

EDITORIAL COMMENT

THE ELECTION OF MR. HUGHES TO THE WORLD COURT

The Honorable Charles Evans Hughes has been requisitioned to serve as a judge of the Permanent Court of International Justice at The Hague, to fill the vacancy occasioned by the resignation of Judge John Bassett Moore. Mr. Hughes has made known his acceptance of an election which recorded the unanimous choice of the Council and more than five-sixths of the votes cast by the Assembly of the League of Nations.

It will be recalled that in the course of his address before the American Society of International Law at its Seventeenth Annual Meeting, in April, 1923, Mr. Hughes declared that it was as certain as anything human could be, that the concurrent action of the Council and Assembly of the League would result in the election of impartial judges. The recent action of those bodies as the electors of a new judge under the provisions of the Statute of the Court has borne testimony to the accuracy of that statement. They have elected as a judge one whose impartiality has been tested by long and varied experiences, executive, judicial, and administrative. Nearly six years of service on the Supreme Court of the United States, together with four years at the Department of State, served to stimulate in the man a passion for justice which distinguishes Mr. Hughes among his countrymen. That quality dominated his thoughts and controlled his action as Secretary of State. It made him respectful of legal rights by whomsoever asserted. If he stoutly defended those of his own country when they were defied, as was oftentimes the case, he paid equal deference to those invoked by foreign states. He was invariably intolerant of arbitrary action in any form; and when it assumed the guise of an alleged rule subversive of principle, he became vehement in opposition.

Mr. Hughes has made a close study of international law, of which the duties of his office as Secretary of State caused him to be a practitioner. In the course of that experience he became the expounder of principles, and of the application of them to new situations. He thus had occasion to make careful appraisal of the discretion yielded by the law of nations, as reflected by general acquiescence, to the individual state. It fell to his lot to enunciate the extent of that discretion with respect to certain matters, and at times to oppose efforts to thwart it. Secretary Hughes was not prone to regard the existing law as unchangeable, or as fully responsive to demands of international justice. The writer recalls how on occasion he would enunciate what he hoped might be the law, and would institute search in order to ascertain whether there was evidence that his hopes had been realized. His eminently judicial spirit always safeguarded him. He never failed to distinguish

between what the several members of the family of nations were, in his judgment, to be deemed to have accepted or acquiesced in as the law governing their mutual relations, and what did not appear in fact at the time to enjoy such approval. Nevertheless, his interest in the progress of the law of nations was profound. His participation in the work of the Advisory Committee of the Research in International Law of the Harvard Law School indicates that that interest remains unflagging.

The happy exercise of the judicial function upon a bench comprising numerous members depends in large degree upon the temperament and experience of the individual judge in dealing with men. In a tribunal such as the Permanent Court of International Justice, whose members, representing a variety of nationalities, have been trained in differing schools of thought and bred on conflicting traditions, oneness of mind and harmony of opinion are difficult of attainment. Oftentimes the vigorous exercise of the most excellent qualities possessed by the individual judges breeds conflict. Doubtless diversity of opinion in so far as it reflects the best contributions of a world-wide civilization, is a safeguard against error and a deterrent of prejudice. Nevertheless, it enhances the difficulty of agreement. Examination of the judgments and opinions thus far rendered by the Permanent Court of International Justice will reveal the seriousness of that difficulty. What the tribunal needs at the present hour is the cultivation of the art of welding together the precious and yet diverse and perhaps elusive offerings that it would and can make to the cause of international justice.

Mr. Hughes must, of course, be aware of that need; and he knows from personal experience how it should be met. To conciliate, as well as to convince and to persuade, constitute a task which he has oftentimes genially accepted, and of which he has long been a master. He brings, therefore, to the court to which he has been elected an understanding as well as an endowment which may prove to be a distinctive contribution to the usefulness of the tribunal.

The effect of the presence of Mr. Hughes on the Permanent Court of International Justice upon the minds of his countrymen is likely to be inestimable. That it will hasten the day when the United States becomes an adherent to the protocol accepting the Statute of the Court, is not to be doubted.

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THE MULTILATERAL TREATY FOR THE RENUNCIATION OF WAR

From the draft of a bilateral treaty of perpetual friendship between France and the United States presented by the Minister of Foreign Affairs of France under date of June 20, 1927, has been developed a multilateral treaty, signed at Paris on August 27 by fifteen governments, including five great military Powers, to which a great number of others have since expressed