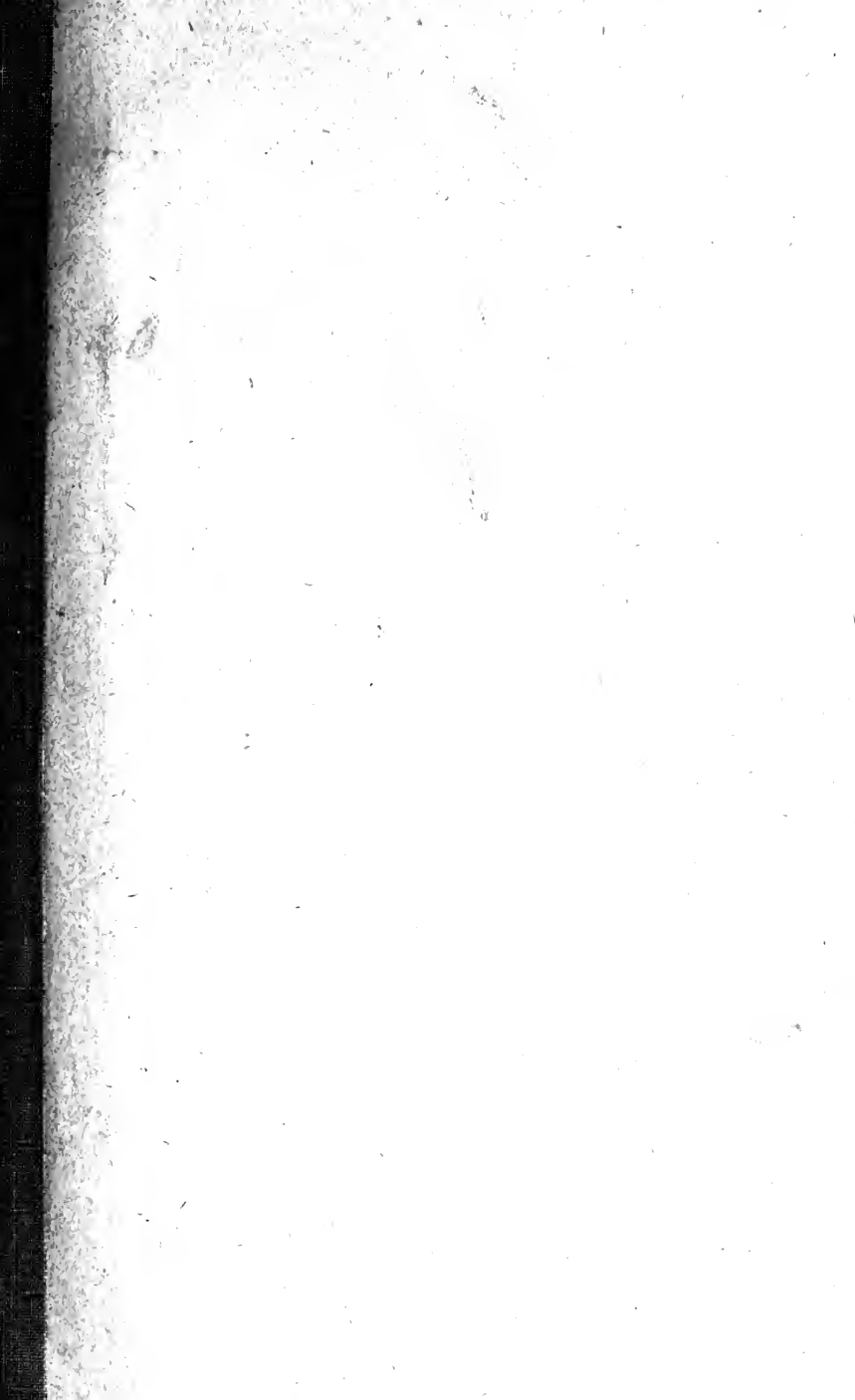






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# THE LEAGUE OF NATIONS



# THE LEAGUE OF NATIONS

*The Way to the World's Peace*

BY

M. ERZBERGER

*Member of the Reichstag*

TRANSLATED BY

BERNARD MIALL

"It is more glorious to kill war with words than to slay men with the sword."—AUGUSTINE, *in the Epistle to Darius*.



NEW YORK  
HENRY HOLT AND COMPANY

1919

JX1975  
E8

1975  
JAN 10



## AUTHOR'S PREFACE

THE German banner of the World's Peace—the Reichstag's Peace Resolution of the 19th July, 1917—bears these devices:

“Peace by understanding and lasting reconciliation of the Nations.”

“The Reichstag will energetically promote the establishment of the guarantees of international jurisprudence.”

This was the oath of allegiance to the League of Nations, which since then has made its triumphant progress throughout the world, although it has also made its appearance, under various guises, in isolated countries. In this volume it will be considered, in detail, how the Reichstag Resolution is to be carried into effect in everyday life; how the way may be cleared for the peace of the world. This book will arouse much opposition, and will encounter many criticisms, but may nevertheless conduce to the elucidation of the subject, for we can no longer make any further headway to-day by means of catchwords and headlines. For this reason the attempt has been made to set forth the theory of the League

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of Nations in a draft Constitution. For some the project may go too far; for others it may not go far enough; it is bound to meet with criticism, for it is a draft proposal only, with all the defects of such; but it ought to lead to practical counter-proposals. The matter cannot be settled by refusal, for the price of refusal is precious blood.

THE AUTHOR.

BERLIN, *September*, 1918.

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# THE LEAGUE OF NATIONS

## CHAPTER I

### DEMAND FOR LEAGUE OF NATIONS

It was a decisive moment in the history of the world when the Imperial Chancellor, von Bethmann-Hollweg, in November, 1916, gave expression, in the Reichstag, to his profound understanding of human nature, in his speech on the "cry for peaceful adjustment and understanding," which after the war will go up from the whole human race: a cry for a settlement which shall prevent any repetition of such a world-war as the present. Since then two further years of war have elapsed; years filled to the brim with suffering, tears and blood. The demand has evoked a million-fold echo from all the nations of the earth. All are demanding guarantees that the world shall never again be turned into a human slaughter-house. In all countries those, above all, who took part in the war, who have seen its horror with their own eyes, and experienced it in their own flesh, in whom the perception of the senselessness of the fact that whole

nations furiously fall upon one another, with the flower of their male populations, in order to obtain a decision in cases of international dispute, has grown to be a mighty impulse of will, will combine with those whom the devastation of property and the loss of near relations have hit particularly hard, in order to strive that humanity shall be liberated from the talons of the brutal law of might, and shall agree to employ, in the intercourse of State with State, the means of legal settlement, as in the intercourse of man with man.

This movement will come. It is already here. The idea of the League of Nations is occupying men's minds, even those which are hidebound in the narrowest jingoism; it is hovering, in a more or less impressive form, over the thunder of battle, as a hope, a demand, an admonition of the community which unites the nations. Many who emerge every day from the rifle-trenches which are now threading their way through the whole world are preparing the way for the League, because they are enticed by the hope that they are fighting for the new era; because they are conscious of themselves as the stones with which the new world will be built. In his speech before the German Society<sup>1</sup> on Au-

<sup>1</sup> Die Deutsche Gesellschaft.

gust 20, 1918, Herr Solf, the Secretary of State, inquired:

“How are we to avoid future wars? How shall we achieve the operation of international agreements in the case of a fresh war? How shall we ensure the security of non-combatants? How shall we contrive in future that the neutral States do not have to pay for their preparedness for peace? How are we to protect national minorities? How shall we regulate our common obligations of honor toward the non-adult races of the world?”

“Gentlemen, these are all world problems of burning urgency. Behind them is the voice of the millions; behind them are unspeakable suffering, unheard-of experiences. *In the very midst of the combatants, among those who have fallen in all countries, among those who have lost their energy, their health, their joy in life, there are thousands and thousands to whom the sacrifice was easy, because they had not lost their belief that out of all the accumulated suffering, out of all the distress and torment, a better world would arise, which would guarantee to their children and grandchildren peace and security, and to the peoples mutual good will. Gentlemen, the triumphal progress of this common aim is certain.*”

No doubt the life of the nations will even then

fall short of the idyllic. So great an aim cannot be realized merely by emotional comprehension. But without the prolonged experience which sweeps men's minds into a great movement, great aims cannot be realized, nor their difficulties resolved. Yet it is the duty of all who speak for their nations, and represent them, to grasp what is stirring them; to grapple with new problems, to attack them upon the right lines, and to admit them into their politics. It is not saying too much to assert that *all the nations* are striving after a new ordering of the system of international politics, by which war will in future be prevented. What is more, it is not saying too much to assert that *all Governments* are considering this problem. The idea of a League of Nations is by no means discredited by the fact that it was first of all treated, in London, Paris, and Washington, with a due proportion of self-interest. Within the Entente the conflict between the politicians of victory and conquest and the more reasonable circles is even further from reaching a conclusion than with us. The advocates of conquest make use of the League of Nations movement in order to hold their own nations together, or, by confining it to the Entente, to forge a new weapon against the Central Powers. But the idea of the League of Nations in itself is one which no Entente Minister ventures



to ignore in his speeches. In the English House of Commons the Under-Secretary for Foreign Affairs, Lord Robert Cecil, on August 1, 1918, declared that the Government was working out an exhaustive scheme, and in France the Ministry for Foreign Affairs has appointed a Commission for the same purpose.

Among those in England who have given close attention to the problem of the reorganization of international life with a conviction of the necessity of its universality is Viscount Grey. It will be remembered that at the moment when the world was sinking into the abyss it was Lord Grey, then Sir Edward, who realized the inadequacy of the system of international coalitions which had hitherto obtained, and the need of its replacement by a new system. In his Note of July 31, 1914, to the Imperial Chancellor he promised, in the event of peace being preserved, and the crisis weathered, to do what he could to promote an agreement concluded in Germany's interest, whereby Germany would be given security that France, Russia, and England would refrain from any policy hostile to the Triple Alliance:

“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 that 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."

At that time he was willing to run risks. But it seems to me that the mere fact that Grey, in the midst of the clatter of the cogwheels of the old system of international politics, made any mention of the prospects of a League of European States is worth mentioning.

It was Grey again who, on October 23, 1916, addressing the Foreign Press Association, gladly welcomed the proposal which President Wilson had made in his speech of the preceding May, concerning the establishment of an international agreement which would guarantee peace after the war:

"I would like to say that, although we may have little time to give to such ideas ourselves while we are engaged in this struggle, I think that is a work in neutral countries upon which we should all look with favor and with hope.

"Only bear this in mind, that if the nations of the world after this war are to do something more effective than they were ever able to do before this war, to combine themselves for the common object of preserving peace, they must be prepared not to under-

take more than they are able to uphold by force, and to see when the time of crisis comes that it is upheld by force.

“The object of this league is, as I understand it, to insist upon treaties being kept, and some other settlement than war being tried before recourse to war. In July, 1914, there was no such league in existence.”

This last sentence confirms the supposition that in the Note of July 31 to which we have referred Grey was actually alluding to a reciprocal covenant.

The first official German expression of the idea of a League of Nations is submitted in the above-mentioned speech of the Imperial Chancellor, which was an answer to Lord Grey's suggestion. The Chancellor concluded:

“The theoretical side of the problem I shall not here discuss. But practically we shall be forced, now and in time of peace, to take sides in respect of this question. When on and after the conclusion of the war the world for the first time becomes fully conscious of the terrible devastation of property and loss of blood, *an outcry will go up from the whole human race for peaceful settlements and agreements*, which shall, so far as it lies in human power, prevent the recurrence of so monstrous a catastrophe. This outcry will be so urgent and so authoritative

*that it must lead to a result. Germany will give honorable trial to every attempt to find a practical solution, and will do all that is possible to realize it. The more so as the war, as we confidently expect, will bring about political conditions which will allow for the free development of all nations, great and small. Thereby the principle of justice and free development will be enabled to make itself felt, not only on land, but also on the ocean. Of this Lord Grey has, of course, said nothing."*

The Chancellor justly drew attention to this important point, that the principle of justice and free development must be established *on the seas* as well as on land. He laid stress upon the compulsion which the British world-empire exercised over the neutral Powers on the seas, and characterized the annexationist intentions of the Entente in Turkey and Alsace-Lorraine as a policy of force, which was not in harmony with the idea of an international league of peace. He said further:

“Such a policy of force cannot provide the foundation for *an effectual and international League of Peace*. Such a policy of force is in gross contradiction to the ideal state of affairs aspired after by Lord Grey and Mr. Asquith, *in which Right would prevail over Might*, and all States which

belong to the family of civilized humanity, whether great or small, would be able to *develop freely under equal conditions* and in harmony with their natural abilities.

“If the Entente seriously intends to take up this ground, then it must behave accordingly. If it does not do so, then the sublimest speeches on the League of Peace and the harmonious common life of the family of nations are nothing but empty sound.

“The first condition for the development of the international adoption of the method of *arbitration* and the *peaceful settlement* of opposing claims would be, that no *aggressive coalitions should be constituted*. *Germany is always ready to enter into a League of Nations, yes, to place herself at the head of a League of Nations, which would hold the disturbers of peace in check.*”

The Imperial Chancellor here announced that Germany *was on principle prepared* to enter a League of Nations, and defined, as the first condition of the realization of such a League, and as its necessary corollary, the rejection of the principle of coalition—for every coalition is a menace to all that stands outside it—from the political system which we have hitherto known. It was not dexterous of Bethmann-Hollweg to follow his declaration of Germany's essential readiness by the statement that Germany was

ready to place herself at the *head* of a League of Nations. In so doing he was pursuing a train of thought similar to that which he himself had censured in Lord Grey, when he was speaking of the peculiar character of the latter's guarantee of international peace, which was adapted to the special objectives of England.

On October 23, 1916, Grey spoke as a Minister. His lately published pamphlet concerning the "League of Nations" reveals him as a politician, who pleads for his conviction, which could only be confirmed by the continuance of the war, honestly, and with an ethical pathos which one cannot simply set aside, as one is inclined to do, with the exclamation: "Hypocrisy!" The idea of the League of Nations, he says, "must be adopted with earnestness and conviction by the Executive Heads of States. It must become an essential part of their practical policy." According to him the League of Nations must include all the nations, even Germany, and when he states that every member of the League must submit to "some limitation upon the national action of each" and will be obliged to accept "some inconvenient obligation," and when he advances the proposition that the stronger nation must forego its right, and, like the weaker nations, is bound, in the event of national disputes, to resort to other means of settlement before taking up arms,

this shows that he had no thought of contriving that Germany, alone of the League, should make renunciations. Grey was afraid that Germany would guarantee peace through her predominant position. But he feared the same thing in respect of British and Wilsonian militarism. "The United States and the Allies too must understand," he writes, "that militarism has become the deadly enemy of mankind."<sup>1</sup>

Here, let us turn back to Grey's speech of October, 1916, and Bethmann-Hollweg's answer to it. President Wilson in his Peace Note to the Belligerent Powers (December 21, 1916) thought to confirm these two speeches:

"Each side wishes itself to be made secure in the future, along with all other nations and peoples, against the recurrence of wars like this, and against aggression or selfish interference of any kind. Each would be jealous of the formation of any more rival leagues to preserve an uncertain balance of power amidst multiplying suspicions; but each is ready to consider the formation of a League of Nations to ensure peace and justice

<sup>1</sup> Actually the passage quoted runs: "All must learn the lesson of this war. The United States and the Allies cannot save the world from militarism unless Germany learns the lesson thoroughly and completely; and they will not save the world, or even themselves, by complete victory over Germany until they too have learnt and can apply the lesson that militarism has become the deadly enemy of mankind."—*Trans.*

throughout the world. Before that final step can be taken, however, each deems it necessary first to settle the issues of the present war upon terms which will certainly safeguard the independence, the territorial integrity, and the political and commercial freedom of the nations involved."

Herein Wilson had, as a matter of fact, reproduced the point of view of England and of Germany—namely, that before the League of Nations could be constituted the problems of the war must first be solved. Each of the two States believed at that time that it could solve this problem only by means of arms. In this sense, moreover, was conceived the German reply to Wilson's Note (December 26, 1916):

"The Imperial Government also is of opinion that the great work of preventing future wars can be entered upon only after the conclusion of the present international conflict. It will, when this moment has arrived, *be gladly prepared* to co-operate with the United States in this noble task."

But after two further years of war the League of Nations appeared to be closely connected with *the question of concluding peace*.

On the basis of this attitude President Wilson, on January 22, 1917, delivered before the Senate his speech on the basis of a lasting guarantee



of peace, whose text he had simultaneously communicated to all the foreign Governments. He was endeavoring to consider the problem of the present war from the viewpoint of a *lasting guarantee of peace*. Peace must be followed by a Concert of Powers which would exist for the purpose of preventing a repetition of the world-war. America could enter into a League of Peace, which would be established on the basis of peace, only on condition that this peace should be secured by the organized *force majeure* of humanity. A new Balance of Power would not guarantee the stability of a fresh arrangement. "Not a Balance, but a community of Power is necessary; not organized rivalry, but organized mutual peace."

President Wilson then proceeded to acknowledge the necessity of a peace *without victory*:

"Only a peace between equals can last—only a peace the very principle of which is equality and a common participation in a common benefit. . . . The equality of nations upon which peace must be founded if it is to last must be an equality of rights; the guarantees exchanged must neither recognize nor imply a difference between big nations and small; between those that are powerful and those that are weak. Right must be based upon the common strength, not upon the individual strength, of the

nations upon whose concert peace will depend. Equality of territory or of resources there, of course, cannot be; nor any other sort of equality not gained in the ordinary peaceful and legitimate development of the peoples themselves. But no one asks or expects anything more than an equality of rights. Mankind is looking now for freedom of life, not for equipoises of power."

Wilson then speaks of the necessary condition, that every Government shall derive its lawful power from the consent of the governed, and passes on to the important problem of the Freedom of the Seas. He continues:

"So far as practicable, moreover, every great people now struggling towards a full development of its resources and of its powers should be assured a direct outlet to the great highways of the sea. Where this cannot be done by the cession of territory, it no doubt can be done by the neutralization of direct rights of way under the general guarantee which will assure the peace itself. With a right comity of arrangement no nation need be shut away from free access to the open paths of the world's commerce.

"And the paths of the sea must alike in law and in fact be free. The freedom of the seas is the *sine qua non* of peace, equality, and co-operation. No doubt a somewhat radical reconsideration of many of the rules

of international practice hitherto thought to be established may be necessary in order to make the seas indeed free and common in practically all circumstances for the use of mankind, but the motive for such changes is convincing and compelling. There can be no trust or intimacy between the peoples of the world without them. The free, constant, unthreatened intercourse of nations is an essential part of the process of peace and of development. It need not be difficult either to define or to secure the freedom of the seas if the Governments of the world sincerely desire to come to an agreement concerning it."

How the freedom of the seas is to be guaranteed President Wilson points out in the passage immediately following the above:

*"The freedom of the seas is a problem closely connected with the limitation of naval armaments, and the co-operation of the navies of the world, in keeping the seas at once free and safe, and the question of limiting naval armaments opens the wider and perhaps more difficult question of the limitation of armies and of all programs of military preparation."*

Wilson truly says that these questions, however difficult and delicate they may be, must be considered with an absolutely unprejudiced mind,

and solved in a spirit of genuine give-and-take, if the peace is to be an enduring peace.

“Peace cannot be had without concession and sacrifice. There can be no sense of safety and equality among the nations if great and preponderating armaments are henceforth to continue here and there to be built up and maintained. The statesmen of the world must plan for peace, and nations must adjust and accommodate their policy to it as they have planned for war, and made ready for pitiless contest and rivalry. The question of armaments, whether on land or on sea, is the most immediately and intensely practical question connected with the future fortunes of nations and of mankind.”

In conclusion, President Wilson recapitulates his opinions in five points:

1. Self-determination of the peoples.
2. The abandonment of the policy of coalition. “There is no entangling alliance in a concert of power.” No Balance of Power.
3. Government by consent of the governed.
4. Freedom of the seas.
5. Limitation of armaments, “which makes of armies and navies a power for order merely, not an instrument of aggression or of selfish violence.”

For ten days only this program of Wilson, the neutral, was discussed by the world. It

found no echo. Then the "unmitigated U-boat war" broke out. Two months later America had entered the war. The submarine campaign led to the comprehensive organization of the common energies of England, France, and America, who has since then been the lodestar and the hope of the more bellicose circles in England and France.

This is the place in which to say a few words as to Wilson's policy. In Germany people are accustomed to regard Wilson as the prototype of the hypocrite, who pursues a pro-British policy behind the mask of a pacifist. It is enough to allude to Wilson's demand for the freedom of the seas, a demand which he is continually putting forward, in order to realize the opposition between his attitude and that of England. The British Imperialist, the "Greater Briton," sees in Wilson an enemy rather than a friend, although in England Wilson's aims have received official assent. Wilson is pursuing a *purely American policy*. It was certainly his ambition which caused him to assume the mission of peacemaker, but he was actuated also by profound and realistic political motives. The United States have been frightened out of their anti-militarism by the stupendous world-conflagration, which on all sides has given rise to, and has developed, a monstrous militarism. The policy of the United States is the expression of its political

life; its strength resides in the predominance of the democratic idea, whose American coloring refuses to harmonize with the system of armaments. In order that America should not be compelled to participate in the universal development of militarism, Wilson wished to bring about peace, on principles which were guaranteed by the foundations of the American conception of politics and economic life. He desired a peace without victory, and the freedom of the seas, a state of affairs which would not depend upon the predominance, all the world over, of *one* Power. He did not succeed in achieving this peace. The submarine war powerfully influenced Wilson, producing a change of front in his pursuit of the goal of equal rights. The U-boat campaign seemed to him to destroy the security of America and her commerce, and he was therefore enabled of his own accord to cross over to the path of participation in the war of the Entente. At first he thought to bring about a conclusion of the war which would be favorable to America by the full economic support of the Entente. As this decision was not obtained, Wilson, as an inevitable result, went a step further on the path he had once overstepped, and America's military participation in the war became a fact. And in proportion as the significance of the American parti-

icipation in the war increased, so Wilson's political designs in respect of the Entente increased. It was Wilson who, even when it was not obvious, had the upper hand, and reserved his freedom of action: for example, in respect of economic questions after the war. He had brought America out of her political isolation into the orbit of decisive interests; it seemed as though he were making war not only upon the Central Powers, but also upon England. What Wilson desires, even now, is peace, for America needs peace, a peace which would not be prejudicial to the democratic American political and economic ideal. Wilson desires by this peace to guarantee the realization of this ideal throughout the world. His idea of a League of Nations is opposed to that of England, which inclines to identify the League of Nations with a British Imperium. In respect of England, as far as we can conclude from his latest utterance, to which we shall return presently, Wilson is inclined to assume the manner of a conqueror. He is fully aware of the significance in every direction of the economic weapon in the hands of the United States.

Let us now turn back to the discussion which took place between the United States and the Central Powers in 1917, in which a first interruption occurred after Wilson's speech in January.

Followed the Peace Note of the Pope (August

1, 1917), of which some of the more relevant passages read:

“ But in order to confine ourself no longer to general expressions, as under the circumstances appeared to us advisable hitherto, we will now proceed to proposals which are for the greater part obvious and practicable, and invite the Governments of the belligerent nations to come to an agreement as to the following points, which appear to be the necessary basis of a just and lasting peace, in which case it only remains for them to settle the points individually, and to supplement them.

“ Before all must be placed the fundamental idea that the *moral might of justice* replaces the *material might of arms*; whence follows an equitable understanding on the part of all, with the object of the simultaneous and reciprocal diminution of armaments, according to given rules and under certain guarantees, leaving only such as are necessary and sufficient for the maintenance of public order in every State; and, in the place of combatant forces, the introduction of *arbitration*, with its eminently pacifying effect, according to an agreed standard, under the threat of certain disadvantages to that State which should refuse either to submit matters of international dispute to arbitration, or to accept its decision.



“When once the sovereign authority of justice is in this manner established, every obstacle that stands in the way of the intercourse of the nations may be set aside, because in the same manner the true freedom and common enjoyment of the seas will be guaranteed by definite rules; this would, on the one hand, diminish the manifold causes of conflict, and, on the other hand, would open new sources of prosperity and progress to all.”

The Papal proposals were fully adopted by the German Government. The German reply of September 19, 1917, will always be a proof that Germany was, for her own part, prepared to contribute to a transformation of the international political system. This document, perhaps, possesses an even greater significance, inasmuch as it contains a reference to the Reichstag Resolution of July 19, which, in addition to the declaration of the German Reichstag concerning a peace by agreement and without violence, and the lasting reconciliation of the peoples on the basis of the economic freedom of the nations and the freedom of the seas, contains the declaration:

“The Reichstag will energetically promote the creation of an organization of international law.”

The German reply to the Pope, in its essential passages, runs as follows:

“Realizing the importance which the manifesto of Your Holiness possesses, the German Government has not failed to submit the suggestions therein contained to an earnest and conscientious examination; the particular measures which it has taken, in closest touch with the representatives of the German people, in respect of considering and answering the questions proposed, are evidence of its heartfelt desire to find a practicable basis for a just and lasting peace in harmony with the wishes of Your Holiness and the Peace Manifesto of the Reichstag of the 19th of July of this year.

“With particular sympathy the Imperial Government welcomes the summons to peace wherein Your Holiness clearly adheres to the conviction that in future *the moral power of right replace the material power of arms*. We too are persuaded that the sick body of human society can recover its health only by a strengthening of the ethical power of justice. This, according to the view of Your Holiness, would result from *the simultaneous diminution of the combatant forces* of all States, and the creation of a system of compulsory arbitration for international disputes. We share the conviction of Your Holiness, that fixed rules and certain

guarantees for *a simultaneous and reciprocal limitation of armaments*, on land, on the water, and in the air, as well as for the *true freedom and common enjoyment of the high seas*, represent those objectives in whose treatment the new spirit which in future must prevail in the mutual relations of the States must find its first hopeful expression. It would then follow, without much ado, that such international differences of opinion as might arise could be decided, not by the calling up of military forces, but by peaceful methods, and particularly by means of arbitration, whose pacifying efficacy we, like Your Holiness, fully recognize. The Imperial Government will in this connection support any proposal which is compatible with the vital interests of the German Empire and the German nation. Germany is, through her geographical position and her economic needs, dependent upon peaceful intercourse with her neighbors and with distant countries. No people has greater cause than the German people to desire that *a conciliatory and brotherly spirit should obtain between nation and nation in the place of mutual strife and hatred*. When the peoples, governed by this spirit, have recognized, to their benefit, that it is more profitable to lay stress upon union than upon division, they will succeed in dealing even with isolated and still unsettled points of dispute in such a way that

every nation will procure satisfactory conditions of existence, and thereby a return of the great international catastrophe would evidently be excluded. Now on this hypothesis a lasting peace can be established, which would favor the reunion and recovery of human society.

“This earnest and sincere conviction encourages us to feel confident that even our adversaries might perceive a suitable substratum in the idea submitted for consideration by Your Holiness, upon which, under conditions consonant with the spirit of reason, and the European situation, it might be possible to make an approach to the preliminaries of a future peace.”

Austria-Hungary, Bulgaria, and Turkey expressed themselves in agreement with the above, especially as the Austro-Hungarian Government, in its subsequent policy of peace by arrangement, had on several occasions, by the mouth of responsible persons, signified its approval of a novel ordering of international relations in a League of Nations. The Entente received the Papal Note in silence; Wilson answered it, but took it amiss.

On January 8, 1918, he unfolded his war aims in Congress. He laid down fourteen points, which the Imperial Chancellor answered, individually, on January 24. Of these fourteen

points we will take five, which are of moment in respect of the common life of the nation after the war; giving, in parallel columns, first Wilson's statement of them, and secondly Count Hertling's reply to these points:

## POINT 2.

## THE FREEDOM OF THE SEAS.

*Wilson.*

The second point is absolute freedom of navigation at sea, outside territorial waters, in peace as well as in war, with the exception of those waters which shall be wholly or partly closed by international action with a view to the enforcement of international covenants.

*Hertling.*

In the second point Wilson demands the freedom of the seas. The absolute freedom of navigation at sea in war and in peace will be brought forward by Germany also as one of the first and most important requirements of the future. Here again no difference of opinion exists. The limitation inserted by Wilson in concluding—I need not cite it word for word—is not reasonable, and appears superfluous. It would, therefore, be best omitted. But it would be of very great importance to the freedom of navigation in future if strongly fortified naval bases on the international trade routes, such as England maintains at Gibraltar, Malta, Aden, Hong-Kong, and in the Falkland Islands, and many other places, could be given up.

## POINT 3.

## REMOVAL OF ECONOMIC LIMITATIONS.

*Wilson.*

The third point is the removal, in so far as it is possible, of all economic barriers, and the establishment of an equality of trade conditions between all nations consenting to the peace and combining to maintain it.

*Hertling.*

We are also in complete agreement in respect of the removal of economic restrictions which result in superfluous restraint of trade. We also condemn an economic war, which would inevitably bear within it the cause of future warlike developments.

## POINT 4.

## LIMITATION OF ARMAMENTS.

*Wilson.*

The fourth condition is that adequate guarantees will be given and accepted that the armaments of the nations shall be reduced to the minimum consistent with their internal security.

*Hertling.*

As we have already previously declared, the idea of a limitation of armaments is eminently a matter for discussion. The financial situation of the collective European States after the war should assist most effectively towards a pacific solution of the problem.

## POINT 5.

## COLONIAL SETTLEMENTS.

*Wilson.*

A fair, liberal, and free, open-minded, and absolutely impartial settlement of all colonial claims, which is based upon the strict observation of the principle that in the settlement of such questions of sovereignty the interests of the populations affected must

*Hertling.*

I now turn to the fifth point: the adjustment of all colonial claims and controversies. The practical execution of the principles advanced by President Wilson will, in a world of realities, encounter certain difficulties. At all events I think that it might

be held of equal importance with the just pretensions of the Government whose title to possession is to be confirmed.

be left to the greatest colonial Empire—the British—to compromise with this proposal of her ally. In this connection, the rearrangement of the world's colonial possessions, which we, too, have implicitly demanded, will in due time come up for discussion from the standpoint of this program.

#### POINT 14.

##### A LEAGUE OF NATIONS.

###### *Wilson.*

A general association of the nations must be established, with definite treaty conditions, for the purpose of providing reciprocal guarantees for the political independence and inviolability of great and small nations alike.

###### *Hertling.*

The last point deals with the League of Nations. . . . as far as this point is concerned, I am, as my activities hitherto prove, in sympathy with any idea which will in future eliminate the possibility or probability of war, and promote the peaceful and harmonious co-operation of the nations. If the idea of a League of Nations alluded to by President Wilson proves on closer trial and examination that it is really conceived in the domain of absolute justice to all, and absolute impartiality, the Imperial Government is willingly prepared, if all other questions pending can be settled, to proceed to an examination of the basis of such a League of Nations.

The reply to the Chancellor's speech which Wilson gave in his speech to Congress on February 11 revealed the fact that he was not satisfied

with the Chancellor's attitude; that is, in so far as he reproached the latter because, while he did indeed wish to secure the essential basis of commerce and industry by common agreements and guarantees, he did not desire to extend this principle of mutual international agreement to the regulation of political questions. Here Wilson was influenced by the fact of the German-Russian negotiations for a separate peace. In conclusion Wilson laid down four principles as a basis for a general peace. They were:

1. That each part of the final settlement must be based upon the essential justice of that particular case, and upon such adjustments as are most likely to bring a peace that will be permanent.

2. That peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game, even the great game now for ever discredited of the Balance of Power, but that

3. Every territorial settlement involved in this war must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival States.

4. That all well-defined national aspirations shall be accorded the utmost satisfaction



that can be accorded them without introducing new or perpetuating old elements of discord and antagonism that would be likely in time to break the peace of Europe, and consequently of the world.

On February 25 the Imperial Chancellor replied to these four points, assenting to them on principle, and declaring that a general peace on such foundations was susceptible of discussion. It should be emphasized in connection with the Chancellor's assent that he gladly welcomed Wilson's statement in respect of the forever-discredited action of the Balance of Power, and with justice alluded to the fact that the maintenance of equilibrium is an English invention. Even the excited polemic against the Chancellor's assertion which Balfour delivered on February 25 cannot in any way affect its truth.

Count Hertling made only one reservation in assenting to Wilson's principles: namely, that Wilson's proposal was not sufficient, but that the practical application of these principles was essentially dependent upon their being actually recognized by all the States. In this connection the Chancellor alluded to the fact that if a League of Nations is to be created, all nations must proceed to establish a court of arbitration for the preservation of peace, which so far has not been done.

“Assuredly a League of Nations which should be based upon justice and mutual and unselfish appreciation, a condition of the world in which war would have completely disappeared, together with all the remnants of former barbarity, in which there would be no more bloody sacrifices, no self-mutilation of the nations, no destruction of painfully acquired standards of civilization, would be a goal most sincerely to be desired. But this goal has not as yet been attained; as yet there exists no court of arbitration for the preservation of peace, established by all the nations in the name of righteousness.”

Wilson had declared, in his speech, that the Imperial Chancellor must be aware that he was speaking “before the tribunal of the whole world.” By so saying he did not profit the cause of the League of Nations. It looked as though he meant thereby that the Entente was the world’s forum.

Wilson’s utterances since that time show that with the progress of America’s preparations for war he had resolved to attain his program by the extreme of violence. In connection with the celebration of the first anniversary of the entrance into the war of the United States, and the opening of the campaign for the third Liberty Loan (April 1, 1918), Wilson made a speech in Balti-

more in which he spoke of "the world-empire of power, the lust of gain, and the commercial overlordship" which Germany desired to set up over the Slav peoples, and which would be as hostile to America as to Europe; and in reply to the intentions which he imputed to Germany he uttered the words: "power to the uttermost, power without measure and without limit, the just, triumphant power which will re-establish in their proper force the laws of the world, and cast every self-seeking sovereignty into the dust." In a similar key Wilson spoke at a Red Cross demonstration, in May, 1918, of the German plans of loot and conquest, and of the spectacle of the struggle of four nations, which were striving after selfish aggrandizement, against twenty-five Governments, which represented the greater part of the world, and were bound together in a new community of aims, as well as a new unity of life. He was now, accordingly, thinking of a limitation of the League of Nations to the Entente Powers, and the exclusion of the Central Powers. In June, 1918, therefore, the Imperial Chancellor was able to say:

"Now, on February 25 of this year, I advanced another step. At that time I expressly adopted the attitude of President Wilson's Message of the 11th February. I discussed his well-known four points, and I

declared my fundamental agreement with these four points. I said that these four points might possibly form the basis of a general world-peace. No expression of opinion of any kind by President Wilson followed; so there was no object whatever in following up the threads of the discussion then commenced. There was even less object in the utterances which, since then, have reached us from America in particular. These have enabled us to recognize, with truly gratifying distinctness, what we are to understand by the 'Peace League of the Nations,' the 'League of Nations for the maintenance of Justice and Freedom.' Our opponents give us plainly to understand that they would form the nucleus of the prospective League of Nations, and that then they would experience no difficulty whatever in isolating Germany, with her inopportune aspirations, and extinguishing her by the economic doling out of her vital necessities."

As a matter of fact, Wilson's present aim is, first of all, to combine the Allied nations in a League, with strictly binding provisos, in order to confront Germany, after her overthrow, with the alternatives, whether she will accept the conditions of the League or remain in isolation.

In England the idea of a League of Nations enjoys great prominence. We have already made

mention of Lord Grey's pamphlet, which breathed renewed life into the discussion of the subject.

At Leeds, on September 26, 1917, Asquith delivered a speech on the world-embracing policy of establishing a union of all the nations in a single League, whose foundation should be justice and whose corner-stone freedom:

“The limitation of armaments, the acceptance of arbitration as the normal and natural solvent of international disputes, the relegation of wars of ambition and aggression between States to the category of obsolete follies . . . these will be milestones which mark the stages of the road. You will not at first, perhaps not for a long time, be able to dispense with coercion, military or economic, against the disloyal and the recalcitrant. But we may well hope . . . that positive law, with its forcible restraints, may gradually recede into the background, and the sovereign authority be recognized to rest in the common-sense of mankind.”

At a dinner given in honor of the American officers in London, at the National Liberal Club, on June 10, 1918, Asquith described the League of Nations as:

“no empty political abstraction, no hollow rhetorical formula, but a concrete, definite ideal, whose realization in practical form is by

far the most urgent constructive problem of international statecraft.”

On the occasion of the fourth anniversary of the outbreak of the war Asquith informed the representatives of the Associated Press that the Entente nations could not lay down their arms before they had achieved “at least the beginnings of a great international partnership, to be built up on the lines of a practical polity, for establishing and enforcing the world-wide reign of justice, and for making wars to cease to the end of the earth.”

If herein the idea is expressed that the League of Nations is to be an instrument of political warfare, for the purpose of establishing the sovereignty of the Entente, the same idea is also brought more or less to the fore by other British statesmen. Lord Curzon, on June 26, 1918, demanded the fundamental assent of the Upper House to the proposition that something must be done in connection with the idea of a League of Nations. The league of the British Empire and the twenty to twenty-five Allied nations already existed, and comprised two-fifths of the human race. Although it is difficult to conceive that Germany could be admitted to a League of Nations, it goes without saying that the League must, theoretically, include *all* States. If a general agreement concerning the prevention of

war in particular should lead to anything, all the more important States of the world must finally participate therein. Lord Curzon suggested, as the main lines upon which the British Government proposed to proceed:

1. A Supreme Court of Arbitration.

2. The imposition of a moratorium, during which hostilities may not be opened, so long as a decision is still pending; the party which commences hostilities to be treated as aggressor.

3. A sanction for the forcible execution of the decisions of the Court of Arbitration; this same forcible procedure to be employed against any State which should commence hostilities, without appealing for arbitration; it would *ipso facto* be at war with the other States, and these would assist one another with their armies, without the necessity of any sort of international police, the smaller States by economic pressure and the larger States by military and naval means.

Lord Robert Cecil is a convinced supporter of the close economical combination of the Entente Powers for the purpose of isolating Germany. His conception of the economic policy of the Entente is based entirely upon this principle. He acknowledges Wilson's principle (January 8, 1918) of the freedom of trade, but he does not regard a protective tariff as inconsistent with this

freedom; on the other hand, he recommends mutual supplementation and accommodation among the Allies in respect of raw materials, and wishes to exclude Germany from all economic intercourse until her capitulation. On August 16, 1918, on the occasion of the fourth anniversary of the foundation of the Inter-Allied Food Control Commission, he referred to the Commission as a definite prototype of the League of Nations. If this inter-allied partnership should be further improved, it might point the way to the future organization of the nations.

Balfour regards the erection of a League of Nations as possible only on the basis of a defeated Germany. He sees a practical guarantee of the world's peace in a territorial rearrangement, which would be supported by a League of Nations. On the other hand, Balfour attributes to Germany a striving for predominance, which, considering the British policy of conquest in Palestine and Mesopotamia, and the British claims to the German colonies, is more than remarkable.

As his speech in the House of Commons on August 2, 1918, informs us, he is desirous of employing the economic weapon against Germany, and is skeptical in respect of the question of disarmament.

Lloyd George is even more plain-spoken. On December 14, 1917, at a banquet given in honor



of one of the chiefs of the Air Force, he declared that "League of Nations, Disarmament, Court of Arbitration, and Security are all fine, generous figures of speech unless victory should come first." What would be a settled policy after a victory would be merely a farce were no victory achieved. But before the Trade Unions, on January 5, 1918, he expressed himself somewhat more temperately. He said that one might be confident

"that a great attempt must be made to establish by some international organization, an alternative to war as a means of settling international disputes. . . .

"If we are asked what we are fighting for, we reply . . . for a just and a lasting peace, and we believe that before permanent peace can be hoped for three conditions must be fulfilled:

"First, the sanctity of treaties must be re-established.

"Secondly, a territorial settlement must be secured, based on the right of self-determination or the consent of the governed.

"Lastly, we must seek, by the creation of some international organization, to limit the burden of armaments, and diminish the probability of war.

"On these conditions the British Empire would welcome peace; to secure these conditions its peoples are prepared to make

even greater sacrifices than those they have yet endured.”

It is characteristic of Lloyd George's mentality that he associates disarmament with the defeat of Germany. To begin with, British victory, British predominance, is to him the necessary preliminary to disarmament in all countries; after such a victory disarmament would be dictated to Germany. He represented the matter as though he needed victory in order that he might disarm Germany. In January, 1918, he told the leaders of the Trade Unions:

“We are fighting in order that not only in our own country, but in other countries also, we may make an end of compulsory service. We want to make what is happening now impossible for all time. The problem is not whether we can put an end to compulsory service in this country. We must put an end to it in other countries.”

At the beginning of August, 1918, Lloyd George delivered a speech before two hundred manufacturers, in which he alluded to this idea:

“There are already two Leagues of Nations: namely, in the first place, the British Empire; in the second place, the alliance of the nations which are together fighting against the Central Powers. Whatever may be the result of conferences, we must have a League of

Nations to which we can go hand in hand with these already existing Alliances of Nations, of which we already comprise a part."

He then spoke warningly of the error of dissolving, after the war, the association of the Entente, in respect of the control and supply of raw materials.

Branting wrote concerning this speech that Lloyd George had threatened Germany with economic suppression after the war, and exclusion from the League of Nations. This interpretation was quickly assailed by a Reuter's telegram, according to which Lloyd George had declared that the ideal aim of the League of Nations was the establishment of peace, and the just development of all nations, irrespective of whether they had power to establish their right; and in case Germany should think to alter her militaristic point of view, and should be able to return to peaceful tasks, through which she has won a predominant position within the friendly association of the nations, this would be recognized by the Allies.

This is, to be sure, something of a weakening of the former position; but here also it becomes evident that, according to Lloyd George's conception of the League of Nations, Germany might under certain conditions join an existing

League of the Allied Nations. This is also the sense of his Manchester speech of September 12, 1918.

One may count the English Premier among those people of whom Lord Grey says, in his pamphlet, that they do lip-service to the idea of the League of Nations, in order not to incur the disapproval of President Wilson, and in order to avoid offending Liberals, and the honest adherents of the League of Nations to be found among the people. Their idea in this connection is, first, once for all to bind the Allied nations together into a League of Nations, in order to compel Germany, when she is defeated, to accept the conditions of the League of Nations, so that a League of Nations shall be formed in which one group shall act as leader.

It is interesting now to observe that England, by her endeavors to shape the ideal of the League of Nations according to her own notions, has obtained a peremptory partner in Wilson. The President is anxious that the political unity of the Allied nations shall be established before the moment arrives for negotiations with the Central Powers. Indeed, simultaneously with the great military effort of the United States, which is continually increasing the significance of the part which that nation plays in the Entente, Wilson wishes also to direct the organization

of the Allies in a political sense. Therein he is encroaching upon England, who wishes to fashion the world according to her own plans, and for that reason is, above all, opposed to a premature organization. President Wilson desires a definitive organization in readiness for peace, while England wishes to keep a free hand, and above all does not intend to allow herself to be led by the ideological Wilson.

The manner in which Lloyd George in particular is discrediting the idea of the League of Nations is meeting with energetic opposition from the sincere adherents of the League of Nations in England.

In this connection, next to Lord Grey, Lord Lansdowne deserves particular mention. He has spoken more than once in favor of peace by arrangement, and behind him, in all probability, stands a stronger backing than is outwardly apparent. The attitude of the Lloyd George Cabinet also meets with energetic opposition on the part of the Labor Party, the Radicals, and the Liberals of the *Westminster Gazette*. Henderson delivered a speech at Oldham in July, 1918, in which he demanded that the League of Nations must comprehend all the nations, including the neutrals, and that those who recommended a League of Nations must perforce renounce the idea of revenge. He invited Lloyd

George to commence negotiations with Germany through the mediation of a neutral committee.

On the fourth day of the proceedings of the British Trade Union Congress, early in September, 1918, Henderson declared:

“We desire that the coming peace shall not leave a feeling of bitterness and wrong on either side. We abandon any idea of an economic boycott after the war. We renounce any intention of isolating Germany and crushing her economic life. Our policy is, in a word, a policy of understanding. We declare that this war ought to end the moment all the belligerent Powers, inclusive of Germany, are prepared to set reason in the place of force, and international co-operation in the place of the policy of national aggression.”

In a debate in the House of Commons (August 1, 1918), Mr. Thomas, the Labor member, declared that he was opposed to economic warfare, and that it was the duty of the Government to seek out all paths which might lead to peace and the League of Nations. Liberal members declared that the League of Nations would impose certain sacrifices on every constituent nation; it was a bitter medicine, but the only remedy for the world. The principal difficulty in the way of realizing the ideal of a League of Nations

lay in the establishment of an executive to carry out its decisions. All nations must agree to an extensive diminution of their armaments. The League must possess a juridical machinery for the settlement of international disputes, and the nations must pledge themselves to provide contingents for the purpose of using compulsion against a state which should oppose the decision of the League. Entrance into the League of Nations will therefore be, for the associated nation, an *insurance against the risk of war*. From the Unionist side a League of Nations was advocated which would not finally include Germany, but would be a mournful substitute for the ideal League. Of course, Germany would first have to be defeated.

If we sum up the movement thus far we shall find that the idea of the League of Nations has played an important part in England; that it has numbers of sincere advocates in Liberal<sup>1</sup> circles, who do not wish to exclude Germany from the League, but would have her a member enjoying equal rights with other members; but that the English Government, and with it the Unionists, is meditating a League of Nations which would be set up under the overlordship of England, when Germany is defeated.

<sup>1</sup> Liberal in the sense of being "on the Left," *i.e.*, including Radicalism and Labor.—*Trans.*

The French acceptance of a League of Nations does not appear to be very different. According to the account by the President of the Commission appointed by the French Government, Léon Bourgeois, in the *Matin*, the League of Nations is, indeed, universal in its aims, but for the present it should be composed only of the Allied nations, "which are fighting to bring about the sovereignty of right and justice." Later on other nations would be able to enter the League, provided they furnished the necessary legal and material guarantees. In other words, the official French conception of the League is the perpetuation of the Entente after the overthrow of Germany. The reception of this account by the French Press was in absolute correspondence with its spirit; amongst other things, the League of Nations was defined as a means of economic warfare. The French international publicists adopt much the same point of view; Germany will not be excluded, but she must offer guarantees. The French Trade Unions, on the contrary, at the Congress of Labor Unions in July, 1918, adopted as part of their program: no annexations, self-determination of the nations, restoration of the independence and territorial integrity of the occupied countries, no war indemnities, *no economic war after the war, freedom of the seas and straits, international arbitration, and a Society*



of Nations. This peace resolution was adopted by 908 votes against 253, 46 voters abstaining. It is not improbable that Clémenceau, in a recent conversation with the well-known Senator Bourgeois, was speaking with admitted reference to the national forces standing behind the French Labor Unions when he stated that whereas in an earlier speech in the Chamber he had declared himself as an opponent of the League of Nations, that was a sudden flash of thought, not to be taken seriously; he was, on the contrary, a supporter of the Society of Nations.

In Italy, as the *Frankfurter Zeitung* announced on August 27, 1918 (No. 237), the Liberal Senator Ponti published a remarkable article on the question of the League of Nations. The article arose out of an open letter, which was, however, in agreement with his own ideas, addressed to him by the leader of the Italian Catholics, Marchese Crispolti, in the *Corriere d'Italia*. In it Senator Ponti argued against the limitation of the League of Nations to the Entente Powers (and Crispolti alluded in a similar manner to the similar proposal made by Bourgeois), because the Central Powers would never, with any confidence, be able to enter a League of Nations erected as an alliance directed against them; and the same obstacle would operate against the entrance of neutrals. Ponti held that the foundation of

the League should not be postponed until after the conclusion of peace, *but should be seen to now, in order that the League might bring the war to an end.* He suggested the following details as to its procedure:

“The Entente Powers shall forthwith call for the creation of a League of Nations or League of Peace, and also invite the neutral Powers to express their opinion concerning such a League. Ultimately the invitation shall be extended to the Central Powers and their Allies.

“The Entente Powers shall pronounce their willingness to submit all matters of dispute of a national, international, economic, and colonial nature, the problems of the freedom of the seas, the colonies, restoration, and indemnities, and so forth, to the impartial judgment of a Supreme Court of Arbitration, on the hypothesis of the obligation of either party to submit to its decision.

“The Court of Arbitration shall be composed of an equal number of representatives of each of the belligerent groups of Powers, but at the same time ‘delegates of high authority and unbiased judgment’ from the neutral countries should be appointed.

“The fundamental criteria of the Court of Arbitration must be referred to the generally accepted principles of equity and respect for reasonable and publicly known national

endeavors, and also to the spirit of the four theses formulated by Wilson on the 12th of February, which have already received general assent. Other lines of adjustment could eventually be agreed upon between the parties themselves."

This proposal met with the approval of the leader of the Italian Catholics. He justly remarked that if statesmen expected the establishment and defense of the world's peace from the League of Nations or its Court of Arbitration, they must also be confident that the League of Nations, with its organization, would be in a position to solve the present problems. *Of course, the idea that a conquering Power could dictate conditions to a vanquished Power would have to be renounced.*

The English and French ideals of a League of the Entente Powers, or a League of Nations under the direction of a particular group, has met with opposition from neutrals also. It is in the highest degree to the interest of the neutrals that a League of Nations should be formed in which every member would enjoy equal rights, and in whose formation every member would from the beginning have an equal share, for the same theoretical reasons. These nations, although they have suffered no blood-letting, and although their property has not

been injured to the same extent as that of the belligerent Powers, have yet been subject in a great measure to the effects of the war, and would be increasingly subject to those of future wars. In Sweden the Minister of State, Gunar Knudsen, declared, on the occasion of the imminent elections to the Storting, that a League of Nations of a type which would make it possible to avoid future wars was a goal to which the neutral nations also must aspire. On June 6, 1918, the President of the Swiss Federal Council, M. Calonder, declared, in the National Council:

“As far as the creation of a League of Nations is concerned, the Federal Council is paying all attention to this matter. Nothing will be neglected which can lead to this goal. *The Federal Council has commissioned Professor Max Hüber at Zurich, as its legal adviser, to look into the matter and submit an opinion to the Federal Council.* The question at issue is the establishment of a new order of international justice. Directly the Federal Council is in possession of this legal opinion, with the proposals of its legal adviser, the political department will submit the same to a deliberative commission of experts, so that the Federal Council can then come to a decision with a full knowledge of the facts of the matter. It

reserves to itself the right of reporting on the same to the Council in session, and will at its own time decide upon its attitude thereto."

In Copenhagen, the Tenth Northern Parliamentary Congress adopted a resolution, on September 8, 1918, which contained the following propositions:

"The Tenth Congress of the Delegates of the Northern Parliaments declares that *a lasting peace is best guaranteed by the creation of a League of Nations*. Such a Peace League, comprising all States, would not only be the most effective means of preventing war, but would at the same time guarantee to all nations the conditions of an independent existence and free economic development. It is of the greatest consequence that the League of Nations should be built up on the basis of the reciprocal pledges of the States to submit every case of dispute which cannot be solved by diplomatic means to peaceful negotiation. While the Congress notes the fact that a number of Governments, neutral as well as belligerent, are already having the question of a League of Nations examined by special commissions, it urgently requests all inter-Parliamentary groups to submit this question to an all-round discussion on the basis of the preliminary steps which were taken by the inter-Parliamentary

Association before the war. Its object is to enlighten public opinion, each group independently to influence its own Government. The Congress is convinced that a great step in advance would already have been taken were the idea of the League of Nations to be unreservedly accepted by responsible members of both belligerent groups."

Dutch, Scandinavian and Spanish newspapers express themselves decisively as opposed to a one-sided League of Nations. In the *Tijd* for August 20, 1918, in connection with the above-mentioned article by Crispolti, we read: "A League of Nations according to the French proposal would necessarily place Holland in a very difficult position, whether she were admitted to the League, or otherwise. Under a League of the Entente nations only her economic life and free trade would suffer." And the *Stockholm Dagblad* of August 24 represented it as the duty of the small States to take heed lest this idea should be employed as the pretext for criminal tendencies, after the fashion of Metternich's Congress policy at the time of the Holy Alliance. Such an attempt would be a scheme to constitute the League of only one of the belligerent groups, and to allow this group to determine the rules and the conditions of entry. In so doing the creators of the League would seek to make the other Powers forget, under the influence of sound-

ing phrases, what they themselves would naturally not forget: namely, that such an Association would simply be a fighting organization, which at present would be essentially military in its intention, and, in future, principally economic.

“No outside observer can assert that Greece, Portugal, Hayti, Liberia, Cuba, Siam, China, for example, and other similarly situated present members of the alliance of free nations, are actually free. They have been forced into the war, and subjected to economic compulsion, which seeks its like, and can scarcely cease suddenly on the conclusion of peace. This does not much resemble the freedom which the outside neutral nations are striving after. They will not willingly allow themselves to be made into the screws and bolts of the machinery of war, or the building stones of an edifice of world-sovereignty, handsomely decorated with phrases about freedom, which is destined for the political leaders of a few selected Great Powers.”

The *Svenska Dagblad* of August 29 considered the idea of the League of Nations from the point of view which has frequently been expressed in England, according to which the League is compared to a joint-stock company; the danger consists in the fact that the large shareholders outvote the small shareholders. Under the pre-

text of a consolidation of the undertaking, the smaller shareholders may be compelled to sell their shares, whereby the profit of the whole concern passes into the hands of those shareholders who originally possessed the greatest number of shares.

The same image was employed by the Bavarian Premier, von Dandl, in the Bavarian Chambers, on June 31, 1918, when he declared:

“We do not want a League of Nations resembling a commercial company in which one shareholder, or an exclusive group of shareholders, holds 55 per cent. of the share capital, in order thereby to suppress any freedom of action on the part of the other shareholders.”

This is the very root of the matter. The Entente wants a League of Nations which will more firmly establish its political and economical predominance. It wishes to guarantee peace by subjecting the other Powers to its conditions, by the help of such a League of Nations. It wants the peace of a League of Nations which shall be governed by a group of Powers.

In Germany, too, there are circles which represent the point of view that peace will be best secured by the predominance of Germany, and which, just as the *Morning Post* and its readers uphold British Nationalism as the best guarantee



of peace, perceive the same security in the German peace of the sword. These are the same circles which discredit the idea of the League of Nations as such by pointing to the abuse of it of which the Entente is guilty; although they have in view the very same goal as the Chauvinists of the Entente.

The idea of the League of Nations is based on the principle of *the complete equality of rights of the nations, and the association of the collective nations under the selfsame conditions*. It is built upon a foundation of reciprocity; its conception and its potentialities of realization will be meaningless the moment it conceives one Power or group of Powers as predominant. Our Chauvinists are amazingly proud of the fact that they have not entered the "sphere of dreams and mirages," as adherents of the ideal of a League of Nations. The German goal must no more be a League of Nations at any price than it must be a peace at any price. The sincere advocates of the League of Nations are perfectly well aware that imperialistic ambitions may be dexterously concealed beneath the label of the League of Nations, and that such concealment will be attempted by the Entente. But this is no obstacle to their giving the idea of the League of Nations its practical form, and this precisely imposes on them the duty of maintaining the idea *in its purity*,

and of insisting upon its incompatibility with imperialistic tendencies. And this applies to their own country quite as much as to the enemy countries. No one in Germany wishes to buy the League of Nations at the price of German liberty, but neither do we desire a League of Nations in which the other nations would play the part which the Entente Governments wish to reserve for Germany. Between the Entente Powers and the Central Empires there exists, in this connection, the distinction that with us the "politicians of Might" are in the minority, while with them they are in the majority; and, further, that with us they are honest enough to refrain from using the League of Nations to mask their desires, as their kind in England are doing. So it is that Germany's chorus of approval concerning the League of Nations is honest in its origin, and the claim is of course made, as a self-evident hypothesis, that Germany must enter the League of Nations only on its formation, as a co-operative member enjoying equal rights, and in an equally privileged manner. All the speeches which have lately been made in Germany by our prominent men, and all the expressions of opinion which have appeared in the "Majority Press," on the subject of the ideal of the League of Nations are prompted by their loyal intention in respect of this ideal, and also by the perception that

*equal rights and equal duties* form the basis of this ideal; because the conviction prevails that this is the *only* way in which the ideal can anyhow be realized.

The Secretary of State, Solf, on August 19, 1918, spoke of the groups and individuals in all countries whom one might describe as the "Center" or moderate party of the European conscience:

"In the Center are the stirrings of something like a perception that the way to freedom can only be found if the belligerent nations awake once more to the *consciousness of their community.*"

And Prince Max of Baden spoke two days later, on the celebration of Constitution Day in Baden, of the day

"when the nations who are fighting and hating one another, and are suffering such unspeakable things at one another's hands, meet together in that great human society which as yet has never existed, but which has been propounded by the religious conscience of all peoples, and especially to us Germans, by our greatest thinker, Emmanuel Kant."

Is the solution of this common problem, are the presumptions of the great Society of Nations, possible, unless the peoples approach them with

honest intentions and a sense of the necessity of equal rights for all?

In his speech at Stuttgart on September 12, 1918, the Vice-Chancellor, von Payer, described the development of the situation in the following terms:

“The nations of the earth are calling for protection against the further impoverishment of the world by war, for a *League of Nations*, for an *international Court of Arbitration*, for an *agreement as to uniform disarmament*. The enemy Governments, partly from inner conviction, and partly also, it may be, from tactical considerations, have made this demand their own. None of these demands, whose fulfilment would, at least, be qualified to lighten the lot of the future generations, will be wrecked upon the opposition of the German Empire, which had lived in peace since it came into existence.”

Neither the German Government nor the vast majority of the German people desires world-sovereignty; but the sovereignty of England or America, organized as a League of Nations, would be equally intolerable. A British world-Empire, or a League of Nations under British management, which would come to the same thing, would be no guarantee of peace, any more than the dominion of German Imperialism would

preserve the nations from wars of liberation. History shows that all attempts to guarantee peace by universal empire and world-sovereignty have miscarried, and have only resulted in the shedding of fresh seas of blood. Let us learn from history!

## CHAPTER II

### ASSURANCE OF THE WORLD'S PEACE IN HISTORY

THE method by which it has hitherto been attempted in history to guarantee the permanence of the world's peace has in most instances been the method of power, operating through the erection of a World-State, which subdued all nations to its sovereign authority, and compelled them to keep the peace. In this direction the founders of the great world-empires of antiquity led the way, and in the Roman State for the first time the ideal of "world-peace through world-empire" was successfully translated into reality. For nearly four hundred years, from the battle of Actium to the beginning of the migration of the peoples, humanity lived through a period of almost unbroken peace. From the waters of Babylon to the pillars of Hercules, from the mountains of Scotland to the deserts of North Africa, the *Pax Romana* prevailed, upheld by the weapons of the victorious Roman legions. The whole civilized world, the "Oecumene," existed under uniform laws and institutions. One

language, one currency, one commercial system, was established throughout the whole of the Empire, and great undertakings were realized, such as humanity since that time has been unable to accomplish.

The memory of the Roman World-State, which secured for humanity the longest period of peace, has been since then a living thing in European history. Over and over again men have sought to establish the world's peace in the fashion of ancient Rome, and by her methods. The Imperialistic Roman ideal of Empire and Peace underlay the policy of the mediæval Emperors, whose aspirations were directed toward the renewal of the Roman Empire in its Christian form. Poets and philosophers such as Dante (*De Monarchia*), Marsilius of Padua (*Defensor pacis*), Honné Bonnor (*Arbre de la paix*), Leibnitz, and finally, in the nineteenth century, sundry writers of romances, beheld the assurance of the world's peace in the universal sovereignty of the Emperor. For the most part, the Imperialistic Roman idea has governed the French policy of *préponderance légitime*. For centuries the idea of the re-establishment of the Roman Empire, which had been bequeathed to the Franks by Charlemagne, was the mainspring of French aspirations. Again and again the Kings of France have striven to regain the Roman crown

of Charlemagne, and to place France at the head of Europe. This was the aim of the first great peace proposal of modern history, the *Grand Dessein de Henri IV*, the work of the French Minister, Sully, and it also underlay the famous *Projet pour la paix* of the Abbé St. Pierre.

Sully's proposal was really a *program of war-aims*. Its object was the destruction of the Hapsburg Monarchy, which represented the greatest obstacle to the establishment of the French hegemony in Europe. This aspiration toward European sovereignty was to be cloaked by the scheme of a European Alliance of Nations. In the first place, according to Sully's idea, an Alliance was to be formed between England, Denmark, Sweden, and France. This Alliance was to declare a war upon the Hapsburg Monarchy, and demolish it. The Spanish Netherlands were then to fall to Holland, and the two provinces would be erected into a Belgian State; an idea which Talleyrand afterwards carried out, to the profit of France, at the Congress of Vienna. Franche-Comté, then in possession of the Spanish Hapsburgs, together with Alsace and the Tyrol, possessions of the Austrian Hapsburgs, was to be added to Switzerland, which was in those days largely subject to France. The German princes were to be set free from the sovereign authority of the Imperial House



of Hapsburg; that is, the German Empire was to be dissolved into its constituent parts. Of Bohemia and Hungary, Sully, as to-day the Entente, wished to make independent kingdoms; in the same manner the Hispano-Hapsburgian dominion in Italy was to be set aside; Lombardy was to be united with Piedmont, and Spanish Naples with the States of the Church; so that the Duke of Piedmont and the Pope would control the Apennine peninsula, which was otherwise divided into numerous republics (Genoa, Lucca, Florence, Parma, Piacenza, Modena). It was a project resembling that by which Napoleon III, in 1859, sought to establish French suzerainty over Italy.

For France herself Sully demanded no direct increase of power (and the same modesty may be observed to-day in England and the United States). France could well, indeed, forego any such expansion. With the Hapsburg Monarchy destroyed, France would have for her Eastern neighbors a comparatively weak Belgium, the disunited German princes, a dependent Switzerland, and an innocuous Piedmont. She would have been by far the greatest State in Europe, and the European overlordship would have fallen to her automatically. Through the sheer weight of her power she would have had the chief voice in the Alliance. If the Hapsburg Monarchy were destroyed, then Turkey would be over-

thrown, which, by virtue of the position which France at that time held in the Near East, would have meant her predominance in the Levant. In respect of Turkey also, Sully, in his "Peace Project," had anticipated the present scheme of the Entente.

The Abbé St. Pierre produced his project at the time of the Peace of Utrecht, after the *Grand Dessein* of the establishment of a French hegemony and a French peace had miscarried, in wars which cost France much blood and many sacrifices. St. Pierre sought at least to wrest the Empire from Germany, and in this manner to create the conditions which would make France a leading Power. Even to-day the leading classes in France are captivated by the belief that the predominant authority of the French nation (secured by the possession of the Rhine) and of French civilization in the world, would signify the realization of the dream of permanent peace, and even to-day the French historian Edouard Diault, who, in his volume *Les traditions politiques de la France*, aspires after nothing less than the predominance of France on both sides of the Atlantic Ocean, declares that "France must finally complete her physical constitution by the Rhine Province, in order to secure her vocation as liberator, and in order that she may announce to the expectant world the good news

of lasting and fruitful peace, a peace that will bring a hundred, aye, a thousand, years of prosperity."

In the Empire of the First Napoleon France, for a little while, nearly achieved her aims: she restored the Western Roman Empire of Charlemagne, and acquired the hegemony over Europe, which, according to Napoleon's design, was to mean nothing more or less than permanent peace. For, as he declares in the St. Helena "Memoirs," it was his desire, through his wars, to gather the European nations into a confederation, held together by "unity of laws, principles, opinions, sentiments and interests," at the head of which the Empire, by means of a Congress, would have watched over the welfare of the "Great European Family." "The Peace of Moscow put an end to my military expeditions. It would have meant the beginning of security. A new horizon, new tasks, full of welfare and prosperity for all, would have unfolded themselves. . . . The task of the century would have been accomplished, and that of the Revolution completed; it was only a matter of improving what the latter had not destroyed. The task was incumbent upon me. I had long prepared for it. . . . I should have been the bridge between the old Alliance and the new; the natural mediator between the old and the new order of things."

In the French Revolution the ideal of establishing the world-peace by imperialistic methods was allied with the democratic ideal of the age of enlightenment. A lasting peace seemed impossible, to the representatives of French enlightenment, so long as the sovereign power lay in the hands of princes. "Peace," said Voltaire, "can no more exist between two princes than between elephants and rhinoceroses, between dogs and wolves. Carnivorous animals will always tear each other to pieces at the first opportunity." People were living in the optimistic illusion of the inborn goodness and pacific inclinations of the people, and the absolute malevolence of princes. "Wars born of ambition will cease when the mass of the people makes itself felt; for only a few generals and ministers have anything to gain by wars." So wrote Voltaire. To the politics of ideas was allied military imperialism; to external expansion, intervention in the *domestic relations* of other States.

In the sixth section of the French Constitution the Constituent Assembly declared: "The French Nation refuses to undertake a war for the purpose of making conquests, and will never turn its forces against the freedom of any people whatsoever." But even after this, to the cost of the German people, the Rhine was declared to be the natural frontier of France. "Shall

nothing be left us," asked Eschasseriaux the elder, "of the wars which we have fought for the freedom of other peoples, but unfruitful glory? Our money, and the precious blood of so many brave soldiers—were they spent and shed in vain?" "Not in order to make conquests, but in order to take measures that the enemy shall not be in a condition to do harm, and to secure our own defenses" was the annexation of the German provinces necessary: "for conquest becomes legitimate when it arises out of the necessity of repelling future aggression." So the "peace and freedom" policy of the French Revolution was very quickly transformed into a policy of *annexation and hegemony*, and in place of peace and liberty came bloody war and the military despotism of Napoleon.

The Holy Alliance pursued this policy, except that it replaced the hegemony of France by that of Russia, and the democratic principle by legitimism, without whose maintenance by incessant intervention it appeared to be impossible to guarantee peace.

Clearly enough, the real aims of the Holy Alliance proceeded from the history of its origin. It was in the beginning devised as an alliance between Russia and England, its purpose being to overthrow Napoleon. To this end, as Alexander I explained to the British Cabinet in 1804,

the peoples of Europe would be summoned to fight for freedom. Then a League of Peace would be established, in which England and Russia would exercise the predominant authority, "for these two are the only two Powers which, owing to their situation, are permanently interested in the prevalence of law and order; the only Powers which, owing to their situation, are in a position to maintain the dominion of law and order, and which, being free from conflicting desires and interests, will never disturb this happy tranquillity." In the Treaty of April 11, 1805, it was agreed: "To take a lively interest in the discussion and exact definition of the principle of nationality, in the guaranteeing of its security by general consent, and in the erection of a federative system in Europe; and to secure the independence of the weaker States by setting up a powerful barrier against the ambition of the mighty." How little this was meant seriously appears from the fact that Alexander I, barely two years later, at Tilsit, was seeking to come to an agreement with Napoleon as to a *partition of Europe*, an attempt which miscarried only because Napoleon was unwilling to surrender Constantinople to Russia. On this account the Russian autocrat returned, after the outbreak of war with Napoleon I, to his scheme of liberating the nations, in order to re-

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establish it, in the Holy Alliance, by means of the legitimistic principles which, originating in the *Projet pour la paix perpétuelle* of St. Pierre (article 3), had caused the rulers of Europe to meddle in French affairs, at Pillnitz, in 1792, and had almost become the occasion of a quarter-century of warfare. Actually, the Holy Alliance established the hegemony of Russia in Eastern and Central Europe, to be shattered only by the Crimean War.

After its destruction Napoleon III made an attempt to base the peace of Europe upon the Imperialism of that period, an Imperialism founded upon a policy of force and ideology, while he sought to set France and the Liberal ideal at the head of Europe; and in this way France stumbled into *no fewer than four wars* in the course of fifteen years. He was the first European ruler to reckon with the pacifist movement which was called into being, after the Vienna Congress, by the Anglo-Saxon Puritans. In the course of the nineteenth century the whole civilized world gradually learned how to organize itself by means of unions and congresses, and began to acquire the power of influencing Parliaments and Governments. Like almost all idealistic movements, it was the fate of pacifism to see itself seized upon by imperialistic Governments and manipulated in the service of their

interests and their policy of expansion. It was to serve these interests by providing them beforehand with a moral alibi, in the eyes of the civilized world, in the event of a war arising from their imperialistic policy, and enabling them to throw the blame upon their adversaries. After Napoleon III, with the help of the soldiers, had seized the reins of power, he declared himself, in the well-known words: "*L'Empire c'est la paix*," in favor of a peaceful policy. A few years later he declared war on Russia, and, in the Crimea, sacrificed 100,000 Frenchmen to an aimless policy of "glory," which should have made France predominant in the Levant, but which really benefited England. Then, on the pretext of wishing to realize the principle of nationality, but actually with the intention of establishing French hegemony in Italy, he stumbled into the Italian adventure. In the hope that he might be able to win the leadership of the Roman Catholic nations, he ventured on the utterly mistaken Mexican expedition. At the same time he was pursuing a scheme to acquire Belgium and the left bank of the Rhine as a reward for permitting the unification of Germany; a policy which finally led to the war of 1870-71. But while he was pursuing a course of diplomatic action which was always provoking fresh wars, his mouth was full to overflowing with pacifist



phrases and conciliatory speeches. In the Speech from the Throne delivered on November 5, 1863, a year before the Mexican expedition, he expressed his desire to summon a European Peace Congress, which would discuss universal disarmament and arbitration. He wished to ask the statesmen of Europe: "Have not the artifices and the prejudices which divide us lasted long enough? Will not the jealousy, aye, the rivalry, of the Great Powers hinder the permanent progress of civilization? Shall we not always maintain a mutual distrust by means of exaggerated armaments? Are we always to support a state of affairs which is neither a secure peace nor a possibly advantageous war? Let us rather have the courage to replace such a morbid state of affairs by a stable and regulated situation, even at the cost of some sacrifice. Let us then unite ourselves, without any preconceived system, without ambition, animated by the sole idea of establishing, from now onwards, an order of things based on the well-understood interests of princes and peoples." But in 1866 a Franco-German war was only prevented by the swift conclusion of peace at Nikolsburg. Then Napoleon III sought to make the Luxemburg problem a matter of war. A few months before the outbreak of the war of 1870, in the month of February, he submitted to Prussia, through the British

Ambassador, Loftus, a project of disarmament; he even volunteered to be the first to disarm, and actually made the proposal, in a draft of a law submitted to the Chamber on March 21, to reduce the year's contingent from 100,000 to 90,000 men. Shortly after this he made of Prussia the unreasonable demand which led to the war.

The political characteristic of Napoleon III was that he, like Napoleon I, entertained the ambition of obtaining supremacy in Europe. He aspired to the reputation of a European arbitrator, but was never able to bring his humanity into harmony with his hankering after despotic power, which continually drove him to acts of intervention and imperialism; so that on many occasions the humanitarian pacifism of Napoleon III was a means of carrying out his imperialistic policy; yet there is, to say the least, between his Speech from the Throne of 1863, and the aims with which he entered the Franco-Prussian War, an insuperable contradiction.

As it was with French Imperialism, so it was with British and Russian Imperialism: pacifism was pressed into its service. Undoubtedly Nicolas II was at heart a peaceable but feeble character, who honestly aspired to guarantee the world's peace in a permanent fashion. The Tsar's Manifesto of August 28, 1898, expressed

his deepest convictions, and was issued by him without any egoistic afterthoughts. Similarly a section of the Russian politicians, Count Witte among them, were anxious for peace. But neither they nor even the Tsar had the Empire really in hand. The actual leaders of Russian policy were pursuing, behind the façade of the Tsar's Manifesto, a grandiose policy of expansion in Eastern Asia. In connection with such a policy of conquest a clash with England and Japan was inevitable. So the Tsar's Manifesto is in curious contradiction to the Manchurian War of 1904-5.

But it was the British politicians who contrived in the most systematic manner to make use of pacifism for the benefit of their imperialistic aims. Up to a certain point its interests coincided with those of British Imperialism, and up to this point it was certainly honestly intended. It would undoubtedly have been an enormous gain to the British Empire could it have secured the enormous world-empire which it had welded together in the course of the nineteenth century as a pacifistic system, thereby making it a permanent domain of the English nation. The policy by whose aid England was seeking to complete her vast colonial empire, by effecting a connection between its African and Asiatic portions, through Egypt, Arabia, Mesopotamia,

and Southern Persia, was pursued by King Edward in the name of peace. The treaties of 1904, which sought to solve the Mediterranean and the Eastern questions by the elimination of Germany, were defined as a settlement of British and French disputes. A similar assertion was made in respect of the Anglo-Russian Treaty of 1907, which partitioned Persia. With justice did the Belgian Minister Greindl on one occasion write:

“The customary peaceful protestations mean little indeed in the mouths of three Powers which, like Russia and England, have just fought wars of conquest in Manchuria and the Transvaal, if perhaps with different results; merely in the endeavor to expand themselves, without even a plausible excuse; or like France, who is now proceeding to conquer Morocco, disregarding her pacific promises, and without any legal title other than the transfer of England’s rights—and England herself had no rights.”

If we glance through history, we find that one truth is in every case absolutely established: *Every peace policy* which, after the example of the *Pax Romana*, adopts the methods of power and oppression, *which has a double meaning and is double-faced*, whether, for the establishment of

legitimistic or democratic principles as the supposedly necessary conditions of peace, after the fashion of the French Revolution or the Holy Alliance, it allows itself to be seduced into a policy of intervention in the domestic relations of other States, or whether, under the mask of pacifism, it pursues imperialistic aims, promising the other nations equality of rights: every such peace policy is *doomed to utter frustration*. As experience has demonstrated, such a policy always leads to fresh conflicts, to the recurrence of war. It does not, therefore, constitute a practicable method. If history is written that we may learn from it, then all peoples must agree to renounce such attempts as aim at oppression under the flag of a League of Nations.

A peace which is to be permanent, or a League of Nations, must depend upon the universal renunciation of imperialistic policy and intervention. It can only be achieved on the principle of understanding, freedom, and equality of rights, by the reconciliation of interests. According to the experience of this war, as according to the experience of history, the world can no more find salvation in a *Pax Britannica*—as the Entente Imperialists would have us believe—than in a “German peace of dominion” in the East, as our “politicians of Might” would have us think. In the new order of things, which humanity in-

tends to build up in the expectation that it will be lasting, there is no longer any room for this sort of peace assurance. The policy of tutelage has had its day. Sensible folk in all countries are aware of this. We ask no nation to subject itself to our will; the Entente must not ask us to subject ourselves to it.

*A lasting world-peace can only be achieved if every nation renounces its longing for pre-dominance.*

And this is the lesson which the Christian religion taught humanity nearly two thousand years ago.

## CHAPTER III

### THE PAPACY AND PEACE

THAT power which was the first in history to embrace the idea of peace *on principle*, in sharpest contradiction to the ancient conception, according to which "War is the father of all things," was the Christian religion. The "war theologians," indeed, seek to deny this, and thereby to defile the glorious world-temple of Christ. But in all ages the Popes, as the representatives of Christ, have regarded the prevention of war and the restoration of peace as one of their chief tasks. And the Church has regarded the transformation of man from a being ruled by egoistic and sensual desire into one actuated by the principles of religion and the ethics of Christian justice and love as the chief means to this end. If this transformation had been effected, permanent peace would have been a natural consequence. Always have the Popes—and most clearly of all Pope Benedict XV, in his allocutions—perceived the real cause of war in the apostasy of mankind from the moral laws of

Christianity, and regarded the return to Christian teaching as the true and direct road to the restoration of peace. This idea has been accepted by all those thinkers who have meditated most profoundly upon the problem of peace. It is a Christian idea, although the great philosopher Kant writes in his essay on "Permanent Peace": "First of all aspire to the dominion of the pure practical understanding (that is, of the moral law) and its righteousness, and your goal, the benefit of perpetual peace, will of itself approach you."

It has been the Church which has completely reorganized the legal and social relations of the peoples by means of the Christian civilization, while to violence and arbitrary power she has opposed the commandment *summ cuique*, and to self-seeking and the lust for power the gospel of love. She gave the judicial and political life of the Christian States its moral basis, and thereby really first created the modern civilized nations. She was able to teach the princes and rulers their duties toward the peoples, and to the peoples, in place of slavish subjection, she taught the duty of voluntary obedience and loyalty to those in authority, while she imbued them with the love of their native land. It was the Papacy which achieved the independence of religion and the conscience, as against the abso-



lutism of princes and the omnipotence of the State; thereby doing the greatest service to freedom. As the Church united the citizens within the State, giving them solidarity, so she was also enabled to bring the nations themselves nearer to one another, thereby laying the foundations of the international law of to-day.

Christianity has preserved the idea of the solidarity of all mankind, which was deeply rooted in the human conscience, has given new life to the recognition of the common obligation of mutual sympathy and support, and by the doctrines of our common descent, the Redemption, and salvation for all, has greatly reinforced all these ideas. In his famous essay on the *Civitas Dei*, St. Augustine, for the first time in history, submitted the plan of a great empire of peace, binding the world and the nations together. In this essay he declares himself as rigorously opposed to the Roman policy of conquest by which the *Pax Romana* had been achieved; a peace whose evils were so frightful that whoso could think upon them without pain, and notwithstanding them could feel happiness, must on that account be reckoned all the more unhappy, because he would show thereby that every human feeling had died within him. For St. Augustine, the foundation of the City or State of God is peace. For this reason he extols peace in the sublimest

terms: "Peace is so great a good that among earthly and heavenly things nothing more grateful can be heard, nothing more blessed can be desired, and lastly, nothing better can be found." All human order is conditional upon peace; peace in the home, in the State, is the higher basis of all life. The longing for peace extends throughout the world, "for we shall be reckoned happy if we have peace." Aye, even to unconscious Nature does Augustine attribute the longing for peace.

He aspires *not* after the peace obtained by the subjection of one people to another, but after that peace born of the free alliance of peoples, on the principle of *Tu gentes gentibus conjungis*. The great Catholic dogmatist also, St. Thomas Aquinas, dealt with the problem of peace, and the problem of a just war, and its characteristics. At the beginning of the modern era there was again a Catholic dogmatist, the Jesuit Suarez, who was the first to recognize the fact of the teleological solidarity of the individual States, and of their immanent community of interest, which we to-day call the interdependence of nations; and on this conception, which was a fundamental of the foundation of a system of international law, he erected the ideal of a jurisprudence common to them all. As early as the year 1612 he wrote: "Al-

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beit the human race be divided into divers peoples and States, it hath not alone its unity as a species, but also a certain moral, and, so to speak, political unity, the which findeth utterance in the natural commandment of mutual love and regard for all, even for the stranger. Albeit every perfect State, be it monarchy or republic, consisteth in itself alone of an independent unity, yet is it no less true that every one of these States, if we consider it in respect of the whole human race, representeth, in a certain sense, a part of the whole. For never shall that community in isolation suffice to itself and contrive to dispense with reciprocal intercourse, as with mutual aid, in such a fashion as to satisfy its circumstances, its material progress, or even, as it many a time befalleth, its moral requirements; as experience doth show. For which reason it is indispensable that it shall possess a law, that shall be a guide to it, and shall assign unto it its place in this society or this alliance. . . . As custom hath created law in States and provinces, so is it also possible that through the practice of States laws will be established throughout the whole of the human race."

But the Papacy was the representative of the unity of the human race, and of Christianity, with its power of international alliance and

reconciliation; and the Catholic Church was the realization of the ideal of St. Augustine, *omnium christianorum una respublica*. "In an age," writes the English historian Lingard, of the pacific activities of the Popes, "when none but warlike merit was valued, Europe would have sunk into unending warfare, had not the Popes continually worked for the maintenance and restoration of peace. They reproved the princes for their vehement passions, and set bounds to their excessive arrogance; their character, as the common Father of Christianity, gave their representations a weight to which no other mediator could pretend; and their Legates spared themselves neither journeys nor hardships in order to reconcile the discordant interests of Courts, and to part the swords of the conflicting parties with the olive-branch of peace."

The founder of modern international law, Hugo Grotius, had already cause to extol the deserts of the Popes, when he wrote: "How many disputes have been composed by the authority of the Roman throne—how often hath oppressed innocence found protection there," etc.

"There is something sublime in the idea," writes the Italian Cesare Cantù in his *History of the World*, "that a simple, defenseless priest, a stranger to worldly interests, should sit as

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judge over the disputes which break out between princes or nations, in a world which is ruled by opinion more than by political precepts; and speak of reasonable behavior, and of duty, to those who recognize only caprice and power. Even if the idea was not completely realized according to this ideal conception, yet must it always be admitted that the art and method of government which the Church practised in the Middle Ages was superior to all the systems which have been founded since then, for the purpose of maintaining a free and powerful alliance between the nations of the Occident. What was called the tyranny of the Popes was not intended to humiliate simply, but to humble in order to enlighten. To impute the aggrandizement of the Papal authority to craft and ambition would be madness; the Popes might have enlarged their possessions and increased their power as other princes did; nevertheless, they forbore, and not a square inch of soil was added to their possessions by the means customarily employed by princes—namely, by conquest. Dissimilar in character and in passions as in capacities, they all desired the same goal; only in the means which they employed did they differ from one another.”

On innumerable occasions did the Popes act as peacemakers during the Middle Ages. At the

Convocation of Clermont, in 1095, the Truce of God, the *Treuga Dei*, was for the first time proclaimed for the whole of Christendom. According to the terms of this truce, all hostilities, even individual combats, were forbidden on four days of the week. Owing to the limitations which the *Treuga Dei* imposed upon hostilities in that age of anarchy, club law, or the law of the strongest, was gradually transformed into feudal law, which in its essentials has a great similarity to the present customary methods of regulating warfare, as set forth in the Geneva and Hague Conventions. And even then protection and exceptional modifications were provided in the case of the clergy, women in childbed, the sick, pilgrims, and merchants, and for churches and churchyards, similar to those established by the above-mentioned agreements as to modern warfare. By the conclusion of the Middle Ages, and the commencement of our modern era, the Papacy had not wearied of admonishing princes and peoples in the interests of concord, or of uniting them against the danger which was threatened by the Turks, who twice advanced as far as Vienna, and imperilled Italy. It participated, through its Nuncios, in almost all the peace negotiations which took place, down to the Peace of Nimuegen; and although it was excluded from them by the nationalism, hostile

to the Church, which was continually gaining strength in the Catholic States, it sent its unofficial representatives to the European Peace Conferences. In the nineteenth century it repeatedly alluded to the dangers to the peace and prosperity of the peoples which were threatened by the prevailing alienation from the doctrine and the spirit of the Christian religion. Indefatigably did Pope Leo XIII, in his famous Encyclicals, treat of the great problem of the health of Church and State. In them he explained exhaustively how the rationalistic and nationalist doctrine of Liberalism, always verging more closely on Radicalism, together with the declaration of the sovereignty of human reason, as the source and the judge of all truth in private and public life, and the doctrine of the absolute sovereignty of the nation, was sundering the bond between Creator and created, and thereby undermining not only private morality, but even the State itself. In warning tones he proclaimed, as early as 1881, that the judgment of the nations was at hand, a judgment on their pride, which could no longer be exorcised by human power, but only by humble prayer, and the sincere love of God and one's neighbor.

Merely from the return to the love of one's neighbor and Christian solidarity he hoped for a restoration of international peace. Only Christ,

he declared in an allocution of the year 1879, could bestow a true and absolute peace, reposing on order, truth, and justice. The threefold root of war—Ambition, Covetousness, and Jealousy—can only be extirpated if the peoples will allow the Christian virtues, and particularly justice, to become active once more. Only on this basis, he declared in the Epistle to Princes and Peoples, *Praeclara gratulationis*, on June 20, 1894, are respect for international law, the solemn observance of treaties, and a constant realization of the brotherhood of man possible. The political tension in Europe which began after the Bulgarian crisis of 1886, and threatened, in the Pope's eightieth year, to result in an explosion, stimulated His Holiness to repeated peace manifestoes. In the address to the Cardinals (February 11, 1889), *De munere pacifico ecclesiae commisso*, he declared:

“Never was there a time when the ideals of peace corresponded more closely to the requirements of the nations than now, when words of brotherliness, reconciliation, and concord are on all lips. The Sovereigns and their Ministers solemnly declare that their efforts are directed toward securing the blessings of peace. In this they evidently have the support of all nations, for indeed the antipathy felt for war is daily more plainly manifest. *A holy and righteous antip-*



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*athy!* For if even though war may often be necessary, yet it always brings unspeakable misery with it. How much more terrible still would it be at the present moment, with such numerous troops, such progress in the development of military science, and such an abundance of the means of destruction! Each time we meditate thereon we feel ourselves more and more permeated by the desire to prevent this danger, which makes us shudder, and to avert it from the nations. *Nothing is more urgent and more necessary than to work for the prevention of war, and every effort made in this direction must be regarded as a praiseworthy endeavor in the spirit of the Christian conception, and for the benefit of all.*"

In the Christmas address to the College of Cardinals on December 23, 1893, he proclaimed himself "the servant and messenger of the peace of Europe and the whole world."

"It is certain that this exalted office proceeds from the character of the high mission entrusted to me, for peace among men as between States is the daughter of justice, and justice cannot live without faith: *justus e fide vivit*. As the highest of Christian priests is the incorruptible guardian of the faith and the defender of justice, so must he be regarded as the apostle of unity and the world's peace. . . . The moral cause of

the present troubled times lies principally in the fact that religious faith is continually becoming weaker. When the gaze is no longer fixed upon heaven, but upon the earth, there is an end of the reconciling love of one's neighbor, and egoism, which divides men, gains the upper hand. Hence the mysterious dissensions, concealed behind deceptive appearances, the competition, the unbridled frivolity, the increasing unrest in all social classes, and the desire for novelty which tramples upon all obstacles, bringing strife and confusion in its train. Under such conditions the peoples and the nations instinctively feel the need of peace, and seek it with longing, but the true peace does not come, because they have too completely forgotten Him who alone has power to restore it."

In the Encyclical to the Princes and Peoples, *Praeclara gratulationis*, on June 20, 1894, he again alluded to the danger which threatened the world as a result of armed peace, and suggested the means by which a catastrophe might be averted.

"The first concerns the dignity and the situation of the Church. She would then, of course, re-assume her due degree of honor and prerogative, and go her way as the dispenser of truth and grace, magnanimously

and in complete freedom, to the benediction and blessing of the peoples. For since she was given to man by God as teacher and leader, she more than any can provide the appropriate ways and means by which to guide the profoundly penetrating transformations of the times for the benefit of the community, in order to solve the problems involved, and to exalt righteousness and justice, which are indeed the securest pillars of the State.

“Further, the closer mutual approach of the States would essentially be demanded; a closer approach which in our days is more than ever to be desired, in order to avert calamitous wars. What the situation of Europe is we see with our own eyes. For many years already we have had only an appearance of peace; for mutual trust has disappeared, and made way for suspicion, so that almost all the nations are vying with one another in arming themselves for war. Inexperienced youth will be cast into the dangers of the military life, where it must dispense with the counsel of its parents, and where their authority is withdrawn. In the flower and vigor of their years the young men of the world will be called to arms, and away from agriculture, from beneficial studies, and from their trades or business pursuits. Therefore, again, *as a consequence of the monstrous expenditure, the State exchequer is drained*, the wealth of the coun-

tries diminished, and individual property prejudiced. We have already reached such a stage that armed peace has gradually become unendurable. Can such a state of affairs be natural to civic society? And yet we cannot rid ourselves of it, and attain to a true peace, save only by the grace of Jesus Christ. For in order to suppress ambition, inordinate desire for the goods of others, and envy—vices which pre-eminently kindle the flame of war—there is no more effective means than Christian virtue, and above all, *justice*. *Only through the power of this virtue can the rights of the nations and the sacredness of treaties become inviolable, and the bond of brotherhood will acquire enduring constancy only when all are permeated by the sole thought: 'Justice exalts the nations.'*

“. . . While we are dwelling upon these ideas, and longing with our whole soul for their realization, we see, in the distance, what a fortunate order of things would ensue upon earth, and we know nothing more acceptable than the consideration of the good which would result therefrom. One can scarcely realize to what a height, to what a degree of well-being the nations would everywhere rise forthwith, *if repose and peace were given back to earth*, if knowledge were promoted in every manner, and if, moreover, according to our advice, associations of

agriculturists, artisans, and business men were founded on a Christian basis, and multiplied, by whose aid all-devouring usury would be driven out of the world, and a wide field of salutary labor opened up.

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“The end of the last century left Europe wearied and exhausted by all the misery she had suffered, and trembling with anxiety on account of all the convulsions she had passed through. Why should not the present century, on the contrary, which is already hastening to its end, leave humanity the heir to serene prospects of unity and peace, with the hope of the supremest blessings which are conferred by unity of belief?”

More and more the idea of arbitration and the limitation of armaments became for the Pope the practical basis of his pacifist proposals. “At the present time,” he declared, to the correspondent of the *Novoie Vremja* on September 17, 1895, “we have no actual peace; everything is propped up by the bayonet; hence all the States are in the condition of armed camps. Ideas, art, science, and the professions cannot undergo development. What a glorious vision it would be if an era of actual peace were to open, if the guns and other weapons were cast aside, and

international questions decided by the free deliberations of the rulers and the Pope."

When at the time of the Venezuelan affair a conflict threatened between England and the United States, Leo XIII caused Cardinal Rampolla (in 1896) to write as follows to the *Daily Chronicle*: "Having been acquainted by me of the zeal with which you are working for the creation of a permanent Court of Arbitration, in order to protect the nations from the horrors of war, his Holiness cannot refrain from expressing his satisfaction, as well as the hope that God may please to crown this attempt with happy consequences." The idea of the Hague Court of Arbitration was thus anticipated by the Pope. In the reply to the announcement of the Budapest International Peace Congress the Pope once again declared that his task was "to bring about the sovereignty of peace and justice in the world, and to unite all the nations, as in a single family, in the bonds of Christian brotherhood"; and he expressed the hope "that the fulfillment of all duties and respect for all rights being the foundations on which civic society reposes, the law of might will be followed by that of reason, and that a new age of the true civilization of the human family will facilitate the fulfillment of their latest mission." In the Allocution of April 11, 1900, he expressed the desire that it might

prove possible "to adjust the disputes of the nations by purely moral and persuasive force." "The spirit of the Church is the spirit of humanity, the spirit of charity, of harmony, of universal compassion; and her mission, like that of Christ, is peace-loving and peace-making, in conformity with her nature, since her aim is the reconciliation of humanity with God. Consequently the effect of religious authority is to bring the true peace to humanity, and this not only in the domain of the conscience, as it does every day, but in public and social organisms, so far as this authority retains its freedom of action." The causes which later on led to the world catastrophe were summarized in the following terms by the Pope in his Encyclical of December 25, 1900:

"Even now, with the rejection of Christianity, which truly bears within it the power of *closely uniting the peoples, and of binding them together, as it were, into one great family*, a system of egoism and jealousy has little by little obtained the mastery in international life, on account of which the nations consider one another, if not as directly hostile, yet with the suspicious eyes of rivals. Hence they are very easily tempted to disregard the lofty conception of morality and justice and the protection of the weak and

oppressed in connection with their enterprises; in the desire to obtain an immoderate increase of the national wealth they recognize nothing but considerations of opportunity and profit, and an absolutely material policy, assured that none will admonish them to respect justice; *pernicious views, which represent material power as the highest law*; hence the continual, progressive, and limitless increase of military armaments, or rather the propagation of that *armed peace* whose disastrous effects in many respects are equal to the worst consequences of war."

Pope Pius X proceeded upon the same lines as Leo XIII, when in his letter to Falconio, the Apostolic Delegate to the United States, he conveyed to President Taft his approval of the method of arbitration proposed by the latter.

The Pope has very often succeeded, by his arbitration, in effecting a peaceful settlement of international disputes. Thus Leo XIII, at the instigation of Bismarck, acted as a mediator between Germany and Spain, the Caroline Islands being the cause of the dispute. How highly Bismarck valued his mediation is revealed by a letter written to Leo XIII on January 13, 1886, in which he says:

"Your Holiness said, in your letter, that nothing better befits the spirit and the na-



ture of the Holy See than active participation in the establishment of peace. I was actuated by the same thought, when I begged your Holiness to accept the honorable office of arbitrator in the matter of dispute pending between Germany and Spain, and when I made the proposal to the Spanish Government that we should on both sides abide by the decision of your Holiness.

“The consideration of the fact that each of the two nations does not occupy an analogous position in respect of the Church which venerates your Holiness as its head has never lessened my firm confidence in the sublimity of your Holiness’s point of view, which assured me of the strictest impartiality of the verdict.”

Leo XIII further acted as mediator between Belgium and Portugal, in a dispute arising out of their possessions in the Congo provinces; between Portugal and England, in the East African frontier dispute; and between Venezuela and England, in the Guiana affair. Under Pope Pius X the South American States in particular submitted their affairs to the arbitrament of a tribunal whose President was an Apostolic Nuncio. We may instance Brazil and Bolivia (November 3, 1909), Brazil and Peru (June 30, 1910), and Colombia, Chili, and Peru (1910). It was a genuinely Catholic spirit which, in 1903,

induced the Argentine Bishop Benavente and the Chilian Bishop Jara to appeal to the King of England for the settlement of the extremely embittered dispute relating to the frontier between these two neighbor States. On March 13, 1904, on the occasion of the settlement of this dispute, a Peace Festival was held by both States, when, as a thank-offering, a gigantic statue of Christ was erected in the Andes, at a height of 12,000 feet, on the frontier of the two countries. This statue bears the inscription: "Sooner shall the mountains fall into dust than the peoples of Argentina and Chili break the peace which they have concluded at the feet of Christ the Redeemer."

Considering the successful activities of the Pope as mediator, it was a doubly serious mistake that the Holy See, at the request of Italy, was excluded from the first Hague Peace Conference (the initiation of the Conference being in great measure due to the See) as well as from the second Conference. That very Power which, by the character of its office, by its political experience and inherited wisdom, acquired in the course of a thousand years of practice, was most pre-eminently qualified for co-operation in the difficult work of assuring the peace of the world, was in this fashion sacrificed to a policy of pettiness and chicane, a fact which, as might even then be

foreseen, could not fail to have the most serious consequences.

What Pope Benedict XV has done during the present war for the cause of peace, and the alleviation of the suffering caused by warfare, is known to all. Like Leo XIII, he too seeks to comprehend the causes of the war in their deepest foundations, averting his eyes from the external facts. To him, the world-war meant the bankruptcy of the entire ideology of rationalistic, atheistic, Liberal pacifism. In his view there are no races which are necessarily in a condition of mutual conflict, and no nations whose purpose is self-contained; for him there are only individuals, who resemble one another, and a human race. From this lofty standpoint he cannot take into consideration the immediate origin of the war, for it is based upon a conception of life and the world which assumes right in might, goodness in usefulness, justice in history, and the moral principle in the individual conscience.

According to the view of the Popes, all are on this account guilty. All States and nations have contributed toward the creation of a state of affairs which could find fulfillment and justification only in war. On this account it is useless to inquire into external appearances, and to raise the question: Who was the first aggressor? War is an expiation which affects all, victors and van-

quished alike; a comprehensive tragedy, a negation, which destroys but does not create; which does not alter a single feature of history, or of life, that could not have been altered as readily by a spontaneous act of will and free choice; even the heroism and valor of the combatants are not a creation of war, but an emanation of the human soul.

War is the practical and the extremest consequence of an ideal error, and since the error is not necessary, so war might have been averted. This error is rationalism, with its belief in the power of the human reason, and the principle of the struggle for existence. The present war is for this reason no more than an accentuated and concentrated episode of the war which is proceeding every day and every hour, and, indeed, in every province of human thought and human activity; it is the tragic and terrible image of human pride, which has rebelled against the word of God. For this reason the rationalistic democracy is impotent in respect of the war: it does not understand how to take action against this terrible evil; it does not wish to do so; it dare not do so. In the name of what authority, on the basis of what absolute principle, could rationalism, democracy, and Liberalism condemn the war and advocate peace, when they live precisely by the negation of all that can offer hu-

manity a civic status and a really human life? If the truth itself is a creation of our thought, if justice and social truth are only attainable through the laborious and painful working-out of history, to which life must be sacrificed, as the ancients used to sacrifice animals to their gods, what protest can our conscience make, and what word of peace can it speak? Thus, Pope Benedict XV sees in the war the ultimate result of the evolution of the nineteenth century, governed as it was by rationalism and Darwinism; and for him the only path of salvation lies in the return to the revealed doctrine of Christianity.

This is the fundamental idea which underlies all the official utterances and all the pacifist admonitions of the Pope. Concerning the path which leads out of the war, he has expressed himself in his accustomed fashion in the Note of August 1, 1917, addressed to the rulers of the belligerent peoples.

The Pope's peace program consists of the demands: Peace without annexations or indemnities, freedom of the seas, disarmament, and obligatory arbitration.

In the proposal for a Court of Arbitration it has adopted an idea which is not foreign to German law.

## CHAPTER IV

### GERMANY AND THE WORLD'S PEACE

"The ideal of the League of Nations—of the true League of Nations, which includes all those nations that desire inclusion, and in which rights and obligations are appropriately distributed—was familiar to us Germans at a time when France and England as yet thought of nothing but the undisguised subjection of foreign peoples."—Vice-Chancellor von Payer, in a speech delivered at Stuttgart, September 12th, 1918.

WHILE it is the Christian world-philosophy which bids us establish the unity of the human race, and the mutual love and toleration of all Christian peoples, on the basis of a peaceful community of nations, it should be recorded of us Germans that the ideal of settling disputes not by force, but by means of arbitration, has played an important part in the development of our juridical life. It is to the credit of Dr. A. Hommerich that he has traced the evolution of *the idea of arbitration* in German juridical life, and has recalled the facts to our memory.<sup>1</sup> Even in the remotest ages of German history we discover the fact that disputes were adjusted by arbitration. Our ancestors' strongly developed propen-

<sup>1</sup> *Deutschtum und Schiedsgerichtsbarkeit, ein geschichtlicher Beitrag zu einer grossen Gegenwart- und Zukunftsfrage*, Freiburg, 1918.

sity to form guilds and corporations pointed emphatically to this method of settlement. The idea of arbitration received a fresh impetus from the introduction of Christianity. In France, which was, with her Germanic and Latin peoples, the first political conglomeration, a sort of confederation, the idea of arbitration amounted in practice to the extended jurisdiction of the Crown, which, with the co-operation of the nation, adjusted outstanding differences. In the year 587 the kings agreed at Andlau to submit questions of territorial possession to jurisdiction, and to keep the peace among themselves. This period is peculiarly interesting, in that the bishops were at this time mediators in disputes between individual States or their princes.

The German historical writer, Waitz, bears witness for the bishops that, owing to their great authority, they were peculiarly qualified for the administration of justice and the maintenance of peace, as also for the settlement of disputes. When, after Charlemagne, the development of territorial dominions set in, the idea of arbitration found a wide field of application, owing to the frequency of conflicts. It was the King's chief task, and was reckoned as such, to settle feuds and disputes by arbitration. We know of Louis the German, for example, that in 873 he invested Rataldo, Bishop of Strasburg, with the

office of arbitrator. It was also an essential duty of the Assembly of the Imperial States to settle disputes in this manner. Waitz makes special mention of Henry III among the succeeding kings, because of his propensity—based upon a religious temper—for the peaceful settlement of disputes. In the time of the Public Leagues the idea of arbitration was particularly efficacious. At this period the Empire consisted only of a loose union of autonomous Powers, and the basis of many a Peace League was a previous peaceful agreement in respect of a disputed point. But its aim was to serve the future, and it stipulated that the participator should pledge himself to refrain from all feuds with other parties, and from settling disputes by force of arms, but should submit them to the decision of arbitrators, whose appointment was to be a subject of agreement. In this connection it may be recalled that the Hansa towns, the Confederacy of the Rhenish cities, and the Electoral Union of Rense possessed definite forms of arbitration. In the fourteenth century the principle of arbitration was so general that, as Leonhardi says in *Das Austrägalverfahren des Deutschen Bundes*, “It was regarded as a breach of decorum to arraign a Prince before the Emperor, before one had asked him whether he was willing to agree to the arbitration of a third Prince; and an even



worse opinion was held of the person thus invited, if he was not willing to agree to arbitration. If the matter was submitted to arbitration, it was reckoned almost *dishonorable* if either party was unwilling to comply with the judgment delivered. Indeed, this was so far the case that it was by no means the rarest thing in the world for Electors, and even the Emperor, to be called upon to act as umpire." Before long a perceptible effort was made to unify the principles of arbitration which were finding expression in the various Public Peace Leagues. The various attempts to this end made during the course of the fourteenth century first assumed a definite shape under Maximilian I, who in 1495 succeeded, in the Imperial Diet at Worms, in establishing a permanent public peace, and in founding the so-called Imperial Chamber or Supreme Court, whose object it was "to adjust all wrongs and grievances between sovereigns, between feudal lords, or between the latter and sovereign rulers."<sup>1</sup> This meant the complete permeation by legal procedure of the internal civic life of Germany, and the abuse of feudal rights was terminated. Side by side with the development of affairs due to the new order of things called into being by Maximilian, the principle of the free settlement of disputes by arbitra-

<sup>1</sup> Jansen-Pastor, *Geschichte der Deutschen Volkes*.

tion, in the case of Electors, princes, and persons of princely birth, was preserved, only in order that it might be organically assimilated with the regular procedure of arbitration. The States were accustomed to arbitration, and were unwilling to renounce it. Under Karl V and Ferdinand I the principle of arbitration attained an even greater development, but with the strengthened jurisdiction of the rulers, the decentralization of the Empire, and the disappearance of the sense of community among the princes, this principle lost its real significance in the administration of justice.

When the necessities of the age, about the beginning of the eighteenth century, ushered the German States along the path of a fresh union, and the international formation of the German Bund among the German princes became a fact, confirming their own independence and safeguarding Germany, the idea of arbitration for the settlement of disputes between the mutually independent States of the Bund assumed a new aspect, since war and self-defense were to be excluded. In the event of disputes the Federal Assembly was summoned, its functions being to make peace. Article 11, paragraph 4, of the German Bundesakte of 1815 runs:

“The members of the Bund engage *not to make war upon one another upon any,*

*pretext whatever, nor to prosecute their differences by means of force, but to lay them before the Assembly. It is incumbent upon the Assembly to attempt mediation by means of a Committee; in case this attempt should meet with failure, and a judicial decision should accordingly be necessary, such should be procured by means of a properly constituted court of arbitration, to whose verdict the disputing parties must forthwith submit."*

Just as the German Bund was forced in this manner to make peace between its own members, so it also took precautions to ensure the domestic tranquillity of the individual States. In the event of internal unrest which threatened the security of the Bund, it possessed the right of invasion, and had to ensure that the will of a representative Government did not in any State of the Bund remain unfulfilled, and that the system of government set up was safeguarded. By a decree of the Bund (1834) the Government had to establish arbitration in connection with disputes with the States. The decision was to be arrived at by a majority vote, and it was to be communicated to the interested Government by the Federal Assembly. Although the arbitration procedure of the German Bund was felt to be, as it indeed was, defective, it was accepted as an essential element of the organ-

ization of the North German Confederation and the German Empire. In 1866 the German Confederation fell asunder, on account of the opposition of Prussia and Austria, not as a consequence of the system, as Hommerich justly says, but as a result of defective procedure. The North German Confederation and the German Empire made a real Federal State out of the old German State, realizing the ideal of legal procedure in the political organization of the Empire. Article 76 of the present Constitution of the Empire, which refers to the preservation of the peace of the Confederate States, and to political controversies in the States, is worded as follows:

“Controversies between different Confederate States, in so far as they are not of a nature to be amenable to civil law, and therefore to be decided by the competent law officers, will be adjusted upon the appeal of one of the parties to the Federal Council.

“Disputes as to the system of government in such Confederate States, in whose Constitution no authority is appointed for the decision of such controversies, must, upon the appeal of one of the parties, be settled in an amicable manner by the Federal Council, or, if this precedent is not successful, by means of Imperial legislation.”

The Federal Council has, accordingly, the task of effecting the “amicable settlement” of consti-

tutional controversies occurring within the Confederate States. It has also to settle "inter-State constitutional controversies." And here, above all, as distinguished professors of public law observe, the question of eliciting a covenant is all-important. If such an amicable agreement cannot be achieved, the Bundesrat causes a verdict to be delivered by a tribunal, a legal commission, or the like. In practice it has always decided the matter by means of an agreement or a verdict. The word "adjust" was chosen to signify that the Federal Council was to designate the method of arbitration, in case a matter should be intrinsically impossible of settlement. One agrees with Hommerich that the theory of arbitration incorporated in Article 76 has provided a fortunate solution of all political controversies within the German Empire.

If Germany, as we see, is a stronghold of arbitration, the idea of international arbitration cannot well be unfamiliar to her. The development of the legal bond, which has proceeded from the family, from loose associations and tribes, to States and federations of States, will also lead beyond the federation of States to a commonwealth of the whole human race. To the Germans in particular, considering their propensity for the formation of corporations, and the organic development of the idea of arbitration throughout

their history, this process should not be unfamiliar. Zorn very justly observes, in his preface to Hommerich's work, that *modern international arbitration* has not indeed its foundation, but *one of its foundations, in the significant continuity of the history of German law*. If Germany wishes to contribute to the solution of the future problem of humanity, she has only to act in the direction indicated by the history of her legal institutions.

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But Germany's great philosopher, Kant, is a child of the world-peace. Christianity, German law, and German thinkers lead us to the problem of permanent peace. Kant embodied the humanitarian ideal of the eighteenth century. Even before his time men had pondered and had written concerning the problem of a permanent peace; for example, J. F. von Palken (*Projekt einen immerwährenden Frieden zu unterhalten*, 1758). The problem of arbitration had been treated by the international jurist, Vattel, in his text-book. Abbé St. Pierre, with his *Projet de la paix perpétuelle*, and Jean Jacques Rousseau, with his *Jugement sur la paix perpétuelle*, were the forerunners of this movement in France, while in England Swift and Hume were not inactive in this respect.

None of the above-named writers conceived of

perpetual peace as a *moral commandment*, as did Kant. In almost all his writings Kant speaks sooner or later of the problem of war and peace. Anyone reading his writings now might well suppose that he was a contemporary of the Great War, and that he wrote under the impression produced by the sacrifices of the war. For him perpetual peace is no vision, when he describes the formation of a League of Peace, but the fulfillment of the ethical ideal. We read in his *Idea for a Universal History*:

“ Nature compels States, by means of war, by exaggerated and ever unrelaxing armament for war, by the distress which every State must at last experience therefrom, to make experiments, at first defective; and finally, after much devastation and ruin, and even the general and internal exhaustion of their energies, to do that which reason, without so many dismal experiences, might have told them to do: *namely, to emerge from the lawless condition of savages, and to enter into a League of Nations*, in which every State, even the smallest, might look for security and justice, not to its own power, or its own legal judgment, but solely to this great *League of Nations*, to a combined Power, and the decision formed in accordance with the decrees of the combined will. This idea seems fantastic, and such as would

be derided by an Abbé St. Pierre or a Rousseau; yet it is the inevitable outcome of the distress in which human beings place one another, which must compel the States to resolve (however reluctant they may be), just as the savages also were unwillingly compelled to resolve, to renounce their brutal freedom, and *to seek tranquillity and security in a legal constitution*. All wars are consequently so many attempts to bring about fresh relations between States, and to create new organizations through the destruction, or at least the dismemberment, of the old; which new organizations, however, are again incapable of subsisting, either singly or side by side with others, and must therefore undergo a similar reconstitution—until at last, once for all, partly through the best possible internal disposition of the civil constitution, and partly through mutual agreement and external legislation, a state of things will be established which, resembling a common civil organization, will be able, like an automaton, to continue of itself.”

Further on in this essay Kant tells us that in time to come war will lead to no decision, and illustrates its pernicious effects upon administration and finance, which will necessarily cause the organization of the body politic to suffer. He writes:



“Finally war itself gradually becomes not only so artificial a thing, and, in respect of the issue on *both sides*, a thing so *uncertain*, but also, owing to the painful after-results felt by the State, in the shape of an ever-increasing burden of debt, whose liquidation is an interminable process, such a *critical undertaking*, because of the very evident influence which every political convulsion exerts in every other State in our continent, so closely connected as it is through its trade, that these States are impelled by their own danger, although without legal authority, to propose arbitration, and thus long beforehand to prepare, in the future, for a *great body politic*, of which bygone ages have never afforded an example.”

In his essay on the *Conjectural Origin of Human History* (1780) Kant speaks of the hardships to which *incessantly increasing armaments* subject the peoples:

“One must acknowledge that the greatest evils which oppress civilized nations are inflicted upon us by war; not so much, indeed, by war which actually exists or has existed, as by the never-diminishing and even *incessantly-increasing process of arming for future wars*. To this end *all the energies of the State*, all the fruits of its civilization, which might have brought forth a yet greater civilization, are related; *liberty is seriously pre-*

*judiced in many directions, and the State's motherly care for its individual members is transformed into the inexorable harshness of requisition; however, even this is justified on the ground of the apprehension of external danger."*

In his essay *Concerning the Common Saying: That may be all right in Theory, but it won't do in Practice*, Kant makes some observations concerning the form to be assumed by the League of Nations which are of exceptional importance. He speaks of the "frightful despotism" of a cosmopolitan constitution under a master, as also of a League of Nations under the control of a group of Powers; and he suggests, for the prosecution of war, *the legal establishment of a confederation of States in accordance with a common international law.*

What Kant says in this connection concerning Imperialism, the burden of armaments, dearth, the inflation of currency, and the system of loans is particularly well worth noting. He finally comes to the conclusion that the decision as to war or peace must lie in the hands of the people:

"The distress due to the continual wars in which States seek to diminish or subjugate one another must at last induce them, even against their will, either to enter into a cosmopolitan constitution, or, if such a condi-

tion of a universal peace is even more dangerous to freedom, in that it leads to the most frightful despotism, then this distress must compel them to establish a state of affairs which is not *a common organization of a cosmopolitan nature under a master, but rather a legal state of confederation according to a universally accepted law of nations.*

“For the advancing civilization of the States, with their simultaneously increasing propensity to enlarge themselves at the cost of other States, by stratagem or violence, must multiply wars; and, owing to the armies which are always (by continual expenditure) kept ready for immediate use, in a state of discipline, and furnished with an ever-increasing number of instruments of war, it must give rise to ever-increasing expenditure; meanwhile the price of all necessities permanently increases, while there is no hope of a proportionately progressive increase of the representative metals; moreover, no peace lasts so long that the savings made during the same can equal the expenditure for the next war; whereby in spite of the device of the State debt, which is indeed an ingenious, but at last a self-destructive expedient, that which should be, but is not, the work of good will, *is at last accomplished by impotence*; that is, every State will be so organized internally that not the head of the State—for whom the war really costs nothing (as he makes war not at his own expense,

but at the expense of another party, namely, the people)—shall possess the casting vote whether or not war shall be declared, but the people (in addition to which, of course, the realization of the idea of the primary covenant will necessarily be presumed). For the people will take good care not to run the risk of placing themselves, out of mere greed of expansion, or because of an imagined and merely verbal insult, in danger of personal poverty, which would not affect the head of the State.”

In the same essay Kant criticizes the principle of the Balance of Power. Against the ever re-appearing lust of conquest and need of armament, he says, there can be employed

“no other means than a Law of Nations based upon statutes publicly invested with power, to which every State must subject itself (according to the analogy of a civil or constitutional law affecting individual persons); for a permanent universal peace due to the *so-called Balance of Power in Europe* is, like Swift’s house, which an architect built so completely according to all the laws of equilibrium that it promptly fell down when a sparrow perched upon it, a mere chimera.”

Is there a better characterization of the system of alliances which collapsed, in 1914, under

the burden of Austria and Serbia, into a world-wide conflagration which has now continued for four years?

In 1795 appeared Kant's essay on *Perpetual Peace*. The international organization of the nations floats before Kant as a goal toward which humanity must step by step advance. This treatise has the external form of a Treaty of Peace, the first part of which consists of six preliminary articles, while the second part contains three definitive articles. The first preliminary article requires that "no treaty of peace shall be regarded as valid if made with the secret reservation of material for a future war." In this way Kant rejects every *enforced peace* or *peace of violence*, which might furnish the pretext for a war of revenge, and represents a just peace, an honorable peace, as a necessary requirement. In the second preliminary article Kant demands that "no independent State, whether great or small, shall be acquired by another State by inheritance, purchase, exchange, or donation." Here Kant opposes *the treatment of a State merely as an object of statesmanship*, demands the accord of Government and People, and refuses to allow *any species of cabinet or dynastic policy*. In the third article he demands the abolition of standing armies. We give Kant's argument word for word:

“For standing armies continually threaten other States with war, owing to their readiness to appear always armed for war; this incites them to outdo one another in the number of their armed forces, which knows no limit, and since, owing to the expenditure diverted to this end, *peace finally becomes even more oppressive than a short war*, the same expenditure constitutes the actual origin of wars of aggression, undertaken in order to obtain release from this burden; which comes to this, that *to kill or be killed is reckoned in terms of money*, which appears to uphold an employment of men as mere machines or tools in the hands of another (the State), which *can hardly be reconciled with the rights of humanity in one's own person*. It is quite otherwise with the voluntary and periodical training of citizens in the use of arms for the purpose of securing themselves and their fatherland against aggression.”

In the fourth article Kant claims that no State debts shall be incurred in respect of external affairs of the State, because the facility of obtaining credit for the purpose of making war is a great obstacle to perpetual peace.

In the fifth article Kant severely criticizes *the policy of intervention*; in the sixth, he claims that no State at war with another State shall permit such malignity as would make reciprocal confi-

dence during a future peace quite impossible. Kant also pleads here for a certain limitation of the means of warfare, such as to-day is regulated by international compacts.

The first definitive article of Kant's project stipulates that the civil constitution of each State shall be republican. By this he does not mean republican in the present sense of the word; a republican State means, to him, any form of political State in which the citizens bear a *constitutional share in the Executive Government*. As Kant in an earlier essay claimed that the people should have the deciding voice in the matter of war and peace, so it appears to him now that *international peace* will be best secured by a Government responsible to the people. The second definitive article demands that the Law of Nations must be based upon a federation of free States. In order that hostilities on the part of or against all States shall be averted by means of a state of peace, this last must be secured by means of an *international treaty*. While the peace treaty seeks only to terminate a war, the *Covenant of Peace between the nations seeks to make an end for ever of all wars*.

“This covenant aims at *no increase of power of any sort on the part of the State, but merely at the preservation and assur-*

*ance of the liberty of a State in respect of itself and other States; but these are not compelled, by public statutes or coercion, to subject themselves to the covenant. The practicability of this ideal of federation, which is gradually to be extended to all the States, and thus lead to a permanent peace, is capable of demonstration."*

The third definitive article reads: "The rights of men as citizens of the world shall be limited to the conditions of universal hospitality." By this Kant designs to safeguard the security of every man, whatever country he may find himself in, and, on the other hand, to protect non-European countries from the system of exploitation and colonization by individual European Powers.

Again, in the *Theory of Law* of 1797 Kant holds the gradual approach to the introduction of a condition of perpetual peace to be the ultimate aim of the whole of international law. He speaks therein of a union of a few States for the maintenance of peace:

"One might call such a union of a few States, for the maintenance of peace, the Permanent States' Congress, which any neighboring State is permitted to join. . . . But by a Congress is here meant only an arbitrary combination of different States which can be dissolved at any time; not an alliance (such as that of the American



States) which is based upon a State Constitution, and is therefore indissoluble;—through which alone can be realized the ideal of a public Law of Nations, to be set up for the purpose of settling their differences in a civil manner, as though by a law-suit, not in a barbaric fashion, that is, by war, as savages do.”

In the conclusion of the *Theory of Law* Kant represents it as a *primary postulate of the moral law* to work for the abolition of war, even if permanent peace is theoretically unattainable. He says:

“*The establishment of universal and enduring peace* is not merely a part, but the *whole ultimate aim* of the theory of justice, within the limits of pure reason; for the state of peace is only the legally secured condition of *meum et tuum* in a mass of human beings in close propinquity to one another; consequently they live together under a system of government. . . . What can be more metaphysically sublimated than this ideal, which . . . alone, if it is attempted and accomplished, not in a revolutionary manner, by an explosion—that is by the violent demolition of a hitherto subsisting but defective ideal—but by gradual reform in accordance with fixed principles, can lead us continually nearer to *the highest political good, to perpetual peace?*”

To his view of peace and war, as expressed in the foregoing essay, Kant remained faithful in later years. In the *Contest of the Faculties* (1797), for example, he calls war "the greatest obstacle to morality."

Kant, one of the greatest German philosophers, forms, as we see, on a basis of intellectual perception, the same estimate of war, and suggests the same arrangements for its prevention—for example, the greatest possible limitation of war—as did the Popes, the protectors and the embodiment of the Christian moral law. But other prominent Germans, towards the end of the eighteenth century, were concerned with the ideal of peace. Schlegel even suggested an international State, which Kant, in his commentary upon the second definitive article of his *Perpetual Peace*, rejected. Schelling, too, Herder, and Novalis were upholders of the Kantian ideal. Even Fichte was, about the year 1790; not opposed to it, as will be realized by any reader of his work, *The Destiny of Mankind*.

## CHAPTER V

### FORERUNNERS OF THE LEAGUE OF NATIONS

WE have seen that the idea of a permanent assurance of peace by means of a community of nations, formed and organized in one way or another, is always reappearing in history, and that repeated attempts have been made to realize it; that it has continually received fresh nourishment from Christianity; that the idea of arbitration has played a great part in the juridical and political history of Germany; and that the idea of permanent peace, and its assurance by means of a federation of States, has long occupied German thinkers, first and foremost among whom was the Königsberger, Kant, whose attention was profoundly engaged by the subject. All that was practically accomplished, recommended, or imagined in respect of the assurance of peace before the time of Kant was conditioned by the actual degree of contemporary evolution and the subsidiary political purposes of the age. While to-day a community of peoples in the form of

a League of Nations is desired above all things, we understand by such a community a free League of independent nations which bind themselves together, for the preservation and assurance of their common interests, and of peace, under self-appointed conditions.

This form of the League of Nations is already foreshadowed by the various confederate States, such as the United States, the Swiss Republic, the German Empire, etc., whose Constitution guarantees to the individual members of the State complete liberty and independence in respect of its internal life, and reserves, for the representative organ of the collective State, only the solution of certain questions relating to the interests of the collective State. To this representative organ are referred all questions relating to trade and commerce, customs, railways, posts, telegraphs, and navigation, and also those relating to war by land or sea, and, finally, the settlement of disputes between the individual members of the confederate State. But these questions are those in which *international* benefits are concerned, and in respect of most of them international agreements have already been concluded.

We see in this connection that as the historical evolution of these States has compelled them to combine, the present economic development of the States compels them no longer to settle cer-

tain questions individually, but in partnership with other States. But if matters are so far advanced that the States are already forming a series of joint agreements, which encroach upon the life of individual States, then the development which tends to unite all the States by a closer or looser bond becomes a matter of course. The completion of this process, which began with these *international agreements*, is to-day close at hand. These agreements may therefore be described as *the forerunners of the future League of Nations*, and in the following pages they will be considered from this point of view; that is, we shall lay especial stress upon those points of the most significant among them—namely, those which have been the joint basis of international administrative unions, devised for the securer attainment of the appointed goal—which are susceptible of being regarded as organic building-material. We shall next consider the international treaties of a commercial nature. These cover, as follows from the nature of their subject (the genuine fiscal and commercial treaty being an individual agreement between State and State), only a limited area of the ground.

Thus, in the sphere of customs, on July 5, 1890, an agreement was signed at Brussels between the following States: Austria-Hungary, Belgium, Denmark, France, Greece, Great Brit-

ain, Italy, Holland, Portugal, Rumania, Russia, Switzerland, Spain, the Congo Free State, Siam, the United States, Argentina, Bolivia, Chili, Costa Rica, Guatemala, Hayti, Mexico, Paraguay, Peru, Uruguay, and Venezuela, relating to the foundation of *an international union for the publication of the world's tariffs*, to which the German Empire, Egypt, Colombia, San Domingo, Ecuador, Honduras, Nicaragua, Brazil, Bulgaria, Serbia, Japan, Persia, China, Norway, Sweden, and Panama signified their accession.

For us, the most important articles of this agreement are the following:

Art. 1. The countries enumerated above have formed, as well as all those countries which shall subsequently adhere to the present convention, an association under the title "International Union for the Publication of Tariffs."

Art. 2. The purpose of this "Union" is to publish and make known, at the common expense, and as promptly and exactly as possible, the Customs Tariffs of the various States in all quarters of the globe, as well as the modifications which they may subsequently undergo.

Art. 3. For this purpose an International Bureau will be established in Brussels, whose task it will be to translate and make known these tariffs, as well as the modifications

effected by legislative or administrative means.

Art. 13. An executive ordinance, having the same obligatory force as the present convention, will determine the manner of the publication of the Bulletin of the Union, as well as all questions which refer to the Budget of the International Bureau and the internal organization of the service.

In the sphere of business, international treaties and agreements extend to such matters as systems of coinage and weights and measures. We may in particular mention the "International Metric Convention" which, on May 20, 1875, was ratified by the German Empire, Austria-Hungary, Argentina, Belgium, Denmark, France, Italy, Peru, Portugal, Russia, Sweden and Norway, Switzerland, Spain, Turkey, the United States, and Venezuela, and acceded to by Great Britain, Japan, Mexico, Rumania, and Serbia. Articles 1 and 3 of this convention run:

Art. 1. The High Contracting Parties agree to establish and maintain at the common expense a scientific and permanent "International Bureau of Weights and Measures," which is localized in Paris.

Art. 3. The International Bureau will operate under the exclusive control and inspection of an International Committee for Weights and Measures, which will itself be

placed under the authority of a General Conference for Weights and Measures, composed of delegates from all the contracting Governments.

To the convention are appended regulations, whose most interesting articles, as far as they relate to our subject, are the following:

Art. 7. The General Conference alluded to in Article 3 of the convention will assemble at least once in every six years, in Paris, on the convocation of the International Committee.

Its function is to discuss and promote the measures necessary to the diffusion and improvement of the Metrical System, and also to sanction the new fundamental determinations of weights and measures which may have been undertaken in the interval between its meetings. It receives the report of the International Committee relating to the work accomplished, and renews one-half of the International Committee by means of the secret ballot.

The voting in the General Conference is effected by States; *each State possessing one vote.*

The members of the International Committee enjoy the right of participation in the sessions of the Conference. They may at the same time be delegated by their Governments.



Art. 8. The International Committee mentioned in Article 3 will consist of 14 members, belonging to different States. . . .

Art. 10. The International Committee is self-constituted, and it chooses its President and its Secretary by means of the secret ballot. These nominations will be communicated to the Governments of the High Contracting Parties.

The President and the Secretary of the Committee and the Director of the Bureau *must be natives of different countries.* . . .

By far the most numerous are the *international agreements relating to commerce*, of which we shall here mention only the most important.

On October 14, 1890, at Berne, a convention relating to *railway goods traffic* was signed by the German Empire, Austria-Hungary, Belgium, France, Italy, Liechtenstein, Luxemburg, Holland, Russia, and Switzerland, to which Denmark and Rumania acceded.

After the agreement has stated all definitions in 56 articles, the 57th article proceeds:

In order to facilitate and ensure the fulfillment of this convention, a *Central Office of International Transport* will be set up, whose function is:

1. To receive communications from each of the contracting States and each of the interested railway administrations and to

bring them to the notice of the other States and administrations.

2. To collect, co-ordinate and publish information of all sorts affecting the international transport service.

3. At the request of the parties, to pronounce judgment in disputes which may arise between railways.

4. To investigate proposals made in respect of modifications of the present convention, and in all cases when there is occasion to propose to the various States the meeting of a fresh Conference.

5. To facilitate the financial relations, necessitated by the international transport service, between the various Administrations, and the recovery of overdue debts, and in this connection to promote the security of the mutual relations between the railways.

Of the appendix concerning the establishment of a Central Office, Article 3 is here of particular interest:

*Art. 3. On the demand of any railway administration the Central Office will serve as intermediary in the settlement of accounts arising out of international transport.*

Accounts and credits for international transport which remain unpaid may be brought to the notice of the Central Office, in order to facilitate the recovery of the same. With this end in view the Office will

immediately invite the debtor railway to settle the claim or to announce the reason for refusing payment.

If the Office is of opinion that the reasons advanced for refusal appear to have sufficient grounds, it will refer the parties to the competent tribunal.

In the contrary case, and also when only a portion of the claim is disputed, the Director of the Office, after he has obtained the opinion of two Councillors, who will be appointed for the purpose by the Federal Council, may declare that the debtor railway shall be required to place the whole or part of the amount claimed in the hands of the Office. The sum paid in this manner will remain in custody until a decision is given by the competent judge.

If a railway does not comply with the injunctions of the Office within 14 days, a fresh summons is issued, with an admonition as to the consequence of a further refusal.

If no response is made to this second summons within 10 days, the Director of the Office will address, to the State to which the railway in question belongs, a communication giving details of the matter, and at the same time a request that the State will consider the application of suitable measures, and especially whether the debtor railway is to be retained upon the list communicated to the State.

If the communication of the Office to the

State to which the railway in question belongs is not answered within a period of six weeks, or if the State declares that notwithstanding the failure to pay it does not consider that the railway should be struck off the list, it is taken for granted that the State in question, as far as in respect of debt arising out of international transport, undertakes the full legal responsibility of guaranteeing the solvency of the debtor railway.

On October 9, 1874, the General Postal Union of twenty-one States was founded in Berne. On the proposal of Germany this Union was replaced, by a convention concluded in Paris (July 1, 1878), by the Universal Postal Union, which has been revised by several later Congresses (Lisbon 1885, Vienna 1891, Washington 1897, Rome 1906), and, with the exception of a few small States and provinces, embraces the whole inhabited globe.

From the convention concluded at Washington on June 15, 1897, we quote the following articles, which are of particular interest as constituent principles of an organization embracing all the States:

**Art. 21.—1.** The present convention does not in any way affect the legislation of each country in all that is not provided for in the stipulations of this convention.

2. Again, the convention does not restrict the authority of the contracting parties to maintain or conclude Treaties, or to maintain or establish more restricted unions for the purpose of reducing taxes, or any other improvement of the postal service.

Art. 22.—1. Under the title of the International Bureau of the Universal Postal Union a central authority will be maintained, which will operate under the management of the Swiss Postal Administration, and whose expenses will be borne by all the administrations of the Union.

2. It will be the duty of this Bureau to collect, co-ordinate, publish, and distribute information of all kinds of utility to the international postal service, and to express an opinion upon controversial questions, at the request of the interested parties; to examine proposals for the alteration of the Acts of the Congress, to notify the alterations, and in general to look into and occupy itself with all matters to which its attention may be called in the interests of the Postal Union.

Art. 23.—1. *In the event of differences of opinion between two or more members of the Union in respect of the interpretation of the present convention, or the responsibility of an administration in the event of the loss of a registered packet, the disputed question shall be adjusted by means of arbitration, for which purpose each of the interested administrations shall choose another member*

of the Union who is not directly interested in the matter.

2. The referees will decide the matter in accordance with a simple majority of votes.

3. In case of an equality of votes the referees will appoint, for the settlement of the dispute, another administration, similarly disinterested in respect of the matter in hand.

4. The dispositions of the present Article are applicable to all arrangements entered into in conformity with Article 19.

On July 10, 1875, at St. Petersburg, the German Empire, Austria-Hungary, Belgium, Denmark, France, Greece, Italy, Holland, Persia, Portugal, Russia, Norway and Sweden, Switzerland, Spain and Turkey established the International Telegraph Union, a General Telegraph Union having already been founded in Paris in 1865. Gradually almost all the States in the world entered this Union. Article 14 of the Convention provides for the establishment in Berne of a central organ of the Union, the "International Bureau of Telegraph Administrations," for which purpose a special clause is appended to the Convention. Article 15 deals with Administrative Conferences. Article 16 contains the following stipulations as to these Conferences.

These Conferences will be composed of delegates representing the administrations of the contracting States.

In the proceedings, *each administration has the right to one vote*, provided, that, where different administrations of one and the same Government are concerned, the claim to this right has been referred through diplomatic channels to the Government of the country in which the Conference is to be held, before the date of opening, and that each of these administrations shall have a special and independent representation.

The revisions resulting from the deliberations of the Conference will become valid only after their ratification by the Governments of all the contracting States.

An international agreement was concluded in Paris on March 14, 1887, for the protection of submarine cables.

Among the arrangements which have been concluded by a smaller number of States than those hitherto mentioned, having been signed only by the States more or less directly interested, but which, none the less, are of great significance, we shall consider before all the agreements relating to the *navigation of rivers*, such as the Free River Navigation Act of March 24, 1815, and the revised Rhine Navigation Act (Mannheim) of

October 17, 1866, in respect of which Prussia, Baden, Bavaria, Hesse, France and Holland were the covenanting States; the Mouths of the Danube Navigation Act, in connection with which a European Danube Commission was set up at Galatz, Prussia, Austria, France, Great Britain, Italy, Russia and Turkey being represented; the Congo and Niger Navigation Act of February 26, 1885; and finally, the Treaty of Constantinople of October 29, 1888, relating to the navigation of the Suez Canal, which was concluded by Germany, Austria-Hungary, France, Great Britain, Italy, Holland, Russia, Spain, and Turkey, while Denmark, Greece, Portugal, Sweden, Norway, Japan, and China acceded to it.

Of the very greatest significance are the international agreements as to warfare by land or sea. At Geneva, on August 22, 1864, a "Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field" was concluded by Prussia, Baden, Hesse, Saxony, Wurtemberg, Belgium, Denmark, France, Great Britain, Italy, Portugal, Sweden, Switzerland, Spain, and the United States, and acceded to by Austria-Hungary, Argentina, Bolivia, Bulgaria, Chili, the Congo State, Greece, Honduras, Japan, Luxemburg, Montenegro, Nicaragua, Persia, Peru, Rumania,



Russia, San Salvador, Serbia, Siam, Turkey and Venezuela; and at the Hague Peace Conference of 1899, in which twenty-six States took part, a Convention "Concerning the Laws and Customs of War on Land" was concluded, which at the second Hague Conference was improved and completed. In this Convention the declarations of the Geneva Convention of 1864 were accepted, but, in addition to these, declarations were added relating to the treatment of "Prisoners of War," and others relating to the actual conduct of hostilities: for instance, to the "Means of injuring the Enemy, Sieges, and Bombardment," "Spies," "Flags of Truce," "Capitulations" and "Armistices," and, finally, declarations relating to "Military Authority over the Territory of the Hostile State," the "Rights and Duties of Neutral Powers," and the "Internment of Belligerents and Care of the Wounded on Neutral Territory."

Although neither Hague Conference resulted in the production of a Convention which should establish laws of naval warfare corresponding with the "Laws of War on Land," at least the lot of the sick and wounded in naval warfare was assured by the extension of the Geneva Convention to naval warfare, and various other agreements in respect of naval warfare were concluded. The most important of these was

the Convention of 1907 concerning the establishment of an International Prize Court.

At this Conference two proposals were put forward—one British and one German—which, in spite of numerous dissimilarities, aimed at surrendering the jurisdiction over prizes, which has hitherto been administered by the State whose navy has captured them, in the last instance to an international tribunal. Finally, the Commission was able to accept a draft proposal which in four chapters and 52 articles stipulated for the provision of a permanent International Prize Court which would sit at The Hague. This Court can only be invoked according to a Governmental decree. It is then empowered to annul the findings of national Courts, whereby it appears in the light of *the first tribunal of a supra-national character*. The Court consists of fifteen judges, who are appointed in rotation by the contracting States in accordance with a definite scheme, and remain in office for different but lengthy terms. Since there is no recognized code of naval warfare, the international Prize Court, in accordance with the universally recognized rules of international law, must, in the event of the latter not providing for the case at issue, base its judgment upon justice and equity. Since England was endeavoring to establish a normal

standard of justice, she sought, by convening an International Conference for the consideration of International Maritime Law, which sat in London from December 4, 1908, to February 26, 1909, and resulted in the so-called "Declaration of London Concerning the Laws of War at Sea," to establish a common basis for the administration of justice. In this manner the most important problems of maritime law, such as the questions of blockade in time of war, contraband of war, neutral support for the enemy, and the destruction of neutral prizes, were regulated in accordance with the universally recognized principles of international law.

We can only allude here to the International Conventions for the Protection of Industrial Property (1883) and of Works of Literature and Art (1886); the Hague Conventions concerning International Civil Law and Procedure since 1896; the International Exchange Agreement of 1912; and the various treaties for the protection of health—for the prevention of cholera, yellow fever, and bubonic plague—which were combined in the Convention of 1912; the still unratified Convention of January 20, 1914, for the Protection of Human Life on the High Seas; the Convention for the Abolition of the White Slave Trade and the Sale of Immoral Publications of 1910; the Agreements for the Protection of Labor of 1906

and 1913, and the well-known treaties for the Suppression of the Slave Trade and Slave Raids, which resulted in the "General Act" of Brussels of 1890. We will, however, consider in greater detail the international agreements for averting war by the peaceful settlement of international disputes.

We have already mentioned that in the Constitutions of confederated States, such as the United States, Switzerland, and the German Empire, certain provisions are made for the settlement of controversies between individual members of the confederated State. Thus, Article 11, Section 2, of the Constitution of the United States provides for a supreme tribunal, the so-called Supreme Court, whose judges, appointed by the President with the assistance and by the consent of the Senate, give decisions in disputes between two or more States; or between one State and the citizens of another State; or between the citizens of different States; or between citizens of the same State, who lay claim to landed property, the concession of which depends upon several States; or, finally, between one State or the citizens of the same and foreign States, or subjects of foreign States.

The *Swiss Constitution* also recognizes a Supreme Court, the Federal Tribunal or Bundes-

gericht, which is competent in respect of disputes between individual cantons. The article of the Constitution dealing with this tribunal runs as follows:

Art. 110. The Federal Court judges, in accordance with the civil law, disputes:

1. Between the Confederation and the Cantons;
2. Between the Cantons.

The Federal Tribunal also judges cases relating to vagrancy, as well as disputes in respect of civic rights between the municipalities of different cantons:

Art. 111. It is incumbent upon the Federal Tribunal to undertake the judgment of other cases also if it is appealed to by both parties, and if the matter in dispute is, according to Federal law, one of decisive importance.

Art. 112. The Federal Tribunal judges penal cases with the aid of sworn witnesses who can speak decisively as to questions of fact. . . .

2. Cases involving crimes and misdemeanors against the law of nations. . . .

Art. 113. The Federal Tribunal further delivers judgment:

1. In disputes as to jurisdiction between the Federal authorities on the one hand and Cantonal authorities on the other hand;

2. In *disputes of a constitutional nature between Cantons.*
3. In grievances relating to infringements of the constitutional rights of citizens, as well as grievances of private persons in respect of infractions of concordats and political agreements.

Reservation is made in the case of administrative disputes which require more exact settlement by means of Federal legislation.

In all these cases, however, the laws and universally binding decrees enacted by the Federal Assembly, as well as the political treaties ratified thereby, constitute a standard for the Federal Tribunal.

That the German Constitution also provides for the judgment of disputes between the individual Federal States by the Federal Council, which in this instance acts, so to speak, as a species of Supreme Court (Article 76, par. 1, of the Imperial Constitution), has already been emphasized.

When we reflect that the constituent States of the North American Union, as well as those of Switzerland and Germany, were willing not so long ago to fight one another on account of their differences, it is evident that this method of submitting to the decision of a Supreme Court

such disputes as arise between the still sovereign constituent States, even after their union as a Federal State, may be conceived, inasmuch as these provisions are firmly rooted in the Constitution, as a species of compulsory arbitration by a permanent Court.

Owing to the mutual interpenetration of all the States, as a result of economic evolution, which, as we have seen in the foregoing pages, has evoked a whole series of international conventions and institutions, the general course of evolution must lead to the conclusion of arrangements for the adjustment of disputes arising between State and State, whereby such disputes may be settled in a peaceful fashion, as in the Federal States. The two Hague Conferences of 1899 and 1907, as is well known, directed their attention chiefly to the problem of arbitration.

In the movement for dealing with disputes between States by peaceful methods, which has received a particularly strong impetus from America, a very definite development may be perceived, whose tendency is to conclude arbitration treaties, which are gradually being extended to wider and wider spheres of controversy. In the first place the movement extended to the so-called "special compromise clause" as a supplement to various commercial treaties, and to

treaties or conventions relating to trade, navigation, extradition, and literary copyright. These referred to disputes which might in a definite and expressly emphasized manner result from the application or interpretation of the substance of the said agreements. As a rule, the "special compromise clause" is included also in important international conventions relating to institutions of general interest, as, for example, the convention establishing the Universal Postal Union, or the convention in respect of Goods Traffic Railway.

The "universal compromise clause" signifies a development of the arbitration movement, since, as an addition to various treaties, it submits for settlement by arbitration almost all future disputes, without distinction, so far as these are, in the opinion of the contracting parties, adapted to such settlement.

Treaties of this kind, which contain the "universal compromise clause," were concluded between France and Korea on June 4, 1886 (a treaty relating to friendly relations, trade, and navigation); between France and Ecuador on May 12, 1888; between Switzerland and the Congo, on November 16, 1889; between Belgium and Venezuela on February 26, 1887; between Portugal and Holland on July 5, 1894; and between Peru and Spain on August 14, 1897.



The next step in the development of arbitration consists of the permanent agreement to arbitrate, which, detached from a particular treaty (that is, no longer existing as a supplementary clause), promotes the settlement by arbitration of disputes arising in the future to the independent subject of a treaty. At the same time the range of matters suitable for arbitration, as established by such agreements, may vary. Individual controversies, such as those which touch upon the vital interests, the honor, the independence, or the Constitutions of the contracting States, may be excepted. There are, however, arbitration treaties which would submit every conceivable cause of dispute to arbitration.

The further development of arbitration tends, therefore, toward the conclusion of treaties, not between two States only, but between a plurality of States. As these arbitration treaties are consequently always extending to a greater number of States, and will eventually include all States, *the conclusion of such agreements is of very great importance, as they are milestones upon the road which leads to the realization of the League of Nations.* In the following paragraphs we shall briefly review the most important existing arbitration treaties, which have in particular been concluded since, and partly by virtue of, the first Hague Peace Conference.

*Spanish-American Arbitration Treaties:* On January 11, 1902, in Mexico, an arbitration treaty was ratified between Spain and Mexico, and on January 28 a similar treaty between Spain, Argentina, San Domingo, Uruguay, and San Salvador. On February 17, 1902, Spain concluded arbitration treaties with Bolivia and Colombia; on February 28, with Guatemala; on October 4, 1904, with Nicaragua; and on May 13, 1905, with Honduras. Collective treaties were ratified. They embraced all causes of dispute, in so far as they did not infringe the Constitutions of the countries concerned. As arbitrator, the head of one of the Spanish-American States would in the first place be proposed, in addition to a Tribunal composed of Spaniards and Spanish Americans, and only if it should be impossible by this means to obtain agreement would the Hague Tribunal be appealed to.

On May 28, 1902, Chili and Argentina concluded an arbitration treaty which embraced all causes of dispute, in so far as the Constitutions of the two countries permitted. The King of England or the Swiss Government was to act as arbitrator. Appeal to the decision of the arbitrator was to be made upon the demand of only one of the contracting parties. The most important aspect of this treaty is its connection

with a *disarmament treaty*. Both States agreed thereby to a reduction of their naval armaments. This agreement was carried out.

On October 14, 1903, Great Britain and France provided the first example of a permanent arbitration treaty between two great European Powers. This treaty made resort to arbitration obligatory in certain instances, particularly in Article 1:

“Controversial questions of jurisdiction and controversial questions relating to the interpretation of the treaties existing between the two contracting parties shall, so far as it has not been possible to adjust them by diplomatic means, be referred to the permanent Court of Arbitration at The Hague as established by the Convention of July 29, 1899. In this connection it is presumed that such controversial questions do not touch the vital interests, the independence, or the honor of either of the contracting parties, and do not concern the interests of a third Power.”

On February 12, 1904, Denmark and Holland concluded an arbitration treaty in which they pledge themselves to refer all differences and disputes between them which it has not been possible to adjust by diplomatic means to the permanent Court of Arbitration at The Hague.

On November 15, 1904, Switzerland and Belgium also concluded an arbitration treaty. Similar treaties were concluded between Denmark and Portugal (March 20, 1907) and between Denmark and Italy (December 16, 1905).

An arbitration treaty which embraced several States was ratified on December 20, 1907, by the five Central American Republics.

In 1912 an arbitration treaty was concluded between the United States and Great Britain which was designed to cover *all* causes of difference.

If we sum up the foregoing achievements, we perceive that it is the historical evolution of the States which is urging them on to the formation of a universal League of Nations. The multiple concatenation of the economic and the cultural life of all the States has already led to the foundation of a large number of collective agreements and institutions. Other agreements, ratified by individual States, such as arbitration treaties, are only waiting for the moment when they, too, can be extended to include all States; so that we behold the realization of the League of Nations as a possibility well within our reach.

## CHAPTER VI

### GENERAL PRINCIPLES OF THE LEAGUE OF NATIONS

TERRITORIAL and professional unions of a sort were in existence before the war. Alliances of States were formed with a particular purpose in view. International treaties of all kinds were concluded between them, and international bureaux were set up, which were empowered by these alliances of States to perform certain tasks for the community. Very often, too, arbitration treaties between individual nations were concluded, so that differences of opinion might be settled by law instead of by force. But there existed *no obligation on the part of all the States* to establish their collective and reciprocal relations on a basis of universality and mutual consideration.

These individual unions of States have not prevented the latter from behaving, in given instances, as their interests demanded. According to the prevailing usages of the international policy obtaining in modern times, every State is absolutely sovereign and independent; all, if

they feel that they are sufficiently powerful, employ forcible means of accomplishing what they consider to be worth striving for. It is only because war means profound interference with the life of the nation that the States do not more frequently resort to arms. As a mutual protection against the danger of war, the States heap up stupendous armaments, and form coalitions. On principle, they pursue their external policies in accordance with their own actual or pretended interests. They are *judges of their own cause*; they themselves decide the standard of their behavior to other States, and they tolerate no interference in what they proclaim their spheres of interest. In the international political system as it has hitherto existed there is, in respect of political questions, or matters of commercial policy, no organization whatever—and this is the significant point—which conditions, with the force of obligation, the mutual or collective existence of the States, or which can say to the individual State: “This you may do, and this you shall not do.”

The current Law of Nations authorizes any State to declare war upon another State, and even justifies its action. Civilized humanity has at least progressed thus far: it assumes a moral attitude in respect of every war, and delivers its verdict as to whether the war is or is not justified.

But there is no pretext for going to war which the belligerent State will not attempt to employ as moral drapery.

Every State is anxious to provide for its own security. Its foreign policy is based upon distrust and rivalry. Every State believes, or pretends to believe, that in looking after its own interests it is also safeguarding those of its fellow States. Out of this insecure position the coalition policy of the Great Powers has developed, which groups their forces in a proportionate measure, and for the benefit of the group; a policy which is designed to secure peace. But this coalition policy is adapted to war, and not only allows conflicts between one State and another to burst into a conflagration, but actually leads to such conflicts.

Men have sought to promote a system of arbitration in order to make the settlement of disputes by force of arms less frequent. But hitherto the character and the method of such attempts as have been made have not been adequate to diminish or abolish the anarchy of the existing juxtaposition of the nations.

This anarchy in the mutual relations of the States will continue *as long as the States feel themselves justified*, when their policy clashes with that of another State, *in seizing their weapons, and allowing violence to speak*; even in

thrusting aside the rights of neutral States, which they themselves have guaranteed. In nothing does the international anarchy show so plainly and painfully as in this, its latest consequence, that nations whose permanent peace is guaranteed by States which have solemnly given security for this peace are against their will hurled into the abominations of war, while the belligerents make their territory the arena of their bloody conflicts. The bleeding wounds of a neutral State which has in this manner been betrayed into war are an affecting symbol of the anarchical conditions which prevail among the nations. One is almost inclined to say that means *must* be discovered whereby States which are pledged for all time not to make war can be protected from being dragged into war against their will—means by which war can be abolished altogether. The world-war shows us what may be the consequences of international anarchy. It has destroyed the treasures of European civilization; it has decimated the peoples of Europe; and it has brought financial ruin upon the European States. But the world-war has had yet another tragic consequence; on account of the universal character which it has assumed it is not even capable of leading up to a system of government, even a system of forcible dominion. War has, for the last time,



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we hope, celebrated a monstrous Bacchanal, in which it must be destroyed, because it has revealed the fact that it is impotent as a principle of order. For this reason the nations must, for utilitarian reasons, banish the devastating expedient of war from the life of the nations—an expedient which, in place of order and a betterment of relations, brings universal death. What is true of the relations between individuals is also true of international relations. Violence has outlived its time. As the great developments of social life have led to the abandonment of club law, and the acceptance of organization, which derives the rights and obligations of the individual from the measures which aim at the welfare and security of the community, so has violence, in the international life of the peoples, rushed to its death in a last bloody upheaval and conflagration. The stupendous catastrophe which we are experiencing has uttered its admonition: it is for the peoples to give ear to it, and to draw the correct conclusions.

The nations too must renounce violence, and must adjust those differences which will always arise between them, as they arise between individuals, by legal methods. War must be abolished, or it must really be waged only as a "final resort." War has been described as an infirmity of the body of humanity. Hygienists,

bacteriologists, and social reformers are laboring to create, for the human individual, the most favorable possible conditions of health. But all measures of this nature do not prevent the outbreak of disease, or make the efforts of the physician to heal this disease superfluous. In the same manner, care must be taken to abolish, as far as possible, the causes of conflict between the nations. But the factors of opposition which result in war are for ever reappearing; and, in order to avert these, institutions are required which will not allow the malady of war to break out. What is the use of common agreements, binding upon all the Powers, if the community of the nations resulting therefrom is liable to be shattered by war?

The most important condition of a community of nations is that institutions shall be established for *the settlement of disputes by means of arbitration*, all recourse to arms being renounced. It is here a question of creating thoroughly effective institutions by which the State would pledge itself *under all circumstances* never to resort to arms in cases of conflict. Half-measures are not enough. The war has overleaped decades of pacific thinking. War is, as we have seen and are experiencing, so atrocious a thing, in all its horror, its bloodshed, and its devastation of property, that any new system of international

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life must begin with its abolition. Those who say that there will always be disputes between nations, and that as long as this cannot be altered there will always be war, are overlooking the essential point of the question, and are thinking and behaving illogically. Of course, there will always be disputes between nations, and, of course, they can never be abolished. Neither the criminal courts, nor imprisonment, nor the death penalty is able to prevent murder; yet no one demands their abolition. So it is with international life. To sanction war as the *only* means of settling disputes, because these cannot be prevented, because we can only diminish the causes of controversy, but cannot abolish them—this is to deny the triumph of justice and morality. It amounts to this, that the peoples see that war is able to play such a predominant part in international life only because the nations have not hitherto thought it possible to renounce their right to the most absolute sovereignty. Whoso renounces violence naturally renounces the ultimate consequence of his sovereignty. But this renunciation retains its significance only if it is reciprocal. Viscount Grey will meet with general approval when he says in his essay:

“The second condition essential to the foundation of a League of Nations is that

the Governments and peoples of the States willing to found it understand clearly that it will impose some limitation upon the national action of each, and may entail some inconvenient obligation. The smaller and weaker nations will have rights that must be respected and upheld by the League. The stronger nations must forego the right to make their interests prevail against the weaker by force: and all the States must forego the right in any dispute to resort to force before other methods of settlement by conciliation, or, if need be, arbitration, have been tried. This is the limitation."

If the individual person does not attempt to enrich himself by the property of his neighbor, this is, from the standpoint of his appetites or his needs, a "renunciation." But by this renunciation in favor of justice he himself is protected from having his own property seized by others. If the States, too, mutually renounce the expedients of superior strength, the next step is the law which imposes limits upon arbitrary power, and introduces the principle that the means shall be adapted to the end. The State renounces some part of its sovereignty, through the surrender of the so-called *ultima ratio* of force, in order to induce other States to assume obligations which are, for me and the generality of people, more precious than the liberty surren-

dered. The reciprocal renunciation of violence brings with it reciprocal protection against arbitrary power—the protection of the law, and of the solidarity of a general renunciation of arbitrary behavior. From such an organized reciprocity of action the territorial and political integrity of the individual State will obtain far better protection than from isolation in the midst of anarchy.

This does not mean that a State would renounce its internal jurisdiction; on the contrary, a League of Nations has no prospects, no standing, no existence if the internal independence of its members is infringed. It would be the death of the nations if, on the creation of the League of Nations, the right to intervene in the inner life of the States were decreed; or if the hypothesis of a community of nations were involved in that of the homogeneity of its composition. The character of the governmental system of each individual nation must be left undisturbed. The historical modality of the inner development of the nations could not be legislated out of existence, to make way for a stereotyped pattern without paralyzing the energies of the States and the peoples. This would tend to a levelling of civilized life, for it is precisely the individuality of the nations which has done most for the general development of humanity. The internal liberty,

of the States must be maintained under all circumstances; no State must dictate to another in respect of its internal conditions. We need only picture to ourselves what the results would be in the direction of constitutional and party disputes and election contests. The result would be anarchy within the State; and it is to the interest of the League of Nations that it shall be composed of self-supporting and independent States, which, on the other hand, will not be molested in their outlying possessions, and will be safeguarded against the diminution of the latter by means of forcible invasion. The settlement of the territorial situation of the States on the conclusion of a general peace must, of course, be such that it leaves no rankling wound, even in the East. The difficulty of this purpose can be mitigated if the nations exhibit an honest desire to reach a settlement, and if each will put a check upon its own aspirations. All the nations must take water in their wine if the coming peace is to be a permanent one. A peace of annexations, at all events, will not achieve this end, nor a peace built up of separate treaties, which may not be recognized by all the contracting parties to the universal world-peace. As far as Germany is concerned, the promise of the right of free self-determination in the once Russian border States has been loyally fulfilled. These nations,

as I stated in the Reichstag as long ago as February, 1918, must be placed in a satisfactory position, just as the Russo-German peace must appear to be consistent with the inner development of Russia and the conditions of the general world-peace.

One aim of the League of Nations is the *reciprocal protection of the States against any forcible attacks upon their political and territorial sovereignty.*

But a State would forego nothing of its sovereign rights were all the States in common to enact a law by which the affronting of other States in the newspapers or other publications would be made a punishable offense. In this connection we had plenty of practical experience before the war, and during the war our experience has been peculiarly extensive. In every country there is a provocative Press (its instigators in that country call it the Nationalist Press) whose aim is to create discord among the nations when such does not exist, or, in the event of the least conflict, to stir up the blaze, and fan it to a furious rage. It has often been said that the Press is one of the Great Powers. This is true. But unhappily the Press has often abused its position as a "Great Power," seriously imperiling peace. This reproach affects, of course, only a portion of the Press of every country; I will

not mention names. Every superficial newspaper-reader in Germany, France, or England has during this war become sufficiently familiar with the inflammatory Press<sup>1</sup> of foreign countries, and knows that it played its part in promoting racial hatred and a bellicose mental attitude. But if the Press is a great power, then in a state of human society which would be distinguished by a League of Nations it would perhaps be disposed to use its powers not to excite men's passions, but to diffuse mutual esteem and promote understanding between the nations. The Press must be free in every country, just as the expression of private opinion is free in normal times. But just as the free expression of individual opinion is not licensed to affront or assail the honor of one's neighbors, but is subject to legal penalties for such abuses, so the publicist must not abuse his freedom by insulting a foreign nation and infringing its honor. It goes without saying that, as regards the significance of the Press in public and international life, this consideration is justified in a much greater degree than in respect of the intercourse of individuals. *The public in all countries derives its ideas of the public of a foreign country from the Press. At-*

<sup>1</sup> Literally the "baiting Press," or "mob Press," *hetzen* (whence *Hetzpresse*) meaning "to hunt, to bait, to provoke," while *Hetze* means "mob," and *Hetzer* "an instigator."—*Trans.*



tacks provoke counter-attacks, and a state of emotional strain results which hovers like a dark cloud over the nations, and poisons the relations of the peoples, although there is no sufficient or fundamental reason for its existence. Hence, in the interest of peace, every State must punish such abuses of the freedom of the Press. The League of Nations reposes upon the mutual confidence of the peoples, and this confidence must not be frivolously destroyed. The Jingo is an international pest, who lives by provocation; he is a parasite of dissension. How often do brutal capitalistic interests conceal themselves behind the mask of nationalism? The Press of all countries, once it has accepted the principle of the League of Nations, will be profoundly interested in the punishment of such abuses as we have mentioned. If it has hitherto been possible, at the suggestion of the Governments concerned, to prosecute those who insult the rulers of foreign States, there must be some possibility of coming to an agreement to the effect that every State shall of its own accord take legal action against such provocative printed matter. It would be a further step in the direction of peace and the League of Nations if the States were to pledge themselves to publish in their official Press organs, on the mutual proposition of their fellow States, corrections of Press announcements or rumors

which were in danger of causing international discord; and if all League States, even those not directly interested, were to notify similar corrections in their official organs. It should be made possible for every State to take measures against false or tendencious announcements, and the effects produced thereby, by means of such corrections. In Germany paragraph 11 of the Press Law of 1874 gives us this right of correction. This paragraph has proved extremely useful in suppressing Press brigandage in the interior of the Empire. It ought not to be difficult to adapt this measure to international life.

In the same way, only the good will of the nations is necessary in order to make it a reciprocal obligation to guarantee, by their constitutions, in so far as the hypothetical conditions are provided by the ratios existing in the various States, the individual life of national and religious minorities, as to language, schools, and churches. A great deal of inflammable matter would thereby be banished from international life, and the irredentists would lose the raw material of their propaganda. The spirit of the League of Nations alone would, in its reaction on the internal life of the States, lead to an amelioration in this respect; but it would be consonant with the ideal of universal justice if the protection of the national and religious minorities, by means of an

international convention, were expressly made an obligation of the State, the more so as it is practically impossible to create purely national States, and for the purpose of civilization they are not even desirable. It is precisely by means of mutual permeation and impregnation that the collective life of the State receives its most powerful motor impulse, and the rhythm of its vital processes.

A State would not, thereby, lose its independence. The only right which all the States must renounce is their right to that of which they will all enjoy *the common use*.

The solemn renunciation of the expedient of force in cases of conflict, together with the principle which the League States will accept as binding upon them,—of submitting their differences to impartial arbitration, and obeying its decisions—forms the first fundamental condition of the creation of a League of Nations, and an integral constituent of its body politic. This principle declares the equality of all the States before the award of arbitration. The stronger has no more rights than the weaker, the greater no more than the lesser Power. This principle provides that no State shall any longer be merely an object of statecraft to other States. Every State will enjoy equal rights and privileges. The skillful and perilous policy of coalition

and the Balance of Power will become meaningless.

If arbitration is accepted by the States, the great armies of the States will lose their significance; they would, if they continued to exist, constitute a standing menace, because it would be considered that a State, even if it had recognized the Court of Arbitration, might yet exploit a favorable situation and make use of its army. This would once more lead to armaments. The history of the period anterior to the war should have shown humanity that *armaments are not a means of keeping the peace, but an agency of war*. When the States have declared their readiness to settle their disputes by means of arbitration, everything must be abolished that might result in distrust of this resolve. For the same reason, if arbitration is to have any meaning, everything must simultaneously be abolished which has an antithetical appearance; the armed forces of all countries must simultaneously be reduced according to a particular and uniform standard. If the nations resolve to accept arbitration they must feel confident that their disputes will be decided justly thereby. For this reason the organization of a Court of Arbitration is of great importance.

This disarmament must be carried out upon the *seas* also. The sovereignty of one Power or

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group of Powers over the great trade routes of the ocean cannot be reconciled with the equal privileges of all nations, as recognized by a Court of Arbitration. If violence is to be banished from international life, *one nation alone* must not possess the means of enforcing its will, as represented by the possession of all the straits and coaling stations, and their protection by means of warships. *The seas must be free.* They should belong to all the nations in equal measure, in token of which no nation would any longer require a navy; which, if it were retained, would be a sign of the despotic "will to power"; at least, unless strict regulations were enforced. Traffic throughout the world must be free. Arbitration and disarmament were the great subjects under discussion at the Hague Conferences. The work of the Hague Conferences can in many respects be resumed.

If the nations renounce the use of violence in the struggle to obtain the necessities of life, and a market for the products of their labors; if they abandon also the instrument of violence they must enjoy equal economic privileges throughout the world. It is not compatible with the equality of economic rights that one or several Powers should make such a political misuse of their advantage in raw materials as to be willing to supply only friendly States, and to

intend, with them, to establish an economic blockade of other States. The *principle of the open door must be established in international law*. Reciprocal freedom of trade must be restored; individual States must not allow preferential terms to other individual States. All nations have in theory an equal right to procure the raw materials of the world, and a market for their products. The complete and universal observance of the principle of the open door and the "most favored nation" clause arises from the principle of equal rights, which must be established in international life.

But according to the principle of the equal rights of the nations, they must share, according to their capacities and their needs, in the opening up and colonization of those parts of the globe which are not yet fully accessible to the world's commerce. It cannot be the part of justice to distribute equally among the Powers such parts of the earth's surface as have already been annexed by a civilized nation. But it can and must be made possible that a civilized country, such as Germany, which first evolved into the ranks of the world Powers only after the surface of the globe had been divided into shares, shall be remembered, according to her needs and her capacities, in the opening up and partition of Africa. Only if Germany is vouchsafed the

possibility of that colonial expansion which has given the other Great Powers their extensive colonial possessions can we say that the possession of colonies is not confined to a limited group of Powers.

And finally, the community of nations must permanently protect the *small and weak States*; they are the orphans of the world. Through their permanent neutrality they have a claim to the protection of all; they must become, as it were, the cement of international life, and a continual reminder of the moral duty of the nations. The protection of the Great Powers is permanent and irrevocable; it is the banner of the League of Nations.

We have now dealt with six points:

1. Obligatory arbitration.
2. Disarmament.
3. Freedom of the seas and international commerce.
4. The open door.
5. The universal opening up of Africa.
6. Neutral States.

These constitute a *definite program*, on the basis of which the nations can form themselves into a League, which will guarantee to every State absolute independence, internal and external, on the conditions of the voluntary renun-

ciation of war and voluntary submission to arbitration, which result from the acceptance of a Court of Arbitration. For the States would thereby recognize justice as *a governing principle*, and the necessity of maintaining strong military forces would no longer be incumbent upon them. Armaments would be reduced as a result of the existence of a Court of Arbitration, and of confidence in its decisions, and with armaments would go the distrust which has poisoned the international atmosphere. Disarmament at sea, through the abolition of the unfair maintenance by one Power of the trade routes of the world, would be followed by the effective freedom of the seas, and the unconditioned freedom of private property on the high seas, for every nation, weak or strong. The renunciation of a commercial policy founded upon might will mean equality of economic rights, and free trade under equal conditions for every State, in respect of all other States; and the participation of Germany in the world of colonization, in proportion to her colonizing abilities and her needs, is only consistent with the commandments of justice.

Every State has under such conditions possibilities of free development, at home and abroad. The renunciation of forcible expedients would lead to reciprocal confidence among the nations; justice would gradually become the sole govern-



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ing principle, and would shed its light upon all the international relations of the peoples. But it must be postulated that the nations *must treat these six points as homogeneous*. No one point can be subtracted from the others, or the whole structure will collapse. In the absence of compulsory arbitration the nations could not disarm; the monstrous burden of armaments would remain; they would still have to base their security upon the bayonet, and to pursue a reckless policy of rivalry; the freedom of the seas would be impossible, and in the economic sphere a policy of exclusion would be followed, under which those States which did not take part in it would suffer. Armaments would remain, and the old system of rivalry would be confirmed. The nations would firmly believe that they had better further their interests by force of arms rather than by legal procedure. Militarism and "navalism" would continue to rule the world; they would lead to the formation of coalitions, through which the world would again be divided into camps; and under the banner of armaments no lasting peace could exist. If the essential freedom of commerce were not proclaimed, every naval Power would enjoy a great advantage over other Powers; the great commercial highways of the world would remain in the hands of a few, to the disadvantage of the rest, so that the Damocles'

sword of their commercial dependence would hang for ever over their national existence. Without equality of economic rights no change of system would be accomplished; the special favoring of individual States by other individual States would set up various economic camps, which would be politically hostile to one another, and the survival of force as a means of decision would be the natural consequence. Finally, a German Empire deprived of colonial possessions could never pursue a pacific policy. This unjustified neglect, in accordance with the law that *injustice, even in high politics, will in one fashion or another avenge itself*, would lead to continual conflict, which sooner or later would explode into war. So one point arises from another; so all are reciprocally conditioned and maintained, and all revolve about the axis of arbitration. *This is the minimum program of the League of Nations; the program as it must be realized. If the world honestly desires a League of Nations it cannot do otherwise than accept it.*

## CHAPTER VII

### OBLIGATORY ARBITRATION

THE idea of a Court of Arbitration is novel neither to the international world nor to the German mind. We have seen that this idea has played a great part in the juridical history of Germany, and that it forms an integral part of the substance of our Constitution. Differences between the confederated States are, in accordance with the Constitution of the German Empire, adjusted, by a process of arbitration, by the Federal Council.

In the widespread movement which occurred in the sphere of international law during the years before the war the ideal of arbitration occupied the central position. Of course it played a great part at both the Hague Conferences, those of 1899 and 1907. Disputes between States were repeatedly adjusted by arbitration during the eighteenth and nineteenth centuries. From 1794 to 1904 peace had to its credit (see the *Handbuch der Friedensbewegung*, pp. 123 *et seq.*) no fewer than 241 cases of arbitration. But in most

of these cases only special agreements, with special objects, between a few States, were in question. At the Hague Conferences, however, the attempt was made for the first time to establish arbitration as an international process, as a permanent institution for all the nations.

At The Hague the discussions concerning arbitration turned essentially upon the question whether and how far it should be *optional or obligatory* in its character. At the *first* Hague Conference the Russian program put forward optional arbitration for discussion. But the debates were given a certain tendency by the proposal of the Russian statesman von Martens, to the effect that for certain purely legal or economic controversies arbitration should be made obligatory, at all events in such instances as did not affect the vital interests of the disputing parties, or their national honor. Herein lay a decided limitation of the obligatory character of arbitration. The category of the disputes which would thereby come up for consideration would include controversies arising out of different interpretations of conventions relating to posts, railways, weights and measures. Although the Conference was thus well on the way to establishing obligatory arbitration in certain cases, and although, owing to the clause relating to the national honor, the sovereignty of the States would

have remained unaffected, since every State was free to decide for itself whether it would make use of this clause, the subject was, on the demand, alas! of Germany, struck out of the draft Convention. Germany declared herself at the very outset as opposed to the erection of a permanent Court of Arbitration, which had been proposed by the British delegate, Sir Julian Pauncefote. Germany rejected the idea of obligatory arbitration, believing that it would be better to wait until the idea was more strongly supported. Her consent to the erection of a permanent Court of Arbitration resulted from a personal decision of the Emperor's. We know, from the memoirs of the American Ambassador, Andrew D. White, who at the first Hague Conference was the president of the delegates of the United States, what effect was produced by the unwilling attitude of the German delegate, Prince Münster, in respect of the idea of arbitration. In a letter which White sent to von Bülow on June 16, 1899, it was stated that, if the idea of arbitration was rejected by Germany,

“the relations between Germany and the United States, which were just beginning to improve, would be worse than ever, and in almost every State the bitterest hatred would be kindled against the German Empire. . . . Germany must not play against

the world the mischievous part, of the opponent of a project for whose fulfillment millions and millions are fervently longing."

So the Hague Convention, alas! emphasized only optional arbitration, and the Conference expressed only a platonic desire that this would evolve into obligatory arbitration.

But the second Hague Conference of 1907 also failed to arrive at an understanding as to the problem of obligatory arbitration. This resulted from the manner in which it was proposed to aim at an agreement according to which all causes of dispute which did not affect the vital interests or the honor of the States should be submitted to arbitration. Further, an attempt was made to come to an agreement on the subject of concluding a treaty according to which the States could in certain cases of dispute *a priori* refrain from appealing to the "national honor" clause, and in certain cases would submit themselves unconditionally to arbitration. As at the Conference of 1899, the disputes under discussion were of a juridical or economic nature, but this time the "national honor" clause was not to be considered in relation to such cases. However, there was no agreement upon this question. Unhappily, it was again Germany and Austria-Hungary which, in opposition to France, England, and the United States, set themselves against

the establishment of obligatory arbitration. Germany had, it is true, concluded an arbitration treaty with England (in 1904) which included the "national honor" clause: the German delegate, the Ambassador Marschall von Bieberstein, suggested the applicability of a clause relating to the obligatory character of arbitration to political treaties between individual States, but denied the possibility of its practical introduction in an international treaty. The consequence of this attitude was a negative result at the second Conference, which dissolved amid obvious dissatisfaction. This attitude on the part of Germany was vigorously deplored by the present writer at a confidential session of the Household Committee of the Reichstag, but his remarks found only the feeblest echo.

In the literature of international law the question has repeatedly been asked, why Germany did not accept the obligatory nature of arbitration. It has always been remarked, in this connection, that Germany has since 1874 been one of the contracting parties to the Universal Postal Convention, which submits differences of opinion between contracting States concerning the interpretation of the convention to a Court of Arbitration in accordance with Article 23 of the convention. In the matter of tariffs, too, Germany has inserted the obligatory arbitration clause in her

commercial treaties with Belgium (July 22, 1904, Article 12a), Italy (September 3, 1904, Article 14a), Austria-Hungary (January 25, 1905, Article 23a), Sweden (May 3, 1906, Article 22), Switzerland (November 12, 1904, Article 10a), and Bulgaria (August 1, 1905, Article 22). In 1904 came the Obligatory Arbitration Treaty with England (containing the "national honor" clause) and in 1907 Germany proposed, at the Conference itself, that the International Prize Court should be a Court of last instance in important questions of the laws of war at sea.

Germany did reject the idea of obligatory arbitration; and it would be foolish to refuse to reckon with the fact that her attitude caused the greatest astonishment among the conferring States. Germany may be allowed to exhibit a certain caution on account of her geographical position, but her discretion in 1899 and 1907, which might more truly be described as suspicion, most assuredly did Germany no good. No doubt an exaggerated idea of the significance of the sword in international life played a great part in the attitude of the German Government. At all events, the universal peace movement had not, so far, become general among the best elements of the nation. If there is any need to allude to this, we may mention the inner transformation which



a certain competent authority, Professor Philipp Zorn, member of the Prussian House of Peers, and Crown Syndic, who took part in the Hague Peace Conference as a delegate, has experienced in himself. He writes in his essay, *Die Internationale Schiedsgerichtsbarkeit* (1917):

“When I went to the First Hague Conference in 1899, I was, like the majority of German jurists, fairly indifferent in respect of the question of international arbitration. I was convinced that the honorable German policy and the good German sword were for us the best international securities. And I am still of this persuasion to-day. But the month of earnest labor in the Examining Committee which the Conference of 1899 appointed to consider the matter of arbitration expanded my horizon, so to speak, so that I am forced to admit that *there is, far and wide in the civilized world, a profound and earnest endeavor* to create a strongly safeguarded international regulation of peace, in a legal form, and with legal guarantees. In this conviction I devoted my energies to contriving that the German Empire should abandon its original opposition to the permanent Hague Tribunal” (p. 40 *et seq.*).

Since that time Zorn has continually pleaded that Germany should accept obligatory arbitra-

tion, at all events with the "national honor" clause, and this for all causes of dispute.

If we have recognized in arbitration a means of preventing war, we cannot remain standing half-way to the goal. If the States still fail to decide whether a dispute is or is not suitable for settlement by arbitration, then the peoples are still subject to the constant peril of war, especially when the "will to war" of one nation has compelled another nation to take up arms. Moreover, the "national honor" clause leaves it to every State to consider whether its vital interests or national honor do not imperatively demand that it shall go to war. Even at the first Conference the Swiss delegates called special attention to the absurdity of obligatory arbitration with the "national honor" clause; and at the second Conference Freiherr von Marschall skillfully put forward the same idea, in order that he might contrive, from that platform, to arrive at a rejection of the proposal of obligatory arbitration. The "honor and interest" clause made it possible for the States once more to suspend the juridically compulsory character of the obligation to resort to arbitration, which is, nevertheless, precisely what ought to be established. There are, of course, disputed questions which, when seen from the outside, do not wear a political aspect, yet their character is political; but

they are not on that account irrational. And when there is no actual connection between them and the "vital" interests of a nation, such a connection can be easily created when desired, and imposed upon public opinion. Again, almost any dispute can be turned into a political dispute and a question of honor, by which the nation must stand or fall, and which, therefore, must be withdrawn from arbitration and submitted to the decision of arms. Here we have a situation which, in its uncertainty, does not essentially differ from the situation which existed before the war. This situation must, however, be abolished. There is no other way of doing so save by concluding an agreement between the peoples, whereby *all* the contracting parties would be pledged, *collectively* and without exception, to submit disputes, if they could not be adjusted by diplomatic methods, or by means of mediation and the good offices of friendly States, to arbitration, the appeal to arms being prohibited. Zorn says in this connection that "obligatory arbitration with the 'national honor' clause will not satisfy the world in future." Those who say that in renouncing the "national honor" clause a State is surrendering the last possibility of arbitrary authority, the last chance of settling disputes by force according to its own desires, have not understood the

problem which we are here discussing. It is part of the conception of justice which is to be established in the collective life of the nations that it must replace the "right" of might by the right of right, which will be available for all, without exception; and against its infringement in any direction the guarantees of the community are given. That the sovereignty of a State would be encroached upon by the abolition of the "national honor" clause is not a plausible argument. For the fundamental engagement to accept the obligatory nature of arbitration, to which the "national honor" clause was an exception, means after all—if you will—an affront to sovereignty. But, to begin with, this affront is *common to all the States*, and it is accepted only that the States may receive benefits which are greater than the fraction of sovereignty which is for that reason surrendered; and, on the other hand, we have submission to obligatory arbitration *by the free will of the States*. This is no subjection to a higher power, under compulsion; it does not affect the sovereignty of the States; it is nothing more than a bond, such as every State treaty must entail, and the sovereignty of the contracting parties is not injured thereby. If some are under the apprehension that the obligation to submit to arbitration implies a limitation of sovereignty, the truth is that this is already true of

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optional arbitration. But even this is based on a State treaty, and between it and obligatory arbitration there is no general distinction: only a very slight distinction in respect of the legal bond.

There is *no other remedy*, if we earnestly apply ourselves to the problem of preventing war, than obligatory arbitration. It is the fundamental principle of a world of States whose relations are guided by justice; and it is at the same time an essential constituent of the guarantees of its existence. Force cannot permanently create or protect any community. Thinking men in all countries have come to recognize this.

If this course has been recognized as the only correct one, then it must also be admitted that a Court of Arbitration whose objectivity is guaranteed is capable of settling all international disputes. In the literature of international law writers have repeatedly differentiated between disputes susceptible of legal adjustment which should be submitted to arbitration, and disputes which are less, or not at all, susceptible of such treatment, for which there should be established an international Council of Examination and Mediation, as suggested by a resolution of the first Hague Peace Conference. As in the internal civic life of the State all disputes are justiciable, there can be no reason why international disputes

should not be the same. All international conflicts, however thickly invested with the pathos of irrationality, may be referred back, in the last resort, to a concrete difference, which is expressible in legal terms, and is always formulated in an ultimatum. How many threatened conflicts have there not been in history which seemed as though they could only be settled by resort to arms, because their character did not seem to admit of another settlement, and yet they have been surmounted, because it proved possible, by means of adjustment, to avert their explosion. It must also be equally possible to adjust instances of apparently incommensurable and absolutely disparate opposition and tension in a peaceful and equitable manner. One hardly dares to reflect that the world-war would not have been fought if in 1914 the principle of obligatory arbitration had already been in force. The war proceeded inevitably from the Serbo-Austrian conflict. Austria-Hungary declared war upon Serbia because of the latter's unsatisfactory reply to the ultimatum presented to her. In respect of Points 5 and 6 in particular arose the difficulties which led to war. The Austrian Government demanded, in Point 5, that the suppression of the Serbian propaganda directed against the integrity of Austria-Hungary should be assigned to Austrian organizations; and in Point 6, that Austro-

Hungarian organizations should co-operate in the search, by means of a judicial inquiry, for the participators in the plot existing upon Serbian soil. Serbia refused. If obligatory arbitration had been in existence the dispute would have been submitted to it. Does anyone really believe that it would have been impossible to deliver a verdict acceptable to both parties, if only in the form of a compulsory settlement? Serbia had accepted the ultimatum up to these two points. Their purport showed that the Serbo-Austrian conflict, which was apparently pressing onwards, with elementary force, to an explosion, was after all concretely expressed by two points which were capable of juridical treatment, and from a legal point of view could have been adjusted. Arbitration would assuredly have discovered a pacific solution. One may be quite confident that in the absence of juridical control arbitration will observe no limits. Moreover, disputes arising out of conflicting interests proceed, in the last resort, to the adjustment of concrete demands and denials. It is, of course, true that standards of justice for the settlement of international conflicts are as yet in their infancy. But even in civic justice it is often not the detailed precedent, but the ruling of the court of justice, which gives the decision. Such decisions *make law*. For this reason, as Schücking says,

in his *Völkerrechtlichen Lehre des Weltkrieges*, it is important so far to develop the law that it suffices, as far as possible, for every need, no matter what the legal nature of the dispute. Every conflict, even that which is apparently incapable of settlement by legal means, is really susceptible of an objective solution. If there are cases in which international law possesses, as yet, no formal and juridical standards, the solution of the conflict must be developed from the actual facts of the situation. If such a solution does not take the shape of a verdict, but is rather an adjustment, which is tendered as being, in the opinion of the arbitrators, the only possible solution, this does not in any way affect the purpose of arbitration, in so far as the settlement is obligatory. *The decisive point is the obligation to resort to arbitration.* If it is left to the State, or any party in the State, to decide whether it will accept the settlement, then the doors are again flung open for the entry of war. This would be the case if two parties were permitted, after jurisdiction, to resort to self-help. If the States are left in freedom to wage war at their own sweet will the aggressive State will find a ready-made moral cloak for every war of conquest. It must therefore remain an axiom that the States are obliged to submit all disputes to the Court of Arbitration,



and to subject themselves thereto. In course of time international law will have developed, from the facts of the case, into the standard or criterion for all political conflicts. *Fresh data will give rise to new legal principles.*

For the rest, arbitration is not the first expedient for the settlement of inter-State conflicts. In the first place, the "good offices" and mediation of friendly Powers will have been brought into play, as was provided for at both the Hague Conferences. Then, if no settlement is thereby achieved, the conflicting parties are pledged to submit themselves to a Court of Arbitration. Now, one cannot expect that any State will submit its case to a Court of Arbitration if it is not persuaded that the Court has rightly appreciated its point of view. The essential point in respect of a Court of Arbitration is that every State in every special case brings its influence to bear upon its formation. Every State will have confidence in a Court of Arbitration if it can itself appoint its referee; every nation, moreover, will have the feeling that its cause is being properly handled if this magistrate cannot be appointed unless his appointment receives the assent of the national legislature. The two referees or umpires then appoint a President, who must be a subject of a Power which is not concerned in the dispute. It cannot well be said

that such a formation of the Court does not correspond with the requirements of both parties in respect of a just verdict, since according to this method of formation every State chooses its own referee, and a complaint against the President, who is impartially elected by both referees, would at bottom imply a complaint against the whole character of the verdict. Now it might be the case that both referees could not agree as to the choice of a President in whom both parties had confidence. Then the proper procedure, to which reference was made in the Hague Convention, would be for both parties to agree upon a third Power which would undertake to select a President. Should that happen which is really all but impossible save in theory—that the two referees could not decide upon a third Power—then each party would seek out another Power, and these two Powers, which would, so to speak, be the trusted friends of the two parties, would, in agreement, select a President.

If these trusted Powers cannot manage to agree, there is still one possible expedient. Each League State appoints, on its accession to the League, two competent persons whom it considers to be qualified for the position of President, and who are ready to assume this office when required to do so. From the list of these

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persons each of the two trusted Powers designates two individuals, who of course must not be of the same nationality as the parties at issue. These four persons choose by lot which of them shall serve as President. The principle here observed is this: that the two conflicting parties shall in the first place appoint their own referees, thereby obtaining a guarantee that their point of view will count at its full value in the shaping of the verdict; that the President shall not be forced upon them, but that the rule shall still be observed that no one shall sit as President who has not the confidence of both referees; until, after various attempts to find such a person, a solution is resorted to which is, of course, mechanical, but its mechanical character is mitigated by the fact that the persons who draw lots are nominated by the trusted Powers chosen by the two parties. A President must, absolutely *must*, be selected; a solution of this kind *must* finally be found; but in practice it will hardly ever happen that such lengthy proceedings will be necessary. In any case provision is made for the securest possible guarantees of the objectivity of the verdict, so far as any sort of objectivity is really possible in this world. Those who advance the postulate of absolute objectivity, and allow obligatory arbitration to be wrecked upon its impossibility, must on principle reject

every legal verdict, even in civic life. In any case, arbitration has at least as much prospect of executing justice as a war. Or does a war perhaps create a justice of its own? Does the nation which snatches up its weapons in order to obtain and establish its right carry in its pocket, along with a declaration of war, the guarantee that, as the outcome of the war, it will be prepared to do justice? One thinks of the duelist who, in order to re-establish his honor, or to justify himself against the encroachments of his opponent, accepts this mediæval procedure at the risk of being shot. Nevertheless, one may bring all possible objections to bear against the Court of Arbitration, yet one thing remains certain: that arbitration at least offers the same guarantees of a just settlement of a conflict as are offered by war, and does so without a monstrous sacrifice of blood and property.

It is of great significance that the selection of the referees is made *with the consent of the national representatives*, and that these referees, who decide important questions which concern the whole world, possess the confidence of the whole nation, and that their personality is familiar to the public. The parliamentary deliberations will be a warning signal for the electors of those to be cleared up; well-founded claims will receive parliaments, as for the world; the outlook will

fresh verification; militarism will be destroyed. This procedure provides a fitting contrast to the dark secret chamber in which decisions as to war and peace have hitherto been formed. With the system of arbitration there is no further possibility of such terrible surprises, as were only too often in store for the nations. How important it is that the nations shall, in this manner, take an interest in all serious questions; how important it is that the verdicts of the Court of Arbitration shall be published in the parliamentary proceedings of all the States; what an education for the people in the spirit of justice, an education which will probably be of the greatest significance in the civic life of every State, and also for every individual citizen! If we reflect what a shock the ideals of justice and morality have received in this war, in all countries, how the sense of *meum et tuum* threatens to disappear, and how criminality has everywhere assumed frightful proportions—a circumstance which is in grotesque contradiction to the alleged holiness of war, the purifying character of war—we shall thankfully hail the blessings of arbitration in this direction also.

As in all legal proceedings, so in the procedure of international arbitration a possibility of *appeal* must be provided for. The more important the object of dispute and the verdict, the more in-

telligible the appeal to a Court of second instance, to the Supreme Court of Arbitration. The bench of judges is enlarged by two additional umpires or referees, a friendly Power appointing one for each party with the consent of its national legislature. These four referees of the Supreme Court must not, of course, have been umpires in the same cause. And these referees are also, of course, appointed subject to the consent of the national legislatures of the two litigating Powers. If this is given, they select a President, who again must not be a citizen of one of the litigating Powers. If the referees of the Supreme Court cannot agree upon a President, the Pope is appealed to, who appoints the President in agreement with the two Powers who have been appointed as "trusted Powers" by the two litigating Powers. Again, this referee appointed by the Pope must not have been either umpire or president in the same cause.

*Why is the Pope appealed to?* Because he is the only qualified "instance" in such a case; because, as spiritual head of a great part of the population of every State, he cannot and will not slight any nation; and on this account he will in a peculiar degree take pains to be impartial. The impartiality of the Pope in war has been so far acknowledged and confirmed on all sides, even by non-Catholics, that it is not

merely incumbent upon the gratitude of the nations, but is to the interest of arbitration, that the nations should offer him this rôle. The German delegate to the Hague Peace Conference, Geheimrat Zorn, has remarked that it was greatly to be deplored that the Pope, at the request of the Italians, was not represented at the Conference. The co-operation of the Pope in the Supreme Court, in the suggested office, would have bestowed a *moral sanction* upon international jurisdiction; and no more fitting or ennobling sanction can be conceived. The Pope has no territorial cares; would have none, even if the solution of the Roman question were to restore a little territory to him; it would be so little that one can hardly say that the Pope would have any territorial or economic interests. The Pope has no territorial or economic policy to uphold. He is the stronghold of righteousness; he is the only Sovereign in whom there is no appearance of partiality or interest. If Bismarck, as we have already mentioned, submitted a case to the arbitration of the Pope, surely no one can raise any objection if the Pope (in the case which is, for the rest, regarded merely as an exception, namely, that in which the four judges of the Supreme Court of Arbitration cannot come to an agreement as to the choice of a President) should himself nominate a Presi-

dent. What the Iron Chancellor actually did in his days, the late Chancellor, Count Hertling (as deputy, on January 13, 1897, at the first debate on the Effective Peace Force of the German Army in the German Reichstag) alluded to when he remarked that a Court of Arbitration could only be supervised "by a Power which stood outside the opposing interests, and brought none but a moral influence to bear."

Our proposal does not go so far as to make the Pope an obligatory referee; it entrusts to him the appointment of a President of the Supreme Court, and this only in the event of the four referees being themselves unable to find one. No objection can on any side be made to this, and a verdict thus obtained would possess moral validity for the whole world.

That obligatory arbitration is meaningless unless the litigating parties are pledged to accept its verdict, and unless there exists some executive power which can carry out that verdict; in other words, that the League of Nations must have means of enforcing its will, in order that it may proceed against every infringer of the peace, is self-evident. We shall speak of the matter further in a subsequent chapter.



## CHAPTER VIII

### DISARMAMENT

“. . . Pernicious views, which represent material force as the highest law: hence the steadily progressive and limitless increase of armaments, or rather of that armed peace, whose disastrous effect equals in many respects the very worst consequences of war.”—Leo XIII, Dec. 25, 1900, in his Eycyclical relating to the universal celebration of the Jubilee throughout the Catholic world.

THE second essential to the foundation of the League of Nations, after compulsory arbitration, is disarmament. Both are self-evident hypotheses. Only when some arrangement exists for settling disputes between States by some other means than force can the apparatus of that force—huge armies and armaments—be done away with; and only when the menace that underlies these armaments is absent can the States devote themselves in greater measure than hitherto to the civilizing tasks of peace. Only then will the internal atmosphere be free from the tension of strained relations, and only then will these relations lose the vehemence with which they explode into war.

The frivolous saying, *Si vis pacem, para bel-*

*lum*, has, as we need not more exactly demonstrate, lost its meaning. If the proverb had been correct, then all the nations would have wished for peace, since all prepared for war, with armaments that seemed enormous at the time. No one more truly characterized the armament fever which had seized upon the nations, and the consequent undermining of the social and political situation of Europe, than Leo XIII. In his Allocution of June 20, 1894, he wrote as follows:

“ Since at present confidence has disappeared, to be replaced by suspicion, nearly all the nations are busily vying with one another in arming themselves for war. Inexperienced youth is plunged into the dangers of military life, where it must dispense with the counsel of its parents, and is withdrawn from their authority. In the full bloom and vigor of its years the young manhood of the world is called away from agriculture, from salutary studies, from the trades and professions, to take up arms. Hence, moreover, as a result of stupendous expenditure, the State treasuries are exhausted, the wealth of the nations melts away, and individual property is seriously prejudiced. We have reached such a stage that armed peace has gradually become unendurable. Can such a condition of civic society be natural? ”

The state of affairs existing before the war, and characterized by the Pope as abnormal, would, however, be an ideal condition compared with that to which armaments would condemn mankind were peace once more to be founded on the insecure basis of force and distrust. Twenty years ago last August the Russian Minister for Foreign Affairs, Count Muravieff, issued that historic Manifesto to the European Powers the disregard of which has so heavily avenged itself. In its most important passage the Manifesto proceeds from the above-mentioned Latin proverb, with reference to the fact that the effort of the Powers to ensure peace by means of armament had not been successful.

“ Yet all their efforts have been powerless to culminate in the blessed result of establishing peace. So long as financial burdens pursue an upward trend, and strike at the roots of national prosperity, so long the spiritual and mental energies of the peoples, together with labor and capital, are to a great extent diverted from their natural purpose, and consumed in an unproductive fashion. Hundreds of millions are expended upon the creation of terrible engines of destruction, which to-day are regarded as the last word of science, and to-morrow are doomed to lose all value, as a result of some new discovery in this domain.

“The development of national civilization, economic progress, and the production of wealth are paralyzed and diverted into the wrong path. Hence, in proportion as the armaments of a Power increase, so do they less fulfill the aim which the Government in question has in view. Commercial crises are for the most part brought about by the system of armament *à outrance*, and the constant danger which resides in this accumulation of war material makes the armies of our day an oppressive burden, which becomes more and more difficult for the peoples to bear.

“It is, therefore, clear that if this state of affairs continues any longer it will inevitably lead to the very catastrophe which it is desired to avoid, the mere thought of whose terrors makes every man shudder.”

This undeniably moderate criticism of the ominous mating of the ideal of peace with the ideal of armament found practically no hearing at the Hague Conference, at which, according to the Russian program, the question of disarmament was to have been discussed. The discussions at the first Conference had an absolutely negative result; at the second Conference matters never got as far as regular discussion of this point. Two conclusions were indeed arrived at: it was resolved that a diminution of the armaments of the Powers was to be desired, and that

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it should be made the subject of inquiry. To this even Germany agreed, although it was the German representative, von Schwarzhoff, who had reduced the Russian proposition *ad absurdum*. The two resolutions ran as follows:

“The Conference expresses a desire that the Governments, in consideration of the proposals made to the Conference, should examine the possibility of an agreement with regard to the reduction of armed forces on land and on the water, and of the military budget.

“The Commission is of opinion that the limitation of the military burdens at present weighing upon the world is extremely desirable for the increase of the material and moral welfare of mankind.”

At the second Conference matters advanced no further than a similar platonic expression of opinion, although it was at the same time made manifest that since the year 1899 there had been in all countries an important increase of military burdens.

Up to a certain point the reluctance of the European Powers to tackle the problem of armaments was comprehensible. As long as the theory is in favor that States can guarantee their existence only by force, and that force is the deciding factor in the common life of the nations, and as

long as States believe that they will be accepted at their proper value only if clad in a coat of mail, so long will each nation strive to keep its means of authority and its apparatus of war on a high level; always, indeed, on a rather higher level than that of its neighbors. In this situation the armaments rivalry originated; every increase of armaments on the part of one State compelled the other States to effect a similar increase. Is it surprising that in this fashion the burdens of armament became insupportable to the peoples? Is it surprising that the means which were intended to facilitate the maintenance of peace, owing to the distrust which they engendered between nation and nation, the exertions mutually exacted thereby, and the provocation offered by their unrestricted nature, became an essential ingredient of the elements leading to war? Is not the part which the Russian mobilization played amid the incidents of the outbreak of the war, and in connection with the attempts to localize the conflict, directly typical of the nature of this military apparatus, which, to a certain extent, sets itself in motion? Is it not typical of the irrational and dangerous nature of this apparatus that the Russian War Office officials declared that they could not stop the machine of mobilization once it was set going?

A glance at the development of the expendi-

ture upon armaments of the Great Powers during the last ten years shows how such expenditure limits the means available for the purposes of civilization:

	Year.	Population (millions).	ARMY.		NAVY.	
			Total expenditure (millions sterling).	Expenditure per head (in shillings).	Total expenditure (millions sterling).	Expenditure per head (in shillings).
German Empire .....	{ 1905	60.6	34.856	11.5	11.574	3.82
	{ 1914	68.4	88.484 <sup>1</sup>	25.87	28.798	6.96
Great Britain..	{ 1905	43.0	29.048	13.51	33.805	15.73
	{ 1914	46.4	29.462	12.70	52.581	22.66
France .....	{ 1905	39.2	30.157	15.39	12.707	6.48
	{ 1914	39.8	39.597	19.81	25.035	12.58
Italy .....	{ 1905	33.3	11.871	7.13	5.275	3.17
	{ 1914	35.3	18.472	10.47	13.011	7.37
Japan .....	{ 1905	47.9	1.116	0.49	2.458	1.03
	{ 1914	55.0	9.631	3.51	10.142	3.69
Austria- Hungary ....	{ 1905	47.4	20.956	8.84	4.832	2.04
	{ 1914	53.3	28.798	10.42	7.533	2.83
Russia .....	{ 1905	143.0	40.832	5.71	12.603	1.76
	{ 1914	160.0	64.706	8.09	27.042	3.38
United States..	{ 1905	83.2	25.292	6.08	23.345	5.61
	{ 1914	98.6	20.027	4.06	30.582	6.19

According to Rickmann's statistics, in 1904 the expenditure of the European States upon their

<sup>1</sup> Inclusive of 20.482 millions of war contributions. (The above values, from the German edition, are correct with the mark at 20).

navies amounted to 6 per cent., while the cost of their territorial armies was 17.2 per cent., and the expenditure upon pensions 22 per cent. of their total budgets. Almost 25 per cent. of the expenditure of the European States consists of the apparent expenditure upon armies and navies, but in addition to this we must allow 24 per cent. for the liquidation of national debts, which have for the most part been rendered necessary by military expenditure. Consequently 49 per cent. of the collective budget of the European States is expended upon their armies and navies; while only 2.1 per cent. is devoted to the administration of justice, and 5.6 per cent. to public education. That is, the armies and navies absorb nine times as much as public education, and twenty-five times as much as the administration of justice. How much better it would be could a large part of this expenditure be devoted to the general and particular purposes of civilization, of which education and the administration of justice should not be among the least!

This was *before* the war. The expenditure was then comparatively endurable. But at its absolute maximum it was a mere trifle to the expenditure which the Great War has forced upon the nations of Europe.

The Swiss Banking Union (*Bankverein*) has estimated the total cost of the war from its be-



ginning to the end of July, 1918, as 850 to 900 milliards of Swiss francs (£34,000,000,000 to £36,000,000,000 at the normal rate of exchange). In order to form some conception of these sums, it must be remembered that the total wealth of Great Britain, France, Germany, Austria-Hungary, and Italy before the war was approximately some 1,275 milliard francs (£51,000,000,000). The expenses of the war to date require, for the payment of interest at  $5\frac{1}{2}$  per cent., and payments to the sinking fund ( $\frac{1}{2}$  per cent. per annum), the sum of 52 milliard francs per annum (£2,080,000,000). Before the war the debt of the belligerent Powers was approximately 100 milliard francs (£4,000,000,000). Supposing that the war had ended in July, the European Powers would have spent half this sum each year *in the payment of interest alone*.

How then does Germany stand? The Reichstag has to date, voted 124 milliard marks (£4,960,000,000) for the immediate cost of the war alone. The war of 1870-71 cost Germany, in direct war expenditure, 1.2 milliards of marks (£48,000,000). The 124 milliards voted up to date are, it is to be noted, only for the immediate expenses of the war. To these must be added many more milliards for indirect expenses, interest, etc., so that if the war ended to-day<sup>1</sup> we

<sup>1</sup> Written in September, 1918.—*Trans.*

should have to reckon with a debt of about 200 milliards (£8,000,000,000), the interest on which, together with the sinking fund, would amount to some 12 milliards (£480,000,000) per annum. The total national debt of the Empire before the war amounted to 5 milliards (£200,000,000); now the annual expenditure for interest and sinking fund alone will amount almost to three times that sum. These obligations will have to be met by national labor.

But here is another point to be considered: If the manufacture of armaments were to continue, even to the same extent as before the war, there would of necessity be a further burden on the nation; but this would not substantially affect the sum total of the balance. It must, however, be taken into consideration that the former standard of armaments cannot in any way be applied to conditions *after* the war. The war has brought the development of armaments to such a pitch, has resulted in the creation of so many new instruments of warfare, in so many different departments, and has increased the mass of war material and the number of weapons to such an extent, that what was formerly known as armament would now be regarded as mere child's play. It is only necessary to point to the consumption of cannon and machine-guns, to the fantastic magnitude attained by the numbers of pro-

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jectiles employed in artillery engagements, to the development reached by aerial weapons and tanks, and to the unlimited quantity of equipment required for man and beast—in a word, to the immeasurable importance acquired by the quantity and the quality of everything pertaining to war. These conditions must be kept in mind in speaking of armaments after the war. All the States will be obliged to manufacture these armaments, if the former system of international politics is retained. The manufacture of these armaments will be feverishly initiated and developed; every State will strive to outdo its fellows; rivalry in armaments will increase the distrust between nation and nation; it will not be long before the apparatus, the war machine, which every nation will keep working under a full head of steam, will at the least provocation break loose and take control. Any future war which breaks out in this fashion will far exceed all that has been regarded as the extreme of frightfulness in the present war. The experience acquired in the present war of existing means of warfare, the discovery of *novel* means, such as asphyxiating gas and bombs, and the recent experience of strategy—all that has been learnt in this war—will in the meantime have been developed to such a degree that we cannot conceive the ghastly effects of a future war. Such

a war would, as Lord Grey has observed, lead to the destruction of civilization:

“ . . . The whole of modern civilization is at stake, and whether it will perish and be submerged, as has happened to previous civilizations of older types, or whether it will live and progress, depends upon whether the nations engaged in this war, and even those that are onlookers, learn the lessons that the experience of war may teach them. . . . We are now in the fourth year of the war; the application of scientific knowledge and the inventions of science during the war have made it more and more terrible and destructive each year. The years<sup>1</sup> have abrogated all previously accepted rules of warfare. . . . If there is to be another war in twenty or thirty years' time, what will it be like? If there is to be concentrated preparation for more war, the researches of science will be devoted henceforth to discovering methods by which the human race can be destroyed. These discoveries cannot be confined to one nation, and their object of wholesale destruction will be much more completely achieved hereafter even than in this war.”

<sup>1</sup> Herr Erzberger makes Lord Grey blame the years, and I quote him accurately. Actually Lord Grey says “the Germans,” as any reader of “The League of Nations” (Oxford University Press, 1918, 3d.) may assure himself.—*Trans.*

Readiness for such an eventuality would mean an increased expenditure on armaments; the former expenditure would be many times multiplied, and to this would be added the cost of a corresponding expansion of the machinery of naval warfare. What is more, a war of the future, since all the nations would, on the whole, arm themselves with the same weapons, and achieve the same results, so that no one nation would have any particular advantage over any other nation, would be as little likely to end in a definite decision in favor of either side as the present war is likely so to end,<sup>1</sup> so far as human foresight can determine.

Rathenau, in his publication *Zeitliches*, justly calls attention to the following facts:

“Formerly there were really only three nations which were rivals in the matter of military armaments: France, Germany and Russia; while two were rivals in the matter of naval armaments: Great Britain and Germany. There were really large armament industries in Germany and France; they had incidentally to supply the greater part of the world’s demand. Now there are at least ten great belligerent nations with their own powerful war industries, in which millions of money are sunk, and the interests

<sup>1</sup> Written in September, 1918.—*Trans.*

and intelligence of hundreds of thousands of persons involved. And most significant of all, war no longer lies like a doubtful and obscure possibility, like a distant mountain, in the path of the nations; it is a known and thoroughly explored region, whose most secret recess is visible to every eye. The inventive faculty of the world is at liberty to bring all its experience to bear upon a problem, and to work out the solution of all problems. Each nation has recognized its own weaknesses and its own strength, technical and geographical, moral and creative,<sup>1</sup> as well as the weaknesses and the strength of other nations, and is confronted by the task of adjustment. Before the war the idea of a two-Power standard was bold, but hardly realizable; now it is realizable, but ineffective. A degree of power which will hold ten nations in equilibrium cannot be attained; and, if it could, the nation which attempted to attain it would exhaust itself morally and physically. For the first and probably for the last time it has been possible to wage a war against a tenfold array of nations; a war which assuredly has had nothing knightly or exhilarating about it; and if, despite the weight of our armies, the pliancy of our domestic economy, and the tardiness of our opponents, a miracle was needed to save us, we may perhaps be

<sup>1</sup> Literally "organizational."—*Trans.*

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consoled by the fact that in the Russian Palace revolution this miracle occurred."

A war of the future, which, if the present system continues in force, would again be a Coalition war, would destroy the last vestige of humanity; it would be a war of all against all, the overthrow of civilization. The proverb that an armed peace is the best guarantee of peace has already been fundamentally contradicted in this war. So far as human judgment can determine, no Power will emerge from this war in such a condition that it could maintain peace by the strength of its armaments, even if it desired to do so. The defeated party would find ways and means to arm itself and prepare for a war of revenge, which would break out when its belligerent strength appeared to be sufficient. Thus once again an armed peace would be only the preface of war.

Hence, since armed peace has proved itself an inefficient means of maintaining peace; since armaments, on the contrary, have conduced to war (as they will conduce in the future also); since war of itself can no longer lead to decisive results, but merely comes to a standstill as in a blind alley, the nations must, in their own interests and in those of mankind, replace the peace of armed force by the peace of justice. If the nations achieve a just peace, and institutions

which will establish and safeguard such a peace, they will no longer need the armaments with which they are now burdened. Once a Supreme Court of Arbitration exists, for the settlement of disputes and the avoidance of war, then the instruments of war may be abandoned. On the other hand, a reduction of armaments is a fundamental condition of the existence of a peace of international justice—and the institutions of international justice.

*Confidence* in a peace of international justice must be founded on the abolition of the menace underlying the general system of armaments. Disarmament—and disarmament by land and water both—is thus an essential element of the stipulations which must be fulfilled in order that the nations may bind themselves together in a League of Nations.

There is no danger to the nations here, for disarmament must be general and simultaneous. Disarmament *can* be carried out. Count Czernin is right when he says, in his article on “Disarmament and Arbitration,” in the *Neue Freie Presse* of September 8, 1918:

“Those who dismiss the idea of disarmament as Utopian, and will not approach the subject further, say: ‘Life is a contest, and contest is an inseparable attribute of Nature. War will exist so long as mankind



exists.' That no one denies, but—I have already said this in the Delegation—sickness, too, is an attribute of Nature; every living creature is liable to sickness; sickness also will exist as long as mankind exists: yet medicine is no superfluous science: yet doctors are useful because they abate sicknesses, cut them short, and stem epidemics; they do not indeed abolish unavoidable suffering, but they relieve it; and if we now succeed in diminishing the danger of future wars, we shall already have accomplished a great work."

Not in reinforced armaments, as Count Czernin very truly says, but in international agreements, are guarantees for the avoidance of further war to found. It will be asked in what proportion and to what degree the nations should and can disarm. Completely to disband their armies is impossible for two reasons; first, because every nation needs armed forces, call them soldiers, militia, or police, as you will, for the maintenance of internal peace; and, secondly, because many persons will at first be unwilling to give up the moral and physical training which the passing of a whole nation through a system of military service bestows upon that nation. Moreover, every State requires a certain number of troops for defensive purposes, to be placed at the disposal of the League of

Nations, for combined action, should the State in question, or any other State of the League, be the victim of aggression. On this head more will be said later.

Even the Pope did not propose a complete abolition of armies, but their retention in such measure as is necessary for the maintenance of order in each State. Finally, what this measure should be—due prominence being given to the principle that rivalry in armaments must cease—is a problem which must be solved in absolute loyalty, with a view to the requirements of individual States. It cannot in any case be solved by a return to the effective strengths of the time before the war. It will be necessary to go much further if the aim of disarmament is really to be fulfilled. The essential point is that it should take place simultaneously and generally, and naturally the whole subject of the organization of military matters in all countries will have to be examined in connection with the problem of disarmament. The nations will have to submit to some sort of control which might perhaps be established by means of the compulsory submission to the Hague Bureau of each year's military budgets and effective strengths.

Before the war, in Germany, the principle was followed of recruiting approximately 1 per cent. of the total population. After the war this will,

of course, be much too large a proportion. If disarmament—its universality being of course presupposed—is seriously undertaken, it will be necessary to go back to a fraction of this percentage; that is, if disarmament is to have any meaning at all. At the same time the duration of military service will have to be curtailed. In Russia the term of service was five years, in France three years, and in Germany two years. The experiences and methods of the Great War, and the duration of military service in particular, will no longer possess the same significance as heretofore. In all countries troops are sent to the firing line after only a few months' training. An abatement of military strength, and a curtailment of the period of service: these things must go together, if the reduction of the expenditure upon armaments is to be really appreciable. That disarmament is possible is shown by the Peace Treaty between the Central Powers and Rumania, by Articles 4-9 of which the disarmament of Rumania was stipulated down to the number of cartridges and guns, a measure to which Rumania would never have agreed had she not thought it consistent with her honor. How much less then would a universal, simultaneous, and voluntary disarmament in any way affect the honor of the participating States?

One point there is which must be taken into

serious consideration. In all nations the armies, whether they will or no, develop a warlike spirit which from the outside is often taken as the expression of the nation's will, while even domestic policy is tainted by it. If the armies are reduced, being diminished in a degree commensurate with the actual needs of the States, the importance of the armies in international politics will of itself be diminished. How far the principle of universal conscription, which has now been adopted by Great Britain and America, as well as by the Continental nations, should be abolished, and whether the armies should assume the status of militia or should be formed on a basis of voluntary recruiting, must constitute one of the chief points to be debated in respect of the degree of disarmament. In any case, humanity can only benefit if the basis of the military system, such as it has become through the development of European history, and as expressed by universal conscription, is abandoned, and if the nations, whose corporate life must be established upon other guarantees, lay aside the instruments of war which they have hitherto employed.

The nations will then have enormous means at their disposal for expenditure upon the social problems of civilization which will be waiting for urgent solution after the war. We need only to be reminded of the wounds which the war has

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dealt the nations, of economic reconstruction, of the care of widows and orphans, of the great problems of internal colonization, of the housing problem of the future, of trade and commerce, of facilitating the liquidation of debt, and we are tongue-tied. The essential thing is that with the reduction of armies a firebrand will have been removed from international politics, so that not only will the welfare of the individual nation be promoted, by its liberation from an oppressive burden, but the community of the human race will be furthered by its deliverance from the menacing influence of armaments. The hypothetical conditions under which the nations will redeem their destiny from the power of armaments are, of course, reciprocity and simultaneity of disarmament, and the establishment of just relations between the nations, and above all of obligatory arbitration, together with a spirit of honesty and good-will, which every nation must develop for itself, by influencing the public opinion of its own people. But another fundamental condition is *disarmament by sea*, with which is connected another important subject, that of *the freedom of the seas*.

## CHAPTER IX

### THE FREEDOM OF THE SEAS

THE high seas are under the sovereignty of no particular nation; they are hypothetically free. Every State has the right to navigate the high seas with its merchant vessels and warships in time of peace, and theoretically in time of war as well, under its own flag, and under the exclusive sovereignty of its own laws, and to exploit for its own profit, by its fisheries, the inexhaustible wealth which is offered by the depths of the ocean. Inland seas, moreover, surrounded by territory belonging to more than one State, as well as straits which connect one portion of the open sea with another (as the Straits of Gibraltar), are on principle free for the passage of warships or merchant vessels.

The seas, therefore, in war and in peace, are in theory free for every class of traffic. When we speak of the freedom of the seas, we mean the unhindered liberty of commercial intercourse, even in time of war. But if in the future wars should be averted, then we might say that there

was no need to establish the freedom of the seas, since it already existed in time of peace.

In war-time the freedom of the seas is suspended by the right of capture and the right of blockade. It is agreed that if in the future war should be abolished, the rights of capture and blockade will lapse. But the point to be considered is this: Precisely because the sea is a *res communis omnium* this universal freedom of commercial intercourse by sea must be established for every case; and the practice must in every case be brought into harmony with this fundamental principle of international law. The right of capture and the right of blockade are negatives of a positive law; the freedom of the seas, on the contrary, is a natural right, and must be re-established, quite independently of any reference to the possibility of war.

Only an absolute Utopian will believe that it is possible to devise such arrangements as will preserve the world from the clash of arms *under all circumstances*. If a State refuses to appeal to arbitration, or to submit to its award, but, instead of so doing, resorts to arms, and attacks its neighbor, there will be nothing left for the State attacked, and, if a League of Nations exists, for the League itself, but to proceed against the law-breaker by means of force. In the same way, compulsory arbitration will not render

superfluous a convention as to the laws and usages of land warfare, and their humanization; and in the same way again the regulation of sea warfare will not be superfluous. But while in the regulation of war by land enemy private property is protected by international law (the law governing land warfare imposing on belligerents the obligatory payment of indemnities for the seizure of enemy private property), the old system of piracy is still extant on the ocean. The laws of naval warfare definitely permit the seizure, in time of war, of private property, on private merchant vessels plying for purposes of trade, on passenger vessels and cargo boats, and even on pleasure boats. If the protection of enemy private property is an integral part of the laws which regulate war by land, it would be only just to proclaim the protection of private property at sea.<sup>1</sup>

Since the middle of the eighteenth century efforts have been made to make private property inviolable at sea in time of war. Institutions of international law, inter-parliamentary corporations, British, German, and North American merchants and shipowners, legislative bodies in Germany and the United States, and eminent

<sup>1</sup> The fallacy in this often-repeated argument is a very obvious one. Private property at sea is not analogous to real or personal property on land, but only to the goods in transit by road or rail, over which the enemy naturally claims control.—*Trans.*



professors of international law had, up to the period immediately preceding the war, declared themselves in favor of the abolition of the right of capture. In practice, however, the States, even the United States of North America in the Spanish War of 1898, had continued to maintain the right of capture. The laws relating to prizes which obtain in the majority of States still affirm this right. Even at the two Hague Conferences, and at the London Conference on the laws of naval warfare, no modifications were effected. It is to Germany's credit that at the Second Hague Conference she was, of all the Great Powers, most willing to meet halfway the proposal of the United States to abolish the right of seizure of private property in war-time. Unfortunately the Second Hague Conference arrived at no more satisfactory result in respect of this point than in respect of the regulation of the right of blockade. And the Declaration of London of February 26, 1909, once more reaffirmed the right of blockade.

At the Hague Conferences, and elsewhere, by various international jurists, attention was called to the fact that the right of capture and the right of blockade operate in the same manner; that the abolition of the one and the retention of the other would not in any way alter the situation, and that if anything is to be accomplished in favor of the freedom of the seas both rights

must be abolished. But the law of contraband must be abolished also. Triepel, in his book on *Die Freiheit der Meere und der künftige Friedensschluss*, calls capture, contraband, and blockade "three keyboards of one instrument, on any one of which we may play at pleasure, producing always the same note." If the right of capture and the right of blockade were abolished the tendency would be to seize all goods in any way suspect as contraband. The present war shows to what extent all goods may be utilized for the purposes of war, or, at any rate, regarded as suspect in that connection. The law of contraband would accordingly be rendered illusory by the abolition of the right of capture, or *a definitive list of contraband wares would have to be compiled*. Foodstuffs of all kinds, including those for cattle, raw materials for clothing, and drugs would be excepted; so that under all circumstances the *prime necessities of life would be secured for the civil population*, and women and children would be protected from the immediate effects of warfare.

When the right of capture and the right of blockade are abolished, when the principle is recognized and put into operation that private property on the high seas is under all circumstances free, and that it is an act of inhumanity for nations out of the fullness of their own power

to condemn others to starvation, then the theorem of the freedom of the seas will, to a great extent, have been re-established. At the same time, of course, the blockade, as a novel method of naval warfare, which England has established during this war, and which has been suitably answered by Germany, as well as the submarine campaign against enemy commerce, will have to be prohibited.

The question is, as we have said, less one of preventing the possibility of a new war than one of abolishing an abuse of the freedom of the seas, which in this development leads to capture, blockade, and seizure of contraband—an abuse which has actually become a positive law. These rights have led to complete anarchy on the high seas. Not only is the commercial life of the belligerent nations affected, but by the damage done to neutral trade, extending even to the sacrifice of life, neutrals are condemned to practically the same sacrifices as the belligerents. Among the moves and counter-moves of this war, one development has shown itself which is a mere mockery of the principle of the freedom of the seas, the freedom of intercourse. England has conducted an unmitigated war of blockade; German submarines have, within definite prohibited areas, sunk enemy and neutral ships. In spite of its necessity in this war, and its

justifiable employment in view of the action of the Entente, the submarine campaign has had moral and political effects and consequences which have indirectly contributed to the intensification and extension of the war. Violence begot need, need begot counter-violence, and the further extension of the war; but no instrument of sea-power which wars upon the free trade of the world has succeeded in bringing about the end of the war or its decision.

The complete guarantee of the maintenance of the freedom of the seas for commercial intercourse will not be afforded by *naval disarmament alone*. The war on trade is waged by warships, or by merchant vessels armed and made serviceable for warlike purposes, or by submarines. The freedom of the seas exists neither in theory nor in practice so long as the sea is governed by the navy of one Power or group of Powers. England boasts that in time of peace no hindrance to maritime trade was offered by her naval supremacy. That may be so. *But so long as the sea-power of one nation exceeds the sea-power of every other nation, so long as one nation holds in her hands all the important straits and sea routes, so long as one nation possesses practically all the coaling stations on the great trade routes, so long will there exist a menace to all other nations.* Even if the menace is not operative in time

of peace, it is, merely by the fact of the existence of the military resources from which it arises, *a latent political power*, which is contrary to the sense of international equality of rights at sea, arouses distrust, and poisons the political atmosphere. The British naval system, which caused Germany to increase her naval resources, has since 1870 played a fateful part in history. Great Britain is accordingly not justified in speaking of the harmlessness of her sovereignty of the seas in time of peace. Equal rights for all nations on the sea do not exist even in time of peace if one State possesses naval resources as great as those of all the others put together. *This instance of menace and privilege must be done away with.* If Germany, in spite of her unfavorable geographical position, agrees, in common with the other Powers, to a limitation of her army, and puts her trust in union as a rock of defense, then England must agree to a corresponding limitation of her naval power. In this manner a dangerous source of unrest would be removed from international life.

If the final goal is really the abolition of war, and if in future a court of arbitration is not to concern itself as to which side is the stronger, then the reduction of the means which afford occasion for the settlement of disputes by violence, and are actually conducive to war, must

be seriously taken in hand. How far the nations will disarm by sea naturally depends on the spirit in which they enter upon the discussion of this problem. The President of the Reichstag, Fehrenbach, was undoubtedly right when he expressed the opinion, in the Chief Committee of the Reichstag, that the freedom of the seas would not be established so long as a single armed ship sailed the ocean.

This is the goal which we must vigorously strive to attain. No State is threatened by absolute disarmament on the seas; even England could agree to it, since for her military attacks are excluded, and she can, in any case, protect herself by means of coast defenses. The great development of the submarine is a deadly peril to warships. We are, as yet, only at the beginning of things. The submarine is the great revolutionist of the sea; by reason of its relatively small cost, and its small crew, it lies at the disposal of every nation. Every small State could possess a few dozen submarines of its own, and thereby alarm and weaken the giants of the world. Blockade by sea will, in future, be a power lying in the hands of great and small nations alike. This is why all States must renounce the use of warships for their own private purposes. Germany must sacrifice her submarines for the sake of a lasting peace; England must sacrifice her

Navy. All the nations will then be able to breathe freely; all will be equally secure. There will no longer be any threat of the establishment of supreme world-power. The battleship represents retrogression; the unarmed merchantman progress; the former is a symbol of barbarism, while the latter promotes civilization. When not a single armed vessel is left sailing the high seas under a national flag, then, and not until then, will the seas be free. The best method of approaching complete disarmament would be an immediate reduction of armaments. In official circles before the war, in London and Berlin, the proportion of 16 Dreadnoughts to 10 was accepted as a possible ratio for Great Britain and Germany. Even in those days such relative standards were recognized as practicable. Naval demonstrations must be relegated to the region of fairy tales, for more effective means of action are ready to hand. Humanity can do without naval reviews. At sea more than anywhere disarmament could be effected without endangering a single State.

Naturally the League of Nations will not wholly dispense with armed sea-power for the maintenance of free commercial intercourse in the event of its being menaced by a refractory member of the League, or a nation outside the League, and for laying an embargo upon the commerce of the latter. For the protection of the organization

of the League of Nations from within and without, the League, as the organized community of the federated States, will make use of the blockade, although no single State will be allowed to do so on its own behalf. The common forces of the States of the League on the seas would be of the nature of an international police. A joint coalition of the Powers on the seas would be nothing new. There are already in existence joint agreements for the stamping out of piracy and the slave trade, for the supervision of the smuggling of brandy on the North Sea, etc. Points of departure are already in existence from which we could arrive at the international control of the high seas.

It is important, again, for the peace of the world that the most important trade routes should no longer lie in the hands of one Power. They must be internationalized, and this internationalization must be allowed to take the practical form of possession of the straits and coaling stations. A partition among various nations of the sovereignty over trade routes and important strategical points is not feasible. This would be to evolve backwards instead of forwards. The only solution is internationalization. The retention of the trade route through the Straits of Gibraltar in English hands can have no justification of any kind save the sovereign will of



England. The Suez Canal is practically in the same case. By the Hay-Varilla Treaty of November 18, 1903, the United States obtained sovereignty over the Panama Canal, which is one of the most important trade routes of the world. If President Wilson is really in earnest over the freedom of the seas, he will have to establish the internationalization of the Panama Canal.

Interference with the conditions of a waterway, strait, or canal, both banks of which lie in the hands of one State, as in the case of the Corinth Canal, or the Kiel Canal,<sup>1</sup> would be tampering with the international sovereignty of the nation and is, therefore, inadmissible.

The principles of freedom and equality of rights apply to railways and all other means of transport. The essential consideration in the question of unrestricted international intercourse is that the spirit of mutual confidence and peace should be combined with the spirit of practicability. In any case, the freedom of the seas, the freedom of private property, the freedom of commerce on the high seas, abolition of the sovereignty of any one nation, and the diminution of the means of warfare on which this sovereignty rests, constitute one of the most important

<sup>1</sup> Herr Erzberger might, despite his previous remarks, have added the Suez Canal and the Panama Canal!—*Trans.*

problems of the war; a problem which is never disregarded by any utterance of President Wilson's or of Germany's; a problem on whose solution the duration and the character of peace will depend.

## CHAPTER X

### EQUALITY OF ECONOMIC PRIVILEGE AND THE OPEN DOOR

THE postulate of the freedom of the seas has for its purpose the recognition and practical establishment of the freedom of commercial intercourse on the high seas at all times. With the abolition of the right of capture and the right of blockade an essential factor of economic warfare disappears. But if trade is to be protected in all its departments and all its forms we must go a step further than this. When might has been replaced by right, the nations must endeavor to come to some agreement by which the foreign private property belonging to the citizens of one State shall be unconditionally secured from all interference on the part of another State. All thoughts of economic warfare must disappear from the minds of the civilized nations. Trade and private property must, like the persons of civilians, be unmolested in all situations and under all circumstances.

If this ought to be the case even in time of war,

then all the more must all economic warfare be forbidden in time of peace. If the hypothesis of a peaceful juxtaposition of the nations is to be fulfilled, the principle of equal commercial privileges for each country must be recognized and established. The principle of the open door in all its bearings must by international agreement become the lodestar of international economic life. As a result of the enormous extent to which raw materials and all economic values have been locked up in this war, it is of fundamental importance to the peace of the future. Individual nations must not be able to secure for themselves their own products, and, reciprocally, the treasures of little exploited countries. After this war the same privilege must be granted to all States of buying under similar conditions wherever there is anything offered for sale, and of selling wherever there are customers ready to buy. The Franco-German Peace Treaty of 1871 accepted this principle. While before the war the civilized States admitted one another, by reciprocal commercial treaties, to a general equality of economic privilege and freedom of trade, there were spheres that were excluded from this principle. The Anglo-Russian Agreement in respect of Persia, for example (August 31, 1907), divided Persia, for purposes of exploitation, into two parts, the Russian and British spheres of influence, England

taking Afghanistan for herself. The situation was, of course, modified, at least as far as Russia was concerned, by the Russo-German Peace Treaty, in which Russia undertook to recognize Persia and Afghanistan as politically and economically independent States. Again, during the war, in spite of several treaties which she herself has concluded with the Great Powers in respect of the economic integrity of China, Japan has gained a firm footing in the latter country. The Franco-German Agreement of November 4, 1911, with regard to Morocco, stipulated for the principle of the open door, but that did not hinder France from interpreting this principle in her own favor. Canada's tariff law gives the preference to British goods; France imposes a higher tariff upon foreign wares than upon French goods on their entry into her colonies, and so forces the colonies to accept French goods in preference to others. Thus before the war there existed conditions directly contrary to the principle of the open door and the equality of economic privilege enjoyed by any one nation in respect of all other nations. The criterion is not the imposition of customs in itself. A protective tariff may be of the greatest financial importance to an individual nation; the decision between protection and free trade is an integral ingredient of internal political independence. It no more

conflicts with the principle of the open door than does a Customs Union, provided there is no differentiation existing in respect of other States. To the principle of the open door is closely allied the system of the so-called "most favored nation clause." According to this system every State must, without any special return, concede the same advantages which it concedes to the trade of any one State to all other States with whom it has concluded or is concluding commercial treaties.

The economic war which the Entente nations are planning for the period after the war aims at upsetting the international equality of economic privilege which is the decisive factor of peace. The intentions of the Entente are shown by the resolutions passed at the Economic Conference in Paris, which the representatives of the Allied Governments attended, from June 14 to 17, 1916, under the chairmanship of the French Minister of Trade, M. Clementel. The resolutions to be considered here refer to transition measures for the period of reconstruction, and permanent measures for the co-operation of the Allies after the war. To begin with, it was decided, for the transition period, to suspend the "most favored nation" clause in respect of the Central Powers for a term of years, and, further, for a period mutually to be agreed upon, to subject the trade

of the Central Powers to special treatment, and either to lay an embargo on all goods deriving from those countries, or to subject them to special measures of an effective character.

Among the permanent measures the following are of special interest:

“The Allied nations will forthwith take the necessary steps to make themselves independent of the enemy countries in respect of those raw materials and manufactured goods which are of importance in connection with the normal development of their economic activities. These measures must aim at securing the independence of the Allied nations, not only in respect of their sources of supply, but also with regard to their financial, commercial, and maritime organization. . . . Whatever the nature of the methods to be employed, the goal which the Allied nations will endeavor to attain is to increase the internal production of their countries as a whole sufficiently to make it possible to maintain and develop their economic position and their independence in respect of the enemy countries.

“In order to render possible the exchange of their products, the Allied nations will take measures to facilitate trade relations, by the establishment of more direct and speedy facilities of transport by sea and land, at lower freights, and also by the extension and

improvement of the post and telegraph services and other means of communication.

“The Allied nations will summon a congress of technical delegates, in order to take measures for the widest possible accommodation of their laws in respect of patents, trade marks, and marks of origin.

“Since the Allied Powers have mutually agreed, for the purpose of common defense against the enemy, to pursue a common economic policy, on the basis of the lines laid down in the accepted resolutions, and since the efficiency of this policy depends entirely upon putting these resolutions into force immediately, the Allied Governments are recommended by their representatives to take without delay all temporary or permanent measures which are calculated to make this policy immediately and fully operative, and to communicate to one another the solutions adopted for the achievement of this purpose.”

According to these resolutions, the intentions of the Entente include suspension of the “most favored nation” clause in respect of the Central Powers, and the boycotting of their goods during a term of years. As *permanent* measures for peace-time they propose the following: The countries of the Entente to be rendered independent of the raw materials and manufactures of the Central Powers, which means nothing more



or less than a differential tariff under the conditions of a permanent embargo upon imports from the territories of the Central Powers, and an embargo upon exports of raw material to the Central Powers; trade between the Entente Powers to be built up and developed by means of a low tariff, and the improvement of the postal and telegraph services; uniformity to be established as far as possible with regard to the laws relating to patents, marks of origin, and trade marks in the individual Entente countries; a common economic policy to be pursued in respect of the Central Powers.

All the nations of the Entente, even including the United States and Italy, agreed to the resolutions of the Paris Conference. Great Britain is following the prescribed path, fully conscious of her goal. On April 27, 1918, was published the Report of the Committee appointed by Mr. Asquith in 1916 to consider the commercial and economic policy to be pursued after the war. According to this, British ports were for a certain period to remain closed to the ships of the Central Powers. On May 2, 1918, the *Board of Trade Journal* published the Report of a Committee appointed by the Government, also in 1916, under the chairmanship of Lord Balfour of Burleigh, to inquire into the commercial and industrial policy to be followed after the war.

The report recommended an embargo upon the importation of goods of enemy origin for a period of at least twelve months following upon the end of the war. Further, in accordance with the Paris resolutions, the pursuance of a preferential policy was proposed in respect of the raw materials of the Allies, an embargo upon exports being suggested, and the formation of a joint organization for the period of economic transition was considered. The entry of the United States into the war was welcomed in this connection, and the retention of the control of home and foreign trade was recommended. In the reports (published June 13, 1918) of the Committees appointed to inquire into the condition of the various departments of trade after the war a scheme was proposed for the preferential treatment of imports of excisable goods from the Colonies. It is important to note that, as appears from the Report of the Commission for the Textile Industries, it is proposed that, in addition to an embargo upon the exportation of wool to the territories of the Central Powers, there should be a limitation of exports to the neutral countries to the quantities remaining after the needs of the Entente countries have been satisfied.

These are proposals made by Commissions. It has already become the *law* in Great Britain that activities relating to the output, sale, and con-

sumption of metals are subject to the procuring of a license, which is to be withheld for five years after the war from citizens of the Central Powers and companies of which citizens of the Central Powers are members. In this way the entire metallurgical industry, with the exception of the iron trade, is brought under British control. In appropriating undertakings whose chief work in peace-time was the delivery of raw materials to the Central Powers, Great Britain has adopted the method of private treaties. In April, 1918, a treaty was announced by which Great Britain purchased the entire zinc output of Australia for ten years after the conclusion of peace. In the same way Great Britain has already secured the output of Australian wool and Egyptian cotton.

France has already resolved to recall *all commercial treaties containing the most favored nation clause*, and on the 13th May, 1918, Bonar Law declared in the House of Commons *that the British Government intended to follow a similar course of action.*

If the ideas of the Entente are actually carried out, and the resolutions of the individual Allies really assume a practical shape, it will mean that the world will be divided *into two camps*. It will mean eternal warfare; the human race will be thrown back through a whole stage of its develop-

ment to a position far behind that which it enjoyed when it was evolving in the direction of universal *economic community*.

It is an undeniable fact that the Central Powers have stood, economically speaking, on their own feet during four years of war; and they will do so yet longer if necessary. Germany can obtain strong support in the East. The system of "substitutes" has achieved novel and indescribable feats; fresh inventions have contrived to prevent any aggravation of the situation. Increasing need evokes a proportionate growth of the inventive faculty; but, on the other hand, an enlistment of this nature is only a substitute, and is not without its reaction upon the civilizing and cultural contribution of the Central Powers to humanity.

In Germany there are people who, in this connection, believe that Great Britain will never dispense with her good customer, Germany, and that the mechanical impetus of commerce will upset the plans of the Entente. Before the war Germany imported from the British Empire over £80,000,000 worth of goods, and from Great Britain alone some £36,000,000 worth. In return she exported to the British Empire some £80,000,000 worth of manufactured goods. Here the imports of raw materials balanced the exports of manufactured goods. But Great Britain has

made herself so independent in respect of manufactured goods that she wishes to prohibit the importation of German wares. She can do without them; moreover, she will now find extremely useful the raw materials which Germany formerly imported from the British Empire. Germany, on the other hand, can with difficulty dispense with British exports. Almost a third of the German imports of raw materials, namely, cotton, wool, oleaginous products, copper, lead, zinc, refined ores, tobacco, coffee, rice, tea, cocoa, etc., came from the British Dominions, while the United States produced the greater part of the remainder. As regards the German goods imported into Great Britain before the war, those which concern us here are potash, dyestuffs, and sugar. The fact that Great Britain has limited her requirements in dyestuffs to meet the situation arising out of the complete lack of German manufactures has its origin in England's belief that she can close her frontiers entirely to German goods. As far as sugar is concerned, Great Britain can supply herself from Cuba and Jamaica. Potash remains as the chief medium of exchange. But of our collective exports to the British Empire the German exports of potash amount to only one-half per cent.

As far as Great Britain is concerned, therefore, we can scarcely count upon the plans of the

Entente being upset by the force of mutual requirements. It is as well that people should clearly understand that the situation in which the Entente wishes to place the Central Powers is one in which they will be debarred from access to the most important raw materials, namely, wool, leather, and cotton. This situation is shorn of its most pressing danger by the conclusion of peace in the East. It compels the Central Powers, however, to organize their commerce in the East on the same lines as the Entente. The only prospect in this case would be a continued although a bloodless war.

If the goal of humanity is the welfare of the people and their peaceful development through the solution of their own and of collective problems, and if there is really to be peace again after this war, *there must be no question of an economic war*. One of the most essential conditions for a community of States under one jurisdiction is the solemn renunciation of that economic warfare which, sooner or later, must again plunge the nations into a monstrous conflict. The Entente must renounce its intention of economic boycott, for then the Central Powers also could abandon their defensive organization of Mitteleuropa and their privileged position in the East, and present the originals of the Brest-Litovsk and Bucharest Peace Treaties as a mark of re-

penance to the League of Nations. The future ordering of affairs *can only be based upon equality of privilege in international commerce, that is, upon the principle of the open door and the most favored nation.* These conditions would not prevent any State from erecting a protective tariff. There need be no interference with the internal authority of a nation, even in respect of economic affairs. But the equality of privilege enjoyed by all the States in respect of any one State must be firmly established. This is the sole condition of the reconstruction of the world and the permanence of peace, which could not survive the ordeal to which it would be subjected were one or several States to be prejudiced by the rest, or excluded from important spheres of commerce by an economic boycott. Owing to the importance of economic affairs in international life, economics constitutes an important unifying factor. Business and commercial relations are the bearers of sympathies, of *rapprochements*, when all are on the same level. Economic motives, therefore, provided that all hurtful, injurious, and disadvantageous differentiations are abolished, play an important part in the reconciliation of the nations. Equality of economic privilege would also include equality of commercial tariffs, equal facilities for colonization and the exercise of trade, etc. In the German-Ukrainian Peace

Treaty, in the Russo-German Commercial Convention and the German-Rumanian economic and political supplementary treaty, the principles of the most favored nation and of free trade were established between the contracting States.

After the conclusion of peace there will be *great competition for the raw materials of the world*. If equality of economic privilege is established, the nations will mutually strive to outstrip one another in order to satisfy their hunger for raw materials. Owing to the mutual prejudice which will still flash out in spite of peace, we must not forget that the members of the individual groups of Powers will at first—there need be no system about it—favor their own Allies, so that in practice freedom of trade and freedom of intercourse might be prejudiced. To the inequalities of supply arising therefrom, and the mutual economic competition, which will certainly reach a critical point, it is absolutely essential that the supply of raw materials remaining after the requirements of each individual State have been satisfied should be divided among the other States by an International Commission of Distribution, in a proportion founded on the imports of the last year of peace, 1913. We might even suggest that States which, owing to the war, are completely lacking in this or that raw material should be specially supplied, over and above



their proportionate allowance, with, as far as such compensation is possible, partly-manufactured or manufactured goods. This measure might be carried out for ten years or so, after the expiry of which term the crisis with regard to certain raw materials would have been solved by free trade.

To facilitate the re-establishment of trade, reciprocal loans of gold for a term of ten years are an imperative and certain means of ensuring economic peace. They would facilitate the reconstruction of the whole civilized world, and would prevent the otherwise unrestrained speculation which would occur at the cost of a terrific exploitation of the poorer classes of the population in all States. Such loans would be a good test of the honesty and good faith of the new League of Nations.

Once the economic life of the nations has returned in safety to normal lines on a basis of equality of economic privilege and freedom of trade, a development will become possible in which economic motives will play a great part in promoting the growth of closer relations between the nations, and the abolition of war. The more deeply interested the authoritative commercial circles of one State are in the commerce of another State, the greater will be the endeavor to avoid anything which might at one blow endanger the

prosperity of that commerce—such as war. In this connection the proposal has been made by Arnold Rechberg, in particular, to establish an exchange of shares between members of the League and whole industrial groups of the various States. It is, for example, conceivable that the great shipping industries should mutually exchange shares to the proportion of 49 per cent.; that Germany might give other nations (*e.g.* Great Britain and the United States) a commensurate share in the German world monopoly of potash for a share in the output of oil or cotton. An Anglo-German coal syndicate is no impossibility, since we already have the International Steel Union. Such a mutual interpenetration of the commercial life of the nations would be a source of great wealth for all those participating in it, and a most effective guarantee against a fresh international catastrophe. Even those Powers which were commercial rivals would be vitally interested in one another's prosperity. The individual life of the nations would not be imperilled. However impossible such an idea may seem to small, commonplace minds under the present circumstances, there is nothing intrinsically absurd about it. Joint commercial undertakings by the subjects of different States existed before the war, and efforts were being made to establish such an undertaking between

Great Britain and Germany; *e.g.* the joint Anglo-German exploitation of the petroleum fields in Mesopotamia. Such co-operation could especially be recommended in connection with the exploitation of the Colonies. *The co-operation of capital* in various countries and its development and extension to various objects of industry and trade which are of mutual and vital importance would be well within the scope of a League of Nations, and would support its main object.

The tendency toward solidarity which great accumulations of capital would thus introduce into the League would be paralleled by the creation of alliances in the sphere of social politics, whose aim would be identical. International regulation of labor legislation, of the protection of labor, and in particular of the insurance of labor would contribute largely toward the preservation of peace; it would, moreover, be a safeguard against excessive profiteering. In this connection might be considered the international establishment for the industrial life of the whole world of free Sundays and free Saturday afternoons, and of a maximum working day of not more than ten hours; together with the prohibition of work for married women, and the protection of children. The terrible demands which the war has made on all, but particularly on the workers and the women of all countries, sug-

gest the idea of a compulsory slowing-down of work in factories and offices. The disturbance of family life and the neglect of the higher things of life brought about by the frantic pace of labor must be remedied. *The reconstruction of human society begins with the family.* Give the world its Sunday again, its church-going Sunday! War work has abolished Sunday, as it has abolished so many divine institutions. The Sunday rest will become the Sabbath consecration of the family through the free Saturday afternoon. The whole world might follow England's blessed example in this direction. Let the "moratorium of the Sermon on the Mount" which has lasted for four years be followed by humanity's enduring allegiance to the henceforth inviolable commandments! Here we perceive yet another moral weapon of the League of Nations—for the benefit of all the oppressed and hardworking masses of the people.

## CHAPTER XI

### COLONIAL PROBLEMS

A FURTHER condition of a durable League of Nations is an agreement in respect of the African Colonies. Germany has earned a moral claim to the possession of extensive colonies, for among those nations which have done the most towards opening up the face of the globe by means of scientific exploration Germany occupies the first place. Alexander von Humboldt investigated South America, Richthofen was the scientific discoverer of Eastern Asia, while Rolfs, Nachtigall, Passarge, Barth, Emin Pasha, Wiszmann, etc., opened up the "Dark Continent." Further, the German nation has a cultural right and a moral obligation to engage in colonial activities; it must not be compelled to confine its energies to European Germany; it must enjoy an opportunity of displaying its ability as compared with other nations on its own colonial territory. A rivalry of this nature between the civilized nations on colonial soil is of the very greatest importance for the development and progress of colonial

trade. The attempts recently made in England to dispute the colonizing abilities of Germany proceed from dishonest motives, their only purpose being to provide a pretext for the annexation of the German colonies. Germany has made mistakes in her colonial policy, but not greater mistakes than those of other colonial Powers; and she has been at pains to remedy them.

Germany was the last nation to find a place in colonial history. When England, as in India and South Africa, drove the French or the Dutch out of their colonies, the ground was prepared, and the first stage of colonial policy already passed.

It is impossible to describe in brief what Germany has accomplished in her colonies during the last thirty years for the public peace, for general administration, exploration and survey, meteorological and geological research, and the administration of justice, for the schools, missions, tramways, and railways, and for the agricultural, commercial, and social improvement of the inhabitants. It need only be mentioned that the German Governors since Dernburg's accession to office have regarded the chief wealth of the colonies as residing in their inhabitants, and have therefore taken all possible pains to develop them in every respect.

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*The guiding ideas of the German colonial policy* were clearly outlined by Dr. Solf, before the war, in the following speech, which was delivered in the Reichstag on March 6, 1913.

“The inhabitants, gentlemen, are our wards, and it is therefore the duty of the German Government to make the just interests of the inhabitants its own. For we do not desire to exterminate the inhabitants; we wish to preserve them. This is the humane obligation which we have assumed with the hoisting of the German flag in our African colonies and in the Pacific Ocean. The fulfillment of this obligation is in harmony with reason also; for it alone establishes the possibility of a reasonable economic policy, and thereby provides the basis of our national German activity. . . . The peoples with whom our work of colonization brings us into touch are at a lower stage of civilization, at a much lower standpoint, than we civilized white peoples; in many cases very far below us. Not only the legal obligation which is incumbent upon us as protectors, gentlemen, but our position as a civilized nation constrains us, by the matter-of-fact arguments of the civilized point of view, to help these peoples, and to endeavor to provide better conditions of life for them than they, with their limitations and lack of capacity, have hitherto been able to create for themselves. To colonize

is missionary work; it is, indeed, missionary work in the noble sense of educating up to the level of civilization. Just as the proper valuation of the imponderable qualities of his own nation is one of the principal tasks of every leading statesman, so the colonizer must take incessant pains to examine and explore the thoughts and feelings of the inhabitants, and to arrange his mode of work in accordance therewith. And, gentlemen, his labors are manifold and various. The inhabitants are ignorant—they must be instructed. They are indolent—they must learn to work. They are dirty—they must be washed. They are sick with all sorts of infirmities—they must be healed. They are savage, cruel and superstitious—they must be soothed and enlightened. When all is said, gentlemen, they are big children who need education and guidance.”

Germany, who is, it is pretended, so ultra-militaristic, trusting, in the Dark Continent, to the solidarity of the white races, and the provisions of the International Congo Act, refrained from all militaristic action, and confined herself to the establishment of police troops; while in Senegambia a supposedly democratic France introduced what was almost universal conscription, and instituted a far-reaching system of recruiting in Northern Africa. Germany is, besides



Holland, the only colonial Power which has not introduced preference for the mother country into the tariff system of her colonies or that of the metropolis. France has assimilated Algiers and a part of her colonies to her tariff system. In the other French colonies, for example, we find preferential treatment of the mother country in respect of the home imports from the colonies, this preference amounting to 38 per cent. of the normal tariff. England also enjoys the benefit of a preference represented by 33 per cent. of the normal tariff in her self-governing colonies. In the same way Spain, the United States, Portugal, etc., all employ differential tariffs. Further means of benefiting the mother country in her relations with the colonies are shipping subsidies, without reciprocity, reimbursement of dues (as in the passage through the Suez Canal) to national trade, and an export tax on goods which are not destined for the mother country. German economic policy does not countenance all these measures for favoring her own colonial trade and exchange. Never in the slightest detail has she practised colonization *à la manière forte*; her colonization has always been effected *à la manière douce*, for she is entirely free from "mercantilism," that is, militarism in the sphere of economic policy.

The colonizing abilities of Germany have been

recognized even by the English. For that reason they were ready, shortly before the war, in the agreement negotiated with Lichnowsky, the German Ambassador, to relinquish a large part of the Portuguese colonies in favor of Germany.

Germany cannot, for the sake of her honor, submit to be shut out from the ranks of the colonizing Powers. If she were struck out of the ranks of colonizing nations, it would mean *the moral degradation of Germany*, and she would, from the cultural point of view, be inferior to countries like Portugal. The insistence upon colonial possessions is, therefore, in the first place, *a question of national honor, and of her equality of rights, as a civilized nation, as compared with the other nations of Europe.*

In the second place, the question of colonies is of the greatest significance in the matter of peace between Germany and the other nations. While Great Britain, France, and America enjoy almost an economic autarchy—that is, they can supply their economic requirements from their own territory or their colonies—in this respect Germany is in an inferior position. She has to obtain almost all her colonial products from other countries: coffee from Brazil, cotton from North America and Egypt, fodder from the United States, the Cape and Algeria, rice and tea from

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China and the East Indies, tobacco from the West Indies and Brazil, etc. A huge sum of German money has, in this manner, passed into foreign countries. Long before the war the German trade balance was passive. This forced Germany to a tremendous increase of industrial production, the growth of which again made foreign manufacturers apprehensive, and which had the great disadvantage of fostering discontent with Germany in foreign countries. The practical renunciation of colonial expansion led to an increase of commercial expansion, the whole extent of which the foreign nations had continually before their eyes, so that it became the occasion of the alarmist cry of the "German Peril in our own house," and gave them the idea that Germany was striving for universal commercial supremacy, which would result in political supremacy. They could not or would not see that the commercial expansion of Germany was the direct result of her renunciation of Colonial Imperialism. That Germany should have a large share of colonial possessions is also desirable in the interest of universal peace; for only if Germany possesses a field of her own for the expenditure of her commercial energy, which will secure for her the necessary conditions of her material existence, will the peaceful competition of Germany in the markets of the world

become less strenuous and less burdensome in its effects.<sup>1</sup>

To this end a redistribution of the African colonial possessions is necessary, not only in the interests of peace, but as a requirement of political justice. The following table shows how little the German colonial possessions have increased between 1871 and 1916, as compared with the colonial expansion of other States:

	COLONIAL POSSESSIONS.			
	Area in square miles.		No. of inhabitants.	
	1871.	1916.	1871.	1916.
Great Britain ....	7,874,665	11,457,600	159,750,000	374,689,000
Russia .....	5,736,885	6,608,710	5,500,000	32,229,000
Portugal .....	738,045	804,650	3,873,000	7,400,000
Holland .....	682,275	787,325	22,453,000	38,053,000
France .....	464,310	4,062,529	6,469,000	55,190,000
Spain .....	116,655	889,320	6,500,000	220,000
United States .....		118,195		964,000
Italy .....		609,680		1,300,000
Germany .....		1,121,505		16,000,000
Belgium .....		916,070		20,000,000
Japan .....		127,820		13,575,000

This resettlement among the colonizing nations must be accomplished, as Herr Solf aptly puts it, by "peaceful distribution," and according to the colonizing abilities, the requirements, and the size of the European States. The brief history

<sup>1</sup> The claim that Germany's desire to pay for goods in goods causes international hostility is a curious comment upon the old Cobdenite theory that international trade means international peace.—*Trans.*

of our colonies shows, as Herr Solf observed in his speech of August 20, 1918, that neither in Africa nor in the South Seas have we ever followed or wished to follow an aggressive policy. We strive for no supremacy and no excess of power; we want simply a proper settlement among the colonizing nations. We want a regulation of colonial questions on the principle that colonial possessions should be in proportion to the commercial energies of the European nations; it must also be considered whether history has proved them worthy of protecting the peoples entrusted to them. Commercial ability alone is not a sufficient title to possession. Colonizing is a mission. Those countries which strove to act on this principle before the war, and which had regard for the humanity even of the colored races—these are the nations which have earned the moral right to be colonizing Powers. Germany had earned this right before the war. Portugal with her 6 millions, and Belgium with her  $7\frac{1}{2}$  millions of inhabitants, possessed, in 1912, colonies with  $9\frac{1}{2}$  and 15 millions of inhabitants respectively, while Germany, with a population of 70 millions, possessed colonies with only 16 millions of inhabitants. The Portuguese are scarcely in a position to cultivate their own richly-endowed land, while the Belgians, for all their industrial ability, are not in a position to govern

a district like the Congo, which is no less than eighty times as large as their mother country. France could easily feed double her population, much of her fertile soil being forest and pasture land, because there is a shortage of inhabitants. At the same time, France possesses colonies whose area is three times that of the over-populated German Empire. Still greater is the lack of proportion between Great Britain and Germany. The British extra-European possessions are in area exactly ten times and in population thirty times as great as the German. To obtain some idea of the injustice which at present exists in the distribution of the colonies, we need only glance at the following table:

10 Portuguese	have at their disposal	1.155 square miles of colonial territory	and	15 inhabitants.
10 Belgians	have at their disposal	0.962 square miles of colonial territory	and	19 inhabitants.
10 Frenchmen	have at their disposal	0.962 square miles of colonial territory	and	16 inhabitants.
10 Englishmen	have at their disposal	2.877 square miles of colonial territory	and	95 inhabitants.
10 Germans	have at their disposal	0.115 square miles of colonial territory	and	2 inhabitants.
The Portuguese	are in land	10 times,	in inhabitants	8 times
The French	“	“	8 “	“
The British	“	“	25 “	“
				47 “
as well supplied as the Germans.				

If Germany, for example, after the return of South-West Africa, were to receive, in addition to her former colonies, the Portuguese and Belgian colonies, forming a Central African Empire,

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then 10 Germans would have command of 0.385 square miles of colonial soil and 3 inhabitants. France would still be superior to Germany, having  $2\frac{1}{2}$  times as much land and 5 times as many inhabitants, and England  $7\frac{1}{2}$  times as much land and 32 times as many inhabitants.

If a resettlement of Africa is accomplished, whereby great and contiguous colonial territories are created, then the Dark Continent must be *neutralized* for all time. The joint interest of the whole white race and the welfare of the black peoples demand insistently that the torch of war shall never again be hurled into Africa. The stipulations of the Congo Act in respect of neutrality—unfortunately violated by the Entente—must be extended to the whole of Africa, and the Dark Continent must become the continent of perpetual peace. Any attempt to militarize the population must be forbidden. The people of Africa must become the children of the League of Nations. To lead children into war would be a crime that would cry to heaven. Thus and thus alone can atonement be made for the blood-guiltiness towards Africa of the Great War.

## CHAPTER XII

### PERMANENTLY NEUTRAL STATES

IN a League of Nations the conception of a permanently neutralized State, on the supposition that the neutralized State belongs to the League, has really only a historical significance. The League of Nations protects every State of the League from attacks by other States; and as the idea of neutrality is only conceivable in connection with the relations of a lesser State to the Great Powers which constitute the League, it must be supposed that the neutralized States will be members of the League, and as such under its protection. If it is the essence of permanent neutralization, so far as the obligations of a neutralized State are concerned, that it must never start a war of aggression, nor allow itself to be drawn into aggressive alliances, then the position of permanent neutralization differs in no wise from the position of any State belonging to the League. No League State may resort to arms when attacked, and the coalition policy is precisely that which the League of Nations will



abolish. Just as the Powers which are the guarantors of a neutralized State proceed against it if it becomes aggressive, so in the future the League of Nations will oppose the organized power of the League States to any State which resorts to aggression. With regard to the undertaking of the guarantor Power to respect the territorial integrity of the neutralized State, and to defend it against all comers, it will be an essential point of the League that the States belonging to it will respect one another's integrity and protect it jointly against forcible treatment.

The League of Nations must be the guardian of justice. It is more than probable that the neutralized nations, when they join the League, in spite of their exceptional position in international law, which is determined by solemn treaty between them and the guarantor Powers, will be retained as such, partly because of the increased need of protection against the ever-present possibility of a dissolution of the League, partly because the guarantor Powers will need to maintain as they were their pacific agreements as to this particular point, even when they are members of the League, and partly because certain States must remain neutral, in the interests of Europe, and for the avoidance of conflicts. Matters will undoubtedly so develop that in time, owing to the ever-increasing permeation of inter-

national life by the ideal of justice, the neutralization of States will become the exception within the League, and will gradually disappear. But in the immediately proximate stage of development this will scarcely be the case.

It may be, however, that a neutralized State not belonging to the League will depend for its security wholly upon the treaty between itself and its guarantor Powers. If the League is to be the guardian of justice, if neutrality is to be inviolable, they must be protected by the League of Nations. As a juridical institution the League must recognize the sacredness of treaties, and must therefore set its executive power in motion against any violation of a neutralized State.

If the Germans wish to make the protection of neutrality one of the essential obligations of the League of Nations, this may in good faith be taken to imply that we feel that we have to make good where, under the pressure of circumstances, we were found wanting; that, is, in our duty to Belgium. The words of the Imperial Chancellor in the Reichstag on August 4, 1914—"The *wrong*—I speak frankly—the wrong that we are committing we shall repair as soon as our military goal is attained"—were an honest confession. It is regrettable that subsequently attempts were made on the part of Germany to justify

the violation of Belgian neutrality by representing it as a crime on the part of Belgium. In these attempts there has not always been all the accuracy and candor that might be desired. For example, the records found in the Belgian archives have not received a due amount of publicity in Germany. First of all, in explanation of Belgium's position, we must emphasize the fact that in 1839 the Great Powers of Prussia, Austria, France, Great Britain, and Russia pledged themselves by solemn treaties "in the name of the most holy and indivisible Trinity" to guarantee the permanent neutrality of Belgium. Therefore we have not to consider the violation of a wholly optional neutrality accepted without any responsibility toward a third party, which could be set aside at will by the neutral at any moment, but the violation of a solemn treaty by one of the very Powers which subscribed to it. On July 22, 1870, Bismarck wrote to the Belgian Ambassador:

"In confirmation of my verbal assurance I have the honor to give you in writing the assurance, which in view of the treaties in force is quite superfluous, that the North German Confederation and its Allies will respect the neutrality of Belgium on condition that it is respected by the other belligerent party."

In 1911 the German Chancellor, at the request of Belgium that assurances should be formally given in the Reichstag that Germany in case of war would respect Belgian neutrality, replied:

“Germany has *not* the intention of violating Belgian neutrality, but a public confirmation of this point would be of military value to France.”

On May 2, 1913, the Secretary of State for Foreign Affairs, Herr von Jagow, answered a question put by a member of the Budget Commission of the Reichstag as follows:

“The neutrality of Belgium is established by international treaties, and Germany is determined to respect these treaties.”

As a result of the excitement over the Bulgarian question and the Boulanger affair, Bismarck had the following article published in the *Post* of February 24, 1887:

“We must, however, enter an emphatic protest against our British friends. They seem to be so convinced that Germany is determined straightway to incur a danger which is supposed to be inevitable that they have for some weeks been zealously raising the question of the protection of Belgian neutrality, which is incumbent on Great Britain in common with other Great Pow-

ers. The result arrived at is, that the violation of Belgian neutrality would be permissible if the conqueror would undertake not to tamper with Belgian independence in peace time. These are very previous, and not only previous but even groundless, anxieties and schemes. That German policy has resolved not to enter upon a war merely because it believes that a war will be thrust upon it, Prince Bismarck emphatically declared on January 11. Moreover, *Germany would never begin a war by the violation of a European treaty.* It is assumed in England that the Franco-German frontier has, as a result of France's defensive measures, been rendered impregnable against any offensive, and that as a result the German General Staff must consider a break-through by way of Belgium. But we do not think that the British journalists, however discerning they may be, are quite in a position to plumb the military plans of the German General Staff. At all events, they are mistaken if they think that in Germany policies are subservient to the point of view of the General Staff and not *vice versa*.

*“The neutrality of Switzerland will never be violated by Germany any more than the neutrality of Belgium.* The German Government places far too high a value on its vocation as the greatest respecter of the treaties which Europe has devised for the preservation of peace. Moreover, ordinary

common sense teaches us that it would not be exactly prudent to compel the military Powers of Belgium and Switzerland to join forces with the French onslaught. The German Government will, therefore, never start a war merely because it believes that a war will be thrust upon it."

From this it is evident that Germany has always recognized the neutrality of Belgium. Bismarck expressly declared that the violation of Belgian neutrality lay outside the possibilities of German policy.

Even in the German ultimatum to Belgium of August 2, 1914, Germany stated, in the concluding clause, which was made public by the Wolff Bureau, but was omitted from the German White Book, that Germany did not make any objection to Belgium's attitude. It runs:

*"In this case the friendly relations uniting the two neighboring States would be further and permanently confirmed."*

On August 4 Herr von Jagow stated, in answer to the question of Baron Beyens, the Belgian Ambassador:

"Germany has no complaint to make against Belgium, whose attitude has always been extremely correct."

These declarations make it clear that, at all events up to the opening of the war, there was

nothing known in German official quarters of any fault on Belgium's part. This, too, is the interpretation of Bethmann-Hollweg's remarks as to the wrong which Germany committed when she invaded Belgium.

The subsequent fabrications as to Belgium's guilt rest upon the discovery of documents which are supposed to prove that there was an Anglo-Belgian agreement in existence. A portfolio of documents was found in the archives of the Belgian War Ministry in Brussels, containing notes of conversations between the Belgian General Ducarne and the British Military Attaché, Barnardiston. These conversations took place in 1906, after both Belgium and Great Britain had arrived at the conclusion that in the event of a Franco-German war Germany would invade Belgium. These conversations, which were of a technical and military nature, did not in any way refer to the military support which Great Britain might lend in the event of a Franco-German war, as semi-official German reports would have us believe, but only to the invasion of Belgium by the German Army. This eventuality, and only this, was the basis of these conversations.

Now the question is whether Belgium violated her neutrality when she held conversations with Great Britain based on the hypothesis of a German invasion of Belgium. The position is as

follows: Germany as well as England was a guarantor of Belgian neutrality. If Belgium believed that she might assume that Germany would in a given case violate the guarantee which she herself had given, and proceed by way of Belgium, then there was nothing for the latter to do but to come to some arrangement with the other guarantor of her neutrality for the preservation of her integrity. When, in 1912, in a further conversation between the Belgian General Jungbluth and the British General Bridges, the latter declared that if Germany invaded Belgium the question would arise of a British landing without any request for help on the part of Belgium, General Jungbluth objected that in such a case Great Britain could only land with the express consent of Belgium. Further, this point was brought to the notice of the Belgian Foreign Ministry by General Jungbluth, and in 1913 Belgium obtained from Great Britain the assurance that in no case would she first violate Belgian neutrality. In 1906 the Belgian General had assured the British Military Attaché that Belgium was prepared to make a stand in Liège against Germany, in Namur against France, and in Antwerp against England. From this it is clear that Belgium was determined to defend her neutrality against all intruders.

The point chiefly to be remembered is this:



When Belgium discovered what Germany's intentions were, she was justified in entering into conversations with the guarantor who was chiefly interested in Germany's plans, namely, Great Britain. These discussions—not between the Governments, but between their military representatives—presupposed the violation by Germany of Belgium's neutrality, and *not* merely a Franco-German war. The help of the one guarantor was only to be given at Belgium's request, after the violation of Belgian neutrality by the other guarantor.

In this case, therefore, Belgium cannot be accused of a violation of neutrality. Belgium was obliged as a neutral nation to refuse Germany's request for a right of thoroughfare. The Fifth Convention of the Second Peace Conference at The Hague (October 18, 1907), with regard to the rights and obligations of neutral Powers, runs as follows:

Art. 1. The territory of neutral Powers is inviolable.

Art. 2. Belligerents are forbidden to move troops or convoys, whether of munitions of war or supplies, across the territory of a neutral Power.

Art. 5. A neutral Power must not allow any of the acts referred to in Articles 2 to 4 on its territory.

Art. 10. The fact of a neutral Power resisting, even by force, attempts to violate its neutrality cannot be regarded as a hostile act.

These were the rights and obligations of Belgium in war-time, which were modified by the position resulting from her permanent neutralization by treaty. If Belgium had given Germany the right of passage through Belgium, England and France would have been obliged to enter Belgium in order to re-establish Belgian neutrality, and to parry Germany's attack. Belgium, in conceding the right of thoroughfare to Germany, would have surrendered her neutrality and violated the treaty with her guarantors.

Germany attempted to find a pretext for her invasion of Belgium in the hypothetical intention of France to march through Belgium along the Rhine, and in pretended occurrences which were supposed to prove the reality of this intention. Not one single sound proof can be adduced of France's violation of the German frontier; it has even been established on the German side that the French plans of mobilization did not foresee the invasion of Belgium. As far as the Belgian mobilization is concerned, the plan of an equal distribution of the Belgian forces on all frontiers was only altered to a massing of troops in the East after the German invasion was known to be a fact.

It must, once for all, be admitted by Germany, as I have admitted for years in Center Party meetings and in the Reichstag, that there can never be any question of Belgium's guilt; more, Belgium acted as she was obliged to act in loyalty to the treaties of neutralization, and it is wrong to attempt the justification of Germany's invasion of Belgium by the suggestion of guilt on the part of Belgium. This fact is unassailable for every lover of the truth. The results of it are self-evident. I am not speaking like this for the first time. Truth must always be honored, if one is not to be the "pitiful wight" of the old German students' song.

The case of Belgium is a tragic chapter for Belgium herself, and for Germany. Belgium could not have acted otherwise; Germany, on the other hand, believed that there was no other way of meeting the terrible danger which lurked in the certainty of a war on two fronts than by a swift onslaught upon one adversary, France, and, when she was overwhelmed, by an attempt to stop the Russian steam-roller. Germany believed that invasion was necessary in self-defense. No doubt the invasion of Belgium was a very difficult decision for the German Government when it came to the actual point. The statements of the responsible German officials, the Imperial Chancellor and the Secretary of State for Foreign

Affairs, show how deeply conscious they were of the moral import of the crisis. They knew that they were doing wrong, but owing to the force of circumstances they saw no other way out of the situation than to take that wrong upon themselves. They made no attempt to cloak the wrong, but promised to repair it.

Germany should have adhered to this point of view; she should not have made an unfortunate attempt to undertake a great campaign of justification, which came rather late in the day, was insufficient, and had no adequate foundation of fact. It is intolerable, too, from this point of view, that the extreme militarist party in Germany should wish to add, to the misery which that unfortunate country had to endure in 1914, the agony of seeing her sovereignty destroyed. One can scarcely imagine a more horrible consequence of *sacro egoismo*.

Even the "dead pledge" or "pawn"<sup>1</sup> theory is not tenable under the actual circumstances, and violates the Christian moral law. It is not fitting that a country which has fallen into unutterable misfortune through no fault of its own should become, in the end, merely an object of barter. The country which believed

<sup>1</sup> Von Payer did not, as the newspapers have it, speak of Belgium as a "pawn" or a "pawn in hand." The word used was *Faustpfand*; i.e., a "dead pledge," a pledge in pawn, or mortgaged chattel, which has become the property of the broker.—*Trans.*

that it must commit this wrong in self-defense must make good the damage which it has done in its neighbor's house, as the Imperial Chancellor solemnly promised on August 4; but it must not for its own part demand any recompense for re-establishing the original situation. Belgium is no chattel of Germany's. Belgium must have her liberty and her independence restored, with her position before the war, and this reconstruction of the Belgian nation at the end of the war must not be made conditional on the discussions of two other parties.

On September 12, 1918, Von Payer, the Vice-Chancellor, in his Stuttgart speech, declared that Belgium would be given back "without encumbrance and without reserve," if it was certain that no other Power would make special claims upon her.

This meant that the proposal made by the Pope in his Peace Note of August 1, 1917, for the "complete evacuation of Belgium under the guarantee of her full political, military and economic independence of whatsoever Power" was to be carried out. But why did the German Government not say so sooner? Over the whole political history of the Great War seem to be written the terrible words: "Too late."

Only to dire necessity can Germany appeal for a justification of her invasion of Belgium. This

view of the matter involves the reparation of the damage resulting from the exercise of this necessity. If the League of Nations is, in the future, to become an accomplished fact, it is essential that the nations should enter upon the discussion of the League with a strong determination to fulfil their moral obligations. And Germany's moral obligation is the confession of the wrong done to Belgium, and the necessity of reparation, so far as that is possible. For many extreme militarists and Pan-Germans this confession may be a bitter pill; they will point with scorn to Great Britain and France, in which countries there is no inclination to discuss or confess their own misdeeds. In the history of the world, however, every nation is responsible for itself. Insistence upon the unrighteousness of Great Britain and France does not absolve another nation from its moral duty. Each nation must begin the cleansing process with itself; and one or another must make a beginning. If each is going to point to the obduracy of another, we shall never acquire the spirit which ought to inspire the common life of the League of Nations. There is absolutely no doubt that Great Britain and France have heavy sins upon their conscience. It should be our privilege to set a good example to the nations by an honest resolve to repair the wrong which we have done.

If this spirit is present in the future community of nations, it will never happen again that the nations will so hunt each other into a corner that there is nothing left for the quarry but to seize upon any means which will prevent its being overpowered, even to trampling on the corpse of another nation in the effort to make good its own escape. In this community of nations right must take the place of might, and might must only be used against that nation which will not seek the right, or rejects it. The sacredness of treaties will no longer be in danger of violation by an appeal to the laws of necessity. In all circumstances the sacredness of treaties must be set above the possibility of being dragged in the dust. The conception of the law of necessity in connection with a violation of neutrality must disappear from the imagination of the peoples.

The protection of the permanently neutral nations remains one of the noblest and fairest tasks of the League of Nations.

## CHAPTER XIII

### THE CONSTITUTION AND EXECUTIVE POWERS OF THE LEAGUE OF NATIONS

JUST as every State has its Constitution, and its military resources for the maintenance and execution of that Constitution, so must the League of Nations be based upon a Constitution recognized by all the States of the League, whose protection must be an essential part of the said Constitution. This protection is undertaken by the League States upon their acceptance of the Constitution, in that they will hold their forces ready for combined action in certain eventualities which will be defined by the Constitution. The League of Nations is literally a community of nations, in which the nations league themselves together for the common maintenance of peace, and with an assurance of reciprocity of such a kind that each individual nation assumes, together with the right of being itself protected, the obligation to protect the others. In this manner it is greatly to the interest of each confederated nation to maintain peace on its



own account, since any resistance to the Constitution would be hopeless, owing to the counteraction of the other nations of the League.

The Constitution of the League of Nations must deal with three fundamental questions, namely, the question of the organization, the question of the legal basis, and the question of the executive power of the League.

The Constitution must be brief and easily comprehensible in order that it may become the common property of the whole world, and that every nation may be able to teach it in its schools. Even although in form the League is a League of States, it must in essence be a League of *Nations*. The nations themselves, in all their members, must play a vital part in the new organization. They must assimilate it and stoutly defend it against all attacks. The Constitution should, therefore, contain only a few fundamental rules; it should formulate only permanent ideas. Just as a national Constitution defines only the basis of political life, and leaves the rest to ordinary legislation, so must it be in the case of the Constitution of the League. On the basis of the Constitution many universally valid conventions will be drawn up; but to do this at present would be quite impossible, and would very probably prevent the formation of the League. The Constitution of the League

cannot replace the Constitutions of the various nations; rather must it presuppose their existence, leaving them as before, and using them as the basis of its own formation. Neither must the League of Nations be a mere intermixture of nations; on the contrary, it must rest, like all international organizations, on a strong national basis; all World-Constitutions and similar ideals must therefore be rejected as hopeless phantasies. The more discreetly the League of Nations proceeds at the outset, the more vigorous will be its developments.

The draft Constitution which I have drawn up contains, therefore, only what is absolutely necessary and desirable; it has, however, been worked out, so that the whole idea, with all its ramifications, premises, and consequences, might appear in a concrete form. There is no doubt whatever that this draft—I know of very few others—will not, in all its details, be the final Constitution. It is susceptible of being enlarged and improved, but its essential propositions will be included in the final Constitution. I am not a lawyer, nor have I the ambition to be considered as such. Experts may possibly discover in my ideas, and in the draft Constitution, points which are susceptible of improvement. But we will not quarrel over trifles. I am firmly persuaded that the future belongs to the League of

Nations, and I hold the view that it is the business of the politician to grapple with movements of such importance, and to make a cast far into the future.

As far as its *organization* is concerned, the purpose of the League of Nations is straightway clear: the maintenance of a just peace, and the welfare of its members. It will not be formed merely to prevent war, but also to promote all the common interests of civilization. No sovereign State must be excluded from it; it must be open to every State whose Government, with the consent of the national representative body, declares its wish to enter it. The limitation to sovereign States is of course obvious. Only *fully* privileged members can be included in the League: namely, such nations as are universally recognized and are self-representative. The League forces no nation to enter it. Once a nation enters the community of the League, it declares, by so doing, that it sets right before might. The recognition of right and the organization of the nations on this basis make it impossible for any nation to deny, at will, the rudimentary principles of justice, and to leave the League. Every federative system depends upon the permanence of this condition. Neither the Constitution of the German Empire, nor that of the United States, nor that of Switzerland, provides

for the secession of a federated State. Moreover, there is no visible reason why a nation should wish to leave the League, where it would enjoy the protection of the community, without, at the same time, being subject to its dictation. In all questions affecting a League State it has, in the Court of Arbitration, a means of upholding its just claims. Any State entering a legal community recognizes that community in principle, and also in practice. Even in the public life of the nations it is impossible for anybody to place himself outside the law, in order to commit an illegal action; on the other hand, if he does commit such an action he does thereby place himself effectively outside the law, but he brings on himself a punishment, the burden of which makes him realize that the judicial community will not suffer such an action. Anybody who constantly places himself outside the law by perpetually committing unlawful actions finds himself continually in prison or the penitentiary.

Just as individuals must order their mutual behavior on a legal basis, in order to obtain protection from one another, and from arbitrary violence, so the individual nations order their behavior by and seek protection from the League. Why, then, should a nation forfeit this advantage? It is, of course, taken as axiomatic

that the Commonwealth of the nations is guaranteed by those nations which were the supporters of the Balance of Power which has hitherto existed and is now upset. So long as these nations remain outside the League—so long as only one remains outside it—the ideal of the League of Nations will be to a certain extent purposeless, and the League itself imperilled. Therefore, in order that the nations may feel secure from each other, the Great Powers which have hitherto been rivals must all belong to the League; they are its granite foundation. Only such a League can exert, upon the smaller States which seek protection from it, the force of attraction which is necessary if the League is to be as comprehensive as possible, and so accomplish its purpose. Any Power which remains from the first outside the League does so, of course, at its own risk. The League will not be hostile to it, provided it is guilty of no act of provocation. In any case, the League will uphold the rights of the permanently neutral nations against all other States, including those which do not belong to the League.

If all the Great Powers which have hitherto been rivals belong to the League of Nations, none of the States confederated in the League can be in any danger from a State which has remained outside the League. The State which

remains outside pays the penalty of its action. If for example, such a State commences to arm itself, it is for the League of Nations to decide what attitude it will assume towards it. The States of the League must not play the part of the geese to the fox, as Mr. Lloyd George recently remarked; united they are stronger than any outside nation, even if it be strongly armed, and they are, of course, as strong as any League State which might make arrangements to violate the Constitution of the League. If anyone says that in spite of disarmament it would be possible for one League State to invade another, he must have forgotten that the States cannot reckon without their peoples. Every people has the greatest interest in remaining in the League. A Government would find it very difficult to force its people to forfeit its place in the League. There would no longer be any room for a belligerent cabinet policy in the federated States. The League is the most effectual means against autocracy and militarism. That there is a theoretical possibility of a collapse of the League cannot be denied, although it may practically be considered out of the question. If the League of Nations should collapse, then at the worst we should only have the same state of anarchy as existed before. Even then, so much might be saved of the League as would secure the

neutrality of permanently neutral nations from violation.

It is only reasonable that the League of Nations should have its seat at The Hague, which was already pre-designated by the two Peace Conferences of 1899 and 1907. Here an *International Bureau* will carry on its business, as was stipulated in the two Hague Conventions. It will be the medium of communication between the several nations, keep the archives, and attend to the business and the work of publication provided for in the Constitution.

The administration, as in the Hague Convention, will be in the hands of an *Administrative Council*, which will consist of the accredited diplomatic representatives of the federated Powers at The Hague, the Dutch Minister for Foreign Affairs being appointed President. The Bureau will deal only with administrative and technical matters. The federated States will be represented by *delegates* appointed by the individual States with the consent of the representatives of the people. These delegates will not remain permanently at The Hague, but will meet only for promulgating decisions in cases provided for by the Constitution. They will receive their instructions from their Governments, and they will represent their States in the manner of the German plenipotentiaries in the Bundesrat. It must

be emphasized that these delegates will not be identical with the accredited diplomatic representatives of the federated Powers to the Dutch Government. They are the upholders of the ideal of the League of Nations, of peace and equality; they are the confidential servants of their people; they should co-operate with the official diplomatists, but remain unaffected by the friction of official diplomatic business. The question as to whether each Power should receive one vote, or whether there should be a differentiation in the number of votes according to various factors, such as size and degree of civilization, must be carefully considered.

It must first of all be established that in the administration of justice there will be no question whatever of the ratio of votes. In controversial matters the decision will rest neither with the League of Nations nor with a plenary assembly, but with a court of justice before which all nations will have equal rights. The League of Nations will provide the organization of the Court, and guarantee the execution of judgment. It will have nothing to do with the judgment itself. There appears, however, no reason why each federated nation should not possess one vote, so that in this connection, also, the equality of the nations would be realized. But cases will of course arise in which it will be advisable that



the nations should be given powers of decision according to their size and degree of civilization. A Great Power can do more than the lesser Powers in the cause of peace and general civilization. Such a case is provided for in Article 39, where there is a question of arriving at a decision as to the attitude of the League of Nations towards a war between two outside nations. In this case a differentiation in the voting power would be advisable. It could be determined by the size and population of the various States (so that the colonies would not be represented according to their area). For the sake of simplicity it would be advisable to establish the voting power on a basis of the contributions towards upkeep, which would also take account of population. Such a grading would be by no means unprecedented. In the Constitution of the German Empire all the federated States enjoy equal rights, in spite of a somewhat extensive differentiation of their voting powers in the Bundesrat. Thus the principality of Lippe-Detmold, for example, is at no political disadvantage as against the kingdom of Saxony. Judicial decisions, I repeat, will be absolutely independent of voting power. There will be no connection whatever between the full congress of the League, with its method of voting, and the court of justice, in the formation of which the

disputing parties have the greatest influence, and whose decisions are given, not according to the political importance of the disputing parties, but according to what is just and right.

In general, voting should take place on a basis of absolute majority. For the modification of the Constitution it would be necessary to take a qualified form of majority into consideration. No nation should have any objection to the presidency of the League being reserved for the Great Powers, not because of their political importance, but because of their general civilizing and cultural influence. The first-class Powers would thus hold honorary office for periods of a year, the order of succession being given by the alphabetical order of their names in the French language.<sup>1</sup> And why not the German language? Because for one thing French is the international language, and in this connection any substitution of another tongue would favor the nation whose language was used; moreover, such changes would lead to a polyglot collection of official documents, which is unthinkable. France should be allowed to maintain this old tradition.

For the *distribution of the expenses of the Bureau* among the several nations we have

<sup>1</sup> Perhaps because Germany would thus preside for the first year—probably a critical period.—*Trans.*

at hand the example of the International Bureau at The Hague. The method of distribution agreed on by the members of the Universal Postal Union for the payment of the expenses of their bureau in Berne differentiates too greatly for the purpose of the League, and is not very suitable in its form. A division of the nations into three classes would suffice, so that a distinction would be made between those States which support embassies in foreign countries, those having more than five million inhabitants, and the remaining States. The first two classes would, according to the size of the States ranking in them, bear the larger share of the expenses.

So much for the organization of the League, the detailed form of which would be one of the subjects discussed in the preliminaries of the League. The sooner the States and peoples meet to discuss these preliminaries, the sooner will it be possible to conclude a durable peace.

In the *fundamental laws* would be expressed the theory and principles of the League, which would, at the same time, constitute its essential purport. We have already considered these fundamental laws in detail. They provide for the independence of the federated States, the maintenance of the neutrality of permanently

neutral States, and the obligation to resort to arbitration; for disarmament, equal commercial privileges and the open door, freedom of international commerce, and colonization.

We will now turn to the *executive of the League*, which requires a coherent description. The executive right of the League arises out of the theory of the League. It is formed not only to obviate conflicts between its members, by means of Courts of Arbitration, but also for the purpose of defense against all violent breaches of the peace. A League of Nations whose existence was guaranteed only by law would be like a State which did indeed possess laws, but no organization wherewith to execute the laws by force should this be necessary, or to protect its civic existence from violence. The League is the organized force of the federated nations; it is incumbent upon the League to uphold and enforce its Constitution against all infringements, whether by a federated State or by a State not belonging to the League. Every federated State must be under the obligation to uphold the Constitution, and to place, so far as is necessary, its military resources at the disposal of the League. The action of the League can in the above manner be extended in the first place to its own unruly members. An instance might arise where, instead of applying, in the event

of a dispute, to the Court of Arbitration, or waiting for its decision, or abiding by its judgment, a federated State would resort to arms. It would be enough merely to adopt a threatening attitude, military or economic. Or a federated State might disregard the agreement to disarm, or might adopt a policy which would cast the idea of economic freedom to the winds, or violate the permanent rights of neutralized countries, or refuse to fulfil its obligations in a punitive action of the League, or jeopardize the freedom of international commerce. In all these cases the federated States pledge themselves, according to the seriousness of the offence, to proceed to combined action against the offender by one of the following means: (1) by breaking off diplomatic relations; (2) by complete isolation, through the cessation of all personal, postal, commercial or financial intercourse with the offending Power. Either measure would in the majority of cases suffice to prevent the refractory State from commencing hostilities. As Lord Grey rightly remarked in his pamphlet:

“The economic pressure that such a League could use would in itself be very powerful.”

The Great War has shown how enormously powerful this pressure is, and yet not a single

State has been completely isolated; every one of them has still obtained imports.

If the State disturbing the peace is one with a seaboard, then the League can threaten a blockade, by the common action of the naval forces of the federated States, which action receives its sanction from this community.

The same measures will be adopted against the menacing attitude towards a federated State of a State not belonging to the League. For if the League has to protect its Constitution against internal menace, it must protect it no less against external danger. The League of Nations places its members under the obligation, in the case of a conflict with another State, whether a federated State or not, of refraining under any circumstances from an appeal to arms, but of appealing to the Court of Arbitration; it is therefore incumbent upon the League to grant protection to a State which appeals to the Court against any hostile action on the part of a State which ignores the Court; it must also carry out the sentence of the Court of Arbitration, if such sentence be passed on an outside Power.

If the isolating action of the League is not sufficient to force a federated State which is menacing or violating the Constitution to desist from hostile action; if, on the contrary, it crosses its frontiers and invades one or more federated

States, or if a State not belonging to the League acts in a hostile manner, there remains the additional measure of a combined military and naval demonstration, over and above the former methods. As soon as any League State is, from a military point of view, in a dangerous position, the League will take all preliminary measures, such as strengthening the frontier garrisons, or calling up the contingents from the several federated States, etc. At the first sign of invasion or bombardment of federated territory, these forces will invade the enemy's territory, even although there has been no formal declaration of war. The command of this army will be in the hands of the Commander-in-Chief of the State attacked, with the co-operation of a staff formed of officers of the General Staff of the contingents. This scheme cannot be called Utopian after the experience of the Great War, in which marvellous feats have been performed in the way of creating armies of all nationalities, and, nevertheless, obtaining unity of command; we have even had staffs composed of members of different nations, and commanders with the armies of different nations under them. The combined action of the Powers in China on the occasion of the Boxer rebellion had the advantage of unity of command.

One must not lose oneself in a maze of construc-

tive detail. Against a federated State which infringed the Constitution such a mobilization would be unnecessary, even if it came to a military demonstration. I am here forgetting to emphasize the undoubted fact that when the League comes into existence it will not be an artificial structure, a mere skeleton, a formal institution, which a nation will feel as a check on its actions. It will not stop at establishing the formalities of a League, for it is a moral ideal; it will rest not on its legal foundation, but on the attitude of the will of the peoples as represented by public opinion. The peoples have an interest in the League, for it will be of advantage to them, governing, as it will, all international thought. It is, therefore, quite unreasonable to suppose that any State will set up in opposition to the whole world, and bring upon itself the shame of having violated the Constitution. It is also unreasonable, as I again repeat, to believe that any civilized country will prefer to remain outside this community of nations. But in dealing with a matter so important as the League of Nations, we must take every eventuality into account; at the same time, however, we must always remember that they are only eventualities. Let us, for the moment, disregard the moral effect which in reality will always be of greater weight than mere expediency, and suppose



that a federated State is so foolish as to place itself in such a position as to bring upon its people the punitive measures of the League. In the majority of cases the economic pressure will very promptly force it to abstain from further foolishness, while if it is completely infatuated its military adventures will probably be checked by the State attacked. If in addition a small number of troops were called up by the other League States, its defeat, if matters went so far, would be certain. If, however, any State outside the League should take up arms, and if economic isolation should not make it sufficiently aware of what it meant to set itself in opposition to an organized community, it would then find itself in conflict with the military forces of the League. It may be pointed out that the State might be more strongly armed than the League States. The joint forces of the latter, however, would be superior to those of any single State. But can anyone believe that any State, knowing that for the nations of the League the burden of armaments was abolished, would allow itself to be forced into arming by its Government—especially after the lessons of the war? A State which remains outside the League loses greatly by so doing. It is like a non-union worker who foregoes all the privileges which the

unions afford their members. The risk of a war for a federated or a non-federated State is increased by the fact that if it goes to the wall—and there is no doubt that this would happen—it will have to pay all the war expenses of the League States, and also repair all damages which may have been suffered in the course of the war by the League States attacked, and also by the other League States. This point in the Constitution will exert an enormous influence, by making the League States respect the Constitution, and also by encouraging States which are outside the League to join it, or at least to abstain from any policy hostile to the League. In the event of the hostile action against the League of a League State or an outside State extending to the sea, a fleet composed of units from the nations of the League would come into being. This fleet would have as its object not only the destruction of the enemy fleet, but also the establishment of free maritime intercourse between the nations of the League.

The League of Nations, therefore, will have far more effective means at its disposal than the present-day system of armaments; it will have more authority than all the War Lords in the world; it will always be able to enforce its will. No nation which joins the League need have any fear that the laws of the League, or the

awards of the Court of Arbitration, will not be enforced or fulfilled.

The case also may arise where two outside nations make war upon each other. In this event the League of Nations must decide by vote which attitude is more advantageous and profitable to the League—neutrality or commercial boycott. Both decisions are possible, according to circumstances. In any case, the attitude agreed upon would effect both the belligerent nations alike.

Before this chapter closes it must again be noted that the strength of the League of Nations, if such a League is in being, depends not only on its executive powers, but also on its moral content; it is not the protective power of the League which is the surety that it will remain unbroken, and fulfil its purpose, but the moral element, by which it pledges the nations to justice, fraternity, and peace.

## CHAPTER XIV

### THE NEW ERA

THE League of Nations, considered as a goal, has encountered, as regards the criticism which it has received, the fate common to all new ideals which should and must be realized. As a beautiful idea, a species of fiction, a dream, even its opponents admit its value. But when it comes to the point of actually realizing this aim, the doubters and hesitators appear, and seek to overthrow it, because they are incapable of detecting the desire for self-expression underlying the new spirit; they cling to the "good old times"; to what has stood the test; in reality, to what has *not* stood the test. Their intellectual contribution does not extend to helping in the construction of the new, but only to contriving props to support the old. Lord Grey says:<sup>1</sup>

<sup>1</sup> This is the complete and literal reproduction of the passage in Lord Grey's pamphlet which deals with opposition to the League. Herr Erzberger actually quotes a translation which is only a very rough paraphrase, and which runs as follows when literally re-translated:

"If a project which has hitherto loomed in a shadowy form in the kingdom of the ideal begins to assume a definite shape

“There are projects that exist in a shadowy form in an atmosphere of tepid idealism, admired by those who see that if possible they would be desirable. From time to time an attempt is made to embody them in material form and make them of practical use in national or international politics. It is then discovered that what appeared as an ideal to be wholly desirable and amiable cannot be of practical use, unless we are ready to subject ourselves to some limitations or discipline that may be inconvenient, and unless we are prepared to overcome some difficulties that were not at first sight apparent. The ideal is found to have in fact a stern and disagreeable as well as an easy and amiable side to it. Thereupon a storm beats; those who never thought it desirable—for there are intellects to which most ideals seem dangerous and temperaments to which they are offensive—and who had treated it only with contempt in the abstract, offer the fiercest opposition to it as a practical proposal; many of its supporters are paralyzed by the difficult aspects of it, which they had not previously considered, and the project recedes again into the region of shadows or abstract resolutions.”

a violent storm arises against it. Not only do those who in general perceive a danger in every ideal oppose the scheme; but many adherents also become faint-hearted in the face of the difficulties resulting from its practical accomplishment.”—

*Trans.*

In all nations the extreme militarists are the opponents of any transformation of the international system. They consider that the future of humanity is best assured if the national interests of their own country are realized, regardless of the community; if force alone is valid in international politics, whereby of course they understand only their own force. They are most unwilling to dispense with war as a means of pursuing this policy. In very many cases they are *war romanticists*, who try to make war palatable to those who think differently, by describing it as something holy, something beneficial to mankind; even as an element of the sacred scheme of the universe, so that the will of God is incarnated in the thunder of cannon and the slaughter of the battlefield. Whoever would dare, after the experiences of these four years of war, to utter such blasphemies—for that is what they are—at a public meeting, would scarcely escape from the room with a whole skin. To-day one has to mind one's *p's* and *q's*. The Pan-Germans, before the war, used to play with ideas of this sort in an absolutely sinful fashion, and have done the same even during the war. Whether they are cured now is questionable. One thing is certain, however: that when on the conclusion of peace the soldiers return home from the horrors of the battlefield they will not put up with any

glorification of war. Eleven millions dead and nineteen millions wounded, the loss of more than a fifth of the wealth of the whole world, was the total balance-sheet up to March of this year (1918).

To this criminal romanticizing of war there is often closely allied the further folly of treating it as a judgment to which we must submit, as it cannot be evaded. This is contradicted merely by the fact that many wars have been prevented in the past, and by human agency. Battles between nations are battles between human beings. It does not say much for them that they should consider themselves incapable of unravelling, by human commonsense, knots which have been tied by human beings. In the past there has been no lack of good will, nor of proposals, on the part of individuals, for a peaceful settlement of international disputes. But the nations as a whole have been lacking in mutual confidence, and have also distrusted their own organizing ability. Because confidence was lacking, good will also disappeared.

From the paths of suffering which each nation has trodden in this war, the peoples have learned that they cannot dispense with mutual good will, and that they must and can grapple with *the problem of a community of nations* in order to avoid war. The outbreak of international hatred will be succeeded by a universal move-

ment towards a better understanding between the nations. There is no more superficial saying than that to the effect that war is a "natural occurrence." War is not a natural occurrence. If it assumes the aspect of such, this means merely that events are allowed to run their own course. Yet surely man protects himself even against natural events? The lightning conductor was invented as a protection against lightning. Even if it is impossible to prevent *all* wars for all time to come, we must at least set our minds upon this goal, or *not one single* war will be avoided. In the legal existence of human society crime is continually recurring in spite of the permeation of society by justice. Yet it would be absurd to say that because this is so we should abandon the organization of justice altogether.

Neither is war a fundamental law of biology. It affords one matter for reflection that it is just those very people who take a theological view of private life, and recognize the supremacy of moral and spiritual law, who take a biological view of international life—that is, a coarse and materialistic view. If it is the purpose of the human community to abolish, or at least to mitigate, brutal contests of force between single individuals, by means of moral standards, for the good of the individual and his neighbors, the same purpose exists in the communal life of the nations. For the



modern State is *no isolated organism*, which fulfills its end by thrusting aside or destroying other organisms, but each State is so intimately and inextricably bound up with the life of other States, and so dependent for its prosperity upon this reciprocity, that the reference to biology is absurd.

Besides the dislike of all that is new, besides discredited conceptions, lack of thought, and lack of sense, there is a great deal of simple political cowardice in the campaign against the idea of a League of Nations. But the peoples—not the politicians—have the casting vote in this matter, and it is on them that the onus rests of shaping the future.

The peoples must look to this future. They must abolish anarchy and take a step forward towards *an organised community of the peoples*. If they do not risk this step, if honesty and good will do not lend wings to their feet, conditions will remain as they were.

*One* step forward *must* be taken. There must be no attempt to anticipate evolution, to demand the impossible. In many quarters, where there has been discussion of the League of Nations, the conclusion has been reached that the individual nations should be placed under the control of a super-national authority, a world parliament, a universal council. These proposals are far

in advance of actual developments. They encroach upon the sovereignty of the nations, threatening to shape the whole world according to one pattern, and to abolish the private life of the individual nations. Attempts of this kind are not feasible, because they tend to a general leveling of national and social life. No State will resign its individuality, and its development in contact with the world. What can and must be attained is a League of Nations in which the States will reciprocally limit themselves to what is necessary for the preservation of the peace of the world, in such a way that their internal independence and their liberty of movement in foreign matters remain untouched, even if they give up the idea of self-help in the event of conflict.

Such a League of Nations must, however, if its purpose is to be fulfilled, include the States of the Old World and the New. The suggestion of a Continental League of Nations presupposes the formation of an Anglo-American League. With this we should have the old system of a world divided into two great coalitions; the old principle of the Balance of Power in a new form. To judge by the situation brought about by the war, this would be no solution of the problem. The war, however paradoxical it may sound, has brought all the nations together, and given them common aims, although each group may hold

by its own particular opinion of these aims. The outcome of the war can only be a universal League of Nations; otherwise the old game will begin afresh.

*Germany has the greatest interest in a universal League of Nations without the formation of groups.* A Continental League could not require her for the economic loss of her trade in the West. Of the total sum of German trade (some £1,000,000,000), three-fourths was represented by her trade with the West. It is, to say the least of it, extremely doubtful whether the Continent alone, even by the most intensive expansion of the Eastern trade, could make up for the lost £750,000,000 of German commerce. If there are two Leagues of Nations armaments will again make their appearance, as the two Leagues will naturally be hostile to one another. The principal object of the League of Nations—to liberate the nations from the burden of armaments, so that they may turn their attention to reconstruction—would be rendered illusory. The result would be another world-wide conflagration.

Objections to a universal League of Nations, which would include the United States and Great Britain, are not merely foolish, but Germany's interests demand that Germany should accede only to a League comprising the nations of the Old and the New Worlds. It cannot be

too strongly emphasized, as we have elsewhere remarked, that the belief that commercial commonsense will automatically bridge the gulf between the Old World and the New rests upon an amazingly naïve moral undervaluation of the Anglo-Saxon Powers. No human being will demand that we should on that account subject ourselves to the Anglo-Saxons. The conditions of Germany's accession to a League of Nations have been given. Without freedom of the seas, the open door, equal commercial facilities, and a proper share for Germany in the opening-up of Africa, Germany will not join a League of Nations. But our participation in the League must not be jeopardized by any refusal on our part to disarm.

The Entente makes the abolition of "militarism" its chief aim. Mr. Lloyd George once said that it was not merely a matter of the abolition of militarism in Germany, but that militarism must be abolished in Great Britain and other countries also. Disarmament must of course be effected simultaneously by all the States; it must be reciprocal, and must extend to "navalism" also. But it is not the number of soldiers and the quantity of guns that constitutes "militarism"; it is the spirit of brute force which would dispatch all business with the sword, and would employ it even to obtain the upper hand in politics. The world will not

tolerate this spirit any longer. In Germany it is in more than one quarter said of the League that it is conceived from the standpoint of the enemy, and aims at rendering Germany defenseless; but this is an erroneous idea. According to her answer to the Papal Note, Germany is ready to disarm if all other nations will disarm at the same time. If there is universal disarmament, Germany will be no better off than France and Great Britain, Russia, and the other nations, but her position will be no worse. To prevent any State from arming in secret more fully than it is permitted to do by the regulations of the League, there will be the publicity of parliamentary proceedings, the publication of the statistics of the standing armies, and public opinion. If Germany is attacked by a peace-breaking nation, she will at least be as strong as her assailant. Moreover, the League of Nations brings its military and economic resources to the aid of the State attacked, assists it economically, by providing raw materials, and at the same time boycotts the aggressor.

There are various misgivings as to the constitution of the punitive forces of the League. There can be no question whatever of an international army. Each country must have its own army within its own territory, and will place contingents, larger or smaller as the case may be,

at the disposal of the League for employment as a punitive force. The event of a State resorting to arms, instead of submitting its case to the Court of Arbitration and accepting its judgment, will be so rare when the League of Nations actually exists, and when the principle of justice has permeated public opinion in all countries, that, although we must reckon with it, we must not take the difficulties which it may entail as a justification of our attitude in respect of the punitive forces of the League. Even now it is impossible for one nation suddenly to fall upon another. If during any dispute there are signs that a State is making preparations for an appeal to force instead of to justice, the pressure of public opinion in all countries will be so strong that it will scarcely desire to bring upon itself the odium of being a defender of might against right. Quite apart from this, there will be the pressure that its own people will bring to bear upon its Government. Further, economic pressure will precede military measures, in order to give the offending State an effective reminder of its duty in respect of the administration of justice, or the necessity of accepting a verdict. This expedient is perhaps more powerful than "Big Berthas," machine-guns, gas, and tanks.

Anyone who rebels against the principle that a nation must be compelled to accept the judg-

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ment delivered in its case overlooks the essence of justice. Where justice has been appealed to and judgment has been given, there must be the means of forcibly executing the sentence if necessary. The whole idea of a Court of Arbitration is meaningless if there is no power behind it to enforce its decrees. In the State it is not enough to have courts of law; there are agents of justice and police for the execution of sentences. International anarchy, which must now be overcome, consisted merely in the absence of any international means of bringing the law-breaker to book. Legal treaties, as they have hitherto existed, depended in the last resort for their validity and application upon the free will of the contracting parties. If a State decided to employ the expedient of force it could do so unhindered, because there was no solidarity of justice among the nations which could enforce the observation of treaties. This solidarity of justice must be created by the League of Nations; the League must have the power to proceed against any disturber of the peace. All the States have an interest in this solidarity. For wars do not affect the belligerents only, but, as this war shows, they also disturb the life of neutrals, even to its very roots. Lord Grey observed, in his speech of October 23, 1916:

“Everything will depend on this, whether the purpose of the nations to establish a League is so permeated by the lessons of this war as to recognize that in future every country, even if it is not immediately affected by the struggle, will have an interest, and even a vital interest, in working for the preservation of peace, *even by the employment of force.*”

In discussions concerning the League of Nations the objection has sometimes been made that economic pressure would be ineffective against the United States, while the States, on the other hand, would be able to bring economic pressure to bear upon the Continent. There is this to be said on the other side: If America gives the League occasion to interfere, the federated States, laying a joint embargo upon all intercourse with the United States, will be in a very strong position. Such a cessation of all exchange of goods would exert a very powerful leverage upon America, because America is a commercial nation *par excellence*, and her whole internal life rests upon this basis. For the smooth working of her economic life it is quite indifferent whether the disturbing element takes the form of a lack of imports or a lack of exports. What would America do with her exports were all the federated States to close their frontiers to Ameri-



can exports, and supply one another for the time being? Such a prospect would surely deter even the United States from any unlawful line of action; which might further be prevented by the seizure of all the American cargo-steamers in the ports of the federated nations. But, apart from this, no State offers such an ideal guarantee of federate capacity as the United States, where a pacific spirit, favoring arbitration, has permeated the national consciousness to a far greater extent than in other countries; where the control of publicity, and the interest of the whole nation, are enlisted on behalf of the preservation of pacific conditions.

Moreover, any objection to the League on this account is based upon a complete misconception of the whole internal structure and history of the United States, which form a League of Nations in themselves, and have grown to greatness in the light of this ideal. President Wilson is genuinely in earnest in his suggestions for a League of Nations, for every great war brings suffering upon his country. Great Britain is in precisely the same position; as the first commercial nation of the world, she wishes to, and *must*, buy and sell; and her flag must fly in all the commercial ports of the world. Great Britain, as an island, cannot stand a commercial blockade. The forces at the disposal of the League would,

if it came to sober earnest, be powerful enough to deal even with these two nations.

A not wholly unfounded objection to the League is that a League of Nations would lead to a certain *stability of political relations*, which is opposed to the need of development experienced by the States. Now it must first of all be made quite clear that if one means by the "development" of a State its imperial expansion by the aid of force, then this kind of development at all events is not possible in a League of Nations. The League would certainly make imperialism at the cost of other nations impossible, by an alliance of States in a legal community. On the other hand, it is not the aim of the League to undo by force developments which have in the course of history resulted in more or less fixed political structures. It is the work of every nation to come to an understanding with its constituent parts. Development will lead automatically to self-contained national minorities, which in one shape or another will find their way to independence, whether under the old *régime* of alliances or under the new League of Nations. What must be excluded from the future international life of the nations are *acts of violence*. It is not in the least at variance with this that a State should extend its frontiers by a treaty in accordance with the express wishes of the inhabitants of the dis-

tricts concerned. The question of territorial acquisitions, even peacefully carried out, will, however, in future gradually lose its importance for the nations, in proportion as the increasing permeation of the whole of international life by the ideal of justice does away with the motive for territorial aggrandizement. The nations have striven for territorial aggrandizement chiefly because of the necessity of safeguarding their frontiers, or because of their need of raw materials. If wars are to be avoided in future, the safeguarding of frontiers—think of aircraft and long-distance guns—will no longer be of much importance, and the same is true of the system of buffer States; while the freedom of trade and commerce, and the thorough recognition of the equal claims of all nations upon the raw materials of the world, will deprive the territorial question, considered in connection with the question of raw materials, of much of its significance as a disturber of the peace. But the possibility of territorial development as such will exist even under the League of Nations. The League of Nations will not mean political atrophy. In the foreground of its existence is the idea that problems can no longer be successfully solved by force of arms, but by peaceful agreements, or by appeal to the Court of Arbitration.

If we remember that the obligations which the

League of Nations brings with it are based upon reciprocity, that all the States have equal facilities, that each State receives, in return for its renunciation of the unlimited activities of its sovereignty, the joint protection of all the other States, there is no objection great enough to jeopardize the formation of a League of Nations whose aim is the avoidance of wars. The small sacrifice which the nations have each to make to the others if they dispense with the employment of force cannot be compared with the immeasurable loss of property and life entailed by war. Every great war imperils private property. The objection that the States are not yet ripe for a community of nations is most strikingly refuted by the announcements which are coming from all countries.

Anyone who talks of the majority power of his own nation has conceived a very false idea of the juridical procedure of the League. Justice will *not* be dispensed by a forum of the nations, but by judges chosen by the disputing nations, as well as by the others. Does anyone believe that these judges or super-judges will voluntarily pass a biased sentence when they have the eyes of all Europe upon them? The judges will take pride in guarding their names from the stain of partiality. Those who raise the question of "absolute objectivity," gainsay the whole system of

judicial sentences, and would do away with every court of law. And yet our whole legal system is based on the passing of sentence by individuals. Even if it be granted that an erroneous judgment is possible, should we, because of this very remote possibility, refuse to have anything to do with the Court of Arbitration of the League? Has a State that seeks a decision in warfare any certainty that the decision will be in its favor? In war, too, one has to reckon with the possibility of an erroneous judgment. War does not hold *more* certainty, does not offer *more* hope of a just judgment than a court of law, and the court of law at any rate does not entail a terrible sacrifice of property and life. An erroneous judgment would always be cheaper than a lost war.

Let us approach the idea of the League of Nations with confidence. The idea is good and feasible; it is of ideal and practical value. With the former methods of politics no individual nation can advance any further, nor can humanity. Machiavellianism has done its hideous worst in this war—the system of the boundlessly individualistic national life is bankrupt. The nations realize now that the accentuation of the spirit of self-interest is fatal to the spirit of community; they are discovering, to their horror, that they cannot with impunity surrender themselves to a

method whose very essence lies in their liberation from all moral considerations.

They are beginning to learn and to value the actual political force of the moral virtues, and to recognize that without community of spirit there can be no lasting peace, and without the sacrifice of national egoism no possible solidarity. Each State will discover, when it comes to examine its war balance, that the national welfare will in future be identical with the welfare of the community. The biological conception of national life will give place to the social conception. The Christian idea of the community of the nations is again abroad in the world, exhorting the nations to pause and examine their consciences. The future belongs to Christian democracy; it will bring order into the life of the nations. Democracy means order and justice, not force and recklessness, anarchy and suicide. He who has the courage in any country to absolve his people, with a superior gesture, from all examination of its conscience, may do so. He will not have detected the underlying harmony of the new era; he will never perceive it.

The people who certainly have perceived it are the mothers and wives. They are the great allies of the ideal of the League of Nations. They have suffered untold misery in the war as mothers, wives, and sisters; it is they who are longing,

with the most ardent yearning, for the new era; it is they who will give life to the bearers of the new spirit. As in war they have accomplished the silent duty of self-denial and renunciation, so in the future they will, through their influence, enriched by experience, through their teaching, enlightened by suffering, create a race which will cling with every fiber of its being to the eternal idea of the solidarity of humanity, the idea born of the dire need of the Great War.

A joyful acceptance of the new spirit of international solidarity must come from the German people. Through the whole of German history there runs the federative spirit. Our greatest historic recollections are linked up with the idea of the old German Empire; our new German Empire rests on a community of independent States. The idea of making us co-ordinate yet independent parts of a whole is in perfect keeping with our political way of thinking, and with the peculiarities of our race. It is, therefore, but a step further on the same road if the German Empire as a whole binds itself with the other nations into a League of Nations, in which each separate part will have equal rights with every other part, and in which all will shoulder the responsibility of protecting and preserving the community. The desire for a League of Nations is there. The power of its essential content

will win the victory in all nations, in spite of the misuse to which it is put by individuals. If there is an honest will to accept it, and if its principal conditions are recognized, its forms will develop of themselves. The nations will accede to it because the future of humanity belongs to it. The alternative before humanity is, as the Bavarian General, Count Montgelas, briefly puts it, "*Either* the League of Nations, permanent peace, and free commerce, *or* the continuance of coalitions, armament rivalry, and economic war."

The first path leads to a new epoch in the history of mankind; the second would mean perpetual war.

Every people must throw its weight into the scale, either for the uplifting of humanity, or for its downfall.



## CHAPTER XV

### DRAFT OF CONSTITUTION OF THE LEAGUE OF NATIONS

#### 1.—*Organization.*

*Art. 1.*—The League of Nations is a permanent League for the peaceful adjustment of all questions of dispute arising between the States, and for the joint safeguarding of justice and of the welfare of the nations.

*Art. 2.*—Any sovereign State may join the League of Nations on the basis of a resolution of its legislative body. The League of Nations is considered as having come into existence when the following are among the Powers declaring their adhesion: the German Empire, Great Britain, France, the United States of North America, Russia.

*Art. 3.*—The withdrawal of a State from the League of Nations is regarded as a threat to the League, and will cause the League of Nations to take measures in accordance with Articles 34 and 36.

*Art. 4.*—The seat of the League of Nations is at The Hague, where an international bureau carries on its business.

Every League State, with the consent of its representative body, appoints a delegate to represent it for all joint actions.

Every League State has one vote at the plenary session, except for decisions in accordance with Article 39.

In such cases the number of votes is in proportion to the amount of the contributions to the expenses in accordance with Article 6.

The first-class Powers each preside over the plenary sessions for one year, in their alphabetical order in the French language.

The delegates of the League States vote in accordance with the instructions of their Government, with the consent of the national representative body.

The voting takes place in accordance with the principle of an absolute majority.

*Art. 5.*—The international bureau is directed and supervised by a standing administrative council (*Verwaltungsrat*) composed of the diplomatic representatives of the League Powers accredited to The Hague, with the Dutch Minister for Foreign Affairs as President.

The bureau transmits communications relating to the fundamental laws, has charge of the ar-

chives, and is responsible for all administrative business and publications.

The administrative council decides all questions of administration which relate to the conduct of the business of the bureau, appoints the officials and employees of the bureau, fixes the salaries and wages, and supervises matters of finance.

The further duties and powers of the bureau, and its administrative council, are determined by a special agreement.

*Art. 6.*—The expenses of the bureau are divided amongst the League States in the following proportions:

The League States are divided into three classes, of which each State must contribute according to its population.

For first-class States the contribution is threefold; for those in the second class, twofold.

The States are classified as follows for the purpose of apportioning the costs:

Class 1: All States which appoint Ambassadors.

Class 2: All the remaining States which have a population of more than five millions.

Class 3: All other sovereign States.

The expenses of the bureau are estimated for every five years in advance. The expenses which States joining the League have to bear are calculated from the day of their entry.

## 2.—*Fundamental Laws.*

### PART I.—INDEPENDENCE OF THE LEAGUE STATES.

*Art. 7.*—The League of Nations guarantees the territorial possessions of every one of the League States, as well as the undisturbed possession of their colonies.

*Art. 8.*—Each League State is completely independent in its inner political affairs, and, within the framework of the Constitution of the League of Nations, in foreign political affairs.

Each League State shall insert a provision in its criminal code, according to which utterances which are insulting or provocative in respect of other peoples or States, in the Press or in other printed publications, shall be punishable.

Each League State undertakes to insert corrections as to matters of fact in its official Press organ, at the request of another League State, and to reprint all corrections made by other League States in the same official Press organ.

### PART II.—PERMANENTLY NEUTRAL STATES.

*Art. 9.*—The States whose Governments declare their permanent neutralization, with the consent of the national representative body, are recog-

nized as permanently neutral by all the members of the League of Nations, and enjoy the protection of the League of Nations as a whole.

*Art. 10.*—The League of Nations shall act with all the means of authority at its disposal against any violation of neutrality, no matter from whom such violation may proceed.

### PART III.—OBLIGATORY ARBITRATION.

*Art. 11.*—The States associated in the League of Nations pledge themselves to refer all disputes arising between two or more of them, or between one or more of them and one or more States not belonging to the League of Nations, which it has not been possible to adjust by diplomatic means, or through the good offices or mediation of a friendly Power or several friendly Powers, to a Court of Arbitration to be set up for the special case, and to submit to the judgment and finding of the Court of Arbitration.

*Art. 12.*—All the means of authority at the disposal of the League of Nations shall be brought into play against a League State, or State outside the League of Nations, which attacks a League State by armed force, or which has recourse to arms without having appealed to the Court of Arbitration or awaited its verdict, or instead of accepting the verdict of the Court of Arbitration.

*Art. 13.*—The following provisions shall be in force for good offices and mediation:

(a) The League States agree, in case of a serious difference of opinion which it has not been possible to compose by diplomatic means, to appeal in the first place to the good offices or the mediation of one or more friendly Powers.

(b) The League States regard it as being useful and desirable that a Power, or several Powers, which are not concerned in the dispute, shall offer their good offices or mediation on their own initiative to the States which are in conflict.

(c) Every League State possesses the right to offer its good offices or its mediation. The exercise of this right shall never be regarded by one of the contending parties as unfriendly conduct.

(d) The duty of the mediator consists in accommodating the conflicting claims and removing the ill-feeling which may have arisen between the States in conflict.

(e) Good offices and mediation, whether in response to an appeal from the parties in conflict or volunteered by the Powers not concerned in the dispute, possess exclusively the character of advice, and never that of compulsive force.

*Art. 14.*—If the above good offices and mediation do not lead to a solution of the questions in dispute, the decision of a Court of Arbitration, and, in case of appeal against its finding, the de-

cision of a Supreme Court of Arbitration, shall be appealed to after the Court of Arbitration, and in particular cases the Supreme Court, have been formed.

*Art. 15.*—For the court of Arbitration each party shall nominate an arbitrator with the consent of the national representative body. The two arbitrators shall choose a President.

If the two arbitrators cannot agree as to the President, then the choice of a President shall be entrusted to a third Power, to be agreed on by the parties.

Should an agreement as to this not be reached within five days, then each party nominates another Power, and the choice of a President shall be made in agreement by the Powers so selected.

Should these two Powers be unable to agree within eight days, each of them shall propose, from the list of which particulars are given in the following paragraph, two persons who are not designated by the parties and are not subjects of one of them. Which of the persons thus proposed is to be President shall be decided by drawing lots. Each State, on joining the League of Nations, and with the consent of the national representative body, designates two persons of recognized experience in questions of international law who command the highest moral respect and are prepared to act the part of President in cases

indicated in the foregoing paragraph. The list of these persons will be kept by the Hague bureau, which will communicate it to the League States, as also any alteration in it, through death or the withdrawal of a person. Each nomination of persons, on the part of each State, shall be valid for a period of five years.

*Art. 16.*—Should the parties appeal against the judgment of the Court of Arbitration (which appeal must be lodged with the Hague bureau fourteen days after delivery of the same), a Referee, who was not an arbitrator, shall be chosen by each party to form the Supreme Court. In addition to this, each party shall request a friendly Power to nominate a further Referee who was not an arbitrator. The consent of the national representative body to these elections is necessary.

The four Referees will jointly elect a President. If the votes are equal the choice of a President will be entrusted to His Holiness the Pope, who will nominate him after hearing the friendly Powers mentioned in Paragraph 1.

*Art. 17.*—The findings of the Court of Arbitration, and of the Supreme Court, shall be published by all the League nations in their Parliamentary records and official Press organs, in every case within one month after delivery of judgment.



*Art. 18.*—The prescriptions for the procedure of the Courts are regulated by a special agreement.

#### PART IV.—DISARMAMENT.

*Art. 19.*—The States associated in the League of Nations are mutually pledged to steadily diminish their armed forces on land and sea and in the air, according to a standard, whose definition shall be reserved for a special agreement, and not to increase them again without the consent of the League of Nations. They further undertake not to use their land, sea, or air forces for any other purposes than those of maintaining internal order, defense against attacks upon their territory, and the joint executive action of the League of Nations.

*Art. 20.*—The annual expenditure for armament purposes, and the numbers of the military effectives, weapons of war of all kinds, and warships, shall be handed in each year to the Hague bureau, which will publish them.

#### PART V.—EQUALITY OF ECONOMIC RIGHTS AND THE OPEN DOOR.

*Art. 21.*—The League States mutually grant one another economic equality of rights in all territories under their sovereignty. They undertake not to hamper reciprocal through traffic

across their territories by any prohibitions of transit, and to allow free transit.

*Art. 22.*—The League States grant, reciprocally and universally, the most-favored-nation treatment.

In no case shall one State belonging to the League subject another and its subjects to higher or other tariffs, duties, taxes, or imposts, nor shall it subject it to extra taxes, nor to export or import prohibitions, which do not apply also to similar products of any other League State, or any of the States not belonging to the League of Nations.

In particular, every favor and facility, every remission and abatement of outgoing and incoming customs duties which a League State shall concede to a second League State, or to a State not belonging to the League of Nations, permanently or temporarily, without any *quid pro quo*, or with compensation, shall be extended straightway, unconditionally, without reservation or compensation, to the natural and industrial products of all the other League States.

*Art. 23.*—For the first ten years after the foundation of the League of Nations, the surplus raw products which each League State possesses shall be divided between the other League States according to a standard, whose definitions, with the provisions for putting it into effect

shall be settled by a special agreement, based upon the importations of the year 1913 in the individual States, and in accordance with the special requirements and economic conditions produced by the war and the balance of trade.

PART VI.—FREEDOM OF INTERNATIONAL  
COMMERCE.

*Art. 24.*—The States associated in the League of Nations recognize, as a principle of international law, the freedom of the seas. The straits and canals connecting seas are internationalized in so far as both shores are not the property of the same League State. Their fortresses are held and guarded by a *Kommando*, composed of contingents of all the League States, and commanded by a delegate of the neutralized States, each in turn for three years. The exact composition of the *Kommando*, and the order of succession of the command, are determined by a special agreement.

*Art. 25.*—The League States proclaim the security of private property on the high seas.

*Art. 26.*—The right of seizure of cargoes and the right of blockade are abolished.

*Art. 27.*—The exercise of the right of blockade is reserved to the League of Nations, and only to it as such, against a League State, which violates the Constitution of the League of Na-

tions, or against a State not belonging to the League of Nations which takes up arms against a League State.

*Art. 28.*—In case of a war extending to the sea between a League State or the League of Nations and a State which does not belong to the League of Nations, a League of Nations Naval *Kommando* formed by the League States, and commanded as shall be agreed in each special case, shall enter into action and shall safeguard the freedom of the commercial traffic of the League States.

*Art. 29.*—The ships of the League States and their cargoes must be treated in every League State on the same footing as national ships and cargoes. The use of railways, high roads, and other thoroughfares, canals, and all other means of communication is allowed by every League State to the subjects of all other League States, under the same conditions and subject to the payment of the same charges as the subjects of its own State.

*Art. 30.*—The submarine cables between the League States are under the control of a Commission of the League of Nations, to be appointed for this purpose by special agreement.

#### PART VII.—COLONIES.

*Art. 31.*—The League Powers pursue their

colonizing activities in a spirit of Christian civilization, and have the protection and the moral and economic education of the natives at heart.

They renounce the raising of troops in their Colonial territories.

*Art. 32.*—All States and Colonies in Africa shall be permanently neutral States in the sense of Articles 9 and 10.

### *3.—Executive of the League of Nations.*

*Art. 33.*—It is incumbent on the League of Nations, as the organized Power of the League States, to protect the Constitution of the League against any violation on the part of one or more League States, and against any hostile attitude of one or more States not belonging to the League of Nations.

*Art. 34.*—If one or more League States infringe the Constitution, particularly if one or more League States proceed to hostile action, instead of appealing to a Court of Arbitration or awaiting its decision, or submitting to its judgment, or if one or more League States exceed the effective forces agreed on for troops, weapons of war, and warships, or threaten or suspend the principle of economic equality of rights with hostile intention, or do not discharge the obligations of the League State to the executive of the League of Nations, or violate the neutrality of a

permanently neutral State, the League States pledge themselves to proceed against the offender or offenders against the Constitution by the following methods, either jointly or separately:

1. Cessation of the diplomatic relations of all the League States with the States breaking the peace.

2. Complete and unreserved isolation of the States breaking the peace by closing the frontiers between them and the League States for imports and exports, and for postal, railway, telegraphic, and cable communication and by stoppage of payment.

3. In case of need, by proclaiming a blockade in accordance with Article 27.

*Art. 35.*—The same measures shall be applied in case of a hostile threat to a League State by one or more States not belonging to the League of Nations.

*Art. 36.*—In the event of a League State breaking the peace, or one or more States, not belonging to the League, overstepping their frontiers with hostile intent against one or more League States, the League States engage themselves to give the League State or States attacked joint military and naval help, in proportion to the particular situation and requirements. In the case of a situation which threatens a League State mili-

tarily the League of Nations shall jointly take the necessary preconcerted military measures. The methods for giving effect to this provision shall be generally settled by a special agreement.

*Art. 37.*—The League State or States which take up arms without being attacked are excluded from the League of Nations by resolution of the plenary meeting of the League, which is immediately convened.

*Art. 38.*—If any member of the League sustains any economic or other disadvantage (boycott of goods, blockade) owing to a state of war forced upon it, the League States engage to assist it energetically by the reciprocal exchange of raw materials and goods.

*Art. 39.*—In the event of a war breaking out between States not belonging to the League, the League of Nations shall decide, by the vote of the representatives at a plenary meeting of its members convened for this purpose, whether it will adopt an attitude of neutrality toward the belligerents, or will express itself in favor of complete and unmitigated ostracism (*Article 34*). In any case, the attitude decided upon shall be applied equally to all the belligerents.

*Art. 40.*—All costs and losses accruing to the members of the League of Nations, individually or jointly, from the measures taken under Articles 34 to 39, shall be paid by the State which has broken the peace.





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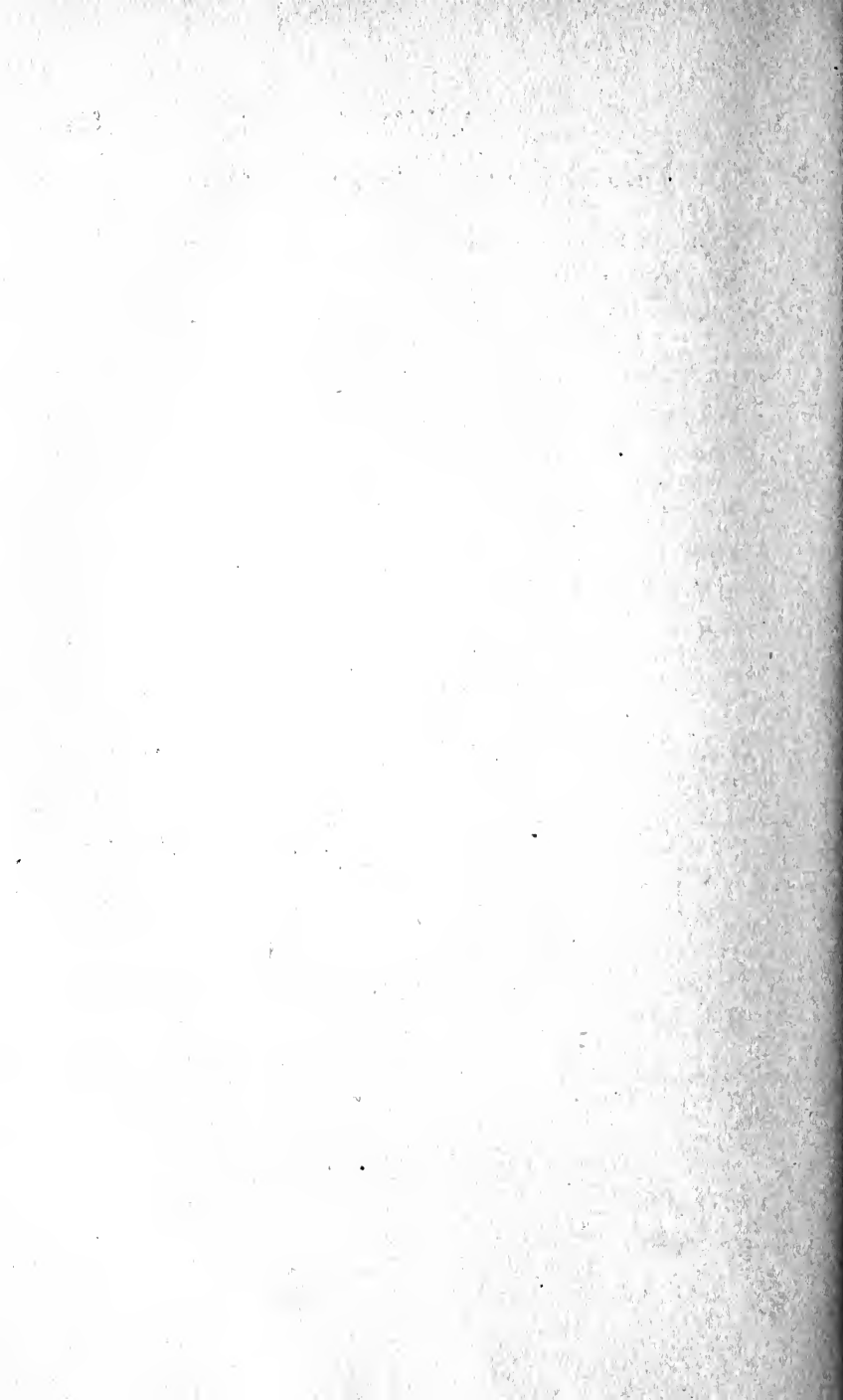
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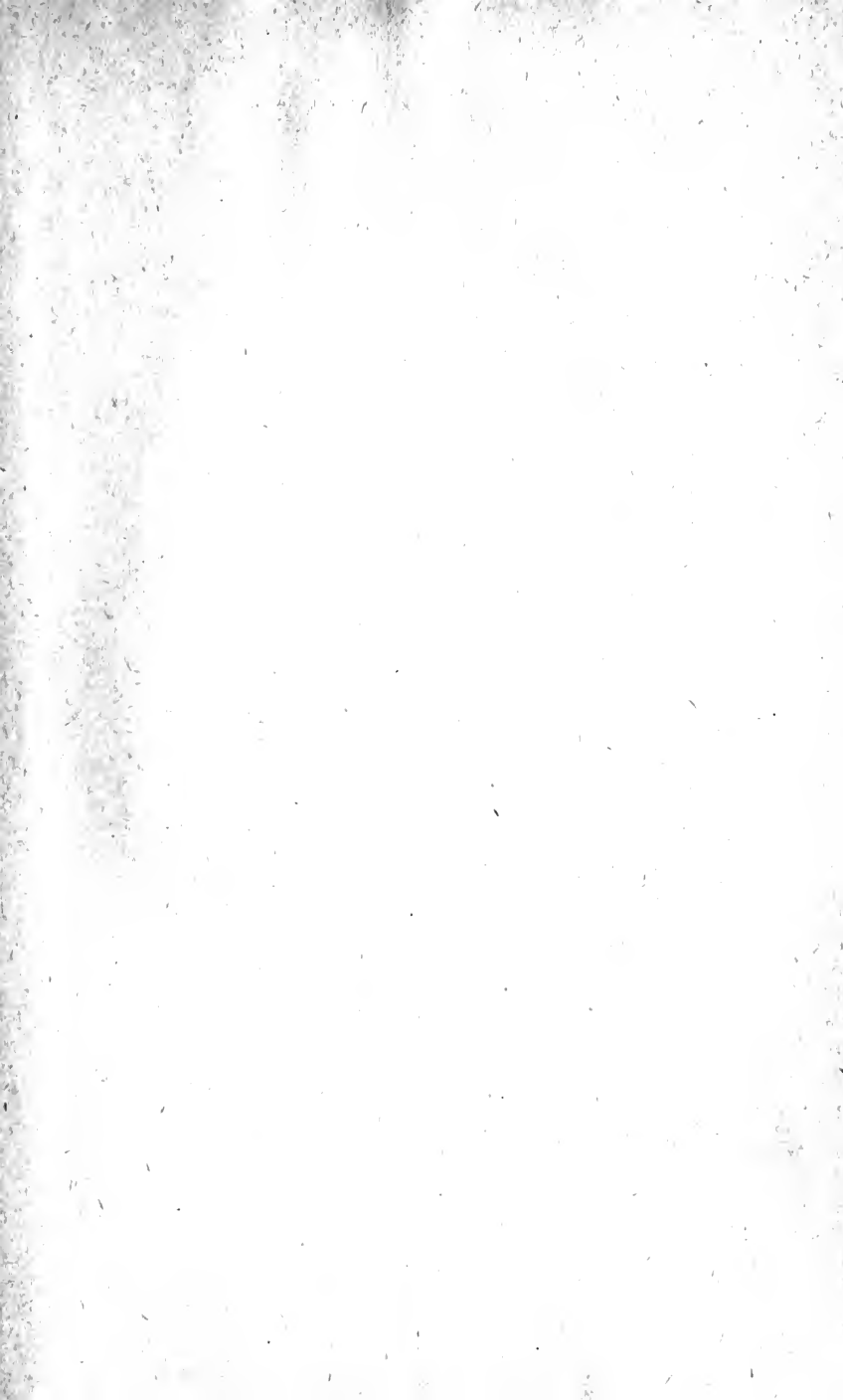
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