

gone from the whole idea of sanctions under Article 16 of the Covenant over to the old idea of neutrality in the strict sense and yet with all neutrals presenting a united front to the belligerents. Of course it is true that this treaty expressly states that its obligations are "subject to the attitude that may be incumbent on them [the parties] by virtue of other collective treaties to which such states are signatories." Nevertheless, with talk of revision of the Covenant becoming more and more widespread,⁵ it is not fantastic to find here the germ of future development. It would be the part of wise statesmanship to proceed at once to explore the lines which the solidary action of the neutrals should take.⁶ If modifications of the law of neutrality are desirable, they should be effected in times of peace and not made the source of argument and friction after war breaks out.

Attention should be called to the resolution approved by the Seventh International Conference of American States at Montevideo on December 16, 1933.⁷ This resolution was designed to urge states on to the ratification of the great anti-war pacts—the Gondra Treaty of Santiago, Chile (1923); the Briand-Kellogg Pact (1928); the Inter-American Conciliation and Arbitration Conventions of Washington (1929); and the Argentine Anti-War Treaty of Rio de Janeiro (1933). With reference to this last treaty, the resolution recites: ". . . the Anti-War Treaty, of Argentine initiative, is intended, as stated in its principles, to coördinate and make effective these various peace instruments that may definitely establish international peace without revoking any of the existing instruments, this being one of its characteristics and one of the superior aims with which it is inspired."

It may prove to be more than this, although this is a great principle and a fine ideal. If so, it offers as a future base on which to organize the world for peace, the following propositions:

1. Renunciation of war.
2. Agreement to use means of pacific settlement in all cases.
3. If war breaks out, agreement to be neutral but to take common and solidary action with other neutrals, presenting a united front.
4. Non-recognition of the spoils of war—"Victory gives no rights."

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INTERNATIONAL COÖPERATION IN THE SUPPRESSION OF CRIME

At the meeting of the American Law Institute in Washington on May 10, 1934, President Roosevelt recommended that the Institute undertake the clarification and simplification of the substantive criminal law, as it had already undertaken a similar task in the field of civil law. The President stated that "the adaptation of our criminal law and its administration to meet

⁵ See Prof. James T. Shotwell's article in the *New York Sunday Times*, May 6, 1934.

⁶ Compare Mr. Charles Warren's article "Troubles of a Neutral" in *Foreign Affairs*, April 1934, p. 377.

⁷ Final Act (Provisional edition), p. 13.

the needs of a modern, complex civilization is one of our major problems." Upon the same occasion Chief Justice Hughes emphasized the primary duty of society to protect life and property from criminal assault. While these statements were made primarily with a view to the improvement of the criminal law and its administration within the United States, there is also an important phase of the problem which may be said to be international, or which at least requires international coöperation. Criminals of the present day make use of the most scientific modern appliances in the accomplishment of their nefarious purposes. The detection of crime and the apprehension of the criminal are both rendered more difficult by reason of the increase in the means of transportation and communication, and the speed by which escape is facilitated across national boundaries.

The international phase of the problem has long been recognized. For many years certain unofficial organizations have given attention to various angles of approach along international lines. The International Penal and Penitentiary Commission has been working in this field since 1872. Though unofficial, its membership is largely composed of administrative and judicial officials of many countries. The commission has made proposals for the modernization of penal laws and for unification in certain specific fields. More recently, improvement in the coöperation of the police of various nations has been undertaken through the conferences of the International Criminal Police Commission. In September, 1931, the League of Nations received an exhaustive report from the Fifth Committee of the Assembly, relating to the possible intensification of the war upon crime through international coöperation. The Assembly referred the report to seven organizations working in this field, with the request that they consider in what manner "the assistance of the League of Nations might be of value with a view to achieving a gradual unification of criminal law and the coöperation of states in the prevention and suppression of crime." The report was submitted to the International Penal Law Association, the International Bureau for the Unification of Criminal Law, the Howard League for Penal Reform, the International Law Association, and the International Penal Law Union, and to the two organizations already mentioned.

There is a certain danger in any indiscriminate movement for unification. It often leads to much waste of time and effort in seeking an end which is difficult, if not actually impossible of attainment, and which may prove barren of any substantial improvement. Unification, when not used as a means toward specific objectives in the suppression of crime, is apt to absorb attention that might be directed more profitably to other phases of the problem. Fortunately the delegates to whom were referred the inquiry of the League, took a realistic attitude in this respect. At the meeting in Geneva in May, 1932, they recommended that only certain practical steps be attempted in the "standardization" of the criminal law and procedure of the various countries. The delegates enumerated the following fields in which standardization is

desirable, *viz.*, (a) the definition of offenses the suppression of which is important from the international point of view; (b) fundamental rules of criminal law, beginning with those intended to insure the effective suppression of offenses of an international character; (c) the definition of offenses which states agree to regard as a danger to international relations; and (d) certain branches of the criminal law of countries whose civilizations possess common features.

The recommendations of the delegates have now been submitted by the League to the various governments for comment and suggestion. Up to the end of 1933, about 25 governments have replied.¹ Some of the replies, such as that from the Union of South Africa, voice some fear that the setting up of any new agency might entail expense upon the members of the League incommensurate with the practical results achieved. The reply of the United Kingdom of Great Britain and Northern Ireland is notable in that it warns against relying too much upon the beneficial results of unification. It points out that the criminal law is rooted too deeply in the history and customs of peoples to submit to unification except among certain nations whose law is based on "similar juridical principles derived from a common source and who possess the same social outlook and customs."¹ His Majesty's Government recommends that the League should limit itself to specific topics, such as the traffic in women and children, the traffic in dangerous drugs, and the counterfeiting of currency, subjects where there is hope for unanimity. The real problem after all is one of police, for which the League lacks the necessary administrative equipment. It is not so much unification that is desirable, as that certain offenses shall be prosecuted and punished. The reply of Hungary is along similar lines, and it suggests as a practical object the regulation "on a wide international basis, of the punishment of crimes and offenses committed in a foreign country."¹

There is indeed little hope for moulding into a system of law approaching uniformity the criminal laws and statutes of the countries of the world, even assuming that this result were necessary or desirable. Thus, for example, the classification of offenses in Anglo-American law follows the well-known division into felonies and misdemeanors, whereas continental European countries generally follow the grouping into crimes, misdemeanors and offenses against regulations of police. The reply of Hungary specifically refers to the difficulty of reconciling Anglo-American law and the laws of European countries with regard to criminal acts committed abroad. The crux of the problem is that the divergencies of law and procedure be fully recognized and yet that the administration of criminal police and criminal justice be coördinated throughout the world by a full exchange of information, by active coöperation in apprehending criminals, and in a logical and just division among the various countries of their sovereign jurisdiction to punish for crime. This phase presents by no means an easy problem.

¹ League of Nations Publications, Official, A. 7. 1933, V; A. 7 (b) 1933, V.

Extradition treaties have been multiplied and greatly widened in scope; yet extradition remains an expensive proceeding and encumbered with many technicalities of great complexity. We have recently had striking examples in the *Insull* cases in which the United States was the demanding or "requesting" state, and in the *Factor* case in which the United States was the "requested" state. The achievement of uniformity in extradition law and procedure would therefore be a great step forward. The Harvard Research in International Law, anticipating the resumption of the movement toward codification of international law, has been at work upon a model convention concerning extradition, and proposes shortly to publish the results of its labors. It has also elaborated a proposed draft for a multilateral treaty upon jurisdiction to punish for crimes, especially where the crime is sought to be punished in a state other than that in which the crime was committed. As a corollary to this problem, we have the difficult question of the extent to which cooperation should or should not be afforded in the punishment of "political" crimes. The definition of this category tends to become broader in an era of exacerbated nationalism like the present, a fact which should be recognized and guarded against in the interest of free institutions.

We are now witnessing in this country a definite movement toward the extension of the crime-repressive powers of the Federal Government. In the report of Professor Raymond Moley to the President and the Attorney General on May 15, 1934, attention is called to the narrow framework within which the Federal Government has heretofore operated in this respect. Professor Moley warns against attempting to supplant the local authorities upon whom the primary obligation must rest, but he emphasizes the fact "that the States are severely handicapped by the mere existence of State boundaries and that the Federal Government can supplement local efforts by lending the full weight of its support in contending with offenders who rely upon such boundaries as means of escape." Several bills are recommended to enlarge the jurisdiction of the Federal Government under the interstate and foreign commerce clause. The report also commends the proposed bill granting the consent of Congress to any two or more States to enter into contracts for cooperative effort in criminal law enforcement.

Modern civilization and the relative shrinking in the size of the planet on which we live have given impetus to the principle that the efficient administration of criminal justice is a matter of importance not only to a single community or state but to civilized society as a whole. International coöperation supplementary to interstate and federal action, at least along the restricted lines here outlined, would now seem to be timely, to the end that the war on crime may proceed, as Chief Justice Hughes has expressed it, "on many fronts."

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