

EDITORIAL COMMENT

THE POWER OF PUBLIC OPINION FOR PEACE

In contrast to the generally destructive effects of war, one outcome of the world war of real constructive value is the condemnation by public opinion throughout the world of all wars, except those which can be defined as strictly defensive.

This attitude of the present generation is a powerful asset for good in the world, but no effective plan has yet been adopted for giving it practical application in international relations. Notwithstanding the almost universal demand of the people of the world today that unjustifiable wars should be outlawed, no attempt has been made to define by international agreement what inducements justify war, or to bring the subject within the jurisdiction of international law.

The great opportunity offered at the Peace Conference at Paris, which we cannot hope to have reproduced, was sacrificed to the ambition of the seekers after political control over international relations in disregard of the basic principal of equal rights of all nations before the law. Nevertheless it is not yet too late to recover some of the lost ground.

At Paris the leading nations of the world were prepared to curtail their hitherto unquestioned right to declare war at pleasure for any reason or for no reason, and without accountability to the family of nations. If they are still willing to submit this sovereign right to legal restraints, the opportunity to impose these restraints might be utilized to extend the jurisdiction of international law beyond the mere regulation of warfare so as to cover the inception of war as well.

A beginning might be made by an agreement among the leading nations declaring that they recognized that, in the spirit of our Declaration of Independence, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to war, and binding each of them, before declaring war, except against an actual belligerent, to declare those causes to an international conference in which they agree to participate and to which all other nations concerned shall be invited, and that respectful consideration shall be given to any recommendations made by such conference, and further that at the call of any nation against which war is threatened they will meet in conference with that nation for the purpose of avoiding war if possible through mediation, conciliation, good offices, or other pacific measures.

To perfect the plan by bringing it within the realm of international law, a further step is necessary and that is for the nations to declare as a binding rule of law that an unprovoked war, or a war of aggression to deprive a nation of legitimate rights, or a war for causes which properly come within the definition of justiciable questions, or any other war which they may agree to stigmatize as unjustifiable, constitutes an international crime. If this were done any threat against the peace of the world would involve a question of a legal nature within the field of international law.

The recent war has demonstrated that no nation can be regarded as a stranger in interest to a dispute between other nations, and that every nation is threatened with an invasion of its rights by a breach of the peace between other nations, and consequently all nations are entitled to demand that no nation shall declare war unless it can show adequate cause.

The peoples of the world have at last come to a realization of their interdependence and mutual obligations, and this realization is in itself a sufficient sanction to ensure the observance of an agreement designed to promote peace by recognizing the jural equality of all civilized nations and demanding universal respect for the rights of each. The essential thing is that they should agree upon certain rules governing the conduct of nations toward each other, based upon the equal rights of all and that these rules should be formulated in terms so clear and simple that everyone can comprehend them, so that if any nation violates them it will challenge the judgment of public opinion throughout the world.

The irresistible power of public opinion as a world force when aroused, was eloquently described by Mr. Root in presenting to the Washington Conference the treaty limiting the use of submarines in warfare. He said, in part—

When a rule of action, clear and simple, is based upon the fundamental ideas of humanity and right conduct, and the public opinion of the world has reached a decisive judgment upon it, that rule will be enforced by the greatest power known to human history. The power that is the hope of the world will be a hope justified. That power was the object of the vast propaganda of the late war; that power was the means of determining the conflict in the late war; and that power, the clear opinion of the civilized world, stigmatizing a specific course of conduct as a violation of the fundamental rules of humanity and right, will visit a nation that violates its conclusion with a punishment that means national ruin.

Every nation will admit the truth of this and it is for this reason that no matter what the real cause of war may be, the nation declaring it invariably appeals to the public opinion of the world on the ground that it is a defensive war forced upon them by an aggressive enemy threatening their national security.

Instead of waiting, therefore, until after war is declared and then calling upon public opinion to finish it, the opportune time to bring public opinion to bear would seem to be before war is declared when, through some such

means as that above proposed, this greatest of all world forces would have an opportunity to prevent it.

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THE INSTITUTE OF INTERNATIONAL LAW

The Institute of International Law held its first regular session in eight years in Rome, October 3rd, to October 10th, 1921. The choice of Rome was a happy augury for the future, for in the past the law of the world has proceeded from that city, and it is well to begin building up the new surrounded by the memories and traditions of the past.

Those who believe that we live in a new world, merely because there has been a World War, will be grievously disappointed with the new rules of law based upon old principles of justice. Those who believe, on the contrary, that we live in the same old world, chastened, it may be, by a World War, will, without disappointment, elation or pessimism, take up the world's work interrupted by war, as previous generations have done. We may dream of a brighter and a better future—we should, indeed, strive for it,—but we cannot break with the past.

The last regular session of the Institute was held in Oxford, August 1st to 9th, 1913, under the presidency of Doctor, now Sir Thomas Erskine Holland. It adopted a code of maritime warfare, incorporating more than one of the provisions of the Declaration of London. It decided to meet in September, 1914, in Munich, under the presidency of Mr. Heinrich Harburger. Arrangements of a very elaborate nature had been made for this meeting, but, to use a homely expression, Mr. Harburger "reckoned without his host." The late German Emperor had plans which were inconsistent with the meeting of the Institute. During the ensuing four years the minds and thoughts of men were bent on winning the war, not on reforming the law of nations. If the members of the Institute could have met even in a neutral place—which they could not, as the law of nations forbids citizens and subjects of enemy States from holding intercourse of any kind—their labors would have been fruitless from a scientific point of view.

After the armistice, a conference composed of representatives of the victorious Powers met at Paris on January 18, 1919. A goodly number of members and associates of the Institute of International Law were connected with the delegations of the nations participating in the conference. The members and associates met twice informally in the spring of 1919, and decided that it would be in the interest of the Institute to hold a special session or an extraordinary meeting of its members and associates in Paris during the session of the conference, which assured the attendance of a sufficient number to justify the meeting.

The governing board, called the Bureau of the Institute, consists of the President, the First Vice-President, and the Secretary-General. Mr. Har-