

EDITORIAL COMMENT

THE ORGANIZATION OF PEACE

The beginning of the New Year of 1941 does not present an auspicious outlook for world peace. Nevertheless if it be wise in time of peace to prepare for war—and this is not likely to be questioned again in our time—it would seem equally appropriate in time of war to prepare for peace. During the period of the participation of the United States in the last great war, certain preparatory studies for peace were undertaken. These studies laid particular emphasis upon the geographic, ethnic and political elements underlying the fixing of boundaries. However, if enduring peace is to follow the present conflict, a wider basis must be sought. It will be nothing less than the creation of a moral order for international justice, both political and economic, and the establishment of conditions of a proper balance between order and liberty throughout the world.

A Commission to Study the Organization of Peace has been constituted under the auspices of certain unofficial associations long interested in the field. Its purpose is to state the principles upon which international relations must be reorganized after the present conflict. The commission proposes to exert what influence it can to make sure that the United States shall not again fail to play its part in any opportunity which may offer to organize a durable peace, quite apart from whether the United States actually intervenes in the present conflict or not. The commission has recently issued a preliminary report through Dr. James T. Shotwell, its Chairman, which it is our purpose to analyze briefly so far as the report refers to the substitution of international organization and legal processes for war. The report has wisely shown appreciation of the fact that mere form or machinery without substance is of little value, and that no system of laws and no organization can accomplish very much “without the living faith and spirit in it.” No world organization can succeed without a minimum standard of confidence in the spoken and written word of the governments which constitute it. The report assumes that before any specific proposals for a better world order can prevail, the recognition on the part of all peoples of the rights of all others is essential. It is precisely in this respect that the commission realizes its present limitations and refrains from laying down any precise machinery for the future. The commission has no illusions upon the matter. The totalitarian character and the tempo of modern scientific warfare have made it necessary to recognize that:

only by organization to develop and uphold the law of nations can civilization stand up against the ever advancing machinery of modern scientific warfare. The only sure defense is the enforcement of the law made by the community of nations and that law can be enforced only if

the power of the community, overwhelmingly greater than the power of any of its members, is brought to bear when and where lawlessness begins.

The report recognizes that peace is not attainable by the mere renunciation of war, but that there must be a "dynamic and continuous process for the achievement of freedom, justice, progress and security on a world-wide scale." The loose political organization which rested on balance of power, or on neutrality and isolation, is no longer adequate. Nor is the mere machinery of organization adequate. It is thinkable that autocratic states may for a time achieve continental or even world empire. This would be comparable to the *Pax Romana* of the then known civilized world. Such a peace cannot be expected to have any permanence. The report recognizes this and points out that the modern world differs from the ancient in that the peoples composing it are neither "barbarians" nor are they ignorant of science, though many of them are still indifferently instructed in the political idea of liberty.

The report envisages that after this war, the nation-state will still remain the unit of world society, even though it is unlikely that there will remain twenty-seven independent national sovereignties in Europe, each having the right to make war, to maintain separate currencies and to set up tariff walls and other trade barriers. Self-determination without federation or some other cohesive force has proved to be a liability rather than an asset in the cause of peace. The alternative to this is either merger through imperial expansion or federation with local autonomy. The authors of the report believe that only the latter method can preserve liberty. "Federation organizes consent on the international scale while empire organizes coercion on that scale."

While dealing with plans of organizing peace for the future, it would be futile to proceed without taking inventory of the causes of prior failures, especially since the close of the last great war. A group of citizens of various European countries, including a few Americans, have been meeting from time to time at Geneva, Switzerland, under the name of the International Consultative Group. This group has recently published a pamphlet entitled: "Causes of the Peace Failure, 1919-1939."¹ Among other possible causes, consideration is given to the doctrine of sovereignty and the criticisms leveled against it as a cause of war. The Geneva group admits that the sovereign state, the unit of modern international society, does not feel under the same compulsion to honor its obligations as does the socially-minded individual. To this extent it is amoral. The group believes that this is due not to the doctrine of sovereignty, but because of "the passion for independence felt by all peoples." But is it not through insistence upon the rights of sovereignty that this passion invariably asserts itself? Indeed the American group holds more categorically that at the period of development

¹ International Conciliation, No. 363, October, 1940.

of the nation-state, it was never intended that the break-up of the medieval empire should be followed by complete state autonomy without federative balance.

Whether world federation was the system implied consciously or unconsciously by the founders of modern international law, as the report suggests, or whether such a conclusion is unfounded, few will dispute the proposition that organization to make international law effective has been hampered by the exaggerated pretensions of sovereign power:

A sovereign state, at the present time, claims the power to judge its own controversies, to enforce its own conception of its rights, to increase its armaments without limit, to treat its own nationals as it sees fit, and to regulate its economic life without regard to the effect of such regulations upon its neighbors. These attributes of sovereignty must be limited.

The report enlarges upon the points in which limitations upon sovereignty are proper and necessary. Most of these require political changes; but it is further insisted that the right to regulate economic activities is also not unlimited, as the world has become an economic unit: "The effort to divide the resources of the world into sixty economic compartments is one of the causes of war."

Possibly other sciences must be drawn into the task as well. The struggle for individual liberty, democratic equality and human fraternity and unity cannot neglect the teachings of biology in respect to hereditary differences, or race, class and national diversity. If biologic principles apply within the state, they must also be applicable to the international community as well, which is but another form of social organization. It is essential, however, that supposed scientific truth be not forced into the Procrustean bed of political expediency.

The report of the commission recognizes the colossal task which lies before the world, and insists that new institutions will have to be created, world-wide and regional, to perform the services which can no longer be left to each state acting separately. The institutions which are deemed essential include an international court of much wider judicial authority than the present one, and international legislative bodies, the functions of which are not very clearly outlined in the report. The part which regionalism is to play is indicated. While some rules of law may apply to all nations alike, variations will apply to different regions. Thus continental Europe, the British Commonwealth, the Western Hemisphere, the Soviet Union, the Far East and the Near East all constitute regions with certain distinctive characteristics which must be taken into account. This is quite consistent with emphasis upon the principle that a threat to peace anywhere, creates a danger to the entire international community. The Covenant of the League of Nations pronounced the principle, but failed to enforce it. The indifference of the League to what was happening in parts of Asia and Africa is

being held responsible by many qualified writers for that which is now happening. As M. Briand once said, "There is not one peace for America, one peace for Europe and another for Asia, but one peace for the entire world."

What is perhaps the keystone of the entire structure envisaged by the report is the requirement of "adequate police forces, world-wide or regional, and world-wide economic sanctions, to prevent aggression and support international covenants." While one is inclined at the present moment to be reminded, by such a proposal, of Aesop's fable of belling the cat, one should not be too cynical. The triumph of reason over force will yet be accomplished, even though, as the venerable M. Lyon-Caen expressed it at Paris in 1934, presiding at a meeting of the Institute of International Law, "Progress in international law as in many other fields proceeds not in a straight line but along a course of many zigzags and with many retrogrades."¹

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SECRETARY HULL ON THE KELLOGG-BRIAND PACT

On August 27, 1940, just twelve years after the signing of the Kellogg-Briand Pact, Secretary Hull commented on the arrangement. His statement deserves attention.² After adverting to the provisions of Article 1 expressive of agreement to renounce war as an instrument of national policy, and of Article 2 to the effect that the settlement or solution of all disputes or conflicts of whatever kind or origin that might arise among the contracting parties, should never be sought, except by pacific means, the Secretary called attention to a significant fact. He said, "in exchange of views preceding and accompanying the ratification of that treaty, it was accepted as a part of the general understanding that the right of self-defense is implicit in sovereignty and remains with each and all of the signatory and adhering states." Notwithstanding this fact, the Secretary declared that in recent years both articles had been violated by some of the signatories.³ This necessarily implied that in his judgment those signatories, to which he had reference and whose conduct was seemingly at variance with Articles 1 and 2, could not properly invoke the right of self-defense by way of excuse for their action, because it could not reasonably be attributable to such a claim. He went on to say:

Several nations have sent their armed forces into and against other countries. In consequence, destruction of life and of property, of material values and of spiritual values—destruction on a vast scale—not alone in the countries invaded but also in the countries whose armies are the invaders, is going on in various parts of the world.

Some of the invaded nations have been destroyed, some are fighting desperately in self-defense, and every other country, perceiving the

¹ 38 *Annuaire de l'Institut de Droit International*, 1934, pp. 530–531.

² Department of State Bulletin, Aug. 31, 1940, Vol. III, No. 62, p. 175.

³ He stated, moreover, that the treaty was one "to which this country and sixty other countries gave their unqualified adherence."