

PEACE
THROUGH
JUSTICE

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has only one condition of membership—support of arbitration as a substitute for war. A High Court of Nations was one of its original objects, published seventy-two years ago (1870). It originated the Inter-Parliamentary Union, was largely instrumental in promoting the Hague Peace Conferences of 1899 and 1907, and now advocates the calling of a world conference on the same lines after the war, as the best instrument to devise and establish a World Authority with power to settle international disputes, enforce international law, reduce armaments and eliminate war.

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INTRODUCTION

This pamphlet was summarised by the Author as the opening contribution for a Conference held on September 20th, 1941, at Oxford, to discuss the application of the judicial method to the settlement of international difficulties.

The Conference was arranged by representatives of the World Unity Movement and attended by about forty people, including also nominees of sixteen independent organisations. The intention is to hold one or more further Conferences with the following as a basis for discussion:—

OXFORD CONFERENCE PROPOSAL

We believe that harmony between nations can be best assured by means similar to those which have been used throughout history in all countries to maintain internal peace, namely, the exercise of judgment by an impartial Court in the light of the ascertained facts of each case.

Machinery already exists for this very purpose: the Permanent Court of International Justice. It has dealt in all with about sixty international disputes. In only one case has its decision failed to win general approval and in one only has it been disregarded. But the jurisdiction of the Court has been severely limited. Some similar body is needed to deal with questions of equity as distinct from questions of law, and to find timely and just solutions for problems of peaceful change. This implies the application to national groups of precisely those standards of morality which are regarded as ideal in dealings between individuals. All nations and all men and women, whatever their race or colour, must be treated with equal justice and impartiality.

We therefore suggest that:—

(1) An Advisory Council be formed for the judicial consideration of issues which are outside the province of the Permanent Court of International Justice; that the Judges of that Court, in view of their established reputation, be asked to draft a plan for the creation of a panel of suitable persons to serve on the Council; that these persons be chosen primarily on the ground of their wisdom and integrity of character; one or two from each country willing to co-operate; and that, until the panel is formed, the Judges of the Permanent Court be invited themselves to act as the Advisory Council.

(2) These Judges be also asked to preside over a preliminary Convention of representatives of the peoples of each participating country, whose function it would be to define the basic moral principles which should guide the deliberations of the Advisory Council.

(3) It be made clear from the outset that all countries would be equally welcome to co-operate in making use of the services of the Council to settle any question at issue between them; but that the rulers of Great Britain and the United States of America, in particular, be urged to give a lead to the world by declaring themselves ready to appeal to the Council on any question arising between their respective Governments which they fail to settle by friendly discussion.

I wish to acknowledge with much gratitude the encouragement received from Prof. D. Caradog Jones, of Liverpool University and founder of the World Unity Movement in many discussions of the subject of this essay and for his generous revision of my draft.

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The present international struggle affects all aspects of the life of nations; it calls for investigation into the possibility of adapting existing institutions, in particular, those through which peace is effectively maintained between members of a community, so that they may become equally effective in preventing war between nations.

The Foundation of the American Constitution

The United States of North America have given to the world an outstanding example of how durable peace can be assured between politically separate communities. After the American war of independence the thirteen original States formed a somewhat loose Confederation, the terms of which left each State autonomous as regards internal legislation, regardless of the effect it might have on the economy of the others. Disputes between their respective governments were to be settled by arbitration, but no rules were agreed for the guidance of the arbitrators. Under these conditions troubles and disputes arose; and, finally, in order to remedy these unsatisfactory features of the Confederation, the people adopted the present Constitution.

A Federal Legislature was set up to enact laws applicable to every citizen of every State, and also a Supreme Court, endowed with authority over each such citizen. Thus all problems arising either between individual States or between individual citizens, which could be solved by applying a federal law, were settled peacefully and have been so settled for more than a century and a half. Unfortunately no law had been provided for dealing with the questions of slavery and secession, and some time later this omission brought about the civil war. In short WHERE A JUDICIAL MACHINERY COULD BE APPLIED, PEACE PREVAILED; in one case where it could not be applied, war broke out as the only means of settlement.

This brief historical sketch gives a clue to the fundamental reason for the failure of the League of Nations to bring peace to its member Nations. Just

as the American Confederation set up no effective method for dealing with disputes between separate States, so the Covenant of the League lacks provisions for enacting laws to deal with changes arising from the growing needs of peoples.

Both the American Confederation and the League maintained the separatist principle of national sovereignty, which left undisturbed the old selfish unconcern for the difficulties of other nations. The American Confederated States were in consequence often on the brink of war with each other; likewise the League failed to keep peace between its principal members. The American Constitution supplied the enactments the lack of which had weakened the Articles of Confederation and this made peace secure for a very long time. From this we may draw the inference that there would be good hope of peace for the rest of the world if international machinery could be evolved embodying the fundamental features of the American Constitution. These features, when fully developed, would comprise;

- (a) A World Legislature to enact international laws;
- (b) A Judicial Bench to ascertain the facts of every case by judicial enquiry, to apply the agreed international laws in the light of the ascertained facts and to put on record, and publish, reasoned statements as to any remedial or preventive measures that should be taken to fit the case;
- (c) An executive Authority, if and when required, to see that the recommendations made by the Judicial Bench are carried out

A World Legislature

Laws that are approved by the majority of citizens do not ordinarily have to be enforced: the opinions reached by impartial and respected judges, as the result of applying approved laws to ascertained facts, will normally be accepted and supported by public opinion. Rarely will force be necessary to see that they are acted upon. The World Legislature should therefore be composed of persons freely elected to represent the views of the different peoples concerned

incapable of being suborned to ends which conflict with the well-being of the world as a whole. They should be men and women of high principle,

The members of the American legislature—Congress—as created by the Constitution, represented voters who, though nationals of different independent States, had a common language and similar traditions, habits and religious ideas. No such close similarity exists even between the peoples of Europe, still less between those inhabiting different continents. The difficulty of securing agreement about any proposed law by the representatives of such diverse races, cultures, ideologies and grades of development is incomparably greater than that which faced the remarkable Americans who fashioned and secured the acceptance of the Constitution of the United States of North America. Any immediate attempt to draft a federal constitution for a large group of European States would almost certainly only invite defeat. The recent refusal by the last French Government to consider union with Great Britain, even to save themselves from impending disaster, was highly significant. Progress along such lines in Europe must therefore inevitably be slow, and the way should be prepared by the patient and persistent use of all international machinery that is designed for constructive and mutually beneficial purposes.

If again at this point we turn back the pages of history for guidance, we recall that when the American Constitution first came into force in 1789, a majority of voters in the Southern States would not tolerate equality of rights with negroes. On that account the Christian principle of brotherhood was sacrificed and nearly a century later this rejection of Christ's teaching resulted in a terribly embittered civil war. That is how the equality of rights of American citizens came to be adopted as one of the foundation principles of the American Constitution.

Failing to profit by this experience, the same error was repeated by those who were responsible for drafting the Covenant of the League of Nations in 1919, in spite of a resolute attempt to secure the adoption of the principle of equality of rights.

Importance of the Judicial Method

The shortsightedness which leads individuals and nations to seek their own advantage at the expense of others will naturally cause them not infrequently to be at variance with their neighbours; when this happens experience shows that there is one, and only one, satisfactory method of securing justice between them. All parties to the dispute must be placed on an equal footing; all relevant facts of the case must be carefully ascertained; and judgment must be given in the light of these facts and must be based on the existing law, or, failing any law that covers the facts, on equity. This essentially judicial process must be carried out by impartial persons of unquestioned integrity skilled in sifting evidence.

The round-table conference of national representatives, adopted by the League of Nations, has not proved a success because it favours the more powerful nations at the expense of the weaker. A Judicial Bench is essential and the representatives of the different nations should appear before it on equal terms as counsel, each stating his case from the point of view of the nation which he represents and supporting it by such evidence as may be accepted as relevant. The judges of the Permanent Court of International Justice might be invited to form this Judicial Bench until full consideration can be given to the selection of a panel of suitable persons to fill this highly important office.

Equality, Equity and Justice

Unless scrupulous attention be paid to the basic principles of Equality and Equity in the discussion of matters which are the joint concern of different States and Peoples, true Justice cannot be achieved and no permanent settlement can be hoped for.

By "Equality" is meant "Equality of Opportunity": to this all human beings are entitled so far as it can be achieved. In concrete terms it has been defined by the Prime Minister of Great Britain and the President of the United States of America in their historic "Atlantic Charter," where they have pledged their word that:—

“ They will endeavour—to further the enjoyment by all States, great or small, victor or vanquished, of access on equal terms to the trade and the raw materials of the world which are needed for their economic prosperity.”

According to the Century dictionary Equity means—
“ Fairness in the adjustment of conflicting interests; the application of the dictates of good conscience to the settlement of controversies.—The system of jurisprudence, or body of doctrines and rules as to what is equitable and fair and what is not, by which the defects of, and the incidental hardships resulting from, the inflexibility of the forms and universality of the rules of the common-law tribunals are corrected or remedied and substantial justice is done.”

The Permanent Court of International Justice, created by the League of Nations, in conformity with a direction of the Covenant, is authorised, by its statute, to decide disputes in accordance with Equity when the parties concerned agree to this course; but the lack of any accepted meaning of the expression “ International Equity ” has hitherto prevented the Court from undertaking the task of giving decisions in accordance with that principle. If, however, some nations were to agree on a definition of “ International Equity,” then a Judicial Bench would be able to form opinions in conformity with the agreed definition and the way would be clear for the voluntary acceptance of these opinions.

Basic Principles Convention

The first step, therefore, towards the creation of world machinery, capable of performing pacific functions similar to those successfully performed for a long series of years by the Central Federal Court of the United States of North America, should be a Convention of Nations for the sole purpose of agreeing Basic Principles of human relationships and a definition of International Equity, to serve as foundations for judicial opinions as to the best means of removing reasonable grievances and amending unjust conditions.

When this war ends, and a conference is called to arrange the details of an armistice, a Convention might

be summoned independently to discuss and define the Basic Principles upon which world order should be established and to seek a definition of International Equity. The Basic Principles should be ethical and should declare that all human beings are entitled to equality of opportunities. This means the removal of economic handicaps as between nations so as to give to the poorer and to the more backward peoples freedom and opportunity to reach, in due course, the standard of living enjoyed by the more fortunate. In short the Convention should set out to impress upon the world this vital truth, which cannot be too often repeated, that whatever be our nationality, race or colour we are members one of another and it is only by seeking the welfare of the whole community of nations that the ultimate welfare of any single nation or individual can be achieved: in reality, the welfare of each part is identical with the welfare of the whole. To those who have grasped this Christian truth the essence of justice is revealed as equality of opportunities for every man and nation to make the best use of their gifts for the well-being of all.

What Nations are likely to accept the Judicial Method?

Simple though it may be to set down such a plan on paper what confidence have we, it may be asked, that it would prove successful? Would it be acceptable to any of the nations in their present temper? To this the answer is that the great majority of the ordinary people in all nations, whether allies, enemies or neutrals, would even at this moment grasp eagerly at any settlement that promised to be really just and therefore likely to last.

The judicial method here proposed is designed to secure justice and equality of treatment, the only possible basis on which permanent peace can be maintained. Indeed official communications addressed to the League of Nations adduce evidence that the following nations would have welcomed, in the past, the application of the judicial method for the settlement of international differences:—Belgium, Denmark, Finland, Norway, Portugal, Sweden, Switzerland, among the European nations, and also Argentine, Chile, China and Equador. Unfortunately the opposition of one powerful State, Great Britain, prevailed and

the other Great Powers refrained from disclosing their views, but it is on record that, when the Covenant of the League of Nations was being drafted, both France and Italy wished the League to function as a court of justice and Italy even advocated the adoption of basic principles similar to those suggested above for the guidance of the Bench.

It seems therefore highly probable that, when Frenchmen and Italians can again freely express their desires, they will warmly support this proposal to organise an authority to apply the judicial method to resolve any difference between nations.

A World Advisory Council

Those who believe in the essential soundness of these principles should begin now, at once, to fashion the judicial instrument necessary to carry out their purpose, having faith that it will in due time win the confidence and respect of nations by the wisdom and impartiality of its decisions without assuming any pretence of power to enforce them. Let it be granted that, at this initial stage, the published opinions of a Judicial organism might be flouted, even by some of those who have expressed acceptance of the Basic Principles; with this in mind it might be wise at first to adopt a name for it which carries no suggestion of compulsion, such as "World Advisory Council."

This council would be authorised to undertake a judicial investigation of any matter brought to its notice by a responsible authority, to express an opinion based on the application of the Basic Principles to the judicially ascertained facts, and to give wide publicity to such opinion and to the reasoning that led to it. The procedure adopted by the Council should be similar to that followed by the Permanent Court of International Justice.

The hope is reasonable that some nations, which had accepted the Basic Principles and had learnt to appreciate the work of the World Advisory Council, would before long acquire confidence in the impartiality and wisdom of the World Advisory Council and perceive greater advantages in utilising its services to

arrive at a just settlement of any questions at issue between themselves, or between their own individual citizens and those of another nation, than in insisting on the importance of the archæonomous principle of national sovereignty. World conditions have changed fundamentally since the time when that principle was perhaps justifiably regarded as indispensable. The development of rapid communications and the growth of desire to enjoy the products and manufactures of other countries have made the inhabitants of every country dependent on the co-operation of others, whatever their nationality. The need has therefore become urgent of reliable means for settling quickly and easily any differences which may arise between individuals and interests situated within areas which, though politically separate, are often one economically if not geographically. The World Advisory Council should soon come to be recognised as a medium for neutralising the artificiality of political boundaries.

In 1927 a World Economic Conference was organised by the League of Nations and great hopes were entertained that it would inaugurate a new era of international economic collaboration and continued increase of well-being. Many resolutions were adopted but they were unfortunately couched in very general terms; no concrete instance was revealed of disability suffered by any indicated nation nor was any specific duty laid on any indicated State. Thus the resolutions remained mere expressions of hopes. The judicial method advocated in this essay is intended to take the great problems of the world out of the spaciousness of suggestion into the limitations of concrete experiment and application. The Advisory Council will deal with definite hardships and will advise as to the measures that should be taken by named nations for the purpose of redressing reasonable grievances.

Broadly, one of the main functions of the World Advisory Council would be to serve humanity by organising means for giving practical effect to latent good-will and seeking in good time to remove the real grievances felt by certain nations. Such grievances, if they remain unredressed, tempt unscrupulous rulers to take up arms as the only apparent remedy.

A group of nations, already linked by common

political ideas and by individual sympathies, after observing, for a time the working of the World Advisory Council, might well perceive that their security and general prosperity could be increased by accepting the judicial method for the settlement of their differences. It would be a short step onwards to set up an executive, common to all nations within the group, to prepare the way for the adoption of recommendations made by the Council. This stage once reached, conditions would be ripe for transforming the linkage of ideas and their practical application into the juridical union known as Federation. The World Advisory Council might then give invaluable assistance in drafting the initial terms of a Federal Constitution and preparing a plan for the election of a common Federal Legislature and a common Federal Executive.

A Federal System

The peace-making virtues of federation have been attributed, mistakenly, to the democratic nature of most existing federations; yet the American federal constitution failed to prevent the civil war of secession although the States which fought were democracies. The evidence given has shown that **PEACE PREVAILS WHERE JUDICIAL MACHINERY CAN BE APPLIED**; therefore, the dominating peace factor is, not democracy, but the practical efficiency and applicability of a judicial system. The effectiveness of the judicial machine depends on the wisdom of the laws which have to be administered, and on the willingness of the people to obey these laws. These conditions are, in turn, dependent on the approval, by a majority of the citizens, of both laws and judges. Such approval is most likely to be secured if both legislators and judges have been selected by methods which can be termed democratic; but this democratic quality is not sufficient alone to ensure the peace-preserving efficiency of a federation. The other, more important, conditions are the juridical, viz. just and suitable laws applied without respect of persons by judges commanding universal confidence, institutions which are more ancient and better understood than the ballot box and much less subject to unworthy influences.

Unfortunately, the impression is widely held that federation is only possible between nations which are

democracies, and that there is not the remotest hope of the autocratic governments of the totalitarian States declaring themselves willing to become members of a federation organised on the principle of control by the people for the people. This impression is very dangerous: it ensures the persistence of present enmities, a continued division of the world into opposite parties, and a prolongation of the war to the point of exhaustion and chaos. Those who hold the view that the dictators would spurn the federal or any other type of union, on a basis of equality, overlook the origins of the totalitarian tyrannies. The dictators rose to power by exploiting deeply felt national grievances; all three aggressive nations are suffering from handicaps and from the conviction, for which there is considerable justification, that any hope of peaceful redress is entirely vain. Hitherto no means have been available to test the quality of these grievances: they have stood unchallenged and unanswered. The dictators have been able to exploit them unhindered. This would not have been possible if some organism, such as the World Advisory Council, had been available to analyse the grievances and reveal the truth. If made available now, the peoples who have hitherto heard only one voice of authority, that of the dictators, would surely be eager to consult the Council; and the whole world justifiably draw significant conclusions from any dictatorial opposition to such consultation.

It is also possible that the World Advisory Council would express opinions indicating that certain grievances of the aggressor nations are in part justified and should be redressed. It is even conceivable that the redress suggested, and the conditions to be fulfilled by the dictators on their part, might be considered acceptable, and this might pave the way for an armistice. In short, it would show great wisdom if we could devise means for removing all obstacles which at present stand in the way of any change of policy by any nation, and which consequently hinder the beginnings of the formation of any plan for federation in Europe.

It is regrettably true to say that no sure indication has yet been given by either the Government or the people of the United Kingdom, that they are willing to accept the first essential condition of a federal war-

preventing union, viz. submission to the findings of an impartial judicial body in any differences which arise with other nations. Until this uncertain point be made clear, beyond any possibility of misunderstanding, proposals for a federation of democracies, or of any group of States including Great Britain, will remain open to the suspicion of having been devised as a cloak for a permanent military alliance directed against the present enemies. Such a suspicion might well prevent the people of the United States of America from declaring themselves ready to become united with a federal group comprising the United Kingdom. Progress towards such a union should nevertheless, be earnestly fostered by creating immediately a World Advisory Council and so giving it time to acquire prestige and the confidence of the peoples.

Other Functions of the World Advisory Council

Important, however, as such measures are to prevent war, even more stress must be laid upon positive action to promote a better understanding between nations. A concrete example is given by the absence, within the United States of America, of restrictions against the free movement of people, labour, materials and manufactures. This is believed to have contributed largely to the high standard of living enjoyed by its citizens. The World Advisory Council might well investigate the facts and place their conclusions before the governments of other nations in order to induce them to organise parallel measures likely to result in higher standards of living generally.

Again, it is frequently contended that although the British Empire is able to control the distribution of the greater part of the world's needs no obstacles are put in the way of intending purchasers; to this, on the other hand, critics reply that the sellers will not accept in payment the goods and services which the buyers are able to offer. Here is another problem to be tackled scientifically with a single eye to the welfare of the whole community of nations. The World Advisory Council should command sufficient authority to appoint disinterested bodies of experts capable of studying and planning the equitable distribution of the more important food products and materials and the means of paying for them.

The World is a Single Unit

The International Institute of Agriculture is a particularly illuminating example of the great value of fact-finding research from the standpoint of the world as a whole. By specialised study and enquiry, continued over many decades, and with the co-operation of nearly all the governments of the world, the Institute has proved that the total production of wheat in all countries taken together would not vary materially year after year if the area sown to wheat were kept stable. In other words, climate and other natural influences average out, and man is solely responsible for that lack of local balance between production and consumption which so often causes widespread suffering and ruin. We can infer that man should be able to solve the hitherto baffling problem of varying price levels; there should be no necessity for the illogical co-existence of enormous superfluity of wheat with widespread malnutrition. The vital factor is clearly distribution, which is within human control, not meteorology which is beyond human control.

Does not this serve to show the wisdom of regarding the world as a single unit, to which the previous pages have pointed? This is only another way of expressing the familiar teaching of Christianity, that all mankind make up one family. To love thy neighbour as thyself, therefore, is not merely good morals: it is also the practical basis of a sound world economy.



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