a leader of men a human sympathy that makes him a delightful companion."⁶ He continued his law practice until the night of January 2, 1925, when he was stricken with a severe chill while at his office. A general physical breakdown followed and even pneumonia threatened for a while. The public was informed on January 30 that there was practically no hope, and that the doctors feared he would not last another night.⁷ But he did--in fact, he lived for several months. His strength, the result of a lifetime of good health habits,

began slowly to return, and he was able to move about the house, to receive visitors, and to take car trips.

It was, as he must have known, only a temporary reprieve. The end came late in the afternoon of Friday, August 7. Wilmington's Mayor Forrest ordered the flags to be flown at half-mast for a week, and all business activities were suspended during the funeral services on the following Monday. In keeping with his lifestyle, the services, attended by a capacity crowd, were conducted with simplicity. A private interment followed at New Castle, where he was laid to rest next to the two sisters who had shared his life.⁸

The New York Times, which had consistently supported the career and aspirations of George Gray, provided him with a eulogy which stands in stark relief next to the coarse image usually associated with metropolitan journalism:

There are a hundred noisier names. George Gray never reached, outside of the Senate, any shining permanent place to concentrate upon him the minds of his countrymen. We should not forget, however, that before he absorbed himself in those judicial duties, official and extra-official, which best correspond to his impartial mind and intellectual habit, he was, for fourteen years, one of the glories of a Senate rich in illustrious names that haven't faded. He knew much more than the law. . . . Devoid of rhetoric, he had the authority of reason. . . .

If we lose in him perhaps the last notable, if not popular, figure of Mr. Cleveland's time, we keep through him faith in that nobler citizenship, that unselfish, unadvertised high public service, which is the guarantee of the continuation of the American polity. These things transcend infinitely political notoriety and billboarding.⁹

Younger and stronger hands would take up George Gray's unfinished work, a continuation of a tradition that stretched back through hundreds of generations--through thousands of years--through all nations--

through all races and classes of men--to the vision of Isaiah: ". . .
And they shall beat their swords into plowshares, and their spears
into pruning-hooks; nation shall not lift up sword against nation,
neither shall they learn war any more."

ENDNOTES

¹Especially indicative of George Gray's balanced view toward the effectiveness of irenic institutions was his reply to a query regarding the likelihood for universal peace, posed by a popular monthly; although most of the replies reflected cautious optimism, galimatias was also present. Other prominent respondents included Woodrow Wilson, Charles W. Eliot, Oscar Straus, and John W. Foster; see "Prospects for Permanent Peace," pp. 157-64.

²For George Gray's support of the League of Nations, see The New York Times, 10 January 1920, p. 2, and 16 June 1920, p. 2.

³Henry C. Conrad, History of the State of Delaware, 3 vols. (Wilmington, Del.: published by the author, 1908), 3, p. 1009.

⁴Bevan, History of Delaware, 3, p. 198.

⁵The announcement of Judge Gray's retirement appeared in The New York Times, 24 March 1914, p. 3. A message of appreciation from President Wilson was reprinted in The New York Times, 30 May 1914, p. 10.

⁶Abbott, "Little Delaware," p. 529.

⁷The New York Times, 30 January 1925, p. 17. For related comment, see the following issues: 22 January 1925, p. 19, and 24 January 1925, p. 13.

⁸Ibid., 6 August 1925, p. 19; 7 August 1925, p. 15; 8 August 1925, p. 11, and 11 August 1925, p. 21.

⁹Ibid., 9 August 1925, sec. 2, p. 2. Also see "George Gray of Delaware," Outlook, p. 545.

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