

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

ARTHUR K. KUHN

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."

manner in which activities of conquest spread and become enlarged as operations of conquest proceed, finds itself forced to arm as speedily as possible and to the utmost of its capacity in preparation for self-defense—toward preserving its own security by preventing war from reaching and crossing its boundaries.

Today no country and no individual is secure against the destructive effects of the existing armed conflicts. No human being anywhere can be sure that he or she will be allowed for long to live in peace. Only by vigorous and adequate preparation for self-defense can any country, including our own, hope to remain at peace.

These vigorous words show plainly enough that in the Secretary's mind the shoe was on the other foot, and that the countries entitled to invoke the doctrine of self-defense as excuses for their conduct were not the invaders, and were in some cases countries that had not in fact become belligerents until their own territories had been made the object of attack, and that the countries so privileged embraced also those which were still at peace.

All of this points to the large inquiry as to the extent to which the doctrine of self-defense may properly be invoked in support of the conduct of a State, which is not at war and which finds in the attainment of known objectives by a particular belligerent a real menace to itself. Instances of the application of the Monroe Doctrine offer food for thought. It is here sought merely to point to the inquiry, rather than to explore the question, which it involves. At the moment that question is of far-reaching importance to the United States. The solution of it demands the careful thinking of those who profess an interest in international law, as well as of those who hold the reins of government. The consequences of penetrating thought need not be feared or dreaded. They may in fact produce the cheering conviction that without violating any legal duty to any belligerent, our own country enjoys great latitude in pursuing a course which the requirements of its own defense may be fairly deemed to demand.

Secretary Hull in his anniversary statement declared that the soundness of the principles underlying the Kellogg-Briand Pact has in no way been impaired by what has taken place since its conclusion. "Sooner or later," he said, "they must prevail as an unshakeable foundation of international relations unless war with its horrors and ravages is to become the normal state of the world and mankind is to relapse into the chaos of barbarism; and I am certain that there are in the human race resources of mind and of spirit sufficient to insure that these sane bases of civilized existence will become firmly established." These are heartening words.

CHARLES CHENEY HYDE

INTERNATIONAL CRIMINAL JUSTICE

War, though hideous, hateful, and unendurable, must be regarded as a temporary and abnormal state of affairs. The normal state of affairs has to do with the problems of human relationships. These relationships never