not external but internal, but her economic problems are external as well as internal. If Cuba is to prosper, she must have a government sufficient to maintain law and order and a rehabilitation of the sugar industry, which depends upon a world market for approximately 3,000,000 long tons annually. It is expected the latter will be aided by recent legislation of Congress [3] and the proposed trade agreement by which Cuba may obtain better preferential treatment, particularly for sugar.

The great interest of the United States still remains in the Caribbean area, namely, the Panama Canal, which is a vital link in her national defense. Around this center must necessarily revolve the American political and commercial policies. They need not be proclaimed in formal treaties or understandings for the enlightenment of the world, for they are the necessary and obvious sequences of an actuality. It is clear that the United States, acting under the Monroe Doctrine and the rights of international law, will brook no situation in the Caribbean which menaces her national defense.[4] It is an inevitable corollary that this region will always be a sphere of influence of the United States.

But the clouds of apprehension as to the ulterior motives of the United States have cleared away. By the action of the United States in establishing the independence of Cuba after the Spanish-American War, by its intervention under the Platt Amendment in 1906–1909 and subsequent withdrawal, by its settlement of the Isle of Pines matter in favor of Cuba, and by the present surrender of the Platt Amendment, it has been shown that the United States has no designs upon the island. The whole history of the United States in Cuba has been one of magnanimity toward a small country, unexampled in the annals of international relations, and sufficient, it is believed, to satisfy the most delicate sensibilities. It is an invitation for their full-hearted cooperation.

LESTER H. WOOLSEY

THE ARMS EMBARGO AGAINST BOLIVIA AND PARAGUAY

The war between Bolivia and Paraguay in the Gran Chaco region, which has been proceeding continuously for two full years, is not only a major scandal in international relations as between the parties themselves, but an affront to fundamental principles of law and order within the community of nations at large. For the issues involved in the conflict have none of the political, economic and social complexity presented by the conditions in the Far East under which the machinery of international settlement recently broke down. Is the issue between the belligerents in the Chaco one of disputed boundary lines? If so, the processes of arbitration are admittedly suited to such a question. Is the issue more fundamental than a boundary dispute, involving the urgent need of one of the belligerents for an outlet to the sea? If so, international law has numerous precedents for the grant of

[3] Act approved May 9, 1934, and proclamation of same date reducing the duty on sugar.

[4] Compare the reservations of the U. S. to the Montevideo Antiwar Treaty and the Convention on Rights and Duties of States.

rights of way which need not affect the sovereignty of the servient state. Are there raw materials, oil, minerals, tannic acid products, which both belligerents feel they need desperately for their economic development? If so, there is nothing to indicate that the economic neutralization of the area, on terms of the equal opportunity of both parties to participate in its development, is not a relatively feasible solution. In short, the conflict is one which presents no insuperable problems in its solution, and the only justification of it at its present stage is the fact that it was allowed to start at all. War, once begun, creates its own reasons for its continuance.

At the present moment it is of little consequence whether the proper machinery of settlement to have been applied when the dispute first became acute was the machinery of Inter-American arbitration and conciliation or that provided by the Covenant of the League of Nations. Since 1928, when the long-smouldering conflict between the two states became more acute, a number of agencies have been brought to bear upon it in the effort to obtain a peaceful settlement. The Commission of the Five Neutrals, originating in the Inter-American Conference of 1928 and consisting of the United States, Cuba, Colombia, Mexico and Uruguay, succeeded in bringing about the Conciliation Protocol of 1929 and has continued its diplomatic efforts during each succeeding year. The Nineteen American Nations, acting at the request of the Five Neutrals, took up the task in 1932, declaring that the dispute was susceptible of arbitration, that a neutral commission should be appointed to fix responsibility, and that in the meantime the movements of troops should cease. This declaration was accompanied by a further statement to the effect that they would not recognize any territorial acquisitions obtained by other than peaceful means. Within the A.B.C.–Peru group, acting in coöperation with the Five Neutrals, a proposal was made by Argentina and Chile in 1932 that the states bordering upon Bolivia and Paraguay should refuse passage of arms across their territories; but no action was taken. In the meantime, the Council of the League of Nations had intervened, reminding the parties of their obligations under the Covenant and of their special undertakings given in 1928. Subsequently the Council appointed a special commission to investigate and report upon the facts. On February 24, 1934, the commission proposed to the belligerents a draft treaty calling for an immediate cessation of hostilities, for the withdrawal and demobilization of the respective armies, and for the submission of the territorial dispute to the Permanent Court of International Justice. The draft treaty was, however, practically rejected by both countries. The next and latest move of the League's commission was to present a formal report to the Council, which was made public on May 12. The report is a document of extraordinary importance, comparable to the Lytton Report in its effort to make an impartial survey of the situation. While dealing with intrinsically less difficult issues, it reaches more positive conclusions and demands more definite action than did the report on Manchuria. It describes the

conditions under which the war is being fought and the economic factors involved in it. But its chief significance lies in its appeal to the nations of the world to help bring the war to an end by refusing to supply the belligerents with arms and ammunition.

Until the presentation of the report of the League's Chaco Commission, none of the various agencies whose efforts singly and in combination failed to effect a settlement of the dispute succeeded in setting in motion physical sanctions to make their recommendations more effective. Moral pressure alone was relied upon. In the meantime, commercial relations between the belligerents and the nations attempting mediation continued as usual. The traffic in munitions upon which both belligerents were dependent for the support of their armies in the field was uninterrupted. While the United States, as represented in the group of American nations, and Great Britain, as represented on the Council of the League, were making official efforts to bring about a peaceful settlement of the conflict, the armament firms of their respective countries were shipping to the belligerents the munitions essential to its continuance. While the slow-moving machinery of international conciliation was pouring water upon the flames of war, armament firms in the different countries were furnishing combustible materials which spread the flames into new areas.

On May 18, at the request of President Roosevelt, the following resolution was introduced in the Senate and two days later in the House of Representatives:

JOINT RESOLUTION

To prohibit the sale of arms or munitions of war in the United States under certain conditions.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That if the President finds that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reëstablishment of peace between those countries, and if after consultation with the governments of other American Republics and with their coöperation, as well as that of such other governments as he may deem necessary, he makes proclamation to that effect, it shall be unlawful to sell, except under such limitations and exceptions as the President prescribes, any arms or munitions of war in any place in the United States to the countries now engaged in that armed conflict, or to any person, company or association acting in the interest of either country, until otherwise ordered by the President or by Congress.

Sec. 2. Whoever sells any arms or munitions of war in violation of section 1 shall, on conviction, be punished by a fine not exceeding $10,000 or by imprisonment not exceeding two years, or both.

The resolution was passed by both houses, and was approved on May 28. In the meantime, on May 20, the Secretary of State had received a telegram from a committee appointed by the Council of the League of Nations to ascertain whether the principal governments of the world were prepared to participate in measures designed to prevent the sale of arms and munitions of war to Bolivia and Paraguay; and Secretary Hull had replied that the

United States would be prepared to "coöperate to the fullest extent" if legislation were secured conferring the necessary authority upon the President. On the same day on which the resolution was approved a presidential proclamation announced that the President had found that the prohibition of the sale of arms and munitions of war to the Chaco belligerents might have the effect called for by the resolution, and that he had consulted with the governments of the American Republics and had been assured of their cooperation and of the coöperation of such other governments as he deemed necessary, and that in consequence he thereby enjoined obedience to the law now in effect.[1]

It was noted at the time that the resolution did not prohibit the *export* of arms and munitions of war to Bolivia and Paraguay, but merely prohibited their *sale* within the United States to the two countries or to persons acting in their interest. This technicality was resorted to in consequence of treaties of 1858 and 1859 with Bolivia and Paraguay, respectively, providing that neither party should prohibit the export or import of arms to the other. This part of the procedure would seem unfortunate, since the action taken by the United States is a practical violation of the old treaties which were entered into under different circumstances; and it would have been better that the fact should have been admitted and justified by the new conditions than that an evasion should have been resorted to.

In respect to the principles of international law involved, the action taken by the United States is significant for two reasons. In the first place, the action was taken by the United States individually, without waiting for anything more than an assurance of coöperation by other nations. That such isolated action was doomed to be ineffective unless other nations manufacturing munitions promptly took similar action was obvious; and the risk taken by the United States in acting alone may be regarded as a challenge to others to put an end to the delays incident to securing a common agreement of all concerned. To some extent the United States thus made redress for its own delinquencies in refusing up to that time to make clear what action it would take in the event that the League of Nations should find it necessary to institute an embargo under similar circumstances. In spite of his fine plea at Montevideo that all the forces of peace get together behind the League and no longer allow the belligerents to play one agency against another, Secretary Hull was unable to give a specific pledge of support to such action as the League might feel it necessary to take. After the President's proclamation there could now be no question where the United States stood.

In the second place, the action taken by the United States applied the prohibitions of the law equally to both parties, making no distinction between them as to responsibility for the conflict. The resolution was drafted so as to avoid controversy over the Borah amendment to a long-pending embargo resolution the object of which was to prevent any distinction as to responsibility and consequent discrimination. From the point of view of the old

[1] The proclamation is printed in this JOURNAL, Supplement, p. 134.

law of neutrality, still technically applicable to the United States, this attempt to treat both belligerents alike, when perhaps the equal application of the law might have unequal practical effects, could well raise a question of violation of neutrality, although it would be difficult to take seriously a complaint of discrimination, as was made by Bolivia, when both parties stand indicted of violating their treaty engagements towards other states, including the United States. More important, however, is the fact that in failing to make any distinction between the parties, the United States missed the opportunity to emphasize the development of international law since the World War, the principle that if the community of nations as a whole is to be collectively responsible for the maintenance of peace, its sanctions must be applied against the nation which refuses to resort to the orderly processes of conciliation and arbitration.

It was, of course, as was recognized in the report of the League's commission, too late in May, 1934, to distinguish between the responsibility of the two parties for starting the war. Both had shown themselves recalcitrant on occasion and had rejected opportunities of peaceful adjustment of the controversy. But it would at least have been possible to call for an immediate armistice, and, if one or other of the belligerents had refused the armistice, to apply the prohibitions of the resolution against it alone. If both agreed to the armistice, then arbitration of the dispute could have been demanded, and in the event of the refusal of one or other or both to arbitrate, the prohibitions could have been applied accordingly. It is submitted that if international sanctions are to have their most wholesome effect, they must be used to enforce positive principles of law and must seek to restore peace not only by denying belligerents the material of war, but by emphasizing that the nation that is willing to arbitrate will be given the protection of the international community as against a nation resorting to force. Even the isolated action of the United States would have been more effective if carried out in that way. In any event, however, the important practical fact is that the United States has now taken a definite stand and that the League of Nations is henceforth assured of our complete coöperation in a first positive step towards ending a scandal that has too long been allowed to continue.

C. G. FENWICK

THE ARGENTINE ANTI-WAR PACT

On April 27, 1934, the United States deposited with the Minister of Foreign Affairs and Worship of the Argentine Republic its adherence to the Anti-War Treaty on Non-Aggression and Conciliation. At the same time, adherences were deposited on behalf of Bolivia, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama and Venezuela. To this list should be added the original signatories: Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay. Finally, it is interesting to note that this treaty, originally conceived as a purely South American contribution to