

HULDE AAN PROF. H. B. THOM*

Waar die *Historiese Genootskap van Suid-Afrika* hier hulde bring aan prof. Thom, daar is dit met die besef dat hy reeds van baie ander sye hulde ontvang het na aanleiding van sy aftrede as rektor van die Universiteit van Stellenbosch en sy aanvaarding van die voorsitterskap van die Nasionale Onderwysraad van Suid-Afrika. Daarom besef ons dat wat in hierdie huldigingswoord gesê word, reeds voorheen by meer as een geleentheid gesê is en dat die gegewens wat hier verstrekkend word oor sy loopbaan en prestasies reeds voorheen onder die aandag gebring is. Tog mag dit die *Historiese Genootskap* nie daarvan weerhou om ook sy erkentlikheid teenoor die werk van prof. Thom te betuig nie. Aangesien dit hier van die *Historiese Genootskap* kom, is dit ook te begryp dat die aksent op prof. Thom as historikus val.

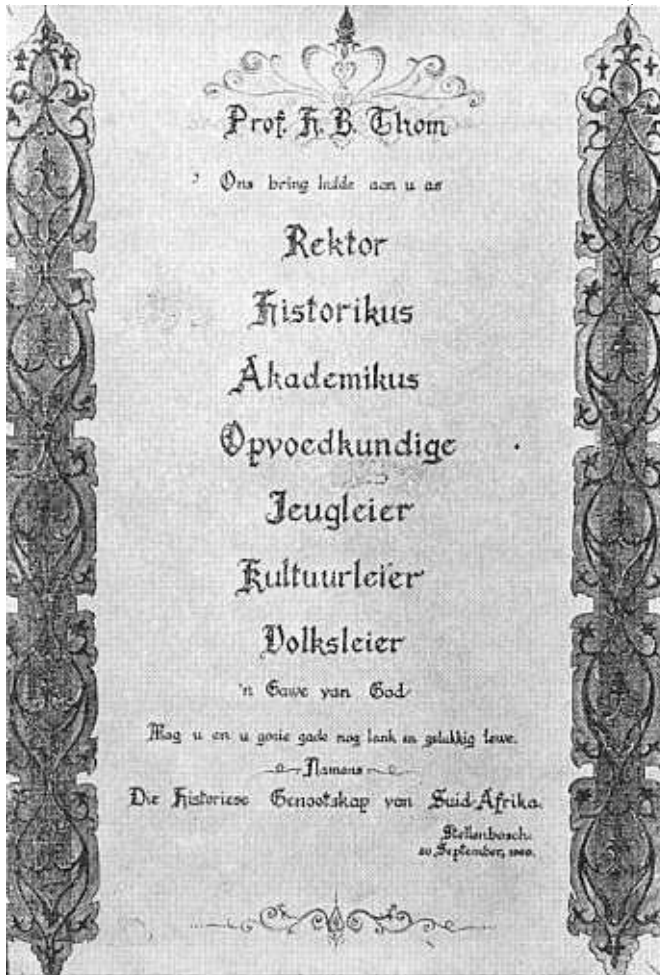
Gebore in die distrik van Aliwal-Noord op 13 Desember 1905 as seun van mnr. J. B. Thom en mev. E. J. Thom (gebore Coetzee), deurloop hy die hoërskool op Burgersdorp waar sy vader later aangestel is as skoolhoof en slaag sy matrikulasiëksamen aldaar in die eerste klas. Sy universitêre opleiding geniet hy op Stellenbosch, 1924-1928, B.A. en M.A., albei met onderskeiding, en in Europa van 1928 tot 1930 aan die Friedrich Wilhelm-Universiteit in Berlyn en die Sorbonne-Universiteit in Parys. Intussen het hy sy proefskrif voltooi en verkry die D.Phil.-graad in Geskiedenis aan die Universiteit van Stellenbosch onder die promotorskap van prof. W. Blommaert in Desember 1930.

Sedert Januarie 1931 is hy aan die Universiteit van Stellenbosch verbonde, eers as lektor (in Geskiedenis) 1931-1934; daarna senior lektor 1935-1936, daarna professor 1937-1953 en toe as rektor van 1954 tot Desember 1969. As dosent in Geskiedenis het prof. Thom ongetwyfeld liefde vir die vak gewek by 'n groot aantal studente wat aan sy voete gesit het, oor 'n periode van drie-en-twintig jaar; maar ook daarna terwyl hy rektor was en in beslag geneem is deur talryke pligte van uiteenlopende aard, het hy nooit ver van die Geskiedenis af beweeg nie. Steeds het hy hom met toewyding besig gehou met die dinge wat met die Vaderlandse verlede in verband staan.

As geskiedskrywer het prof. Thom 'n blywende plek in die Suid-Afrikaanse historiografie verower. Na sy proefskrif oor *Die Geskiedenis van skaapboerdery in Suid-Afrika* (Amsterdam, 1936) is dit veral *Die lewe van Gert Maritz* (Kaapstad, 1947, nuwe uitgawe 1965) wat algemene aandag getrek het en waarvoor hy in 1952 die Stalsprys van die *Suid-Afrikaanse Akademie vir Wetenskap en Kuns* ontvang het. Dit word vandag beskou as een van die standaardwerke oor die periode van die Groot Trek. Ook *Die Geloftekerk en ander studies oor die Groot Trek* (Kaapstad 1949) was 'n besliste bydrae tot ons kennis van hierdie belangrike fase in ons volksgeskiedenis.

*Aangebied deur prof. F. J. du T. Spies tydens die Jaarvergadering van die *Historiese Genootskap*, Stellenbosch, 20 September 1969.

Benewens bogenoemde historiese werke was prof. Thom die uitgewer van *Willem Stephanes van Ryneveld se aanmerkingen over de verbetering van het vee aan de Kaap de Goede Hoop* (Kaapstad, 1942 — V.R.V.-uitgawe Nr. 23), wat hy van 'n inleiding en voetnote voor-



Ererol oorhandig aan prof. H. B. Thom deur die Historiese Genootskap van S.A. op 20 September 1969.

sien het. 'n Mens neem aan dat hy met hierdie bron kennis gemaak het reeds toe hy aan sy proefskrif oor die skaapboerdery gewerk het. Ook was hy mede-uitgewer van die *Daghregister van Jan Antonisz van Riebeeck* (Kaapstad 1952-1958), daardie pragtige driedelige werk wat vandag ons boekrakke versier. Sy bydrae was die uitgebreide historiese aan-

tekeninge wat onontbeerlik is vir 'n beter begrip van die *Daghverhaal*. Later het prof. Thom ook 'n aandeel gehad in die uitgawe van die gedenkboek van sy Universiteit; *Stellenbosch 1866-1966*, terwyl hy ook bygedra het tot dié deel van die *Nasionale Biografiese Woordeboek* wat reeds verskyn het. Hy is trouens ook lid van die beheerraad daarvan.

Talryke van sy korter geskrifte, gepubliseerde toesprake en tydskrifartikels het ook op die geskiedenis betrekking. Ons noem net 'n aantal: *Die boodskap van 'n honderd jaar* (feesrede, Burgersdorp, 1947), *Jannie Marais* (1950), *Dr. Malan se familie* (*Die Huisgenoot*, 25.5.51), *Vertalers van die Dagverhaal moes wakker loop* (*Die Huisgenoot*, 7.3.52), *Behoud van geestelike waardes in Suid-Afrika* (*Tydskrif vir Wetenskap en Kuns*, Okt. 1956), *Dr. D. F. Malan se nalatenskap* (*Die Huisgenoot*, 3.12.65), *Ons volk en sy geskiedenis* (*Vrouevolksdiens*, 1967).

Prof. Thom was en is lid (in verskeie gevalle voorsitter of ondervoorsitter of bestuurslid) van talle verenigings of liggame wat met die geskiedenis in verband staan, onder andere: *Die Linschoten-Vereniging*, *The Hakluyt Society*, *Die Van Riebeeck-Vereniging*, *Die Simon van der Stel-stigting*, die *F.A.K.* (waarvan hy sedert 1952 voorsitter is), *Die Kaapse Drie eeue-stigting* (ondervoorsitter sedert 1954), *Die Trusteeraad van die S.A. Nasionale Museum*, *Die Suid-Afrikaanse Museum*, *Die Sentrale Volksmonumente-komitee*, *Die Kruger-Sterfhuis-komitee*, *Die Kultuur-historiese Museum*, *Die Argiefkommissie*, *S.A.B.R.A.*, *Die Historiese Monumente-kommissie* en nog verskeie ander.

Prof. Thom was dikwels nou verbonde aan volksfeeste en het o.a. erepenninge ontvang vir sy aandeel aan die Voortrekkereuefees (1938), die inwyding van die Voortrekkermonument (1949) en die Uniefees (1960). Hy is 'n gesogte spreker by talryke geleenthede.

Waar prof. Thom nou 'n leidende posisie gaan beklee in verband met die onderwys, glo ons dat hy sy belangstelling in die Vaderlandse geskiedenis nie sal verloor nie en dat hy veral 'n wakende oog oor die geskiedenis-onderrig op ons skole sal hou. In hierdie taak sal hy altyd kan reken op die steun van die *Historiese Genootskap van Suid-Afrika*. Ons wens hom geluk met die onderskeiding. Ons wens hom seën en voorspoed toe op die werk wat voorlê.

THE HAGUE CONVENTION OF 1899 AND THE BOER REPUBLICS

The First Hague Convention was signed by representatives of twenty-four states on 29 July 1899.¹ Less than three months later, Britain became the first signatory of the Convention to be involved in war. Historians of the Second Anglo-Boer War, who have not ignored the Hague Convention altogether, have either assumed that there was no doubt that the Convention did apply to the war of 1899-1902,² or have maintained that the Hague laws and customs of war were not relevant to that particular conflict, as the Boer republics were not signatories of the Convention.³ It cannot be said, however, that historians of either persuasion have subjected the circumstances or indeed the terms of the Hague Convention to a particularly close analysis.

The conference which drafted the Convention of 1899 met as a result of proposals made on 24 August 1898 in the name of Tsar Nicholas II by the Russian Minister of Foreign Affairs, Count Muravieff, to all powers which had diplomatic representatives at St. Petersburg. The proposals stated that a conference should be summoned to discuss the most effective methods of securing the continuance of general peace, and of putting some limit on the constant increase of armaments.⁴ On 11 January 1899, a second note was issued by Muravieff, which suggested that questions concerning "the political relations between States and the order of things established by Treaties" should be excluded from the deliberations of the conference.⁵ As it was not considered desirable that the conference should meet in any of the capitals of the Great Powers, it was decided that it should be held at the Hague and that invitations would be issued by the Netherlands Minister of Foreign Affairs.

Invitations to attend the conference were issued to all governments which had regular diplomatic representation at St. Petersburg, and also to Luxemburg, Montenegro and Siam, but neither the South African Republic nor the Orange Free State received invitations.⁶ Did the international status of the republics prevent them from being parties to multi-nation agreements, such as the Hague Convention? The Orange

1. C. 800 of 1901: *International Convention with respect to the Laws and Customs of War by Land*, pp. 19-20.
2. See for instance: J. H. Breytenbach, *Die Tweede Vryheidsoorlog, II. Ontplooiing van die Boere-Offensief Oktober 1899*, Cape Town, 1949, pp. 204-212, 332; J. C. Otto, *Die Konsentrasiekampe*, Cape Town, 1954, pp. 1-3, 6, 9, 11, 18, 21, 34, 103, 129, 169; E. Holt, *The Boer War*, London, 1958, p. 116.
3. See for instance, L. S. Amery (ed.), *The Times History of the War in South Africa 1899-1902*, ii, London, 1902, p. 274 n. This view also receives support from the author of one of the standard works on international law, T. J. Lawrence, *The Principles of International Law*, Fourth edition, London, 1911, p. 448.
4. G. P. Gooch and H. Temperley (eds.), *British Documents on the Origins of the War. The End of British Isolation*, London, 1927, Nos. 261, 262, 269.
5. *Ibid.* No. 275.
6. F. W. Holls, *The Peace Conference at the Hague and its Bearings on International Law and Policy*, London, 1900, p. 34.

Free State was not always treated by Britain as a fully independent sovereign state: in 1876, for example, when President J. H. Brand went to London in connexion with the diamond fields he addressed himself to the Foreign Office, but the British government informed him that he would have to deal with the Secretary of State for the Colonies.⁷ Nor did other states always recognise the Orange Free State's independent status: when Dr. H. P. N. Muller, that state's Consul-General in Europe, inquired in 1899 whether the Orange Free State would receive an invitation to the Hague Conference, the Netherlands Foreign Office suggested that he should approach the British Government to ascertain whether it would be agreeable.⁸ Nevertheless no formal limitations whatsoever had been imposed on the treaty-making powers of the Orange Free State by the Bloemfontein Convention of 1854, and there can be no doubt of that state's independent status in the eyes of international law.

The South African Republic's treaty-making powers had been limited by the London Convention of 1884,⁹ but there was a precedent for her adherence to an international convention similar to the Hague Convention. In 1896 when the government of the South African Republic notified the Swiss government of its accession to the Geneva Convention of 1864, the British government reprimanded the republican authorities, but did not withhold its approval.¹⁰ Britain's objection was therefore not based on the argument that the South African Republic's adherence to the Geneva Convention *per se* was contrary to the terms of the London Convention. In fact, Joseph Chamberlain, the Secretary of State for the Colonies, had himself suggested that the republic should accede to the Geneva Convention and he only issued his reprimand when he was informed that the Transvaal authorities had not acted on his suggestion as they had not received his message; they had acted on their own without obtaining the prior approval of the British government.¹¹ This Chamberlain considered to be a violation of Article IV of the London Convention, the relevant portion of which stated: "the South African Republic will *conclude* no agreement or engagement with any state or nation other than the Orange Free State . . . until the same has been approved by Her Majesty the Queen . . . (the) copy of such a treaty . . . shall be delivered to . . . (Her Majesty's Government) immediately upon its *completion*."¹² From the above it should be clear that Article IV did not stipulate that the British government's approval had to be

7. C. W. de Kiewiet, *The Imperial Factor in South Africa. A Study in Politics and Economics*, Cambridge, 1937, pp. 87-88.

8. F. J. du T. Spies, *'n Nederlander in Diens van die Oranje-Vrystaat*, Amsterdam, 1946, p. 93.

9. C. 3914 of 1884: *A Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the South African Republic*, Article IV.

10. C. 8423 of 1897: *Further Correspondence relating to Affairs in the South African Republic*, No. 88.

11. *Ibid.*, Nos. 65, 88.

12. C. 3914, Article IV. (My emphasis).

obtained before the South African Republic could *participate* in an international conference; that approval was only required when a treaty was *concluded* or *completed*.

It cannot therefore be maintained that the status of the Boer republics precluded them from participating in the Hague Conference and one must look elsewhere for an explanation of their non-representation. The Netherlands Minister of Foreign Affairs, W. H. de Beaufort, in considering whether the Boer republics should be invited, consulted Muravieff and the German Foreign Secretary, Von Bülow. They were both of the opinion that the presence of representatives from the republics at the conference would not be acceptable to the British government and that if they were invited, Britain might refuse to be represented at the Conference.¹³ According to the Irish politician, journalist and Boer sympathizer, Michael Davitt, who quoted one of the French delegates as his source, Britain " . . . gave the representatives of the other Powers the choice between a British or a Boer attendance at the Conference."¹⁴ This may have been implied, but there does not appear to be any other evidence that the British government stated its views on the matter so explicitly and indeed it was not necessary for them to do so. When a question was asked in the House of Commons in May 1899, whether Britain was opposed to the presence of the Boer republics at the Hague Conference, the Under-Secretary of State for Foreign Affairs, St. John Brodrick, replied that no such proposal had been made and thus the question did not arise.¹⁵ The Boer governments made no official attempt to secure an invitation, in the belief that a refusal would be a diplomatic setback for the republics, and as far as the South African Republic was concerned, that it would give the British government a further opportunity to raise the matter of suzerainty.¹⁶ The republics were not invited because the Netherlands and other powers believed that if they were, Britain would take umbrage and would refuse to attend the Conference; as the republics did not force the issue, the matter was taken no further.

The Conference which met from 18 May to 29 July 1899, did not succeed in outlawing war or bringing about disarmament but it did draft *The Convention with Respect to the Laws and Customs of War*. The Convention proper consisted of five articles which laid down the conditions of adherence to the regulations, or laws, or customs of warfare, which were set out in an annexure. These regulations consisted of sixty articles which were divided into the following four sections:—"On Belligerents"; "On Hostilities"; "On Military Authority over Hostile

13. Spies, *op. cit.*, pp. 94-95; P. R. Botha, *Die Staatskundige Ontwikkelinge van die Suid-Afrikaanse Republiek onder Krüger en Leyds*, Amsterdam, 1925, p. 672; G. D. Scholtz, *Europa en die Tweede Vryheidsoorlog*, Johannesburg, 1939, pp. 35-36.

14. M. Davitt, *The Boer Fight for Freedom*, New York, 1902, p. 46.

15. Spies, *op. cit.*, p. 94.

16. *Ibid.* pp. 93, 95; Botha, *op. cit.*, p. 673.

Territory"; "On the Internment of Belligerents, and the Care of the Wounded in Neutral Territory". In addition there were three so-called declarations, which were not part of the regulations. These prohibited: the throwing of projectiles and explosives from balloons or by other new analogous means; the use of projectiles having as their sole object the diffusion of asphyxiating or deleterious gases; and the use of bullets which expanded or flattened easily in the human body. The declarations were not accepted by all the states which signed the Convention; the British delegates refused to agree to any of them.¹⁷

To what extent can the Hague regulations be used to pass judgement on the conduct of the Anglo-Boer War? Article 2 of the Convention stated that: "The provisions contained in the Regulations . . . are binding only on the Contracting Powers, in case of war between two or more of them. These provisions shall cease to be binding from the time when, in a war between Contracting Powers, a Non-Contracting Power joins one of the belligerents".¹⁸ Article 4 stated: "Non-Signatory Powers are allowed to adhere to the present Convention. For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification addressed to the Netherlands Government, and by it communicated to all the other Contracting Powers".¹⁹ On the face of it therefore the Hague Convention was not relevant as far as the Anglo-Boer War was concerned, since the republics did not sign the Convention, nor did they formally notify the Netherlands Government of their intention to adhere to it.

What criteria then can be applied to the way in which the Anglo-Boer War was conducted? It cannot surely be maintained that no civilized customs of war can be used to establish one's verdict on the methods employed in that conflict, for apart from all else, the protests made by both sides during the war objecting to certain military actions of the enemy, were almost without exception based on what was usually referred to as "the customs of civilized warfare". In replying to the allegations made, neither the Boer commanders, nor Lord Roberts and subsequently, Lord Kitchener, ever claimed that such customs of waging war did not apply to that particular struggle. On the contrary, they invariably tried to justify their actions — not always very successfully — within the framework of those customs.²⁰

The "customs of warfare" referred to, could only have been those customs accepted by the majority of civilized states at the end of the nineteenth century. But surely those customs were embodied in

17. C. 800.

18. *Ibid.*, p. 18.

19. *Ibid.*, p. 19.

20. See for example: C. 35 of 1900, *Correspondence with the Presidents of the South African Republic and the Orange Free State, March 1900*; C. 461 of 1901, *Army Correspondence between Field Marshal Lord Roberts and acting Commandant-General Louis Botha, June 1900*; C. 582 of 1901, *Correspondence etc. between the Commander-in-Chief in South Africa and the Boer Commanders so far as it affects the destruction of property*.

the Hague regulations. The regulations could hardly have been anything other than a reflection of the views of the powers participating in the conference. Considered in this light, although the Hague Convention might not have been binding on the belligerents in a formal sense, the principles embodied in that document are relevant.

This interpretation was also accepted by Major-General Sir John Ardagh, the Director of British Military Intelligence during the war, and the British delegation's expert on land warfare at the Hague Conference. Ardagh played no small part in drafting the Hague regulations and his views must carry considerable weight.²¹ Towards the end of 1901 he compiled a memorandum in which he made the following statements:— ". . . the Boers have not acceded formally to the Hague Convention and its provisions are not binding technically, in a war between a contracting and a non-contracting power; the consequence of this condition is, to relegate . . . what is not permissible, to the general body of International Law, in which principles identical with the above have for many years been incorporated. For practical purposes, therefore, the Hague Convention may properly be appealed to by both sides."²²

At least one writer on international law, while agreeing that "the standards of ordinary belligerent propriety" should determine one's view of the actions of the belligerents in the Anglo-Boer War, goes on to assert that those standards fall short of the provisions of the Hague Convention, otherwise no convention would have been needed.²³ This, however, is a specious argument. The Hague regulations, as admitted by Ardagh, simply formulated in black and white, what was generally accepted as far as certain aspects of methods of warfare were concerned. There is no evidence that any radically new concept of waging war was incorporated in or prohibited by the regulations (as distinct from the declarations) and the mere fact that the Convention was deemed necessary, cannot surely be regarded as implying that its provisions went further than those which had been accepted hitherto. In fact, if anything, the Hague Convention did not go as far as some of the hitherto accepted customs of civilized warfare. This was made clear in a statement issued by the sub-committee which drafted the regulations. It was stated ". . . that in cases not included in the Regulations . . . populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the law of humanity, and the requirements of the public conscience."²⁴ But, of course, even if the Hague regulations had gone further than those accepted hitherto, they still, as

21. On Sir John Ardagh see S. Ardagh (Countess of Malmesbury), *The Life of Major-General Sir John Ardagh*, London, 1909.

22. *Ardagh Papers* (Unclassified Papers found in the Public Record Office). Microfilm A. 422 in the Transvaal Archives, Pretoria.

23. T. Baty, *International Law in South Africa*, London, 1900, p. 79.

24. C. 800, p. 16.

has been pointed out, embodied the standards which were accepted in 1899. What else could they have embodied? The conduct of the Anglo-Boer War then, has to be judged according to those principles.

Furthermore there is little doubt that contemporary assessments of the morality or otherwise of the actions of the belligerents, were based to a large extent on these principles, for apart from the extreme view expressed to Ardagh in South Africa in 1902 by a British officer that "war is war and humanity is rot",²⁵ the Hague Convention was the yardstick used to judge the conduct of the war.²⁶

S. B. Spies.

25. *Ardagh Papers*, Microfilm A. 422: Ardagh to H. Farnall, April 1902. (The exact date is not cited).

26. See for instance: E. Hobhouse, *The Brunt of the War and where it fell*, London, 1902, p. xiii; W. T. Stead, *How not to make Peace*, London, 1900, pp. 5-12; H. J. Ogden, *The War against the Dutch Republics in South Africa: Its Origin, Progress and Results*, London, 1901, pp. 110, 313. It is also interesting to note that Kitchener cabled to London on 30 May 1901 asking that a copy of the Hague Convention should be sent to him. *Journal of the Principal Events connected with South Africa*, X, p. 27, 0103/1679.