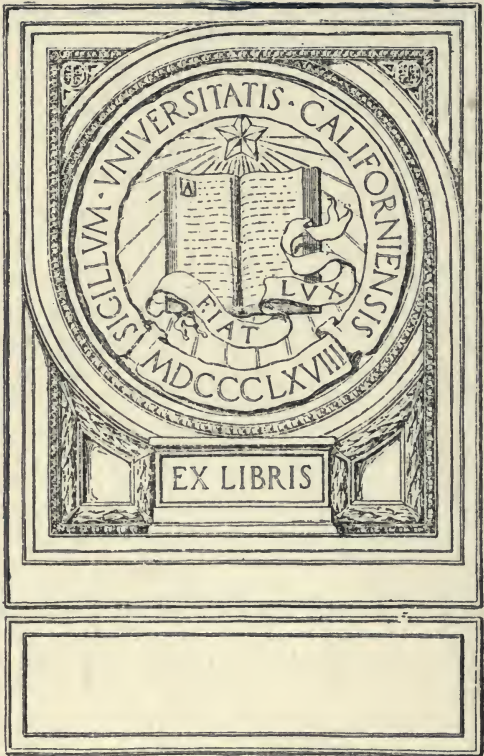


UC-NRLF



QB 590 452





EX LIBRIS



THE FOURTEENTH POINT



THE FOURTEENTH POINT

A STUDY OF THE LEAGUE
OF NATIONS

Prepared for the Garton Foundation

BY

C. ERNEST FAYLE

Author of "The Great Settlement"



LONDON
JOHN MURRAY, ALBEMARLE STREET, W.
1919

JX 1975
F3

ALL RIGHTS RESERVED

TO WHOM
IT MAY COME

14. *A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political and territorial independence for great and small States alike.*—President Wilson's Message to Congress, January 8th, 1918.

They [the Allied Governments] associate themselves whole-heartedly with the plan to create a League of Nations to ensure peace and justice throughout the world.—The Allied Governments to President Wilson, January 1917.



Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

PREFACE

AT the present moment the idea of the League of Nations dominates all other questions of international politics. The principle has been accepted as a basis of the Peace, but the widest divergence of views still prevails as to what is desirable, and still more as to what is practicable, in the way of its immediate application.

In the very difficult task which is set before them, the statesmen of the world, and of the Allied nations in particular, will need above all things the support of an active public opinion which is conversant not only with the various schemes which have been put forward, but with the issues which they raise and the arguments by which they are supported.

It is in this belief that the Directors of the Garton Foundation have sanctioned the issue of this essay under their auspices. For the opinions expressed the author

bears the sole responsibility, but the Directors are willing that this work should be put forward by the Foundation as a contribution to the discussion which, whatever its own value, may serve to stimulate further inquiry.

The literature of the League of Nations is already voluminous, and the author wishes to acknowledge his debt to many of those who have already written on the subject, especially to those who have most generously assisted him with advice and criticism. He trusts, however, that both in his constructive suggestions and in the analysis of existing conditions on which they are based the reader will find enough that is new to repay perusal.

CONTENTS

CHAPTER I

THE NATURE OF THE PROBLEM

The League of Nations as a Concrete Proposal—The Emergence of the Idea—The Psychology of the War—The Actualities of War—Armaments and National Life—Victory and Security—The Balance of Power—Guaranteeing the Settlement—International Rationing—The Necessity of Practical Discussion . . . pp. 1-25

CHAPTER II

THE COMMUNITY OF NATIONS

What a Community Means—The Community and the Individual—Co-operation and Freedom—Is there a Community of Nations?—The Struggle for Existence and the Doctrine of Necessity—False Analogies from Biology—Co-operation the Basis of Development—Why a League of Nations has been impossible hitherto—The Growth of International Contacts—Their Present Limitations—The Concert of Europe—The Situation To-day . . . pp. 26-47

CHAPTER III

THE DANGERS OF PREMATURE
ORGANISATION

The Danger of Analogies from National Institutions—Organisation the Expression rather than the Cause of Progress—The Evolution of Municipal Law—Early Forms of Sanction—The Community of Nations still in a Rudimentary Stage—Danger of Overleaping Intermediate Stages—Analogy from Formation of the United States Suggestive but Imperfect—Necessity of following the Lines of Natural Development . . . pp. 48-65

CHAPTER IV

THE ESSENTIAL MINIMUM

Summary of Foregoing Analysis of Conditions—The Essential Minimum involves Three Great Steps in Advance—Machinery for Constructive Co-operation between the Nations—Limitation of the Right of Nations to seek their own Redress—Co-operation to enforce the Common Will—The Machinery should be Simple and Elastic—Attempts to create an International Legislature Premature—Functions of the Council in Consideration of International Problems and in Settlement of Disputes—Difficulty of establishing an International Police—The Sanctions to be provided . . . pp. 66-87

CHAPTER V

SUGGESTIONS FOR A TREATY

Membership of Council—Moratorium for Disputes—Arbitration, Commissions of Inquiry, Conciliation—Default—Sanctions—Exceptions—Disputes with Non-signatory Powers—Other Functions of the Council—Treaties—Fiscal Arrangements—Withdrawals . . . pp. 88-108

CHAPTER VI

THE QUESTION OF DISARMAMENT

Limitation of Armaments not a Condition Precedent to the Formation of the League—The Difficulties of Delimitation and Supervision—Armaments not a Disease, but a Symptom—How Reduction of Armaments will follow the Creation of the League—The Freedom of the Seas

pp. 109-124

CHAPTER VII

THE LEAGUE IN BEING

Relation of the League of Nations to the Peace Conference—The Question of the Central Powers—The League of Nations and Security—If the League is to be Vital it must be Constructive—Its Immediate Tasks—Guarantees of the Settlement—Undeveloped Territories—Economic Problems—Some Subjects for the Subsequent Agenda—The Development of International Machinery—The Relation of Internal and External Problems—The Two Essentials, Faith and a Sense of Realities

pp. 125-140



THE FOURTEENTH POINT

CHAPTER I

THE NATURE OF THE PROBLEM

WITH the general acceptance of President Wilson's "Fourteen Points" as the basis of negotiations, the idea of a League of Nations has emerged from the stage of theoretical discussion into that of practical politics. So early as January 1917 the Allied Governments, in reply to the President's invitation to formulate their war aims, stated that "they [the Allied Governments] associate themselves wholeheartedly with the plan to create a League of Nations to ensure peace and justice throughout the world." The consent of the enemy Powers to co-operate in the formation of such a League has since been demanded and obtained, as an essential

2 THE NATURE OF THE PROBLEM

condition of any cessation of hostilities. Whatever course the discussion of the settlement may take, it is clear that the idea of a League of Nations may now be regarded not as an abstract proposition, the subject of academic study, but as a concrete proposal to be considered in the closest relation to the facts of the existing international order.

The gradual emergence of the idea of a League of Nations has been by far the most notable phenomenon in the development of political thought during the four and a half years of the war. In one of the very earliest public announcements of the war aims of the Allied Governments, Mr. Asquith, then Prime Minister of Great Britain, laid down as the fundamental basis of the international settlement, the substitution for "a precarious equipoise" between groupings and alliances of the Powers of a "real European partnership, based on the recognition of equal rights and established and enforced by a common will."¹ This conception of some sort of partnership or alliance between the nations,

¹ Speech at Dublin, reported in *The Times*, September 26th, 1914.

for the purpose not only of averting war, but of ensuring to the conception of public right and international morality some sanction more certain than the arbitrament of the sword, found expression in many varied quarters, and even during the first year of the war many thinkers and groups of thinkers were at work on the task of framing tentative proposals for giving it practical expression. Study of this problem was not confined to the belligerent countries, for it was evident at a very early stage that the reactions of modern warfare upon neutral States greatly exceeded anything which had been witnessed in the past; and even before the entrance of America into the war, President Wilson had taken his place, by general admission, as the leading official exponent of the new ideas—a position for which he was pre-eminently fitted, both by his character and abilities, and by the relative freedom of the United States from the entanglements of European politics. At the present time the principle of a League of Nations is the object of study by numerous influential groups and societies both in belligerent and neutral countries,

4 THE NATURE OF THE PROBLEM

it has been emphatically endorsed by the Labour Party and the Churches, it is the subject of a voluminous literature, and is a dominant issue of all political discussion. To many of those who have most loyally and most sincerely supported the national effort in the war, and to many of those who have sacrificed their lives on the battlefield, it has represented the most important war aim of the Allies and the chief ground of hope that the sacrifices of the war would not prove fruitless.

It will hardly be denied that history presents few parallels to so rapid a spread of a doctrine involving a wide departure from the accepted lines of political thought, and it is evident that, whether the formation of a League of Nations be practicable or not, the idea corresponds to some need or some aspiration which is widespread and deep-rooted among the nations of the world. In order that we may understand the urgency of the problem by which we are now faced, it is necessary that we should examine for a moment the meaning of this extraordinary change in the general attitude towards international affairs.

The events of the last four and a half years have so changed the current of men's lives and thoughts that it is not easy to carry our minds back to the days before the war. But if we make the effort, if we place ourselves once more at the standpoint of August 1914, we shall be struck by two facts which, taken together, form a curious and significant paradox: the war was not unexpected; yet when it came, it came with the shock of a great and terrible surprise.

For more than a quarter of a century before the outbreak of war, competition in armaments between the Great Powers had proceeded at an unprecedented and constantly accelerating pace. Preparation for war absorbed a large part of every national budget and a large proportion of the energies and brain power of every people. The possibilities of dispute were numerous. Apart from such actual crises as arose over the Fashoda incident, the Dogger Bank affair, the Moroccan conflict, and the successive developments of Balkan politics, there were underlying rivalries and conflicts of policy which might, at any moment, precipitate a recourse to

6 THE NATURE OF THE PROBLEM

arms. The war of 1870-71, and still more the terms of the Treaty of Versailles, had left a permanent heritage of bitterness. The aggressive conduct of foreign affairs by the German Government and the rapid increase of the German Navy were widely interpreted as evidence of a desire to challenge the commercial and maritime supremacy of the British Empire. During many years discussions of the likelihood and probable course of a great European war had been numerous, both in technical and general literature. The doctrine of a natural law of struggle between nations, and of the impotence of treaties or of international law to restrain the stronger Power from seizing a military advantage, had been preached in season and out of season, in Germany especially, but not in Germany alone.

Nevertheless, the actual outbreak of war, and the violation of Belgian neutrality under the plea of military necessity, produced on the mind of the ordinary man in this country a feeling of dazed incredulity. To some extent this feeling was accounted for by the unprecedented magnitude of the conflict, and the extraordinary rapidity

with which events developed from the date of the Serajevo murder. The possibility of such a catastrophe had been recognised, but it had not been realised in any real and intimate sense. At bottom, however, this attitude was the result of something having a deeper significance. It was based upon an instinctive realisation that the war itself, and the political theory which had produced it, were incompatible with the activities and aims of modern civilisation and with the conceptions of good faith and public right upon which that civilisation rests. The current talk about "Prussian Militarism" implied something more than the adoption of a popular catchword. It was the expression of a deep and general belief that the war was not merely a struggle between two armed groups: that it represented a struggle between two policies or philosophies, of which one was, and the other was not, possible as a working rule of life under modern conditions. The action of Germany was resented not merely because it was wicked, but because it was an anachronism. It was as if a robber baron of the Middle Ages had suddenly appeared

8 THE NATURE OF THE PROBLEM

in the City, held up the traffic, and looted a bank.

The events of the last four years have intensified both the recoil from the actualities of modern war and the determination to put an end, if possible, to the fear of its recurrence. To accomplish this end we have rightly felt that no sacrifice was too great; yet if we are to find a measure of the task which awaits us, it is necessary that we should try to form some sort of picture of what those sacrifices have been. Fortunately for our sanity, any complete realisation of the cost of the war is impossible. We cannot measure the value of even one life of high promise cut short; but the cost of this war in lives alone runs into millions, and includes a large proportion of the best among the young manhood of Europe and America. We know that the war has involved, not for combatants alone, the extremities of horror, of nervous strain, of unspeakable torment. It has converted the nations into nations of mourners. It has entailed distress, nearly approaching to starvation, in neutral as well as in belligerent countries. It leaves the nations of the civilised world to face

the future with depleted vigour, with crippled resources, and with a burden of debt which will hang round their necks for generations, with results upon both national and individual life which it is not easy to foresee.

Even less is it possible to measure accurately the cost of war in the future. The new terrors which science has introduced into warfare are capable of almost indefinite extension, and whatever attempt be made to limit their employment, it will remain possible for an unscrupulous belligerent to impose upon a future conflict a character still more frightful than that of the present. And as the application of science has added to the terrors of warfare, so has it added to its cost. We have seen our own expenditure rise during the war from £1,000,000 to £7,000,000 a day. He would be a bold man who would set a limit to the war expenditure of 1950. If we look ahead at all and envisage the possibility of another war on the European scale, we are left face to face with the vision of a long nightmare of horror on land, on sea, and in the air, followed by a general collapse of credit and outbreak

10 THE NATURE OF THE PROBLEM

of unrest, before which the institutions of our modern civilisation would go down like a pack of cards.

Yet even war itself is hardly less compatible with human happiness and human progress than a peace dominated by the perpetual fear of war. Unless some security other than armaments alone can be found against this menace, it is certain that the cost of preparation for war will be enormously increased. The burden of armaments is too often spoken of as if it were merely a matter of pounds, shillings, and pence. It is true that the money cost and the withdrawal of labour from civil pursuits constitute a deplorable drain upon the resources of every nation, representing as they do lessened productivity, decreased purchasing power, and a lower standard of life. But the most serious feature of the problem of defence is the warping of national institutions and the diversion of thought, effort, and patriotic emotion from the improvement of human life to the preparation for war. If the outbreak of war on the modern scale remains an ever-present contingency, we must expect to see the whole conception of national life,

its institutions, its activities, and its ideals, dominated as never before by the one purpose of organisation for defence, at whatever sacrifice of material welfare, of personal freedom, and of human happiness.

It is peculiarly important that we should face this prospect frankly, because the mental ferment arising from the war has given birth in the minds of the peoples at large to new social aspirations, the force and depth of which it is not easy to gauge. The desire, or rather the determination, to secure for the average man and woman a life richer in opportunities, more favourable to self-development, more "fit for the dignity of man," is not the less sincere or the less general because we differ widely as to the means by which this end is to be attained. And there is gradually emerging a realisation of the fact that, unless the foundations of a stable peace are laid by the settlement now to be attained, these aspirations will inevitably be frustrated by the increasing predominance of military considerations in the organisation of national life.

So strong has this realisation become, that any suspicion of insincerity or luke-

12 THE NATURE OF THE PROBLEM

warmness on the part of Governments in dealing with the problem of a lasting peace would have far-reaching and possibly disastrous results. There are already signs that large sections, especially of Labour opinion, are becoming impatient, and unless Governments can devise some satisfactory solution of the problem, it is possible and even probable that the peoples which they represent will seek their own salvation along international syndicalist lines. The fear that the sovereignty of the State stands in the way of the League of Nations is a powerful weapon in the hands of those who seek to destroy the State itself.

If permanent security against these dangers could be ensured by the victory of the Allies over the aggressors in the present struggle, the problem of international relationships would be greatly simplified; but the history of past wars bears emphatic witness to the fact that the security which is based on victory alone can at the most be relative and temporary. The illustration afforded by the Treaty of Tilsit has become hackneyed by constant reference; but it is very much to the

point. No victory could be more crushing than that of Jéna ; no terms more onerous than those imposed by Napoleon ; no isolation more complete than that in which Prussia was left at the peace ; no dependence more humiliating than that enforced upon the remaining German States. Yet within a few years Prussia was the soul of the Continental Coalition against Napoleon, and from that period dates the rise of German nationalism. It is one thing to believe that only by the victory of the Allies would the Central Powers have been induced to accept such a settlement of international questions as will conduce to the establishment of a durable peace. It is quite another thing—and a very foolish one—to believe that victory implies the permanent reduction to impotence of a people eminently distinguished by productive energy and capacity for organisation. Whether this result is desirable or not is not the question. The fact is that it is not possible. To quote the military correspondent of *The Times* in the early days of the war :

“ To crush the Germans as a whole we

14 THE NATURE OF THE PROBLEM

must either kill them all or occupy their countries permanently. . . . But to kill or everlastingly to police a nation of sixty millions of people is an extravagant proposition, and in war one must aim at what is attainable and not the reverse. . . . We must not impose upon strategy an impossible task, for if we do we may be unable to achieve the aims which are both practicable and desirable.”¹

What applies to strategy applies, in this respect, also to policy.

Little more hopeful is the prospect of basing security upon a mere Balance of Power. The Balance of Power as a political theory has served its turn. Its merits were, indeed, greater than many present-day critics are willing to admit. In times when the cost of aggression was less than it is to-day, it formed almost the only check upon the predatory tendencies of an unscrupulous Government; and while it is easy enough to point to the record of long and exhausting wars fought for the preservation of the Balance of Power, it is equally easy to point to occasions on which hostilities were only averted

¹ *The Times*, September 24th, 1914.

by the knowledge that a powerful combination of States would be brought into the field against the aggressor. Even the wars waged in defence of the theory were perhaps a cheap price to pay for security against the attempt of strong and aggressive States to impose their domination on Europe. But the Balance of Power, while it did more than once preserve the liberties of Europe, was powerless in the long run to preserve the peace of the world. The grouping of States into great rival alliances may postpone war, by rendering its cost greater and its issue more doubtful; but it cannot permanently avert it. Sooner or later the more aggressive group will consider its margin of superiority as sufficiently assured, and will throw down the gage of battle. Moreover, so long as the conception of perpetual, inherent rivalry between nations obtains, the equipoise obtained by such groupings must necessarily be unstable. At any moment a shifting of the European equilibrium, or the emergence of some new source of discord, may undermine the very basis of the groupings, by deflecting the policy which inspired them. In that event, the defec-

16 THE NATURE OF THE PROBLEM

tion of a single member from one group, or the accession to another of a Power which has hitherto held aloof, may upset the balance with disastrous results.

If, therefore, the world is to be secured against the nightmare of an ever-imminent recurrence of the catastrophe of August 1914, something is necessary besides victory; some scheme of international relationships must be evolved, having a broader basis than the groupings of the Powers into rival alliances. And in view of the economic interdependence of the nations, and their common interest in the establishment of a durable peace, common sense itself suggests that this assurance must be sought in some form of international organisation, by which the united force of the nations may be brought to bear against any Power which wilfully disregards the obligations entailed by this condition of mutual dependence. At any rate, those who refuse to accept the League of Nations, in some form or another, as the condition of security, have yet to point out an alternative.

The desire for security against the threat of war is not, however, the only

motive which is impelling the nations, willingly or unwillingly, towards some form of wider and closer co-operation. There is a general agreement that the war must be followed by a real settlement of outstanding international problems. Neither Governments nor peoples are in the mood to tolerate an artificial patchwork, based on a mere compromise between conflicting claims. But the effects of any genuine settlement must be far-reaching and comprehensive. A rearrangement of frontiers on the lines of nationality will bring into existence new States, some of which will find themselves surrounded by powerful neighbours, and for some of which it will be necessary to secure by treaty access to the sea, or rights of through transit, in order to preserve their economic independence. At the same time it will be necessary to provide for the policing, administration, and development of territories which have been rescued from Turkish misrule, but whose populations are as yet hardly to be trusted to walk alone. It is practically certain that arrangements will have to be made for international control of

18 THE NATURE OF THE PROBLEM

the navigation of the Dardanelles and Bosphorus. In addition to such specific questions, there is a widespread desire to take advantage of the opportunity offered by the Peace Conference for the settlement on equitable and permanent lines of all those questions relating to "spheres of influence," "concessions," and general economic and colonial policy, which have not only been a fruitful cause of international friction, but the chief obstacle to the development of both the resources and the peoples of backward territories. It is obvious, however, that if a settlement of so comprehensive and far-reaching a nature is to contain the element of permanence, and is not to give rise to friction and to possible disputes in the future, it must be placed under some form of international guarantee, and that during many years at least there will be an absolute necessity for some measure of international supervision over the practical application and working out of the arrangements arrived at.

Moreover, the conclusion of peace will leave the world in a condition in which the nations will be forced to co-operate not

merely for their own convenience, but for their very existence. The war will have left all, or almost all, of the belligerents on the verge of financial exhaustion. The methods of war finance cannot be extended indefinitely, and more than one of the chief belligerents will be faced by the practical impossibility of meeting its obligations. Nor is this a matter of which other nations can wash their hands, for the fabric of credit is so complex and so delicate, that the bankruptcy of a single Great Power might easily precipitate a worldwide crash.

Again, the world will be faced with a very serious shortage of foodstuffs, of raw materials, and of tonnage. This shortage is not the mere result of artificial manipulation, of what is called "profiteering"; nor is it a condition which will automatically disappear with the conclusion of peace. The plain fact is that, owing to the devastation of war, and still more to the diversion of so many millions of men and so many thousands of millions of pounds from productive to unproductive employment, there is not enough food and raw material to go round without hardship,

20 THE NATURE OF THE PROBLEM

and not enough tonnage to carry the food-stuffs and materials which can be procured. This shortage is felt, and felt acutely, in neutral as well as in belligerent countries, and unless we are to be left at the mercy of a wild scramble of competing buyers there must be some measure of rationing as between the nations—rationing of food, rationing of raw materials, rationing of tonnage. Even those of us who deprecate in normal times the interference of the State in matters of economics must realise that the abnormal conditions created by the war can only be met by abnormal measures. Nor can we safely rely on our own energies to see us through the crisis. Already many districts of Europe are threatened, either as the result of devastation or of blockade or of internal anarchy, with actual famine; and famine breeds pestilence; and pestilence cannot be confined by frontiers.

Thus, whether the theory of a community of nations be accepted or no, it is clear that the nations will be compelled to co-operate in practice for the purpose of restoring credit, allocating supplies, and preventing a widespread economic col-

lapse, accompanied by universal distress and leading almost inevitably to a great social upheaval. It is true that the conditions described are temporary, though it will be many years before their effects have passed away; but this inevitable co-operation will at once emphasise most pointedly the advantages of international co-operation, and facilitate the creation of some permanent machinery for effecting it.

There are thus almost irresistible reasons for attempting to create some machinery for co-operation between the nations on broader and more permanent lines than have yet been attempted; and we have seen that the principle of a League of Nations has, in fact, been accepted by both the Allies and the enemy governments as a fundamental condition of the settlement. Nevertheless, discussion of the subject is by no means out of place or out of date. While the idea of a League of Nations has been accepted in principle, the possibility of giving practical effect to this idea will depend upon the framing of a practicable scheme. This task, perhaps the most difficult, as it is certainly

22 THE NATURE OF THE PROBLEM

the most responsible, of those which will confront the Peace Conference, must necessarily take time, and it is of the utmost importance that in approaching it the Governments should be supported by a strong body of well-considered public opinion in each country. Open opposition on the part of those who believe a League of Nations to be undesirable or impracticable has been intensified rather than abashed by the official approval given to the idea. But more formidable than open opposition will be attempts to wreck the scheme by concentrating attention upon the practical difficulties which it involves, or by pressing forward other policies which are incompatible with the principle of the League.

The necessity of discussion is the greater because there is a very wide divergence of opinion on questions of detail among those who agree in whole-hearted support of the general principle. As regards the purpose of the League, the main line of demarcation is between those who wish to confine its scope strictly to the settlement of disputes and the prevention of war, and those who wish it to become an

effective instrument of constructive co-operation between the nations in the pursuit of their common interests. As regards machinery, the main line of demarcation is between those who rely on concerted action, secured by treaty stipulations, and those who place their faith in the regulation and control of national policies and national forces by some central super-national authority.

There is thus plenty of room for discussion; but at the point we have now reached, it is clear that discussion, to be useful, must be on a practical rather than a theoretical basis. The question is not what is ultimately desirable, but what is immediately attainable and necessary. The conclusion of the war provides a unique opportunity of placing international relations upon a new and sounder footing. If the first step is now taken, every subsequent step will be facilitated. But if this opportunity is missed through striving after a perfection which is not yet practicable, the whole idea may be set back for a century, and the world plunged once more into the anarchy from which we are striving to emerge.

24 THE NATURE OF THE PROBLEM

If, therefore, discussion of the League of Nations is to be profitable, it must be based on a careful examination of the existing facts of the international situation and of the laws which underlie the development of political institutions. Theory without practice, like faith without works, is void; but concrete proposals which have no theoretical basis may be equally worthless. It is no use being in too much of a hurry to write our prescription until we are sure of the accuracy of our diagnosis.

However carefully we may go to work, it is not to be expected that we shall succeed at once in devising a scheme which will provide for every possible contingency which may arise. Even in municipal law, it is found that the most carefully drafted acts give rise to problems of interpretation, owing to the impossibility of foreseeing all the complex developments of modern life. In the absence of any comprehensive international code, founded on experience and sanctified by universal consent and long-continued usage, it is inevitable that the "law" administered by the League of Nations should be, in the main, "case

law." The departure in policy involved in creating a League of Nations is so great and so novel that it would be impossible either to foresee or to obtain general agreement upon every point of detail. The powers with which the League may be ultimately entrusted will depend very largely upon the prestige which it acquires. So long as the general lines are framed on sound principles, there is a positive advantage in leaving subsequent steps to the process of organic development and the teaching of experience. The important thing, at the present moment, is to discover the essential minimum which must be achieved in order to render future progress possible.

CHAPTER II

THE COMMUNITY OF NATIONS

ALL schemes of international organisation presuppose the existence of a community of nations. Isolated and unrelated units cannot be organised, and the degree of organisation which is possible will depend upon the extent to which the community has developed. Whether, therefore, we aim at the creation of a World State or merely at a League of Nations, it is necessary to begin by inquiring whether the World Community does in fact exist, and if so, at what degree of development it has arrived.

By a community we imply, broadly speaking, an association of individuals possessing recognised common interests of such importance that they are willing to subordinate to some extent their personal freedom of action to co-operation in the pursuit of common ends. If the interests

which they have in common are less important, or less clearly recognised, than their separate and possibly conflicting interests as individuals, there can be no community in the true sense of the word, because the motives leading to co-operation will be less strong than the desire to retain complete liberty of private action. A nation is a community, because the fundamental interest of each individual citizen in the security of life and property is so strong, and so obvious, that men are willing to purchase it at the price of accepting those restrictions which State organisation imposes on their individual freedom. The greatest obstacle to the development of industrial organisation is the fact that large sections of those engaged in industry regard their separate interests as fundamentally hostile, and the interests which they have in common as comparatively unimportant.

Whether we accept the idea of a community of nations or not, will depend, therefore, upon the degree of importance which we attach to the collective as opposed to the separate interests of the different States. On this point we have

said something, and shall have more to say ; but before going further, it is necessary to emphasise the fact that any attempt to give tangible expression to this idea must necessarily involve for each State some limitation of its freedom of action in external affairs.

The fear that sovereignty will be impaired by accepting such limitations is, indeed, the chief obstacle to the formation of a League of Nations ; but it must be recognised that this limitation is an essential element in any form of association whatsoever. In a controversy on this subject with Mr. Wells, Mr. Ian Colvin has recently said, speaking of industrial disputes :

“ The truth is that the Trade Union will not abandon its sovereignty. . . . The appeal to reason, to the common fear of suffering, is a sanction less strong than the combative instinct in man which prompts him to fight for all that he wants rather than submit to a council which will give him perhaps a small part of what he wants.”¹

It is true that the strength of the com-

¹ *The Morning Post*, September 27th, 1918.

bative instinct forms a serious obstacle to the solution of either industrial or international problems; but in making it the decisive factor, Mr. Colvin proves either too little or too much. The restriction placed upon a man's right to "fight for all that he wants" is as serious an objection to police, law courts, parliamentary institutions, trade unions, and club committees, as to the League of Nations or the Whitley Councils. At a very early stage in human history it was found that men could only fight effectively for what they wanted by associating themselves with others who wanted the same thing, and coming to an agreement with them as to the direction of their joint activities. From this, it is only a step, though it may be a long one, to the discovery of common interests between the rival groups, justifying a similar limitation of group action.

The compensation for this limitation on the right of the individual to assert his claims at the expense of others is, in the first place, his share in the corporate life of the community and the results of the common effort; in the second place, that security for the unimpeded development

of his own legitimate activities which can only be given by a well-ordered communal life. The mediæval baron who exercised the right of private war with his neighbour had far less freedom to attend to his private affairs than his modern descendant, precisely because he was always liable to be called upon to defend himself against a neighbour exercising similar rights. Mr. Colvin tells us that if our Imperial Government were "docked of its sovereign powers" by the institution of a League of Nations, "a nation which once ruled the seas and governed a great part of the world would be reduced to questions of water, drainage, and education." It would be a more accurate statement of the facts to say that if we were relieved, by the establishment of a League of Nations, from the constant dread of external attack, we should be able to devote our energies, with a freedom hitherto unknown, to measures for promoting the material, intellectual, and spiritual welfare of our people—in other words, to the development of our national life. Nor is it easy to believe that the British Empire will cease to carry weight in the councils of

the world merely because those councils are given definite form.

The idea that there is something degrading in accepting any limitation of our freedom of action appears to rest on a confusion of ideas. Whether degradation is involved depends upon whether this limitation is in the nature of a voluntary compact, or is imposed by external force; whether it is the price of co-operation, or the penalty of submission. It depends also upon whether the individual member does or does not share in the control of the collective activities of the community. There is a wide difference between the submission of a barbarian to the arbitrary caprices of a despot and the obedience of a British citizen to laws which he has himself, through his representatives, helped to make. There is a wide difference between the abject submission of Turkey or Bulgaria to German dictation and the control exercised by an inter-allied council over the joint activities of the Entente Powers.

If, therefore, the community of nations is a reality, there can be no degradation in accepting such limitation of sovereignty as

is necessary to give it tangible expression. But it is precisely at this point that we come to the fundamental issue of the whole controversy. The out-and-out opponents of the League of Nations base their opposition not so much on any practical difficulties involved in its formation, as on the assertion that the community of nations has no existence, and never can exist, because the vital interests of States are fundamentally and unalterably hostile.

The philosophical basis of this attitude was excellently expressed by a leading article in *The Morning Post*, which twitted the advocates of a League of Nations with wishing to "contract out of the struggle for existence." The idea of the "struggle for existence" underlies, consciously or unconsciously, almost all that is written and uttered by opponents of the scheme. According to their view, the relations between nation and nation, as between man and man, are governed by a natural law of struggle resulting in the survival or predominance of the fittest. On this theory, the economic development of nations is regarded as a ceaseless conflict over the division of a limited and in-

adequate supply of necessaries, so that an increase of prosperity on the part of any one nation implies a corresponding depression in that of another or others. It is therefore assumed that the welfare or even the subsistence of peoples can only be ensured by the ability of the State so to extend its borders and political influence as to bring under its control an increasing proportion of the world's markets and sources of supply. By many of its exponents, this doctrine is applied equally to the development of national culture and character. They hold that a nation can only attain its maximum capacity for self-expression, and ensure the vigorous development of its national life, in so far as it shows itself capable of self-assertion, by imposing its rule, or its leadership, on others. While, therefore, groups of nations may enter into a temporary alliance for the purpose of aggression, or for securing themselves against the superior power of a rival, no general and permanent co-operation between all nations can be possible, because the fundamental necessities of the struggle for existence must always outweigh any interests which they have in

common, and must always break through any restraints imposed by international law or treaty stipulations.

It is here, in fact, that we find the root of that doctrine of "necessity" in international affairs which has been expounded and applied by the German Government with such pitiless and consistent logic; and if the premises are granted, it is hard to see how the conclusion can be denied. On the hypothesis that the relations of States are those of a perpetual struggle for survival, might becomes not merely the protection but the essence of right, and no valid appeal is possible to any other law than that of force. It is true that most of those who accept this doctrine would shrink from pushing its application to such extremes as the devastation of Belgium or the sinking of the *Lusitania*, but this reluctance is more creditable to their heart than to their head. The struggle for existence, as a basis of national policy, can be reconciled neither with Christianity nor with any system of international ethics. We may choose between the two. We cannot accept both.

Fortunately, there is no need to accept

the premises which lead to such terrible conclusions. They are based on a false analogy drawn from biological theories, and will not bear examination. Apart from the statement that "dog does not eat dog"—which is, in the main, true—the great distinction between man and the animals is that man is a producer as well as a consumer of the necessaries of life. While the pack may hold together so long as prey is plentiful, when prey is scarce the weaker members of the pack must inevitably go to the wall, because there is no method open to them of increasing the supply. But man—with his power of "making two blades of grass grow where only one grew before"—is in a very different position. If supplies are scanty, it is in his power to solve the problem by increasing the supplies instead of by reducing the number of consumers. Only, to do this, he must resort to co-operation. So far from the struggle for existence implying a perpetual and merciless conflict between man and man, it is precisely the struggle for existence—the endeavour of man to wring from his environment the satisfaction of his physical, intellectual,

and spiritual cravings—which has obliged men to combine, in order to obtain by their corporate effort the elements of social and economic life. The origin of all civil communities is the recognition, in the words of Hooker, that “ we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire, a life fit for the dignity of man ” ; and the history of nations is marked, in ever-increasing degree, by the emergence and development of a similar mutual dependence. The material welfare, nay the very subsistence, of the peoples of the modern world depends upon the exchange of commodities for their mutual benefit, and even the competition of trading communities, as of individual traders, is a competition for the privilege of service. The prosperity of every industrial and commercial community is based upon the prosperity of those from whom it buys and to whom it sells, and it is fast becoming evident that competitive methods which are based not on superiority of service, but on impeding the activities of others, are economically unsound and socially in-

jurious, in the international as well as in the national field.

In the same way, the most vigorous expressions of national life, in art, in literature, in science, and in philosophy, are not the result of national exclusiveness, or of political predominance. It is essential to the vitality of national culture that it should be receptive and responsive. If it is vigorous and healthy, it will readily assimilate whatever it may derive from external influences ; but it cannot flourish in an atmosphere of exclusiveness. There must be free exchange of ideas, uninterrupted contact with the current of thought in the world at large, or national life will become stagnant and moribund.

Thus the doctrine of an inevitable struggle for existence between the nations breaks down hopelessly upon examination ; but before we can speak of a community of nations it is necessary to show that their common interests are sufficiently strong and sufficiently clearly recognised to warrant the establishment of some permanent machinery for ensuring their collective action and prohibiting or restricting the use of force between them. It is

evident that, until comparatively recent times, the nations of the modern world did not constitute a community in this sense. Up to the latter part of the nineteenth century they were, generally speaking, self-contained and self-sufficing in respect of necessary products. For many of the luxuries and amenities of life they depended on foreign trade; but these things were not essential, and a total interruption of that trade, while it would imply a certain amount of inconvenience and hardship, would not involve any vital injury. The intercourse between them, while it had important results in the development of art, literature, and philosophy, and to some extent of political science, did not affect very deeply the lives or ideas of the great mass of the people. Indeed, the intellectual links between the peoples of the world were perhaps less close than in the Middle Ages, when the universal sway of the Roman Church, and the cultivation of Latin as the common language of religion, philosophy, and science, provided important elements of community between all the peoples of Western Europe.

It must be remembered also that the political unit—the State—was seldom the reflection of national unity. Throughout a large part of Europe national consciousness was undeveloped or suppressed, and the interest of the Governments was confined to increasing their own revenues, power, and consequence, without much regard for the well-being of the people.

In such circumstances there could be no real community of nations. The political and economic policies of the various Governments were alike directed mainly to increasing the relative power and wealth of the State as compared with other States, and the alliances concluded between them were merely temporary associations for the pursuit of an immediate advantage. It is not surprising, therefore, that such schemes of a universal alliance as the Grand Design and the Holy Alliance never proceeded beyond the stage of academic discussion, or that the Triple Alliance which ultimately took the place of the Holy Alliance became a mere instrument of reaction. No League of Nations was possible, because the nations had not, in general, attained the rank of political

units; and in these circumstances, a League of States could represent nothing deeper or more permanent than the self-interest of the existing Governments.

During the nineteenth century the conditions outlined above were profoundly modified in two very important respects. In the first place, the French Revolution and the wars to which it gave rise awakened at once the spirit of liberty and the spirit of nationality. To an extent never before approached, the States of Europe became national as well as political units. There were, of course, exceptions, of which the Austrian Empire was the most conspicuous, and many of the smaller nationalities remained submerged or divided. In the main, however, the populations comprised within the State frontiers were united in a manner hitherto exceptional, by common interests, common institutions, common traditions, and common sympathies—in a word, by the consciousness of national unity. At the same time, the Governments themselves became representative, in varying degrees, of the peoples whom they governed. There was, indeed, a long gap between the

political institutions of Great Britain or France and the comparative autocracy of the Hohenzollerns ; but even in Germany the identity between the State and the people, and the political influence exerted by some sections at least of the population, presented a marked contrast to anything which existed throughout the greater part of the Continent during the eighteenth century.

In the second place, the industrial revolution, the development of steam and electrical power, and the enormous impetus thereby given to commercial and financial enterprise, led to that extraordinary increase in the economic interdependence of nations to which reference has already been made. The increasing importance and complexity of commercial transactions not only emphasised the value of direct trade between any two countries, but involved the economic interests of the various nations in an inextricable entanglement. It was not only that State A might depend upon its imports from B for the supply of essential commodities, and upon its exports to C for giving employment to great numbers of its workpeople. The value of

C as a market depended upon the purchasing power of its people, and this, in its turn, might depend upon its sales to X of goods produced mainly by the use of capital derived from Z, and so on, practically *ad infinitum*.

Concurrently with this growth of economic interdependence, the development of communications and the spread of education brought about a great increase in the intellectual intercourse between nations. The reactions of philosophical or political movements in one country upon the progress of thought in others became wider and more rapid, and led to close co-operation between groups of men divided by frontiers, but united by common political or economic theories.

The result of this simultaneous development of economic interdependence and international intercourse was to establish numerous points of contact between the nations. Cosmopolitan finance, the solidarity of labour, shipping conferences, and trade organisations such as the International Cotton Spinners' Association, brought men of all countries together for the pursuit of common interests; but

inasmuch as these contacts were sectional in character, they constituted no tie between the nations as such, and had little effect upon the conflicting policies of the various States.

In addition to these unofficial contacts, the increasing recognition of common interests between the nations led to the conclusion of international agreements and conventions relating to such matters as postal arrangements, copyright, patents, and the safety of life at sea, and to the establishment of such official or semi-official institutions for the dissemination of economic data as the International Institute of Agriculture. These conventions were, however, limited in their scope to particular phases and departments of human activity. While they gave expression to a growing sense of the advantages to be obtained by international co-operation for the pursuit of certain definite ends, they fell short of implying any fundamental unity in the main objects of national effort. Adherence to the conventions was quite compatible with the theory of national rivalry and the pursuit by the signatory States of conflicting

policies. It is true that the intercourse between civilised States was governed to some extent by a body of international law, the rules of which represented either conventions agreed upon at international congresses, or a standard of conduct established by long-continued practice. But the provisions of international law related mainly to the conduct of war, or to the forms of necessary international intercourse, as in the case of the privileges and immunities of ambassadors. In all matters affecting the policy of nations and the pursuit of their conflicting interests, they imposed no check upon the absolute freedom of action of the individual State.

Meanwhile, the political relations of the States themselves were dominated, as far as Europe was concerned, by the struggle for ascendancy of rival groups of the Great Powers, and there was a strong tendency on the part of the smaller States to fall more or less definitely under the political or economic influence of one or other of these great confederations. This organisation of the European States into groups of immense and not unequal strength, while it had its origin in the

preparation for war, suggested also means by which peace might be preserved. On several occasions the co-operation of these groups—in the form of the Concert of Europe—was successful in effecting a settlement of disputes, or restricting the extent of conflicts which had actually broken out. The great danger lay in the conflicting interests of the groups themselves, but the experience gained from their co-operation in the Balkan crisis of 1912–13 aroused some hopes that a reconciliation of their several aims might be effected, and might serve as a basis of some closer and more permanent association. On July 30th, 1914, during the period of tension which preceded the outbreak of war, Viscount (then Sir Edward) Grey wrote :

“ The idea has hitherto been too Utopian to form the subject of definite proposals ; but if this present crisis, so much more acute than any Europe has gone through for generations, be safely passed, I am hopeful that the relief and reaction which will follow may make possible some more definite *rapprochement* between the Powers than has been possible hitherto.”¹

¹ *White Paper, Miscellaneous No. 6 (1914), No. 101.*

This hope was, unhappily, doomed to frustration; but the idea which inspired it has now taken a more definite shape in the proposal for a League of Nations, and we have seen how strongly it has been reinforced, both by the lessons of the war itself and by the necessities of the *post-bellum* situation. But while the experience of the last four years has emphasised the great common interest of security, it has also emphasised group sympathies and antipathies. While the unparalleled extent and intensity of the conflict has created a worldwide desire for some means of averting a repetition, the character which has been imposed upon it by the methods sanctioned and adopted by the German Government has invested the relations between the belligerents with a peculiar bitterness.

To sum up this examination of the conditions in which the task of world organisation must be attempted, we may say that the elements of a World Community exist, but that that community has only recently, and only partially, arrived at the stage of consciousness. The fundamental common interest of security has

been enforced by the most terrible of lessons, and the common interests created by economic interdependence and the development of international intercourse have received partial, but only partial, recognition. Co-operation between the nations has hitherto been confined to certain definite and limited objects, and the sense of national unity is still far stronger than that of the solidarity of the human race. With one great exception, the realisation of real or apparent conflict between national interests is probably still stronger than that of their essential unity. A League of Nations, to be effective, must be sufficiently wide in scope to give expression to the real economic and intellectual interdependence of nations, and to awaken an active consciousness of the existence of a world community. On the other hand, it must be based primarily upon security against war and the threat of war, because this is the one common interest which is sufficiently strong and sufficiently obvious to have received general recognition.

CHAPTER III

THE DANGERS OF PREMATURE ORGANISATION

PERHAPS the most dangerous pitfall in the path of those who are seeking some form of international organisation by which a durable peace may be ensured, is the tendency to base their schemes, consciously or unconsciously, upon the analogy of existing national institutions. The danger of this tendency lies in the fact that the community of nations as it exists to-day, and the national communities which find their expression in the various forms of State organisation, represent very different stages of development. When we look at a national community such as Great Britain or the United States, we see that the relations of the individual citizens who compose it are regulated by an extensive and detailed body of laws, enacted

by legislatures representative of the community, administered by tribunals appointed for that purpose, and enforced by a State police. The result of this organisation as we see it at work, is that when a dispute arises between any two individual citizens, instead of either party seeking his redress by force, the dispute is taken for adjudication, in accordance with the laws already enacted, to a legal tribunal, whose decision is final, because it is backed, in the last resort, by the organised force of the community, wielded by the State.

In these circumstances there is a natural tendency to believe that the best, if not the only way to set about the realisation of our desires for the peace of the world, is the immediate inclusion of all the nations in a World State, with a constitution, a legislature, an executive, and a police, based upon the national model. In reasoning thus, however, it is probable that those who advocate the immediate creation of the World State are guilty of some confusion between the effect of national institutions as such and the sense of national consciousness and national unity to which they give expression. The funda-

mental basis of the respect paid to municipal law is not so much the organised force by which the tribunal is backed, as the universal consent of the citizens to be bound by its decisions. When that consent is lacking, when, that is to say, an attempt is made by the State to enforce a law which runs actively counter to the generally accepted code of conduct, or even when the State attempts to enforce a code of conduct much in advance of the standard accepted by the corporate conscience of the community, the result is failure. An illustration may be found in the attempts made by successive Governments to restrain the custom of duelling, which met with very little success, until the point was reached at which those laws were actively supported by strong and general public disapproval of the practice. The legislative power which is delegated by the community to the State, and the organised force with which the State is entrusted, cannot, in fact, be effectively employed in opposition to the wishes of the community from which those powers are derived.

Hence national institutions, as they exist

to-day, were not brought into being at any one moment, as the result of deliberate search for a complete and perfect political system, but are the product of centuries of experiment and adaptation. They have grown up gradually in response to the development of national consciousness and enterprise, and although successive steps in organisation have undoubtedly influenced national character and the course of national activities, it is true in the main to say that organisation has been the effect and expression, rather than the cause of development.

If, therefore, we attempt to apply to a World Community which is still in its most rudimentary stage an organisation based on the analogy of national institutions which represent the gradual development of centuries, we shall run the risk of a serious fiasco. The problem may be the same, but the conditions are very different.

Our task is, indeed, not so much to legislate for the World Community, as to call it into conscious existence; or at least to emphasise its existence, and bring about a deeper and more general realisation of what it implies, by registering and

giving form to the development which has already taken place.

To say this is not in any way to depreciate the work of those who have gone farther than we may find ourselves able to follow them, in working out detailed schemes of world organisation. It is desirable that we should have before us an ultimate goal as well as an immediate programme. We have to meet the challenge of those who deny that any effective scheme of world organisation is possible, and to do this it is necessary that such a scheme should actually be put forward as a working hypothesis for the future, even if not applicable in its entirety to the conditions of the moment.

It is, however, with what is possible and necessary at the moment that we are immediately concerned, and in the consideration of this question we may derive valuable suggestions from a study of the process by which civil institutions have developed. Only, since the present condition of international relationship represents a stage of primitive anarchy which the peoples of Europe have long ago left behind in their internal development, we

must look for analogies and precedents to the ages in which those institutions first took definite form, rather than to the institutions themselves, as they exist to-day.

If we examine the growth of law and order in the evolution of civilised society, we shall find that the community has always preceded the law, and the law has preceded the executive. It was not until men had learned by experience the benefits of association that they began to devise rules for the conduct of society. It was not until those rules had acquired the validity of general consent, as expressed in practice and custom, that an executive was created to enforce them. Sir Frederick Pollock, in his essay on *The Modern Law of Nations and the Prevention of War*, has drawn special attention to the analogy in this respect between international and municipal law. He says :

“ It seems fit to be considered that in the early history of all systems of law the executive power at the disposal of Courts of Justice has been rudimentary. We now understand that civil justice was originally rendered only by virtue of the parties having submitted to be bound by

the judgment in the particular case; and even at a much more advanced stage, we may find Courts which have an elaborate constitution and procedure, but no compulsory powers at all.”¹

The process may thus be summarised. In the earliest stage of human relationship, the only course open to a man who felt himself aggrieved by the action of another was to seek redress by his own hand. A dispute arising between two individuals could be settled only by voluntary agreement or by a resort to force. As the benefits of association and co-operation for work or defence began to be appreciated, the practice arose of submitting disputes to a voluntarily chosen arbitrator, by whose decision the parties agreed to be bound. In course of time, as the advantages of this method of settlement became generally recognised, the arbitrator chosen *ad hoc* was replaced by a permanent Court, and the standard of conduct approved by the general sense of the community crystallised into a customary law. This law was subsequently reduced into a code, and fixed

¹ *The Cambridge Modern History*, vol. xii, p. 713.

penalties were provided for all the more usual offences; but there was not necessarily any distinct executive force at the disposal of the Court. The ultimate sanction was outlawry, by which the defender was placed outside the pale of intercourse and deprived of the protection of the law. He could receive no assistance, of food, or shelter, or healing, from his fellows, and no penalty was incurred by any one who robbed or killed him. Thus the executive power lay in the community itself.

Perhaps the most striking example of this stage in the development of society is presented by the condition of Iceland during the Saga period. The records of that period bear witness to the existence of Courts having an elaborate constitution and compulsory jurisdiction, a code of laws of considerable bulk dealing both with criminal offences and civil disputes, a carefully graduated scale of penalties, and a complicated system of procedure. Yet this elaborate legal organisation was evolved by a society which possessed neither an executive nor any form of centralised government; which had, in-

deed, been founded by refugees who had fled from Norway in order to escape the centralisation of authority by Herald Fairhair. The validity of the law and the jurisdiction of the tribunals depended on the voluntary consent of the independent freeholders; and in the event of an offender refusing to recognise that jurisdiction, or to obey the decision of the Court, he could be dealt with only by invoking the aid of the community at large—by a sentence of outlawry.

Imperfect as was the security against evil-doing thus provided, it was a great advance on the heroic anarchy which it superseded, and in the case of those crimes which were unanimously condemned by the general sense of the community as outrageous or despicable, the deterrent provided was undoubtedly very strong. Even in societies which had reached a somewhat more advanced stage of development, where a Central Authority had been created, but the Executive was still weak, this collective action of the community played an important part in the enforcement of the law, as in the old English institution of the "hue and cry," whereby

the whole countryside was raised against the offender. In all such systems the essential feature was the general recognition that a crime against an individual was a crime against the community, and that every member of the community lay under an obligation to co-operate in the punishment of the offender. It was not until a later stage in political development that the Central Authority became strong enough and sufficiently representative of the community to be entrusted with the sole responsibility of enforcing the common will.

It is in these early stages in the development of municipal law that we must seek for an analogy to the international conditions of to-day. As yet, the acknowledgment of mutual obligations by the Sovereign States of the world has not even reached the stage on which the Icelandic freeholders based their legal and judicial system. International law is still, despite the efforts made to codify it, in the early customary stage, based mainly on precedent and usage. Procedure under it is confined to the right of the party to seek his own remedy (war), or voluntary sub-

mission to a referee in a particular case (arbitration). Within recent years the custom of adopting the second alternative has been greatly extended. During the nineteenth century no fewer than 471 international disputes were submitted to arbitration, and within recent years a large number of treaties have been concluded by which the contracting parties bound themselves to resort to arbitration in the case of disputes falling within certain definite categories. In default of such treaties, or in the case of disputes falling outside the stipulated categories, no such obligation exists, and even in the event of breach of an agreement to arbitrate, no remedy can be invoked otherwise than by a declaration of war by the innocent party. Not only is there no international executive, and no tribunal exercising compulsory jurisdiction, but there is no existing machinery for bringing the united force of the community to bear on an offender.

The question we have to ask is whether it is possible to proceed at one step from this condition of anarchy, tempered only by somewhat vague and ineffective moral restraints, and by the risks and costliness

of war, to the creation of a World State with its appropriate legislative, judicial, and executive machinery. Both reason and experience suggest a negative answer. We have seen that national institutions have been the product of gradual evolution, keeping pace with the development of national consciousness; and whatever form of international organisation is now adopted, its chance of success will depend upon the degree in which it represents the actual conditions of international life, and the general level of international thought. Nothing, perhaps, is more fatal to the stability of political institutions than premature development. Omissions are easier to rectify than a false step. If we attempt to overleap the intermediate stages between the existing state of things and that which we may legitimately regard as our final goal, we shall run the risk of erecting an organisation which has no vital principle, because it does not represent the conscious needs of the World Community. Some members may be whole-hearted in support—others will be half-hearted, and yet others reluctant and suspicious. There will be no cohesion

between the various units and endless opportunities for friction, and the scheme which was intended to bind the society of nations together may end by discrediting even that limited recognition of common interests and mutual obligations which is felt to-day.

It has, indeed, been suggested that a precedent pointing to the possibility of proceeding at one step to the creation of an advanced type of world organisation may be found in the transformation of the thirteen revolted American colonies into the United States of America. Mr. H. G. Wells, in a very able and interesting analysis, has laid great stress upon the separatist tendencies of the provincial governments and populations, their mutual jealousies, and the care which they took to retain their full internal independence, while setting up a Central Authority at Washington to look after their common interests.¹ It is impossible to deny Mr. Wells' contention that we have here "a precedent of the utmost value" in framing our scheme for a League of Nations; but

¹ *In the Fourth Year*, London, 1918, chapter i.

while the precedent is extremely suggestive, the analogy between the conditions in which the United States came into being and those existing in the world at large to-day is by no means perfect.

The precedent is particularly interesting in two respects. In the first place, the problem of reconciling individual sovereignty with effective co-operation is one which the League of Nations will have to solve, and which the thirteen original states of the American Union did solve very successfully for themselves, by the delegation to Congress of definite and carefully limited powers to deal with matters affecting common interests, while specifically reserving to the State Administrations all other questions. In the second place, as Mr. Wells has pointed out, it is extremely significant that the evolution of the United States as a community rapidly outstripped the growth of legal and administrative machinery. When once the form of federation had been agreed upon, the economic and social forces making for unity had a free field, and they have brought about a unity of the American people which is even now somewhat

imperfectly reflected in the Constitution.

On the other hand, the conditions in which the original framers of the American Constitution had to work, were far more favourable than those in which we shall attempt the formation of a League of Nations. It is true that the thirteen States were intensely provincial in sentiment and consumed with mutual jealousies; but they were at least united by the ties of common race and common language, and by the traditions of their struggle for independence. Moreover, they had never enjoyed complete internal and external sovereignty as separate units. Prior to the war of independence, their foreign relations, their external trade, and to some extent even their internal affairs, had been controlled by the British Government. During that war, the very necessities of the struggle forced them, in spite of their mutual jealousies and recriminations, to act together and to adopt some form of provisional machinery for common action. Finally, there was the strong stimulus of a common external danger. The independence of the States had indeed

been won, in large part, by the assistance of their European Allies, but the conclusion of peace left Great Britain unreconciled, powerful both on sea and on land, and possessed of a secure footing on the North American Continent, while the friendship of France could be depended upon only so far as her own interests might dictate. If the great conflict which began in August 1914, instead of originating in the rivalry between two groups of European States, had been a united struggle of all Europe against the threatened domination of some great Asiatic Power, the difficulties of creating a League of Nations in the Western World would be much less, and a much closer form of union would be practicable.

It is true that the conditions in which we have to attempt the creation of a League of Nations to-day are very different from those which existed in 1914. In the words of the Bishop of Oxford, the war has caused an extraordinary change in the minds of men—"a change sufficiently profound to justify us in believing that the nations will submit to restrictions to which they would not have dreamed of submitting

in the years before the war.”¹ It is in fact upon the existence of this change in the mental attitude of the nations that we must base our hopes of securing acceptance for so novel a proposal as the creation of a League of Nations, in any form, must involve. And not only will this change in the general feeling of mankind facilitate the taking of the first and most difficult step; it will probably result in a great acceleration of progress, so that when once a League of Nations on simple and elastic lines has been brought into being, and has proved its value, the development of its organisation and powers to any extent which experience may suggest as desirable will very probably be unexpectedly rapid. But these favourable conditions, though they may accelerate progress, will not enable us to dispense with the necessity of following the lines of natural development. In an atmosphere favourable to the growth of particular institutions the transition from one stage to another may be rapid and easy, because the reaction of each step in organisation on existing conditions will be swift and certain. But

¹ *House of Lords Debates*, vol. xxx, No. 42, col. 409.

the attempt to cut out the intermediate stages altogether is likely to be disastrous, because it must inevitably bring the organisation created into conflict with conditions which have not yet been prepared for its reception.

CHAPTER IV

THE ESSENTIAL MINIMUM

THE conclusions at which we have arrived, as the result of our analysis of existing conditions, may be summed up as follows : War and the perpetual menace of war have become incompatible with the progress, or even the existence, of modern civilisation. The urgent economic problems of the *post-bellum* situation will compel a large measure of international co-operation in order to avert a general collapse. All schemes of Social Reconstruction directed towards improving the quality of human life depend for their realisation upon the attainment of a durable peace, implying security for the free development of national institutions. This security can only be obtained by the creation, in some form, of "a League of Nations to ensure peace and justice throughout the world." But the

creation of such a League implies a fundamental change in the views of international relationships hitherto accepted, and involves the solution of many practical difficulties. The conclusion of peace will afford a unique opportunity for attempting this difficult task. If this opportunity is seized, further developments of the scheme may safely be left to time and experience. If it is missed, the whole idea may be thrown back for generations. In order to avert this danger, it is essential that the scheme proposed for immediate application shall correspond as clearly as possible with the facts of the existing international situation and the present level of international thought. The war itself and the problems arising from it have brought about a much wider and deeper recognition of the common interests and mutual obligations of civilised peoples than has ever before been attained; but this consciousness of community falls, as yet, far short of that represented by national institutions. In these circumstances, the attempt to create a World State, on the model of existing State organisations, would be premature, and

would almost certainly involve a disastrous fiasco. The only form of international organisation which is possible at the moment is one based upon co-operation between independent, sovereign States. The immediate task is to produce a scheme which shall fulfil the fundamental requirement of affording security from the constant menace of war, shall facilitate constructive co-operation between the nations, and shall afford the least possible opportunity for friction and disagreement.

It will, therefore, be our aim to reduce our essential minimum to its lowest possible terms; but even so, the creation of an effective League of Nations must imply three very definite and important steps in the development of international relations.

In the first place, it must be founded upon the acceptance by all the nations comprised in the League of the existence of a World Community. It must be recognised that the nations of the world are bound together by common interests and common aims, implying mutual obligations. From this it follows that the League must provide some simple machinery for securing the co-operation of

the nations in the pursuit of their common interests, of which security is the chief.

In the second place, the acceptance of this doctrine implies a denial, or at least a limitation, of the right of nations to seek their own redress. Not only must wilful aggression be recognised as an offence against international comity; the prohibition must extend also to the resort to arms for the settlement of a dispute—irrespective of the merits of that dispute—until every means of attaining a peaceful settlement has been exhausted.

Thirdly—and here we come to the crux of the problem—some means must be found by which the united force of the community of nations may be brought to bear on any State which offends against the peace of the world by an unauthorised resort to arms. The force of the community may be brought to bear either by direct military and naval action, or by economic pressure, or by a combination of the two; but the obligation of every State to co-operate in the application of either or both forms of restraint must be clearly recognised.

Such a scheme corresponds, in effect,

to the stage of the "hue and cry" in English law, or to the employment of outlawry in communities where the principle of law and order has been established, but no central executive has yet been created. The sanction behind the law is that the hand of the offender is against every man, and every man's hand against him. It is thus the appropriate expression of the stage at which the World Community has at present arrived, and is, in fact, *the natural next step* in the development of the Society of Nations.

The same motives which have induced us to reduce our essential minimum to its lowest terms will prompt us to avoid all elaboration in our concrete proposals. When once acceptance of the general principle has been secured, it will be comparatively easy to come to an agreement on points of detail. But if the proposals which embody our essential minimum are encumbered by a mass of subsidiary proposals relating to procedure and machinery, there is a grave danger that prolonged wrangling over these minor questions may imperil the acceptance of the whole scheme. Something, in any case, must be left to time

and experience, and provided the League can be formed upon a scale which will invest it with real authority, there is a positive advantage in keeping its machinery, at the start, as simple and elastic as possible.

It is evident, however, that any effective scheme will require for its successful working a permanent Council representative of the States included in the League. It is evident also that the members of this Council, while in close touch with their respective Governments, should be independent of changes brought about by the fluctuations of party politics, and should be at liberty to devote their whole time and energies to the work of the Council. So much is necessary, both in order that co-operation between the States composing the League may be permanent and effective, and in order that the existence of the League as a definite factor in international relationship may receive tangible and recognisable expression.

The majority of the schemes which have been put forward for the formation of a League of Nations contemplate the establishment of at least two distinct bodies—

a Judicial Tribunal and a Council of Conciliation. To these is sometimes added a permanent Congress for the consideration of general questions of international relationships, and to this Congress it is sometimes proposed to give legislative powers. In other cases, as in the Fabian Society's draft Treaty, the functions of the Council of Conciliation and the legislative body are to some extent united in a single International Council.¹

In the scheme which is outlined in the next chapter, the establishment of a permanent legislative body finds no place. Indeed, the proposal to establish such a body seems to be altogether premature. We have seen that in the last resort the validity of municipal law depends upon the general consent of the citizens. In the same way, the validity of international law must depend upon the common consent of the nations, and in the present stage of international relationships there would be little hope of obtaining that common consent in the case of laws enacted by any

¹ This draft Treaty is printed in *The Framework of a Lasting Peace*, edited by Leonard S. Woolf, London, 1917, pp. 91-123.

Central Authority. The consciousness of community is too little developed. The conceptions of law and justice which obtain among the various nations vary too greatly. Without laying an undue emphasis upon the conception of the Sovereignty of States, it is pertinent to point out that the establishment of a supernational legislative authority involves a very much greater surrender of sovereignty on the part of the individual State than the acceptance as rules of international law of conventions agreed to at a conference, at which each State is represented in its individual capacity, and which has been called for the consideration of some specific question. It is extremely desirable that progress should be made with the definition and development of those general principles of international law which have gradually been established by usage and the growth of public opinion; but until the Society of Nations has reached a more advanced stage, it is probable that the only practical method of securing general assent to such developments of international law will be that of conferences called *ad hoc*. The study of what is possible in this way, and

the calling of conferences for that purpose, will be a very proper and very useful form for the activities of the Council of the League to take; but the attempt, at this stage, to invest the Council itself with legislative powers would probably lead to the rejection of the whole scheme.

It must not be forgotten that the attempt to create a legislative body, or to invest the Council of the League with legislative powers, raises a great number of practical questions of the most controversial type. In the first place, it is exceedingly difficult to draw a clear line of demarcation between external and internal affairs. Such questions as tariffs, immigration laws, or the regulation of through traffic are intimately connected both with the domestic policy of the State itself and with its relations with other States. Internal disorders arising from misgovernment or from discontent on the part of minority populations are among the most fruitful sources of war, since they inevitably affect the interests of neighbouring Powers, or Powers having commercial relations with the State in which such disorders arise. Such questions may

very well form the subject of discussion and negotiation between the Governments of the various States concerned, or of a Conference of all the Powers; but it is extremely improbable that any considerable number of Powers would agree to place them unreservedly in the hands of a permanent supernational legislative body. Yet it would be extremely difficult to define the scope of international legislation in such a way as to exclude these questions. Moreover, the actual composition of such a legislative body would present innumerable difficulties, arising from the unequal size and unequal economic and political development of the various States. These difficulties will arise, to some extent, in connection with the Council of the League in its simplest form; but they would be multiplied many times in the case of a legislative body, which must necessarily be fairly large, and which must be based on some form of representation proportional to the size, population, wealth, and power of the electoral units. To devise a scheme which shall neither leave the smaller States at the mercy of the Great Powers, nor permit the Great Powers

to be outvoted on questions of vital importance by the representatives of such States as Venezuela and Haiti, is a task of the utmost complexity and difficulty. Further, it would appear to be obviously desirable that the representatives of each State in the International Legislature should be elected upon, roughly speaking, the same principles. An Assembly in which some members owed their position to direct popular election, others to electoral colleges, others to Government nomination, would be a singularly incoherent body. The members would have totally different ideas of their position and responsibilities; they would represent, in fact, different stages of political development.¹

All these problems, complex and controversial as they are, may be capable of

¹ For an able discussion of the general principle of representation, see J. A. Hobson, *Towards International Government*, London, 1915, chap. x. A suggested scale of representatives is worked out by Frank Noel Keen in *The World in Alliance*, London, 1915, pp. 34, 35. The Fabian draft Treaty, which only proposes to give the International Council very restricted legislative powers, adopts a simple rule-of-thumb scale. See Woolf, *op. cit.* pp. 118-120.

settlement by an international community the members of which are fully conscious of common interests and accustomed to co-operation. Even so, however, they are problems which demand long and careful study. To attempt their solution in an atmosphere still inflamed by war passions, and to make the acceptance of the League of Nations dependent on that solution, would be a fatal mistake.

At the same time, it is desirable that the Council of the League should be something more than a mere Board of Conciliation. The vitality of the League will depend upon the extent to which the consciousness of a world community can be strengthened, and upon the ability of the League to deal not only with formal disputes, but with the pressing international problems of the immediate future. It is, in fact, upon its capacity to deal with these problems that the power of the League to settle, and still more to avert, disputes will mainly depend. It is true that we must look, at any rate at present, for the solution of these problems, to concerted action between the nations, rather than to the establishment of a supernational authority; but in order

to secure such concerted action, it is essential that some permanent machinery should be provided for the study of these questions from an international standpoint, for the exchange of views, for the discussion of what joint action may be possible, and for the convening of conferences or commissions to consider points of special importance. For this purpose the Council should be provided with a permanent habitat and secretariat, and should meet regularly to confer upon all matters relating to the common interests of Members of the League, such as the development of international law, the steps necessary to prevent disputes arising from disturbed political or economic conditions, the policing and development of undeveloped territories, the development of world communications, and all matters relating either to social or economic progress upon which concerted action between the nations is possible. It should be empowered to appoint special commissions of experts or others for the study of these subjects, to make reports and recommendations thereon to the Governments of the States comprised in the League, and when neces-

sary to convene an international Congress for the purpose of framing conventions to give effect to such recommendations.

This view of the character and functions of the Council—as an instrument of co-operation rather than a supernational authority—will affect the part we allot to it in the settlement of disputes. Almost all the published schemes for a League of Nations distinguish—sometimes at great length—between “justiciable” and “non-justiciable disputes.” The definition of “justiciable disputes” varies; but the term is usually taken to imply: “All disputes arising out of questions of international law or the interpretation of treaties,” or something very closely on those lines.¹ It is invariably provided that such disputes shall be referred to the Hague Court of Arbitration, or more generally, to some Judicial Tribunal to be created by the League, all other disputes being referred to the Council of Conciliation. It is generally provided also that, in the event of any question arising as to whether a particular dispute comes under

¹ This is the definition of the League of Nations Society. See Woolf, *op. cit.* p. 65.

the "justiciable" category, such question shall be decided by the Judicial Tribunal. The functions of the Council of Conciliation are generally described to be those of investigation, mediation, and report. It is obvious, however, that a body which is well adapted for the work of mediation—negotiating a compromise between two parties to a dispute—is not necessarily well adapted to the work of impartial inquiry and report upon questions of fact, and *vice versa*. It is, therefore, sometimes suggested that the Council of Conciliation should either set up a permanent Board of Inquiry to which questions of fact could be referred, or appoint Commissions of Inquiry in particular cases.

If the League of Nations is formed on the lines above suggested, the necessity for a Judicial Tribunal and a Council of Conciliation, in addition to the General Council of the League, seems to be very doubtful. The distinction between "justiciable" and "non-justiciable" disputes, upon which this division of functions rests, is an important one; but it is by no means clear, and considerable difference of opinion exists with regard to it.

International Law is so largely a matter of custom and precedent that the definition of "justiciable disputes" is not easy either to formulate or to apply. Under any interpretation, the majority of disputes involving a serious conflict of policy or interests will fall into the "non-justiciable" class. It is undoubtedly desirable that the scope of international law should be widened and its provisions made more definite, and that disputes raising a clear question of international law should be dealt with, as far as possible, by recognised and permanent Courts. The primary purpose of the League of Nations, however, is not to elaborate a legal system, but to secure co-operation between the nations and to deal with grave international problems from the standpoint of public policy and public right. In these circumstances it seems to be desirable to leave the Council itself to decide in each case whether it will deal with the dispute by way of conciliation and mediation, or appoint a commission of inquiry, or refer the matter to arbitration, by the Hague Tribunal or otherwise. In the case of disputes covered by existing arbitration

treaties, no question as to procedure will arise. In all other cases, the Council will decide upon that procedure which, having regard to the nature of the dispute and the circumstances of the case, is likely to afford the best assurance of a satisfactory settlement.

The objections urged against the proposal to establish at the present juncture an international legislature apply equally to the establishment of an international police. Apart from the practical difficulties in the way of securing cohesion and efficiency in such a force, the step appears to be altogether premature. The progress of thought in the majority of civilised nations has now reached a point at which it should be possible to secure their consent to employ their national forces in concert for the enforcement of the common will. This in itself is a very long step in advance, and with this it would be wise to be content. The delegation of such powers to an international force wielded by a central executive represents a stage in the development of communities which the community of nations has not yet reached. Moreover, unless such an inter-

national force were to be very large, it could be rendered effective only by the practical abolition of national armaments. The question of the limitation of national armaments is one that we shall have to discuss later; but whatever may be possible in this respect, it is in the last degree unlikely that while the League of Nations is still in an experimental stage the nations would consent to strip themselves of their defences to the extent which would be necessary in order to render an international police effective.

It remains to be considered what sanctions shall be placed behind the obligations imposed by membership of the League. Practically all schemes for a League of Nations provide for the submission of disputes to a Judicial Tribunal or a Council of Conciliation, and the great majority of them provide for some form of constraint, either economic or military, to be placed upon any Power which commits an act of war without awaiting the decision of the Tribunal or the report of the Council. At this point most of the schemes for a League of Nations, as distinguished from plans for the creation of a World State,

stop short. Few of them place any effective sanction behind the decisions of the Tribunal or the recommendations of the Council of Conciliation. At most, they confine this sanction to the decisions of the Judicial Tribunal.¹

The security thus provided appears to

¹ Of the seven schemes collected by Mr. L. S. Woolf in his useful book already cited, the *Community of Nations* pamphlet definitely rejects the sanction of force in all cases. The Minimum Programme of the Central Organisation for a Durable Peace, the proposals of the American League to enforce Peace, and those of Lord Bryce's Group, place the sanction behind the obligation to submit the dispute, but not behind the decisions of the Tribunal or Council. Lord Bryce's Group suggest, however, that in the event of the refusal of any Power to accept the decision of the Tribunal or the recommendations of the Council, the Governments of the signatory Powers shall hold a conference for the purpose of deciding "what collective action, if any, it is practicable to take in order to make such recommendations operative." The League of Nations Society and the Fabians contemplate enforcement of the decrees of the tribunal, but not (except in certain special cases mentioned in the Fabian draft Treaty) of the recommendations of the Council. The draft Treaty drawn up by a Dutch Committee contains no provisions for its enforcement. On the other hand, Mr. J. A. Hobson, *op. cit.* chap. vi, is in favour of providing an all-round sanction. Mr. Hobson's views, however, tend strongly towards the earliest possible realisation of the World State as opposed to the mere League of Nations.

be imperfect both in practice and in logic. A period of delay and discussion might avert many wars, but it would not necessarily do so, if there were no check on subsequent action. Nor can the idea of public right and the mutual obligations of nations be said to be adequately supported, when no provision is made for enforcing a settlement which has been decided upon, as just, reasonable, and conducive to the common interests of the society of nations, by the Council of the League. One or two cases in which the decisions of Arbitrators or the recommendations of the Council were defied with impunity might easily bring the whole idea of the League into discredit. If the League has the right to forbid a resort to arms in the first instance, it has also the right to forbid a resort to arms for the purpose of evading a just settlement of the dispute. The one action is as clearly an offence against the community of nations as the other, and a resort to arms should only be permitted in cases where the Council has declined to recommend a settlement.

Although this suggestion goes beyond anything contained in the majority of

schemes hitherto published, it does not appear to underlie the charge of prematurity. It is, in fact, called for by the requirements of the existing situation. We need to beware of attempting an advanced form of organisation for which the world is not yet ready; but it is essential that whatever form of organisation we adopt shall be effective for its purpose. The cardinal principle of any association of the nations for the mutual guarantee of security is that the standard of public right approved by the common will of the community of nations shall prevail in international affairs as against the rule of force. The motives prompting acceptance of this principle by the individual States are irresistibly strong. It is only by this means that any State can assure itself of the security necessary for the rebuilding of its national life. It is only by the frank acceptance of this principle that a firm basis can be formed for that international co-operation which *post-bellum* conditions will render imperative. In these circumstances, it is hardly credible that any nation which is willing to accept the obligation to refer disputes to the Council

should refuse the further obligation to accept the decisions of the Council. It is not enough to make provision for indicating the path of justice. It is necessary also to ensure that that path shall be followed.

CHAPTER V

SUGGESTIONS FOR A TREATY

It is obvious that the basis of any scheme depending upon concerted action rather than upon regulation by a supernational authority must be a Treaty defining the obligations of members of the League. It is clear, also, that the provisions of this Treaty must be binding jointly and severally upon all the members, so that the failure of any Power to fulfil its obligations shall not release the others from theirs. Nothing less than this will render the League of Nations an effective expression of the common will, or will, indeed, enable it to play any effective part in the development of the world.¹

¹ As to the uselessness of any merely collective guarantee, see Viscount Grey's pamphlet *The League of Nations*, pp. 9, 10, where he cites the instance of the Treaty guaranteeing the neutrality of Luxembourg.

The task of framing such a Treaty will not be an easy one, and it is obvious that its provisions will depend upon the degree of unanimity which is found to exist with regard to the powers and purpose of the League; but if the League of Nations is to give effective expression to the principles outlined above, it would seem that it must contain, as an essential minimum, provisions to the following effect :¹

I—MEMBERSHIP OF THE LEAGUE

The members of the League of Nations shall be the signatories to the present treaty and any other Powers whose application for membership shall subsequently be approved by the Council.

(i) The original signatories would presumably be the Powers represented at the Peace Conference, together with the principal neutral States. Ultimately, it may be hoped that the League would include all civilised States. The inclusion of the smaller States is desirable (*a*) for their own protection; (*b*) because dis-

¹ It should be understood that the clauses which follow do not represent an attempt to draft a formal Treaty, but merely suggest the lines which should be followed on essential points.

putes in which they are concerned may involve the Great Powers; (*c*) because of the value of their assistance in the exertion of economic pressure; (*d*) because the ethical basis of the League depends upon its representative and inclusive character.

(ii) It has been suggested that the smaller States should themselves be grouped into a Scandinavian League, a Balkan League, a South American League, etc., each such League to constitute a unit of the League of Nations. It is doubtful, however, whether this form of membership would be accepted as satisfactory by the States concerned.

(iii) Protected States—States which are neutralised and guaranteed by the Powers or whose foreign policy is under the control of another State—would not be eligible as members of the League.

(iv) The powers vested in the Council to approve or reject applications for membership will enable them to exclude any State whose government is not sufficiently settled for reliance to be placed upon the performance of its obligations. There does not seem to be any object in stipulating for any particular form of government as a condition of membership. A democratic constitution may often veil a military dictatorship, as has often happened in South America.

II—THE COUNCIL OF THE LEAGUE

Each member of the League shall nominate one member of the Council, such members to be appointed for a definite term of years. Each member of the Council shall have one vote, but in the case of resolutions requiring military action to be taken in support of the decisions of the Council, there shall be required not only a majority of the members present and voting, but also a majority of the councillors representing the Great Powers,¹ upon whom the chief burden of such action will fall.

(i) This suggestion, which is taken from Lord Parker's proposals, has the advantage of affording a simple, practical solution of the problem presented by the inequalities between the Powers and the difficulty of securing a satisfactory scheme of proportional representation. While all members of the Council would have an equal vote in its judicial decisions and general recommendations, it would not be possible for the forces of the Great Powers to be set in motion by a majority com-

¹ This expression will need to be defined. It will obviously include the British Empire, France, Germany, Italy, Japan, and the United States, and should include Russia so soon as any settled Government is established.

posed entirely of the representatives of minor States. In dealing with broad questions of policy, the representatives of the more important States would probably exercise, in practice, a preponderating influence.

(ii) The suggestion has been made that the work of the League will only be effective if absolute unanimity is required for the decisions of the Council. To make this demand would in very many cases be equivalent to stultifying the prospect of any action being taken at all. It is an essential feature of any effective form of association that the will of the majority shall prevail, subject to due consideration of the rights and opinions of a minority. If, as is assumed, the Council is composed of experienced men of affairs, in close touch with their respective Governments, it may be safely assumed that no decisions will be put forward which are not based on substantial agreement; but it would be impossible to allow the representative of a single Power, or a small minority group, to exercise a permanent veto on the action of the League.

III—MORATORIUM FOR DISPUTES

No contracting Power shall declare war on another, or commit any act of war against

another, without previously submitting the cause of dispute to the Council of the League, and allowing a definite period (say, twelve calendar months) to elapse from the date of such submission.

The expression "act of war" will need careful definition. It should certainly include such acts as the laying of mines on the high seas, or the forcible seizure of territory or property. Lord Bryce's Group would extend the injunction to include "hostile preparations," but this phrase is not easy to define, and hostile preparations on an extensive scale are unlikely to be resorted to, if the provisions of the Treaty act as an effective deterrent to an ultimate resort to arms.

IV, V, AND VI—ARBITRATION, COMMISSIONS OF INQUIRY, CONCILIATION

IV

If the Council of the League shall consider the dispute to be of such a nature as to form a proper subject of arbitration (whether covered by existing treaties of arbitration between the parties or not), they may require the dispute to be submitted to the Hague Tribunal, or to any Court of Arbitration

established by the League, or to arbitrators to be specially appointed in the case.

V

If the Council shall not consider the dispute a proper subject of arbitration, they shall endeavour to procure a settlement of the dispute during the stipulated period of twelve months, by mediation between the parties. To assist in this purpose the Council may appoint a Commission of Inquiry to report on any issue of fact involved in the dispute, and the report of such Commission shall be binding upon the parties as to the question of fact.

VI

If the parties to the dispute fail to arrive at a settlement within the stipulated period, the Council may publish its recommendations as to the terms of settlement, and may require the acceptance of these terms by the parties.

The reasons for leaving the Council free to decide upon the method of procedure in each case have been discussed in the preceding chapter,

VII—DEFAULT

The Council may declare any Power a defaulter to the League which—

- (a) *Declares war or commits an act of war without submitting the dispute to the Council of the League, or before the expiration of the stipulated period ;*
- (b) *Refuses to accept the decision of arbitrators to whom a dispute has been referred, either by virtue of a treaty of arbitration or in compliance with the requirement of the Council ;*
- (c) *Refuses to accept recommendations for a settlement proposed by the Council of the League and accepted by the other party to the dispute.*
- (d) *Commits a breach of any stipulation of this treaty.*

(i) This clause, especially as regard (c), goes beyond most of the schemes hitherto published. The reasons for extending the powers of the Council in this way have been discussed in the preceding chapter.

(ii) The cases of the Council declining to recommend a settlement, or of *both* parties refusing to accept the recommendations of the Council, are provided for by subsequent clauses.

VIII AND IX—SANCTIONS

VIII

Any Power which is declared a defaulter to the League under Clause VII shall forthwith cease to be a member of the League. Every member of the League shall thereupon break off diplomatic relations with the recalcitrant Power, shall place an embargo upon all ships and property of such Power which may fall within its jurisdiction, and shall prohibit and take effective steps to prevent all commerce and intercourse between itself and the recalcitrant Power. In addition, the Great Powers shall be under the obligation, if so required by the Council, to take in concert all such military and naval measures as may be necessary to reduce the recalcitrant Power to submission, and to prosecute hostilities by land and sea to the utmost of their power, until submission has been made. All the signatory Powers shall place their resources, ports, and shipping at the disposal of the League for the purpose of supporting such naval and military measures, or of mitigating the special hardships which may be imposed upon any member of the League by enforcement of the decree of non-intercourse with the recalcitrant Power. The Great Powers shall give effective military and naval support to

any member of the League which is threatened with hostilities as the result of enforcing the decree of non-intercourse. The terms of submission to be enforced upon the recalcitrant Power, including all questions of compensation to the injured party, indemnification for expenses incurred by members of the League, and the terms upon which the recalcitrant Power may be readmitted to membership of the League, shall be determined by the Council (or by a special Congress of the League).

IX

Any Power refusing to fulfil its obligations under Clause VIII shall be declared a defaulter to the League ; but it shall be lawful for the Council, in their discretion, to relieve any member of the League from the fulfilment of its obligations in cases where exceptional hardship would be imposed. For a resolution suspending the obligations of any member of the League a majority of the representatives of the Great Powers, as well as a general majority of the Council, shall be required.

(i) In many, perhaps in most cases, the exercise of economic pressure would suffice, without a resort to arms. The effect of economic pressure would be greatly intensi-

fied by the fact that there would be practically no neutrals.

(ii) It has been suggested that a central fund should be created by the collection from each signatory Power of an annual payment, or a lump sum on admission to the League; such fund to be used in compensating members of the League for all losses or expenses incurred by reason of their treaty obligations. Such a fund would, however, require to be very large, and the difficulties of administering it and determining the contributions to be made by each Power would be considerable.

(iii) In addition to compensation exacted from the guilty party, it would, however, be possible to mitigate special hardships imposed upon any member of the League by a decree of non-intercourse, by affording special trade and shipping facilities to the State in question. During the period of non-intercourse, it is obvious that there must be some measure of pooling of resources, and it would probably be easier to deal with cases of special hardship as they arose, through some machinery similar to the inter-allied conferences, than by attempting to provide for them in the treaty.

(iv) The claims of individuals for losses caused by the cancellation of contracts,

etc., should be dealt with by the respective Powers themselves.

(v) At a later stage it might be possible to create an International Insurance Fund on the lines of the War Risks Associations.

(vi) In any case, the loss and hardship caused by non-intercourse with a recalcitrant Power would be much less than that suffered, even by neutrals, in a world war.

(vii) The suspension of obligations under Clause IX would only be granted in the case of small States economically dependent upon a recalcitrant Power, or subject to the danger of immediate invasion, in cases where it was impossible for the other members of the League to afford relief or support.

(viii) No attempt is made to limit the contingents to be provided in the case of military action being necessary. The obligation imposed is unlimited, and the action to be taken would be arranged in concert, as between members of an alliance.

(ix) It may be assumed that in case of any dispute likely to necessitate economic or military action the members of the League, other than the parties to the dispute, would have considered in concert the steps to be taken, before the expiration of the stipulated period.

X AND XI—EXCEPTIONS

X

In any case where the Council of the League shall decline to publish recommendations for the settlement of a dispute submitted to them and not referred by them to arbitration, the parties to the dispute shall be at liberty to commence hostilities at the expiration of the stipulated period; but no Power other than the original parties to the dispute shall be permitted to participate in hostilities or to render unneutral service to either belligerent, under penalty of being declared a defaulter to the League. The parties to the dispute shall be permitted the exercise of their full belligerent rights, but any violation of international law committed in the course of hostilities shall constitute the guilty Power a defaulter to the League.

XI

In the event of both parties to a dispute refusing, at the expiration of the stipulated period, to accept the recommendations of the Council, they shall forthwith cease to be members of the League. Upon the commencement of hostilities between them, absolute non-intercourse shall be decreed between all members of the League and either of the

belligerent States. In the event of either belligerent committing, in the course of hostilities, a breach of international law to the detriment of any members of the League, the members of the League shall take, in concert, such measures as may be necessary to secure reparation.

(i) In the event of the Council declining, owing to the obscurity of the issue, or any other cause, to take steps for effecting a settlement, it appears to be unreasonable to deprive the parties of their right to resort to arms. In such cases, which would presumably be rare, the functions of the League would be simply to localise the conflict and to protect the interests of neutrals.

(ii) A three-cornered conflict between the League and *two* recalcitrant Powers is not easy to conceive; but it may be doubted whether any two Powers could carry on effective hostilities against each other, if they were subjected to an economic boycott by the remaining members of the League.

XII—DISPUTES WITH NON-SIGNATORY POWERS

In the event of a dispute arising between a member of the League and a non-signatory Power, the Council of the League shall offer

their services as mediators, and in the event of such mediation being refused, the signatory Powers shall take such steps as may be necessary to support their fellow member by diplomatic, economic, or military action. Such support shall be contingent upon the ability of the signatory Power to satisfy the Council of the League that it has taken all the proper steps to effect a settlement by peaceful means. Should any member of the League commit an act of war against a non-signatory Power without proving to the satisfaction of the Council that it has previously exhausted all reasonable means of arriving at a peaceable settlement, it shall forthwith cease to be a member of the League.

XIII—OTHER FUNCTIONS OF THE COUNCIL

The Council of the League shall meet at regular intervals for the consideration of all matters affecting the common interests of the members, and shall make reports and recommendations on such matters to the Governments of the signatory Powers. It shall have the power, when necessary, to appoint special commissions for the purpose of investigating such subjects. On being requested so to do by the Governments of not less than signatory Powers, the Council shall call a general Congress for the consideration of any such recommendations, or of any

question affecting the common interests of the members.

The purpose of this clause is not merely to enable the Council to take action in the case of questions which are likely to give rise to disputes, but to enable them to act as the instrument of that cordial co-operation between the members of the League upon which its vitality must ultimately depend. It would enable the Council to take into consideration such matters as the economic problems of the immediate future, the codification and development of international law, the supervision of international waterways, postal and telegraphic communications, maritime codes and port regulations, emigration laws, quarantine and the prevention of epidemics. At the present stage of international development it is probable that effective action in such matters can generally be taken only by conferences summoned *ad hoc*; but the existence of a permanent Council charged with a general supervision over matters of international interest will greatly facilitate such common action, and will prepare the way for an extension of the executive powers of the Council, or for the adoption of a more elaborate international machinery at a later stage.

XIV—TREATIES

All existing treaties entered into by the signatory Powers shall be void in so far as they conflict with the obligations imposed by membership of the League, and all future treaties to be entered into by them shall contain an express reservation in respect of such obligations. All such existing or future treaties shall be communicated to the Council of the League, who shall have power, at their own discretion, to publish the same.

XV—FISCAL ARRANGEMENTS

Every member of the League shall accord to every other member most-favoured-nation treatment in the matter of tariffs, and the open door in all undeveloped colonial territory. It shall also accord to other members of the League free access to its ports and harbours, subject to payment of the usual dues and without prejudice to any regulations as to the coasting trade.

This clause, which gives expression to Mr. Wilson's third point, appears to be necessary both as a means of avoiding disputes and for the purpose of emphasising the common interests of the members of the League. It will be observed that

what is forbidden is not the imposition of tariffs, but discrimination as between members of the League.

XVI—WITHDRAWALS

No member of the League shall be at liberty to withdraw from the League without giving at least years' notice to the Council of its intention so to do.

In a League based on mutual consent and co-operation, it appears to be impossible to deny the right of a member to secede; but the period of notice required should be sufficiently lengthy (say 7 years) to render it impossible for such a step to be taken as a cover to secret preparations for aggressive action.

It is obvious that the Treaty must contain provisions as to the manner in which the remuneration and working expenses of the Council are to be provided, and other similar points of detail. These will be easily arranged when the fundamental principles of the League have been agreed upon, and need not be discussed here.

It is obvious also that no attempt has been made to provide for every conceivable contingency. In the first place, this is impossible. In the second place, when

once the League has been formed and has proved its value, it will be much easier to obtain agreement upon points of difficulty. The benefits of the League and the obligations entailed by membership will both constitute strong arguments for arriving at an agreement upon the interpretation of the Treaty and its application to particular cases. If a League can be formed on the broad lines laid down above, there should be no difficulty in solving, as they arise, problems which might be debated indefinitely if put forward at the outset.

Since the Council of the League is not an International Court of Appeal, but an instrument of co-operation between independent sovereign States, no provision has been made for hearing claims by subjects against a Government, or by a protected State against its suzerain. In practice, disorder arising from acute misgovernment will almost always affect the interests of other States and thus give rise to a dispute which can be referred to the Council. It is obvious that many disputes will be referred to the Council which would not in fact have led to war, and protests against loss or damage arising from misgovernment, or from the administration of protected territories, are likely to be made more freely when this can be done by stating a case

to the Council instead of by diplomatic pressure, backed by the threat of force. Although individuals and corporations have no right of access to the Council, it is always open to the Government of any State to take up and present the claims of its nationals.

If, as is probable, the terms of the peace settlement include definite arrangements as to the policing and development of undeveloped or half-developed territories, these arrangements should be placed under the protection of the League. In any case, such questions relating to concessions, etc., as do not fall within the scope of Clause XV, can always be dealt with by the Council under Clause XIII. This has purposely been left elastic, in order to cover as wide a field as possible, and few questions will arise which could not be dealt with under it, pending the development of a more elaborate machinery of international organisation.

It is not, of course, intended that the Treaty shall constitute a guarantee of the permanence of existing conditions. There is no guarantee either of existing systems of government or of territorial integrity, except as against external aggression. The claim of a subject population to independence would not necessarily give rise to a dispute between members of the League,

108 SUGGESTIONS FOR A TREATY

but it would constitute a very proper subject for investigation by the Council and the summoning of a Conference under Clause XIII.

CHAPTER VI

THE QUESTION OF DISARMAMENT

THE suggestion that national armaments should be abolished, or reduced to the level of a mere internal police, as a preliminary to the establishment of an international force, has been discussed in Chapter IV; but the question of limitation of armaments as a condition of the formation of a League of Nations requires further consideration. Rejection of the idea of a single international force wielded by a supernational authority does not necessarily imply rejection of the proposal that national armaments should be definitely and drastically restricted by the provisions of the Treaty establishing the League. In fact, many of those who reject the idea of a supernational executive, and rely upon concerted action to provide the necessary sanctions, place

limitation of armaments in the forefront of their programme. On September 23rd, 1918, the leader-writer of *The Westminster Gazette* wrote, "Disarmament is commonly spoken of as if it were a sequel to the League of Nations, which could be undertaken at leisure after the League is constituted, whereas it is, in our opinion, the prior condition from which the League will be developed," and this opinion is strongly held in many quarters.

As to the desirability of an immediate reduction of armaments there can be no doubt. In the very difficult and critical years which will follow the war, the nations will need all their energies, all their statesmanship, and all their resources for the task of economic and social reconstruction, and it will obviously be of the utmost importance that they should be relieved, so far as possible, from the burden of naval and military expenditure. As a matter of actual practical politics, it will be impossible for the nations to maintain armaments on the *ante-bellum* scale without running the most serious risks of financial collapse and revolutionary upheaval. Whether any agreement upon the point is

arrived at or not, it will be necessary to reduce armaments as a measure of national self-preservation. It is obvious, however, that a *bona-fide* agreement on the subject would do much to clear the way for individual action, and would enable armaments to be cut down more rapidly and more drastically than would otherwise be the case. We may, therefore, welcome without reservation the inclusion of a clause providing for reduction of national armaments among the points which have been accepted as the basis of the settlement.

This, however, is not quite the same thing as accepting the contention that definite and permanent provision for the limitation of national armaments is an essential condition precedent to the formation of a League of Nations. It will be a comparatively easy matter to secure at the Peace Conference an immediate and drastic reduction in existing naval and military establishments, but it will be very much more difficult to devise effective measures for the permanent limitation of armaments after the nations have recovered from their present exhaustion. The practical difficulties in the way are,

indeed, so great that it seems very doubtfully wise to make the formation of a League of Nations contingent on overcoming them. Not only might prolonged wrangling over this point jeopardise the formation of the League, but the friction arising from any scheme of armament limitation which was not wholeheartedly accepted by all the Powers concerned would detract seriously from the vitality and cohesion of the League when it was formed. It is worth while, therefore, to consider how far permanent limitation of armaments is a practicable and necessary condition of the formation of a League of Nations, and how far the formation of a League is likely, in itself, to tend towards a reduction of the armament burden.

The case for a drastic limitation of armaments has been put very forcibly by Mr. H. G. Wells, who has recognised more clearly than many writers on the subject the wide scope which must be given to any proposals likely to be permanently effective. He says :

“The armies and navies of the world must be at the disposal of the League of

Free Nations. . . . The first impulse of any power disposed to challenge the decisions of the Supreme Court will be, of course, to arm; and it is difficult to imagine how the League of Free Nations can exercise any practical authority unless it has power to restrain such armament. The League of Free Nations must, in fact, if it is to be a working reality, have power to define and limit the naval and military equipment of every country in the world. This means something more than a restriction of State forces. It must have power and freedom to investigate the military and naval and aerial establishments of all its constituent Powers. It must also have effective control over every armament industry. And armament industries are not always easy to define. Are aeroplanes, for example, armament? Its powers, I suggest, must extend even to a restraint upon the belligerent propaganda which is the natural advertisement campaign of every armament industry. It must have the right, for example, to raise the question of the proprietorship of newspapers by armament interests. Disarmament is, in fact, a necessary factor of any League of Free Nations, and you cannot have disarmament unless you are prepared to see the powers of the Council of the League extend thus far. The very existence of

the League presupposes that it and it alone is to have and to exercise military force.”¹

So stated the case appears at first sight to be an extremely strong one, and it is strongly reinforced by the instinctive and deeply rooted desire of the nations to be relieved from the armament burden. A more careful examination, however, suggests both that the difficulties in the way of such relative disarmament and control are very much greater than at first appears, and that disarmament is a less essential factor in the creation and working of a League of Nations than Mr. Wells suggests.

In the first place, there is the difficulty of deciding on what principle the limited armaments permitted to each member of the League are to be fixed. The most logical and equitable suggestion appears at first sight to be that the forces permitted to be maintained by members of the League shall be fixed by the Council, in accordance with a ratio based on their respective populations, wealth, commerce,

¹ *In the Fourth Year*, pp. 32, 33.

and interests. It is obvious, however, that the fixing of such a ratio will be a very delicate matter, affording innumerable opportunities for protest and friction. If we had to wait for the establishment of a League of Nations until all the States concerned were satisfied that their armaments had been rationed on a scale corresponding to natural justice, to the extent of the interests to be defended, and to the requirements of their strategical and geographical position, we might have to wait a very long time. Moreover, such a scale would require continual revision in accordance with altered circumstances and national development, and every such revision would create new opportunities for friction.

Perhaps the most hopeful method would be to limit national armaments by a scale based upon a fixed proportion to those in existence at some definite period before the war. This method has at least the advantage of supplying a definite and ascertainable criterion; but it involves the acceptance of an arbitrary and accidental standard which may bear, or may soon come to bear, no relation to existing circumstances. The

armament programmes of States before the war were based on the fluctuations of foreign policy and of national revenues, on alliances and *ententes* which will *ipso facto* disappear if the nations in question become members of the League, and on a hundred other factors representing no definite or permanent principle.

Whatever scale may be accepted, the difficulty of applying it will be very great. How, for instance, will ships be balanced against men, or the strengthening of fortifications against an addition to field artillery? The simplest way would undoubtedly be to fix the total amount permitted to be expended under the naval and military budgets and leave to the Powers concerned the apportionment of their expenditure. Yet it is easy to see that at a given moment a particular form of armament expenditure might bear a much more suspicious appearance than others. A sudden enlargement in, for instance, the flying force or submarine flotilla of any Power might reasonably be considered to give rise to greater suspicions of an aggressive tendency than the fortification of the national frontiers.

The fundamental difficulty, however, lies in the fact that the fighting strength of a State cannot be expressed in the form of armaments alone. It has its root in the man power and money power of the nation, and these things cannot be limited. However rigidly we restrict the number of men kept under arms, and the number of ships borne on the navy list, we cannot deprive a Power possessing a great population and vast industrial resources of the advantage derived from its capacity to raise at any moment a greatly expanded force and to equip it almost as rapidly as it can be trained.

Indeed, it is exceedingly difficult to devise any machinery of inspection and supervision which can prevent such a Power from making secret preparations for war much in excess of its rationed armaments. Ships and guns can be counted, the number of men with the colours can be ascertained, but it would be an almost hopeless task to secure an effective guarantee against the secret training of men, in clubs or gymnasia, in the elements of military discipline, or the secret manufacture of bombs, and possibly of small

arms. Aeroplanes built for the purposes of peace can be adapted to those of war. Machinery normally employed for industrial purposes is capable, as we know from experience, of rapid diversion to the manufacture of munitions. In Lord Curzon's words, the power of inspection and control "means in practice a complete control of all the sources of production in all the countries concerned."¹ Mr. Wells, as we have seen, carries this power of inspection and control still further, and when we consider all that its exercise would imply, we are brought up against the questions: Is it really possible at the present stage to devise any machinery which would give security against evasion? And if such machinery could be devised, would it be possible to get it accepted? The answer to the first of these questions is at least doubtful. The answer to the second is more doubtful still. For whatever restrictions upon their action the Powers may accept in respect of their external policy, it is certain that the most strenuous opposition will be aroused by any proposal

¹ *House of Lords Debates*, vol. xxx, No. 42, col. 400.

which involves an interference with their internal administration.

If limitation of armaments were really a "necessary factor of any League of Free Nations," then a world which is sick of war and weary of international anarchy might insist upon some solution of the problem being attempted at any cost, and however uncertain might be its operation. The presumed necessity, however, is by no means clear. When Mr. Wells writes that "the very existence of the League presupposes that it and it alone is to have and to exercise military force," there seems to be some confusion in his mind between the idea of an international police force directly controlled by the Council of the League and the idea of the national forces maintained by the members of the League and held at its disposal to enforce the decrees of the Council, by virtue of the provisions contained in the act of adhesion. In other words, there is some confusion between the idea of action taken by a central executive in whom the direction of the organised force of the community is vested and the idea of action taken by the members of the community as a whole

for the enforcement of a common purpose. If we accept the former conception, then, as we have said, unless we are to presuppose the existence of an international force of enormous size, relative disarmament will hardly be sufficient. We shall have to aim at something approaching very closely to total disarmament, in order that the deterrent provided by the international police may be effective. Mr. Wells writes, however, that "the armies and navies of the world must be at the disposal of the League of Free Nations," and all through the passage cited he appears to contemplate the limitation of national forces, rather than the fixing of the contingents of an international force. But if the force wielded by the League against a recalcitrant member is the total force of all the other members, the actual size of the armaments does not affect the question. What does affect the question is the ratio of the power of a recalcitrant member to that of the League as a whole, and that ratio will be the same whether the actual armaments are small or large. It is not the possession of large armaments which constitutes an incentive to war. The

incentive is provided by the possession of armaments which, whether large or small, are greater than the force likely to be encountered. The probability of a Power disposed to challenge the decisions of the League possessing sufficient strength to defy the forces automatically arrayed against it is very remote.

The fact is that to seek peace by means of disarmament is to begin at the wrong end. Armaments themselves are not a disease but a symptom. They are the expression of that atmosphere of distrust and apprehension which is the natural result of international anarchy. In order to bring about the cessation of warlike preparations, either overt or secret, it is necessary that the nations should be secured against the fear of attack, and that rivalry should be replaced by co-operation as the basis of international policy. We are bound to welcome any arrangement which brings us a measure of immediate relief from the armament burden ; but if we wish our deliverance from that burden to be complete and permanent, we must concentrate upon removing the cause rather than upon limiting the effects. The right of

private individuals to bear arms was never abolished at one step: the practice fell into disuse as the sense of security increased, and the same phenomenon will mark the evolution of the international community. When once the League of Nations has been formed and has acquired sufficient prestige to obtain for it the confidence of the nations, the rapid reduction of national armaments will follow almost automatically. We may expect with some confidence to see definite agreements between individual nations, on the lines of the Rush-Bagot Treaty,¹ concluded at an early date; but more important than any such agreements will be the worldwide change in the international outlook and the new direction given to national policy. As the new security becomes more fully appreciated and the prestige of the League more firmly established, the reduction of national armaments will be accelerated, for the simple reason that the dread of attack and the prospects of successful aggression will both have passed away, and

¹ The agreement arrived at in April, 1817, and confirmed by President Monroe in April, 1818, by which armaments were abolished on the Great Lakes.

the direction of national policies diverted from rivalry to co-operation. Unless the League of Nations succeeds in establishing itself as the dominant factor in international intercourse, no agreement for the limitation of armaments is likely to have any permanent value. If it does so establish itself, the reduction of national armaments will follow as an inevitable corollary.

Somewhat similar considerations apply to the question of the Freedom of the Seas. However we may interpret that much-debated term, and at whatever conclusion we may arrive with regard to it, there is nothing to be gained by identifying it with the idea of a League of Nations, which has for its object not the regulation but the prevention of war. If a League of Nations is formed on the lines suggested in the last chapter, the exercise of economic pressure by naval forces will normally be confined to "international action for the enforcement of international covenants." But in those cases in which the Council may decline to recommend terms of settlement and leave the parties to a dispute to seek their own redress, it would appear to be both unjust and impolitic to weight

the balance against the naval Powers by depriving them of their recognised belligerent rights. The existence of the League and the watchfulness of the Council should be a sufficient guarantee that these rights will not be illegitimately extended to the prejudice of neutrals, and it may be expected that the laws of war will be so defined in the future as to prohibit the laying of mines on the high seas or the sinking of merchant shipping without provision for the safety of the crews; but it would be exceedingly unwise to complicate the discussion of the League of Nations by putting forward as a condition of its formation a formula to many interpretations of which the naval Powers would almost certainly refuse their assent.

CHAPTER VII

THE LEAGUE IN BEING

IF we try to form in our own minds a picture of the League of Nations in being, assuring to each nation the security necessary for its own free self-development, and bringing all the nations together in the great task of building up a better life for the world—if we try to form this picture, we shall realise at once that a League of Nations which is to have any reality and vital force must be based upon a drastic reshaping of the international conditions which existed before the war. Before the League of Nations can be anything but a name, the political system of the world must be established on a basis of justice and equity; the States which are to form the League must be true national units in which the Governments represent the peoples; the chief existing causes of inter-

national rivalry and bitterness must be removed; the nations must be ready to renounce policies and ambitions which are inconsistent with the principle of co-operation.

Thus, while the formation of a League of Nations is a question quite distinct from that of the terms to be imposed upon the Central Powers as regards territorial arrangements or indemnities, it is important to note that it presupposes a settlement of territorial questions upon the lines of free national development, and adequate reparation for wanton destruction and gross breaches of the Law of Nations. It is equally important to note that the formation of a League of Nations is incompatible with a policy of annexation by the Allies, or the idea of an economic boycott of the Central Powers after the war. Nor is it compatible with the maintenance of a permanent sectional alliance directed against our late enemies. We may choose between the two courses. We cannot have both. It is necessary that justice should be vindicated; but if we desire the advantages of a League of Nations, we cannot perpetuate revenge.

The inclusion of the Central Powers has always proved a stumbling-block to many in the discussion of this question. Yet it is obvious that a League of Nations from which Germany was excluded would be a League of Nations in name only. Instead of a League of Nations there would be two rival Leagues, each angling for the support of other States, and engaged in perpetual economic warfare, breaking out ultimately into renewed military conflict. The question may be said to be disposed of by the inclusion of the "Fourteenth Point" in the basis of negotiations; but in view of the controversies that are likely to arise during the next few months, it may be as well to remind ourselves of Lord Curzon's solemn warning:

"If, for any reason, it is found impossible, for the present at any rate, or for a considerable space of time, to admit Germany to the League, we are then committed to a reproduction and stereotyping of the very conditions which now exist. . . . That may be for a time inevitable, but it is not a condition that will make for peace; on the contrary, it is much more likely to provoke a revival of war."¹

¹ *House of Lords Debates*, vol. xxx, No. 42, col. 399.

Since Lord Curzon spoke, the existing conditions have been changed by the military victory of the Allies, by the change of Government in Germany, and by the acceptance of the Fourteen Points as conditions of the Armistice—an acceptance which involves in itself a renunciation of the dreams of world domination which have led Germany so far astray. We may hope, therefore, that the exclusion of Germany, even for a time, will not be necessary, and that we may start upon the work of building up the shattered fabric of civilisation in the security which only a League of Nations can give.

It is argued, indeed, that the conversion of Germany to the idea of a League of Nations may be insincere, and that the word of the new German Government may be worth no more than that of the old. It is hardly credible that the German people should have learned nothing from the last four and a half years. It is hardly credible that some of the critics should be found hesitating and theorising in face of the present situation. For if the world is to be saved from financial collapse, starvation, pestilence, and social disintegration, some

measure of co-operation between the nations, including Germany, will be necessary whether we like it or not, and whether the Germans like it or not. And that co-operation will be safer and more effective if it is covered by the sanctions of a League.

In truth, if a League of Nations can be formed on the lines we have been discussing, there should be little fear of treachery on the part of any of the members. The disproportion between the combined military and economic strength of the League and that of its several members will be so great, the advantages conferred by faithful observance of the Treaty so obvious, and the risks involved in a defiance of the League so disastrous, that a breach of the Treaty by any single Power, or by any probable minority group, will be very unlikely.

It has been suggested, indeed, that even if a League of Nations is formed and is accepted in all good faith by the States of which it is composed, there is some risk of its becoming a dead letter, because the exhaustion following upon the war will render a renewal of international conflict

unlikely in the immediate future. If, it is argued, there are few or no disputes of importance to be referred to the Council of the League during the first few years of its existence, it will have no opportunity to display its usefulness, and by the time its services are called upon to avert a serious crisis it may have lost the respect and active interest of the nations.

This objection would have very considerable weight if the function of the League of Nations were confined to the settlement of disputes. Indeed, it is very doubtful whether a League of Nations whose scope was confined to the settlement of disputes after they had actually broken out would ever acquire the prestige and cohesion necessary for the successful discharge of that limited function. In the cognate, though not strictly analogous problem of industrial organisation, it has already been recognised, in the Whitley Reports, that machinery intended for the settlement of disputes will have the best chance of success when the settlement of disputes is considered as subsidiary to the larger problem of constructive co-operation. In the same way, the success of the

League of Nations in averting wars will depend upon its utility as an instrument of international co-operation in the practical tasks of the immediate future.

These tasks are sufficiently numerous and sufficiently important to afford ample employment for the Council of the League, and ample opportunity for convincing proof of its utility. Indeed, it is very probable that within a comparatively few years of its establishment, the negative purpose of averting war may be replaced, as the fundamental basis of the League, by the positive purpose of international co-operation for the development of the world's resources and the improvement of human life.

Of the immediate tasks which the League will have to undertake, many are directly connected with the *post-bellum* settlement. The relations between the League of Nations and the Peace Conference will inevitably be close. There are certain territorial and other questions which must be disposed of before the League can be formed; but the consideration and drafting of the Treaty constituting the League should proceed concurrently

with the consideration of these questions, representatives of Neutral States being invited to confer, for this purpose, with the representatives of the belligerents. So soon as the League is formed, it will be possible to hand over to the Council of the League many of the questions which would otherwise be settled by the Conference, even if the recommendations of the Council require, in some instances, to be subsequently ratified by the Conference itself.

In the first place, it is obvious, as has already been said, that some kind of international guarantee will be necessary for the territorial and political independence, and for the rights of through transport which are necessary for the economic independence, of some at least of the new States brought into being as a result of the war. The satisfactory character of these guarantees and the stability of the new States will be a matter of interest not only to those States themselves and to the belligerents, but to the world at large, and in the supervision of whatever arrangements may be made the Council of the League should and must play a dominant part. It is, indeed, very doubtful whether

when once the broad issues of the territorial settlement have been decided, the demarcation of frontiers and other necessary details would not be better carried out by mixed Commissions under the supervision of the Council than by the Peace Conference itself. The interest of the world as a whole in the solution both of these and of other problems of the settlement is so great that it will be practically impossible to confine the discussion to the belligerent Powers, and it is easy to conceive that, as Mr. Lloyd George and Mr. H. G. Wells have suggested, the Peace Conference itself may, almost insensibly, become merged in the Council of the League.¹

The same considerations apply, with perhaps even greater force, to questions

¹ Mr. Lloyd George has referred to "the Great Peace Conference which is to ripen into the League of Nations." Mr. Wells (*In the Fourth Year*, p. 11) says, "I am strongly obsessed by the idea that the Peace Congress will necessarily become—and that it is highly desirable that it should become—a most prolonged and persistent gathering. Why should it not become at length a permanent gathering, inviting representatives to aid its deliberations from the neutral States, and gradually adjusting itself to conditions of permanency?"

relating to the administration and development of undeveloped territories assigned as protectorates or "spheres of influence" to the various Powers. If the collapse of the Turkish Empire is to bring good government and happiness to the redeemed populations, and an addition to the markets and resources of the world, without giving rise to endless friction and concession-mongering, it is essential that the problem should be dealt with on international lines and not on the lines of regard for selfish interests or territorial ambitions. Again, the question of the German Colonies raises the larger question of the control and development of tropical Africa as a whole—the care and education of native races; the prevention of gun-running and of the gin traffic; the stamping out of epidemic diseases; the adjustment of questions of trade and transport on lines which shall provide a fair opportunity for all fair traders and get rid once for all of the possibility of a European war being kindled by the squabbles of rival concession-hunters. These are all questions of world-wide interest, and without any derogation of existing sovereignties or resorting to

the doubtful expedient of international administration, they can only be dealt with successfully by international agreements framed under the supervision of the Council of the League of Nations, and backed by the sanctions of the League.

Of still greater immediate importance are the measures to be taken to deal with *post-bellum* economic conditions. The steps immediately necessary to save great masses of people from starvation and avert a world-wide collapse of credit will have to be taken before a League of Nations can be formed ; but it will be long before the necessity of some measure of international rationing has passed away, and it should be possible, as soon as the League is formed, to transfer to the Council supervision over many, if not all, of the financial and economic arrangements necessitated by the period of transition. And while these arrangements will be, in themselves, of a temporary character, it is probable that they will give rise in some cases to subsequent conventions of a more permanent character.

There is thus ample occupation for the Council of the League in the immediate

future, and the experience gained in the handling of these questions should provide valuable suggestions as to the future development of its work. How far the scope of this work will ultimately extend it would be rash to predict; but it is evident that the existence of a League possessing a permanent Council as a medium for the exchange of views and an instrument of international co-operation, will facilitate and encourage a great extension of the principle of international action on the lines which have already been followed, hesitatingly and in isolated cases. Among the subjects which will probably find their way, at an early date, on to the agenda, may be mentioned the codification of international law; the control of international waterways and through traffic; the development of maritime and commercial codes; the regulation of air traffic; quarantine and the prevention of epidemics; emigration; the collection and dissemination of economic and commercial *data*, on the lines of the International Bureau of Agriculture.

It is obvious that neither in the case of the immediate nor of the more general

problems could the Council deal with all these matters direct; the problems are too numerous and too complex to be handled by any single body. Nor, indeed, could it deal with them direct without possessing greater executive powers than it seems wise or practicable to confer upon it at present. Yet if the constitution of the League is sufficiently elastic, these limitations need not impede its usefulness. On questions involving broad issues of international policy the Council itself would confer, and report to the Governments of the States comprised in the League. On matters of detail, or requiring special or technical knowledge, it would appoint Commissions, whose reports would be transmitted to the members of the League. In some cases it might be sufficient to leave the individual Governments to take action on their own initiative; in others the Council would convene a general Congress of the League to consider and frame conventions for the purpose of carrying into effect the recommendations contained in the reports. In many cases the Council would probably recommend the establishment of a permanent international bureau,

on the lines of the International Postal Congress, under the general supervision of the Council.

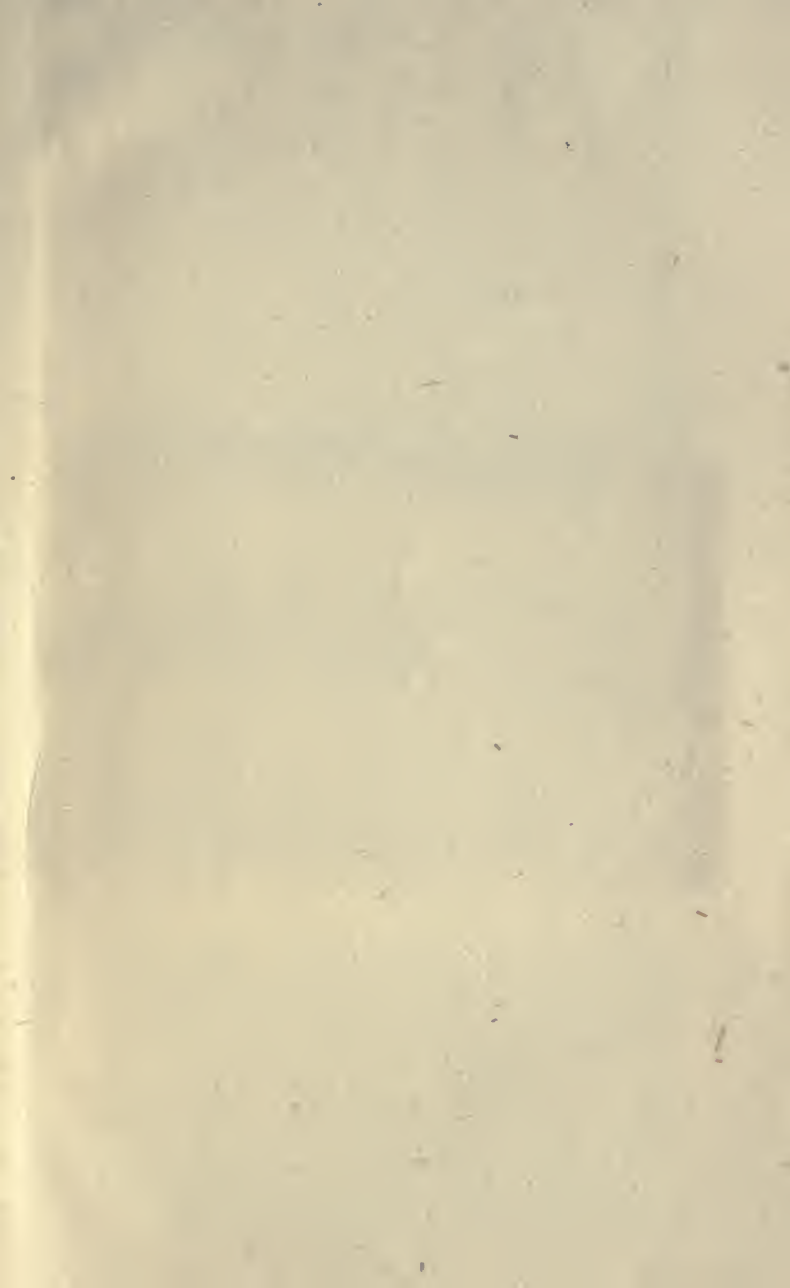
There would thus be created not only the sense of community, of mutual dependence and mutual obligations, which is the vital principle of the League of Nations, but also the nucleus of an international machinery which could be consolidated and incorporated in a more elaborate scheme of international organisation, if and when the development of international relationships should warrant such a step. If the peoples of the world can once be brought to realise in any active way the existence of the Community of Nations, we can safely leave time and experience to indicate such further developments as are necessary in order to render the League a complete expression of the common need and the common will.

It may well be that the events of the next few years, possibly of the next few months, will determine in large measure the course which the life of the world is to take for many generations. We are face to face with a crisis greater even than any crisis of the war ; for it depends upon the

manner in which we utilise the opportunities now presented to us, whether the sacrifices of the war shall have been made in vain. The internal problems which confront us are enough in themselves to task our fortitude and our wisdom to the uttermost; but the prospect of solving these internal problems will depend upon our ability to place our external relations upon a footing which shall ensure peace, justice, and co-operation between the nations. In other circumstances we might shrink from the difficulties of the task; in the circumstances which exist to-day we dare not for our safety's or our honour's sake refuse it. To stand aside, to allow international relationships to fall back into the old slough of rivalry and self-seeking, would be to acquiesce in the failure of civilisation—to deny God and to despair of humanity.

Whatever we do, two things are necessary—faith and a sense of realities. We shall accomplish nothing if we shut our eyes to difficulties arising from the actual facts of the international situation, or if the lure of theoretical perfection leads us to attempt to force on premature develop-

ments. We shall accomplish nothing if we allow ourselves to be daunted by difficulties arising from our own political cowardice and lack of imagination. We need alike the clear head which will enable us to grasp the measure of our task, and the strong heart which will enable us to rise to the level of our opportunity.



FOURTEEN DAY USE

RETURN TO DESK FROM WHICH BORROWED

This book is due on the last date stamped below, or
on the date to which renewed.

Renewed books are subject to immediate recall.

21 May '56 VL

31 May '62 CF

MAY 15 1956 LU

LIBRARY USE

APR 27 '69 - 3 PM

JUL 2 1958

LOAN DEPT.

LIBRARY USE

JUL 9 1958

REC'D LD

JUL 30 1958
3 NOV 1958

MAY 30 1960

31 Mar '62 JW

REC'D LD

MAR 17 1962

REC'D LD

MAY 17 1962

411539

UNIVERSITY OF CALIFORNIA LIBRARY

