THE LEAGUE OF PEACE AND A FREE SEA

BY

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I.

Since President Wilson in 1916 revived the old proposals for a League of Peace, the idea of the "Freedom of the Sea" has come more and more to the front as one of its main objects. Not only has the increasing severity of the war emphasised the need of a stricter definition and regulation of belligerent rights at sea, and the need of providing them with an effective sanction, but the placing of this object in the forefront of the President's proposal was its one new feature.

The words in which he originally set forth his scheme were "A universal association of nations to maintain inviolate the security of the highway of the seas for the common, unhindered use of all the nations of the world." The modern idea of a universal association of nations, as distinguished from mediæval and pre-national ideas, is as old as the 16th century. It originated in the "Grand Design" of Queen Elizabeth of England, and Henry IV. of France, and was embodied in their Treaty of 1596, to which the United Provinces were also a party. With the death of those two great sovereigns, the Grand Design died, but throughout the two succeeding centuries it was constantly revived, both by political philosophers and practical statesmen, till at the end of the Napoleonic Wars it came into existence as the "Holy Alliance." As all the world knows, it proved a curse to Europe, and, but for sea power, would have proved a curse to the world. Under the influence of the pre-

dominating Military Powers, it degenerated into an anti-democratic conspiracy, with effects so evil that Great Britain and the United States had to set up the Monroe Doctrine to prevent its machinations extending across the Atlantic. In this object the new-born doctrine was successful. But, in examining the conceptions which the term "Freedom of the Seas" connotes, it is of capital importance to remember that from the first the Monroe Doctrine had British naval power at its back, and that it was only in this direction that the opposition to the degenerate descendant of the "Grand Design" had any real success.

To clear the ground for a frank consideration of the issue, which President Wilson has raised, it is necessary to rid it of all that makes for confusion, and to isolate its meaning with all attainable precision. To begin with, it must be postulated that it has no relation to anything but a state of war. In peace-time, by universal admission, all seas are free. True, it was not always so. Till comparatively recent times certain States claimed to treat certain seas as territory over which they had jurisdiction and possession. So far as Narrow Seas were concerned, these claims were widely admitted. Venice, so long as she remained a Great Power, was able to enforce her claim to the Adriatic, even against such Powers as Spain, while the Baltic and the Black Sea were not rendered entirely free to commerce till 1856 and 1857. But when in the 16th century Portugal and Spain sought to extend the right to the oceans, it was resisted, and it was in violently disputing these claims that the British sea power was born. It grew to manhood, moreover, in similar irreconcilable resistance to the Dutch when they, in their turn, sought to close the Far Eastern Seas in succession to the Portuguese, and were nevertheless disputing the British claim to the dominion of the Narrow Seas. That claim the British established as a result of the three Dutch Wars, but it remained a dead letter, only kept in mind by the exaction of the salute to the King's ships. Even this vanity by the end of the following

century came to be regarded as a meaningless anachronism, until at the end of the Napoleonic War, when British sea power was at its zenith and undisputed, the salute was voluntarily abandoned as a relic of mediævalism wholly incompatible with the ideals for which Great Britain had been fighting throughout that epoch-making struggle.

Well known as are these elementary facts, it is necessary to recall them and keep them clearly in mind if we are to view, without distortion, what it is that has been laid before the world for discussion. When a solemn appeal is made to the higher ideals of mankind for such an object as the Freedom of the Seas—by the Chief of a great and respected State, and with all the dignity of a high international act—we are at once inclined to make two assumptions: the one that Freedom of the Seas does not exist; the other that it is attainable. In the present case neither assumption can be admitted. In time of peace, as we have seen, Freedom of the Seas exists already; in time of war it does not exist, never has existed, and at no time has it ever been put forward in its entirety by serious authority as an ideal for international politics.

In all ages public opinion has agreed—as one of the most permanent and well-established canons on the Law of Nations—that it is in the essence of things that in time of war neutrals must submit to some derogation from absolute liberty of commerce upon the sea. The presumption, therefore, is that hitherto complete Freedom of the Seas in war-time has been universally regarded as practically unattainable. It is probable that it is still so regarded. For, though in no public utterance has the President defined what he means by Freedom of the Seas, there are indications that, as an experienced statesman, he realises the impossibility of absolute freedom so long as naval warfare is admitted as part of the machinery of international relations. It may, or it may not, be a practicable ideal to suppress naval warfare altogether, but for reasons that will appear later it is not

practicable to retain it and at the same time enjoy absolute Freedom of the Seas.

What, then, the world is solemnly invited to consider is not absolute Freedom of the Seas, but how far belligerent rights upon the sea can be reduced below previously admitted canons without entirely suppressing the right of making naval war; or, alternatively given the right of waging war upon the sea, what is the smallest derogation from the Freedom of the Seas to which neutrals should be asked to assent.

II.

Having determined the conception of the Freedom of the Seas as a question which only arises in time of war because such freedom already exists undisputed in times of peace, and having broadly defined it as a question of reducing belligerent rights over neutral commerce to the lowest degree compatible with the admission of naval warfare, we have to inquire what the expression connotes in practice.

As expounded by its more advanced advocates, it means the total abolition of the practice of capturing private property at sea, and extremists would even have the prohibition extended not only to neutral property, but to that of the belligerents themselves. To them it appears intolerable that because navies contend with one another, peaceful merchants and fishermen, whether neutral or not, should not be allowed to go about their business in peace. It is only to the sea that this aspiration extends, for no one has yet been found seriously to contend that, while armies make war, peaceful merchants and husbandmen should be allowed to go their way unmolested by requisitions and free to pass where they would. It is clearly seen that such a curtailment of the belligerent rights on land would make the work of armies impossible. Even if battles could be fought at all, they

could lead to nothing. The fruit could not be gathered. If non-combatants and private property were immune from all restrictions, the pressure by which one belligerent forces its will upon the other could never be exercised. For it is not successful battles that bring peace, but the fear or experience of what these battles give the victor power to do. On land it is clearly understood that military successes of the victor give him the power to choke the national life of his adversary so that there is nothing left but to submit or perish.

With the less familiar contests on the sea, this has never been so self-evident. To the great majority of landsmen, naval warfare seems a far-off struggle in which fleets contend in defence of their coasts and cruisers prowl for booty. It is not generally understood that fleets exist mainly to give those cruisers liberty of action against the enemy's commerce, nor that, unless the cruisers can push their operations so far as actually to choke the enemy's national life at sea, no amount of booty they may get will avail to bring the war to an end. It is only by the prevention of enemy's commerce that fleets can exercise the pressure which armies seek, in theory or practice, to exercise through victories ashore; and it is only by the capture and ability to capture private property at sea that prevention of commerce can be brought about. Without the right to capture private property, naval battles become meaningless as a means of forcing the enemy to submit. Without that right a naval victory can give nothing but security at home and the power of harrying the enemy's undefended coasts—a form of pressure which no one would care to sanction in these latter days.

It comes, then, to this—that the total prohibition of capturing private property at sea amounts in practice to a prohibition of effective naval warfare altogether. That may be a pious aspiration, but it is not at present under discussion. It is to be assumed, therefore, that what is now submitted to the judgment of the nations is, at most, liberty for neutrals to trade freely with belligerents.

But, in fact, the claim to Freedom of the Seas has never been placed so high, for two restrictions have always been admitted—the one is the right of a belligerent to seize contraband of war, and the other that neutral trade must not interfere with warlike operations. On the latter ground military blockades have always been admitted, a military blockade being the blockade of a naval port or a port against which siege operations are in progress. But this right has not yet passed unquestioned for commercial blockades—that is, blockades whose object is the prevention of trade without any direct relation to specific military operations. The legitimacy of such blockades has frequently been disputed, particularly in America, on the ground that neutral trade with belligerents is free so long as it is not carried on with a port against which operations are actually in progress.

The contention that neutral trade with a belligerent should enjoy its natural freedom, so long as it does not interfere with operations, is undoubtedly of great weight, but it has never availed to undermine the general feeling that commercial blockade is a legitimate operation of war to which neutrals should submit. The reason is that in the initial proposition there lies a fallacy. Trade is essentially reciprocal, and trade with a belligerent is not solely neutral trade; it is also belligerent trade, and here the rights of neutrals come into direct conflict with the rights of one belligerent to prevent the trade of his enemy if he can. It is a very practical difficulty. For it is obvious that if a belligerent is free to carry on his commerce in neutral ships, his enemy will scarcely be able to exercise more effective pressure from the sea than if belligerent trade were free altogether. Naval warfare would then be hardly more important than if interference with trade were barred entirely. To meet this obvious injustice to Naval Powers, neutrals, in derogation of their liberty upon the seas, have always conceded the right of commercial blockade, as well as the right to seize contraband of war. By the first, a dominant Naval Power can still prevent

the national life of his enemy being nourished by neutral agency; and, by the second, he can prevent him receiving by the same means the sinews of war.

III.

From the foregoing considerations it is clear that, as a question of practical international politics, Freedom of the Seas means nothing more than liberty of neutrals to trade with belligerents subject to the time-honoured restrictions of blockade and contraband. Descending from idealistic conceptions to the questions which a world congress would have to decide, we find the sole matter is how and to what extent these two derogations from free intercourse between neutrals and belligerents are to be allowed to continue.

The outstanding new factor in the old problem is the deplorable extent to which both derogations have been strained in the course of the present war. The powerful belligerents that have been arrayed against one another have, apparently, taken the law into their own hands and pushed it farther and farther beyond the old limits as the revolutionary developments of the art of war drove them from exigency to exigency. And neutrals have sullenly acquiesced, partly because they realised the consequences of those developments, and partly because at no point did a new step or a refusal of redress seem to justify a resort to arms. But this acquiescence was only possible in view of a settlement at the end of the war. As President Wilson recently told the American Senate—for all the world to hear—"A radical reconsideration of many of the rules of international practice hitherto thought to be established may be necessary to make the sea free and common in practically all circumstances for the use of mankind." The pronouncement clearly adumbrates not only a reversal of recent develop-

ments, but a larger measure of freedom than that which was regarded as established before the war began.

"It need not be difficult," he added, "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." So far as the words are an inspiring exhortation to face and overcome the difficulties by mutual effort, all men will give cordial assent. But if we are to see fruition, the first step is to realise the difficulties. Those who have borne the heat and burden of the day, and shrunk from each unwilling advance, know that they are not small. Some, at least, of those advances have even been felt as possibly inseparable consequences of certain developments of war conditions which it is beyond the power of Governments to control.

Taking first the question of contraband, it is to be noted that so long as nations fought with comparatively small standing armies, and comparatively few weapons and simple material, it was possible to restrict the list of contraband to comparatively few articles easily earmarked as material of war. But when armies and the services that feed them become indistinguishable from the nation, and when the vast concourse of fighters and workers calls to its aid all the resources and commodities known to a highly developed modern science, the list of war material tends to expand so rapidly that it is almost impossible to fix for it a logical or stable limit.

Similarly with blockade. So long as it was possible —subject only to weather conditions—for a squadron to lie close off an enemy's port indefinitely, or until it was dislodged by superior naval force, there was no difficulty about framing rules for blockade. But with the advent of the mine, torpedo and submarine, the conditions which made for simple regulation disappeared. The result has been not only that the latitude allowed to a blockader has had to be greatly extended, but the regulations as to what is permissible have lost their old precision, and the door is open for indefinite claims on both sides.

Nor do the difficulties and uncertainties raised by modern developments end here. They seem also to stand in the way of seeking a solution on the lines of distinguishing between military and commercial blockade, which weighty neutral opinion favours. For when the nation merges into the army, and when, as a direct result of the evolution of the mechanical and scientific aspect of modern warfare, the whole country is organised as a war base, military and commercial blockades become almost indistinguishable.

In this connection, moreover, it must not be overlooked that another profound modification has set in with the vast development of inland communications. Their relative importance to national life, as compared with sea communication, has greatly increased, and has given to armies an unprecedented increase of power. It is not only that armies have become relatively more mobile than fleets, but as the vast hosts that make the armies of to-day against an enemy's country, they automatically set up a commercial blockade of a severity that fleets were never able to compass. To deny to naval forces what cannot be denied to military forces is by no means an easy matter, if justice to all men is to be done, and yet such injustice would seem to be unavoidable if Freedom of the Sea in any sense is to be a permanent condition of war.

It is evident, then, as soon as we approach the question in a serious spirit, that, with all the goodwill in the world, the difficulties of finding an antidote for the intolerable conditions that have arisen is by no means easy. And the main reason is that the recent extensions of belligerent interference with neutral trade are not due merely to the caprice or convenience of powerful groups of nations, but are a direct reaction upon unstable conceptions of International Law, which has arisen from the normal evolution of war material.

IV.

Enough has now been said to show that the question which has been laid on the international table is full of thorns, and is one in which are involved the most fundamental conceptions that have hitherto governed the regulation of naval warfare. This being so, the first need is to get rid of all expressions which tend to mask the issue.

The form of words which President Wilson has chosen to embody his lofty aspiration is not entirely free from this danger. "Freedom of the Sea" is one of those ringing phrases which haunt the ear and continue to confuse judgment. Until its distracting iteration is silenced, we cannot hope to make progress to better things. It does not accurately convey his meaning, for in its literal sense it does not embody a practical policy, and it is a practical policy that he is recommending to the world. For the reasons already given, Freedom of the Seas cannot exist so long as naval warfare is allowed to exist, since without some substantial measure of permission to command the sea navies, except as the mere adjuncts of armies, cease to have a meaning.

It is no poet's dream of absolute Freedom of the Sea that he is asking the nations to consider. If it were so, no Naval Power—however attractive the dream—could listen. What he really asks for is a restriction of belligerent rights as against neutrals. That is a practical policy that can be received by all with sympathy—even with hope. For all must deplore some at least of the recent extensions of belligerent interference with neutral commerce, and the waste and suffering they have caused without adding materially to the effect of naval action on the issue of the war. There are few to be found who would not welcome saner and more humane regulations, even at the cost of diminishing to some extent the influence of Naval Power. But such regulation, however far it can be carried, must always fall far short of absolute Freedom of the Sea.

It is not to be doubted that every Naval Power would take its seat at the council table in the spirit with which it has been invited. But lest their attitude be misunderstood, there is one consideration they would candidly ask should never be lost sight of in the deliberations. It is this—that since the influence of Naval Power in the world is measured by the extent to which it can exercise command of the sea, every restriction in this direction, though it makes towards the desired Freedom of Sea, tends to diminish the influence of the Naval Powers. And as it diminishes the influence of Naval Powers, so it gives fresh relative strength to the Military Powers.

Is this what President Wilson, and those who are moving with him for Freedom of the Sea, desire? Do they believe that it is in the interest of the world, of civilisation and humanity, that the long-established balance between Naval and Military Power should be seriously disturbed? Is it in accordance with these high interests that the influence of Naval Powers should be reduced in relation to that of Military Powers? Surely on their past record there can be but one answer. For that answer the Naval Powers can afford to wait as long as it is remembered that beneath the question of Freedom of the Seas there lies another which is deeper and more vital to the whole fabric of international relation.

Before entering the council which is proposed, this paramount consideration may surely be urged without mistrust; for upon it rests the practical success of such a council. Indeed, unless it be borne in mind and given adequate consideration, President Wilson's promising revival of the old scheme for preserving perpetual peace must fall to the ground like its predecessors. Admittedly it depends for its practical working not only on goodwill, but also on a sanction of international force. But, if we attain to anything approaching Freedom of the Sea, Powers that are mainly naval—like the United States and Great Britain—will lose their capacity for contributing to that force on a scale that their position as Great Powers demands. The work of enforcing the decrees of

the great council of the nations will fall mainly upon the leading Military Members, and with the power to enforce the decrees will go the power to shape them. For it is only too well known that in the international council chambers the weight of a councillor's argument is in proportion to the armed force he represents.

The same condition will then be set up under which the Holy Alliance perished unregretted. As that concert of the nations, from which so much had been hoped, degenerated into an instrument of obscurant autocracy, so should we in our turn be in danger of handing over the future of the world to the arbitrament of a tribunal fundamentally opposed to all the democratic ideals for which this war has been fought.

Doubtless the President is well aware of the danger that lurks behind his great appeal. But how many of those to whom it was made have his clearness of vision? "The paths of the sea," he said, in his moving speech to the Senate, "must alike in law and in fact be free. The Freedom of the Seas is the *sine quâ non* of peace, equality and co-operation." That is true enough in the right sense. But it must be remembered that there are those for whom Freedom of the Seas means little else than Anarchy, and that what the Anarchists of the Sea would persuade the world is the fair high road, even the only road to the President's goal, leads direct to inequality and away from true co-operation. Yet, if we consider the machinery by which the end is to be obtained, this is certainly true. In that it would so seriously affect the executive ability of the Naval Powers, it would destroy equality and cripple co-operation. How, then, should we preserve peace? Let no one believe that the President, in fixing his gaze with too much intensity on what his Council might achieve, has overlooked the effect which the first act of the Council would have upon its virility. He is not a man to ask that it shall inaugurate its work by breaking up half the machinery by which alone that work can be made good. If this were what he meant, how could those who have perfected that machinery, whose existence depends on it,

whose only means of action it is—how could they hope to retain an effective voice in the deliberations? Assuredly, as the President's deep study of the problem must have convinced him, neither the Council nor its work of peace could long survive such a beginning.

It is in no captious spirit that this warning is given. A long and rich experience of what the naval arm can do in preventing war leaves no doubt in British opinion that, if it were proposed seriously to weaken that power, the President's greater aim of a League of Peace would be infected at its birth with the germs of a fatal disease. A League of Peace is hard enough to form with everything in its favour. Again and again it has failed. There is much in its favour to-day, and now that it is put forward with greater weight and greater hope of success than ever before, the first duty of those who sincerely welcome the new "Grand Design" is to guard against this confusion of the end with the means which can only destroy all chance of seeing it realised as a lasting solution of international discord.

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