

agreements, and have further indicated that this sanction is not to be found in mere words. This has in a realistic way been demonstrated by Switzerland, which, in its own official statement is "situated on an island amidst the seething waves of the terrible world war," and is compelled "to maintain and defend, by all the means at its disposal its neutrality and the inviolability of its territory as recognized by the Treaties of 1815." If a treaty between two states is only as strong as the forces of the states, the value of the treaty in an extreme trial is questionable. It now seems to be the time, according to the pronouncements of both belligerent parties, to devise sanctions of whatever kind they may be, which shall be neither illusory nor impracticable.

GEORGE G. WILSON.

PROJECTS SUBMITTED TO THE AMERICAN INSTITUTE OF
INTERNATIONAL LAW

Of special interest to the readers of the JOURNAL is the *Rapport Questionnaire et Projets* which has been prepared for the American Institute of International Law by the distinguished Secretary-General of the Institute, Alejandro Alvarez. The *Report* is the result of five years of study and the synthesis of several prior publications, viz., *The Codification of International Law*, Paris, 1912; *The Great European War and the Neutrality of Chile*, Paris, 1915; and *The Future of International Law*, Washington, 1916.

The central task which the Institute has set for itself is the noble and all-important one of assisting in the creation of an organization which shall assure for the society of states a permanent peace. This work was inaugurated in December, 1915, when the Institute, upon the motion of its President, Hon. James Brown Scott, adopted a "Declaration of the Rights and Duties of Nations" intended to serve as a basis for the reconstitution of international law. There are those who contend that such a "Declaration" is mere verbiage or abstraction. This criticism might be justified if the Declaration were regarded as consisting of absolute, inherent, eternal, primordial Laws of Nature; but we can hardly conceive of any rational objection to a statement of fundamental principles which may serve as a basis or guide for structural organization and international regulation.

The coming session of the Institute will apparently be devoted to a study and discussion of the various plans which have been submitted

by the various American societies of international law, for the future organization of the world on a pacific basis, "in such wise, that when the Great War shall have ended, the different governments will have at their disposition a work as complete as a possible, which will clearly express the wishes of all America in respect to the future international organization" (p. 3 of the *Report*).¹

Admitting the complexity of the problem, Señor Alvarez finds that the main obstacle to a durable peace is a nationalism which is too narrow and exclusive. Consequently, in the international organization of the future, it will be necessary:

(1) To extirpate this narrow and exclusive patriotism, or at least to attenuate or complete it by encouraging a sentiment more in harmony with the interdependence of states;

(2) To eliminate, or at least to reduce, the causes of rivalry between states;

(3) To subordinate all relations between states to juridical rules in such a manner as to exclude "policy" as much as possible;

(4) and (5) To provide bases upon which must rest the international law of the future and international law upon the American continent.

As means of modifying chauvanism or excess of national sentiment, Señor Alvarez suggests education, limitation of armaments, the establishment of national institutions, better international organization, etc.

The causes of rivalry between states may be divided into two great categories — moral or psychological and economic. Among the former may be mentioned the primordial factor of a too narrow nationalism, race hatred, desire for revenge, the longing for liberty or independence, etc. "The causes of rivalries of an economic order are derived from an increase of population, the development of commerce and industry, leading to imperialistic policies characterized by a desire to acquire colonies, to extend trade to certain zones or to dominate there (rivalries for markets), the wish to have an easy access to certain regions, etc." (p. 12).

As solutions for these problems are suggested:

(a) Centralization and development of international administrative services or unions into one Administrative Union.

¹ The report was submitted to the meeting of the Institute held in Havana in January last. The Institute expressed neither approval nor disapproval of the project, but referred it for an expression of opinion to the national societies of international law for examination and report. The Institute decided that the project would not be considered until after the war. — J. B. S.

(b) The formation of an Economic and Commercial Union.

(c) The creation of an international legislative organ or Legislative Union which shall organize and centralize the various international conferences which meet constantly. For example, a permanent committee to prepare programs, secure ratifications, etc., might be instituted.

(d) The creation of an international judicial organ or Permanent Court of International Justice to apply the law to particular cases as also to interpret and develop the rules of international law if these are obscure or incomplete.

(e) If possible, the creation of an executive organ, whether in the form of an Executive Council or Committee of International Conciliation. This Council or Committee should attempt to insure international order without having recourse to arms, force being used, if at all, only in case of extreme necessity. For the sanction of the new world order the principal reliance is placed upon moral suasion or a public opinion which should be the main guarantee of international order. It seems that the American Institute of International Law is opposed to the League to Enforce Peace idea as championed by Ex-President Taft and many other eminent Americans.

It appears that the American Institute is looking forward to a new conception of international law which shall bear the following characteristics:

(a) The law of warfare which will consist mainly of the rights and obligations of neutrality, should be relegated to a secondary role. In any case, the rights of neutrals must no longer be subordinated to those of belligerents.

(b) The new international law must emphasize the conceptions of duty, solidarity, and the general interest.

(c) International law must rest upon the fundamental rights of states.

(d) Not all international regulations are of universal application. There are rules which are only applicable to particular nations, or to a particular region or Continent.

(e) The domain of international law should be extended not merely to the relations of states between themselves, but to such international entities as international associations, as also to other matters of an international character, such as the rights of individuals.

(f) International law should constitute a part of the legislation of each state in the sense that it shall be respected by the legislative power and applied by the national tribunals. Consequently, a state

should be responsible in damages for violations of international law, whether resulting from national laws or judicial decision.

Attached to the *Report* are the following schemes which seem to form sections of a projected code of international law: on "The Fundamental Basis of the International Law of the Future," on "The Fundamental Rights of the American Continent," and on "Maritime Neutrality."

Time and space forbid an adequate or detailed criticism of the suggestions contained in the *Report* to the American Institute submitted by Señor Alvarez. We have therefore confined ourselves mainly to the pleasanter task of exposition. However, it may not be out of place to offer a few words of adverse criticism. Some of the ideas we consider extremely suggestive and even fruitful; others seem to be of doubtful value; while a few appear to be either impracticable or undesirable.

Señor Alvarez is probably correct in holding that a too narrow and exclusive nationalism or patriotism is the main cause of modern war. Nationality seems to be the modern religion — the source of so much that is both good and evil. But in attempting to extirpate or attenuate this primordial factor, great care should be taken not to uproot or to injure the good along with the evil.

The causes of war are much deeper and more varied and complex than the author of this *Report* seems to realize. How can we hope to eradicate this gigantic evil by any system of international law or of mere international regulation? How, for example, can we hope ever to extend the domain of law so as to include all matters of public policy; or how can we reasonably expect to provide a system of law which shall control or regulate all matters of international trade or effectively prevent the exploitation of weaker or backward peoples, thus eliminating national commercial rivalries — the prolific cause of so many modern wars? How solve the various Balkan riddles, the Mexican question, the American-Japanese problem; or secure American interests in the Caribbean by any of the formulas contained in this *Report*? It might be well to create an International Administrative Union, an Economic and Commercial Union, a Legislative Union, etc., but how far would they go toward the solution of these and other vital questions of national or international policy?

We might inquire how much attention Powers like Germany, Russia, or even the British Empire and the United States would be likely to pay to a Committee of International Conciliation which relied upon moral suasion or an international public opinion (which does not as yet

exist) to execute its decrees unless these orders were believed to be in harmony with the vital national interests of these great empires.

The elaboration of a particular American International Law we believe to be both Utopian and undesirable. The spiritual and material interests of North America are much more closely bound up with Europe than with South America, and this is likely to be even more the case in the future than in the past. The dream of an even partially isolated America is forever gone, and even if the Monroe Doctrine be extended (which will almost certainly be the case), this need not prevent a much closer interrelation between Europe and America than has hitherto existed.

In unduly emphasizing the rights and obligations of neutrality, we are convinced that Señor Alvarez and his associates are looking backward rather than forward. In a world of ever increasing international solidarity and interdependence, the obligations of non-intervention and neutrality must tend more and more to disappear. In a future world war the role of the neutral must needs be mainly confined to the weaker and smaller states who, by reason of their weakness or lack of vital interest in the conflict, may prefer to hold themselves aloof from the struggle as far as possible. As our former great champion of neutrality, President Wilson, remarked in an address at Cincinnati on October 26, 1916:

This is the last war of the kind or of any kind that involves the world that the United States can keep out of. I say this because I believe the business of neutrality is over; not because I want it to be over, but I mean this, that war now has such a scale that the position of neutrals sooner or later becomes intolerable.

AMOS S. HERSHEY.

THE ARMED OCCUPATION OF SANTO DOMINGO

The Dominican Republic has been "in a state of military occupation" by the armed forces of the United States since the twenty-ninth of November, 1916. The purpose of this military occupation was stated by Captain Knapp, of the U.S.S. *Olympia*, in his proclamation¹ of that date, as follows:

This military occupation is undertaken with no immediate or ulterior object of destroying the sovereignty of the Republic of Santo Domingo, but, on the contrary, is designed to give aid to that country in returning to a condition of internal order

¹ Printed in the Supplement to this JOURNAL, p. 94.