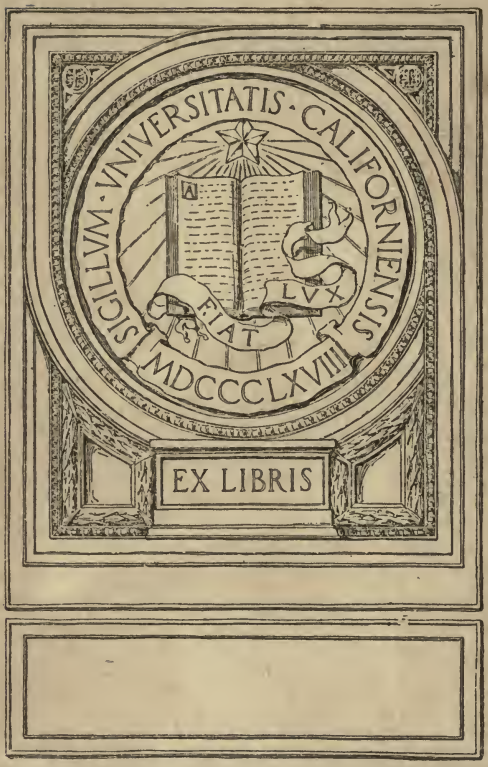
SIGILLVM · VNIVERSITATIS · CALIFORNIENSIS
LVX
FIAT
MDCCCLXVIII
EX LIBRIS

PROBLEMS OF THE INTERNATIONAL SETTLEMENT

PROBLEMS OF THE INTERNATIONAL SETTLEMENT

NEW YORK: THE MACMILLAN COMPANY
LONDON: GEORGE ALLEN & UNWIN LTD.
1919

INTRODUCTION

BY

G. LOWES DICKINSON

THE papers included in the present volume (with the exception of the last three) are reproduced, and (where the original is not in English) translated, from the *Recueil de Rapports* published by the "Central Organization for a Durable Peace." This is an international association, founded at The Hague in 1915, to study and advocate such a settlement at the conclusion of the war as will guarantee a durable peace. Its programme is as follows :

1. No annexation or transfer of territory shall be made contrary to the interests and wishes of the population concerned. Where possible their consent shall be obtained by plébiscite or otherwise.

2. The States shall guarantee to the various nationalities, included in their boundaries, equality before the law, religious liberty and the free use of their native languages.

3. The States shall agree to introduce in their colonies, protectorates and spheres of influence, liberty of commerce, or at least equal treatment for all nations.

4. The work of the Hague Conferences with a view to the peaceful organization of the Society of Nations shall be developed.

The Hague Conference shall be given a permanent organization and meet at regular intervals.

5. The States shall agree to submit all their disputes to peaceful settlement. For this purpose there shall be created, in addition to the existent Hague Court of Arbitration, (*a*) a permanent Court of International Justice, (*b*) a permanent international Council of Investigation and Conciliation.

6. The States shall bind themselves to take concerted action, diplomatic, economic or military, in case any State should resort to military measures instead of submitting the dispute to judicial decision or to the mediation of the Council of Investigation and Conciliation.

7. The States shall agree to reduce their armaments.

8. In order to facilitate the reduction of naval armaments, the right of capture shall be abolished and the freedom of the seas assured.

9. Foreign policy shall be under the effective control of the parliaments of the respective nations.

Secret treaties shall be void.

With this programme may be compared that of the French *Association de la Paix par le Droit*, given on p. 200 below.

The circumstances of the war having prevented the meeting of international conferences to discuss and elaborate this programme, the method was adopted of appointing committees to collect information and draw up reports on the various topics involved. Hence the *Recueil de Rapports*, of which four large volumes have now been published, and from which the present selection has been made.

Almost all the papers here included were published in

1916, and therefore before the Russian revolution, the entry of the United States into the war, and the peace of Brest-Litovsk. Some statements, therefore, will be found to be out of date, and some comments which might otherwise have been expected will be missed. But inasmuch as the papers deal, not with the specific terms on which the present war can be ended, but with the principles which must govern the settlement, if it is to be durable, their value is not affected by this circumstance. That value, for English readers, consists perhaps mainly in the presentation of the views of continental thinkers, and especially of representatives of the small neutral States, upon some of the questions with which English and American writers have been prominently concerning themselves. It would seem, from these specimens, that while there is a remarkable general agreement as to the lines upon which international reconstruction should proceed, continental writers are, on the whole, more conservative than Anglo-Saxon, and more desirous to avoid a sharp breach with the past. It may be questioned whether this caution is really as prudent as it appears. For a disease as fatal and as violent as the international anarchy mere palliatives may be of little use. There must be drastic change, first in the spirit animating nations, and then, as a consequence, in institutions, if civilization is to be saved from the menace with which it is threatened. Such changes must derive their impulse not from Governments and Foreign Offices, but from the people. And an appeal to the people must be bold and uncompromising, in the manner of Mr. H. G. Wells, if it is to be effective. It is not, therefore, as popular propaganda that these papers are put forward. But they will be interesting to students, and to all who desire to come into contact

with continental views, and to estimate the degree and character of their divergence from those of Englishmen or Americans.

It will be seen that some of the papers are by Germans or Austrians. The fact that we are at war with these nations should not blind us to the fact—which is indeed the principal hope for the world—that the same desire for a durable peace which is felt among ourselves is felt also among the enemy peoples; that there too, even during the war, they have been pondering the problems and suggesting solutions; and that no final conclusions can be drawn, from the actions and aims of the militarist faction now in power, to the general character and purpose of the nations thus controlled.

The following notes on some of the authors may be of interest to the reader :—

Bernstein, Edward, is the well-known leader amongst the Minority Socialists in Germany. He is well acquainted with this country, having lived here for some years.

de Jong van Beek en Donk, Jongheer Dr. B., is the Secretary of the Central Organization for a Durable Peace at The Hague, the body responsible for the publication *Recueil de Rapports,* from which most of the papers in this volume have been taken.

Fried, Dr. Alfred Hermann, born in Vienna in 1864, is the editor of *Friedenswarte.* He was awarded the Nobel Peace Prize in 1911, and is one of the most active workers in the International Movement. He established the *Annuaire de la Vie Internationale* in 1895, and has written voluminously upon questions of peace and war. Since the beginning of the present war he has resided in Switzerland.

Gide, Professor Charles, is the well-known Professor in the Faculty of Law in the University of Paris.

Hull, Professor William I., Professor of Law in Swarthmore College, U.S.A. Author of *The Two Hague Conferences and their Contribution to International Law,* 1908; *The New Peace Movement,* 1909; *The United States and the Hague Conferences,* 1910.

Lammasch, Dr. Heinrich, is a member of the Austrian Upper House, and one of the most prominent jurists in Europe. He is a member of the Hague Court, acting as one of the judges in four

different international disputes referred to the permanent Court of Arbitration. He has written on questions of international law and arbitration.

Lange, Dr. Christian L., born in 1869, is a prominent Norwegian, who since 1908 has been General Secretary of the Inter-Parliamentary Union, residing at its headquarters in Brussels. Dr. Lange was for many years Secretary of the Nobel Committee and Institute, where he organized the library of 15,000 volumes on international and national law and sociology His position as Secretary of the Inter-Parliamentary Union has brought him into constant direct touch with political leaders and politicians of all nations.

Schücking, Professor Walter, Professor of Law at Marburg University. Professor Schücking has written many books on international law, the Hague Conferences, and world organization, and is a foremost authority on these in Germany.

Association de la Paix par le Droit. This society is one of the principal pacifist organizations in France, having twenty or thirty branches throughout that country. Its President is Professor Ruyssen, of Bordeaux, and its periodical and ably conducted monthly review *La Paix par le Droit,* which title expresses largely the nature of its propaganda.

The subjects dealt with in the papers may be grouped under three heads—Nationality, International reorganization, and Democratic control. A few comments upon each of these headings may be useful.

I. Nationality.

It has been the claim of the allied nations from the beginning of the war that they are fighting for the rights of small nations, and for such readjustment, more or less radical, of the political map as will make a stable basis for that proposed League of Nations which is generally regarded, in those nations, as the foundation of a durable peace. In the paper by M. J. Gabrys, which opens this volume, there is printed a " Declaration of the Rights of Nationalities," characteristic of the French method of approaching these great questions. It is, in fact, a counterpart of the famous Declaration of the Rights of Man which heralded the great revolution. The general principle

is affirmed against the existing facts ; and its recognition is demanded, without limitation or compromise. Such complete recognition implies first (in the words of the Minimum Programme) that " there shall be neither annexation nor transfer of territory contrary to the interests and the wishes of the population." If this principle were honestly adopted by all the belligerents, a principal difficulty in the way of the conclusion of peace would be removed. For it is the desire, on both sides, to appropriate territory belonging to the enemy for strategic, commercial, or other such reasons, that helps to prolong the war. The treaty of Brest-Litovsk and all that has followed from it shows how far the enemy Governments are from accepting the principle of " self-determination " ; and, on the other side, the treaties entered into, since the war began, by the allied Governments show that they too have been pursuing aims of conquest. Such aims, if achieved on either side, must imperil, if not destroy, the future peace of the world. The only transfers of territory that can lay a foundation for a new world are such as are made simply and solely to satisfy the legitimate desires of the populations concerned. A declaration in the preliminaries of peace, in the sense of the first point of the Minimum Programme, followed by the constitution of an international court to investigate and determine the claims of nationalities, would be the proof, and the only proof that could be convincing, that Governments and nations really do adhere to the principles they have professed, and intend a world based not on force but on right.

What makes it so difficult to adopt this course, is the fact that all the great States comprise (with their dependencies) a number of nationalities, or of subject peoples ; and while each group of belligerents is anxious to

" liberate " those of the enemy group, neither is prepared to liberate its own. Thus, for example, few of those who desire, in the name of nationality, to dismember Austria-Hungary would consent to the separation of Ireland from Great Britain. We have to recognize that modern empires are in great part not expressions but contradictions of the idea of nationality, and that loyalty to the existing state implies, in many important cases, hostility to national claims.

It is this fact that makes so difficult the solution demanded by M. Gabrys, namely, that any nationality should have the right to appear before an international authority and put in its claims for self-government. Every State considers its own nationality problems as domestic affairs, while ready to regard those of other States as of international concern. This attitude must be abandoned if any real progress is to be made towards the ideal of self-determination. But it will not be easily or rapidly abandoned, as readers will probably admit, if they study in this volume the very sceptical paper by William Levermore. This American writer represents, indeed, the opposite pole to M. Gabrys. He is as ultra-conservative as the Frenchman may be thought ultra-radical. The former represents the average opinion, at present, in all States. But the latter represents what must be the ideal of the future, and the near future, if questions of nationality are not to continue to disturb the peace of the world.

It is true that, even if the principle of nationality were genuinely admitted by all Governments and peoples, very great difficulties would remain in its application, as may be illustrated by the cases of Ireland, of Bohemia, or of Posen ; difficulties which are due mainly to the impossi-

bility of separating off under independent administrations all the national fragments. But the admission of the principle would pave the way for real solutions; while its denial, in the name of the State, must make any solution impossible. It is the nation that represents the principle of self-government. The State, where opposed to the nation, represents that of coercion. The elimination of the ideal of the coercive State, and the substitution of that of free co-operating groups, is the first condition of a peaceful world. But that change can hardly come in a moment. And we shall have to be content with such approximation as the situation at the end of the war may render possible.

II. The idea of a League of Nations has been so generally accepted, since the adoption of the Minimum Programme, that it is hardly possible that the allied nations should not make a serious attempt to give it reality. But there are, of course, great differences of attitude, and many ambiguities covered up by the phrase. In this place the following points may be noted.

First, an all-inclusive League would abolish the conception of neutrality. For no member of the League could refuse to take sides against a State breaking the treaty of the League. It is natural that small States, neutral in the present war, should hesitate at such a prospect. This hesitation is expressed in the paper by the Committee of the Dansk Fredförening. On the other hand, the present war has shown that in every way except loss of life (certainly an important exception) neutral States are likely in modern wars to suffer as much or more than belligerents. No one has a greater interest in the maintenance of peace than the small non-military States. And for that reason they will probably be pre-

pared to accept the obligations of membership in a League united to keep the peace. This attitude was recently expressed as follows by M. Cort der van Linden in the Dutch Senate.

M. Colijn : . . . L'adhésion d'un petit état à une Société des Nations générale comporte cette difficulté-ci. Si plus tard des differends surgissent quand-même entre les grandes Puissances, les petites puissances auraient déjà renoncé d'avance au droit de rester neutres. Voilà en effet une considération de grande importance pour les petites nations. D'ailleurs *il faudra savoir d'abord quelles sont les conditions de cette paix garantie par la Société des Nations.* Car, s'il s'agissait de sanctionner une victoire (quel que fût le parti qui la remportât) et de la faire sauvegarder par la Société des Nations, je considérerais comme doublement dangereux de faire part d'une pareilli société. . . .

M. Cort der van Linden, Président du Conseil des Ministres : . . . On a parlé du problème de la Société des Nations. On doit bien s'entendre sur sa signification. J'entends par là une ligue de nations qui accepte un désarmement universel ou au moins une réduction des armements considérable et qui ouvre la voie à un règlement des différends internationaux par des moyens pacifiques. Qu'on ne puisse point applaudir a une Société des Nations imposée par la victoire, j'en conviens parfaitement, mais je vais plus loin. *Une pareille Société des Nations est une contradictio in terminis,* car une Société des Nations—pour qu'elle ait un sens—ne doit point être basée sur la force militaire, mais sur la conviction du droit des peuples qui y participent. Cette réalisation serait-elle possible ? On ne le dirait pas, mais je n'oserais me prononcer là-dessus.

Mais ce que j'ose bien dire, c'est qu'il s'agirait du salut universel si cela était possible. Or, l'honoré député a dit : il s'agit de savoir si cela serait bien avantageux pour les petits êtats neutres, puisqu'ils sacrifient alors le grand privilège de rester neutres.

C'est vrai, Monsieur le president, mais chacun qui est appelé à participer à une communauté ainsi conçue, doit sacrifier quelque chose, c. à. d. une partie de sa souveraineté, et je suis convaincu que *cette ligue fût-elle réalisable vaudrait bien pareil sacrifice.* . . .

Even if the smaller States, or some of them, stood out, a League which is really to be one of peace, not of war, must include all the Great Powers. Professor Schücking points out (p. 35) that " we must at once exclude from any consideration of an international settlement the

thought of a mid-European alliance of States, for that would be specifically German" ; and for a similar reason we must exclude a League of the present allied nations. Such a League, of course, may be necessary as a *pis aller*, if the Central Powers should definitely refuse to enter into an international organization. But it could not be a League of Nations such as we desire. It would be an alliance directed against another alliance, and implying the expectation of, and preparation for, a new war. The question of the inclusion of our present enemies in a League ought to be treated not sentimentally, but realistically. If they come in, peace is possible ; if they do not come in, it is impossible, and this war has been fought in vain. Whether they will come in or not no one at this moment can say. But we may say with certainty that nothing should be done which will make it difficult for them to come in.[1] This consideration should not be forgotten when we approach the controversial question whether or no a League should be formed between the allied nations before the end of the war.

But the question that is raised most prominently in these papers is whether the proposed League should build on the foundation of the Hague Conferences. Two of these, the reader will remember, have been held, in 1899 and 1907, and at the second practically all existing States were represented. The Minimum Programme presupposes that a League to keep the peace will proceed by developing The Hague institutions ; and that is the standpoint of all the papers in this volume dealing with the subject. On the other hand, the American "League to Enforce Peace" and the English "League of Nations Society"

[1] Note that the programme of the "Association de la Paix par le Droit" lays it down that every Power "which shall accept the convention in its entirety" should be admitted to the League.

tacitly ignore The Hague; and seem to propose a quite new organization, which may comprise a much smaller number of States, and be differently organized There may be, on this point, an important cleavage between Anglo-Saxon and Continental advocates of the League.

The fact that the very rudimentary organization created at The Hague had no influence whatever in preventing the present war has naturally, but unjustly, discredited the work there accomplished. The Hague Conferences certainly mark a notable advance in internationalism. But it is clear that we must be prepared, and that immediately, to go very much farther, if we are to be saved from a repetition of this calamity. The main defects in The Hague institutions (defects due to the timidity and scepticism of Governments and public opinion) are the following :—

1. The Conference is not a permanent institution, meeting periodically.
2. No convention can be adopted except by unanimity.
3. Every State, great or small, has one vote only.
4. Recourse to arbitration is optional only.
5. There is no sanction against a law-breaker.

Towards remedying these defects the following suggestions will be found in these papers [1] :—

1. The Conference to meet at fixed periodical intervals, and to be provided with a permanent administrative committee.
2. Decisions to be taken by majority vote (Schücking, p. 42).
3. Greater voting power for the Great Powers, which must always bear the heaviest responsibilities. But on

[1] See especially those by Lange, Schücking, Lammasch, and Hull.

this point only very tentative suggestions are to be found in these papers (see pp. 33 and 49).

4. The creation of that Permanent Arbitral Court of Justice which failed to get acceptance in 1907; the creation of a Council of Conciliation for cases not capable of judicial decision; and a general agreement to refer *all* disputes to peaceable settlement. In this connection the remarks of Lammasch on the exceptions (usually introduced in treaties of arbitration) of cases involving honour or vital interest are specially worth noting (p. 54).

5. The creation of some form of sanction against States that may break the treaty constituting the League.

This question of sanctions is one of the most difficult and controversial connected with the project of a League of Nations. The view is held by many pacifists that the attempt to secure peace by force is self-contradictory, and must fail. But most supporters of a League of Nations admit the necessity of some form of sanction, either military or economic, or both. In these papers there is a pretty general agreement that military force must be applied against a State which attacks another contrary to the covenants of the League. The force generally contemplated is a combination of the national forces of the States included in the League. This is sometimes called an international force. But that name should more conveniently be reserved for a force not at all under national and wholly under international control. Such a force, as Hull forcibly argues, could not be created until and unless national forces had been reduced to the dimensions of a police.

The application of force by the League would probably necessitate something like an International Executive.

And an elaborate scheme for the constitution of such an Executive will be found in the paper by Ödon Makai.

An actual armed attack can only be met by arms; but against breaches of the agreement, short of that, economic pressure might suffice. An interesting discussion of the boycott as a sanction has been drawn up by a Dutch committee, and is included in the present volume. It contains some account of spontaneous "boycotts" of the goods of one nation by the people of another, and a full discussion of the difficulties, concluding, with what seems an excess of scepticism, against anything more drastic than a refusal on the part of the States of the League to export munitions of war to a nation which "intentionally violates international justice in order to attain by force its own end."

On the question of disarmament (perhaps the most fundamental of all) the papers are very cautious. "Disarmament," says the programme of the Association de la Paix par le Droit, "is not the instrument for creating peace, it presupposes peace." In other words, the League must first be formed in order to create the possibility of limiting armaments. But, on the other hand, it is precisely the existence of armaments which makes it so difficult to form the League, since armaments create and maintain universal suspicion and fear. There is no escape from this circle, except the heroic measure of a complete all-round disarmament. Meantime the proposal of the Dutch Committee that the Powers should simply agree not to increase, during a period of years, the armaments they have at the moment the war ends seems, to say the least, otiose. For our worst fears would hardly contemplate the maintenance during peace of the forces the States have created for the war.

Closely connected with the question of armaments is that of the "Freedom of the seas." This is, above all, a British question, for hitherto British naval supremacy has been the dominating fact of the situation. During this war the phrase "Freedom of the seas" has naturally become very suspect in England, because it is used, by one section of Germans, to mean nothing else than the destruction of British naval supremacy. It is certain, however, that there really is a question, and one which the British will not be able to evade after the war, in their own interest, as much as in that of the general comity of nations. The question is too complicated to be entered upon here. But it may be said, briefly, that if a League of Nations is formed, the guarantee of the freedom of the seas may become a function of the League; and the League will certainly not guarantee that freedom to any State making war contrary to its treaty obligations. President Wilson's view is expressed in the following words from his speech to Congress on January 8, 1918: "Absolute freedom of navigation upon the seas outside territorial waters alike in peace and in war, except as the seas may be closed in whole or in part by international action for the enforcement of international covenants." [1] The article on the subject included in this collection deals in an interesting way with some of the points involved. But it does not consider the question in the light of the new conditions that would be created by a League of Nations.

III. On the important subject of democratic control we have a paper by Bernstein, one of the leaders of the Independent Socialists in Germany. It contains some

[1] This is the second of the fourteen propositions then laid down by the President as essential to peace.

interesting remarks on the proposal to create a committee of the Legislature to watch foreign affairs. His experience of German politics does not lead him to think such a measure would be effective there. He relies, rather, on abolishing the power of the executive government to declare war (where that power is vested in the executive by the constitution), on a "fuller development of International law and the creation of organization to make it effective"; and above all on "untiring effort in the task of achieving the solidarity of nations through the elimination of all separate alliances and of all exclusive economic policy." It is, indeed, clear that while improvements of political machinery are not unimportant, the main guarantee of peace must be a continuous determination on the part of all peoples to maintain it, and sufficient knowledge and attention on their part to prevent Governments from pursuing policies which must lead to war. Among these none is more potent, in our own time, than that of economic exploitation and monopoly. This point is dealt with in the third point of the Minimum Programme. No paper dealing with that matter is included in the present volume. But the reader should not forget that the future peace of the world depends even more upon the abandonment of economic war between States than upon constructing machinery for preserving peace; and that the latter must fail if the former is maintained.

A NOTE

BY

THE EDITORIAL COMMITTEE

THESE papers, presenting the views of Continental and American thinkers of note upon some of the problems of the International Settlement, have been selected from two large volumes recently issued by the Central Organization for a Durable Peace at The Hague (June 1916). Most of them are from the French or German in which they appear in the Dutch volumes.

The Editorial Committee has added three papers by French writers, from other sources.

None of the papers in the Dutch volumes by English writers have been inserted, their views being already well known to their countrymen.

The Committee is especially indebted for the help rendered in translation by the late Mr. Joseph G. Alexander, by Miss C. E. Playne, Mr. C. E. Maurice, Mr. Hugh Richardson, Mrs. Barratt Brown, Mr. Charles Weiss, and Miss F. M. Henderson. It is also indebted to Jhr. Dr. B. de Jong van Beek en Donk for ready permission to use the papers from the Dutch volumes referred to above.

CONTENTS

CONTENTS

I

THE PROBLEM OF NATIONALITIES

By J. GABRYS, *Director of the Office of Nationalities*

Under the presidency of M. Painlevé, Deputy, Member of the Institute, and at that time Minister of Education, and of M. Chas. Seignobos, Professor at the Sorbonne, a Conference of Nationalities took place in Paris last June (26th and 27th, 1915) at which the different oppressed nationalities of Europe were represented.

As an outcome of this Conference it was decided to create a Permanent Commission of delegates of all the nationalities to prepare a memorial on the claims of nationality.

After having set forth (1) general principles for the co-ordination of the conclusions reached at the Conference, this Commission is to prepare (2) a careful statement on the rights of nationalities to be presented to the Peace Congress, and (3) a general report summarizing the special reports on the claims of each nationality.

The Central Office of Nationalities was commissioned to continue and centralize the work of the Conference as well as that of the Permanent Commission.

In pursuance of these decisions the Central Office of Nationalities has continued the work of the Conference

and has twice summoned the members of the Permanent Commission, once at Paris on July 4th and 5th and again at Lausanne, November 12th of the same year.

At the first meeting of the Permanent Commission its bureau drew up the following *questionnaire* to serve as a framework for the reports:—

QUESTIONNAIRE.

1. CLAIM OF THE NATIONALITY (in outline merely).

(*A*) *Claims at present urged.*

To be so formulated as to constitute the basis on which an international treaty may be framed. Note especially—

(*a*) The populations concerned.
(*b*) The kind of constitution (*régime de droit*) under which it is desirable to place them.
(*c*) The territories occupied by them. Give diagram maps showing—

1. The present situation.
2. The new situation required.

(*B*) *Other Claims.*

Set out, beside the claims now put forward, the minimum and maximum claim; that is to say, the programme of the moderate and extreme parties of nationalists.

2. REASONS AND ARGUMENTS IN SUPPORT OF THE CLAIMS.

Distinguish the different kinds of reasons and arguments. In each case make as clear a statement as possible, based upon numerical data and facts easy to verify.

Quote the authorities and the principal sources of information, referring both to national authors and to works written in one of the principal international languages: French, English, German, Italian, and Spanish.

The main arguments may be classified as follows:—

Ethnography and demography of the population

Race, family, or group from the anthropological and ethnographical points of view.

Languages and literature.

The mother tongue, other languages in use in government, business, literature, and the press, or in scientific work. Indicate the direction and tendencies of evolution.

Geography of the territories named.

Features; mountain, watercourse, littoral. Subsoil. Climate, atmospheric conditions.

Economy.

Produce; crops, stocks, forests, mines, industry, commerce, means of communication. Economic relations with other countries, roads, railways, ports, access to the sea, whether physically or politically free.

Military defence.

Strategic considerations relative to the territories indicated.

History.

To be confined to essential facts and facts useful in support of present claims.

Law.

Treaties, constitutions, declarations on which claims may be based.

Life and international organization.

Security and tranquillity. Indicate advantages which the proposed solutions would bring to international security and tranquillity, and show how they would contribute to the rational organization of a European or world order and to the maintenance of peace.

Co-operation.

Show what have been the special links between the nationality and general civilization, what humanity in general owes to it, in what ways the proposed solution would enable the nationality to take an active part in the common life and make its contribution to the welfare and progress of the world.

Bibliography.

Draw up a bibliography of the chief works, distinguishing between those in well-known languages and those in the language of the country.

During the second meeting of the Commission the members present revised the draft Declaration of the

Rights of Nationalities, and after the detailed discussion adopted the following text :—

Declaration of the Rights of Nationalities.

Preamble.

I. Nationalities are natural facts due to biological, geographical, and historical conditions which men have no right arbitrarily to ignore or autocratically to modify.

II. The right of nationalities, whether large or small, to live, to develop, and freely to dispose of themselves, is a primordial right which rests on the same principles as the fundamental rights of man himself, in view of the fact that a free nationality can alone create for man the necessary environment for the perfect exercise of his faculties.

III. The diversity of nationalities is a valuable factor in progress. Each can contribute to the human family its particular qualities and characteristics, and thus enrich civilization with varied and complementary attributes. The existence of nationalities forms a natural and rational basis for the distribution of the population of the globe into governmental units and opposes barriers to the territorial ambitions of States.

Small States founded on quite distinct nationalities have, as their history shows, a useful function to fulfil alongside the great Powers.

IV. The rights of each nationality, like the rights of man himself, ought to be limited by the corresponding rights of other nationalities ; so true is this, that the existence of different nationalities in the society of nations cannot be imagined apart from their mutual respect for and voluntary adhesion to certain principles which regulate and harmonize their concurrent and conflicting activities.

V. These principles need to be defined in order to establish positive and concrete foundations, alike objective and impersonal, for the idea and sentiment of supreme justice, to which all the claims of nationalities more or less definitely make their appeal.

VI. The inherent rights of nationalities include the following forms and degrees, that is to say : the rights arising from his own nationality, which are due to every man whoever he is and wherever he may be (universal rights, rights of man) ; the right of autonomy or self-government, due to the nationalities or different groups composing the same State (autonomous administration, regional and local ; self-government ; municipal, educational, or

religious autonomy, etc.) ; independence and national sovereignty due (*a*) to homogeneous nationalities established as separate States, or (*b*) to different nationalities loosely associated with one another to form federated or combined States.

To the question of nationality in its broad sense belong racial questions (the relations between white, yellow, and black races) ; the question of nationalities not yet self-conscious—that is, unable either to understand or affirm their destiny ; that of native populations, primitive or decadent, incapable of rising by themselves to the level of civilized nations, and needing education and protection ; and that of colonies whose stage of evolution justifies their emancipation from the mother country.

VII. The anarchy which is the present condition of international relations, and which makes the history of States one long series of wars, can be ended only by the general organization of these relations. This organization should comprise, on the one hand, a declaration of fundamental rights, and, on the other, the setting up of the necessary organization for the peaceful working of the common life of the nations. A World Charter to be set up at the end of the war should establish this international order, just as national order is established in each civilized State by its national constitution.

VIII. International good understanding, the only basis for a durable peace, rests on complex ethnic, economic, intellectual, moral, legal, political, and military conditions. The satisfaction of the legitimate aspirations of nationalities is amongst the foremost of these conditions. This point of view, during the present war, has been put forward in many public declarations, amongst which those of English statesmen are specially noteworthy on account of their explicitness.

" We want this war to settle the map of Europe on national lines and according to the true wishes of the people who dwell in the disputed areas. . . . We want a natural and harmonious settlement which liberates races and restores the integrity of nations." — Mr. Churchill, in an interview with Sgr. Calza-Bedolo (*Times*, September 25, 1915).

" We desire," said Sir Edward Grey, " that the nations of Europe, whatever they may be, large or small, shall be able to maintain an independent existence, to establish their own form of government, and to have complete freedom to work out their own development."

I. *Rights of Individuals.*

No man should suffer on account of his origin, his language, or his religion, nor be subject on this account to intolerant, discourteous or disrespectful treatment. Every man, wherever he is, has

the right to civil equality, to religious liberty, and to the free use of his language.

Good will and respect of rights to be accorded without distinction to Europeans (Aryans, Caucasians, Western whites, and people of European descent actually settled in other parts of the world), and to Eastern peoples (all races other than European).

II. *Rights of Nationalities.*

Nationalities, whether they are founded on community of origin, language, and tradition, or whether they result from an association freely agreed upon between the different ethnic groups, shall have the right to a free disposal of themselves.

There shall be neither annexation nor transference of territory contrary to the interests and wishes of the population.

Neither conquest nor previous possession in history based on conquest and annexation, nor natural frontiers, shall constitute rights over peoples or their territory.

For the recognition of the rights of nationalities a procedure shall be established with a view to determining their international position by the International Court of Arbitration at The Hague or any other international institution which might be created, such as Congress, International Parliament, permanent International Council of Conciliation. The proper authorities of the nationality (organized bodies, or delegates of intellectual standing really representative of the nations) shall bring its demands before the Court, which shall decide whether these authorities can be regarded as really representing the nationality or not.

The Court shall also determine the ethnographic frontiers of the nation according to the accepted scientific bases. In case of failure, the Court shall arrange and control a plébiscite to discover the will of the nation. At all these stages the procedure will be by open public discussion. Nationalities which have enjoyed liberty and political independence in the past will have the right, *ipso facto*, and notwithstanding all argument to the contrary, to be restored to this same condition.

III. *Autonomy.*

In internal affairs national groups shall have the right to the same self-government as individuals. This right to be exercised by plébiscite. In the districts where populations are mixed, and which present great differences of character and custom, there shall be established a régime of personal law, supplemented by collective institutions to correspond.

IV. *Rights supplementary to Nationality.*

Independent nations, beyond their own boundaries, have the right to the conditions essential to the life and development of civilized nations ; notably, the right to trade with their neighbours, communication by railway and overland routes assuring a free access to the sea, freedom of expansion in colonies (emigration, settlement, and commerce).

V. *Native Populations.*

States shall watch over the conservation of native populations as well as the amelioration of their moral and material condition in the whole of the territory under their sovereignty, or in the zone of their influence. They shall recognize the rule of native kings and the authority of native chiefs.

VI. *Internationalization.*

Seas, waterways, and canals shall be open to neutrals, and subject, as to police management and upkeep, to international rule. This rule applies also to certain parts of territories necessary to assure their effective liberty as well as to ports which are in fact international, because it would be dangerous to let them come under the dominion of any one State.

The authorized representatives of the different nationalities are now preparing special reports of a maximum length of thirty pages on the basis of the *questionnaire* above mentioned. These reports, preceded by a general report condensing the special ones as well as the text of the Declaration of the Rights of Nationalities, will be published in a pamphlet. This document will be communicated to the Governments of all the States at the time of the discussion of Peace terms.

Besides the general report, the Central Office of Nationalities undertakes the publication of special works developing one or other point collected under the name of the " Library of Nationalities."

This sums up the dispositions taken up to the present

by the Central Office of Nationalities in view of preparing for the Congress of Peace. When the Conference of Powers meets again, the Central Office of Nationalities is firmly decided, in the interests of Europe and the peace of the world, to use all possible effort to prevent the Rights of Nationalities from being further violated at the pleasure of the diplomatists, and a repetition of the errors of the Congress of Vienna.

II

THE PROBLEM OF NATIONALITIES

By DR. OSKAR JASZI, *Hungary*

The promoters of the Peace Movement have recognized, quite justly, that the national hatreds between special States are always producing a danger of war.

In consequence of this, Pacifism has always made the removal of this sense of division a fundamental aim of its striving.

But in spite of the obviousness of this main principle, it is intensely difficult to recommend any universal formula for the settlement of this question.

The problem of nationality assumes a very different form in different countries. For instance, only a very theoretical Utopian would think of settling the problem of the helpless Ruthenian people, with its very slight variety of classes, on the same plan as the very complicated problem of Bohemia, with its many nobles of alien lineage, and with its powerful intellectual class, formed in its universities and its many hundred years of struggle for political independence.

We hear too often, from Pacifists, the demand for a fresh settlement of State boundaries on the basis of their nationality as the only sane remedy for this difficulty. But the universal application of this principle would, on the one hand, break up States which are capable of very vigorous life, while, on the other hand, it could

scarcely be carried out without provoking fresh and bloody convulsions.

Of course, in those cases where the present war has already made a *tabula rasa*, it is desirable that, in the redistribution of territories, the principle of nationality should be recognized as far as possible, yet no one should give way to the crazy belief that the present war can solve all the complications of questions of nationality. What is really needed is rather, that, in those States in which races speaking different languages are living side by side, a more democratic and humane policy should in future be adopted towards these various nationalities.

But it is not possible to devise a concrete scheme, in all details, to carry out this new political principle. For instance, the comprehensive and (in the main) generous plan framed by Dr. Renner,[1] member of the Austrian Reichsrat, fails to recognize the very heterogeneous conditions, historical, economical and cultural, of the different lands with which he deals. Perhaps his plan might answer for Bohemia, on whose traditions it is specially based, but it is scarcely applicable to Hungary, Belgium, Poland, etc. For Renner's plan would scarcely involve less than the complete sundering of all educational, administrative, and judicial arrangements according to national divisions. Now the most revolutionary periods of history have hardly shown so complete a shattering of such institutions as are the product of gradual historical developments. Renner, it is true, refers to the analogy

[1] Karl Renner writes under the pseudonym Rudolf Springer. His best known book is *Der Kampf der Oesterreichischen Nationen um den Staat*, published in 1902. He proposes to solve the nationality question in Austria-Hungary by organizing autonomous semi-independent States, in a federal union; these States to be constructed on the basis of nationality, not of territoriality.

of the independence of separate religious communities; but I do not think that this comparison is sound. A requirement of life, that is purely individual, can surely be left to free co-operation among those who desire it. But schools and administrative and judicial bodies are, in the widest sense, matters of public concern, and to leave these to be exclusively disposed of by separate national groups would involve the ignoring of those large considerations which affect the whole State, and mean the triumph of the smaller, local, particularistic, generally reactionary interests at the expense of the more universal, freer, and more progressive movements.

It is for this reason, for instance, that the Socialist Vandervelde protested against the administrative separation of the Walloon and Flemish districts of Belgium. And quite rightly. For Renner's plan would be an exaggerated expression of the efforts of the Walloon separatists, which is all the less realizable the closer the races are mixed together in their lives and the greater the difference in their economic and educational point of view.

If we study the different questions of nationality in Europe and compare them with our Hungarian experiences, there are only three concrete rules in reference to the settlement of these questions which can be accepted.

1. All that hastens the democratization of political and social life furthers at the same time the cause of peace between nationalities. Above all, the democratization of Parliament and the development of the idea of self-government bring with them the softening of racial hostilities.

2. A further logical consequence of this democratic development is the acceptance of the demand that the most elementary and fundamental social needs of the great masses of the people shall be secured in the use

of their mother tongue. In whatever way the official language of higher education settle matters, however the necessary unity in cultivation, administration, and judicial arrangements is secured, it is evident that peace between nationalities can never be assured until each nationality has good elementary schools, in which instruction is given in the native language; until the members of the Boards and Tribunals, in closest touch with the main body of the people, are well acquainted with the native language, both as written and spoken. It follows at the same time that the different nationalities must devote themselves to the study of the State language and acquire it as the educated medium of the common culture and economic intercourse of the different races living together.

3. This natural right of every race to the free development of its language and culture should be not only recognized and unconditionally respected, but legally supported by the State, in accordance with the numerical proportion of each race and its share in the common burdens of the country.

These leading requirements by no means exhaust the subject of the special aspirations of the separate races, and supply no complete settlement of the race question. But they provide a minimum programme, a basis upon which, imperceptibly, a policy of full social importance can be built up. The promoters of such a policy will not forget that the carrying out of these principles is a question of practice, not of theory. For instance, you must act differently when you have to do with a population that consists mainly of peasants than when a great industrial proletariat has been developed. Again, different methods must be used where traditions of an old

civilization still prevail, and where they are absent; one must treat differently a strongly centralized State and one in which local administration is markedly developed; populations of thousands need different treatment from populations of millions. An intensely developed particularistic State life requires different treatment from that of a State where such conditions are absent.

Nor must we forget that the question of nationalities is in process of continual growth. For instance, where to-day it might be a quite unnecessary task to found a special university for the highest development of a special nationality, ten years hence such a demand might be justifiable, and it might be a duty to meet it. The great thing is that the problem of nationality should be treated elastically and in a liberal manner, and that the particular issue should be understood, and that distinction should be made between real social needs and the claims of cliques and ideologists.

The great task which rests on us as Pacifists in connection with these difficulties is to carry out the minimum programme of nationality as above sketched out, and to inoculate a public mind, which has been poisoned by Chauvinism, with the idea that only such claims of nationality as have been artificially and forcefully repressed and embittered can endanger the existence of any modern State, but in no way those claims from which the poison of embitterment has been extracted by means of democratic and humane treatment. On the contrary, the undisturbed, progressive development of separate nationalities may become a rich and fruitful source of mutual attainments for the State which understands how to avail itself wisely of the slumbering forces in each of its constituent nationalities.

III

INTERNATIONAL CO-OPERATION AS THE FOUNDATION FOR AN INTERNATIONAL ADMINISTRATION OF JUSTICE

By Dr. ALFRED H. FRIED, *Austria*

In the original conception of the peace problem, arbitration was to be directly substituted for war, and the method of justice for that of violence. But the method of violence is a consequence of the prevailing condition of things under which the relations between States are governed by force. War is not in itself a condition so much as the symptom of a condition, that of international anarchy. Symptoms cannot be altered until their causes have been altered. If we wish to substitute for war the settlement of disputes by justice, we must first substitute for the condition of international anarchy a condition of international order. The procedure of justice is also a symptom.

Hence the simple establishment and development of the machinery of justice, in order to exclude the resort to force in international conflict, will not achieve complete success as long as the relations between States are not brought into a system governed by the principles of justice. The procedure for settling disputes according to justice must, in order to be effective, have a firm foundation such as we see in the everyday living community

of States. Conflict is the abnormal condition. It is not practicable to obtain recognition just in this exceptional case for rules which have no validity in the everyday life of neighbours. True the evil is best observed in this exceptional case, and thus our thoughts are turned to seek a remedy. But he who would reap must sow. A judicial procedure applied to conflicts born of anarchy must fail.

I have already written elsewhere[1]: "This cannot be described as a substitution of decision by justice for decision by force. . . It is not a question of evading consequences without a previous alteration of their causes, and consequently not a question of the creation of legal machinery whereby the conflicts of States may be settled, *but rather of transforming the character of the conflicts so that these can be solved by legal machinery.*"

Not the tool, then, but the purpose, is to be altered. The transformation of the character of the conflict is brought about by transforming anarchy into international order. If war is to be avoided, we must assist in the extension and hastening of a system of States which brings this order with it. The desired system of States need be in nowise identical with those Utopian plans of the "constructionists"; that is to say, of those world-reformers who wish to construct social developments by engineering methods. Therefore it is not a question of a "World-State" or "The United States of Europe" or of "Federation." A system which abolishes anarchy and brings order into the relations of States need in no way go so far as to suppress the peoples and fuse them into a so-called League of Humanity, nor need it override

[1] See my *Kurze Aufklärungen über Wesen und Ziel des Pazifismus* (Berlin, 1914), and *Die Grundlagen des revolutionären Pazifismus* (Tübingen, 1908).

the independence of States and create a centralized authority. If these were the unqualified postulates of international organization, then one would despair of the possibility of their realization in the present stage of political evolution. All these structures are unattainable to-day and in the near future. But quite compatible with the international relations of to-day, indeed even conditioned by them, is a system of States in which independent States voluntarily unite for the common representation of their common interests, now at last recognized as common. If by this there occurs to a certain extent a limitation of State independence, which indeed is necessarily the case with every union for common purposes, this does not abrogate independence, but only permits the individual State to give it a more useful value than is the case in a condition of unlimited anarchy. *In reality you exchange self-interest for considerations of duty to others.* In such a system the States will realize their conditions of existence more easily and in increased degree, and they will secure their stability on a foundation of reciprocity and with more restricted expenditure on armaments than before.

Such a system of States is already possible to-day. As restricted to Europe I have called it "*Zweckverband Europa*,"[1] or the "special purposes" union of Europe, (though by this I do not mean that it may not also be thought of as a "World-*Zweckverband*"). This does not need to be sought in the clouds; it does not need to be engineered as World-State blacksmiths do such things; it simply needs to be cultivated and evolved from the manifold well-developed shoots and buds which are ready at hand to-day.

[1] See translator's note, p. 27.

I have elsewhere compiled my criticism of Utopias, and have shown "that a social project is Utopian when it postulates the application of engineering methods, when it is a construction and not a natural growth. A social project is not Utopian when it postulates the influence of a natural course of development, when it does not set out *to construct a social condition, but desiderates free growth.*" [1]

In a union of States for specific purposes (*Staatenzweckverband*) these conditions are completely admitted. There is nothing here to be created. The method of the public international union (*Zweckverband*) was already strongly developed in the world before the war. The materials are manifold in the already extant conventions for special purposes (*Zweckabkommen*) and the vital international needs organized by these. Numerous bipartite conventions between State and State, multipartite conventions of several States, and even world-conventions, are already extant, and concern themselves with the regulation of traffic, of trade, of private law, of police, of science, of social policy, of public health, of agriculture, and other things. A whole series of international central institutes which provide for the accomplishment and development of these conventions are in being, and therein we discern the tendency to a *supra-national authority*. The war itself was powerless to annihilate these arrangements. They have been destroyed locally only, but in essence they are unshaken—an evidence of the need fulfilled by them and of the vitality manifested in their development. After the war, vital necessities crying out for satisfaction can but further strengthen and multiply these arrangements.

[1] See the criticism of the social Utopia in my *Handbuch der Friedensbewegung*, 2nd ed., vol. i, p. 117 and onwards.

Yet we are dealing with tendencies only, with isolated experiments. What is wanted is to collect the existing material and to systematize it. Then, for the first time, beneficent results will make themselves felt with full practical effect. Following on scattered "special purposes" conventions (*Zweckabkommen*) we must form the "special purposes" union, the "World-*Zweckverband*," or, as I consider more correct, the "*Zweckverband Europa*," perhaps both unions simultaneously, concentrically.

Not only are the living tendencies towards such an adequate union of States at hand, but also a successful and encouraging example. Since the year 1889—that is, for twenty-seven years—the Western Hemisphere has been organized into a Society of Nations, the *Pan-American Union*. Called into existence in the year 1889 by the American Secretary of State, James G. Blaine, through the assembling of the first Pan-American Conference, the special purposes union of the one-and-twenty republics of the New World has taken lasting shape at four further conferences, the last of which took place in 1910. (The fifth Pan-American Conference should have taken place in August 1914, but was postponed on account of the European War.) The deliberations and findings of these governmental conferences covered the whole realm of the external relations of the American States. They served for the extension and regulation of inter-American railway and shipping affairs; they regulated harbour traffic, the customs, consular, sanitary, and alien affairs, as well as matters of money, measures, and weights; they agreed on definitions about extradition, about American private and public law, about the protection of copyrights and patents; they organized inter-American scientific undertakings, travelling scholarships

among other peoples, the exchange of professors and students; they promoted mutual instruction in the languages of the American Continent and laid quite special weight on the promotion of reciprocal trade. The Pan-American Union possesses in Washington a central institute, the "Pan-American Bureau," which is maintained by the community of States. The ambassadors and ministers of American States accredited to Washington form the governing board, over which the United States Secretary of State for the time being presides. The ambassadors and ministers meet every month for the despatch of current business, for the execution of which a standing bureau under the guidance of a director is appointed. The Pan-American Bureau is consequently the headquarters and established centre of action of the American *Zweckverband*, or special purposes union of America.[1]

If this union for special purposes (*Zweckverband*) is intended in the first instance only to regulate the business of the everyday life of the States organized therein, yet it naturally influences their political life also. *It already gives their conflicts that altered character which, as a rule, makes possible a solution agreeable to reason and precluding violence*, a solution which, with further development of that organization, becomes continually more secure. This is the phenomenon now known as practical Pan-Americanism. Thus it may be pointed out that, as a result of Pan-American co-operation in the year 1907, the United States, in association with Mexico, were able to

[1] For details about the scope of Pan-Americanism, and especially of the previous Pan-American Conferences and the activity of the Pan-American Bureau, see my book *Pan-America* (Berlin, 1910); (2nd enlarged edition, Orell Füssli, Zurich, 1918).

help the five Central American republics (which for decades had devastated one another in continual wars) to the establishment of a Central American organization of States which in the ten years of its existence had aided the pacification of those earthquake-shattered States. When, in the year 1910, Argentina and Bolivia were in conflict over the recognition of an arbitration award, a conflict which threatened war, the mediation of some of the States of the Pan-American Union succeeded in bringing the conflict to a peaceable compromise. The same was the case in 1911 with a dangerous dispute between Colombia, Ecuador, and Peru. The United States, with the help of some of the South American States, succeeded in settling the dispute. Just in the same way, when the so-called Alsop dispute between the United States and Chile had assumed very dangerous proportions, it was composed in a friendly way through the mediation of some of the Pan-American Governments.

When questions arise about political prestige, the governing board of the Union directs its chief efforts within the scope of Pan-American work to weakening suspicion. It has itself instigated the formation of a South American State "combination" composed of the politically best-developed States of Latin America, of Argentina, Brazil, and Chile—the so-called "A-B-C States"—in order in the first instance to be able to work in common with these convened representatives of Latin Pan-Americanism. This establishment of the "A-B-C combination" has already proved itself of practical value when the United States was all but entangled in a war with Mexico in consequence of the occupation of Vera Cruz, carried out by way of reprisal. This was prevented by the mediation offered by Argentina, Brazil, and Chile.

The treaty of Niagara Falls (May 1914) settled the dispute. And lately Pan-Americanism has set a limit to the dangerous development of Mexican affairs. The United States and the "A-B-C combination," this time with the addition of Bolivia, Guatemala, and Uruguay, brought about the recognition of the *de facto* Government of General Carranza. In a recent publication, John Barrett, the director of the Pan-American Bureau in Washington, says with justice: "It is my firm conviction that the United States would have been entangled in a long and thankless war with Mexico if the influence of the Pan-American Union had not been at hand."

The European War has strengthened to an immense degree the co-operative tendency of the American States. All reports which reach us over here, all publications which come to our notice, speak of a mighty surge of Pan-Americanism which found expression notably during the second Pan-American Scientific Conference held at Washington in December of last year. There were present nearly a thousand of the most eminent savants of all America, the representatives of the intellectual élite of the other hemisphere. It may be the recognition of the faulty system which has produced the European catastrophe, it may be to make good by their own efforts the hindrances to European trade and the anticipated year-long disturbance of the European money market, or, it may be the effort to prevent in good time and by a firm mutual contract the dangers threatening the American States from a European conqueror. In any case the fact is of importance that Pan-America is at work to uplift the Monroe Doctrine to a political principle for the whole continent. It may even be that whilst Europe bleeds to death, America comes to life.

Frightened at the example of Europe, the young States on that side of the ocean are seeking to organize themselves on the principle of living together in peace. That is one consequence of the European War which cannot be pointed out with too much emphasis. Here, in contrast to exhausted Europe consuming itself in hate, is set up a whole continent unified by wisdom and by an earnest will to peace, a continent which, in the possession of the welfare which peace gives, threatens to seize for itself the leadership of the world. Already, thirteen years ago, at the eleventh Interparliamentary Conference, the Belgian Minister of State, Beernaert, spoke these words of warning: "Perhaps Europe manifests too little attention concerning this. It must not forget that it stands facing a young and enterprising world whose development is characterized by gigantic strides, a world which does not possess the accumulated financial obligations of our old continent and on which the truly excessive burden of our military organization does not lie. *Caveant consules.*" Europe did not listen to the warning. Has it now become wiser on the edge of the abyss? Will it pause at last, with its alliances serving only for war, with its policy of annihilation leading only to impoverishment and to barbarism? Will it at last enter the way which Young America shows it, the way of a combine of States for the attainment of higher prosperity, of welfare and of happiness to which it can attain by the formation of a "*Zweckverband Europa*"?

Already in 1910, in my book *Pan-America*, I pointed out the importance of the Pan-American Union and the need for an imitation of it in Europe. At that time I even wrote: "Perhaps the moment has just now come to put into the foreground of our discussions the proposal

to create a Pan-European Union or, as it is better called, a *Zweckverband Europa*. When an Anglo-German understanding comes about, Europe is ripe and ready for co-operation, and peace on this continent is enduringly secured. That would be the moment when the enlightened Government of some great nation could sound the bugle for a general assembly and thereby completely heal uprooted and shattered relationships on this ancient soil of civilization.

In vain! Europe plunged into war. And it is terrible to read a communication which John Barrett has just published.[1] "Only recently one of the most influential men in Great Britain volunteered to me the information that, at an informal meeting of the Cabinet of his Government, one of those present had remarked, with the approval of those within his hearing, that he was confident *that if there had been established in one of the capitals of Europe, like London, Paris, Berlin, or Vienna, a Pan-European Union, organized on the same basis and for the same purpose and controlled in the same way as the Pan-American Union in Washington, there never would have been a European War.*"[2]

This recognition comes too late. The European War cannot be obliterated. But it now becomes a sacred

[1] See *Arbitrator*, July 1916.

[2] John Barrett kindly writes to us, in confirmation of the above, as below.—TRANS.

"While Dr. Fried undoubtedly intended to quote me correctly, and was inspired by some alleged statement of mine which might have appeared responsible, I have to report that what I originally said has not been quoted with absolute correctness, although the idea is substantially correct.

"The effect or purport of what I did say was that when I was in England I described very carefully to a member of the British Cabinet the extraordinary workings, comprehensive scope, and high purposes of the Pan-American Union as the official inter-

duty to make use of its poignant lessons and to recover lost opportunities. The foundation of a special purposes union of States (*Staatenzweckverband*) in Europe now becomes a commanding necessity.

Naturally the European organization which we have to create would not slavishly imitate the American model. In order to succeed, it must be adapted to the special circumstances of Europe. Not only " ruined palaces and broken columns of basalt " distinguish Europe from America ; divisions due to traditions, race, and political institutions make themselves felt. To this it must be added that the relations between the States of Europe are out of all proportion more numerous and involved than those between the American republics, being necessarily accompanied by greater frictions, prejudices, and animosities. For a greater population dwell together on a far smaller territory. These are facts which

national organization of the American republics, devoted to the development of comity, peace, and commerce. He was so impressed with what I said that later on he told me that he had informally described the Union to his fellow-members of the Cabinet, and that they were all quite agreed that, if there had existed a correspondingly powerful Pan-European Union—that is, an organization of all the European countries in some one of the principal capitals of Europe, having functions similar to the Pan-American Union in Washington—there never would have been a European War.

" In my conversation with this member of the Cabinet I had emphasized that in the ten years of my administration as the executive officer of the Pan-American Union six international wars upon the Western Hemisphere had been prevented by the influence of the Governing Board of the Pan-American Union, made up of the ambassadors and ministers of the twenty Latin-American republics and the Secretary of State of the United States.

" I am now further able to say to you that the present solidarity of the nations of the Western Hemisphere in support of the United States and of its allies is undoubtedly due, in a considerable measure, to the Pan-American Union."

indicate the difficulties, but also the correspondingly greater need to succeed in overcoming them. These difficulties speak directly for the necessity of establishing the *Zweckverband Europa.*

Variations in its organization as compared with the Pan-American can be considered later. If the project is first decided in principle, details can be quickly settled. Perhaps in consideration of the intricate relations and brisker intercourse in Europe, the *Pan-European Conference* will have to be held at shorter intervals than the Pan-American, which now meets every four years. Perhaps the *Pan-European Bureau,* which should be created in a neutral country, must be organized with a correspondingly wider scope. (I should regard its establishment as desirable even in a capital not now neutral, possibly with its seat changing every five years.) It will be the task of the first European Conference convened for this purpose to decide these matters.

This special purposes union of Europe (*Zweckverband Europa*), which will promote the non-political interests of the European States, will also, no doubt, contribute to Europe realizing herself politically. Without touching the independence of participating States, it would accustom them to established peaceful co-operation; it would extend, and would also allow the organization created for the regulation of the everyday affairs of life to have effect in the abnormal moments of life, in the hour of conflict. It would create that "sympathetic *milieu*" which strengthens the desire for the friendly solution of conflicts. As in America, it would prevent wars; by means of mediation it would shorten any wars that did break out; and, last, it would so shape the character of conflicts that they would become capable of solution by legal arrangements. Such

a *Zweckverband*, which in America has produced the establishment of co-operative leadership, as is expressed in the " combination " of the A-B-C States, could, according to a remark of Prelate Giesswein, following the alphabet, be described as *the E-F-G Bond in Europe.*[1]

The foundation in Europe of such a beneficent organization would create more security for the States than all the mortars, submarines, ironclads, and fortresses ever made possible; it would serve as the highest guarantee for the durability of peace, and by it *that solid basement would be erected on which the work of The Hague could be built upwards with full promise of security. By it would be created for the first time that condition which would give life and activity to the machinery established at The Hague. From the communal law there laid down communal life could not arise; but, conversely, the community, with its organized existence, might well give rise to the common law.*

It is therefore a pressing necessity for all who wish a further development of the work of The Hague for the salvation of mankind to make use of the coming equilibrium of the European world and to lay the foundations of an organization which will adapt itself to life, which is upheld by the needs of life, which is capable of life and throbbing with life, by the establishment of a *Zweckverband Europa.*

[1] E-F-G = England, France, Germany; in the original, D-E-F = Deutschland, England, Frankreich.

Translator's Note.

"*Zweckverband Europa.*"—If only we had a current English phrase with this meaning, then the corresponding idea would be current, and it would be less necessary to translate this paper. "*Verband*" might mean a "league" or an "alliance," but for the moment these words have quite other associations. A *Zweckverband* is not an *entente*, a vague understanding with ill-defined or undeclared aims. Nor is it a "concert of Europe," for that phrase is limited to the strained relations of those Great Powers who agreed to do nothing until they were all in agreement, whereas the idea of "public international unions" as expounded by Fried, Reinsch, Oppenheim, and Wolff involves the ideas of defined aims and limited liability, as well as the principle of "adhesion," which allows those who already agree to proceed to business, and those who are still diffident to join later. "Co-operative commonwealth" has much more the required flavour. But a *Zweckverband* is not an almighty compulsion State with the gaol, instead of the goal, for its sanction. That would be a *Zwangverband*, a League of Force. A "European Interests Combine," an "*ad hoc* union," are other suggestions. But it seems best to maintain our traditional hospitality to aliens by introducing a new idea to Englishmen and to the English language a new word. "*Zweckverband.*"—H. R.

IV

THE HAGUE PEACE CONFERENCE AND ITS PERMANENT ORGANIZATION [1]

By Dr. CHR. L. LANGE, *Norway*

Preliminary Observations

It has seemed to me that the most useful method would be to prepare a preliminary draft of International Regulations. By this means one will better realize the difficulties which have to be overcome, and criticisms upon the suggested provisions will contribute to the solution of the problems that arise. I regret, on the one hand, that I have had very little time at my disposal for this work, and, on the other, that I have not been able to utilize the documents I had collected and the notes I had taken in view of the labours of the Commission appointed to study this question by the Interparliamentary Council. The collection was left at Brussels, and I have not been able to receive it in time.

I have principally consulted two works: Prof. Schücking's *Staatenverbund der Hagen Konferenzen* 1912, and Woolf's *An International Authority and the Prevention of War*, published in *The New Statesman*, July 10 and 17,

[1] This brief study is strictly preliminary in character. It is intended to lead to discussion, and is by no means to be considered as presenting a final solution of the problem.—*Author's note.*

1918.[1] I cannot on all points agree with the latter writer. In his opinion, it would be better to substitute for the Hague Peace Conference, as we know it—a diplomatic assembly meeting at somewhat lengthy intervals—a Permanent Council, which, in addition to its legislative functions, would be entrusted with the duty of facilitating the settlement of "non-justiciable" international conflicts. This seems to me to go too far. It seems to me very important that our proposals should be based as far as possible on existing institutions and on results already achieved, without requiring too bold innovations. Otherwise we may easily run the risk of seeing our proposals set aside as Utopian.

At the same time, I have thought it desirable to prepare an alternative scheme which would make the Permanent Committee contemplated in my draft a sort of sub-committee of the Council of Inquiry and Conciliation proposed in the next paragraph of our programme. For I believe that if we want to get such a Council established, we must show that other work can be given to it besides the inquiry into and conciliation of international differences. It is necessary that the Council should acquire a well-marked character of permanence. Only on that condition will it be qualified to take the initiative in investigation or conciliation in presence of an acute conflict threatening the general peace.

If, as has been proposed in the scheme to which Lord Bryce contributed a preface,[2] the Great Powers had each the right of nominating three members of the Council and the other Powers one, the Council would consist of some

[1] See also L. S. Woolf's *International Government*.

[2] *Proposals for the Prevention of Future Wars* (Allen and Unwin, 1917).

sixty members ($8 \times 3 + 38 = 62$). It would be needful, in that case, to form several other special Commissions in the Council in addition to the Permanent Committee of the Conference. It has been suggested that there should be a Commission to prepare schemes for the reduction of armaments, and in case of their adoption, to watch over the observance of the Conventions giving effect to them; a Commission to which should be committed the duty of reviewing international treaties with the view of abrogating provisions that had gone into desuetude, and so forth. I merely desire to call attention to the advantage there would be in co-ordinating the different pieces of international machinery which we propose

The provisions contained in the following draft are sufficiently detailed to render unnecessary an elaborate explanatory memorandum. I will confine myself to the following observations:—

Art. 2.—It seems to me impossible absolutely to fix the interval between two Conferences. Before the war, a period of seven or eight years appeared to be desirable. Prof. Schücking even suggested ten. It will depend on the character of the peace we obtain what will be the degree of activity in international affairs; it has seemed to me desirable to leave this question to be decided by the Preparatory Committee, and in any case to leave a certain latitude with regard to it.

Arts. 9 *and* 11.—These provisions appear necessary in order to avoid the repetition of that which occurred at the second Hague Conference with regard to obligatory arbitration. If the majority cannot bind the minority—and in this respect Art. 10 safeguards the sovereignty of States—it is at least necessary to concede to a majority, or even to a fairly important minority, the right of adopt-

ing, at the Conference, Conventions between themselves. The influence of the "international atmosphere" of the Conferences is too precious, and, alas! of too short duration, to allow the opportunity of utilizing it to be lost.

Art. 13.—The composition of the Committee presents a very difficult and extremely delicate problem. It has seemed to me, after all, quite proper that a majority should be given to the Great Powers. They represent a population of about 1,020 millions, against about 640 millions distributed amongst the other thirty-eight Powers. As regards the election of the seven other members, it is necessary to some extent to safeguard the representation of the different continents. The four Asiatic States (China, Persia, Siam, and Turkey) have about 440 million inhabitants; the fourteen smaller States of Europe about 135; and the twenty South and Central American States 65 millions. If these last formed a single block, they could impose their candidates on the rest. It is impossible to find an ideal solution of the problem. I have formulated a proposal with a view to discussion and to the suggestion of alternatives. It must be borne in mind that substitutes are to be appointed, and Commissions for study instituted, on which other States may be represented. In this way susceptibilities may perhaps be spared, and interests (real or supposed) safeguarded.

Preliminary Draft Rules.

I. *Organization and Periodicity of the Peace Conference at The Hague*

1. The Peace Conference, which shall be representative of all civilized States, shall have jurisdiction in the following questions:—

(*a*) Organization of International Law.

(*b*) Codification and development of International Law.

(*c*) Organization of the Peace Conference and its Preparatory Committee.

(*d*) Creation and development of international administrative institutions.

(*e*) Other questions affecting the majority of States which may be brought before the Conference in accordance with the rules hereafter laid down.

2. The Conference shall meet on the invitation of the Government of the State in whose territory the Conference is to take place. The time of meeting shall be fixed, at least two years previously, in a public and detailed statement by the Permanent Preparatory Committee (Art. 12 *et seq.*). It can only be modified by the Government summoning the Conference and by agreement with the Permanent Committee.

3. The invitation to send representatives to the Conference shall be addressed to all the Governments which have been invited to take part in previous sessions. Modifications of this rule can only take place by agreement with the Permanent Committee.

4. The invitation shall be accompanied by a provisional programme prepared by the Permanent Committee and supported by an explanatory memorandum. Within six months, the Governments invited shall communicate their observations with regard to the programme. The final programme shall be settled, on the basis of these observations, within a further period of three months. Modifications of the final programme shall only be allowed if accepted by a majority of two-thirds at the Conference, and after hearing the Permanent Committee.

5. The Governments represented and the Permanent Committee shall have the right to present to the Conference proposals or draft Conventions on subjects appearing in the programme. Other proposals or requests addressed to the Conference by bodies or individuals shall be examined by the Committee before being submitted to the Conference. Their discussion by the Conference shall only be allowed subject to the conditions laid down by the previous article.

6. The Conference shall elect its bureau (President, Vice-President, and Secretaries) by ballot.

7. The Conference shall appoint Commissions and Comités d'Études as required. A Central Commission, elected by ballot, shall be appointed by the Conference to allot the members of the different delegations amongst the Commissions and Comités d'Études. The Commissions and Committees shall appoint the members of their bureaux, or their Presidents, by ballot.

8. Each State shall be considered as a unit in voting and balloting. The delegation of each State shall appoint one of its members to vote on its behalf.

9. In all voting and balloting a simple majority of those present shall decide. Abstentions shall not be counted. Nevertheless, a three-fourths majority shall be necessary for the insertion of a Convention, a Declaration, or an Article in either of these instruments, in the final Act of the Conference.

10. The decisions of the Conference shall bind those States only which have duly ratified them.

The ratification, with any reservations, shall be communicated to the International Secretariat through the Government which has summoned the Conference. The Secretariat shall keep a register of ratifications and of denunciations, and shall inform all the Governments thereof.

11. Delegations which have voted for the insertion in the final Act of a Convention or a Declaration that has failed to obtain the necessary majority of three-fourths shall have the right to meet, even during the Conference, in order to consider the subject, and to prepare, conjointly or separately, the conclusion of a separate Convention between their Governments. In this case the final signing of such separate Convention shall take place after the official closing of the labours of the Conference.

II. *The Permanent Preparatory Committee.*

12. A permanent Committee shall be appointed to prepare the work of successive sessions of the Conference.

13. The Committee shall be composed of fifteen members. A corresponding number of substitutes shall be appointed.

The following Powers shall each elect one member and one substitute: Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia.

The seven other members of the Committee and their substitutes shall be elected as follows:—

In good time before the close of a session of the Peace Conference, each of the Governments of the other Powers represented at the Conference shall appoint one or two candidates from among themselves, or from outside. The original delegates of these States shall meet as an elective assembly before the close of the Conference in order to elect seven members of Committee, as well as seven substitutes from the list thus prepared.

Two members at least shall be elected from among the candidates proposed by the European States, at least one from among those proposed by the American States, and at least one from among those proposed by the Asiatic States.

No one of these States shall be represented on the Committee by more than one member or substitute of its nationality.

Candidates who have obtained an absolute majority shall be declared elected. If necessary, several successive ballots shall be taken. The same rules shall be applicable to the election of substitutes.

14. The Committee shall continue in office until the close of the next Conference. The members shall be eligible for re-election

if nominated afresh by their Government. Their appointment may be revoked by their Government during their term of office.

In case of the decease, recall, or resignation of a member, the Committee shall elect a substitute to take his place.

Alternative to Arts. 13, 14.

13. The Committee shall be composed of fifteen members appointed from the members of the Council of Inquiry and Conciliation by the Council itself. The eight Great Powers shall have the right each to appoint one member; two members at least shall be elected from the delegates of the secondary European Powers, one at least from the American delegates other than those from the U.S.A., and one at least from the delegates from Asiatic Powers other than Japan.

14. In case of the decease, resignation, or recall of a member of the Committee, the Council shall have the power to fill the vacancy.

15. The Permanent Committee shall enter upon its duties immediately after the close of the preceding Conference. It shall appoint its bureau, composed of a President and two Vice-Presidents. It shall have at its disposal an International Secretariat, which shall see to the regular carrying out of the work of the Committee and keep the register of ratification of International Conventions.

16. The Committee shall be charged with the duty of preparing the work of the Peace Conference. It shall invite the Governments to lay before it their proposals on the points placed on the programme. It shall take into consideration the proposals coming from international organizations or individuals, to whom invitations have been sent for this purpose.

17. The Committee shall have the right to set up Commissions of Study and to ask competent individuals from outside the Committees to sit on them, within the limits of the financial resources at its disposal.

18. The Annual Budget of the Permanent Committee and of its secretariat shall be settled on the proposal of the Committee, by the International Council of the permanent Court at The Hague. The expenses shall be borne by the contracting Powers, in the proportions fixed for the International Office of the Postal Union.

V

THE EXTENSION OF THE WORK AT THE HAGUE

By Dr. W. SCHUCKING, *Germany*

A large number of proposals have been put forward with the object of preventing, as far as possible, the recurrence of such catastrophes as those from which we are now suffering.

We must at once exclude from any consideration of an international settlement the thought of a Mid-European Alliance of States. That would be specifically German. And even if it is believed in Germany that the military strength thereby accruing to our Fatherland would help to secure the peace of Europe, we cannot expect to convince the other civilized nations of the justice of this view, and the basis of a common neighbourly life among the civilized nations would not be really advanced in this way. No doubt a simplification of the European system might result from this, because several States would form a union as regards relations with outside States, but between that union and the other great unions the old rivalries would be continued; nay, they might even be increased. Even those favouring the idea of a Mid-European confederation, must fervently hope that the war may lead to a further common understanding through

which fresh plans for a community of nations may be evolved.

The United States of Europe form the oldest design of the sort, representing a conception which dates back much farther than the grand design of Henry IV of Navarre, to Pierre Dubois, 1300, and older authors still. It is natural that this idea should have come up again in connection with the present European crisis. In Germany, the Union *Neues Vaterland* began its fruitful activities with a publication on this subject; in Holland a committee was formed entitled "A European Confederation"; in Switzerland Dr. A. H. Fried, the worthy leader of organized Pacifism, proposed, in a pamphlet, *European Reconstruction*, a practical union of Europe, which, in the first instance, would be limited to economic relations, but should gradually lead to Europe "discovering herself" also in the political sphere.

Nevertheless this idea of the reconstitution of Europe cannot be considered sufficient for our present-day needs. It was once a splendid conception, and, if it had been developed at the right time, it might have brought endless blessings to humanity. But its advocates forget that, during the nineteenth century, a continuous Europeanization of the whole world took place, and the quarrels, arising from the political contradictions of different European Powers, are now spread over the whole surface of the globe. In our older continent it would not do to imitate the Pan-American Union, for the leading European States have in a certain sense dropped their Continental character. The present insufficiency of a political organization confined to Europe is shown by the share Japan is taking in what we rightly call the "World-War"; also by the fact that the war must decide

the fate of almost the whole of Asiatic Turkey, perhaps also the future of Egypt and Persia.

From another side it has been suggested (and the proposal is specially favoured by the United States " League to Enforce Peace "), that something absolutely new should be tried, that all those States of the civilized world which desire to do so, should bind themselves together in an agreement to settle their several controversies in a peaceable manner. The movement is inspired by the hope that *all* civilized States would gradually come into this arrangement, in order not to find themselves in a dangerous position of isolation opposed to the League.

The authors of this suggestion must see clearly that they are thereby placing themselves in rivalry with the work of The Hague ; but they start with the contention that the Conferences of The Hague are entirely insufficient in two directions. First of all, the Hague Conferences have not given sufficient expression to the idea that under all circumstances the object of the entire plan must be seen to be the maintenance of a just peace in the civilized world ; and, secondly, a satisfactory development in this direction is, in their opinion, hindered by the adoption of the principle of unanimity, or quasi-unanimity laid down by the Hague Conferences.

Both these considerations deserve quite special attention ; but nevertheless they cannot be said to be of decisive importance. As to the first objection, it is no doubt true that even at the first Conference in 1899 a variety of questions were set side by side in the programme ; but the Conference, by officially accepting the name of Peace Conference, originally only given to it by popular opinion, did clearly explain to the world what it

considered its chief aim to be. However much the work of the Conference was later on spread out over a number of Conventions, yet even in the gathering of 1899 it was held that the first Convention, for the establishment of a peaceful settlement of international disputes, was the most important achievement of the whole undertaking; and the first title of this first Convention, "The maintenance of a general peace," shows that the Treaty Powers were agreed, as the primary introduction declares, to use all their efforts to secure the peaceable settlement of international disputes. This proves clearly enough that the intention of the whole plan of these Conferences was first of all to try to secure the maintenance of a just peace in the civilized world. All further agreements, such as the codification of the laws of war, do not alter this. We must now add that through this first agreement a permanent organization has been created which can but serve in establishing peace. And since a so-called Court of Arbitration, an International Administrative Council, and a Secretarial Office were set up in the interests of international justice and supported by the adhering States, these States did in fact, if not in word, form a Union of States whose legal relationships I have tried to set clearly forth in my book on *The Union of States* (*Staatenverband*) *of the Hague Conferences* (Munich and Leipzig, 1912).

In addition to this, the new organs which the second Hague Conference desired to set up—that is, the Arbitral Court of Justice and the International Prize Court—would have been supported by the same Union of States, and so a common organization would have included all the International Courts of Justice, for the same Administrative Council and the same Secretarial Office were to

serve for all. Thus, then, we are confronted by the fact that, however much present events stand out in contrast, it is nevertheless true that an International Union of States did already exist before the war, the aim of which was the maintenance of international peace, which we may characterize as a world confederation of States (because of its purpose, which was of pronounced political character). That, in spite of the existence of such an organization, the World-War could burst forth is due to the fact that this institution, in process of formation, had not been yet provided with the necessary legal sanctions. Moreover, the mental condition of the masses in different countries was not, before the war, of a kind to enable them to realize the full bearing of these beginnings of an international organization.

At the same time, knowledge was needed such as only some authorities of the modern science of International Law had acquired. I would only quote here the famous English international lawyer, Lawrence, who justifies the results of the Hague Peace Conference of 1899 in the light of the ideas of James Mill, William Penn, Rousseau, Kant, and others, and then says: "*They* dreamed dreams; *we* are confronted by a reality." He also thinks that with the first Hague Conference of 1899 a beginning of the peaceful organization of the civilized world was effected. The American, Hull, too, considers that the indirect result of the Hague Conferences was a paving of the way to the "federation of the world."

Holles, again, one of the leading persons in the first Peace Conference, said already in the following year: "The federation of the world—for justice and for every universal civilized interest—that is the idea which found its best, if not its first, illustration in the Peace Conference."

Lastly, we may mention here that the American, Scott, at the conclusion of his excellent exposition of the work of the two Conferences, mentions the organization projects of Sully, Saint-Pierre, Bentham, and Kant, and concludes his book with the monumental words : " It seems, therefore, that the foundations are laid for an international organization. It depends on public opinion to rear the structure."

The main body of the public may be inclined, under the impression of passing events, to treat the whole work of the Hague Conferences as useless. But he who looks more deeply into facts knows that one should never demand more from circumstances, nor from human beings, than they can give. In the absence of obligatory recourse to arbitration or (in the case of conflicts of interest) to conciliation, the capacity of the Hague organization was insufficient to meet the test of the ordeal of the Austro-Serbian conflict ; as there was no International Executive which could proceed against the breaker of the peace, the Russian mobilization seemed to the ruling Powers in Germany to present such a threatening military danger that they thought it necessary to give Russia the alternative of either demobilizing or receiving a declaration of war. Such military considerations as those which decided the issues in Germany can be set aside only when surprise attacks are made really impossible by means of international security, and thereby fears removed which perhaps have no actual foundation, but which produce the worst political consequences.

We see, then, clearly that while on the one side the work of the Hague Conferences needs systematic extension, there is on the other hand not the smallest excuse

for letting the incomplete building remain in its present condition, in order, so to say, to erect a completely new building in another place. We may add to this remark a practical consideration. After the Napoleonic wars it needed nearly a century of steady pacific work, initiated in America, to bring diplomacy to the first Hague Peace Conference. One can understand that the practical statesman who experiences in his own person the daily rubs between different States, and all their distrust in their intercourse with each other (a distrust often not unreasonable), should take up a critical and negative attitude towards such a radical turn-over of political life in the civilized world as that which is striven for by the organized Peace Movement. But now that the Governments have actually accepted a certain platform at The Hague, will it not be far easier to gain the favour of the responsible parties, whilst they are under the actual impressions of the present war, for a development of their existing structure at The Hague rather than for an entirely new undertaking such as an International Peace League? This opinion is stated in an exceptionally profound article in the journal, *The New Statesman*, of July 17, 1915,[1] in the introduction to the practical proposals: "All that will be immediately practicable can be presented as only a more systematic development of the rapidly multiplying Arbitration Treaties of the present century, *and the conclusions of the two Conventions* at The Hague. Only on some such lines, it is suggested, can we reasonably hope, at this juncture, to get the Governments of the world to come into the proposed agreement."

[1] AUTHOR'S NOTE.—It is very remarkable that in spite of this confession the finely thought out plan proposed creates something absolutely new.

Nevertheless, were it true that a development of the work at The Hague were permanently ruled out, owing to the fact that no essential progress is possible without the unanimous agreement of all the States concerned, it would be necessary to go along with the League to Enforce Peace in pressing for a wholly new organization. But things are really not so unfavourable. It is indeed true that the Hague Conference was dominated by that principle of unanimity which has hitherto been the tradition of all International Conferences. But under compulsion of circumstances the postulate of unanimity had silently been exchanged for that of quasi-unanimity. It is of course clear that this principle, from its vagueness, cannot meet the need for the protection of a majority from a minority; as, for instance, was shown at The Hague in 1907. But even in 1907 they understood this clearly at The Hague, and when the wish was expressed that some two years before the meeting of the third Hague Conference a Committee should meet to prepare a statute for the Conference, a way was already found for overcoming what the Belgian La Fontaine called the "Fetish of Unanimity." Now, the introduction of the majority principle at the Hague Conferences without a complete breach with the old traditions of International Law, can only be accomplished if the required majority be perhaps a qualified one, and if the decisions of the majority be only held to bind those States that have voted for them. Up till now a small minority could wreck the whole by its opposition. Besides, we must always hope that if any particular project is a reasonable one, and is carried by a majority of the States composing the Union of States formed at The Hague, the minority will afterwards accept

it. As to the legal possibility that agreements may be made, within the Union of States of The Hague, by groups not including all the States of the Union, doubtless this will happen. For such occurrences are well known to experts in State law to take place even in Federal Unions in which the participating States are much more closely united. Thus we see that everything which the League to Enforce Peace would practically accomplish can be based on the work begun at The Hague.

Under these circumstances, and for the reasons above stated, the idea of an extension of the work of The Hague will be far preferable to any proposal for a completely new plan. We have, then, only to consider the details of such an extension. We have already dwelt on the need of a statute for the Peace Conference; but since the Peace Conference is the organ of a Union of States at The Hague already formed for the purpose of securing international justice, it is not enough merely to give a statute to the Peace Conference: this Union of States must also be furnished with a Constitution.

It will be necessary, then, to draw up the charter of an International Union—just such an international treaty as constructive Pacifism has long demanded, and of which a complete draft is given in the number of *The New Statesman* [1] referred to. This contract between States must include provisions concerning the States originally to be included in the Union, and the conditions for the accession of new States to the Union or

[1] *The New Statesman* Special Supplements, July 10, 17, 1915. Project of the International Agreements Committee of the Fabian Research Department. Reprinted in "International Government," by L. S. Woolf (George Allen & Unwin, Ltd.).

of withdrawal from it. The decision concerning the possibility of withdrawal from the Association, under any circumstances, is specially important, for it is a natural consequence of the sovereignty of States which no one will surrender. But this withdrawal must, of course, be limited by special forms and set times; and there must be guarantees that no State which is a member of the organization will get rid of its obligation to attempt the peaceable settlement of conflicts of interest by recourse to an International Council of Conciliation by abruptly retiring from the organization. Indeed, we should rather expect that no such withdrawal from the Union will be permitted as long as proceedings are being taken on the basis of the Act of Union by some other State against the retiring State. The withdrawal would therefore only be effected after any proceeding entered into before the announcement of the withdrawal were ended. On the other hand, the withdrawal must not be stopped by any subsequent sudden summoning of the State which has announced its intention of withdrawing before an International Court. For that would be a mere trick for preventing the withdrawal of this State. At first the names of the States belonging to the Union must be settled to be those which have been already represented at The Hague, or at least those which, like Costa Rica, were invited to be present. Dependent States would be excluded by the Constitution, and also those States whose total population did not amount to 100,000 souls, a rule which would exclude Andorra, Lichtenstein, Monaco, and San Marino (see note, Article 2 of *The New Statesman* project).[1] The admission of other new States

[1] See note, p. 43.

would require an alteration of the Constitution of the League.

Further, the aim of the whole organization must be clearly set forth in the Contracting Act as being especially the maintenance of a peace founded on justice within the Alliance *as far as possible*; because it cannot be expected that the States forming the Union will at present surrender unconditionally their right of making war.

Further, the treaty should also set forth as the work of the Union the following undertakings: The codification and further development of International Law, the legal protection of individuals in cases arising under International Law, and the institution of organized arrangements for the administration of international affairs.

Further, the Act of Union must include provisions for preventing war, so far as possible, by—on each occasion of dispute—at least trying an appeal to peaceable methods, such as regularly submitting justiciable disputes to the decision of a Judge and conflicts of interest to a Council of Inquiry and Conciliation. In this connection a rule should be made that in the case of breach of this agreement by any one of the contracting parties, an International Executive may under the treaty proceed to take diplomatic, economic, or military measures.

This should be followed in the treaty by rules for developing old or creating new arrangements necessary for the purposes of the Union. The Hague Peace Conference should be treated of first of all, as it must remain in the future, as in the past, the most important organ of the whole system. No doubt it would be convenient to leave to a special detailed Convention—to just such a

statute as the second Hague Conference contemplated—such particulars as the question of the presidency of the Conference, its procedure, the number of commissions, their manner of constitution, etc. But certain fundamental points would have to be agreed upon at this stage. Of these the first would be the length of the period between the summoning of the Conferences; and it might be desirable to fix this at an interval of ten years. Provision will also have to be made for the summoning of special meetings. The principle of equality of votes for all States belonging to the League would also have to be laid down. In this connection the powers of the Peace Conference should be defined in relation to the purpose of the whole organization, and provision made for taking valid decisions even by a majority vote of a certain size. It would be necessary to consider the necessity of the ratification of the conventions by the States of the Union. From these arrangements there would naturally follow regulations about the other organs of the Union; first of all the Courts of Justice, the so-called permanent Court of Arbitration and the proposed new permanent Court of International Justice. The special details of the procedure to be adopted before these Courts of Justice, such as are provided for the permanent Court of Arbitration in the Convention for the peaceful settlement of conflicts, may be left to form part of a second appendix, to which would be added the rules of procedure of the Conference as first appendix. For it is desirable to try to separate here, as in national law, the rules about the organization of law courts from the rules about the procedure before them, the former forming part of the Constitution of the Union of States, the latter constituting an independent order of procedure

for International Law. The permanent Court of Justice should consist of separate Chambers, and should be concerned in part with supplying the needs of individuals for international protection of their legal rights; as, for instance, when some private person brings a claim against a foreign State, or when there is need of an appeal from the decision of a national court turning on points of International Law in the sphere, for example, of the law of exchange, or of international private law. Rules of procedure in these special cases should be incorporated in a special section of the Code of Procedure. To these rules about International Courts of Justice must be added rules about Councils of Inquiry and Conciliation. In this case also, only the principles of organization should be embodied in the original enactment; the rules about the legal procedure would form a third appendix. The detailed rules which were drawn up under the head of "International Commissions of Inquiry" in the Convention for the peaceable settlement of international disputes need only be developed in a corresponding way. Next the original enactment would provide agreements concerning executive powers either diplomatic, economic, or military for dealing with the disturber of the peace who should take up arms without making any attempt to arrive at a peaceable settlement. It might be useful to extend the possibility of such an International Executive to those cases in which a valid decision of an International Court had not been obeyed. In this case also it would be best to lay down only the main provisions for the organization of this International Executive, leaving the details to a special ordinance dealing with the Executive, which would form a fourth supplement to the Act.

In conclusion, the continuous administration of the Union of States must be provided for. By a natural process the International Administrative Council, which has hitherto been the organ for supervising the administration of the organization formed at The Hague for purposes of justice, would gradually extend its action so as to acquire formal control over all institutions established there. First of all it would represent the Union of States as concerned property, and would carry on the administration of its finance. And a fifth addition to the Act, rules regulating its procedure, would be drawn up. The original Bureau of the Hague Arbitration Court would develop into a General Working Bureau of the Alliance, under the guidance of the Administrative Council, and rules would be made for its guidance. These should be furnished by the Administrative Council, and need not be incorporated in the original international enactment. Since among the purposes of the Hague Union of States must be included the continuous codification of International Law, it would be well to maintain the Preparatory Committee which the Hague Conference agreed to form in 1907, and to fix certain periods for the meeting of that Committee as well as for the Peace Conference, in such a way that it would automatically begin its activity two years before the meeting of each Conference.

It would in that case have to deal with the following matters :—

1. The collection of the different proposals to be brought before the Conference.
2. The decision as to what questions were ripe for international regulation.
3. The preparation of a programme which the Powers should publish early enough to allow of its thorough consideration in the different countries.

It would then be important to consider the question of how the fifteen (or so) members of the Committee of Preparation should be chosen. It might be well to constitute the Great Powers as special electorates, so that each of these States should nominate its own member, while the middling and smaller States should be united in special electorates, according to the size of their population.

These arrangements would complete the most necessary parts of the organization of the Union. It seems probable that the growth of the scheme would soon necessitate further and more numerous arrangements for its organization. In view of such future development, it would be important to provide a plan by which, in spite of the principle of the equality of rights of the States of the Union and their right of equal votes at the Peace Conference, a gradation of their influence in certain concerns of the Union might be arranged; so that, for instance, the right of appointment to official positions might be regulated according to such gradation. Convenience might demand this. But there should be a guarantee that relative equality should be preserved, in the sense that the gradation should follow a uniform rule, so as to exclude arbitrariness.

One of the principal results of the new international order might then be the introduction into the treaty of regulations concerning the reduction of armaments. The manner and way of carrying this out would have to be treated of in a special agreement which would form the sixth appendix of the whole Act. The reform of the laws of war at sea, which must be a real prelude of such a settlement, should be simultaneously embodied in a scheme of codification of laws of land and sea warfare. This scheme

should be founded on the existing Conventions of The Hague on this subject, and the whole would then form a complete code of the laws of war. The whole plan should conclude with rules as to contributions to expenditure, which could be arranged in accordance with the rules already in vogue concerning the Union of States of The Hague. The budget would be preferably arranged for by the International Administrative Council, whilst the accounts would be kept by the General Bureau.

In this manner the edifice already begun at The Hague must be completed. The actual wording of the original enactment could be settled when a clear agreement has been arrived at concerning the separate institutions. I will now summarize my proposals in the following words:—

The Union of States, comprised of civilized States already founded by the activities of the Peace Conferences at The Hague, is to be clearly formulated and developed in a fundamental treaty. This treaty will have six appendixes:—

1. A code of procedure for the Hague Peace Conferences.
2. A code of procedure at International Law, including the special rules of procedure for the protection of the international rights of individuals.
3. A code of procedure for the International Council of Investigation and Conciliation.
4. A code of procedure for the International Administrative Council.
5. A code of procedure for the International Executive.
6. A special agreement for carrying out the international agreement to limit armaments.[1]

---

[1] For further particulars see "*Der Staatenverband der Haager Konferenzen*" (Munich and Leipzig, 1912), by the same author.

VI

ON THE LIMITATIONS OF INTERNATIONAL ARBITRATION

By Prof. Dr. H. LAMMASCH, *Austria*

During thousands of years of human development the limits of law were co-extensive with the boundaries of the State. Like the rule of the gods, the authority of the law ended at the frontiers of the State. The gods were the guardian spirits of one nation, on behalf of which they fought against the guardian spirits of neighbouring peoples. So long as nations believed in national gods, International Law would be inconceivable. Even monotheism could not conceive it at first. The "foreigner" remained unprotected for a long time, even if he were not exactly treated as an enemy. Legal rights were limited to those of the same racial origin: witness the history of Judaism and of Islamism. It was only Christianity, by teaching that all men are children of one God, and therefore brothers and sisters, which guided the ideas of law into the paths of a common community. After the bold conception of a world-empire had been shown to be a dream, some Church writers, at the close of the Middle Ages, treated, for the first time; of the existence of an International Commonwealth. Such teaching laid the foundations for the first development

of an independent science of International Law, which grew up chiefly in the free Netherlands.

Nothing but International Law could sufficiently express the conception of an international comity. The idea of a tribunal which should be placed above States was much more slow in developing than the idea of a law between States (or even above them), since only a tribunal which was called into existence by themselves could become a Court of Arbitration. After such tribunals had been, for a long time, called to meet on special occasions, certain Powers came to an understanding to submit their future differences, or at least some of them, to arbitration from the first; and thus a Court of Arbitration was raised into a permanent institution of the special International Laws recognized between them. But why should such an institution be limited to the relations of, say, two States to each other? Why should it not be developed into a *world-institution*, and become an integral part of universal International Law? At the second Peace Conference at The Hague, in 1907, the question was very specially discussed: within what limits such a scheme might be possible. Only when and in so far as all this is successfully carried out will the limitation of the rule of law to nations be superseded by the governance of a world-law.

The first point to consider is, What are those subjects which two or more States might recognize as suitable for submission to arbitral decision? Many States have, in fact, gone so far in this direction as to consent in some of their agreements, such as those concerned with extradition and trade, to accept "compromise clauses,"[1] by which they consented to submit disputes concerning

[1] See Convention I, Article 53, Hague, 1907.

the interpretation and application of such agreements to Courts of Arbitration. This principle lies at the root of the proposal to enumerate in special arbitration agreements the cases in which the contracting States bind themselves to appeal to arbitration; that is, as it was expressed in 1907, to draw up "lists" of "arbitrable" cases. Experience has shown how defective such a list must be if it is not to be limited to two States, but to be applicable to several or even to all States. More way would be made by means of a general clause allowing for certain exceptions than by the above-named method of enumeration. Such a clause was debated at the Hague Conference; it comprised an obligation to submit controversies on questions of law to the decision of an Arbitration Court, so far as neither the national honour nor the vital interests of either party was concerned.[1] Above all, we must avoid a misunderstanding, or rather a misinterpretation. There is a very old trick by which those who find a legal measure too severe try to represent it as insufficient, and to ask for something more. So the unattainable "better" becomes the enemy of the attainable "good," and drives it out of the field. Even in these matters people have not been ashamed to use tactics of this kind. It has been urged that, by the above-mentioned limitation of the subjects to be submitted to arbitration, the question of whether any case is really arbitrable being left to the free decision, to the option of the party concerned, the apparent obligation is really and in fact suspended. But this is not correct. Such a treaty must be applied in good faith. The pretext of honour or vital interest must not be misused. The question must be answered honourably, not arbitrarily. No doubt the conceptions of national honour and vital

[1] Convention I, Part III, Article 9.

interests are very elastic. Especially as to the application of the first notion in this connection difficulties were raised on many sides. But, if one interprets the notion "honour" rightly, not in the academic sense nor according to the military-aristocratic ideas of duelling, the only objection that can be raised against it is that it is scarcely applicable in this connection. Real honour—that is, the moral worth of a person, and also of a State—cannot be injured by any one else, only by the person himself or the State itself. You are dishonoured by your own conduct alone, not by any external action. External actions can only injure that which is falsely called honour in the sense of social estimation. No doubt as long as diplomatic bodies are principally represented by those classes of society who uphold the murderous morality of the duellists' code, there will remain a danger that the honour of a State will be considered to be injured when its flag or its arms have been insulted by a street-mob, whilst any one who is reasonable only condemns the rough mob who have done it. To demand the bloody expiation of war for this is more entirely wicked and foolish than the duelling madness of a man who considers he is "insulted" by being merely ruffled. The State could only be accused of guiltiness should it refuse to punish the particular people concerned in the offence. In this case the "honour" clause should be defined by the addition of the words "by acts for which the Government of the other party is responsible" ("*par des actes dont le gouvernement de l'autre partie est responsable*").

The formula of "vital interests" is also very vague. The expression suggested by the Council of the Swiss Federation (1904) is certainly preferable—"Independence and Sovereignty." Lord Bryce and Mr. Secretary Knox

tried quite a different way in their composition of the Taft Arbitration Treaty of 1911.[1] Alas! the American Senate refused to proceed on their lines. But in the Bryan treaties of 1913 the idea is in part resumed. Instead of defining the subjects about which the States will bind themselves to accept an arbitral decision, the Taft formula upholds directly the reality of a legal decision, and refers to a Court of Arbitration all " claims of right " " which are justiciable in their nature by reason of being susceptible of decision by application of the principles of law or equity." [2]

No doubt even this conception of " justiciable claims " is not precise, as is proved by the conflicting interpretations given to it by American legal science. But the great advantage of this proposal consists in its completion in another direction which we shall speak of presently. But first, one thing more. No universal formula will satisfy every one. It will always be possible to conceive a number of cases, for which one would wish for a different formula. But this is not peculiar to this question. Every paragraph of every law is open to the same objection, brought against the method of formulating a general principle as well as against that of enumerating cases. But we need not conclude, from this difficulty, that a general formula is impossible or would be worthless. Its priceless importance consists in the establishment and recognition of the principle that disputes between States can and ought to be decided by legal processes conducted before impartial arbitrators chosen by the States themselves, and *that very special, very important grounds, grounds that may impress outsiders, are necessary before*

[1] Treaty of Arbitration between the United Kingdom and the United States of America.

[2] Article I.

other ways, the ways of force, are resorted to. It is of comparatively little importance what formula is chosen to express the thought that in principle *all* disputes should be settled by peaceful means, and that only in the most extreme and desperate cases should an appeal to the *ultima ratio*—that is, to the most irrational method of settlement—be made. At all events, the choice of a formula is a matter of subordinate importance.

Recognizing these facts, and convinced that arbitration is not a procedure which suits all cases of conflict between different States, Taft supplemented his proposal of an International Arbitration Court by the suggestion of Commissions of Inquiry. In cases that are not arbitrable, a Commission of Inquiry is to be summoned, which does not pronounce an arbitral decision by which the parties would be bound, but merely submits a report containing conclusions and recommendations, and so simply is of importance as considered advice. We may hope that the moral weight of such advice, if it is delivered by properly qualified persons, will weigh heavily in the scales of decision. But the principal advantage of this proposal consists in securing a period during which the heated passions of both contending parties may cool, and give place to calm consideration of the facts. The same suggestion was further worked out by Bryan in his Arbitration proposals and raised to a higher level by the idea that such a Commission of Inquiry might be set up by any two States as a permanent institution.[1] But all these proposals can only attain their object if those States which have no immediate share in the conflict (and who may be shortly described as the "neutrals") are prepared to do their duty in pre-

[1] Treaty between U.K. and U.S.A. ratified November, 1914.

serving peace by using all their energies in restraining the States wanting war from open warfare. The present war is well suited to open the eyes of neutrals, to bring clearly before them the dangers and injuries to which they are exposed even by a war which does not touch their territory. There is no existing State, however far from the actual field of battle, which is not affected by the war. No ! not even Abyssinia or Liberia ! Especially such States as participate fully in the intercourse of the world have sustained economic injuries which are scarcely less serious than those directly inflicted by many a war of the past. They have suffered especially through being held up on the "free sea" (*difficile est satyram non scribere*), for this has crippled their import, export, and carrying trade, and crises have been thus produced which have damaged the fortunes and means of livelihood of millions. Moreover, the mobilization of nearly all the armies of Europe has brought enormous expense upon the neutral States, and has interfered seriously with families, trades, and professions. The affairs of many citizens of neutral States, who had carried on their businesses peaceably in the territories of the present combatants, have been gravely injured by the economic disturbances of these States. Family bonds and business connections which had been thought to be indissoluble have been torn asunder in the most painful manner. Citizens of neutral States have been ill-treated because of the identity or similarity of their language with that of one or other of the belligerents. Capital investments of neutrals in the territories of belligerents have been destroyed; and so on, and so on. Only after the war is over will it be possible to draw the terrible balance-sheet for neutrals as well as for belligerents.

As against these losses through injuries, sorrows, and sufferings, as against the irrecoverable losses of the treasures of civilization in all lands, the profits made by individual manufacturers and speculators in neutral States—profits won, in fact, by traffic in human lives —cannot be really taken into consideration. No doubt not all the profits made out of the war are as immoral as those last mentioned. The profits of the shipping trade and of peaceable industries are not suspect. But they can scarcely be considered against the greatness of national losses. From such negative balances even neutrals will gather the lesson that they must use all efforts in order not to be again surprised by a world-war, that they must employ every means to make its repetition difficult and improbable. For this the development of Courts of Arbitration is of supreme importance, as well as its supplementation by the institution of international mediation.

Those Powers which seriously desire to maintain peace, and which have therefore determined to remain neutral from the beginning in future conflicts must form a league during peace-time, as the best means of expressing their demand that other Powers shall also keep the peace and avoid possible conflicts by means of arbitration, Commissions of Inquiry, and acceptance of mediation. Such a demand could not be considered as *unjustifiable* intervention in foreign affairs, for it would be the result of an effort to protect their own lawful interests.[1] The time must come when, in the words of De Louters, " the rights of neutrality will rule the laws of war." [2]

[1] Among other German references given is " The Mission of Neutrals," in the *International Review*, 1915, pp. 6 ff.

[2] Dutch, *Het stellig Volkenrecht*, ii. 384.

VII

INTERNATIONAL SANCTIONS

By THE COMMITTEE OF THE " DANSK FREDSFÖRENING "
(DANISH PEACE SOCIETY)

The " Dansk Fredsförening " has from the first moment, and with the greatest sympathy, sought to associate itself with the immensely important work pursued by the Dutch " Anti-Oorlog-Raad," [1] of seeking to unite all the enemies of war in a common effort to ensure a durable and universal peace.

The " Dansk Fredsförening " is able to support the measures proposed to this end in the " Minimum Programme," always excepting the points concerning military measures against States which oppose themselves to judicial settlement.

The principal aim pursued by our Association, as expressed in Article 1 of our regulations, is, " To suppress war and replace might by right." In order to realize this aim, Denmark must declare herself neutral as much in general principle as by specific undertaking, and must consequently abolish all her fortresses and limit herself to the surveillance of frontiers, and to a maritime police to fulfil the duties incumbent upon her by virtue of International Law.

[1] Anti-War Council.

Through years of energetic effort we have succeeded in rallying all classes of the population to the idea of, and the demand for, the permanent neutrality of Denmark.

Our Government expressed the determined will of all parties, and of the entire nation, when, at the beginning of the European War, it declared that Denmark would observe a policy of neutrality, absolute and impartial on all sides.

The Danish nation has been equally agreed on the question of arbitration. We have certainly no need to remind you that Denmark has concluded permanent treaties of arbitration without reservation, not only with Holland, but also with several other countries. The conclusion of these treaties has not only met with the support of all parties, but also with the general approbation of the whole nation. It is, then, natural that the friends of peace in Denmark should be ready to second all efforts which tend to promote the idea of arbitration. We believe, however, it would be unfortunate, at any rate at the moment, to propose international coercive measures, especially military measures, against States that should refuse to submit their differences to judicial arbitration, or should decline to abide by the decision. At all events we are convinced that a neutral State, by giving its support to such measures, imperils its neutrality, and risks being drawn into the group of belligerent Powers.

It is easy to imagine what would have ensued if circumstances at the moment in which war broke out had been such that one of the groups of the Great Powers had consented, and the other refused, to resort to the help of arbitration in order to settle the dispute ; the putting

in practice of the idea of military measures would have probably resulted in the immediate and forced abandonment by neutral States of their neutrality and in their participation in the war.

It is superfluous to insist on the disastrous results that this would have had, and how much it would have aggravated the present terrible situation.

The small neutral States limit the theatre of military operations, they form oases in the desert of war, and it is their natural office to cherish the ideas of peace and justice. Efforts in favour of peace and justice will come to birth more easily among them than among the belligerent Powers.

But, it may be objected, how can it be possible to create a durable peace if at the same time we do not contemplate measures to ensure a respect for law?

The friends of peace in Denmark cite, in favour of their point of view, the old maxim, recognized far and wide, which states that the organization of justice is more ancient than the maintenance of justice, and, moreover, add: "The organization of justice, as well as its maintenance, has its source in common interests, and is based upon these interests." It is on this solid basis of common interests that the community and maintenance of justice are erected in every civilized State. And the same development that makes for the consolidation of the rule of right in the different countries, especially in modern times, is equally manifested in the international domain. Modern means of communication—railways, steamboats, telegraphs, telephones—unite more and more intimately countries and their inhabitants, and that as much from an intellectual as from a material point of view. And in proportion as world-commerce increases, and

relationship between the peoples develops in every direction, the populations of the different States become more and more interdependent. In short, a community of interests is created which demands and necessarily entails a community of right.

The appalling chaos of which we are witness confirms the idea common to the friends of peace as to the conditions necessary to the mutual life of the peoples. The World-War has not succeeded in suppressing the need for collaborative effort and international union. By reason of the very intensity of the development of a community of interests during these later years the peoples suffer far more cruelly to-day than during the wars of the past. But since events go to show that war, while injuring enormously the community of interests, is still unable to suppress it, it would seem that there is still some hope in the future for work in favour of peace and justice; whatever may be the intensity of national hate in each of the belligerent countries, that hate will nevertheless be stifled, or at least diminished and relegated to a second place, by common interests. We shall not cease to use railways or steamboats as means of international communication; on the contrary, when restrictions imposed by the war are removed, we shall experience an increasing need for the possibility of maintaining secure and permanent relations.

The friends of peace in Denmark are of opinion that in working for a durable peace it is, above all, necessary not to lose sight of common interests. For it is upon these common interests, which are growing and multiplying from year to year, that the organization of international equity ought to rest. We shall put forward every effort in favour of the cause of arbitration, but

we are unwilling to contribute to the attainment of this end by the employment of military measures, for we fear by this means we shall indirectly further a policy of militarism and armaments.

We are firmly convinced that the principle of arbitration, indissolubly wedded to common interests, will prove itself victorious in the maintenance of peace and justice between nations. It is true that the World-War constitutes a complete denial of the idea of law in the life of peoples, but the basis of law is not destroyed by the fact that there have been violations of law. What happened in times not so far distant, when the ideas of law began to dawn in different countries? Wars and conflicts in the midst of nations themselves were then daily events. The theatre of war was more limited, but violations of law could be just as atrocious as those which we see before us in the bloody drama of the present war. And notwithstanding this common interests showed themselves sufficiently strong to make possible the extension of the sentiment and security of law.

Will the same basis show itself insufficient in the struggle for law in international relations? No, these common interests are so strong, and draw their strength from so many different sources, that it will be impossible to suppress them. Militarism and the policy of armaments have been powerless to ensure peace. Common international interests, which assume from year to year an ever greater importance, will be the best safeguard to assure the reign of peace and of law.

VIII

THE INTERNATIONAL EXECUTIVE

By Dr. ÖDON MAKAI, *Hungary*

Note.—The second and third parts of a long paper on the above subject, by Dr. Ödon Makai, have been included in this collection, but not the first part.

Part I deals in a general way with the larger aspects of the subject, under the title " Outlines of the Theory of Joint Sovereignty from the Standpoint of the Philosophy of Law and of International Law," and is, perhaps, less instructive.

Part II contains valuable suggestions as to the development of an International Executive.

Part III is a suggested convention, under different titles, to be added to the existing conventions of the Hague Conference.

Part II

THE PROBLEM OF THE ORGANIZATION OF AN INTERNATIONAL EXECUTIVE

International Law constitutes " subjects of legal right " and lays them under obligations. States only are recognized as " subjects of legal rights."

States express their obligations to each other in the form of treaties with one another. It is, at bottom, a matter of small importance how far the separate States surrender their individual sovereignty by these treaties—whether, for instance, by military agreements, or by the pledge of neutrality, given by neutralized States—since each State has bound itself by its treaty to carry out the obligations of that treaty in accordance with International Law.

The only matter that concerns us is the violation of international obligations imposed by treaty, although we must lay down the universal principle that a crime against International Law is committed, not only when a treaty is violated, but in every case in which an injury is inflicted on any interest of a State which is protected by International Law. It follows from the conception of International Law that the State is itself responsible for the offence so committed. The distinction drawn by Liszt, in accordance with which the "Superior State" is responsible for the acts of the semi-sovereign State, has no importance in any actual case, since, according to the rule which we have set forth, it is only on the parties to the treaty that the responsibility lies, and the offence consists in the refusal of the contracting parties to fulfil the obligations imposed by the treaty.

According to the Convention of the second Hague Conference, the submission of States to the jurisdiction of the Court of Arbitration was voluntary. Accordingly, violation of the contracted obligation, based on the Convention, only took place when a State which had submitted to the jurisdiction of the Court of Arbitration, and had received a decision, refused to comply with it.

The problem of how the decision should be enforced led to the discussion of the idea of an executive organ.

Though history presents no instance of any failure to carry out the decision of the tribunal, yet such a possibility has been freely discussed in the literature of International Law, where the question was raised whether it were possible to secure the execution of the decision by means of force, on the basis of International Law.

The introduction of compulsion seemed to be practically useful, since it could also be used against a State which violated the neutrality of a State whose neutrality it had guaranteed. A radical application of methods of compulsion is, of course, not provided for in the Hague Convention. The conservative timidity, which is the general mark of the Hague Conferences, is strikingly illustrated by a note of explanation which the Russian Government appended to the decisions of the first Conference: "It seems to us natural that the work of the Conference on behalf of a lasting peace should be confined to the development of existing means, and should certainly not seek out new means which have not been tested nor sanctioned by practice."

In view of such a conception it was not strange that even the proposal to fix a period for the fulfilment of the decision of the tribunal should be rejected coldly as a new and risky attempt to undermine the sovereignty of the individual State. Indeed, the Congress thought that such eventualities as might occur after the delivery of the award had been exhaustively dealt with in the provisions of Articles 82 and 83.[1] Thus Article 82 empowers the contracting parties, if they differ in opinion

[1] Convention I, Arts. 82, 83 (1907).

about the meaning of the arbitral decision, to apply to the tribunal for the interpretation; and Article 83 gives the right to demand a revision of the sentence if new facts have since been discovered.

Thus it is left to the experts in International Law to decide on their own authority how a State should act, if the circumstances on which the decision of the tribunal was based should have fundamentally changed, and whether the parties to the treaty have a right to bring any collective diplomatic pressure on the State which refuses to carry out the decision of the Tribunal.

The questions which arise out of the text of the Hague Convention are disposed of in the above. It is certain that the Conference made no attempt to provide for the execution of the decisions. Instead of providing actual executive powers, the Conference merely expressed a hope that the States would carry out the decisions in good faith. "The recourse to arbitration implies a promise to submit, in good faith, to the award." [1]

There is a certain suitability in this suggestion, for if a State voluntarily submits to the competence of a tribunal, it thereby accepts the moral obligation to carry out its decisions. On the other hand, we cannot deny that, the further compulsory arbitration is extended, the stronger will become the tendency of the State to escape the carrying out of the decisions.

Failing compulsory arbitration, the institution of an International Executive proposes to introduce executive powers to supplement the moral force of Article 37.

The importance of the question is considerably increased if we wish to extend compulsion to the case raised in the sixth point of the programme of the

[1] Title IV, Art. 37.

International Study Congress,[1] according to which a State should be bound to submit to the jurisdiction of the Court of Arbitration instead of resorting to military measures.

In considering the problem of international methods of compulsion, two points of view can be taken—

1. That the execution of the decision may be carried out by means which already exist.

2. That a new international organization may be set up for applying compulsion.

As to the first, Von Ullman[2] considers that, both on moral and technical grounds, it would be impossible to compel any State by force to carry out the decision of a tribunal, and that it could only be done if the Powers confined themselves to collective, diplomatic measures. The latter course would, he considers, show such a solidarity of interests as would exercise a moral influence on the conduct of the State concerned. "The more prominence is given to the idea of solidarity of interests, the more surely will the International Community be able to carry out its task by such collective means as suit its nature and do full justice to the interests of the members of an International Community."

In like manner Dumas[3] is satisfied with collective and purely diplomatic action; at the same time he points out the danger to which a State will expose itself if it commits so great a transgression that it offends humanity.

"Every Power," he says, "which makes war without trying to avoid the appeal to arms by conforming to the recommendations of a pacific arrangement, will be

[1] See Introduction, p. vi.

[2] Professor von Ullman, Frankfurt am M.

[3] M. Dumas, Doctor of Laws, Paris. Author of *The Sanctions of International Arbitration*, 1905.

considered to be such an enemy of the human race as can no more reckon on the commercial and financial support of the signatory Powers."

So, too, Oppenheim considers diplomatic action sufficient. He even considers that the signatory Powers already possess this right under the Hague Convention.

Van Vollenhoven supports the idea of thoroughgoing compulsion. In his judgment a complete solution of the problem can only be secured, in the absence of independent international authorities, by forcible action of the Powers. In the *Revue de Droit International* he sets forth the draft of a treaty which would contain the following points :—

(*a*) If a State refuses to carry out the decisions of the Tribunal, the opposing party shall have the right to take forcible action, together with the other Powers who have accepted the agreement, against the resisting State.

(*b*) The party opposing the recalcitrant State can, with the support of the maritime and military forces of other signatory Powers, compel the carrying out of the decision of the Court. Van Vollenhoven rightly desires that the use of military force should be extended to the case of a neutral State injured by a belligerent State.

The second view of the way to bring compulsion to bear upon a State requires the setting up of an executive organ in order to compel the recalcitrant State to fulfil its treaty obligations.

Van Vollenhoven approaches this point of view in his later writings, and Erich shares it fully. Indeed, Erich's radicalism is so exaggerated that it takes him as far as the Utopia of an International State : " The foreign relations of the International State would be principally concerned with the peculiar duties imposed upon it by

International Law—and having regard to its want of resources (for only a country with a small population and unimportant military forces would be in question), it would not be able to play an independent part in international politics. Its importance would be derived rather from the duties which it would have to perform, so to say, as the mandatory of the Community of Nations."

According to Erich, this International State must be provided with an international army and fleet, in order that, as mandatory of the Community of States, it should be in a position to use international military force against a recalcitrant State should the occasion arise.

For our part we take the view that, in order to compel a State to fulfil its treaty duties, an international executive organization must be set up at the same time as the Permanent Administrative Council provided by Article 49 of the sixth Hague Convention. When we come to the actual proposal we can consider further details. At this point we must first settle two weighty preliminary legal questions—

1. Can it be consistent with the conception of the sovereignty of a State that its actions should be prescribed to it ?

2. Is it possible to reconcile with the principles of International Law such a setting up of a new and greater international force to impose the jurisdiction of the Court of Arbitration on a State ?

In deciding the first of these points, we must consider the following :—

Neither when taken as a dogmatic axiom nor when considered as an argument drawn from history and Inter-

national Law, does the conception of the sovereignty of a State exclude all limitation. To illustrate this point, we call attention to two considerations—

1. International Law permits the restriction of the conception of State sovereignty, by establishing the institution of semi-sovereign and of neutralized States. The semi-sovereign States (such, for instance, as Bulgaria, as recognized by the Berlin Treaty, and all colonial Protectorates) can carry out no independent foreign policy. And even their juridical powers are limited generally by the juridical power of Consuls. As to neutralized States, their claims to military power are reduced to the right of self-defence, and the sovereignty of neutral States is reduced by virtue of International Law to such a degree that the inclusion of Luxemburg in the German Zollverein was allowed only as an exceptional case.

2. The second consideration to which we refer is derived from the philosophico-historical theory of the development of Society.

In accordance with this theory we cannot avoid the conclusion that, in the course of the evolution of Society, the sovereignty of the State gradually loses its beneficial character. Whether we consider the ideal development of Society (shown by the spread of humanitarian ideas), or the actual development (its intellectual and economical evolution), we have to confess that States have undoubtedly resigned an important part of their sovereignty in the interests of Society. As characteristic illustrations of this change, we may mention the sovereign rights of the State in relation to prisoners of war, to religious establishments (on the principle of *cujus regio ejus religio*), and finally to the limitation of trade with foreign

countries. All these rights have been surrendered only as Society has progressed.

These considerations lead us to the conclusion that the objection that the sovereignty of a State is incompatible with any limitation cannot be maintained in face of the evidence furnished by history and International Law.

We have already pointed out that, from the point of view of International Law, a semi-sovereign State, a neutralized State, or a State bound by a military convention, is fundamentally restricted in its capacity to act. In the same way it can be shown that our thesis—the thesis, namely, that the sovereignty of the State is compatible with legal restrictions—can properly be deduced from the rules of International Law.

The point raised by the other question is, whether it is consistent with the principles of International Law that an international Authority, capable of compelling any single State to acknowledge the competence of the Court of Arbitration should be placed above the separate States.

The decision of this question forms part of what is known as the doctrine of the "subject of legal rights" or "legal personality." As already observed, the theory of International Law assumes the existence of subjects of legal rights. International rights and duties are annexed to certain subjects, and these subjects are the several States, and no others.

Is it, then, possible to erect a subject of legal rights which shall transcend all the separate States, and be capable of imposing its will on them?

The dominant view among international lawyers is somewhat as follows:—

There is only one possible subject of legal rights, viz. the sovereign State.

If a superior Power, capable of prescribing the acts of the separate States, is to come into existence, it can only be done by establishing and organizing a Federation of all the States in the world. There is, however, no demand, either from the States themselves or from International Law, for the creation of any such giant Federation.

We do not agree with this view. We hold that international rights and obligations may exist without necessarily having as their subject an organized political community. We are led to this conclusion by the following considerations :—

International Law recognizes as subjects of rights not only unitary States, but also federal States, e.g. U.S.A., Germany, Switzerland. Federal States have a central organization with some form of President and federal Council. International Law fully acknowledges a federal State as the subject of rights, and the latter (the federal State) prescribes the acts of its constituent States, and thereby abridges the capacity of the separate States to be independent subjects of rights. Such is the characteristic effect of any federal institution ; but the effect may be produced apart from the existence of such an institution. For whenever several States become parties to a treaty, there we have, *qua* the subject-matter of the treaty, a form of union which dictates the conduct of the several contracting States.

The process we have referred to may be illustrated by an example which happens to be specially appropriate. Whenever several States, by mutual treaty, guarantee the neutrality of another State, and one of the guar-

anteeing States violates that neutrality, this violation justifies collective action on the part of the contracting States against the offending State. International Law fully recognizes such a right of collective action (Liszt). To recognize such a right, however, is in substance equivalent to acknowledging that the Treaty Powers, having by their treaty set up a union with a particular object, constitute, as against the offending State, a distinct subject of legal rights, and that they do so in spite of the fact that the union does not possess any kind of political organization.

The existence of a subject of rights superior to the separate State does not, therefore, of necessity mean that that subject is a political organization. *It follows, therefore, that if a League of Nations were to apply force to a State that attempted, in violation of an Arbitration Treaty, to withdraw from the jurisdiction of the Court of Arbitration, such a League is entitled to be acknowledged as a subject of legal rights, the only condition being that the contracting parties should, without exception, have accepted the principle of compulsory arbitration.*

In order, then, to create a subject of legal rights superior to the separate States, there is no need for the States expressly to erect a union of States with a giant organization, since the requisite subject of rights will automatically come into being whenever the parties to a treaty take collective action against a party that infringes the treaty. The subject of Rights, standing above the individual State, is, in such a case, the other States bound by the treaty; and there is no need for these States to be united by an organized constitution.

Let us apply what has been said to the concrete case of a Court of Arbitration. It is clear that a compulsory Court

of Arbitration, resting on international treaty, is really nothing but an organ of the League of Powers which has brought the Arbitration Treaty into existence. Behind the Arbitral Court stands the fiction of a subject of legal rights —a subject represented by that union of Powers which the treaty has brought about. Similarly, the institution of an executive organ would signify the existence of a union of Powers resulting from the treaty instituting the organ. There would be no necessity for this union to be organized constitutionally in the form of a confederation or a federal State.

These considerations lead us to two principles—

1. From the point of view of International Law a subject of legal rights may be either a single State, or, where there is a treaty, it may be, *qua* the subject-matter of such treaty, a union of several States.

2. Just as the separate State, as a subject of legal rights, is entitled to establish an organization to enable it to realize its will, so a League of several States is entitled, as the subject of legal rights, to establish an organization for the purpose of realizing, as against each separate State, the collective will expressed in the treaty, and compelling the separate State to abide by the treaty.

Part III

COMPULSION UPON A STATE TO RECOGNIZE THE COMPETENCE OF THE COURT OF ARBITRATION

("The States shall bind themselves to take concerted action, diplomatic, economic, or military, in case any State should resort to military measures instead of submitting the dispute to judicial decision or to the meditation of the Council of Investigation and Conciliation.")

Title I.

The Competence of the Court of Arbitration.

Art. 1.—The Treaty Powers in consideration of the fact that they regard the settlement of disputes between States by recourse to armed force as neither justifiable nor right; and, further, that the reciprocal peaceful settlement of disputes can only be obtained by means of an impartial arbitral decision by an International Court of Obligatory Arbitration; and, finally, that the action of a Treaty Power in evading the jurisdiction of the Court of Arbitration and having recourse to military measures, is not only a breach of treaty, but constitutes also an attack upon the common interests of humanity; have arrived at the following agreement.

(*Note.*—The solemn declaration of the Powers proposed here follows the analogy of the Declaration on Maritime Law at Paris, April 16, 1856. The expression "the common interests of humanity" is taken from the collective manifesto of the second Hague Peace Conference.)

Title II.

The Construction of the Organization of the Permanent Administrative Council.

Art. 2.—The Council constituted under the above name (Article 49, chap. ii, first Convention of the Hague Conference, October 18, 1907), shall be given the title: Permanent International Administrative and Executive Council.

The Members of the Council, according to Article 49 cited above, are the diplomatic representatives of the Treaty Powers accredited to The Hague. The President is the Netherlands Minister for Foreign Affairs.

Art. 3.—Each of the Treaty Powers shall nominate a military and a financial expert, and such Treaty Powers as are sea Powers a naval expert as well. (Analogous with Article 18 of the twelfth Hague Convention concerning the constitution of a Prize Court.) These experts shall constitute the Military Commission, the Naval Commission, and the Finance Commission of the Permanent International Administrative and Executive Council. The Presidents of these Commissions shall be the Dutch Ministers of War, of the Navy, and of Finance.

Art. 4.—The Treaty Powers shall notify to the Council established in Article 2 the names of the experts nominated according to Article 3, within thirty days of the ratification of this Convention. These Commissions are not to act in permanence unless in the circumstances provided for in Article 21 of this Convention, and it

will be the duty of the Council (Article 2) to summon them each time.

Art. 5.—The field of action and the work of these Commissions is fixed in Articles 9, 12, and 17 of this Convention. The decisions of each of these Commissions shall be taken by an absolute majority of the votes cast, the President's vote being included. Should a member not be present, he is to be replaced by the member of the Council of the Treaty Power concerned, as mentioned in Article 2.

Art. 6.—The Members of the Commissions enjoy diplomatic privileges and immunities during the exercise of their office. (Analogous to Article 46 of the Convention concerning the peaceful settlement of international disputes.)

Title III.

The International Army and Fleet.

Art. 8.—The Treaty Powers create the Institution of an international army and an international fleet. Neither this army nor this fleet shall be permanent; they shall be constituted for the sole purpose specified under Title V of this Convention.

Art. 9.—Every Treaty Power shall have a share in the international army and every naval Treaty Power in the international fleet according to an established scale. It will be the duty of the Military and Naval Commissions of the Council, established by Article 2, to fix this scale, also all questions concerning the organization of this army and this navy. It will be the duty of the Finance Commission of the above-named Council to settle the financial measures to be taken for the covering and collection of the expenses incurred in the war operations of the international army and navy.

(*Note.*—1. As a consequence of the international army and fleet not being of a permanent character, it follows that the theoretical controversy as to the particular State in which the international forces should be located, or, whether they should be located sometimes in one State, sometimes in another, falls to the ground. That portion of any national force which is assigned to become part of the international force—for example, one army corps or a naval squadron of each State—retains its connection with the national force, and is organized therewith, receiving its international character when it joins up with an international force for the particular purpose discussed under Title V of this Convention.

2. Cases are recognized in International Law where (without any international organization whatever) the Powers have used collective force or where the right of armed intervention has been secured to them.

(*a*) Article 21 of the Congo Act allows the International Commission to make a claim on the warships of the Treaty Powers in case of necessity.

(*b*) In the spring of 1913, collective action against Montenegro.

(*c*) Collective action at the time of the Chinese Boxer revolution.

(*d*) The right of the International Danube Commission to demand international action.

(*e*) The collective military action of the Powers of Germany, France, Great Britain, Italy, Austria-Hungary, and Russia against the Ottoman Empire in 1905. The place of assembly for the warships was the Bay of the Piræus. The Powers occupied the Customs and Telegraph Offices in Mytilene, as well as other parts of the town.)

Title IV.

Procedure.

Art 10.—Disputes arising between two of the Treaty Powers are to be submitted to the Court of Arbitration through the Council (Article 2). The Power concerned sends a Note to the Council for this purpose. (Analogous to Article 48 of the Hague Convention for the peaceful settlement of international disputes.)

Art. 11.—In case one of the Treaty Powers does not submit a Note concerning the dispute at the same time as the other Power, the Council immediately notifies the Power that has postponed doing so of the fact of its having received the Note, and at the same time draws attention to Articles 1 and 2 of this Convention. The Council also brings the action taken before the notice of all remaining Treaty Powers.

The Power that has been so summoned must, within three days, notify the Council of its willingness to submit to the judgment of the Court of Arbitration. (*Note.*—The chief point in the solution of the difficulty is that of obliging the State to recognize the competence of the Court of Arbitration. This also furnishes a guarantee that the Power which has already submitted the dispute to the decision of the Court of Arbitration will not take military measures in the case of its opponent not acting in accordance with Article 2, but at the same time, also, not mobilizing.)

Art. 12.—If this term expires without any result, the Council has to notify the fact to the remaining Treaty Powers without delay, and to call together the three Commissions set up in Article 3.

Art. 13.—On receiving the notification as per Article 12, the Treaty Powers are to address a common diplomatic Note to the Government of the recalcitrant Power, demanding recognition of the jurisdiction of the Court of Arbitration within three days. The Council is to be notified immediately of this action.

(*Note.*—The provisions of Articles 12 and 13 are to be carried out simultaneously, in order that the International Commissions may have sufficient time to deliberate concerning the military measure to be taken against the recalcitrant State if the *démarche* should be fruitless.)

Art. 14.—Should this term also pass without result, diplomatic relations between the Treaty Powers and the recalcitrant Power are to be immediately suspended, and the Council notified accordingly.

Title V.

The Employment of the International Army and Navy.

Art. 15.—After receiving the notification mentioned in Article 14, the Council (Article 2) intimates to the other Treaty Powers, without delay, that the international army, and if necessary, the international navy, shall be put on a war basis. Following on these measures, the international forces commence operations of war which have been planned by the Commissions.

Art. 16.—With regard to the summoning of the international force, the Treaty Powers agree that, in case the whole force is not required to achieve the purpose, it is sufficient that only certain Powers should take part in the operations of the international army or navy, if the Powers in question freely consent to this course, and the other Treaty Powers do not insist upon participating.

Art. 17.—The object of the military operations on land and sea is to conquer and occupy the territories, the harbours, and the colonies of the recalcitrant Power, until this Power submits to the jurisdiction of the Court of Arbitration, carries out the sentence, and compensates the Treaty Powers for the costs they have incurred. The necessary measures for the collection of these costs (mortgage on customs duties or taxes, etc.) are to be settled by the Finance Commission set up by Article 3 of this Convention.

(*Note.*—This drastic exercise of power is based on the supposition that trust in the recalcitrant Power has been so shaken that the procedure laid down in Article 17 appears necessary as a guarantee for the carrying out of the sentence and the restitution of the costs.)

Art. 18.—The neutrality of the neutral Powers which have signed this agreement expires, in case their territories or coasts have to be used for the successful carrying out of the operations of war.

(*Note.*—Such use is in accordance with the common interests mentioned in Article 1.

Article 23 sets forth which Powers are to be reckoned as neutral from the standpoint of this Convention.)

Art. 19.—The operations of war are constructed in accordance with the general laws of war.

Art. 20.—The ships of the recalcitrant Power are to be retained in the harbours of the Treaty Powers; such of her ships as are in transit are to be stopped and taken into the nearest harbour of some Treaty Power; the usual powers concerning blockade are valid.

Art. 21.—Should additions and drafts become necessary in the course of military operations, these have to be furnished by the Treaty Powers, under the direction of the Council set up in Article 2.

If the Council considers it necessary for the proper fulfilment of these obligations, it can keep the Commissions mentioned in Article 3 permanently sitting.

Title VI.

Art. 22.—The third Hague Convention of October 1907 (concerning the commencement of hostilities) remains in force, with the addition, that the declaration of war is based upon Articles 1 and 22 of this Convention, and issued by the Council constituted in Article 2.

Art. 23.—The third Hague Convention (concerning the commencement of hostilities); the fifth Hague Convention (concerning the rights and duties of neutral powers and persons in case of war on land); the eleventh Hague Convention (concerning certain restrictions in the exercise of the right of capture in naval warfare); the thirteenth Hague Convention (concerning the rights and duties of neutrals in naval warfare); and last, *the Declaration of London of February* 2, 1909 (*concerning the laws of naval war*), *are maintained, with the qualification, that by neutral States only such are understood as have not signed this Convention, and have notified their neutrality to the Treaty Powers before the commencement of hostilities.*

Art. 24.—*Article* 92 *and following, of the first Convention of The Hague, are binding as concerns the ratification and adhesion to this Convention, with the addition, that the newly adhering Power must notify the Council constituted in Article* 3 *of the names of its members of the Commission constituted in Article* 3, *within thirty days, reckoned from the ratification.*

IX

HOW FAR IS THE SANCTION OF AN INTERNATIONAL BOYCOTT DESIRABLE?

STUDY BY A DUTCH COMMITTEE

Composed of Dr. M. J. VAN DER FLIER, Dr. S. J. R. DE MONCHY, and Dr. H. J. TASMAN

AMONG those who busy themselves with the study of the development of International Law, there are many who feel that the only guarantee for the observance of international rules must be looked for in the strength of the moral convictions of all concerned, a strength of feeling so great that, out of self-respect and respect for human society generally, they cannot do otherwise than comply.

At the moment many pacifist authorities (Reports of Peace Congresses bear frequent witness to this) are convinced that it is undesirable to create any means of securing international justice other than this moral sanction. For such people the merit of International Law consists in this, that it operates throughout a community of free States equal in the eyes of the law; and this merit is lost in any system where force plays an important part as a means of sanction in place of free development founded on a common morality.

Others feel that the moral sanction is wholly insufficient to accomplish the task, so they seek a sanction of force. They point out that breach of treaty has all too often occurred in the history of International Law, and that there has been recourse to all kinds of means to try and secure the fulfilment of obligations entered into, such as threat of papal excommunication, occupation of part of the territory of the opponent, a lien on goods and property. Also, that even if hitherto—and this has been the case with regard to carrying out the awards of arbitration—the sense of duty of the parties concerned could be sufficiently trusted, this does not suffice for the future. For arbitration was seldom resorted to in quarrels where supreme interests were concerned; and the present custom of voluntarily submitting to an arbitral decision cannot be compared to an international jurisdiction under which appearance before the Court of Arbitration would much oftener be imposed as an obligation on the parties, even in cases where they did not wish to come before it.

The writers neglect such considerations as this; their task is not to go into them at this point. All they would do now is to point out that, whatever may be thought concerning the sufficiency of moral sanction, its general value must not be underestimated.

It is right to affirm that moral sanction will ever remain the first and the most important guarantee.

Every regulation and every means of justice, whatsoever they may be, can only prove of lasting value where such means, such regulations, are rooted in the moral consciousness of the peoples, and so recognized to be moral, felt to be right.

Conversely, that which is rejected as immoral, and

can only be applied by recourse to force, is much more difficult of application; and as regards the adoption of a military method of sanction which can only be applied collectively, it is open to doubt whether its application will ever be possible.

The greatest changes in human society have really become permanent only because in the last instance men were convinced that they were right.

If the writers were of opinion that in our time a moral sanction with nothing further would be insufficient, they would still be absolutely convinced that the strengthening of the moral sanction by all available means must be attempted. One of the foremost of these might be a powerful international peace Press and an international peace news agency supported by a powerful international journalistic organization, which would collaborate and immediately oppose any war propaganda.

Of not less importance would be the abolition of that secrecy which plays so great a part in the relationship of the different States, and originates most of the dangerous intrigues.

Mention may also be made of the custom of concluding treaties for an indefinite period, as though things were to be permanently regulated and posterity bound for ever. This can but have the effect of weakening moral obligations. Such customs, by weakening the international morality of society, lessen also the strength of moral sanctions.

But if other sanctions are sought from which force is not divorced, both a military sanction and an economic sanction have to be considered.

Against the advantages afforded by a military sanction (international police) must be set a disadvantage which

makes it inacceptable to a great many people, namely: its distinguishing feature is force of arms; therefore, to all intents, war. An economic sanction has attracted much attention just because it has not this disadvantage.

An economic sanction in its fullest application is what is called an international boycott, which means the stoppage of the entire foreign trade of a given country by the suspension of all commercial transactions with it.

An economic boycott would certainly be an effective way of compelling a recalcitrant State to submit, provided that the excluded territory were of comparatively small size and could be completely cut off.

Napoleon's vast attempt to boycott England—the continental blockade—was bound to fail for this reason alone, that the enormous tracts which remained open to English trade sufficed to support the population of England.

In the same way the measures taken by the Entente to break the resistance of the Central Powers by barring intercourse appear not to be sufficient, because the blockade is not complete and the excluded territory comprises too extended an area. Incidentally it may be observed that, as a rule, the prospect of success for methods of force depends on their being applied with overwhelming superiority.

It is easy to see that, apart from the above reservation, an international boycott must succeed. You have but to look at the statistics of the imports and exports of the different countries to note the vast extent of the general dependence on foreign lands: we do not say—on any one land.

The highly developed industrial States of Central and

Western Europe and of Eastern America are all of them dependent to a certain extent on foreign intercourse for the provision of their means of subsistence. On the other hand, those States where industry plays a lesser part, but which produce more raw materials, are to a great extent dependent on the assistance of industrial States, because they have not got the machinery for dealing with their produce. Such machinery is, in the long run, not less necessary than products. If a given State could be successfully isolated on all sides from any intercourse, such a pressing want of indispensable articles would soon be felt as would reduce all hands to idleness. At all times an effective means of imposing one's will on an unfriendly State has been found in the restriction of its commercial intercourse. In fact, the intention of blockade, which for centuries has been one of the usages of war, is none other than that of isolating an enemy State and restricting its foreign trade as much as possible.

The correct explanation of why blockade is exercised only at sea—that is, in the exclusion of overseas imports —is to be found in the fact that on land the destruction of the enemy's defences and the occupation of his territory by the army has proved to be a surer and a more adequate method. At sea this is not possible ; the concentration of the power of resistance has always been on land—where ships cannot come. The purpose of blockade has been indirectly to weaken the power of resistance : blockade at sea and armed combat on land supplement one another. They supplement one another, and prevent the adversary from adding to his strength. It is easy to understand that when means began to be sought to compel compliance with international regulations, the idea of economic isolation naturally presented itself, and then

developed into that of a general economic blockade, even by land.

Although it is easy to understand that the repeated use of blockade in the past suggested this, another circumstance was really more important in spreading the idea. This lay in the fact that the world had recently witnessed several occasions, following close on one another, when the peoples of two weaker States, without previous preparation, had in a sudden emergency used the method of breaking off economic relations with a powerful State very energetically, and, although their action was restricted because other countries did not support them, yet with undoubted success. The first instance indicated was that of the boycott which the people of China resorted to, from 1905 to 1908, against the introduction of American goods. This boycott was followed by a second in 1907, by means of which much damage was done by the Chinese to Japanese trade. In 1908 Turkish merchants in Europe followed the Oriental example, and exercised a boycott against the trade of Austria-Hungary, and from 1909 to 1910 against that of Greece.

Although differing in extent and effect, it was clearly shown in a general way what force there was in this economic method of compulsion, as may be seen from the following particulars :—

The first boycott was a consequence of the manner and the way in which the United States prevented the immigration of Chinese coolies. Before this, free entrance to American territory was secured to the Chinese by a treaty of 1868, together with the treatment of a "most-favoured nation."

When the competition of the Chinese coolies with American labour began to be disadvantageously felt, the

American Government changed its attitude, and began to hinder the immigration, of Chinese workmen. In 1880 America concluded a fresh treaty with China, by which Chinese immigration was suspended for a time—the only concession obtained was that the prohibition should not be absolute.

The United States, under the terms of this treaty, took increasingly strong measures, not only against the immigrants, but also against the return of such Chinese as had already lived in America and had only left it for a time. Although by the treaty of 1894 Chinese officials, traders, and travellers were excepted from the immigration prohibition, such people only too often had to submit to the same insulting treatment as the coolies met with.

The indignation in China culminated in a spontaneous outburst when the negotiations concerning renewal of the treaty, which had expired in 1904, made no progress, and the Union took new and even stronger measures.

A large meeting was held in Shanghai on May 10, 1905, to protest against the proposed new treaty. And it was at this meeting that the boycott of American wares was declared. The resolution was applauded throughout the land. The boycott spread with great rapidity. American goods were burnt, dockers refused to unload American ships, merchants banded themselves together under heavy fines not to buy any more American goods, bankers refused credit to purchasers of American wares. Committees were formed to compensate traders for the damages they suffered as a consequence. The movement came from below; officially it was forbidden. The Union protested, and threatened to hold the Chinese State responsible, but in vain.

The boycott was only suspended when the United

States Government assumed a more amenable attitude and promised to confine to coolies the application of the rules about immigration.

The second case is even more striking. Again it was the Chinese who instituted a boycott. This time it was against Japan. On February 6, 1908, a Japanese steamer was held up in the Bay of Macao by Chinese warships. The steamer had arms on board, addressed to a trader in Macao, but intended really, according to Chinese officials, for Chinese revolutionaries. The Japanese Government showed great indignation concerning the incident. And although China offered to submit to a judgment on the justice of the confiscation, before the mixed Customs Court or the Admiral of the English squadron in China, supported by the Viceroy and the local Japanese Consul, Japan compelled her to accept very humiliating demands by threatening the alternative of force. According to these demands, the responsible Chinese officials were to be punished after trial, a Chinese warship was to approach near to where the Japanese steamer lay at anchor and fire a salute of twenty-one guns in the presence of the Japanese Consul as apology. In the end, 53,000 fr. were paid for the confiscation of the arms and 31,000 fr. as compensation for the capture of the ship. In return, Japan engaged to prevent her subjects from exporting articles of contraband. The great indignation felt in China over this showed itself in a boycott. The movement began this time in Canton, but exhibited itself as previously; the consequences were again very trying for the opponent.

The Japanese Government then came round. The organization which led the boycott in Canton proposed that Japan should pay 400,000 dollars to obtain its with-

drawal. The Japanese Consul at Canton who had refused arbitration was recalled; Japan showed an inclination to make concessions, and took a favourable view of outstanding difficulties concerning railways, and finally declared that Chinese revolutionaries should not find refuge in Japan.

In the same year Turkey followed the Chinese example. Great indignation had been caused in various Turkish circles by Austria's annexation of Bosnia and Herzegovina. The act could not be accepted without protest, so occasion was found for demonstrating anger by arranging a boycott. Here, again, commercial intercourse with the opponent was restricted; dockers refused to unload Austrian ships, contracts for purchase of Austrian wares were torn up, purchases were no longer made in shops belonging to Austrians. It even happened that an Austrian ship at Constantinople was unable to get her passengers taken ashore.

The end of all was that Austria made over 54,000,000 fr. to the Porte as compensation for the annexations.

After what we have shown of the practical application of boycotts, it will be understood that the idea of applying the boycott as a compulsory means of securing international justice occurred to people in Pacifist circles. But various exceptions must be taken to any general applicability of the above examples.

China and Turkey made use of the boycott under very favourable circumstances. They chiefly exported raw materials and received manufactured goods in exchange, and could more easily find markets for such exports than their opponents could for theirs.

Then, no proof is afforded that if the differences of opinion had been more acute the opponent would have

given way. It may also be concluded that in any case a war was not desired; for in war all commercial relations are broken off in the same way. Japan's past history especially does not justify such an assumption. On the other hand, it must be observed that in these cases the boycott was applied by one country only, and originated merely with private persons.

Taken generally, the examples given justify the conception that if the boycott were universally applied it would be a sure method of securing the order of the world against a possible disturber of the peace.

Naturally such a boycott would have to be arranged and carried through by the Governments simultaneously.

The question has come up and been more or less cursorily treated at various Peace Congresses.

The Milan Congress, 1906, made the recommendation to the second Peace Conference, by eighty-one votes to forty-eight, that among the means to be used for securing the fulfilment of an arbitral decision should be: the economic isolation of the recalcitrant nation; the prohibition of loans contracted abroad; bail given third parties; the voluntary assignment of sums of money or of territory belonging to the nations in dispute; the temporary or definitive exclusion from the Union of the nation which resisted the award. The discussions show that the opposition came from the side of those who wanted nothing but moral sanction.

(The writers then review various discussions of the subject. We summarize this, as published reports are available.

1. An article by M. Bollack, in the June number, 1911, of *La Paix par le Droit*, in which the author does not shrink before the most extreme consequences of a

general international boycott. This article formed the basis of a discussion at the French National Peace Congress of 1911, at Clermont-Ferrand. At the International Peace Congress at Geneva, 1912, M. Bollack produced a more limited but more practical scheme, under the title " A Universal Law of Customs Boycott."

Prof. André de Madray read a criticism of M. Bollack's scheme at the International Peace Congress at The Hague, 1913.

2. Mr. L. S. Woolf's article in *The New Statesman*, July 17, 1915, is mentioned.

3. Also, that the idea of a general boycott has found favour in America, especially at the Lake Mohonk Congress of 1915 ; and in 1915 a referendum taken by the Chambers of Commerce showed that 556 were in favour of applying economic measures for securing international justice against 157 who opposed the idea.) The article continues :

Our opinion is that the measures used must consist in obstructing the whole of the commerce of the land in question. If only exports were stopped, it is to be feared that the results would be inadequate. For in that case it would still be possible to secure necessary goods. Power of resistance would not be immediately or thoroughly broken. There would be a danger of weakening the execution of the project and thus endangering it by a gradual decline of its force. Once one-half of the trade (exports) was cut off, what interests could object to cutting off the other too ?

But one need go no farther than this. The " declaration of death " which Bollack proposed must be rejected once for all: it is impossible to execute, and not necessary to the accomplishment of the end in view.

Further, the nature of the method is such that it should be applied only in very serious cases. One such case would certainly be that of a State refusing to submit its quarrel with another State to arbitration and seeking to obtain justice by war. This would clearly be a wilful breach of the international order of the world, and the interest of the whole community demands that every means should be used to bring the disturber of the peace to reason. If there was merely a refusal to appear before the arbitral Court, the Court could pass judgment notwithstanding the absence of one of the parties, and the possibility is not excluded that the absent party might submit to the decision even if it were prejudicial to it.

There is a second case, also generally very serious ; it is that of one of the two parties declaring that it will not submit to an arbitral decision. But every arbitral decision is not of such vast importance, and it may be questionable whether methods of compulsion should be used in every case. Great care is all the more necessary because such measures demand great sacrifices on the part of those who use them ; it is most necessary that the parties concerned should themselves all be convinced that the occasion is one of extreme importance, in order that their co-operation may be reckoned on. On these grounds alone it is very desirable that resort to boycott should not constantly be used as a threat. Therefore it might be left to the judge to declare, in his judgment, whether a boycott should be proclaimed in case of refusal to conform to the judgment.

One can imagine such an obligation being imposed by the judgment of the Court, but there would remain the difficulty of determining how far there has really been

a refusal to submit. For instance, the State in question might assume the appearance of complying and carrying out the decision without really doing so, by all the time putting difficulties in the way of compliance.

A solution for this might perhaps be found in a permission to the interested State to hand in a complaint to the judge who gave the decision, and then if the judge defined the obligation more exactly, a deceitful attitude would no longer be possible. This partly answers the question of who is to order an international boycott.

A boycott might be automatically arranged to come into action, when a State chooses war rather than arbitration, on the day of the declaration of war. Moreover, directly the Court of Arbitration has become permanent it should have the power to decide whether a quarrel is of such a nature that a refusal to submit it to the international organ justifies the application of the boycott. This, of course, only in the case of the introduction of compulsory arbitration between States.

We must now try to answer the question : Is it desirable or not to incorporate the above-described measures in International Law ?

There are difficulties, which, though of varying importance, alike demand the most careful consideration. We would first express a doubt as to whether this particular method is in harmony with the present development of International Law, especially perhaps whether it corresponds with some of the laws of war. The ruling opinion is that modern war is carried on by one State against another State, and not by civilians against one another. It is the Governments of States which fight each other.

In accordance with this idea piracy was suppressed, private property on land was declared inviolable during war, and it was attempted to establish the same principle at sea.

It is not unjust to declare that such developments do point to milder customs. Therefore boycotting, bringing as it does private persons directly into the war, is a backward step. However, it is necessary to observe that the advances achieved are by no means complete. In the present war, more than ever before, greater zeal has been shown in hostilities waged against private merchant ships than against war vessels at sea.

The right of capturing merchant ships and of instituting blockades, measures which have sprung from the same ideas as boycott, should in course of time be subjected to precise regulation. Nothing has been put forth to weaken the importance of such considerations.

In war on land the case is different. The different direction taken by the theory of land warfare can be defended by the assertion that military necessity no longer demands the maintenance of earlier customs and so makes the recognition of other ideas possible.

Similarly, it is military necessity that must be invoked in order to explain why, in naval war, the effort is not made to reckon solely with the governmental organs of the enemy State. Here, too, it is military necessity which decides in the last resort.

Difficulties would, of course, be greater if only the same kind of boycott as has been hitherto exercised were thought of—a boycott originated and carried out by private persons. If, however, a Government orders the stoppage, it remains Government action. It differs in this from former piracy, which sometimes was

instigated by a Government but carried out by private persons.

The measure proposed does not conflict with the right of immunity of private property, won as it has been in the course of time, as far as war on land is concerned. It stops trade in such property no less than land-warfare does, but also no more.

It is true that injury to private interests does directly result, and, through this, injury to the enemy State, instead of the other way round. But, even so, the result is the same in so far as both suffer injury. So that when Prof. Dumas asserts, as he did at the Peace Congress at Geneva, in 1912, that the right of the individual to be free from the consequences of the action of States had been contended for during centuries, and was finally recognized in the nineteenth century, he exaggerated terribly. At bottom it is always the individuals who have to suffer, especially financially.

Is an indemnity levied on a conquered country anything but a tax on the inhabitants?

Above all, the present war, quite apart from the naval warfare, shows measures taken with just such results. The prohibition of trade with the enemy, the fixing of moratoriums, the withdrawal of concessions granted to enemy subjects—all these measures bear the same character. Tariff wars might also be alluded to in which methods of compulsion are exercised against private persons in order to compel the enemy State to give way. So the idea may, with justice, be refuted that the measure proposed would *on these grounds* delay rather than forward the advance of International Law.

If no other difficulties than these were felt, the introduction of the method of economic blockade could certainly be recommended.

Another criticism is, that the measure does not hit only those who ought to be hit: it is a two-edged sword, and wounds not only the opponent, but he who wields it. The importer suffers as well as the foreign seller, and the exporter as well as the foreign buyer. But there must be no exaggeration. The idea that a boycott would produce insurmountable difficulties for those lands which took part in it very seldom corresponds with the facts. It has been asserted that an industrial country could be boycotted but not a land that produces raw materials; and England was instanced—if its corn and meat supplies were stopped, it must perish of hunger (see "Le Boycottage et le Droit international," Laferrière, *Revue gén. de Droit int. public*, 1910, p. 314). Scarcely correct in itself, this consideration loses most of its importance if it is realized that the stoppage would be carried out internationally, and that the various countries would assist one another. It would be easy to get the raw materials from somewhere else. Only if the boycotted land actually possessed almost a complete monopoly would difficulties be painfully felt.

Nobody will deny that great damage can be inflicted on a boycotted State; beginning with exports and imports, the injuries would spread to commerce, to industry, to retail trade, and finally to the consumer. More than this, the injuries would be very unevenly felt, not only by the population, but by different States. The trade of the excluded land with the outside world would differ. With one country it would amount to much, with another to little, whilst with a third there would be none at all.

Take an example: If Germany were excluded, Holland, 50 per cent. of whose trade goes to Germany, would suffer far more than Spain, which exports very little to Germany.

An International Commission might be appointed which

would divide the difference in losses of the separate countries between the States inflicting the boycott. But what great difficulties there would be to contend with! What would not individual traders demand! If there were no compensation, the whole measure, which is none too popular because it directly touches private property, would become much disliked, especially when carried on during an extended period. In the end it would be more or less evaded. If, indeed, the blockade lasted only a short time, compensation might perhaps be dispensed with. But this could not be reckoned upon; and if no compensation were expected the boycotted country would be encouraged to resist as long as possible, in order to excite discontent among the enemy and so obtain the withdrawal of the boycott.

It goes without saying that means such as these are unpopular with those who are obliged to resort to them, especially with those people whose own land is not directly implicated in the quarrel. It must not be forgotten that in the cases of economic blockade of which we have experience the dislike of the foreigner implicated was general and national, and so the considerable sacrifice of wealth was well tolerated, whilst, notwithstanding everything, a fair amount of trade was still maintained. In Calmer's *Economic Year Book* (1907–8) the following figures of the commercial relations between China and America during 1903, to and including 1908, clearly show that this was the case:—

IMPORTS FROM AMERICA TO CHINA.

1903	.. 25,871,000 H.T.	1906	.. 44,436,000
1904	.. 29,181,000	1907	.. 36,904,000
1905	.. 76,917,000 [1]	1908	.. (not given)

[1] On the 10th of May, 1905, the boycott was decided on.

Exports from China to America.

1903	..	19,528,000 H.T.	1906	..	25,671,000
1904	..	27,088,000	1907	..	26,598,000
1905	..	27,031,000	1908	..	23,824,000

A third difficulty of a general character is that the acceptance of such a procedure might have an adverse influence on the development of a peaceful, international community.

Without doubt free international exchange of trade does increase the solidarity of the peoples, whilst protective measures produce opposition and friction, and these make the coming together of the nations more difficult.

It is not impossible that the adoption of an international boycott would tend in the last-named direction, and so the bond of union between the nations would be weakened instead of strengthened.

A State which considered it advantageous to wage war at a propitious moment would fear the consequences of economic blockade, and would as much as possible prepare beforehand to meet them. For this purpose it would, on the one hand, collect large stores from abroad, and, on the other, make itself as independent of foreign lands as possible by the imposition of high tariffs. Thus the effect of the boycott would be weakened right through, so that its duration would have to be considerably extended, for the power of resistance to it would have been increased.

It may be asked if the boycott would be maintained with sufficient energy by the different nations, all of whom would suffer considerably through it. Those who most look to economic factors in the future for abolishing war should especially reckon with the difficulties enumerated here.

It may happen that international division of labour applied to the production of goods will assume an increasing importance. But it must be insisted against this that, at present, States with their system of import duties dispose of powers which render this process very difficult. The present war certainly does not justify much hope that such powers will soon be laid aside. The Jingo attitude which exercised a very dangerous influence before the war, and is even stronger now, makes the maintenance of a future state of peace very doubtful. The endeavour to become independent of international society counteracts the policy of reconciliation and co-operation and easily causes conflicts, especially in the sphere of economics. The expectation that the institution of the boycott would strengthen such endeavours is only too well-founded.

The two last objections appear to the writers to be so important that, in their opinion, it would not be desirable to adopt the institution of an international boycott as a sanction for International Law.

If, however, a boycott is not considered to be a serviceable method because it is not capable of right use, and may lead to a sharpening of economic conflict, this does not mean that the idea behind such a method should be dismissed and every — even partial — blockade of commerce rejected. History furnishes a guide in these matters.

For centuries countries at war have so much dreaded their opponents obtaining certain goods which more or less directly assist an enemy Power that the importation of these has been universally forbidden, even if obtained through neutral States. Neutrals have always acquiesced in this, because they demanded the same right for them-

selves when at war. Hence it may be assumed that the suitability of the prohibition was generally recognized. Now the idea of going further in this direction, and limiting the boycott to so-called objects of contraband, seems acceptable.

Certainly the stopping of such importations would be less far-reaching than the complete boycotting of everything such as we have been discussing; still, it might be expected to exercise a certain degree of influence.

This war specially shows the great importance for the belligerents of the importation of arms and munitions and other war materials from neutral countries.

Even if the general power of resistance of the recalcitrant State were perhaps only slightly weakened in this way, the force of its defence would be lessened if it could reckon on its own national resources only.

In this there would also be many difficulties to meet before international rules could be established. It would have to be settled first, how far the prohibition should reach. It is well known that there have been great differences of opinion as to what constitutes contraband. From the very limited conception that contraband consisted only of arms, munitions, and such-like war material, a much wider interpretation has been gradually arrived at. Indeed, it has finally become so comprehensive that all important articles of commerce can be confiscated as contraband. However, it would not be necessary to go to such lengths, for all the difficulties which can be adduced against a general boycott would then apply equally here.

In order to secure as practical an application as possible, the number of contraband articles should be strictly limited.

A list, to be compiled internationally, of articles which, either as necessary products or as finished manufactures, are of immediate application for use in war, might suffice. Money should be reckoned amongst them, as having special value for belligerents in its quality of universal means of exchange.

The application of this prohibition, just as that of a complete boycott, should be admitted only in order to realize the objects of the Minimum Programme as drawn up by the Central Organization for a Durable Peace. It must be directed only against the State which intentionally violates international justice in order to attain by force its own end.

It is therefore into the State which declares war that the importation of articles of contraband must be prohibited, not into the State which has war forced on it. Such a State would not be a belligerent, as we now interpret that term; it would be simply a State which was defending itself against unjust attack.

The current controversy as to how far a neutral country may be allowed to deliver munitions, etc., to a belligerent has nothing to do with this issue. Such delivery is opposed on the ground that it is incompatible with the status of neutrality, which prescribes absolute impartiality towards all belligerents. And it need scarcely be said that in the arrangements planned in the Minimum Programme there is no question of neutrals, any more than of belligerents entitled to receive equal treatment from the countries outside the quarrel. The only question will be that of a disturber of the peace, whose actions are illegal and against whom all other countries are set in opposition.

This may happen in different ways—the one actually

attacked using military force, the rest other means which have more or less the character of compulsion. The prohibition in question would be justifiable only if the State which did not comply with international justice wanted war. It would be entirely useless if such a State maintained a strictly passive attitude, such as merely refusing to submit to a decision of the Court of Arbitration which was to its disadvantage. It would be a matter of entire indifference to such a State if the importation of war material from abroad were cut off.

It is obvious that various objections may be raised even against this restricted form of economic sanction. And it may be questioned whether those are not as serious as those which stand in the way of a general economic boycott.

In principle they are certainly the same, but they have not the same far-reaching character. The whole of commerce would not be affected, only individual industrial groups who would be able to reckon in advance on the imposition of a prohibition of export—a thing which would not be possible for the whole export trade. The damage that they would eventually incur through the prohibition of export would have to be borne by themselves ; it might be looked on as a special risk of their particular trade. As only a small group would have to bear the injury, the feeling of injustice, in that the subjects of one country were hurt and not those of another, would be much less diffused, so that, generally speaking, the method would not be as unpopular among the people themselves.

It may further be asked, if it is really worth while setting up a restricted boycott as an international economic sanction, considering the incompleteness of its operation and the circumstance that its application is only possible when a State has commenced war. The writers are of

opinion that it certainly is worth while. We may imagine how a State entering on an unjustifiable war could otherwise complete its stores of necessary material by drawing on other countries. How extraordinary it would be if the other States which had bound themselves to uphold international justice, and so were morally obliged to condemn any action not in accordance with this, were to connive at their subjects assisting the execution of such illegal action! It is as though one supplied a burglar with tools whilst condemning burglary. Such conduct would be positively immoral. Even if the other States did not immediately intervene with arms, the least that could be asked of them would be that they should show that they in no way supported the acts of such a belligerent.

Therefore the exercise of a reasonable authority in international justice demands that a prohibition of the export of contraband articles should be arranged for. There is one more objection, which finds an answer as follows: The possibility exists, as President Wilson has remarked, that the different States, in view of such a prohibition order as is here indicated, would strive to develop, as far as possible, a national manufacture of armaments; in which case the prohibition would become inoperative. This may quite likely happen. But even this does not weigh against the necessity for strengthening morality in international life.

Taking thus the pros and cons into account, the writers repeat that, in their opinion, considering everything, there *is* reason to make international arrangements for such measures as will prohibit the export of contraband articles to the State which starts a war instead of submitting to the regulations of international justice.

X

LIMITATION OF ARMAMENTS BY INTERNATIONAL AGREEMENT

By A DUTCH COMMISSION

Composed of His Exc. General W. A. T. de Meester (President), Dr. J. Ankerman, Mrs. Dr. D. C. Bakker—van Bosse, General P. P. C. Collette, F. W. N. Hugenholtz, M.P., Dr. B. de Jong van Beek en Donk, Dr. H. J. de Lange, N. J. J. van Rijn van Alkemade, A. S. Talma, Dr. H. J. Tasman, Dr. G. W. van Vierssen Trip, H. van der Mandere (Secretary)

In the first place the Committee has examined the causes which have led to the existing enormous armaments, for not until the causes are realized will it be possible to find a way to stop them.

The Committee has come to the conclusion that the principal cause of the steady increase in armaments has been the system of armed imperialism. This has brought about a mutual distrust between the Governments, which distrust has pressed heavily upon Europe for years.

Other influences have also been at work, such as nationalism in its different forms.

Consequently a complete and lasting disarmament will not be possible until the existing system of armed imperialism shall have given way to one of peaceable expansion, when all nations will be able to develop in

peace, when their interests will be safeguarded and their differences settled otherwise than by the force of arms.

As this new policy develops itself, the reduction of armaments will follow automatically.

But the present war has caused so much suffering, it has so far exhausted the finances of the belligerents as well as of the neutrals, that it is the possibility of a recurrence of such a struggle which makes it a duty to promote a better international organization.

This favourable international relation, however, can develop only gradually, so that it will only lead to disarmament after a long time.

Forthwith efforts should be made to reduce armaments, independently of attempts at promoting better relations between the different nations.

The state of being prepared for war, and consequently the enormous armaments, have been among the causes leading to the present war, for though the size of armies and fleets and their readiness for war may have lessened the danger of war because of the difficulty of checking the mobilization once it was ordered, and because of the enormous expenses of a mobilization and a war, yet the Committee believes that the mobilization of the different armies has hastened the outbreak of this war, it becoming impossible to continue further negotiations.

In any case it is clear that those enormous armaments have not been able to prevent the war; army and fleet do not constitute an insurance premium for peace.

Besides, the steady increase of the cost of armaments has practically reached its zenith, so that it has become

necessary to act. When we consider the enormous expenditure of the belligerents, even before the war,[1] we can safely predict that if the race should begin again after this war, when the nations are already exhausted, then a financial collapse becomes inevitable.

Lastly, one should not forget that the increase of armaments, which was originally a consequence of economic rivalry, forms a source of distrust for his neighbour, who seeks salvation in a similar increase. In this way the gigantic armies are no longer a guarantee of peace; they have become a menace to peace. An international pledge to check this increase for some time will strengthen mutual confidence and remove an important cause of irritation. Greater confidence between nations will lead to a better understanding.

The Committee is convinced that, decrease of armaments being desirable, the nations will attain it, if only they are animated by the serious wish to do so. It is true that former proposals to reduce armaments have so far been unsuccessful, but the present war will bring about a great change in the mentality of nations.

At the coming peace negotiations people will see with other eyes than formerly; the souls of the nations will have changed; objections made before the war will be overruled by the calamities caused by modern war. Then, when the excitement of war is over and the misery and grief caused by it are plainly visible, the nations

[1] According to Sir Edward Fry, the annual cost of the Christian peace of the civilized world must have increased by 1,725 million francs between 1898 and 1906 (De Louter, *Het stellig Volkenrech*, ii. 110). That this increase has continued after 1906 is proved by figures from the *Almanach de Gotha*, 1910–14, which show that the increase in those four years for the six Great Powers of Europe amounted to nearly 2,600 million francs.

will realize with horror what has happened. Then they will be able to survey the destruction of human life and of capital which has taken place. Millions of pounds will be required to alleviate the public misery, to provide relief and pensions to the wounded, to promote trade and industry. Then a strong impulse will be felt towards a first step in the direction of reduction of armaments and war expenses.

That moment should be seized to accomplish what so far has seemed unattainable. When the will of the people really demands a reduction of armaments, the Governments will have to listen to that will at the peace negotiations.

It will not be possible to discuss this point extensively then; therefore the Committee has devised a simple way of settling that difficulty: the belligerents shall not alter in their favour the existing relations between their military forces up to the time of the Conference mentioned below.

The Committee realizes the objections that will be raised against this proposal, one of them being that it would be difficult to ensure that the States would really keep to the contract and not increase their military forces. When, however, we accept the will of the people embodied in their Parliament as the basis for the decrease of war expenditure, we may assume that that "will" will assert itself, if the decision should not, or should not properly, be adhered to.

The Committee insists that nothing can be attained if the peoples and the Governments do not earnestly and honestly desire to stop the race for armaments. Without that desire, no proposal, whatever the result of the war may be, can become a reality.

The Committee thinks it one of the greatest advantages of this proposal that it is relatively not too complicated ; it only makes the existing position permanent. The dissimilarity between budgets, and the habit of putting military expenditure under another head than the military budget, create no difficulties, as that remains as it was. On the whole, control would be comparatively easy without leading to intervention in the internal affairs of a nation.

Besides, a conscientious study of all the other measures recommended has brought the Committee to the conclusion that they could not have the desired success.

The Committee does not think the proposals laid before the first Hague Conference practicable : such as not to use any other type of rifles or guns than those already existing ; not to improve them ; not to use any new explosives. Not only would it be impossible to stop the development of technique, and to solve such questions as what is a new type, what is only an improvement on an old one, but also these proposals of the Hague Conference would require too lengthy discussions.

Other proposals made for the gradual or immediate reduction of armaments are also barred by the fact that they require lengthy discussions before they can be realized. Besides, they might lead to changes in the internal organization of various States, and they require the co-operation of all nations, even of the non-belligerents.

The obligation laid upon the Governments by the peace treaty would be only the first step towards reduction of the existing war expenditure.

It will be found advisable to meet again, within a

certain time after peace has been concluded, at an International Conference of *all* nations, not only of the belligerents, in order to discuss the question of armaments. The cessation of the increase in armaments should at least continue till this Conference has shown the results of its work.

Though it would be premature at present to indicate how that Conference would have to work for disarmament, the Committee thinks it might be attained by a simultaneous reduction in proportion to each army.[1] Besides, the Committee is convinced that the means to reduce war expenditure will be found when the peoples and the Governments desire it earnestly and honestly.

The Committee has laid down its ideas in the following theses :—

Theses.

1. Reduction of armaments on a scale of any importance will be feasible only when the policy of armed imperialism has been replaced by one of peaceable expansion, so that distrust and rivalry give way to co-operation, mutual appreciation, and trust.

2. The danger of war, partly caused by the tremendous rivalry in armaments, and the danger of financial exhaustion caused by an armed peace, are so detrimental

[1] This has been accepted with the votes of a relatively powerful minority against it. This minority, consisting almost entirely of the military members of the Study Committee, was of the opinion that, as the report of the Committee would not make a detailed proposal as to the way in which reduction of armaments might be brought about, it was not the task of this report to give a general outline of the principles, according to which the International Conference will have to find the solution of this question of disarmament.

to the vital interests of nations that, in whatever way this war may end, all nations should insist on the instituting of an international organization to settle conflicts of interests and to ensure a peaceful settlement of disputes.

3. While, on the one hand, such an international organization will lead automatically to a reduction of armaments, that reduction, settled between the nations, will, on the other hand, strengthen mutual confidence and pave the way for a peaceful settlement of interests and disputes.

4. Consequently the reduction in armaments should not be put off till after the institution of such an international organization.

5. In the peace treaty, the belligerents should bind themselves not to increase their existing military forces.

6. This agreement should come into force immediately after the ratification of the peace treaty, for a period up to the time when the resolution, upon the question of armaments taken by the above-mentioned International Conference, shall be ratified.

7. Independently of agreements under 5 and 6, the Powers should bind themselves to meet all nations at an International Conference upon the question of armaments, within a period to be stated in the peace treaty.

XI

FREEDOM OF THE SEAS

By MIKAEL H. LIE, *Norway*

I

Throughout the seventeenth century a fight was fought over the freedom of the seas, as it was then understood: no single State had any privilege to rule the open sea. All seafaring nations had here the same rights and the same duties—the principle of the *Mare Liberum*.

In contradistinction to this, it was maintained from several sides that certain sea-areas were subject to the special sovereignty of certain States (*Mare Clausum*). As a result of this principle, any State had the full right to control its "own seas." Foreign ships must lower their top flags in honour of its men-of-war, which had the right to stop and search all passing ships, even to enlist sailors by force from their crews.

Venice thus claimed the sovereignty of the Adriatic on a warrant from the Pope. That was symbolically expressed in the popular conception of the Doge being wedded to the goddess of the Adriatic.

Denmark-Norway claimed the sovereignty of "the King's waters" between Norway and Iceland; Sweden that of the Baltic.

Of the greatest importance, however, was the claim of the English Crown to be considered the mistress of the *four British Seas* round the British Islands. This was necessarily of the utmost interest to Holland, with its flourishing oversea trade and its lively intercourse with distant countries.

It was therefore in this country that the fight about the proper principles of this part of international intercourse was first earnestly taken up by science as well as by the Government.

In 1609 Hugo Grotius wrote his famous work *Mare Liberum*, in which he in clear, well-defined outlines lays down the principle of the freedom of the seas in its original sense. He points out that the sea, being the highway of all nations, cannot be placed under the special control of any State or States. The argument that the States in return keep their seas free from pirates loses in importance as time goes on.

The British Government thought the book of Grotius so important that it induced the Crown lawyer John Selden to write a refutation, *Mare Clausum*, in which the arguments in favour of the English conception were put forward with equal thoroughness and skill.

The fight was soon transferred to another domain. Efforts were made to back up the learned arguments by shot and powder. The question of the freedom of the seas was one of the matters at stake in the three great wars between England and Holland in the seventeenth century.

Great Britain remained victorious in these wars. And in the treaties of peace of April 5, 1654, July 21, 1667, and February 9, 1674, the Dutch Government was compelled solemnly to recognize the English claim for

"a salute to the flag in the British Seas." Thus Article 4 of the last-mentioned treaty stipulates: "The ships of the States-General acknowledge the homage (*l'honneur*) due to the flag of the British King in the seas between Cape Finisterre and Stat on the Norwegian coast, and pledge themselves for the future, according to old custom, to salute with the flag in honour of the British men-of-war, as often as they meet them in the said waters."

There was, however, so much truth in the Dutch conception, it was so consistent with the international interests involved, that before the end of the century the freedom of the seas was generally recognized and has ever since been the undisputed principle underlying international intercourse in times of peace as well as in times of war.

The freedom of the seas in this sense is "past history" so far. But it may be of interest to call to mind these fights and their development. For they are perhaps the clearest historical evidences of the fact that the "Right of Conquest" has its limits, that there are higher forces than bare violence, which have a decisive bearing upon the lives of the nations. The god of arms sided with the English conception; nevertheless this conception had to give way to an order, more consonant with justice and the real interests of all nations.

II

In our time the claim for freedom of the seas has been raised again with great energy. But the meaning of the phrase is now quite different from what it was at the time of Hugo Grotius.

First, purely as a matter of International Law we find the claim that private property shall be respected in naval war as well as in war on land. No Power should any longer have the right to consider as its lawful prize the ships and cargoes belonging to the citizens of a hostile State. If a ship does not try to break a duly established blockade and is not carrying contraband, it shall be as unmolested as if it sailed under a neutral flag.

The old phrase "Freedom of the Seas" is also used for the demand that the placing of mines be prohibited in the open sea, the sea being the common highway of all nations. The interests of belligerents to establish such a blockade *de facto* must yield to the right of neutrals to move freely on the high sea.

The abolition of the law of contraband and of the right of blockade are also demanded as a consequence of the said principle.

Finally, it is sometimes understood as if it involved a claim of a purely political character. Just as no single State has or ought to have the privilege of supremacy on land, no single State ought to bear sway over the sea. The regulation of the various common interests connected with maritime intercourse must result from a free co-operation of all seafaring nations. The supremacy of one single State easily leads to the same unhealthy conditions as have resulted from every similar supremacy on land.

III

Already during the time of the Seven Years War de Mably, in his great work *Le Droit public de l'Europe, fondé sur les Traités* (1761, iii, 322–33) endeavours to

point out to the great contending Maritime Powers that they have a common interest in the abolition of the right of capture at sea: "Les Etats acquiéront alors, par un trait de plume, une sûreté qui, sans cela, est toujours équivoque malgré les nombres de ses vaisseaux de guerre." He recommends the insertion of an article on this subject in the coming treaty of peace.

The United States of America, however, has been the principal promoter of this idea. Franklin tried in vain to have the right of capture cancelled in the peace treaty of Versailles (1783). Two years later he succeeded, by the help of John Adams and Jefferson, in introducing a stipulation to that effect in the commercial treaty with Prussia (the treaty of September 10, 1785, Art. 23): "All merchant and trading vessels employed in exchanging the products of different places and thereby rendering the necessaries, conveniences, and comforts of human life more easy to be obtained, shall be allowed to pass free and unmolested. And neither of the contracting Powers shall grant or issue any commission to any private armed vessel, empowering them to take or destroy such trading vessels or interrupt such commerce."

This Article was omitted in the treaty of 1799, which replaced that of 1785.

The Government of the United States of America did not, however, forgo their claim for the abolition of the right of capture.

Thus President Monroe presented to the European Governments a proposal on this subject (1823). The Russian Czar declared himself willing to sign such a treaty as soon as the other States will join in. At the Congress of Paris (1856) the Government of the United States of America declared itself willing to agree to the

abolition of every kind of capture at sea on condition that the inviolability of private property was recognized, with the sole exception of contraband. The proposal met with a favourable reception from several of the Great Powers, especially Russia and Prussia, but fell through on account of the opposition of the English Government. Cobden, however, supported it, and even Lord Palmerston expressed his sympathy.

In 1856 the United States of America, and Bolivia, engaged themselves mutually not to capture any vessel or cargo belonging to private persons. A similar treaty was made in 1871 by the Government in Washington with Italy (the treaty of February 26, 1871, Art. 12). The principle was, in fact, already recognized in the Italian Maritime Law of October 24, 1871, Art. 211.

Already in 1851 Brazil and Uruguay came to an agreement and called on the other American States by special diplomatic notes to adopt the principle of the inviolability of private property in naval warfare.

In Europe the idea gained ground more slowly. However, an agreement on the question was come to in the wars between the Western Powers and China (1860) and between Austria-Germany and Italy (1868). During the wars with Denmark (1864) and France (1870) the Prussian Government made a similar proposal; but the two other States, deriving much greater profit from the right of capture than their enemy, found sufficient reason to reject the proposal.

In modern times the idea has met with great sympathy within the scientific world. Already in 1866 Bagehot says in the *Economist*: "We have always maintained that it would be far more simple, better, more humane and not at all less favourable to the earnest

prosecution of war, to respect private property at sea altogether—whether ship or goods—always, of course, reserving carefully as the very essence of all naval war the right of blockade." The following authors on International Law have later expressed themselves in the same direction: Bluntschli, Pierantoni, de Martens, de Lavaleye, v. Bar, Nys, Caloo, Pradier-Fodéré, Trore, Maine, Hall, Woolsey, v. Liszt, Ullman, Wehberg.

The Institute of International Law has four times made a declaration in favour of the inviolability of private property, the last time at the Conference in Christiania (1912), thirty-one members voting for and only nine against. The same has been the case with the Interparliamentary Union, several World's Peace Congresses, and with the International Law Association.

IV

At the first Hague Conference (1899) the Government of the United States of America once more came forward as a champion in this matter. It presented a proposal that the Powers should expressly state that ships and goods belonging to citizens of the belligerent Powers shall not be captured unless they carry contraband or try to break a lawful blockade. The proposal was met with sympathy from many sides, but the majority was not inclined to take the matter up for discussion for several reasons, amongst others because it was not notified in advance, and several of the delegates, therefore, were without instruction as to what position to assume. The members of the Conference at last agreed on expressing *as a wish*: "La proposition tendant à déclarer l'inviolabilité de la propriété privée dans la

guerre sur mer soit envoyée à l'examen d'une Conférence ultérieure."

At the Hague Conference of 1907 there appeared not less that ten proposals for the abolition of the right of capture at sea. The problem was carefully discussed. The standpoint of the United States of America was seconded by several States, especially among the smaller ones. Germany declared herself willing to accept the principle, but expressed the opinion that no satisfactory arrangement could be obtained unless the question of contraband and the right of blockade were also taken up for reconsideration.

Least sympathy was shown by the delegates of Argentina, Colombia, and the British Empire. In the opinion of the English delegates the abolition of the right of capture would necessarily lead to the abolition also of every kind of commercial blockade.

This made it impossible also for the second Hague Conference to carry the proposal. At the final vote, twenty-two States voted for the abolition of the right of capture at sea : the United States of America, Austria-Hungary, Belgium, Brazil, Bulgaria, China, Cuba, Denmark, Equador, Greece, Haiti, Italy, Norway, Holland, Persia, Roumania, Siam, Switzerland, Sweden, Turkey, and Germany (with the said reservation) ; and eleven against : Colombia, Spain, France, Great Britain, Japan, Mexico, Montenegro, Panama, Portugal, Russia, and Salvador.

V

The fourth Hague Convention (1907), regarding the Laws and Customs of Warfare on Land, is founded wholly on the principle that private property shall be

inviolable. An army in hostile country may require what is needed to supply its wants from the occupied country but against payment in cash or by cheques on the army staff. The right of seizure is not recognized. The Hague Convention (1907), Art. 24 (*g*), states this in express terms: "It is especially forbidden to destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessity of the war." And Art. 51: "Contributions in kind shall be paid for in cash as far as possible; if not, a receipt shall be given and the payment of the amount due shall be given as soon as possible."

By many the question is looked upon in the same way in naval warfare. There ought not to be made any different rules on this subject. But the question is not so simple. For the *aim* of the warfare is different, and this must as a matter of course influence the rules as to the *means* and *methods* of war.

On land the aim is to break the military resistance of the enemy. In this case so large and important districts of the hostile country may be occupied that its Government feels itself compelled to accept the peace conditions of the conqueror. Seizure and destruction of private property does not in any way promote this aim. It is an act to no purpose, and therefore according to the first principle of modern warfare it is also illegitimate.

In *naval warfare* the aims are different: first of all to bring about such confusion of the maritime intercourse and international trade of the enemy that its Government feels the same necessity of obtaining peace as by occupation of its territory.

Destruction of the navy of the enemy is only one of the means leading to that goal. Such destruction is

naturally of special importance, where the communication with the colonies, the transportation of military forces, etc., come into consideration. But commercial warfare may proceed to the utmost degree even if no great naval battles are fought. This is plainly shown by the present war.

And up to this time the means of commercial warfare have been, in the first place, the capture of the enemy's ships and cargoes, wherever they are found outside neutral territorial waters; and, in the second place, blockade of the coasts of the enemy's country. The aim is to break the *economic* power of resistance by stopping all kinds of import and by destroying the export trade of the enemy.

Between these two means there is a difference. Capture is exclusively directed against the trade of the enemy, while blockade of every kind will hit the neutrals as well. The blockade acknowledged by International Law is even principally directed against their commerce with the hostile country.

In the present economic war blockade plays by far the most important part. The intense want from both sides has led to a system of arrangements—declarations of blockade without any direct debarring of certain ports or coasts, special war-zones and mines in the high sea, all of which are outside of actual International Law. The main principles have on these points become uncertain and vague.

At the coming peace negotiations it would no doubt be perfectly useless to claim that the great maritime Powers should desist from commercial blockade and matters naturally connected with it. The problems—as they have appeared in this war—are too new and

too uninvestigated to let us hope for the establishment of any fixed and effective international order in this regard. It is not at all impossible that the means of warfare here in question will be of decisive importance with regard to the time for the opening of peace negotiations. One might as well raise the question of the abolition of naval warfare altogether.

As to capture at sea, in the strict sense of the term it is quite another thing. Its power to influence the wish for peace has never been very overwhelming, and seems to diminish with every new war.

The Seven Years War was the turning-point of the colonial wars, which had been going on for centuries between France and Great Britain. During this war England lost 2,500 ships, France only 950. From 1793 until 1813 the French cruisers captured 10,871 English vessels, while England only succeeded in adding to its mercantile marine some 4,000 ships of foreign nationality.

During the British-American War (1812–14) more than 1,000 English vessels were captured, in spite of their sailing under the protection of the strongest maritime Power in the world.

In 1864 the Danish Navy caused Germany severe losses. The Prussian tonnage was reduced from 690,000 to 300,000 registered tons, which did not, however, influence the result of the war.

During the American Civil War three small cruisers of the Southern States captured 269 vessels.

At the first Hague Conference the American delegate stated concerning this: "Tout le monde sait que cet emploi des corsaires n'a pas eu le moindre effet pour terminer ou même abréger cette guerre. Si les pertes

avaient été dix plus fois plus considérables, elles n'auraient en rien contribué à raccourcir les hostilités. Il n'y a eu simplement qu'une destruction d'une grande masse de propriété appartenant à la partie la plus laborieuse et la plus méritante de notre population, de nos marins, qui avaient placé dans leurs navires les économies qu'ils avaient faites."

The failure of this kind of warfare in determining the result of the war seems more evident in every new war. As a rule it is the *losing* side which can point to the greatest advantage, but it has been of no consequence in regard to the conditions of peace.

The Declaration of Paris of 1856 recognized this fact so far as to *limit* the right of capture in two ways: first the Powers agreed, for the future, not to issue letters of marque. The sole object of the privateers was to go on the prowl for hostile merchant vessels. Secondly, even goods belonging to the enemy on board a neutral ship were declared inviolable—" The flag covers the cargo."

The technical development has also in different ways made the capture less effective. The change from sail to steam, the great increase in the speed of the vessels, the modern system of information (wireless telegraphy, etc.)—all this works in the same direction. So also does the sixth Hague Convention (1907), stating that ships at anchor in an enemy harbour at the outbreak of the war are to be allowed " a reasonable number of days of grace." The feature of surprise is not nearly of the same importance as in earlier wars.

The sea trade has with every year been more *internationalized* on account of the development of the insurance business and of the maritime trade coming

into the hands of great companies, in which international capital is playing a prominent part.

The right of capture has for its aim to hit the commerce of the enemy. How useless it really is in our time is clear by the fact that it hits at random friend and foe, that it brings injury and loss also to the neutrals and even to the citizens of the capturing State.

The important part here played by the insurance system may be understood from the statement that almost half of the values destroyed by the earthquake at San Francisco was insured in British and German companies; and the maritime insurance is still more internationally organized.

The disturbance of the sure, well-trod roads of international intercourse is of the most disastrous consequence to the economic activity of all nations. That cannot be balanced by the temporary profits of some shipowners in the neutral countries at the expense of the belligerents. In the American Civil War the coasts of the Southern States were very effectively blockaded by the Northern States. But that did not prevent Southern cruisers from bringing about such a disturbance in the trade of the Northern States—615 vessels, representing 492,000 tons, were transferred to the English flag during the war—that perhaps only the neutrality of America in this present war will put matters right again.

Even if one of the warring nations should be absolutely victorious at sea, its citizens will—as a consequence of the general rise of prices and from other reasons—have to take their share in the evils which necessarily follow from the practice of capture. *Fairplay* of March 15, 1916, for instance, complains very strongly of the fact that the freight on Argentina for *English ships* has

sprung up to 122 Swedish crowns per ton; for *neutral ships* even to 153 crowns. Bearing in mind that 71 per cent. of the world's total tonnage belongs to the belligerents, we may appreciate what this means.

In the years just preceding the Great War the general opinion in England seems clearly to have understood that the right of capture has become merely a destruction of values to no purpose and which no longer has any inner ground and meaning. Thus Lord Chancellor Loreburn points out in his book of 1912, *Capture at Sea*, that this means of warfare in the future will become a serious danger also to British commerce. He therefore strongly urges the Powers to give up this right by common agreement.

At the Baltic and White Sea Conference held in London, May 6, 1914, the following resolution was passed unanimously: "This Conference, representing four millions of registered tonnage belonging to eleven European nations, looks with great anxiety to the fatal consequences which the right of capturing private property during war will bring upon the mercantile marine and the whole maritime trade. Therefore it appeals most emphatically to the Governments of all seafaring nations as soon as possible to take up for consideration the abolition of the right of capture at sea."

A debate in the House of Commons the day before—scarcely three months before the outbreak of this war—also showed that this claim had many supporters in the political world. The Foreign Minister, Sir Edward Grey, declared—on account of the preparations for the third Hague Conference—that the British Government was willing to discuss the principle, but had not yet had the opportunity of coming to a definite opinion on the subject.

VI

During the war there have been many occasions, which seem to make it the impelling duty of the Governments of the different States to come to an agreement upon the abolition of the right of capture.

Formerly this means of warfare meant a conditional transfer of values from one of the belligerent parties to the other. The submarine warfare has turned it into a destruction of great values, doubly senseless because the lives of non-combatant crews are lost in a manner contrary to the first principles of modern warfare. Nowadays it is very common for merchant vessels to be manned with sailors belonging to neutral countries. Their lives are not in any way better protected than those of the rest of the non-combatant crew.

A constant argument in favour of the right of capture has been its real humaneness. Thus the British delegate at the second Hague Conference, Sir Edward Fry, states: "C'est un malentendu de parler de la cruauté de ce droit. Il est vrai, que dans toutes les opérations de la guerre, il y a quelque chose de barbarie, mais de toutes les opérations il n'y en a pas une qui soit aussi humaine que l'exercice de ce droit." It is not probable that this argument will be used any more.

Up till now it has been an indispensable condition of capture of an enemy's ship and cargo that the lawfulness of the capture should be tested by special prize courts. At the second Hague Conference the acknowledgment of the necessity and justice of this rule led to the establishment of an International Prize Court.

During the present war it has very often been the case that ships have been sunk, with papers and cargo,

without any opportunity to have the lawfulness of the act settled by juridical inquiry and sentence. Everybody may see that this is a retrogression involving the temptation to the military authorities to feel themselves unrestricted by the control of law. The more speedily and completely they act, the safer they may feel.

Another argument of great importance is *the power of the law of capture to prevent the States from going to war.*

Yet it was perfectly incapable of preventing the war from growing to enormous dimensions already within the first months.

And still worse, the right of capture seems not to have been without significance for the rupture between Germany and Portugal. The German merchant vessels laid up in Portuguese harbours—about 260,000 tons, more than double the tonnage of Portugal itself—have turned out to be a *direct danger to peace.* The German declaration of war of March 9, 1916, expressly states the seizure of these ships to be the principal reason for the Imperial Government to consider the two countries to be in a state of mutual war.

How far the temptation, which the right of capture has proved to be to the Portuguese Government, will influence the attitude of other States towards the present war *cannot here be discussed.* German ships up to 600,000 registered tons were laid up in the harbours of the United States of America, 187,000 in Holland and its colonies, 172,000 in Italy—which country is not yet in a state of war with Germany. The recent events have thus, no doubt, put this preventive argument in a curious light.

The mercantile marine of the belligerents has suffered

heavy losses, both in ships and goods. Numerous human lives have been lost through the new methods of naval warfare. The greatest losses, no doubt, are due to the policy of blockade and to the mines.

During the first eighteen months of the war the British mercantile marine lost in all 500 ships, representing 1,559,640 registered tons—9 per cent. of its total tonnage ; the corresponding numbers on the German side are 650 vessels and 1,546,950 tons—30 per cent. of the tonnage. French losses : 150,000 tons—6 per cent. There is not yet any information as to how much is due to capture in the strict sense of the word. But the exploits of the German cruiser *Möwe*, at a moment when the British Navy indisputably held sway over the sea, displays the impotence of even the strongest navy to give complete protection to trade. This solitary cruiser captured fifteen vessels of altogether 53,235 registered tons before it returned safe and sound to its own country.

However great or small the losses from this source may be during the war, they will certainly not influence the question of the expedient moment for the beginning of peace negotiations. And so far this war has only confirmed the experiences of earlier times.

In a letter to the Press on August 25, 1915, Sir Edward Grey also states his opinion in the following way : " Freedom of the seas may be a very reasonable subject for discussion, definition and agreement between the nations after this war, but not by itself alone, not while there is no freedom and security against war and the German methods of war on land. If there are to be guarantees against future war, let them be equal, comprehensive and effective guarantees, that bind Germany as well as other nations, including ourselves." And on October

14, 1915, Lord Robert Cecil, on behalf of the Government, gave in the House of Commons the following answer to an interpellation: "Sir Edward Grey has recently expressed his readiness to discuss, after the war, what he calls the freedom of the seas. To secure immunity of private property at sea was the principle of the naval policy of the Government from 1906 onwards, and according to Sir Edward it is their policy still, though the war may have temporarily postponed its prosecution."

The recognition of the necessity of this reform has steadily grown stronger during the war. And President Wilson states in the third Note on the *Lusitania* affair: "The Government of the United States and the Imperial German Government, contending for the same great object, long stood together in urging the very principles on which the United States now insists. They are both contending for the freedom of the seas. The Government of the United States will continue to contend for that freedom without compromise and at any cost. It invites the practical co-operation of the Imperial German Government at this time, when co-operation may accomplish much and this great common object can be most strikingly and effectively achieved. . . . The American Government holds itself ready at any time to act as a common friend of the belligerents, who may be privileged to suggest a way."

In the tenth edition (1915) of his renowned book on International Law, Prof. v. Liszt says: "Heute bereits tritt als eines, vielleicht als das wichtigste der anzustrebenden Ziele die Freiheit des Meeres uns entegegen. Um sie geht in letzter linie der Kampf. Sie wird früher oder später der wertvollsten Siegespreis sein."

See also articles in the *Zeitschrift für Politik* for 1914, p. 448; *Deutsche Juristen-Zeitung* for 1915, p. 973; and in the *North American Review* for May 1915, where Norman Angell even argues for the absolute neutralization of all seas.

The Neutral Conference at Stockholm has had the opportunity to ascertain in a more direct way the readiness among leading English circles to confirm the said principle at the coming peace negotiations.

VII

At the second Hague Conference it was stated—and for good reasons—that the question of capture at sea is closely connected with the law of contraband. It may be said that the prohibition of trade in this kind of goods is directed solely against the neutrals, while the right of capture is meant as a blow to the enemy's ships and goods. But it is easy to see that an agreement to give up this right of capture would be of no practical consequence as long as the belligerent nations are perfectly free to declare any kind of goods to be contraband. Of course, hostile ships cannot be treated more favourably than neutral ones, and the consequence would then be that the maritime trade would in this roundabout way be subject to about the same control and exposed to the same uncertainties from which the abolition of the right of capture was meant to set it free. In other words, one hand would take back what the other one had given.

The idea underlying the rules with regard to contraband is this: a belligerent Power must have the right to prevent the neutrals from providing the enemy with anything that might directly strengthen his power

of military resistance. Originally, therefore, only objects of a purely military character were considered as contraband (arms, munitions, etc.).

During the nineteenth century the Powers have in practice more and more disregarded these limits. Common necessities of life (corn, rice, coal) have been included in the lists of contraband, until at last everything has become reversed: the exception is now the rule and the rule—the freedom of mercantile intercourse with the belligerent State—has become quite an exception. During the Russo-Japanese War (1904–5) about 73 per cent. of the whole importation of Japan was considered as contraband. This is in fact a blockade of the coasts of the enemy, without any of the guarantees which make such a blockade lawful.

The British Government tried to do away in one stroke with this nonsensical state of things by proposing at the Second Hague Conference *the abolition of all kinds of special rules concerning contraband.* Goods of every kind should be treated in the same way with no regard to quality or destination.

The argument is the following: The late experiences of England—both as a *warring* nation in the Boer War and a neutral one during the Russo-Japanese War—have equally confirmed the opinion of the Government that the present contraband policy is not in harmony with the requirements of our age. Formerly the entire cargo was bound for one place of discharge. It was easy to ascertain its nationality and destination. The vessels were small, and the quantity of things necessary for the enemy was not considerable. Now the conditions have entirely changed. The loading capacity of the vessels has been enormously increased, and likewise

the necessities of the armies. It has become very difficult to ascertain what is contraband. And to the neutrals this operation has become infinitely more burdensome than before. The touching at several intermediate ports complicates *the theory of continuous voyage.* The speedy development of the railway systems has rendered possible a transportation of contraband on land, which cannot be prevented, and which makes it unnatural to put the naval trade under special restrictions, whereby the continental and the insular States are placed in a very different position.

The British proposal met with great sympathy in the Conference. Some of the greater Powers, however, found it too radical a step to abolish at once the whole idea of the contraband system, and tried, therefore, to lead it back within its natural limits.

Twenty-five States voted *for* the proposal of Great Britain: Argentina, Austria-Hungary, Belgium, Brazil, Bulgaria, Chile, China, Cuba, Denmark, Domingo, Great Britain, Greece, Italy, Mexico, the Netherlands, Norway, Paraguay, Peru, Persia, Portugal, Salvador, Servia, Siam, Sweden, Switzerland.

Five States voted *against:* Germany, the United States of America, France, Montenegro, Russia.

Five States abstained from voting: Japan, Panama, Roumania, Spain, Turkey.

At the London Conference (1908–9) the Powers agreed to try another way. Limits were fixed between *absolute* and *relative* contraband—limits which during this war have turned out to be perfectly useless.

The clauses of the Declaration of London on this subject have practically *broken down altogether* under the

pressure of the interests and forces at play. On January 10, 1916, in the House of Commons, the President of the Board of Trade admitted that "the English contraband list is the largest this world has ever seen." The difficulties with regard to the theory of continuous voyage and the many disputes with the neutral States have made it clear that it is impossible to proceed along the lines of the Declaration of London.

And furthermore the modern blockade policy renders the laws of contraband still more unpractical. As far as the blockade is effective, it prevents *all kinds* of trade with the hostile country. The question is only raised when such blockade is not effective. And in this case, keeping in mind the experiences of the present war, it seems perfectly reasonable to take up the British proposal from the Second Hague Conference. It would also be in accordance with the fifth Convention of the Conference regarding the rights and duties of the *neutrals* in warfare on land. *Vide* especially Articles 7, 17, and 18.

When the question is, as here, which rules should be applied to the commercial intercourse of the *neutrals* with the belligerents, there is no difference in principle whether the supply is brought about by land or by sea.

During this war it has been claimed from many sides that all manufacture of arms and munitions should be nationalized (taken over by the Government). If this idea should be carried out, there would be still less use for any special rules regarding the contraband trade. For it has long ago become a matter of course that the neutral *States* must not supply the belligerents with anything directly serving the military aims.

The modern mercantile warfare seems to tend to a

concentration in the seas bordering or leading to the warring countries. In return other parts of the sea ought to be more free, safeguarded against searching and raids having no connection with established zones of warfare or spheres of blockade.

This would also result in a considerable reduction of the expenses of naval armaments. The navy would be released from the far-reaching, and with every year more heavy task, of protecting commerce on all seas. And the cruisers, built principally for the purpose of pursuing merchantmen, would be less needed.

If at the coming Peace Congress agreement is obtained with regard to the freedom of the seas in the two directions here mentioned, it will nevertheless be necessary to prevent merchant vessels from *directly partaking in military operations.*

The limitations with regard to this must bear upon neutrals and belligerents alike. The considerations which dictated the laws of contraband in former days will then naturally become of due importance in our time.

In accordance with the resolutions passed at the meeting of the Institute of International Law in Christiania (1912) some rules may here be drafted :—

Capture of a private merchant ship should be considered lawful—

1. If the ship partakes in military operations.
2. If it is under military control and command.
3. If it is chartered by the Government of the enemy for purposes directly serving warfare.
4. If it is used for transportation of troops or for information service, wireless telegraphy, signalling, or the like.

The more detailed wording of these principles and also the question of the transformation of merchant ships into men-of-war will probably be submitted to later negotiations between the Powers. There is therefore no reason to take up that matter here.

VIII

In the year 1907 the British Government took an initiative of great importance also in another domain. The experiences of the Russo-Japanese War showed with manifest evidence the risk to which peaceful trade is exposed by mines in the high sea. Thus the Chinese Delegation, at the Second Hague Conference, declared that the Chinese Government still—two years after the war—was obliged to furnish their coasting ships with special instruments for picking up the floating mines both in the territorial waters and on the high seas. But despite such precautions, the Government had to deplore the loss of a great number of coasting ships and smaller vessels, which had been lost, crews and all. Five hundred persons had in this way met a cruel death, while engaged in their peaceful vocations.

The British proposal to forbid the laying of mines on the high seas met in the Conference the resistance not only of some of the Great Powers but also of several smaller nations. It was argued that it was impossible altogether to give up this means of protection against a stronger navy.

During the war now raging the losses of human life and economic values on this account are so immense and so out of proportion to the aims intended by this means of fighting, that it now must be clear to every-

body how this kind of warfare is opposed to the first principles of law and justice.

Up to March 15, 1916, ninety-one Norwegian ships had been torpedoed or blown up by mines—in all 125,000 tons, worth 28 million crowns; the value of the cargoes was at least two to three times as much. Seventy-seven men were killed. This is the loss of one of the neutral countries.

The mines strike blindly, and are therefore much more beyond control than the torpedoes of the submarines. Ships without any intention to force established war zones or break blockades have been sunk, crews and all. And especially the neutral trade is suffering. The belligerent nations are furnished with special means which enable them—under the protection of their own naval forces—to save themselves from dangers of this kind in a much more successful way than the States which do not partake in the war.

The planting of mines in the high sea, in passages and straits which form the communication between the oceans, must be prohibited in future times of war, whatever be the arrangements as to submarines, special war zones and areas of blockade.

Two reasons are especially to be emphasized.

When the war is at an end the neutrals may feel relieved from all other risks, brought upon them by the war. But the drifting mines will—according to the experience from the Russo-Japanese War—still for many a year be a threat to all peaceful navigation.

In this war especially the *small* nations have been suffering. But what will be the consequence if in a future war a transoceanic steamer belonging to a neutral Great Power meets with a similar fate? Will, in such

a case, subterfuges and shallow expressions of regret have the desired effect? If, on the whole, it can be ascertained which one of the belligerent Powers it is that has to be responsible for the drifting homicidal implements, the question of peace or war will be in this way practically taken out of the hands of the responsible statesmen. Decision will rest with the national passions.

This new means of warfare really seems more apt to extend the boundaries of the war than to serve its purpose—to weaken the enemy's power of resistance and thus to hasten the conclusion of peace.

IX

There are some difficulties common to nearly all demands for effective reforms regarding International Law; for instance, the difference between the Great Powers and the other States. Here we have one of the causes of the failure of a final settlement at the Second Hague Conference in regard to a Permanent Court of Arbitration or a really International Prize Court.

With respect to the laws of naval warfare must be added the difficulties due to the position of Great Britain as an insular Power and a World-Empire.

Concerning the claim of armed neutrality of the Northern States, "Free ship makes free cargo," Pitt declared in 1801: "Shall we give up our maritime consequence and expose ourselves to scorn, to derision and contempt? No man can deplore more than I do the loss of human blood—the calamities and distresses of war; but will you silently stand by and, acknowledging these monstrous and unheard-of principles of neutrality, ensure your enemy against the effects of

your hostility! Four nations have leagued to produce a new code of maritime law, which they endeavour arbitrarily to force on Europe. Whatever shape it assumes, it is a violation of the right of England, and imperiously calls Englishmen to resist it, even to the last shilling and the last drop of blood, rather than tamely submit to degrading consequences or weakly yield the rights of this country to shameful usurpation."

The principle which Pitt considered so ruinous to his country is half a century afterwards carried out in practice on the proposal of the two Western Powers, and has proved itself quite unable in any way to shake the power of the British Empire.

Lord Palmerston, who was not less sensitive to the rights of England than Pitt, in the year 1856 defended the Conventions of the Declaration of Paris in an address to the Board of Trade of Liverpool, adding: "I cannot give up the hope that the laws regarding the inviolability of private property, now valid in war on land, might in the future be applied also to naval warfare. Military history is unable to offer one single instance of conquering a country as a consequence of the losses of its private citizens. The fate of nations is decided by contest between armies and fleets."

"The great reform work of the Declaration of Paris is forcing its way in face of strenuous opposition by the naval experts of the day" (Loreburn). The new order was the result of a compromise between naval Powers of the first rank and other States. These gave up the right to use merchant vessels as captors, and the Great Powers agreed to the claim for protection of the neutral trade, which Pitt had fought against with such

violence. In the notification to the other Powers of the Declaration, in which they were invited to join this Declaration, it was expressly stipulated that its principles were inseparable and must be regarded as a whole. All approbation in part was void.

Should not the time now have come which Palmerston foresaw in 1856? Should not the terrible experiences of the present war have prepared the way for a similar compromise, which might make possible the fullest recognition of the principle of the freedom of the seas in the three international spheres of action to which the sense of justice in modern times has wished to apply it? That would mean: *the abolition of the right of capture at sea, of the law of contraband, and of the planting of mines in the high sea.*

We have seen that the principle as it was originally conceived meant a recognition of the power of the experiences of history to limit the rights of the conqueror. The new application of the principle would limit the rights of the belligerents on account of the same fundamental conception, that also in international intercourse real and objective considerations and claims are to be found that cannot in the long run be put aside. Also, such States as have not been involved in this war must be allowed to take part in these Conventions. They will then form important links of the new international order of justice, the foundation of which will be laid by the coming treaty of peace. Such a system will not remain without influence upon the practical balance of naval power. The increased feeling of security on all sides will pave the road to direct negotiations between the States concerning effective limitation of naval armaments. The principle of freedom

of the seas would thus also in this domain obtain full recognition.

Already the pure State interests here involved are decidedly in favour of the above-mentioned arrangement. However, the demands of justice and humanity ought here to carry special weight. In this connection it might perhaps be permitted to recall the fact that the United States, having for more than a century entered the lists for this cause, unquestionably holds a somewhat different position from that of the other Great Powers.

In times of war, the Union is much more independent of supplies from abroad, economically more self-reliant than any other country. The realization of the principle would therefore not have the same significance here as elsewhere.

When neutral, the trade and the shipping of the Union will derive much greater advantage from the difficulties to which the right of capture, if maintained, will expose the belligerent States.

There might be reasons why the Powers of the Old World should take also these more ideal considerations into account when the time comes for settling the principles of a new and more valid international order.

LITERATURE.

C. H. STOCKTON: Would Immunity from Capture during War, of non-offending Private Property upon the High Seas, be in the Interest of Civilization? (*The Journal of International Law*, i. 93).

A. RACSTAD: Kongens stromme (Christiania, 1912).

TH. NIEMEYER: Urkundenbuch zum Seekriegsrecht, i–iii, 1913.

EARL LOREBURN: Capture at Sea, 1913.

G. SCHRAMM: Das Priesenrecht im seinen neuesten Gestalt, 1913.

F. With : Die Entwickelung der Theorie der Meeresfreiheit, 1913.
Zeitschrift für Völkerrecht, 1913, 395 and 420 ; 1914, 473.
F. Hold v. Ferneck : Die Reform des Seekriegsrechts durch die Londoner Konferenz, 1914 (Stir-Somlas Handbuch, iv. 3).
H. Wehberg : Das Seekriegsrecht, 1915.
E. v. Schulze-Goevernitz : Freie Meere, 1915.
Joseph H. Choate : Immunity of Private Property at Sea, 1916.
Ch. Roden Buxton : Towards a Lasting Settlement, 1916.

XII

PARLIAMENTARY CONTROL OF FOREIGN POLICY

By ED. BERNSTEIN, *Germany*

The programme of the Central Organization for a Durable Peace states the following with regard to foreign policy: "Foreign policy shall be under the effective control of the Parliaments of the respective nations. Secret treaties shall be void."

This is the identical demand which the Union of Democratic Control is making in England; indeed, no democratic party exists which does not ask the same things. Still, parliamentary control of foreign policy is by no means in the interest of democracy alone. Parties representing possessors of wealth have an equal interest in placing the foreign policy of their country under their own control. As Parliaments exist to-day, in all civilized States, the first question to be considered is, Are Parliaments not yet in a position to control the foreign policy of their country; and if they are not, what kind of obstacles are there in the way of such control?

There are two points of view to be regarded in the examination of this problem. The constitutional law of the land must allow Parliament the right of examining foreign policy, and the actual rights and powers

of Parliament with regard to foreign policy must be settled. According to the letter of their Constitutions, in no State does Parliament actually possess the sovereign right of decision in matters of foreign policy. All constitutional laws give the Head of the Executive extensive determining rights. The President of Republican France, just as the King of England, which is governed constitutionally, hold the threads of foreign policy in their hands, according to the laws of their countries. The appointment of ambassadors, the intercourse with foreign Sovereigns, the signing of treaties, are theirs, and these powers make it possible for them at times profoundly to influence the foreign policy of their country. This, for example, was the case with Edward VII of England, even if much that has been written about him as the author and leader of the policy of encirclement has been fantastically embellished. Poincaré, likewise, carries much weight in the foreign policy of his country. Still more extensive are the rights of the German Emperor in this domain as stated in the Constitution of the German Empire, for he combines in his person the supreme command of the Army and Navy as well as being the representative of the Empire to the world at large.

According to Article 2 of the Constitution, he not only has to represent the Empire with regard to other States, to declare war, and to conclude peace in the name of the Empire, to enter into alliances and make other contracts with foreign States, to accredit and to receive ambassadors, but the right is also his, according to Article 68 of the Constitution, of declaring the whole of the confederation to be in a state of war, if its security should be threatened . . .

In the dual monarchy of Austria-Hungary, according

to the Constitution, the Emperor also has the decisive word in foreign policy. That in Russia, the decision of foreign policy rests—constitutionally—entirely with the Czar hardly needs mention.

Yet, nowadays, there is everywhere to be found in existence a more or less strong counterbalance to these statutory rights of monarchs and presidents in that political power of Parliaments which has its roots in the material and moral forces of different social orders. It is at its strongest in countries with Parliamentary Government (e.g. England, France, Italy) where the sovereign—king or president—is deprived of the constitutional means to pursue a policy which is opposed to the deciding voice of a parliamentary majority. Yet this can also become an important counterbalance in constitutional States which have mixed systems of government. Where a Parliament exists which has behind it the declared will of the nation, and this Parliament, together with its electors, has a distinct intention, no Government can risk setting itself continuously in opposition.

Hence, wherever Absolutism no longer controls all those powers which constitute the economic strength of the country, it really lies with the Parliament to determine whether the foreign policy of the land should be under its control or not. The problem, therefore, is, in the first place, how to create and how to sustain such determination. It is a disastrous mistake to suppose that such a purpose exists everywhere. In the necessary fullness and strength it hardly exists anywhere to-day. For the important point is not that Governments should be obliged by the Constitution or by precedent to give to Parliament or to its Committees true information concerning relations with Foreign Powers. This is done to-day in all countries.

There is nowhere an absence of declarations by Ministers concerning the foreign policy of their Governments, nor of replies given by them to members of Parliament asking questions about it. But these declarations and replies are seldom of such explicit and exhaustive character as not to leave room for silent reservations. There is therefore a great chasm between the giving of such information to Parliament and the parliamentary exercise of a real control of foreign policy. Two things fail to-day in an effective control of foreign policy—

1. A decided break with the old course of Cabinet politics.

2. The real and constant interest of the people in the discussion of events in the field of foreign policy.

As to the first, the politics of the old Cabinets always were, in the main, full of such intrigues as cannot stand the light of publicity. To be a diplomat meant to be an adept in the arts of corruption and of political stage play. This corresponded to a period in which the policy of States was decided by the interests of dynasties, or of limited oligarchies, and a game of chess was played with countries and laws as pawns, without any consideration being shown for the people inhabiting them. There was a hope that this might be altered when States ceased to be the property of princes and oligarchs, when the interest of the producers, of the population, was considered, when civil rights were gained. The nineteenth century has indeed witnessed a development in the relationships of States, and a corresponding change of foreign policy, which increasingly lays emphasis on the common interests of nations. But this development, which in the later half of the nineteenth century seemed able to vanquish all obstacles, had its reverses. A period

of reaction came when the great continental States returned to a policy of protection and to the cult of an imperialism directed towards the selfish exploitation of their colonies. The reactions of the Franco-German War of 1870–1, and of the Russo-Turkish War, 1877–8 influenced relationships between the Great Powers of Europe leading to the formation of Groups of Powers, to a continuous increase of armaments on sea and land; thus new reasons have been created why the schemes of diplomatists should be withdrawn from publicity. This tendency has had such a marked influence that, even where democracy has enough political power to control foreign policy, so long as its imperialistic elements feel sure that an imperialistic policy is being pursued they are quite satisfied to receive merely casual information concerning the obligations which may arise from such diplomatic alliances and coalitions as are entered into, although these may seriously involve their respective countries later on.

This is the core of the evil. It may be too much to say that in those great States where Imperialism prevails, the hide-bound, middle-class parties do not really wish to be properly informed regarding the foreign policy of their country; still, it is hardly an exaggeration to say that they are quite content when the general public and the parliamentary opponents of their imperialistic policy get nothing but mere generalities out of the Ministers, even on most important questions of policy. The imperialist policy of our times is the interested policy of certain classes of capitalists and of the exponents of these classes. These important personages have ways enough outside Parliament of gaining knowledge of the intentions and decisions of the Government. The

great chieftains of finance and of industrial combinations seldom think it worth while to take the trouble of joining in parliamentary activities. . . .

What, then, is to be done?

In England, where, up to the present, thanks to the "insularity" of the country, it has been possible publicly to thrash out questions of foreign policy, where even the sittings which the House of Commons hold "in Committee" are public, the view is held that by transferring the treatment of ticklish questions of foreign policy to some Parliamentary Committee withdrawn from the eyes and ears of the general public, the Government might be induced to impart fuller information concerning its engagements with Foreign Powers than that which can be given in public. The experiences which the writer has gained as a member of the German Reichstag prove such a hope to be quite illusory. . . .

(Ed. Bernstein then describes the Reichstag procedure and how real enlightenment on foreign policy is but too often cleverly evaded. Translator's note.)

The publication of reports to Select Commissions concerning far-reaching measures or combinations in the field of foreign policy offers, then, no security that even Committees of popular representatives, Committees composed of delegates of various parties, will obtain precise information as to how far the Government is committed to political agreements which, under certain circumstances, may involve the country in war. But it is embarrassing in this way, that it may be used to bind the hands of the Democratic Opposition: when, for instance, the government minister at the head of the Committee secures a pledge of strict secrecy about some information which he is on the point of imparting, then, naturally, the members are in

honour bound to keep this promise, even if the information given tells nothing which they did not already know, on some subject which in the judgment of the Democratic Opposition requires unrestricted public discussion. Occurrences of this kind have not been wanting in Germany. Members of the Democratic Opposition have repeatedly had occasion to withstand attempts to impose secrecy on members of Committees concerning matters which deserved full publicity. Elsewhere this perversion of method may be unknown, and on the whole this is an abuse the effects of which do not endure for long ; for all information about foreign political agreements given to the members of the Commission as a whole gets published sooner or later, for this simple reason : that which is made known to all parties without distinction never really is actual secret diplomacy. Secret diplomacy is, in the nature of it, always the policy of certain sections of the privileged classes, and fundamentally opposed to democracy.

In short, German experience fails to show that the democratic control of foreign policy is really secured by arranging for its discussion in special committees.

The advantages of the method lie more in the way of controlling technical and similar matters and questions and transactions of foreign service. As regards politics it is in most cases democratically useless, if not worse.

Of greater worth, certainly of less doubtful value, is the proposal that Governments should be bound to issue to Parliament precise documentary reports of all treaties, agreements, and alliances which they make with other Governments. The literal carrying out of this proposal

would necessarily do much to break down secret diplomacy. But just because this consequence must follow, there is little chance under present-day conditions in most countries that Governments would unreservedly commit themselves to such an obligation. In most countries they will be ready to declare their negotiations only when it is expedient, and to desist from doing so in cases when it appears to them that publicity is not "expedient." And the non-democratic parties will, for the reasons stated, agree to a limited pledge as described. The rule then becomes a simple recommendation having no binding force for just those cases which are specially important. How disposed the *bourgeois* parties of the Great Powers of the Continent are to rest satisfied with mere indications of the trend of the diplomatic arrangements of their Governments is shown, among other things, by the fact that nearly up to the summer of 1915 the people belonging to the States of the Triple Alliance—Germany, Austria-Hungary, Italy—remained ignorant of the exact text of the treaty of the Triple Alliance, and that the full contents of that treaty are still unknown to-day. All that is known is simply the wording of those paragraphs which were quoted by the Austro-Hungarian and Italian Governments in the negotiations which immediately preceded the war between those two States, but concerning the treaty as a whole there still broods a mystic twilight.

. . . . .

(There follows an amplification of this statement and the further statement, on the authority of Julius von Eckhardt (1892), that the text of this treaty would not be published even if it lapsed. An article of Prof. Hans

F. Helnott is quoted, showing that only the Prime Minister and the Foreign Ministers of one of the States of the Triple Alliance ever see the original text, subordinates never do.)

This demonstrates the fact that the German nation has been bound ever since the last decade but one of the nineteenth century by a stipulated treaty with Austria-Hungary and Italy, the full text of which remained a secret even for the selected few among the chosen representatives of the nation, so that even they were not clear for a single instant as to the extent of the liabilities incurred by this treaty. And during all this time the representatives of the German people never dared to assail this condition of things, a condition which contradicts any idea that they themselves or their representatives possess the leadership of the nation. Instead, they were satisfied with occasional declarations from the inner Government circle concerning it. These declarations gave only very indefinite information regarding the extent of the treaty to the details of which must probably be referred the remarkable fact that Italy in May 1915 could easily break off the treaty with Austria-Hungary, and engage in a bloody war with that land, without, through this act, declaring direct war against Germany—Austria-Hungary's ally in the general war. Because the middle-class parties were quite satisfied as to the alliance itself, they abstained from trying to acquaint themselves with its exact obligations.

And yet we have seen how far-reaching these obligations actually were, how they bound Germany diplomatically to Austro-Hungarian policy—a policy which was by no means always identical with the interests of Germany, nor in accord with its political leadership.

Among the things which Austrian diplomacy is fond of, which surprise the world and place their friends in difficulties, is the sudden presentation of accomplished facts.

Just on the eve of the present World-War, we found the German Secretary of State for Foreign Affairs, Herr von Jagow, stating to the English Ambassador, Sir Edward Goschen, on July 29, 1914, that he (Jagow) "had to be very careful in giving advice to Austria, as any idea that they were being pressed would be likely to cause them to precipitate matters and present a *fait accompli*. This had in fact now happened, and he was not sure that his communication of your suggestion, that Serbia's reply offered a basis for discussion, had not hastened declaration of war" (of Austria on Serbia).[1]

If Herr von Jagow was not merely using a pretext, which is hardly likely, his remark shows the following position: the German Government transmits a proposal of Sir Edward Grey's to the Allied Austrian Government, and, at the same time, in order to spare their feelings, indicates indirectly that it considered the proposition to be open to discussion;[2] and this was an opening for the Vienna Government to hurry up a declaration of war without previous understanding with Berlin—a declaration which she must have known threatened to involve Austria-Hungary, and also its ally, Germany, in a war of incalculable extent. The Alliance bound the one State to give adhesion to the—to put it mildly—ill-considered activities of the other.

[1] English Blue Book, No. 76, telegram of Sir Edward Goschen to Sir Edward Grey on July 29, 1914.

[2] Compare the telegram of the British Chargé d'affaires in Berlin, Sir H. Rumbold, of July 26, 1914, to Sir Edward Grey, about the line taken in the explanation of the German Under-Secretary of State (No. 34 of the Blue Book).

Of course the Treaty of Alliance contains nothing of this sort, but it follows as a natural consequence. All State treaties of this kind have a tendency to bind beyond the obligations stipulated. Their wording is now usually so arranged that there is no real objection to be made to them so long as the letter is observed. They always secure to the one side on the part of the other side either support or benevolent neutrality, as the case may be, in the event of a third party either declaring or forcing war on it. But although, as experience has shown, the idea of aggressive war is extremely elastic, there are yet all kinds of other momentums which tend, as soon as such an alliance is concluded, to increase the responsibility of one side for the actions of the other beyond the treaty stipulations. The Anglo-French understanding of 1914 cannot quite be put in the same category as the treaty of the Triple Alliance as regards substance and form, yet it is exactly identical in this, that in practice it binds one side to a far greater extent than the original wording appears to want to bind it.

The Anglo-Russian understanding regarding Persia is the same. It may be left undecided whether English people were intentionally deceived about this understanding as to its extent and bearing or whether things grew beyond that which was originally intended, as it were, automatically. In any case, in England there were never wanting people who repeatedly tried to drag the full and complete truth concerning it out of the Government by means of questions in Parliament and critical articles in the Press. In Germany there was no idea of such constant pressure being exercised to obtain information concerning the contents of the Triple Alliance treaty. Political writers have tried to patch together what Prof. Helnott calls its

"mosaic," but as to the politicians, they showed little trace of such zeal. Hence German social democracy can be understood when it places small hopes in the increase of parliamentary control of foreign policy, at least, so far as those parties inspired by the imperialistic spirit are concerned. And unfortunately the line of these parties is a long one! When this is said, it is not meant that the parties in favour of peace among nations should become remiss in striving for the exercise and extension of such control. Just the contrary. They have every reason to continue and to increase the struggle to secure open diplomacy in foreign affairs. They must support all such parliamentary arrangements and all such constitutional means as may make the continuous supervision of foreign policy possible and invest such means with real power. Where there are no Parliamentary Committees, they must create and support Committees outside Parliament whose task it will be:

1. Constantly to supervise the foreign policy of their country.

2. To collect all original documents and all material facts bearing on it and to make the most important of them accessible to the general public in cheap pamphlets as occasion arises.

3. To educate the people, by the above means and by lectures and fuller publications, to the importance of an unabated interest in and supervision of the foreign policy of their country and the formation of a strong determination as to the carrying out of their wishes. . . .

The supervision of foreign policy by their representatives and by the people themselves is an essential part of the public life of any nation which wants to be the mistress of its own destiny. But this is only a subordinate

means of resisting the danger which threatens nations of becoming involved in war or similar enmities with other nations through the actions of their executive organs. On the one hand there should be far-reaching changes in the constitutions of most nations; concerning, for instance, the disastrous rights of the executive authority—which exist at present almost everywhere—to declare a "Kriegszustand" at its own discretion, to order mobilization, to dissolve Parliaments in order to have fresh elections under the pressure of foreign complications, to declare war, and so on. On the other hand, we must have a fuller development of International Law and the creation of organizations and of powers to make it effective. But most important of all is untiring effort in the task of achieving the solidarity of nations through the elimination of all separate alliances, and of all exclusive economic policy. With this must go the education of the peoples to a full understanding of the fact that just as in the home affairs of States, so also in the relations of States one to another, the substitution of agreed, equitable laws for the rule of force guarantees not only the highest and best civilization, but also the greatest material welfare.

Only where this knowledge is deeply rooted in the people, and only where the democracy has learned clearly to distinguish between the desire for power of the privileged classes and the economic and cultural interests of the vast majority of the nation, will the supervision of foreign policy by elected and voluntarily constituted committees mean a real and effectual guardianship of a true policy of peace.

XIII

ARTICLE 2 OF THE MINIMUM PROGRAMME

By Dr. CHARLES H. LEVERMORE, *U.S.A.*

Art. 2.—Les Etats garantiront aux nationalités comprises dans leur territoire, l'égalité civile, la liberté religieuse et le libre usage de leur langue.

(The States shall guarantee to the various nationalities, included in their boundaries, equality before the law, religious liberty and the free use of their native languages.)

This doctrine partakes of the nature of a declaration of rights. It lies, for the most part, outside the range of present International Law and action, for it raises questions that must usually be intranational, not international. It describes the fortunate condition to which Switzerland has attained, not without serious struggle, after a unique development extending through six centuries.

The countries of Eastern Europe, of Asia and Africa, may profitably study that example, yet it can scarcely be expected that the history of Switzerland can be precisely repeated in those regions.

Sovereign States, in which different nationalities have for generations occupied different grades of freedom, may, in International Congresses, or a World-Parliament, formally record their approval of the principles of political

equality and religious liberty as applicable to each one of their constituent races, and yet it would doubtless be impracticable for them to exchange guarantees of the impartial, uniform application of these principles.

The value of international pronouncements of this kind lies in the continued insistence upon an idea. The repetition of the vision, with the possible advantage of some official adhesion and support, helps to direct the growth of public opinion, and increases the sense of solidarity and mutual responsibility, at any rate among democratic States.

It is clear that any State in full possession of its sovereignty will hold the legal, religious, and linguistic rights and privileges of its subjects to be a strictly domestic concern, to be determined by its own municipal law, without foreign dictation or interference. No first-class Power would admit such interference by the medium of treaty agreements, unless it had been vanquished in a conflict arising out of this very question. A weak State, or a strong one, temporarily weakened by defeat, would gladly promise internal reforms, or agree to enact a Bill of Rights, as a part of the price of peace and the withdrawal of the conquerors. If such a reform were the guarantee of impartial justice and freedom, for an inferior and presumably despised subject race, the fulfilment of such a pledge would depend upon the fighting power of that subject race, or upon the prolonged interference of the conquerors. External pressure being removed, that State would assuredly begin to legislate and administer, within its boundaries, in accordance with the will of its majority, or of its dominant sentiment. A dependent, half-civilized or disrupted State might agree to record a declaration of rights at the bidding of

one or more Great Powers, but the guarantee would be worthless in the long run, if the dominant public opinion regarded it with indifference or aversion. How quickly and easily such a guarantee is disregarded, when a new grouping of overlords shifts the control, or at least blocks it, can be seen in the history of the Turkish Empire.

What pledges of this sort could have sufficed to keep the Kingdom of the Netherlands, formed at the Congress of Vienna, from bursting asunder into its Dutch and Flemish parts? None. Roumanian delegates in an international congress might readily subscribe to this agreement in the Programme, but can any one believe that such action would alleviate the woes of the Roumanian Jews? It is most unlikely. Let us Americans bring this matter home to ourselves. Our delegates in a world-congress would perhaps speak and act as though our Republic based its national legislation upon these principles, and could, therefore, with propriety recommend them to our neighbours. It is true that we guarantee and secure to our citizens a large measure of religious liberty, and we do not interfere with their use of their native languages.

It is equally true that in the States of our Union where the Afro-Americans were formerly slaves we cannot secure to the people of that race a real equality before the law. Generations will pass before that can be done. It is also true that there are regions of our country where our national Government cannot guarantee to Asiatic peoples resident among us impartial justice and real equality before the law.

But, if in an international congress, or in proposed treaties, the United States should be invited to respect the theory of its own law in its treatment of Africans,

the great majority of our citizens would fiercely resent such utterances or suggestions as an unwarrantable interference with our municipal affairs. Still more violent would be the opposition to any attempt by a League of Nations, or by an international force representing such a World-State, to restrain or change the operation of our local courts or local sentiment in any matter affecting racial relations. The World-State must have become strongly centralized and based upon a democracy unknown to-day before it could proceed to the enforcement of such guarantees as are mentioned in our thesis.

The experience of Switzerland is not a fair criterion of what other States, comprising different nationalities, must prepare to face. The physical configuration of the Alpine valleys is the immutable basis of liberty, and the three races who abide within those natural bulwarks have always met each other as equals.

That description is not applicable to the Balkan Peninsula, nor to the Polish and Russian plains, nor to the Southern States of the North American Union.

The United States is indeed the greatest experiment in federation that the world has ever seen, and in many ways it is one of the most successful. It almost foundered once upon the rock of local autonomy, and it is safe to say that our federal administration will leave many questions unanswered if so it can avoid another collision with the same obstacle. Strong popular unanimity in the determination of a clear moral issue could alone cause another attempt to coerce one of our sovereign States. Slavery furnished such a condition. The refusal of justice, in 1891, to certain immigrants in one of our Gulf States did not give cause for coercion, and the national Government offered reparation for a failure

of justice which was practically beyond its power of control.

It is true that there are certain precedents for an international guarantee of religious liberty, if not of political equality. The Treaty of Berlin, July 13, 1878, pledged seven States to guarantee the establishment of the following principle in the law of Bulgaria, Roumania, Serbia, and Montenegro :—

" The difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions and honours, or the exercise of the various professions and industries in any locality whatsoever.

" The freedom and outward exercise of all forms of worship shall be assured to all persons belonging to (name of country), as well as to foreigners, and no hindrance shall be offered either to the hierarchical organization of the different communions or their relations with their spiritual chiefs " (Articles 5, 27, 35, 44).

In Article 62 a similar declaration was accepted by Turkey, one of the signatory Powers, and it was prefaced by these words :—

" The Sublime Porte having expressed the intention to maintain the principle of religious liberty, and give it the widest scope, the contracting parties take note of this spontaneous declaration."

The history of Armenian, Greek, and Syrian peoples since 1878 is a sufficient commentary upon " this spontaneous declaration," which the Berlin diplomats doubtless rated at its true value. Equally futile was the

pledge of religious liberty in the public national law of the four States named, when it conflicted with national rivalries in Macedonia, or with Roumanian anti-Semitism.

As the official commentary of the Central Organization upon the Minimum Programme has already pointed out, there is no record that States have ever been obliged to answer for infractions of such guarantees. If any State should disregard such obligations, no citizen of that State can institute a suit against his own State before any international court. We all hope to see an international court created which will be empowered to decide controversies between States and controversies which may have arisen from disputes between citizens of different States. We cannot expect to see a State summoned to such a court by one of its own citizens, or, except under specific agreements, by a citizen of another State. Here, again, we may learn from the experience of the United States. It was precisely this possible impeachment of the power and justice of a sovereign State, originally permissible under our Constitution, that it was deemed necessary to forbid by the eleventh Amendment of that fundamental law. What the separate States of our Union would not endure, the independent States of the world will be even less likely to admit.

I quote the substance of our official commentary :—

" The principle of non-intervention in the internal affairs of States is so valuable that it must preclude the possibility of meddling with questions so delicate. The only hope lies in domestic reforms, completed perhaps by reciprocal engagements of such States as are willing to agree upon certain appropriate legislation upon this

subject, so as to assure to national minorities their fundamental rights."

This statement suggests the wisdom of recognizing a classification of States in several groups, and of abandoning the pretence or hope of guaranteeing a uniform declaration of rights among all classes of citizens in all States, without distinction.

The fundamental fact determining such a classification of States must be, not official willingness to give adhesion to programmes and declarations of rights, but the actually existing political and social institutions and system of government.

In other words, unless States are ready to guarantee the maintenance of a certain form and spirit of government, it is idle to talk about their guarantees of human rights.

There are three groups of States :—

1. Democratic, with sovereignty arising from the consent of the governed, and based upon the higher forms of force called moral.

2. Autocratic, or aristocratic, with sovereignty proceeding from an exalted class or caste, and based upon physical force.

3. Backward, disorganized, imperfect States, dependent upon one or more States in either of the other groups, and, under present conditions of world-relations, a source of constant peril to civilization.

The democratic States, associated together in an organized world, might, without too great a strain upon their imaginations, guarantee bills of rights, and even, as in the case of the United States, guarantee to one another the maintenance of a democratic form of government (United States Constitution, Article IV, Section 4).

In general, such agreements would seem reasonable and enforceable, despite the shortcomings of the United States towards its Afro-Americans, and—shall we add ?—of Germany towards Danes in Schleswig and Poles in Poland.

But, from autocratic States, it is useless to demand or expect such agreements or guarantees ; useless also in the case of backward States as long as they are the prizes of the games of war and diplomacy or are attached to the fortunes of some imperialist overlord.

This problem might be soluble for the native States of Africa, and perhaps of Central Asia, if they could all be cared for under such a system as has made British Nigeria the model dependency of that Empire ; or, still better, if they could all be placed under international control, recognized as the wards, not of any one State, but of the united World-State, and administered by an impartial, unselfish, and Christian civil service. So they might play the part in the history of world-organization which the great North-West Territory played in the history of the United States. That territory, as a common possession of the Union, was a mighty bond for popular interest and economic solidarity, and finally became a sheet-anchor for the Union itself.

But such a plan for Africa and Asia is now too remote for profitable discussion. That altruistic civil service above referred to would require the services of a staff of unprejudiced archangels. European individuals could not be expected to divest themselves of their national sympathies and ambitions. The American, W. Morgan Shuster, was indeed no archangel, yet the fate of his work in Persia is sufficiently illustrative. A vast preliminary work must be done with the States

that have already divided the backward continents, before valid guarantees of rights of nationality can be obtained.

Our problem as it affects States, nationalities, and religions in Africa is difficult enough. It is at least equally difficult when applied to that welter of races in the lands lying between the Baltic, Adriatic, and Ægean Seas. Across this region run the frontiers between Teuton, Slav, Ural-Altaic races, Latin and Hellene. On either side of this boundary are heaped the wrecks of fifteen hundred years of racial collisions.

When we look within the Russian Empire, our thesis raises the question of political, religious, and linguistic liberties: first, in Finland; second, in the Baltic Provinces (Teuton aristocracy versus Finnish, Lettish, and Lithuanian peasants); third, in Poland; fourth, in Little Russia, among the Ukrainian races, the murmur of whose agitations on either side of the Galician boundary was one of the obscure preludes of the present war. These are only the beginnings of the question for the Russian Empire as a whole.

However we may sympathize with Finn and Ruthenian, we cannot expect other States to enforce guarantees of rights against the will of the Russian Government, nor can much value be attached to the possible willingness of that Government to give such a guarantee. The real difficulty lies, not in the adoption or rejection of a formula, but in the nature of the Government itself. Between democratic and aristocratic Governments there can be no real agreement concerning internal administration, no harmony that crosses the frontier.

Moreover, the question of the free use of a native language is too complicated to be solved by a single phrase.

Every State is justified in seeking to establish a single dominant speech among its people, and to fuse all its nationalities into one. Identity of race, religion, and language produces a strong nationality, and it should be the policy of Governments to promote such identities wisely.

Some Governments will be sure to promote them unwisely, yet it is certainly for the ultimate advantage of Russia and of all the peoples who must live under its flag if they are induced to subordinate their original native tongues to the Russian majority. In such a process there will inevitably be protests that the use of this or that speech is unduly restricted. Such sacrifices must be made. It is surely better that Irish, Scotch, and Welsh people should use English rather than their ancient Celtic speech. The United States, in some districts, is as multi-lingual as Austria-Hungary, but, thanks to our public-school system, there is usually only one language for the second generation. What a democracy achieves by education, a mediæval caste-empire must try to obtain by other means, but the effort to attain such an end is inevitable in any living State.

Of course, the dual monarchy is just now the completest illustration of our problem, and also, I think, the most convincing evidence that the approach to a solution lies, not in affirmations of rights, but in the spirit and system of government. Out of ten races, in Austria-Hungary, viz., German, Czech, Slovak, Pole, Ruthenian, Ruman, Magyar, Slovene, Italian, and Serb, only two have emerged into full equality in freedom and in sovereignty. The free use of native languages in such a State might easily become a leverage for its destruction,

and the difficulties created by this issue in the armies of the dual monarchy are well known. The remedy for the political ills of the dual monarchy will not come from any guarantees issued by the present State, but from the eventual adoption of a true federal system with true local autonomy for the various nationalities, so far as their physical situation will permit it.

The State must finally adopt such a system in order to avert its own dissolution, or revolutionary transformation, but unless its fate is sealed in some great world-strife like the present one, it must work out its own salvation from within, and not by dictation from without. That internal salvation, moreover, will have little durability, unless it proceeds from the people up, and not from the aristocracy down.

There is one denial of the rights of nationality in Europe which cannot be treated as a problem internal for any one nation, nor as the proper object of any declaration of rights without definite and immediate application of those principles to concrete facts. This is the ever-smoking sacrifice of the Polish race, offered up now for more than a century upon the altars of greed of Prussia, Austria, and Russia.

Here is, indeed, a question of nationality that invites and demands international consideration. Central Europe cannot have permanent peace until this question is settled, and settled right. The question of the Macedonian Bulgar is similar in some respects to that of the Pole, but the Bulgar controversy is still under adjudication, and directly touches the interests of only three lesser Powers.

The dissection of Poland has resulted in a persistent refusal by at least two of its executioners to grant to

their Polish subjects any appreciable measure of the rights which democratic States regard as universal. Inasmuch as, during the present war, both Germany and Russia have spoken of reconstituting an autonomous Poland, it would seem to be proper for the friends of world-organization to recommend explicitly that the Polish nation should receive permission to reunite its sundered portions, if the fragments wish it, and reappear as a European State under international protection. Such a rectification of old wrongs in the name of international justice to nationalities would throw a ray of hope for the future around the world, perhaps even to Persia and Corea, to Syria and India.

Finally, liberty and justice are fundamentally the rightful possession of all men as individual citizens, without reference to any question of nationality. Some States must include separate racial groups, differentiated from one another by lineage, language, customs, and perhaps religion. But there are no races that are essentially either superior or inferior, and individuals of all groups should claim the same rights and perform the same duties under impartial law.

The conclusion is that this flower of freedom springs only from the inner forces that vitalize a people and a State. Democratic States need no formal, mutual affirmations of civil and religious liberty in abstract terms. Undemocratic States cannot honestly utter them. Of what use is it to propose guarantees to the Metternichs, Bismarcks and Louis Napoleons, and Pobiedonostseffs of our day, which they may repeat with tongues in cheeks and then contemptuously nullify?

Those of us who seek to lay the foundations of a lasting peace need to derive lessons, not from the re-

sounding generalizations of our Declaration of Independence and of its offspring, the French Declaration of the Rights of Man, but rather from the practical provisions of the American Constitution, which embodied the most important references to democratic political philosophy in the form of definite restrictions upon the powers of Congress (cf. the first Amendment).

If ever a World-State is formed, with all the organs of international government, and is sustained by a strong, international public opinion and loyalty, such a power might compel the observance of a guarantee of human rights on behalf of oppressed minorities in any State.

Until that new world is evolved, such guarantees cannot be made effective from without, unless by the evil method of world-convulsion, and cannot be made effective from within, unless by the slow infiltration and triumph of democratic ideas.

For these reasons I favour the omission of this sentence of the Minimum Programme.

If, however, it should be decided that some form of adhesion to the principles of civil and religious liberty is desirable, I propose the omission of the word " guarantee " and the use of a formula of this sort :—

" States are invited to embody in their legislation and administration the principle that all citizens, whatever their nationality may be, are entitled to enjoy equality before the law, religious liberty, and the free use of their native languages."

Worthy of examination in this connection is the subjoined statement of the rights of men and nationalities, based upon the text of the first two articles of the " Charte Mondiale " in *La Fin de la Guerre*, by M. Paul

Otlet. M. Otlet's Charter presupposes the creation of a World-State, and therefore his phraseology is not reproduced literally. It is perhaps needless to add that the first chapter of this Charter is at once the youngest and the most fully developed offspring of the historic Declaration of Rights.

1. The Rights of Man.

Men should live in the enjoyment of liberty, equality before the law, and fraternal unity. Liberty excludes all slavery, serfdom, oppression, or abusive exploitation. Wherever they may be, men should enjoy the natural, imprescriptible rights of human beings: individual security and equality before the law, liberty of conscience, liberty of worship and the public exercise of it, religious liberty, inviolability of domicile and of property. No one should be disturbed on account of his lineage, or be subjected, for such reasons, to intolerant and discourteous treatment.

2. Rights of Nationalities.

A nationality, founded upon a community of origin, custom, and language, occupying a definite territory, and maintaining a social order of its own, has a right to independence or at least to local autonomy, as a consequence of the liberty of the individual.

The analysis of nationality by M. le Comte Guillaume de Garden (*Traité Complet de Diplomatie*, i. 31–6) is noteworthy here, because the fundamental influence of government, as an expression of the national spirit, is emphasized. I quote a few paragraphs:—

"A nation is a moral unity, composed of very heterogeneous elements. A moral unity is an artificial unity. What are the means of creating unities of this nature?

"I. A Government, which should be the expression of reason: a Government, which sees in force the guarantee of justice; in justice, the safeguard of liberty; in liberty, an agreement for the development of all the powers; in

the harmonious development of all powers, the perfection of humanity.

"Such a Government, aiming at the purpose of the social order and reposing upon the general interest of the governed, can alone serve them as a base for concentration. It busies itself with them, and they are concerned with it. It is the centre upon which all individual interests will converge.

"If this Government creates and preserves institutions which give to the governed a certain political liberty, and which assure the play of forces by a system of checks and balances intelligently directed; if it has characteristic and original forms which distinguish it from all others, and which are rooted in the history and customs of a people, it will be a true moral unity and will give to a nation, not only a common interest, but an individual imprint.

"II. In the absence of government—that is, of a good government—identity of origin, identity of religion, identity of language, can, at a pinch, give to a nation a kind of moral unity. These causes operate even among peoples whose Government proceeds in a direction quite adverse to the social order. How much more mightily must they operate among peoples whose Government is not alien to its duties, and never loses sight of the purpose of the social order! The strongest moral unity, the most enduring, and that which imparts most effectively an individual character to the moral and intellectual nature of a people, is the identity of language.

"All other means of creating an artificial unity in human society are insignificant in comparison with this; and, apart from all others, this alone preserves

still some influence and activity: witness Germany and Italy.[1] However, it is unnecessary to conclude that identity of language suffices to constitute a nation; one can be isolated even while using the same speech as one's neighbours. But it is certain that, as long as a people preserves its language, it preserves a sort of common personality, and it can again and again become a nation. It possesses still a great channel of tradition, and the utterance of the genius and character of the fathers will be a rallying-cry for the children.

"A nation is truly a nation, in the completest sense of the word, only when it reunites the greatest possible number of identities, especially those of government and language. Then only the individuals of that nation can have a truly national stamp of individuality."

[1] This was written in 1833.

XIV

THE DEVELOPMENT OF THE HAGUE CONFERENCE AND ITS WORK

By Prof. WILLIAM I. HULL, *U.S.A.*

This subject may be considered under the four topics: I. The Prevention of War by the Substitution of the Pacific Settlement of International Disputes; II. The Definition and Protection of the Rights of Neutrals; III. The Alleviation of the Ills of Warfare; IV. The Organization of the Conference itself.

As guidance in the development of the Conference and its work, two general principles may be laid down, as follows: First, due consideration should be given to the work already accomplished and attempted by it; and the attempts of the first Conference which did not become the achievements of the second, as well as the attempts of the second itself, should be made the "unfinished business" of the third.

Again, the international experience of the years that have elapsed since the second Conference was held should be permitted to shed its instructive light upon the solution of the fundamental problems which are yet to be solved at The Hague.

I. The most fundamental of these problems is, of

course, the achievement of an exclusively pacific settlement of international disputes.

The means which have thus far been developed for this purpose are good offices and mediation, Commissions of Inquiry, and arbitration.

1. Good offices and mediation have been repeatedly used with success; but they have failed in some notable instances. To be made more effective, they must be exerted, not by Governments acting singly or separately, but by all of those not parties to the dispute and in concerted action.[1] This concerted action, so far as the extension of good offices is concerned, might be accomplished through the Permanent Administrative Council at The Hague.

After this concerted pressure in behalf of mediation has been made, the disputants must be left, of course, to choose the mediator.

In case of insuperable difficulty in choosing a mediator, concerted pressure should be brought in favour of a choice of "special mediators," as provided for in Article 8 of the Convention for the Pacific Settlement of International Disputes.

If the "special mediators" agree on a settlement of the dispute, but one or both of the disputants reject that settlement, concerted pressure should again be brought upon one or both of the obdurate disputants to procure either the acceptance of the settlement suggested by the mediators or a resort to some other of the means of pacific settlement.

2. International Commissions of Inquiry have also proved their efficacy by successful practice; but they

[1] The sanction at the back of this concerted action is discussed later on.

too have not yet accomplished all that can rightfully be expected of them.

The proposal made by Russia at the first Conference, renewed at the second Conference by Russia, and endorsed by the Netherlands, is now ripe for adoption, since the nations have learned by recent sad experience the necessity of some such arrangement.

This proposal included the *establishment*, not the mere *recommendation*, of an International Commission of Inquiry, which should investigate and report upon the facts in dispute. In the face of persistent opposition from Roumania and, to a smaller degree, from Serbia and Greece, the first Conference consented only to the *recommendation*, and the second Conference rejected the *establishment*, of this safe and sane means of pacific settlement.

The prestige of a truly International Commission of Inquiry, representing the entire Family of Nations, and functioning not *ad hoc*, but in continuous session, would be sufficient for the elucidation of all but the most difficult of disputes and for the focusing of the power of the world's public opinion upon the responsible party.

3. Arbitration, which grew so lustily though sporadically during the nineteenth century and began to be organized by the Hague Conferences, has become the chief reliance of the twentieth century as a substitute for the appeal to battle.

As a means for the pacific settlement of international disputes, it is in present need of development along three lines, as follows: (*a*) As to the scope of arbitration; (*b*) as to the bringing of disputes before the arbitral tribunal; and (*c*) as to the enforcement of the arbitral award.

(*a*) *The scope of arbitration.*—A serious attempt should first be made at the third Conference to provide for unrestricted obligatory arbitration, as proposed at the second Conference by the Dominican Republic and adopted in treaties between Denmark and Italy, Denmark and the Netherlands, Denmark and Portugal, and Chile and Argentina.

Should the time not prove ripe, despite the world's present dose of war, to take this wholly rational and only adequate step, the present restrictions on the scope of arbitration—such as independence, national honour, vital interests, territorial integrity, municipal laws, domestic institutions, and the interests of third parties—should all be discarded ; for they make of " obligatory " arbitration a sieve with meshes so large that any whale in the form of an international dispute can dash through it at will, and so elastic that the veriest minnow can with difficulty be caught within it.

In place of these restrictions, there should be adopted, as a minimum, a world-treaty of obligatory arbitration for all *justiciable* disputes ; that is to say, for all disputes the settlement of which is capable of being procured by an appeal to International Law or International Equity.

The General Treaties of Arbitration between the United States and Great Britain, and the United States and France, negotiated but not ratified in 1911, might well serve as a basis of the world-treaty.

(*b*) *The bringing of disputes before the arbitral tribunal.*—The *crux* of the whole matter is, of course, the bringing of the dispute before the arbitral tribunal ; that is to say, the method of deciding as to the justiciability or non-justiciability of a given dispute, and the enforced arbitration of the dispute on the basis of that decision.

The present system is wholly "non-obligatory"—that is, practically, *voluntary*—and depends ultimately upon the will of the parties to the dispute.

The first Conference sought to secure the contractual obligation by means of a world-treaty; and it further attempted to strengthen this obligation by the adoption of Article 27 of the Convention for the Pacific Settlement of International Disputes, which provides that "the signatory Powers consider it their duty, in case a serious dispute threatens to break out between two or more of them, to remind the latter that the Permanent Court of Arbitration is open to them."

The Conference left this *duty*, however, to be exercised by the Powers entirely at their option and without concerted action; and so fearful was it lest the exercise of this duty should cause offence to the disputant parties, that it hastened to declare that "the act of reminding the parties in dispute of the provisions of the said Convention, and the advice given to them in the higher interests of peace to have recourse to the Permanent Court, can only be considered as an exercise of good offices."

Now the time has clearly arrived when the Conference should devise some means of concerted action on the part of all Powers not party to the dispute in bringing pressure to bear in favour of arbitration, and should also declare that it is the duty of the *disputants* to accept the appeal and advice of the rest of the Family of Nations and that a rejection of this appeal and advice by one or more of the disputants would be regarded as an act unfriendly, not only to the other disputant, but also to the entire Family of Nations.

The shifting of the right to demand, from the disputants to the Family of Nations, and the duty to comply, from the

Family of Nations to the disputants, would be merely an expression of the undoubted fact that war is abnormal and peace is normal, and that the nations which threaten to break the peace of the world must yield right of way to those which seek to maintain it.

It is not believed, however, in the light of recent events, that this reversal of the position of disputants and of the rest of the world, even though unanimously adhered to in a world-treaty, would suffice to bring disputes automatically to the arbitral tribunal. Hence, other devices have already been suggested.

In the second Conference, Peru proposed that the parties in dispute should not wait for a third Power to suggest arbitration to them, but that they themselves, or either of them, should announce through the International Bureau at The Hague—"the international letter-box"—their willingness to resort to arbitration. This proposal was adopted by the Conference, and it was hoped that it would supply a practical means by which arbitration might be initiated by one of the disputants without making an advance directly to its opponent and thereby laying itself open to the charge of weakness or a lack of confidence in its own good cause.

At the first Conference, the French delegation proposed that the initiative in proposing arbitration should be taken by either the International Bureau or the Permanent Administrative Council. But this proposal was rejected for the reason that the Bureau would not possess sufficient moral authority, while the Council would be bound by the home instructions of each of its members and hence could not act with sufficient independence.

Further suggestions were made at the Conference that

the Secretary-General of the Bureau should act as the bearer of the proposal to arbitrate, or should himself take the initiative in appealing either to the disputant Powers or to neutrals, and that the judges of the Permanent Court, scattered as they are among all the nations, should appeal to their respective Governments to act. But all of these proposals were rejected, and resort to arbitration was left, not only on a purely voluntary basis, but also in an unorganized and impracticable condition.

It is evident that there must be devised an institution resembling an international grand jury, which shall have at least two of the municipal grand jury's functions, namely, that of *inquisition* of office, or the investigation of matters committed to its inquiry on evidence laid before it, and that of *indictment*, or the bringing of accused parties into court.

The provision of the first Conference for International Commissions of Inquiry is a step in the development of the function of *inquisition*; and the joint High Commission provided by the General Arbitration Treaties of 1911, for the decision as to the justiciability of disputes, is a long step in the development of the function of indictment.[1]

When a Permanent Commission of Inquiry is established, and made truly international and representative of the entire Family of Nations, it can function, not only as a means of investigation and report, but also as a means of citing disputant parties before the tribunal of arbitration.

(*c*) *The enforcement of the arbitral award.*—Although experience has shown that this problem is not so difficult as is that of getting disputant nations before an arbitral

[1] Cf. the author's *The New Peace Movement*, chap. vi, on "The International Grand Jury."

tribunal, it is nevertheless considered at the present time to be fundamentally important or even necessary to provide adequate sanctions for arbitral awards. Passing briefly in review the best possible sanctions, we find them to be as follows: First, diplomacy; second, non-intercourse; third, an international police force; and fourth, national and international public opinion.

I need not dwell upon the power of diplomacy, or upon the effect of breaking diplomatic relations. The former has a long and illustrious history of achievements upon which to base its claim to efficacy; and the power of the latter is indicated by the prevalent demand that the United States should break diplomatic relations with Germany and Austria-Hungary in order to enforce our demands in regard to the *Lusitania* and the *Ancona*. The breaking of diplomatic relations carries with it, of course, not only grave inconveniences, but also the cessation of such fundamental privileges as those of ensuring the status of alien residents before our courts of justice. When the breaking of international relations occurs not only between two disputant nations, as at present, but between the recalcitrant nation and *all* the other nations who will stand behind the international court, the force of the diplomatic sanction of the court's decision will be enormously increased.

The power of commercial and financial non-intercourse is being illustrated on a large scale in the present war. We are not yet able accurately to measure this power; but it is already found to be sufficient to compel two great empires to inaugurate a veritable revolution in their systems of industry and to experience a very considerable degree of economic distress. Whether it will prove sufficient to put an end to the war remains to be

seen ; but this much at least may be affirmed, that the fear of a commercial and financial boycott would go a long way towards making a reluctant people accept a decision of the international court. When, in such a contingency, this boycott would be participated in by *all* the other nations, and to commercial and financial non-intercourse there would be added the cutting of telegraphic, postal, and all other communications, the power of this sanction looms up in gigantic dimensions.

The third of our sanctions, namely, an international police force, is considered by many to be a *sine qua non* in the achievement of international justice ; and this belief has been greatly strengthened by the events of the past year and a half. As the ultimate sanction, such a force, if it be a *genuine* international police force, is entirely in line with the fundamental principles of the international court. It must, however, be a genuine international police force, and not a mere offensive and defensive alliance between national armaments. That is to say, force must be under the control, not of individual nations, but of the international court ; and it must only be used to enforce, when necessary, the decisions of the court. Not only is it fundamentally different from a national armament, or a group of national armaments, but its creation and efficacy are a manifest impossibility unless national armaments for international purposes have been entirely destroyed. Small—very small—national armaments may remain, of course, to serve as an ultimate sanction of national or municipal law, as in the case of the United States marshals, sheriffs, and militia. But national armaments maintained and increased for international purposes would not only necessitate the building up of an international police

force of unprecedented and protean proportions, but would also constitute an insuperable obstacle to the enforcement of the decision of the international court by means of that court's international police force. Just as surely as it would have been an impossibility for the police power of the Union to enforce the decisions of the United States Supreme Court in the face of large and increased armaments maintained by New York or Pennsylvania or Virginia, so it would be an impossibility to provide an adequate international police force and to secure its successful operation for the enforcement of the decisions of the international court in the face of large and increasing armaments in Great Britain or Germany or the United States. Indeed, if our international police force is not to be of enormous proportions or to be utterly inefficient, its creation must be preceded by the reduction of the huge national armaments of our time to the very small dimensions required for the enforcement of national or municipal law.

If the court can be established on the proper basis of the entire Family of Nations, and the reduction in national armaments which has just been referred to can be accomplished, it is altogether probable that the international police force would never be called upon, even as the ultimate sanction of the court's decisions. The stubborn fact that more than 240 arbitral awards have been made by international tribunals and that not in one single instance have these awards been resisted, is as important as it is stubborn; for it supplies from long and successful experience the deductive argument that if such tribunals can be established and cases brought to them under the proper conditions their awards will

inevitably receive a sanction other than, and perhaps superior to, diplomacy, non-intercourse, and a police force. This sanction will be in the future, as it has been in the past, the incalculable but invincible power of national and international public opinion.

Lord Bryce, in his *American Commonwealth*, has clearly revealed to us that within modern nations public opinion is the sovereign power of our time; and, on the other hand, that "decent respect for the opinion of mankind" which brought forth the Declaration of Independence nearly a century and a half ago, has grown into an international public opinion of great and steadily increasing strength. Even the many belligerents in the present war who have ignored or overridden their agreements at The Hague have moved heaven and earth in order to convince the relatively few neutrals that they have either complied with those agreements or been justified in their infraction of them. This regard for international public opinion, even during the mightiest war in history, can be very greatly strengthened during the coming years of peace; and it can receive a powerful, and I believe an omnipotent, ally in an enlightened and organized public opinion within each of the nations. National public opinion can be created, guided, and brought to bear upon a recalcitrant Government partly by the pressure of the first two sanctions mentioned above, namely, diplomacy and non-intercourse; and it will become increasingly the creature of those principles of morality and justice which are inherent in the hearts of every people and which will be adhered to if practical methods of expression and means of realization can be provided for them. A genuine international court, rising in all the majesty of international law and justice, will infallibly

make a most powerful appeal to those principles. So powerful an appeal would this be that it seems altogether probable that, as has been the case with arbitral awards in the past, it would alone suffice to enforce the decisions of the international court.

Such, then, are the sanctions upon which we may confidently rely for the enforcement of the decisions of the international court of the future; diplomacy, non-intercourse, and a genuine international police force; while working through all of them, and before all of them, and upon all of them, would be the invincible power of public opinion based upon self-interest, morality, and the laws of God and the human soul.

The same sanctions relied upon for the enforcement of arbitral awards may be applied, if necessary, to the bringing of disputes before the arbitral tribunal.

But the heart of the problem of international justice lies not so much in the creation of sanctions which may be relied upon as a last resort, as it does in the development of a practicable *means* or machinery for bringing all international disputes before arbitral tribunals, in the development of a more truly judicial tribunal, and in the cultivation of the habit of resorting to it and insisting upon it, or some other pacific means, as the only permissible method of settling international disputes.

The *sine qua non* of success, both in the adjudication of disputes and in causing the award to be accepted, lies in the restriction of the size and use of armaments to purely municipal purposes or to their conversion into a genuine international police force.

XV

THE WAR THAT IS TO END WAR[1]

By CHARLES GIDE, *Professor in the Faculty of Law at the University of Paris*

People are declaring that the time has not yet come for speaking of peace, but that we must first win the victory. They are saying the same thing, too, in Germany. Nevertheless, we constantly hear it said that such and such a condition of peace must be imposed after the victory has been won: the crushing of Germany, the ending of the Empire and the Hohenzollerns and the re-establishment of the ancient Confederation, the annexation of the left bank of the Rhine, the disarmament of Germany and extirpation of Prussian militarism, a general redrawing of the map of Europe, a huge indemnity, etc., etc. We had intended to examine these conditions, but we give it up; in the first place, because it is not possible at the present time to express one's views with the freedom which their discussion would require, and also because, when the time for final decision comes, they will either no longer arise or they will arise quite differently, for they will have been settled by the result of the fighting.

Nevertheless, amongst the conditions which are con-

[1] Translated from *La Paix par le Droit*, February 1915.

stantly being reiterated there is one which, in any case, and whatever happens, will have to be faced when the time comes for negotiating: it is that the present war must put an end to war. It will not, therefore, be a loss of time to consider it at once.

This condition of peace has the remarkable feature that it is the only one on which all the belligerents, on both sides, are perfectly agreed.[1] Alike on the Austro-German side and on that of France, England and Russia, there is but one voice, as well that of the politicians as that of the intellectuals—that, too, of the soldiers, whose opinion is not less important, and still more that of their families—to declare that this war must be the last. We find, indeed, in more than one soldier's letter the declaration that he is only willing to take part in this war with the object of ensuring that his children shall no longer have to engage in war. Peace for the future—that is the hope of those who die and the consolation of those who survive.

This shows, in the first place, how unreasonable is the French, or even the English Press, when they declare that Pacifism—"ignoble Pacifism," as it is called by M. Barrès—has been finally killed by this war, and that its adherents have now only to hide themselves. As a matter of fact, during these five months of war, Pacifism has rallied the whole world to its side, including those who are fighting; for if it be not Pacifism to declare that henceforth we must have no more war, one does not see what is the meaning of the word. I know that, with many of these neophytes, Pacifism is unilateral; they are

[1] A footnote gives quotations in proof from the German Chancellor, from Count Apponyi, from the *Berliner Tageblatt*, from the *Temps*, from two French soldiers' letters, and from Mr. Wells's book *The War that will End War*.

determined to prevent any one from making war against themselves, but are not equally determined that they will not make war against anybody else. Never mind! even unilateral Pacifism may suffice, since, if it succeeds for each country, it will necessarily become mutual and general.

But if both the belligerent parties are agreed in the determination that out of this war shall come a permanent peace, they differ, as may be supposed, inasmuch as each of them is persuaded that this permanent peace can only be the result of its own victory. And, in a sense, each of them may be right, for there is peace and peace!—but they must be compared with one another.

The peace which would result from a German victory would be a *pax Germanica*, similar to the *pax Romana* with which the Cæsars dominated a submissive world. It is the present-day dream of the Kaiser. "If we are victorious," he is reported to have said,[1] "a new Empire, more magnificent than any the world has yet seen, will be established, a new Roman-German Empire which will govern the world, and the world will be happy." Like Augustus, he will have the gates of the temple of Janus closed for centuries. Every country will dismiss its armies, which will have become useless, the Imperial Army alone will remain to deal with the possibility of attacks from beyond the seas, as, for instance, from Japan. I am not inventing.[2] And I do not deny that the Roman peace had a grandeur of its own. But to be able to continue the Roman tradition, one must have inherited Rome's virtues, the first of which was not so much to

[1] According to a Copenhagen telegram. Even if the imperial declaration is not authentic, the same ambition is described in the manifesto of the German intellectuals.

[2] See the declaration of Prof. Ostwald,

know how to conquer as to know how to assimilate the conquered so as to make them love her. To say that this is a gift which Heaven has wholly denied to Prussia is only to state a fact recognized by everybody and by herself, nor is it even to insult her, for she seems to take a positive pleasure in making herself hated by the unfortunate peoples whom she annexes. The Emperor, though he loves to quote and to apply to himself the words of the Gospel, has never, to my knowledge, recalled the saying of Christ: "Come unto Me, for My yoke is easy and My burden is light." A German peace would be that which Alsace and Poland have known, and which Belgium is enjoying by anticipation. It is a peace imposed by the sword, a peace in which the civil authority is subordinated to the military, as was seen at Zabern, and as is to be seen at the present time in certain Belgian towns, where the Governor has ordered that every civilian is to salute any officer who may pass, "and even in the case of doubt, a private soldier." The pride of the military element in Germany, already prodigious, would know no bounds on the day when the Allied Powers should be overcome, and it must be acknowledged that in that case it would really be justified. It is not impossible, indeed, that such a peace might give riches and industrial power to the peoples which should accept it, as it has done to Germany herself. But what would it profit a people to obtain riches if they are to be bought at the price of its independence, at the cost of its soul? Satan alone offers such bargains as that. We have no desire for such a peace, and I think I may safely say that even the strongest Pacifists of this Review would prefer, rather than accept it, eternal war. If destiny willed, for the sins of Europe, that it should be

delivered up for some time to such a peace of the barracks, there would remain no other resource for free man than to seek an asylum in the New World, until the day when the Slavs or the Japanese should come to liberate our old and dear fatherlands. For such a peace would have against it this, that it could not endure ; never will the world accept the hegemony of one nation.

The other sort of peace, that which would result from the victory of the Allies, would not be an imperial peace, because it would not imply the submission of Europe to a single Power ; it would be a moderate peace, to which each of the seven nations, conscious of having been unable to conquer alone, and grateful to all the others for their co-operation, would bring, not a spirit of domination, but a feeling of liberation and the firm determination to maintain between all the Allies, and with neutrals who might be willing to join in it, a good understanding in the interest of all. The Germans say that this would be to establish English imperialism. Even were this to be the case, we should greatly prefer it to German imperialism, not merely because Frenchmen, but because every man, white, yellow, or black, knows that English rule, if it is by no means always lovable, at least leaves to each people its language and its customs, avoids all petty and brutal vexations, and knows how to remain " civil " in the highest as well as the most literal meaning of that word. If any people may put forward some claim to have inherited the tradition of Rome, it is the English people. But there is no such question ; the danger of an English hegemony, except on the sea, where we shall gladly yield it to her, does not exist. England knows well, and she has said it with an eloquence which has gone to the heart of all Frenchmen, that in this battle

of giants it is the country folk of France and Belgium who have had to endure, on their devastated territories and in their fugitive populations, the heaviest part of the sufferings and destruction, and we know, whatever Germans may say, that in the day of victory she will not seek to make a profit out of these sacrifices.

But even supposing the victory of the Allies to be as complete as just now we supposed that of Germany, will it ensure a perpetual or at least a durable peace, a peace which, to employ the happy expression of the Socialist Congress of Copenhagen, will contain no germ of future war ?

Yes, perhaps, if the programme of the British Naval Minister, Mr. Winston Churchill, is resolutely carried out : " We want this war to settle the map of Europe on national lines and according to the true wishes of the peoples who dwell in the disputed areas . . . we want a natural and harmonious settlement which liberates races and restores the integrity of nations." [1]

This formula is excellent ; it answers completely to the ideal pursued by France, often very much against her own interest, and is altogether contrary to German political science which despises and ridicules the principle of nationality, so that its consecration by the treaty of peace would in itself be a victory.

Nevertheless, a first difficulty arises : how are we to know what is " the real desire of the people inhabiting the disputed territories " ? We know of only one method of ascertaining it ; that is, to ask them. But it is not quite certain that it is intended to enter upon such a course. The Socialists, at their recent Congress in London,

[1] Mr. Churchill, in an interview with Sgr. Calza-Bedolo (*Times*, September 25, 1915).

adopted the formula in what is in truth its natural meaning, as implying a consultation of the populations concerned. But their declaration led to lively protests, and in particular it was officially declared that as regards Alsace-Lorraine the question would not be put to it, because the case is one, not of annexation, but of restitution. That being so, the same must apply to the Danes of Schleswig and the Poles of Silesia or Galicia: they too will be disannexed and re-established in their former condition. And no doubt it will be the same, always supposing a victory which permits the remaking of Europe, as regards the Italians in the Trentino, the Serbs in Dalmatia, the Roumanians of Bukovina, the Greeks of Smyrna, the Armenians of the Caucasus—all will be, under one head or another, "restored." And is it thought that, if the liquidation of Turkey, already threatened, is proceeded with, a vote will be taken of the Turks in Anatolia, the Syrians on the Lebanon, the Arabs of Mesopotamia? It must be acknowledged, too, that, as regards many of these peoples, it is difficult to see how a plébiscite could be practically arranged. It is probable, therefore, that it will be diplomatists round a green table who will undertake to discover the wishes of the populations and to put each of them into its right place: let us at least hope that they will not do so till after a conscientious investigation.

Nor is this all. Does the promise to reorganize Europe "in accordance with the real desires of the populations" apply only to those belonging to the conquered, or does it not also include those which belong to the conquerors? Mr. Churchill's formula certainly appears to be general, not applicable to one side only, and assuredly if the smouldering embers of discord are henceforth to be ex-

tinguished all over Europe, it will be necessary that by some act of collective generosity, as in a sort of night of the Fourth of August, the Great Powers should proclaim the rights of the peoples and should themselves set to work to give effect to them.

It is true, no doubt, that the greater part of the "unredeemed" nationalities, to use the Italian phrase, are on the Germano-Austro-Turkish side—Alsatians, Lorraniers, Danes, Poles, Roumanians, Czechs, Italians, Serbs, Greeks, Armenians, Syrians—and it is their complicity in the work of repression that has united these three Powers.

But it must not be forgotten that on our side also there are nationalities which claim their rights; there are Poles, Finns, Armenians, Irish, the Italians of Malta, the Greeks of Cyprus; and there are also—for we must not leave outside the programme of liberation those who are disdainfully called "natives"—the Hindus, Egyptians, Algerians, Tunisians, and Moroccans. What do these peoples ask? Separation? By no means: it does not appear that any of the nationalities just enumerated claim it—a difference from those in the opposite camp of which we have the right to be proud. What they do ask of their masters is to be treated, not as subjects, but as fellow-citizens. The sacrifices to which the Allies would have to submit in order to do homage to their own formula would therefore be comparatively light. Could they desire that the nationalities dependent on them should, when once peace is concluded, be reduced to witnessing with envy the lot of those which belonged to the enemy and regretting that they themselves had not been on the side of the conquered? Moreover, the Czar had already entered on this path by promising before-

hand to revive the Poland of former times, thus repairing one of the most monstrous iniquities of history. He appears to have at least hinted at the same prospect for Armenia. It cannot be that Finland should be forgotten. The Irish must have their Home Rule without discussion. Egypt has now her own Sultan, which gives her the position of a State. As regards France, alone amongst the belligerent Great Powers, she has the privilege of reckoning within her frontiers only Frenchmen happy to be such. But beyond the sea she still has "subjects." It only remains for her to make of them "citizens," beginning with those who, in this war, will have shed their blood so freely for the French fatherland.

Then will each of the Great Powers be able to say: "*Liberavi animum meum.*" Then it will be possible to say that there are no longer any annexed peoples, but only liberated peoples. There will be indeed a new Europe in which each nationality will find the place to which it aspires, and be united to those whom it loves, a truly "co-operative" Europe, if I may venture to use the expression in the sense that each one will feel himself protected and fortified for all.

Nevertheless, even in a Europe thus reconstituted would it be possible confidently to look forward to an assured and final peace? How can this be, since in the midst of Europe there will remain two Powers outside the European concert which, though *ex hypothesi* vanquished, confined again within their former dominions, and their influence diminished, will still not be wholly reduced to impotence and will therefore not be resigned to such a peace, any more than we were resigned to the peace of 1871?

What then? Must we, in order to obtain peace, wipe

out the two Central Empires from the map of Europe? That is the perspective put forward by certain French papers. But even supposing it to be desirable, it is not feasible. Germany herself, after deducting the heterogeneous nationalities annexed by her, will constitute a group of 60 millions of inhabitants, and, if one reckons the Germans of Austria, nearly 80 millions. A human mass of this importance is not capable of being suppressed. It was possible, as old Cato demanded, to destroy Carthage, because Carthage was only a city, but you cannot destroy a great nation, especially when it is gifted with a degree of fecundity superior to that of other European countries, and especially, as is well known, to our own. Even if the five or six millions of men now under arms were to be exterminated, the gap would soon be filled up, for it is one of the best verified of the laws governing population that a population decimated by war recovers its losses by an increase of births. Students of social phenomena see in this fact something akin to the cicatrization of a living body.

It is quite certain that in another half-century the German people will constitute—not perhaps as a political body, for that is a different question—but as a nationality, the greatest ethnic group in Europe, except the Russians, and nearer to us than these latter, a group which will doubtless have lost nothing of its original good qualities, and which will perhaps have purged itself of some of those defects which render it at the present time so detestable.

Is there, then, no hope of seeing the close of this infernal cycle which leads from war to war? The problem truly seems insoluble and even like a contradiction in terms, for up to the present war has never been seen to bring

forth peace. So that this expectation, the unanimity of which we have been witnessing and admiring, namely, that the greatest war the world has ever seen is going to bring us the longest peace the world has ever seen, appears somewhat chimerical. No doubt the recollection of its ravages and of the incalculable sufferings caused by it, at once physical, moral, and material, may for a longer or shorter period prevent its return, but the fear of war must never be confused with the love of peace. The first only produces longer or shorter truces, such as that which lasted from 1871 and was only a latent war. It is another kind of peace that we desire.

But if we must give up the idea of establishing a permanent peace upon the crushing of the enemy, is there not another alternative? Is it impossible to make such a peace as may be ratified by the conquered? It is true that, under present conditions, one cannot see any probability that Germany, supposing that she is defeated, will accept with good grace even the minimum conditions that would be imposed upon her. But time changes many things. Germany reckoned upon it to make us forget 1871, and if she has proved mistaken it is perhaps only because she has set herself obstinately to keeping open the sore. If the policy of the Allies is more humane than hers was, she will perhaps some day come to reflect that, after all, under the conditions of peace set forth by Mr. Churchill, nothing will have been taken from her but that which she had herself taken from others. She would find herself in the same position as France after the wars of the First Empire and the treaties of 1815. Moreover, Germany would have a reason for accepting her fate which was wanting in the case of France; for, after having taught and demonstrated that might makes

right, she could not logically refuse to recognize in the victory of the Allies the victory of right!

I know that to express such a wish, even long before the time, is to bring upon oneself the accusation of being anti-patriotic. Nevertheless, he who wills the end wills the means, and if one sincerely desires that permanent peace which is the hope of every mother, and if it is certain that such a peace can only be realized by a reconciliation of the States of Europe, why not say so? It may perhaps be impossible of realization to-day, or even the day after to-morrow; but is it not manifest that any peace imposed by force can only be a longer or shorter truce and that the true peace, the "Peace of Justice" to which this magazine[1] is dedicated, if ever it is to be realized on this earth, can only be so when it has at last been agreed to and signèd retrospectively by all?

[1] *La Paix par le Droit.*

XVI

THE MORAL CONDITIONS OF PEACE[1]

By FERDINAND BUISSON, *France*

In order that we may have a European peace, a world-peace, which shall be more than a mere truce, many conditions are requisite, and of various kinds. But the foremost of all these conditions is that everybody should be thoroughly convinced that it is both possible and necessary to establish on earth an absolutely fresh régime as regards international relations.

Up to the present time such relations have been, in reality, almost entirely determined by force. The great question now is whether the war of 1914 shall have sufficed to persuade us that the time has at last come to exchange the rule of might for the rule of right (" *substituer la force du droit au droit de la force* "). And this is what we shall have to decide as soon as it has been made clear that the German conspiracy has failed.

It will no doubt be necessary, after the decisive victory of the Allies, to establish guarantees, means of enforcement, material, military, economic, and political sanctions, as well national as international, some of them temporary, others permanent. We do not propose here to discuss

[1] Translated from the *Almanach de la Paix par le Droit*, 1917.

in their wide extent these practical arrangements. We shall confine ourselves to discussing theoretically and, as it were, from the point of view of pure reason the principles on which the new régime will have to be based, the ideas by which it will have to be inspired, the ruling principles which it must lay down—in a word, the new type of human society of which it will be the first instance.

The whole of this new world will arise out of a single revolution, the extension to the relations of peoples between one another of the very principles which each of them now applies to the relations between individuals.

The problem of peace between nations is exactly the same as that of peace between individuals of the same nation. Individual conflicts and national conflicts can alike be settled by two methods, that of force and that of justice. Let the latter be substituted for the former in international life, as it has already been in national life: the whole revolution lies in this.

It follows, then, that what we require is to organize a Society of Nations; in other words, to socialize nations as each nation has already socialized individuals, to constitute humanity organically, as a nation of nations. Will the establishment of such a new régime be beyond the power of humanity in the twentieth century? No one, surely, will venture to maintain such a proposition at the close of this war. How small will be the sacrifices involved in such a transformation, as compared with those which millions of men have imposed upon themselves in a bloody and doubtful struggle! Where is the social Utopia that might not easily have been realized, with one-tenth of the expenditure in life and human wealth which this monstrous attempt on the liberty of the world has cost? It is no longer on behalf of a chimerical ideal,

but as the only practical solution and the only way of salvation, that we now regard the advent of a Society of Nations, capable at once of laying down the principle of the new order and of giving it a sanction. The *principle* is that of international justice; that is to say, the recognition of the equal right of nationalities to independent existence, not as a concession of the stronger to the weaker, but as an elementary right, guaranteed by all to each. The *sanction* is, first, the obligation imposed on all, in case of international disputes, to substitute arbitration for the appeal to arms, and to respect the decisions of the arbitrators; next, and consequently, the limitation of armaments under the supervision of the supreme international authority; finally, the organization of a collective force, so powerful that no one would venture to withstand it, so strictly bound to serve the cause of justice that it can give no occasion for uneasiness on behalf of any legitimate liberty.

The outlines of this future régime of peace were laid down ten years ago, when, at The Hague, in 1907, the nucleus of this Society of Nations was constituted by thirty-two signatures to the proposal of obligatory and universal arbitration, which only wanted the consent of Germany and her allies.

Is it necessary, in order to realize in the near future this "Grand Design," long ago foreseen by the greatest of our kings,[1] that we should dream of the destruction or dismemberment of Germany? France and her allies would lose the moral superiority which has been their salvation if they allowed themselves to direct against conquered Germany the crimes which have made conquering Germany accursed. They who have broken

[1] Henri IV.

German imperialism will be careful not to build up another imperialism in its place. They will not reply by brutal annexations to those which they have terminated, any more than they will desire to imitate, under the name of reprisals, the crimes against the universally recognized principles of justice which have dishonoured the aggressors. It is impossible that at the very moment when they are restoring Danish Schleswig to Denmark, Alsace to France, Trieste and the Trentino to Italy, etc., and are re-establishing the independence of Belgium, Serbia, and Poland, they should themselves recommence elsewhere the violation of the rights of nationalities !

The Allies' peace will, therefore, be a lasting peace, because, containing no injustice, it will contain no germs of a future war of revenge.

From the economic, as well as the political, point of view, the Allies' peace will be inspired, not by hatred, but by justice. It is impossible to entertain the idea of a perpetual and systematic boycott, as it is that of crushing a nation. Here, also, the true victory will consist in bringing Germany to submit to the general and equitable conditions of universal peace ; that is to say, that one's own liberty shall be limited by the liberty of others.

Is it needful to add that not only the final establishment of such a state of things, but the very idea of attempting it, presupposes that the peoples have reached a certain degree of democratic civilization ? It is clear that the constitution of a world thus regenerated must necessarily include a minimum of guarantees for the *rights of man* as well as for the *rights of nations*. The Society of Nations will not interfere with the internal organization of each one of them. But it would inevitably happen that the principles which are henceforth to govern humanity

will, in each nation, under the political forms and the modes of government which suit it best, translate themselves into a whole series of measures guaranteeing respect for all the individual liberties, beginning with liberty of conscience, and for all the public liberties, beginning with universal suffrage. These would be followed by a complete scheme of education, accessible to all children and not only to those belonging to the families of the well-to-do. Finally, labour would be freed from its servitude to capital by a complete code of economic laws, giving to the labourer something different from nominal freedom. All these reforms will be born of peace, as fruits are produced by a tree. First of all, let us plant the tree. And this we cannot think of doing so long as the invader occupies a portion of the national soil, or rather—for one needs to enlarge one's horizon —so long as the duel lasts between imperialism and democracy.

It might have been supposed that these two conceptions of human society would, by the clash of ideas and of interests, long contend for the mastery of the world; that for centuries to come they would encounter one another in innumerable conflicts. But it cannot be so. The struggle has been precipitated and concentrated; the whole world is rushing onwards to a terrible crisis. Contrary to all probability, imperialism has met with a resistance which puts it in danger. It is under no delusion; it is collecting all its exasperated energy in a supreme and gigantic effort. Its watchword is: "Conquer or die." That also must be ours. It is needful that democracy, peaceful and law-abiding in its very essence, should postpone its dearest ideals in order to defend them; it must, first of all, under penalty of perishing, exceed in

military strength the most formidable militarism. It is a tragic paradox, an astonishing lesson taught by the present war, that Pacifism cannot exist unless it be armed. The world of justice may arise to-morrow, if we prevent its extinction to-day. Humanity will to-morrow, and perhaps for centuries, be condemned to war or assured of peace, according as it is the Central Empires or the Allies who have best known how to suffer and to overcome.

XVII

A PROGRAMME OF LASTING PEACE

By THE ASSOCIATION DE LA PAIX PAR LE DROIT

The Association de la Paix par le Droit (Association for Peace by Justice), in spite of, or rather on account of, the cruel experience of the war, remains unalterably attached to the ideal of justice and humanity which it regards as an honour to have always upheld. It holds that war is not a kind of natural calamity before which man has only to bow the head, but, on the contrary, that, having been let loose by human wills, it can and ought to be combated by other wills; that is to say, by the concerted effort of all those who refuse to recognize force as the basis of right.

At the same time, the Association remains faithful to the principle which has always animated it, that since a war of aggression is an infringement of the rights of the nation attacked, it is the latter's duty to defend its existence and its independence until justice has been completely vindicated; but it considers that the use of force necessary for such vindication ought not to be confined thereto, but ought to seek henceforth to guarantee peaceful nations against forcible attacks. In particular, France, which has been the victim of injustifiable aggres-

sion, owes it to her revolutionary past, to her democratic spirit, and to the memory of her children who have fallen in the defence of justice, to contribute with all her energy to make the very war which has been forced upon her the instrument of a lasting peace.

I. The Treaty of Peace

Consequently, the future peace treaty must not contain any germ of fresh war. With this object, the Association de la Paix par le Droit lays down the following principles :—

1. No treaty that has been signed shall be kept secret.

2. Treaties shall not be ratified until they have been approved by the Parliaments of the nations concerned.

3. There shall be neither dismemberment of States, nor annexations, nor transfers of territory, contrary to the interests or the wishes of the populations concerned. In doubtful cases the will of the population shall be ascertained, either by a plébiscite accompanied by full guarantees of sincerity, or by means of an International Commission of Inquiry.

4. The contracting States shall endeavour to give satisfaction to the utmost possible extent to the legitimate aspirations of nationalities.

5. Those States which include within their territory different nationalities shall guarantee to these representation in the central authority, civil equality, religious liberty, respect for their traditions, and the free use of their own languages in all public and private relations, and especially in their schools.

6. From an economic point of view, it is just to make the Central Empires, who are responsible for the war, bear

the greater part of the cost which it imposes upon the belligerents; but it is important, for this very reason, to avoid, so far as they are concerned, all spoliation or destruction which would have no other effect than to diminish the power of the debtor to discharge the crushing debt which will weigh upon him.

7. With regard to the initial responsibilities of the war and the violations of the Law of Nations, the coming treaty of peace shall establish a Court of Justice which will try all the guilty persons whose guilt can be established.

II. General Conditions of a Lasting Peace

(*a*) The Association lays down as a principle that the development of international peace is intimately connected with the political constitution of States; it denounces as a perpetual menace to international society the fact that certain dynasties or castes have an absolute right to declare war; it sees in the general evolution of modern societies towards democracy the most efficacious condition of a lasting peace.

With regard to the relations between States, the Association remains firmly attached to the general principle that a lasting peace must be sought in the setting up of a universal Society of Nations; that is, in a system of universal law which shall fully respect the autonomy and the inner life of all the contracting States, but which shall establish among them, by a voluntary limitation of their sovereignty, relations of justice analogous to those which, in democratic States, assure to all citizens a certain minimum of security and liberty.

Especially does the Association remain convinced that the work done by the Hague Conferences still contains

the promise of fruit, and needs only to be completed, especially by the establishment of an obligatory arbitral jurisdiction, the decisions of which would be carried out by means of effective sanctions, such as economic blockades or the employment of an international police force.

(*b*) But it is possible that, after the war, the general mental disturbance will be so profound, the upsetting of moral and judicial ideas so serious and lasting, that it would be hopeless to expect the immediate realization of a universal system of law ; it is possible that the good-will of the Liberal Powers may be obstructed by irresistible opposition from certain quarters.

In this case, the Association holds that it is desirable no longer to leave the establishment of a system of obligatory International Law to the mercy of a few reactionary Powers, as was done by the Peace Conferences of 1899 and 1907. It will be remembered that in 1907 an overwhelming majority of thirty-five Powers out of forty-four declared themselves in favour of obligatory arbitration. The Association therefore asks the Liberal Powers to carry into effect among themselves, without delay, the agreement on this point which the hostility of Germany and her present Allies rendered nugatory at The Hague.

In particular, the Association expresses the wish that, without delay, the Allies will conclude between themselves a general Convention binding them—

1. To submit all differences arising between them, which they are not able to settle diplomatically, to a Permanent Commission of Inquiry and Conciliation.

2. To submit all differences incapable of solution thereby to The Hague Arbitration Court.

3. To unite their economic and military forces against

any signatory Power which shall declare war or commit hostile acts against one or more of the signatory Powers.

4. To summon periodically Conferences with the object of formulating and perfecting the code of International Law, a code which shall be binding for all States not having formally repudiated the Convention within given time-limits.

(*c*) The Association expresses the wish that membership in this free union of the Liberal Powers be declared open to every Power which shall accept the Convention in its entirety, and that negotiations be entered into with all the Powers with the aim of enlarging the Union and extending it gradually to the whole of civilized humanity.

(*d*) From the economic point of view, the Association, inspired by the resolutions of the Inter-allied Co-operative Congress, urges the Allies to negotiate between themselves commercial treaties as liberal as possible, and to favour in all possible ways economic relations between themselves, especially by the unification of metric and monetary systems, of labour laws, and of transport rates, and by the reduction of postal and customs tariffs.

With regard to colonies not yet formed into autonomous States, the Association recommends the adoption between the Allies of the principle of " the open door."

As regards neutrals, it recommends the Allies to grant them as far as possible " the most-favoured nation " clause.

With regard to the Central Empires and their Allies, the Association proposes that they be admitted to the markets of the Allies only on the condition that they agree to adhere to the mutual Convention for obligatory arbitration defined above.

(*e*) With regard to disarmament, the Association can but recognize in the World-War the glaring failure of the

system of armed peace and of the so-called "insurance premium" against a general conflagration which the system, each year becoming more burdensome, was supposed to constitute.

It holds, with the two Peace Conferences of 1899 and 1907, and with all the Peace Congresses, that reduction of the military burdens which are crushing civilized nations is an essential condition of the realization of social progress, and that this reduction should be vigorously prosecuted.

But it recognizes that, since armaments are a means of international security, the problem of disarmament is incapable of a one-sided solution. In other words, neither can one State disarm alone nor ought a group of armed States to force another to disarm. Nothing short of the establishment of a common Law of Nations guaranteeing the safety of each by means of an international police, will render possible the reduction of national armies. Disarmament is not the instrument for creating peace; it presupposes peace.

But it is important that no factor other than national security, no private interest, whether industrial or financial, should be able to exert pressure upon the fixing of the war expenditure of a State. Patriotism is no matter for speculation; therefore the Association insists that the manufacture of war material shall be exclusively the monopoly of States, under the control of Parliaments.

Printed in Great Britain by
UNWIN BROTHERS, LIMITED, THE GRESHAM PRESS, WOKING AND LONDON

The Framework of a Lasting Peace Edited by LEONARD S. WOOLF. Demy 8vo, 5*s.* net. Postage 5*d.*
"Mr. Woolf has done a really important service in producing this excellent little volume."—*New Statesman.*

Practical Pacifism and its Adversaries: "Is it Peace, Jehu?" By Dr. SEVERIN NORDENTOFT. With an INTRODUCTION by G. K. CHESTERTON. Crown 8vo, 5*s.* net. Postage 5*d.*
"A striking indictment of German rule by representatives of oppressed peoples."—*The Times.*

Towards International Government By J. A. HOBSON.
THIRD IMPRESSION. Crown 8vo, Cloth, 3*s.* 6*d.* net. Postage 4*d.*
"Always lucid, cogent, and unflinching in his argument."—*Manchester Guardian.*

The European Anarchy
By G. LOWES DICKINSON, Author of "A Modern Symposium," etc., etc. THIRD IMPRESSION. Cr. 8vo, Cloth, 3*s.* 6*d.* net. Postage 4*d.*
"This is one of the shrewdest books on the causes of the war that we have read."—*The Economist.*

The Healing of Nations By EDWARD CARPENTER.
5TH EDITION. Cr. 8vo, Cloth, 3*s.* 6*d.* net. Paper, 2*s.* 6*d.* net. Postage 4*d.*
"Profoundly interesting. Well worth most careful attention."—*Observer.*
"A wise and understanding book."—*T. P.'s Weekly.*

The Deeper Causes of the War By EMILE HOVELAQUE. With an INTRODUCTION by SIR WALTER RALEIGH.
SECOND IMPRESSION. Crown 8vo, Cloth, 3*s.* 6*d.* net. Postage 4*d.*
"This is one of the most thoughtful and suggestive books that the Great War has inspired."—*Aberdeen Journal.*

Our Ultimate Aim in the War By GEORGE G. ARMSTRONG. Crown 8vo, Cloth, 3*s.* 6*d.* net. Postage 5*d.*
"Strikes a note to which the best of his countrymen will respond."—*Times.*

The American League to Enforce Peace
By C. R. ASHBEE. With an INTRODUCTION by G. LOWES DICKINSON. Crown 8vo, 3*s.* 6*d.* net. Postage 5*d.*
"Provides much information concerning contemporary American thought."—*Athenæum.*

Perpetual Peace By IMMANUEL KANT.
CHEAP EDITION. Crown 8vo, 2*s.* 6d. net. Postage 4*d.*
"'Perpetual Peace' may some day be looked upon as the foundation of a new social system."—*T. P.'s Weekly.*

The World Rebuilt By the REV. WALTER WALSH, D.D.
Crown 8vo, Paper Boards, 2*s.* 6*d.* net.
"Well worth the attention of thoughtful persons."—*Common Sense.*

International Government Two Reports. By L. S. WOOLF, together with A PROJECT BY A FABIAN COMMITTEE FOR A SUPERNATIONAL AUTHORITY THAT WILL PREVENT WAR.
Demy 8vo, 6*s.* net. Postage 5*d.*
"The most brilliant contribution to the growing 'after the war' literature which has yet been made."—*Daily News and Leader.*

Outlines of International Law By CHARLES H. STOCKTON, Rear-Admiral U.S.N. (Retired). Demy 8vo, 10*s.* 6*d.* net.
"A clear and authoritative summary of International Law."—*Spectator.*

Authority, Liberty and Function in the Light of the War

By RAMIRO DE MAEZTU.

Crown 8vo, 5*s.* net. Postage 5*d.*

Fecundity *versus* Civilisation

By ADELYNE MORE, Author of "Militarism *v.* Feminism." With an INTRODUCTION by ARNOLD BENNETT. ENLARGED EDITION. 1*s.* net. Postage 2d.

"We hope to see it widely displayed, and recommend our readers to order it."—*The Malthusian.*

The Land or Revolution

By R. L. OUTHWAITE, M.P.
Crown 8vo, Paper Covers, 1*s.* net.

The Land : A Plea

By JOHN GALSWORTHY.
Demy 8vo, 6*d.* net.

Proposals for the Prevention of Future Wars

By VISCOUNT BRYCE & OTHERS Demy 8vo, Paper Covs., 1*s.* net.

"All those who look forward to a rule of right among the nations should study these proposals carefully, for they are the most weighty in the field."—*Land and Water.*

Women in the Engineering Trades

(Fabian Research Department : Trade Union Series No. 3). Being the result of a joint inquiry of the Fabian Research Department and the Women's Group of the Fabian Society. By Mrs. BERNARD DRAKE.
Crown 8vo, Cloth, 2*s.* 6*d.* net.

Economic Conditions, 1815 & 1914

By H. R. HODGES, B.Sc. (Econ.). Crown 8vo, 3*s.* 6*d.* net.

"An interesting record of real advance in social organization."—*The Challenge.* "A highly instructive and interesting comparison."—*Observer.*

Trade Unionism on the Railways

(Fabian Research Department : Trade Union Series No. 2). By G. D. H. COLE, M.A., Fellow of Magdalen. Crown 8vo, Cloth, 2*s.* 6*d. net.* Postage 3*d.*

"A veritable encyclopædia of facts and figures—all presented in a splendidly lucid and readable manner. As a store of knowledge it should prove invaluable."—*The Guildsman.*

The Netherlands Oversea Trust

Its Origin and Work. By DR. G. KELLER. 2*s.* net.

The Other War :

Being Chapters by JOHN HILTON, PHILIP KERR, ALEC LOVEDAY, HAROLD A. MESS, and JOSEPH THORP on Some Causes of Class Misunderstanding.
Crown 8vo, Paper Covers, 1*s.* net.

Great Britain after the War

By SIDNEY WEBB and ARNOLD FREEMAN. 3RD EDITION.
Demy 8vo, Paper Covers, 1*s.* 3*d.* net.

The Future of Constantinople

By LEONARD S. WOOLF. Crown 8vo, 3*s.* 6*d.* net. Postage 4*d.*

"A very thorough piece of work and is one of the essential books."—*Leicester Pioneer.* "An admirable little book."—*Common Sense.*

How to Pay for the War

Edited by SIDNEY WEBB. Large Crown 8vo, 6*s.* net. Postage 5*d.*

"I Appeal Unto Cæsar" By MRS. HENRY HOBHOUSE.

FOURTH EDITION. Crown 8vo, Paper Covers, 1*s.* net. Postage 2*d.*

The Way Forward: Three Articles on Liberal Policy.

By PROF. GILBERT MURRAY. With an INTRODUCTION by the RT. HON. VISCOUNT GREY OF FALLODON, K.G.

Demy 8vo, Paper Covers, 1*s.* net.

It is in the spirit of true statesmanship that these articles deal with the war. The account of the entry of the British people into the war, and of what we and other democracies are fighting for, is true of the great mass of people at home or at the front.

America and Freedom: Being the Statements of PRESIDENT WILSON on the War.

With a PREFACE by the RT. HON. VISCOUNT GREY OF FALLODON, K.G.

Demy 8vo, Paper Covers, 1*s.* net. Postage 2*d.*

"We would like to see this little book printed in millions of copies at the national expense."—*Spectator.*

The Labour Year Book, 1918 Published by the Parliamentary Committee of the Trade Union Congress, the Executive Committee of the Labour Party, and the Fabian Research Department.

300 pages. Cloth, 2*s.* 6*d.* net.

The Polish Review Edited by J. H. HARLEY.

Royal 8vo. Quarterly 3*s.* net. 12*s.* per annum post free.

A journal dealing with current events in Poland and amongst the Poles. The articles are from the pen of eminent writers and authorities, and embrace every branch of Polish life and history.

War and Civilization

By the RT. HON. J. M. ROBERTSON, M.P. SECOND EDITION, WITH A POSTSCRIPT. Crown 8vo, Cloth, 3*s.* 6*d.* net. Postage 4*d.*

"A spirited piece of international polemic. It is always acute, moderate, and well informed."—*Manchester Guardian.*

The Free Press By HILAIRE BELLOC.

Crown 8vo, 3*s.* 6*d.* net. Postage 4*d.*

"A very formidable indictment."—*Globe.*

National Defence: A Study in Militarism

By J. RAMSAY MACDONALD, M.P. FOURTH IMPRESSION.

Crown 8vo, 3*s.* 6*d.* net. Paper, 1*s.* net.

"I am convinced that Mr. Macdonald's is the wisest, the most statesmanlike, and the most important of the books written on the possibilities of future and permanent peace."—GERALD GOULD in *The Herald.*

Above the Battle

By ROMAIN ROLLAND. TRANSLATED BY C. K. OGDEN, M.A. THIRD IMPRESSION. Crown 8vo, Cloth, 3*s.* 6*d.* net. Postage 4*d.*

"In these golden pages let us say, once for all, speaks the finest spirit of modern France."—*The Times Literary Supplement.*

LONDON: GEORGE ALLEN & UNWIN LIMITED