

# AMERICANIZING THE LEAGUE OF NATIONS

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CANADIANS and Americans have much in common. Living side by side, they are bound together by the closest ties that can unite two separate peoples,—race, language, and the heritage of common memories of glory and sacrifice. The future holds the same promise for each. It might be supposed that the causes which have made these two peoples such good neighbours for more than a century past would make them good comrades in the career upon which both are now launched as world-powers. Such indeed is, without doubt, the wish and expectation of both peoples. Yet at the very outset of the new career the two countries appear to be divided with respect to the policy that should be pursued. Canada has joined the League of Nations; the United States has declined to join. What has brought about this divergence of policy? That is not hard to explain. What will bring the foreign policies of the two countries together again? The answer to this question is not so clear.

“In the existing League of Nations, world-governing with its super-powers,” declared President Harding in his first address to the Congress of the United States last April, “this Republic will have no part. There can be no misinterpretation, and there will be no betrayal, of the deliberate expression of the American people in the recent election . . . The League Covenant can have no sanction by us.” In thus informing the world that the “super-governing” League had been definitely rejected the President opened up two interesting topics for speculation, first, what will happen to the existing League, deprived of the support of the Power to which it largely owed its life? and secondly, if the existing League shall cease to exist, what then? Must the American aspiration, indeed—as President Harding truly said—the *world* aspiration—for an “association of nations, based upon the application of justice and right,” remain unfulfilled, a sombre warning of the futility of modern statesmanship? Or can we yet hope for an international association to promote peace, capable of pre-

venting war and pointing the way to a higher civilization founded on the fraternity of peoples?

The world has noted President Harding's answer to these questions. Speaking, presumably, for the administration of which he is the responsible head, he said: "We pledged our efforts toward such an association, and the pledge will be faithfully kept." The world is to have, so far as it lies in the power of the present government of the United States to give, a new association of nations, dedicated like the existing League to peace, but not involving its members in the surrender of any part of their national sovereignty. How will such an association differ from the existing League? To what extent will it be shorn of the powers conferred by the Covenant of Versailles? What powers, if any, will it have which the existing League has not? How far may we hope for the results which were anticipated when the Covenant was framed? Will the world voluntarily accept such an association in lieu of the League which now exists? If not, can the Harding administration destroy the existing League in order to make room for its own? Perhaps these questions should be considered before proceeding to the further query, What then?

How will the new association differ from the existing League? Much light is thrown upon this enquiry by the objections made in the United States Senate when the Treaty of Versailles was under consideration. The principal objections crystallized in the form of fifteen reservations which the Senate attached to its resolution of ratification. Subject to those reservations a clear majority of the whole Senate, though seven fewer than the necessary two-thirds of those present and voting, voted for the ratification of the Treaty. That majority included more than two-thirds of the Republican senators. Most of the dissentient minority were Democrats who preferred the Covenant in its original form and opposed ratification with reservations on that ground alone. Only a small party, the so-called "Bitter-Enders",—not more than one-sixth of the total Senate,—opposed the Covenant with or without reservations. What then were these reservations which were once thought sufficient by most American critics of the existing League to preserve the supremacy of the Federal Constitution and thus, without impairing the national sovereignty, enable the United States safely to bind itself to conference and co-operation with the other nations for the prevention of war?

Of the fifteen reservations four related to portions of the Treaty other than the Covenant of the League of Nations. Of these only one had any political importance. It reserved to Congress

the right to decide whether or not the United States would participate in the International Labor Bureau, organized under the provisions of Part XIII of the Treaty. Another reservation was not directly connected with any part of the Treaty, though it was not without some significance as indicating the Senate's opinion of the worth and dignity of membership in the League. It declared the adherence of the United States to the principle of self-determination, and expressed sympathy with the aspirations of the Irish people for a government of their own choice, concluding that, when such a government is attained, Ireland should be promptly admitted to membership in the League. Ten of the reservations related directly to the Covenant of the League.

Of these ten five were directed, wholly or in part, not at the League but at the President of the United States. One provided that no mandate, which might be offered to the United States by the Council of the League, should be accepted except by action of Congress. This was intended to prevent the President from committing the United States to a mandate in Armenia or elsewhere without Congressional approval. Another of these reservations provided that no person should be authorized to represent the United States in the Council or Assembly of the League, or in any body acting under its supervision, except in pursuance of an act of Congress providing for his appointment and defining his duties and powers. This was to prevent the President from controlling the American members of the League Council and Assembly regardless of the wishes of Congress. A third provided that the United States should not be bound to contribute to any expenses of the League, except its proportionate share of the office-expenses and salary of the Secretary-General, without a specific appropriation for such purpose by act of Congress. This was to prevent the President from using the public money to help in executing League decisions without the knowledge or consent of Congress. The fourth of these reservations provided that no plan for the limitation of armaments, proposed by the Council of the League, should be binding upon the United States until accepted by Congress. This was to prevent the President from putting Congress under a moral obligation to accept such a plan against its wishes. Finally, there was a reservation which provided that notice of withdrawal from the League might be given by Congress in accordance with the procedure set forth in the Covenant itself, and that Congress alone should decide whether or not the United States had fully performed its obligations under the Covenant—an indispensable condition of withdrawal. This was to reserve to Congress the

exclusive power to determine if and when the United States should withdraw from the League, and to prevent the President from interposing in such an event with his veto.

The people of countries possessing the parliamentary form of government may not readily understand the necessity and propriety of such reservations. In a country like Canada, for instance, such reservations would be superfluous. No Ministry would there set its will against that of Parliament in any of the matters which they were designed to cover. Either the Ministry would ascertain the wishes of a majority of Parliament, in order to give effect to them, or, if not ready to appeal to the country, it would resign, and make way for a Ministry which would give effect to the Parliament's wishes. But there is no equivalent procedure for maintaining harmony between the Executive and the Legislature in the United States. The President and Congress are in office for fixed terms. Executive action in defiance of the opinion of the people's representatives in Congress can be prevented, if a difference of opinion arises, only by insistence upon the constitutional guarantees of due process of law. In Canada the appointment and removal of delegates to the Assembly of the League can be safely left to the Executive, since Parliament can at any time use its power to enforce compliance by those delegates with the parliamentary will. But the Congress of the United States could not retain a similar control over the conduct of American representatives in the League Council and Assembly, except by inserting the proper provisions in a special act regulating their appointment and removal. The modern demand for open diplomacy and popular control of diplomatic activities can be satisfied in a parliamentary country by the normal processes of ministerial responsibility. In the United States the best security for a democratic foreign policy lies in imposing upon the Executive those restraints in procedure which were the object of these five reservations.

Three of the remaining reservations were designed to clear up certain ambiguities in the phraseology of the Covenant, but not to limit in any way the proper authority of the League. One of these provided that Congress might authorize increases in the American military and naval forces when threatened with invasion or engaged in war, despite the previous acceptance of any plan for the limitation of armaments. Another provided in terms more explicit than those used in the Covenant that the long established policy of the United States, commonly known as the Monroe Doctrine, should not be submitted to arbitration or enquiry by the League. The third provided that the United States

should assume no obligation to preserve the territorial integrity or political independence of any other country by the use of force or economic discrimination, or to interfere in any way in controversies between nations, or to employ its military or naval forces under any Article of the Treaty for any purpose unless in any particular case Congress should expressly authorize such action. The first two of these reservations caused little controversy. The third is that which, according to certain friends of the League, threatened to cut out the heart of the Covenant.

There had been some confusion over the nature of the obligation imposed upon members of the League by the Article to which this reservation was to apply, the celebrated Article X. President Wilson correctly interpreted its nature when he informed a committee of [senators that the obligation was moral, not legal. It is the same kind of obligation as that, for example, imposed by the constitution of the United States upon the individual states to return fugitives from justice upon demand by one state of another. The obligation is not enforced by the supreme authority of the Union, but depends for its efficacy upon the good faith of the several states. Consistently with this interpretation of the Covenant it is explicitly provided that the action of the League Council, when the use of force by members of the League against contumacious states becomes in its judgment necessary, shall take the form of a mere recommendation. The point which requires to be clarified therefore is this: what authority shall act upon such a recommendation on behalf of the United States? The purpose of the reservation to Article X was to prevent the President from acting upon such a recommendation without the knowledge and consent of Congress. This point, as has been already indicated, is without significance in a country with responsible ministerial government. But in the United States it is of great practical concern, because the power to act upon the recommendations of the Council is the most important of all the powers reserved to the members of the League, and it must be exercised by due process of law if democratic methods are to prevail in the conduct of international affairs.

The remaining reservations, or parts of reservations, would have restricted to some extent the authority of the League. One of them related to the process of withdrawal from the League, and was intended to make secure the right of withdrawal upon the required notice. Another reserved the right to decide what questions are domestic in character and therefore excluded from the jurisdiction of the League. A third reserved the right to exempt



from the operation of an economic boycott the nationals of a Covenant-breaking state residing within the United States or elsewhere outside the state concerned. Finally, there was a reservation providing that the United States should not be bound by any action of the League in certain cases, if the British Empire cast more than one vote in the Assembly, unless the Covenant were so amended as to give the United States an equal number of votes. This reservation was adopted despite the known probability that in most cases of international importance some at least of the additional votes assigned to the British Empire would be cast in the same manner as that of the United States. Americans are not blind to the fact that nowhere else are their national aims so well understood as in the British Dominions. Canada especially has shown a sympathetic appreciation of America's purposes and problems unmatched in the history of nations. The debate on this reservation in the Senate showed that its adoption was prompted partly by domestic political considerations, and little, if at all, by failure to recognize the full dignity of the position of the British Dominions in the family of nations. The most serious limitation to the authority of the League was that which would have resulted from adopting the reservation relative to the exclusion of domestic questions from its jurisdiction.

Many American political leaders, regardless of party,—including prominent Republicans like former President, now Chief Justice, Taft—believed that these reservations were unnecessary. They were confident that the United States could protect its interests within the League of Nations, so long as its purposes were just, without the aid of special safeguards. They advocated adherence to the Covenant on the same terms as those accepted by the other members of the League. But they did not believe that the proposed reservations would cripple the League, or even seriously impair its usefulness. The reservations intended to define the relations under the Covenant between the executive and legislative branches of the American government were indeed generally considered necessary, though they should more properly have been the subject of separate legislation rather than a part of the ratifying act. In common with many other supporters of the Covenant in its original form, therefore, the present writer was deeply disappointed when President Wilson advised his followers in the Senate to vote against ratification with the proposed reservations. Probably a majority of the American people shared this disappointment. At least five-sixths of the Senators must have been of the opinion at that time that no unacceptable "super-

government" would have been established by submission to the authority of the League. If not, their action in the Senate can be vindicated only at the cost of their reputation for honesty and intelligence.

The "Bitter-Enders" opposed the Covenant for various reasons. Some of them doubtless were opposed to any international arrangements which would have hampered the United States in her dealings with Mexico and the Central American and Caribbean states. Others believed that the United States should keep herself absolutely free to play a lone hand in international affairs. Some denounced the League as a mere alliance of governments, not a true association of peoples, and fought the Covenant in the supposed interest of democracy. A few Democratic Senators acted consistently with an established habit of opposing all measures emanating from the Wilson administration. But public opinion, if correctly interpreted by the majority of the Senate, would certainly have judged the United States to be safe in such an association as would have resulted from adherence to the League subject to the proposed reservations. The chief concern of the Senate in 1920 was to preserve the constitutional authority of Congress against executive encroachments in the exercise of the powers necessary for the performance of the duties of a member of the League. In other words, the controversy between the President and the Republican leaders turned upon a local issue. The League was rejected at that time on account of a lack of confidence in the American Executive rather than in the League itself. The controversy became personal because of the nature of the leading personalities on each side, but there would have been a demand for some action to protect the constitutional authority of Congress, no matter who had been President and who had been leader of the Senate. The controversy cannot be dismissed as the result of excessive partisanship alone. Some friction was inevitable in consequence of the nature of the American constitutional system.

Now more than two years have elapsed since the Treaty was first laid before the Senate. The state of war with Germany has at last been terminated, but no formal peace has yet been established and no new association of nations has been substituted for the League. If the Assembly of the League at its current session should amend the Covenant in accordance with the spirit of the Senatorial reservations of 1920, would such action make the present League an association which the present administration at Washington could accept? In view of the events of the last year the answer to this question must be negative.

In the first place, it is now apparent that the general results of the Treaty of Versailles have not proved satisfactory to the American people. Some politicians, like the present American ambassador at the Court of St. James's, have assumed from the Republican victory at the last election that this discontent was caused mainly by the Covenant of the League of Nations. This assumption however has only a limited and conditional validity. The real difficulty is with other parts of the Treaty. The American people have been disappointed both with some of the settlements made at Versailles and, if one may be pardoned a Hibernianism, with some of those which were not made. A few illustrations will suffice. The basis of the territorial adjustments was supposed by the people of the United States to be the principle of nationality. The wisdom of that principle as an exclusive basis of settlement may be questioned, but there is no disposition in the United States to challenge the justice of President Wilson's proposition that peoples should not be shifted about from one sovereignty to another against their wishes and in the interest of foreign powers. Yet the Germans in what is left of Austria are forbidden to join their fellow-Germans in the German Commonwealth, though this is the clearly indicated desire both of themselves and of their fellow-Germans. On the contrary, they are constrained to maintain an unsought and precarious independence outside the German national state. If the United States were a member of the League, it might conceivably find itself under a moral obligation to fight against the Austrians in order to protect the territorial integrity and independence of a sovereign Austrian state which its own people refused longer to support. Or again, if China were to attack Japan in order to regain her full sovereign powers in Shantung, the United States might conceivably find herself under a moral obligation to help Japan to restore the peace by force of arms. These contingencies are doubtless very unlikely, but even the possibility of them is objectionable, because the settlements out of which they might arise are deemed unjust.

Consider another possible, though doubtless improbable, situation. Suppose that the British government were to recognize the separate independence of both parts of Ireland, and that the two parts fell to fighting each other. If the people of Ulster happened to be technically guilty of striking the first blow, the United States, if a member of the League, might find herself under a moral obligation to help the Sinn Fein Republic to overpower the Ulstermen. But if, on the other hand, the case were reversed, and the Sinn Feiners were adjudged to have struck the first blow,



then the United States might find herself under a moral obligation to fight on the other side. Improbable as these contingencies may seem, the American people know that grave discontent exists with several of the territorial settlements which the existing League is designed to maintain against attack by force and violence, and that in two instances at least this discontent has already led to serious warfare. The United States would have been extremely reluctant to interfere either in the Polish-Russian war or in the war between Greece and Turkey. It may be said that if the United States had a representative on the Council of the League no unwelcome recommendations could issue from the Council, since unanimous consent is necessary for such action. But that is merely saying that the United States by its instructions to its representatives would evade its moral obligation and defeat the purpose of the League. It is evident that American dissatisfaction with the Treaty springs from the terms of the settlement itself. It extends to the Covenant because the League is the instrument for the enforcement of the Treaty. President Harding had this sentiment in mind when he said to Congress last April: "The highest purpose of the League of Nations was defeated in linking it with the Treaty of Peace, and making it the enforcing agency of the victors in the war." There could have been no objection to that policy if the settlement had been indubitably just, but under the present conditions the American people believe that by joining the existing League they may become morally bound to enforce treaty commitments which, as President Harding said, "do not concern us and in which we will have no part." American participation in local European disputes, it is feared, will be more likely to create dissensions among our own people, extracted as they have been from all the countries of Europe, than to heal those among the Europeans.

Such reflections as these, rather than opposition to the League itself, explain in part the defeat of the candidates pledged to the Treaty at the presidential election of 1920. To a greater extent this defeat was brought about by various groups of voters who, influenced by their respective nationalistic sympathies, voted against the party of the Treaty in order to show their dissatisfaction with the treatment of sundry nationalistic aspirations at Versailles. Americans of Irish, German, Italian, and Slavic extraction, to mention a few such groups, all had their several reasons for condemning the Treaty, whatever they might think of the League. Hence it is not to be expected that the United States will join the League now on the terms that would have been satisfactory a

year and a half ago, unless certain territorial adjustments which the League has guaranteed are made less objectionable.

But no explanation can be complete which ignores the nature of the League itself. It is based upon the juristic principle of the equality of sovereign states. Liberia with a total population of only a million or two, most of whom take no part in the government of the state, has the same voice in the Assembly of the League as the United States would have. Several of the Central American and Caribbean republics exhibit a similar disparity between their actual condition and their juristic position in the family of nations. The principle of the equality of sovereign states was properly disregarded when six votes were assigned to the British Empire, which in the eyes of the law of nations constitutes one sovereign state. Canada is a more populous country than Belgium, the Netherlands, or any of the Scandinavian states, to say nothing of Portugal, Greece, and most of the Central and South American Republics. Its recognition as one of the family of nations, despite its lack of technical sovereign power, is no more than its due. But though New York State, Pennsylvania, Ohio, Illinois, and other members of the American Union are also more populous than many of the members of the League, the United States has but a single vote. It may be suggested that the United States can control the votes of several of the smaller states falling within her sphere of influence. Indeed it is well known that the expenses of the Liberian delegation at the Peace Conference were paid by the United States. But when during the campaign of 1920 the Democratic candidate for the vice-presidency openly boasted of such compensating control, the impropriety of a practice so markedly at variance with the theory upon which the League is founded was immediately recognized by the American people. The distribution of power in a League which has substantial authority should correspond with the importance of the interests which the several members of the League have at stake.

The only acceptable kind of League, if all the members are to have an equal voice in its proceedings, is an association without any portion of sovereign power. Such an association would facilitate the mobilization of the moral forces of the world. In default of a League armed with military and naval forces of its own, and guided by a government in which the interests of the members are protected by corresponding shares of power, the moral force of the organized opinion of mankind is the best guarantee of peace. It can be effectively exercised by a much more informal association of states than that contemplated by the Covenant of the

League of Nations. The choice of the world lies today between such an association and a "super-government" organized on sound principles.

The members of the existing League, at least its weaker members, may be expected to relinquish only with the greatest reluctance their rights under the Covenant. It affords them in its present form guarantees of a very substantial character. It assures them against deprivation of liberty, territory, or any valuable possession without due process of law, as determined by the provisions of the Covenant relating to the adjustment of international disputes. It furnishes them an open forum into which they can carry their disputes with the stronger members of the League and have them threshed out under the fierce light that beats upon the congress of nations. It promises them an opportunity for the reconsideration of treaties to which they may be parties and which operate to their disadvantage. It imposes limitations upon the power of a few favoured nations to exploit the backward regions of the world, and opens the door to the commerce of all upon equal terms. It confers upon the weaker states the dignity of membership in the concert of Powers, thus gratifying their pride as well as increasing their sense of security. Belgium and Switzerland, whose special privileges as neutralized states are at stake, Holland and Portugal with their valuable overseas dependencies, China with her treaty-problems, Argentina and Brazil and Chile and the other Latin-American states—these will not willingly release the great Powers, Britain, France, Italy, Japan, from the pledges they have given by signing the Covenant. How much these pledges may be worth, time alone can tell. But they can not be treated as scraps of paper.

The United States then can not easily destroy the existing League. She can not destroy it at all within the next two years without the consent of the lesser powers. Her government will have to come to terms with it, or abandon for the present the policy to which she is pledged of creating an association of states to keep the peace. Meanwhile European problems are settling themselves. The League is improving its constitution and enlarging its membership. The American objections to participation in its affairs are in process of at least partial removal. It should not be difficult for the lesser Powers to make such formal concessions to the United States for the sake of preserving the substance of their very real gains under the Covenant as will in effect transform the League into an association acceptable to the American people. Such an association should have no less moral authority than the existing League. It should serve equally well as a forum for international

conference and the promotion of international co-operation. Such an association would not provide the essential means of keeping the peace among the states of the world, namely an international police force under international control stronger than any combination of state forces that could be brought against it, but neither is anything of this sort provided for in the Covenant of the existing League.

Before any association of states can be formed, however, which will effectively mobilize the organized opinion of mankind for the enforcement of peace, there must be general acquiescence in a just settlement of existing disputes. The United States, in calling a conference for the consideration of disarmament and the problems of the Pacific, has taken the appropriate next step. By the time that conference has worked out a settlement of the principal outstanding disputes, perhaps the various local disputes in Europe will also have been settled by the parties immediately concerned. Then the way will be opened for an association of states to keep the peace thus established. But the American people will seek justice first. They know now, what was not so well understood a few years ago, when the peace-ship *Oscar II* set out so naively upon its fruitless voyage, that it is useless to cry, Peace, Peace, when there is no peace.