HELPS FOR STUDENTS OF HISTORY. No. 12.

EDITED BY C. JOHNSON, M.A., AND J. P. WHITNEY, B.D., D.C.L.

SECURITIES OF PEACE

A RETROSPECT

(1848–1914)

BY

SIR A. W. WARD, LITT.D., F.B.A.

MASTER OF PETERHOUSE, CAMBRIDGE

LONDON:
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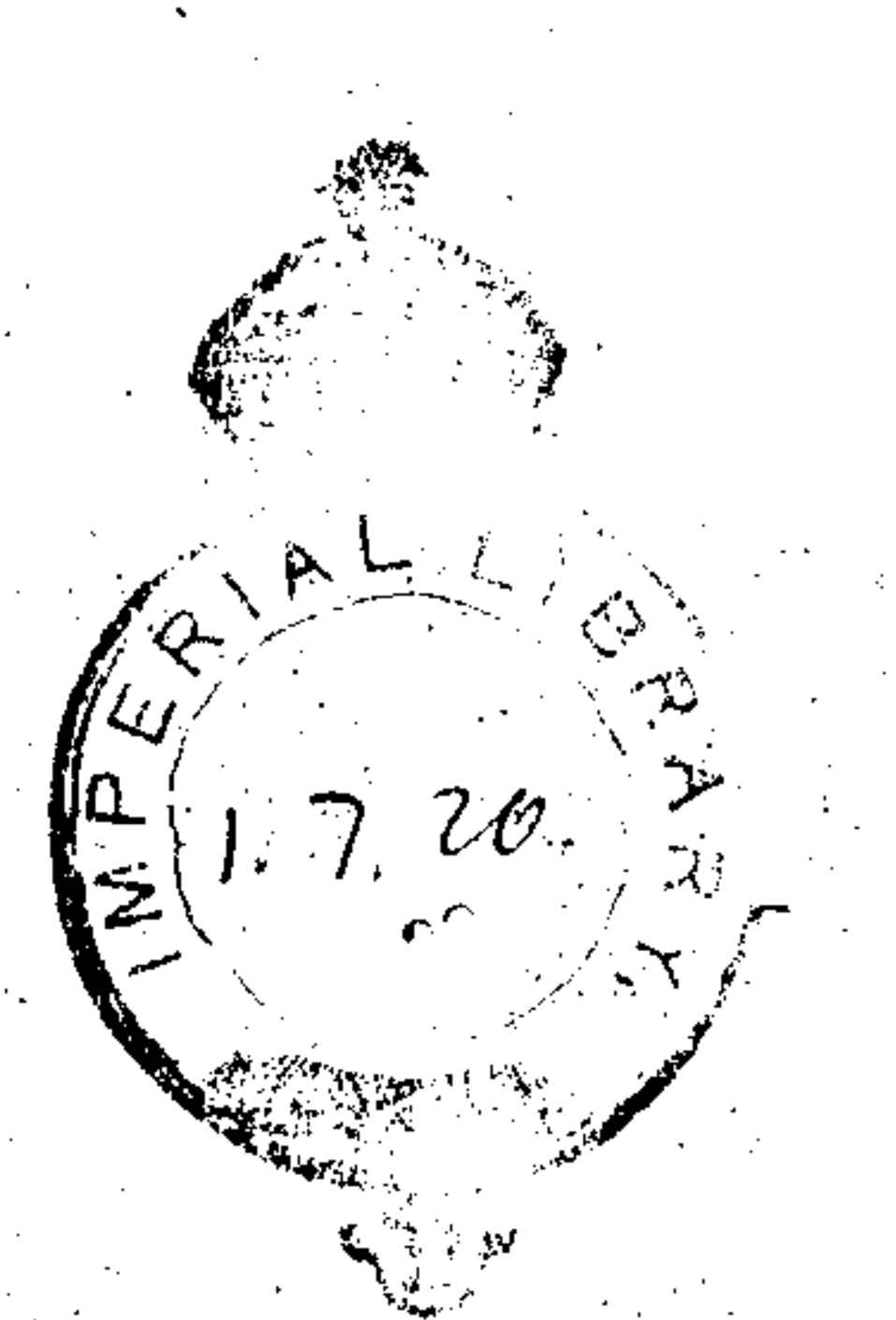
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Introductory

In treating, within the limits of a few pages, part of the historical side of a wide and complicated subject, it will be permissible to start with certain assumptions which, elsewhere, may be held open to discussion on their own merits. We assume, therefore, not only that an enduring peace is necessary to civilised nations, and to those of the European family in particular, as the primary condition of their prosperity and progress, but that our ears are resolutely closed to all theories or fancies extolling war as desirable in itself, or asserting it to be indispensable at this or that stage of a nation's growth. All such propositions must be eliminated from our present argument—from the pronouncement of Spinoza that "war is the natural state of man," to Moltke's solemn asseveration that "perpetual peace is a dream, and not a good one either," since "war is an organic part of God's order of the world." To all such sophistries, a sufficient answer is, without appealing to a Higher Sanction, furnished by the plain words of the wise man whose famous book the greatest warrior of his age (King Gustavus Adolphus) was wont to keep under his pillow. "War," writes Hugo Grotius, "is a

very grave matter, being a cause of great calamities to the guiltless. Therefore, when there is a balance of opinion, peace ought to have the preference."

On the other hand, we may fairly assume that, while there is none of us who at any time need scruple to join in a prayer for "a new and better day," we are, at the end of this war as we were at its beginning, agreed that the idea of a perpetual peace can only be pursued step by step, and, neither in theory nor in practice, be imposed even upon an exhausted world in arms. And this, without waving aside as altogether illusory, and as having been proved such by the melancholy difference between aspirations and results, successive projects for the realisation of this ideal. On these there is no need for dwelling in the present connexion, except to suggest that to more than one of them is applicable the saying of a great political jurist and far-sighted political thinker, to whose own scheme for the reorganisation of the European system of states we will return: "Remote ideas are not, as a matter of course, unreal."[1]

Our last assumption needs only to be stated to command assent; but, commonplace as it may seem, if it is disregarded, any considerations on the subject of peace securities might as well be written in water, and reserved for realisation in Utopia. A vindictive peace will itself be, sooner or later, avenged, and a patched-up peace is only made to be broken. But it is not always quite so clearly perceived that what may be called *doctrinaire* proposals are only likely to retard the conclusion of a genuine peace, or, if accepted, to become inevitable impediments to the stability of any

[1] See on this part of the subject, the tract in this series, *The Period of Congresses*, I., and the references there cited.

settlement attempted. Thus, for instance, it is maintained that the principle of nationality ought to be the foundation of all European pacifications of our own time. Yet those who argue thus should, in the first instance, enquire whether nationality is more than a factor in the growth of the life of any nation, and whether the unity of national life is not the product of many and various elements. And they should further consider whether the neglect of this factor, which undoubtedly vitiated the conclusions of the great Congress of Vienna and its successors, is not a thing of the past rather than of the present; and whether, in the words of a historian who has thrown clear light on this aspect of recent European history, "nationalism" may not be said to "show signs of having exhausted its strength except among the most backward peoples."[1]

To this short statement of the assumptions requisite in order to limit the present outline to its proper theme, may be added the remark that little or nothing would be gained by going far back in a review of the methods which have, from time to time, been adopted for the prevention of wars. In Hugo Grotius's classical survey of the whole subject of the rights of war and peace, these methods—if we leave out the lot and the cognate, though more imposing, process of single combat—reduce themselves to *Conference* and *Arbitration*.

After, from the point of view either of ecclesiastical or of secular politics, the unity of Christendom had become a thing of the past (though not without leaving patches of reminiscence behind it), resort could only be had to one or the other of these methods by applying

[1] J. Holland Rose, *Nationality as a Factor in Modern History* (1916), p. 207.

the federal principle in the place of the effaced, ancient and medieval, ideals of unity. By *Conference* was meant an understanding between a group or number of potentates or states willing to make use of some sort of federal machinery, in order to reach a settlement of difficulties by pacific means. It might lead to the establishment between rival nobles or cities or cantons of less provocative—or, in other words, more friendly—relations: a process equivalent in effect to that of a Limitation of Armaments in later times. Or, it might suggest to those who had entered into such relations the resort to the initial or timely proffer of advice by individual members of the associated body—comparable to the Good Offices and Mediation of a more modern age. And, again, it superinduced, either with or without such preliminary agencies, attempts at settling differences by means of a time-honoured usage, familiar to the Germanic tribes before the institution of the German kingship or its union with the Empire, but elaborated under the latter in the course of the centuries, and resting on the principle of Arbitration.[1]

From the foundation of the modern European state-system onwards, a continuous series of experiments in federation is noticeable, which had in view, not only political cooperation outside, but also the judicial settlement of disputes within, the federated body or group.[2] There can be no doubt that, in the earlier

[1] This process is, in Germanic legal speech, called *Austrag*, which might fairly be translated by the modern term *compromise* (or *transaction*) between the parties in dispute. The Latin equivalent is *pactum*, which word has the same root as *pax*.

[2] They have been set forth more than once—most recently in the last of (the late President) Taft's interesting lectures on *The United States and Peace* (1914).

Middle Ages they commended themselves through the influence, more long-lived than is always understood, of the Crusades; and that, subsequently, they derived a new impulse from the alarming growth of the Habsburg power. But neither Bâle nor Venice, proposed in turn as the seat of a permanent European Congress, which should, at the same time, partake of the character of an international tribunal, was ever to become the centre of a federal organisation of the kind. The scheme of federation which occupied Henry IV.'s high-minded minister Sully in the days before the death of his master and the outbreak of the Thirty Years' War, and to which we have referred on a previous occasion, was at the most held ready for use, should the apprehended crisis be actually at hand. The Great War was at its height when (in 1625) Hugo Grotius formulated a 'wish' (to use a diplomatic term much in use at the peace congresses of later days) in favour not only of arbitration, but of its enforcement, as a preventive of war:

"Both for this reason (the obligation resting upon Christian Kings and states) and for others, it would be useful, and indeed it is almost necessary, that certain Congresses of Christian Powers should be held, in which the controversies which arise among some of them may be decided by others who are not interested; and in which measures may be taken to compel the parties to accept peace on equitable terms."[1]

Yet, even in an old-established federation like the Swiss, the practice of arbitration between the cantons did not crystallise into submission to a generally

[1] *De Jure Belli et Pacis*, Bk. II., ch. xxiii. (Whewell's translation, 1853).

accepted judicial tribunal till a date within the memory of man; and it was the great Transatlantic Federation which first declared its representative body, characteristically designated Congress, as the acknowledged authority for the settlement of differences between the several independent states included in it, and which afterwards extended the exercise of this judicial power to controversies between a state belonging to the Union and a foreign Power. Napoleon—of all men—is said to have turned his thoughts to the project of a European confederation; but this was at St. Helena, when the Powers that had crushed him had already put into operation their more tentative scheme for preventing, or at least delaying, the outbreak of conflicts which gravely menaced the peace of Europe.

The Balance of Power and the Concert of Europe

These efforts were, no doubt, in the first instance suggested, as for some time their success was assured, by the exhaustion of Europe consequent on the Napoleonic, and the preceding Revolutionary, wars. The two Pacifications of Paris and the Act of the Congress of Vienna, designed as a complement to the first of these compacts, and restated rather than expanded in the second, together amounted to the most authoritative assertion possible of the political principle implied in the endeavour to maintain the Balance of Power—*i.e.*, the necessity of systematically frustrating any attempt at domination or preponderance on the part of any single state or potentate. This principle was now enforced by the combined authority based on the

combined strength of the Four Great Powers, who at Chaumont on March 1st, 1814, announced themselves as the joint protectors of the peace of Europe, and who soon afterwards allowed the restored French monarchy, though at first on not quite equal terms,[1] to associate itself with them. There was one potentate—for a time, in his own opinion and that of his admirers the master of the destinies of Europe—Tsar Alexander I., who was anxious to place upon a wider basis and under a higher sanction the maintenance of the existing order of things as controlled by the Great Powers of Europe. But the Holy Alliance had no formal connexion with the Second Peace of Paris, or, indeed, with any other diplomatic agreement among the Powers: it was a confession of faith, rather than a plan or programme of action. Thus Europe entered into what has been called the period of Congresses—the period in which the prevalence of a good understanding between the Great Powers was set up as a guarantee of peace better than any system of alliances against alliances, or *ententes* against *ententes*. In a narrower sense, this Congressional system lasted for eight years, from 1814 to 1822, without the occurrence of any open breach in it,[2] though even within these years there were occasions of friction and signs of a breakdown. But, in its general features, it cannot, though much weakened by the national revolts from 1822, and the democratic movement from 1830, onwards, be said to

[1] The Second Peace of Paris was guaranteed by the Four Powers without France, and it was only in 1818, at Aix-la-Chapelle, that she was formally admitted into the union of the Great Powers of Europe.

[2] As to this period, see *The Period of Congresses*, II., in the present series of publications.

have come to a close till 1848, with the final collapse of Metternich's edifice of European as well as home policy, and with the removal from the scene of the master-builder himself. So far as Europe was concerned, it was in the whole of this period left to private zeal to labour for the provision of safeguards for the Peace of Europe besides the mere good intentions of the Five Great Powers from time to time represented by their plenipotentiaries in Congress.

Efforts of the Peace Society

In 1816, the (London) Peace Society was established; it had been preceded by that founded at New York in 1812, on the termination of the war between the United States and Great Britain, and a number of similar societies was gradually established elsewhere. In 1843, Elihu Burritt, the editor of the American *Herald of Peace*, originated a series of International Congresses, of which the earliest was held in that year in London, where he was welcomed by Joseph Sturge, long the leading spirit of the London Peace Society, and Henry Richard, who became its secretary. Other Congresses followed: at Brussels in 1848, at Paris in 1849, at Frankfort in 1850, and again in London, in the year of the Great Exhibition of 1851, which was fondly believed to herald the beginning of a new era of peace and goodwill among civilised nations. These gatherings were, of course, technically private and irresponsible meetings, though already at the Brussels Congress the head of the Government, C. L. Rogier, was present. At Paris, Victor Hugo presided; and the Congress enjoyed the goodwill of the

most distinguished members of the Provisional Government. At Frankfort, Richard Cobden delivered a speech against armaments, and a committee was formed to protest at Kiel and Copenhagen against the Schleswig-Holstein war. The coincidence of these demonstrations with the changes in both the form and the spirit of a large number of European Governments which marked the revolutionary period of 1848-9 cannot be overlooked. In the words of one of the profoundest as he was one of the most generous thinkers among the statesmen of the age, Joseph von Radowitz,

"The transmutation of the internal forms of states necessarily affected their external relations. What former centuries called 'cabinet' policy and 'cabinet' wars will no longer be able to endure; in the matter of international intercourse, also, we are advancing into new conditions. The peace congresses which have called forth so much comment in the last two years, merely express this just idea in a fantastic fashion; *per se*, Elihu Burritt is no fool."[1]

Nowhere was this sense of weariness of the old ways stronger than in England, where the age of great wars was popularly held to have passed out of sight. In France, this feeling was carried to its logical conse-

[1] *Cf.* F. Meinecke, *Radowitz und die deutsche Revolution* (Berlin, 1913), pp. 372-3. Radowitz's own experience, in a political crisis in which he played a leading part, did not include mediatory processes. In 1850, when the differences between the Austrian and Prussian Governments on the question of the German constitution had reached a very acute stage, and had been complicated by the Schleswig-Holstein and Hesse-Cassel difficulties, Tsar Nicholas at first distinctly refused mediation in the constitutional controversy proper. This abstention was due to his wish to leave Austria, whom he favoured, to decide on her own course, without interference on his part. The Olmütz settlement, and the restoration of the Germanic Confederation, followed in due course.

quences, and, in accordance with the change in the national institutions, found its way into the sphere of public business. In 1849, it was proposed in the Committee of Foreign Affairs of the National Assembly that the Governments of Europe should be invited to a congress held for the purpose of substituting arbitration for war as the means of deciding international differences; but the proposal was rejected. In the same year (June) Cobden moved, in the House of Commons, a resolution to the same effect; but his most important argument directed itself to the ruinous cost of war, a theme on which Bentham had written, and Sir Robert Peel had discoursed, before him. Although, as Cobden protested, it was the moral sentiment rather than the £ s. d. view of the matter which impelled him, he adhered to his line of argument, and in 1851 brought forward a motion directly advocating the reduction of armaments. The French invasion panic of 1852-3 did not daunt him, and, besides meeting it with a series of letters reprinted in one of his most effective pamphlets, he stood forth by the side of Bright at an assembly of the friends of peace held at Manchester in 1853, and followed, later in the same year, by another at Edinburgh. Cobden's advocacy of peace, in which he went so far as to denounce the immorality of war loans in the case of unnecessary wars, was the more honourable to him, and to his colleague Bright, because their eyes were not shut to the fact that it meant for them the forfeiture of the popularity which they had earned by securing cheap food to the masses. Meanwhile, the series of general Peace Congresses had come to a close; nor was it till 1889 that the next of them met, this time at Paris.

The Paris Conference of 1856

The outbreak of the first great European war of the period that followed on the revolutionary epoch had been preceded by the refusal of Russia to accept the good offices of any of the Powers in her quarrel with Turkey, which she persisted on regarding as domestic. Before this, Prussia had (in June, 1853) sought to mediate on her own account; but her well-meant efforts were rejected, and she had since adhered to the policy of neutrality which afterwards led to her exclusion from the first Peace Conferences at Paris in February, 1856. No other attempt had been made to arrest the outbreak of hostilities, beyond irresponsible personal admonitions, which were but empty words to the potentate (Tsar Nicholas I.) to whom they were addressed. Yet, at the Peace Conferences (to which Prussia was admitted on March 11th, and which were concluded on the 30th), a different spirit found an opportunity of manifesting itself; and, on March 2nd, another Tsar, Alexander II., a true lover of peace, had succeeded to his father. During these Conferences, certain consistent British friends of peace—Sturge, Richard and Charles Hindley—in an interview at Paris with Lord Clarendon, urged that in the Treaty of Peace now under deliberation provision should be made for reference to arbitration of any dispute between two Powers, before, fanned into a flame by journalism, it should have produced a state of irritation between them. The worthy emissaries left the British plenipotentiary without much expectation of any result from their efforts; and they were delighted to find that he had kept his promise of doing his best towards the insertion of such a provision as that advo-

cated by them in the protocol of the Conferences. Advantage was taken by him of a stipulation in the draft Treaty of Peace, which bound the Porte, in the event of any difference arising between it and any of the Powers, to accept, before having recourse to war, the mediation of any of them which were parties to the Treaty. To this stipulation, Clarendon now moved to give a more general application; and this proposal met with success, although it was modified in form. The principle now introduced was not altogether new, though hitherto no state had been held bound to accept mediation before taking up arms—thus, so recently as 1850, the mediation proffered by the French in the quarrel between the British and the Greek Governments had been quite short-lived. Moreover, eminent jurists had asserted that a neutral Power, besides being in no way obliged to offer its mediation to Powers in dispute with one another, was actually without any right of interfering in a cause with which it had no concern. Accordingly, Clarendon, although heart and soul with the proposal (and so well qualified to practise what he preached that Bismarck is said to have remarked that, had he been alive to mediate between Germany and France in 1870, he probably would have done so with success), was not able, in 1856, to secure more than the following concession:

"The plenipotentiaries have no hesitation in expressing, in the name of their Governments, the wish (*vœu*) that states between which a serious difference may arise should, before taking up arms, so far as circumstances may allow, have recourse to the good offices of a friendly Power. The plenipotentiaries hope that the Governments not represented at the Congress will associate themselves with the idea which has inspired the present protocol."

To which were added the words:

"The plenipotentiaries agree that the desire expressed by the Congress shall in no way interfere with the exercise by any Power of its free judgment (*appréciation*) in questions affecting its dignity, which no Power can be expected to neglect."[1]

Apart from this rider or reservation, which had in the course of the discussion been laid down by Count Walewski as an obvious interpretation of the intention of the proposal, it will be noticed that the protocol recorded, not a resolution to be embodied as a clause in the Treaty of Peace, as in the case of the stipulation with the Porte, but only a wish (*vœu*) of the Signatory Powers—this being the expression regularly employed to convey a desire not binding on the Powers who had given utterance to it.

If we proceed to enquire as to the actual results of the approval of Lord Clarendon's proposal by the plenipotentiaries assembled at the Paris Conference in 1856, we shall find them less than meagre. Before the close of the century, and the First Hague Conference, there had not been a single instance in which Powers at variance requested the mediation[2] of a neutral

[1] The text of the protocol will be found, without the rider, in Hertslet, *The Map of Europe by Treaty*, vol. ii. (1875), pp. 1277-9; and the list of accessions, *ibid.*, p. 1284. E. de Laveleye, *Des Causes actuelles de la Guerre en Europe* (1873), pp. 269-71, seems to go too far in saying that thus the 'arbitration clause' was admitted into a treaty in which all the great nations of Europe concurred.

[2] The terms 'good offices' and 'mediation' were not very clearly distinguished, though, properly speaking, the former are the initial step of which the latter may, or may not, be the consequence. In practice, 'good offices' are usually regarded as consisting rather of a general exhibition of friendliness than of the offer of definite suggestions, and the third Power, after extending its 'good offices,'

Power. On the other hand, previously to every one of the three great wars which together filled, or rather overflowed, the seventh decade of the nineteenth century, mediation was at least proffered by a Power or Powers not involved in the dispute that gave rise to them. Before the war of 1859, there was, at all events, for a time, reason to hope for successful mediation by Great Powers standing outside the controversy and, for divers reasons, on very friendly terms with at least one of the Powers engaged in it; and the war of 1866 was preceded by a prolonged series of active negotiations sincerely meant by the mediatory Powers to avert it. The war of 1870 had, to all intents and purposes, become unavoidable at the time when the unasked, and really hopeless, proffers of good offices began. It may be worth while to dwell for a moment on these successive efforts and the circumstances of their failure.

The Italian War (1859)

The warning—or menace—of New Year's Day, 1859, at the Tuileries is still remembered. It was couched

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may be called upon to act as 'mediator.' See the report of the Belgian delegate, M. Decamps, to the Conference of 1899 (Hull, *The Two Hague Conferences* [1908], pp. 267 *ff.*). It is not quite clear in what sense the Tsar requested, and the German Emperor agreed, that the latter should take upon himself the task of mediation on the eve of the outbreak of the war of 1914, as stated in *Germany's Reasons for War with Russia*. The Emperor William professed to have engaged in 'mediation' between 'his ally Austria-Hungary' and the Tsar; between Austria-Hungary and Servia the German Government declined to mediate, inasmuch as their quarrel concerned Austria-Hungary only. The British proposal for a conference was supported by Germany as a proposal for 'mediation' between Austria-Hungary and Russia, but declined by the former.

by Napoleon III. in an expression of regret to the Austrian ambassador that, though his personal regard for the Emperor of Austria remained undiminished, the relations between the two Governments were no longer so satisfactory as they had hitherto been. The European Exchanges immediately became apprehensive of the imminence of war, and ten days later King Victor Emmanuel announced that the political horizon was not unclouded. Austria, without delay, moved large bodies of troops into Lombardy, while the alliance between France and Sardinia was strengthened by the marriage of Prince Napoleon to Princess Clotilde, concluded before the end of the month, and the Plombières agreements were transformed into treaties of state. In one of those armoured pamphlets through which the voice of the French Emperor was wont to send forth its oracles to Europe, she was admonished to exercise all possible pressure on Austria, and her diplomacy was exhorted to anticipate the war which menaced her by accomplishing everything that would have become indispensable at its conclusion. Austria, in her turn, while negotiating alliances in Germany, sought to induce Great Britain to use her endeavours for bringing about a European Congress which would settle the Italian question in a sense favourable to the Austrian rights. But, though the Conservative British Government of that day was well-disposed towards Austria, there was a strong current of popular opinion in this country favourable to the Italian cause. Before the end of February, Lord Cowley arrived at Vienna on a mission which hardly amounted to one of mediation, since its direct object was to enquire to what extent the proposals

the basis of the deliberations of a Congress—in which Sardinia was not to be invited to take part. Lord Cowley's suggestions were coldly received; moreover, his mission was crossed by another from Russia, possibly inspired by France; while Austria's demand of a preliminary disarmament by Italy, on which her own was to follow, left no doubt as to the significance of her notions of peace. Thus, the early months of the year passed, and the British Government found itself finally reduced to the proposal that Austria should assent to the admission of Sardinia to the contemplated Congress—although, in the first instance, only for the purpose of settling the conditions of the disarmament, which was to begin immediately. France having likewise, in principle, accepted the proposal of disarmament, Cavour found himself driven into a corner and pleaded the necessity of first securing the approval of Russia, who, as has been seen, was also mediating; but the Austrian Government put an end to his difficulty by its *ultimatum*, demanding immediate disarmament by the Sardinian Government, whose delays had exhausted the patience of Vienna. Buol allowed Cavour three days, and his reply was an acceptance of the last British proposals, while the Austrian *ultimatum* was, practically, ignored. The die had fallen. France, whose assent to the British proposal had been left unnoticed by Austria, declared that the *casus fœderis* between herself and Italy had now arisen, and that she would regard the crossing of the Ticino by Austrian troops as a declaration of war. Lord Malmesbury, who had endeavoured to delay the *ultimatum*, hereupon made a direct effort to induce Field-Marshal Giulay to delay the crossing;

Napoleon III. issued his proclamation to the French nation.[1]

The Schleswig-Holstein War (1863-4)

Between the great wars of 1859 and 1866 the small, but in its consequences most important, second Schleswig-Holstein war was fought. The troops of the Germanic Confederation (chiefly Saxon and Hanoverian) entered Holstein before the close of the year 1863; but it was not till January, 1864, that the real military conflict began, and the Austrian and Prussian troops occupied both the duchies, proceeding to drive the Danes into the island of Alsen. In the middle of December, 1863, there had been a tardy thought of mediation on the part of Great Britain; and Lord Wodehouse, who was sent to Copenhagen to congratulate the new King Christian IX. on his accession, was furnished with instructions to proffer our good offices. But, even had they been actually proposed, they would have come too late; for Danish public feeling would not have tolerated the repudiation by the King of the measure to which he had given his assent on his accession; and this new constitutional law the duchies would have had the support of all Germany in refusing to accept. Lord Wodehouse's overtures, therefore, were abortive. The London Conference, by which the war, after its outbreak, was interrupted in 1864, proved equally futile; nor is it possible to describe the action of Great Britain as mediation, though she ultimately declined to go to war for Denmark without the support of France, whose

[1] See for these transactions Reuchlin, *Geschichte Italien's*, part III. (1870).

ruler was still resenting the reception, in the preceding year, of his proposal for a European Congress, to consider the question of a general disarmament. Cobden had extolled the form of the Emperor's letter; but the Powers had refused his invitation.

The more complicated story of the mediation attempted in 1866 is told at length in the diplomatic records of the time, most fully perhaps in the still uncompleted *magnum opus* of the French Foreign Office on the diplomatic origins of the great Franco-German war of 1870-1.[1] In March, 1866, Austria and Prussia were not so much drifting into war with each other as steadily setting their faces in that direction; and the question was no longer, whether the outbreak of hostilities between the two German Great Powers was still to be avoided, but rather, upon which of them the responsibility for that outbreak could be made to rest in the eyes of Europe. On the 16th of this month, Lord Clarendon addressed himself to the Prussian Government, appealing to the fact of Prussia having been one of the Powers which, by the protocol of 1856 noted above, had approved the principle that, before resorting to war in any dispute affecting its interests, one or both of the Powers involved in it should solicit the mediation of a friendly Power. Lord Augustus Loftus, our representative at Berlin, was directed to make known there the willingness of his Government to proffer its good offices, without suggesting any formal proposal or indicating any definite mode of solution of the differences between Austria and Prussia. The date of this communication may be explained by Lord Augustus's belief

[1] *Les Origines de la Guerre de* 1870-1, etc., vols. viii.-ix. (Paris,

(afterwards corrected by him) that Prussia had sent an *ultimatum* to Austria; but there can be no doubt that, as Clarendon afterwards told Prince de la Tour d'Auvergne, the proffer was made in deference to the wishes of Queen Victoria. In any case, Clarendon was quite aware of the far from friendly feeling towards the British Government then observable at the Prussian Court; and, when Lord Augustus Loftus, though reporting that King William and Bismarck had received his communication in a very satisfactory spirit, insisted that, in existing circumstances, it was indispensable to secure the cooperation of France and Russia in order to exercise the requisite pressure upon the disputants, he was only repeating what had long been self-evident to his chief. Bismarck's personal approbation of the proposal was anything but stimulated by the royal permission granted to the Crown-prince to inform Queen Victoria that the King was himself disposed to regard with favour the offer that had been made to him; and the minister speedily contrived to make it known in London, through Count Bernstorff, that, in his opinion, the proposal should have been addressed to Vienna rather than to Berlin, since it was Austria, and not Prussia, who was arming. Hereupon, Clarendon and the British Cabinet resolved to hold their hands for the present; and Lord Augustus Loftus was apprised that nothing had been intended by the communication beyond making the Prussian Government aware of the willingness of the British to proffer its good offices if they were desired.

Not very long after this tentative step on the part of Great Britain, the Emperor Napoleon III., in his turn,

Peace of Europe by resuming, in circumstances which seemed more favourable than those in which his invitation had been rejected in 1863, his idea of a Congress or Conference[1] which might lead to the disarmament of both the German Great Powers. Bismarck, however, at first showed himself not more favourable to the French than he had to the British mode of procedure; he appeared, as Benedetti reported, to be of opinion that war alone could lay down the lines on which the Congress should take action, and thus make its meeting of real use. The British Government, which in 1863 had held that a Congress was more likely to lead to war than to avert it, now assented, as it could not but assent, to the summoning of such an assembly, provided that its purposes were clearly defined and that a reasonable prospect of a successful issue were reached; for, as Clarendon pointed out, a Congress must be doomed to fail if powerless to enforce its own conclusions. In the diplomatic contest which followed, but which, suggestive as it is, cannot here be examined in detail, Bismarck, 'though not convinced that a Congress was the best guarantee of peace,' showed himself by no means obstructive, insisting chiefly on the necessity of assembling the Congress without delays that would merely endanger the position of Prussia. In the end, the Russian idea of a preliminary disarmament having been put aside, the questions to be discussed by the Congress seemed to have been settled, when, at the last moment, Austria refused to join in any congress, if the parties to it declined to renounce any intention of territorial aggrandisement. Italy was thus debarred from any

[1] Both terms are used in these negotiations, but the former

expectation of obtaining Venetia by cession—though, as was pointed out by Austria, in the event of her own arms being brilliantly successful, she might be willing to resign one province in order to secure another (no doubt, Silesia). The settlement of the Schleswig-Holstein question Austria made over to the Germanic Confederation (where she was sure of a majority). After this revelation of Austrian policy, there remained but one course open to the Powers not concerned in the dispute; and, with the concurrence of Great Britain and Russia, Napoleon III., on June 3rd, announced that the plan of a Congress had been dropped, and that the responsibility of the war rested with Austria. At the same time, he made certain proposals to Austria depending upon the course which the war might take—but these may be passed by here.

The Franco-German War (1870-1)

In 1867, British diplomacy, in the spirit, rather than according to the letter, of the protocol of 1856, was busily engaged on the Luxemburg question, which by the London treaty was settled by a genuine 'compromise' on the basis of the political independence of the grand-duchy. This effort has been justly claimed as an instance of the successful application of the principle of mediation; since there is every reason for believing that it actually averted an outbreak of hostilities between France and the North-German Confederation. In 1868-9, the relations of Turkey and Greece became dangerously tense, an insurrection having broken out in Crete, and the animosity on both sides risen to a

ference of the Great Powers was arranged at Paris, which agreed on certain resolutions to be offered to Greece for acceptance. They were offered as recommendations only, and not backed up by any threat of force on the part of the Powers in conference; but the success of the proceeding proved complete, and was described at the time as a real advance in civilisation. As yet, however, the chief anxieties of Europe were turned in a different direction.

The negotiations which preceded the opening of the great war of 1870-1 between France and Germany furnish material for a fascinating study, since they demonstrate in perfection the advantages of the high political art of putting your adversary in the wrong before the eyes of the world. But with this point of view we have no present concern. Nor is it to our immediate purpose to note, how far from general had been the predisposition to war either in Germany or in France, before the situation became critical. After a visit of the indefatigable Henry Richard to Germany in 1869, a motion for disarmament in the Prussian Chamber was supported by not less than 90 votes, and in the Austrian *Reichsrat* by 53 against 64. In France, Jules Favre and Jules Simon were believed to be hatching a similar motion, and there is no doubt that pacific feeling was widespread in that country, even after a bellicose spirit had been aroused in Paris and elsewhere. The Powers which had no direct concern with the difference between France and Prussia as to the Hohenzollern candidature for the Spanish throne were without a *locus standi* in the dispute, more especially since King William I. and his minister persistently

of Prussia, but as head of the House of Hohenzollern, and since, with regard to Spain herself, it was not the Spanish Government but the Cortes with whom the choice of a sovereign rested. The French Government, however, had resolved on leaving Spain out of the quarrel altogether, and on treating the distinction drawn between the head of the House of Hohenzollern and the head of the North-German Confederation as one which, whether idle or not, would certainly convey no meaning to the French public. As a matter of fact, the correspondence[1] shows that King William I. was honestly disinclined to provoke a quarrel, and that Bismarck, although, from the first, well disposed towards the idea of a Hohenzollern candidature and aware of the advantage which in a war with France would attach to having a Government friendly to Prussia on the further side of the Pyrenees, in no way intervened, at this stage, to hasten the development of the situation unduly, or to embitter the feelings aroused by it. Inasmuch as the French Government continued to be on good terms with the British and was, for obvious reasons, anxious for the goodwill of the Austrian, there might have seemed some prospect of successful mediation between France and Prussia. But the former Power precipitated a decision. It was on July 5th, the day on which the Duc de Gramont's declaration in the *Corps Législatif* set French public opinion aflame, that

[1] It is given consecutively, and in a commodious form, in R. Fester's *Briefe, Aktenstücke, etc., zur Geschichte der Hohenzollern-kandidatur in Spanien*. 2 parts (Leipzig and Berlin, 1913). Different views are taken of these transactions. For one, see Lord Acton's essay on *The Causes of the Franco-German War*, printed in *Historical Essays and Studies* (1907).

he appealed, through Lord Lyons, to Lord Granville to cooperate in 'warding off' a decision which French feeling was determined not to endure. On the same day, the French Foreign Minister asked Count Beust, through Prince Metternich, for his 'conciliatory interposition in the difficulty; and, when the Austrian ambassador dwelt on the necessity of great prudence being observed by Austria, and of her influence being exerted solely in the interests of peace, urged that Prussia should be called upon to ask Prince Leopold directly to renounce his candidature. When the French ambassador at Vienna, Marquis de Cayaux, saw Count Beust a few days later, the Austrian Prime-minister, although he declined to follow the ambassador's advice and put Austria forward in the matter, not as a mediating Power, but as a *partie morale*, and, although he pointed out that Austria could not suddenly take part in a quarrel with the origin of which she had no concern, certainly showed some readiness to go beyond what Cayaux said Great Britain was already amply providing, viz., wise counsel and good offices. For he advised that France should send a fleet to prevent a landing of Prince Leopold in Spain, and leave Prussia, if she deemed herself insulted, to incur the responsibility of aggressive action. And, in taking leave of the ambassador, Beust promised him to 'accentuate' his representations at Berlin. Granville, for his part, replied to Gramont, through Lyons, that the British Government failed to understand the feeling of resentment of which he granted the existence in France, though he regretted both the way in which it had been stimulated in the French Chamber and press and the intimation given

be made. Such proceedings, he feared, would not only render abortive the attempts on which the British Government had entered with a view to an amicable settlement, but tended to make doubtful the expediency of continuing them at the present moment. The Italian Government, though expressing its willingness to contribute to the best of its ability to the preservation of peace, contented itself with good advice to the Spanish; while the King of the Belgians, at the express desire of the Emperor Napoleon, addressed himself directly to Prince Leopold of Hohenzollern, appealing to him to offer a proof of his unselfishness and of his care for the peace of Europe by abandoning his candidature. Granville came to the conclusion that combined action on the part of the Great Powers not involved in the dispute was for the present undesirable, and contented himself with transmitting to France outspoken warnings against 'precipitate action,' and with putting friendly pressure on the Prussian and Spanish Governments to give their most serious consideration to the question at issue. No evidence seems to be forthcoming that the Tsar (or his Government) made representations to the King of Prussia, or his minister, as to the expediency of withdrawing the Hohenzollern candidature. Thus, it can hardly be said that, taken together, the efforts of the Powers in the present instance amounted to a process of mediation; and, certainly, it was not mediation of which either France, who asked for moral support, or Prussia, who maintained that, as a state, she had no concern with the whole affair, was desirous. When, in the end, obeying a conscientious sentiment without yielding to any pressure from either side, Prince Karl Anton of Hohenzollern intimated his son's

withdrawal of his name as a candidate, and when the second act in the tragicomedy—the French demand of a Prussian promise as to the future—began, there could no longer be any question of good offices or mediation; nor was Gramont left in the dark as to the consequences apprehended, should he recede from his former promise that, if the candidature were withdrawn, the whole affair would be at an end. Granville's recommendation to Prussia that, as King William had assented to Prince Leopold's candidature for election to the Spanish throne, so he should now signify to the French Government his assent to the Prince's withdrawal, provided that France was prepared to waive her demand for an engagement on the part of Prussia as to the future, was refused as equivalent to submission by her to an arbitrary and humiliating demand; and this brought to a conclusion the whole diplomatic episode, which forms a most discouraging chapter in the more recent history of Mediation.

Later Attempts at Mediation

The above rapid summary of the negotiations which preceded the outbreak of a series of important European wars fought during the course of little more than a single decade of the second half of the nineteenth century will have sufficed to show the nugatoriness—no less emphatic term would suit the case—of the safeguard which the Congress of Paris in 1856 had, whole-heartedly or otherwise, 'wished' to provide for the maintenance of the peace of Europe. During the remainder of the century, so far as Europe was concerned,[1] other cases

[1] In July, 1858, the United States and Japan agreed that, on occasions of difference between the latter and any European Power

occurred in which Powers not involved in a dispute offered their good offices or mediation; but there was only a single case in which Powers engaged in a dispute called upon Powers not mixed up in it to come forward as mediators. The Russo-Turkish War of 1877-8 came to an end with the Treaty of Berlin, in which all the statesmanship of Europe had a hand; but the opportunity was not taken of recurring to the protocol of 1856, though the 'wish' expressed in it might be considered to be included, *quantum valeret*, among the unabrogated or unmodified provisions of the Treaty of Paris. On February 26th, 1885, the 'Congo' Conference at Berlin, in the Convention signed on that date, agreed that, in the event of any serious case of controversy between states whose plenipotentiaries had signed the Act dealing with the Congo territory, these states bound themselves, before taking up arms, to have recourse to the mediation of friendly Powers; and this Convention even omitted, from the formula adopted as a 'wish' at Paris, the qualifying clause 'so far as circumstances may allow.' But it will be observed that the Act of Berlin, which referred to the Congo territory only, was, like the clause in the Treaty of 1856 accepted by Turkey, of locally restricted significance. In the dispute between Germany and Spain, in the same year, as to the hoisting of the German flag on one of the Caroline Islands, the former Power, whose suggestion to resort to arbitration had been declined by Spain,

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the United States should act as a friendly mediator—a provision of great importance, though falling short of the Chile-Argentine treaty of 1902, in which those Powers agreed to submit differences that might arise between them to the *arbitration* of Great Britain. [See *post*.]

proposed to request the mediation of the Pope; and, Spain having agreed, a protocol of an arrangement between the two Powers was actually drawn up and signed at Rome on December 17th, 1885. In February, 1887, the proposal of the United States to mediate between Great Britain and Venezuela as to their respective claims in the matter of the Venezuelan boundary was declined by Great Britain; but it had the effect of bringing about, ten years later, an agreement between the two Powers to refer the question to arbitration.[1]

The effort of 1856, such as it was, could not fail to stimulate the zeal of the unprofessional advocates of peace, whose representations had, as was seen, originated the 'wish' of the Conference. In 1860, Cobden, then in the midst of his labours connected with the French Tariff, conversed with the Emperor Napoleon III. on the subject of the armaments on both sides of the Channel, the interlocutors being alike fully aware of the widespread desire for increased expenditure on ships or fortifications, which Mill declared to be the best means of preventing war, as making it more onerous. In 1864, at the beginning of the period of warfare of which we have been speaking, the Geneva Convention on the Laws and Customs of War pointed the way to the cooperation of European states in the framing of international codes of law calculated at least to make war more humane. Another Conference of the Powers who had signed this Convention was held at Geneva in 1868, which applied it to naval warfare. These additional articles were not ratified, but they were included in the Hague Convention of 1899; and a well-known

[1] These cases are given by Sir Thos. Barclay, *Problems of International Practice and Diplomacy* (1907), pp. 91–2.

new Convention for the improvement of the condition of the sick and wounded in the field was signed at Geneva in 1906. When the period of great European wars seemed to have closed for a time, in 1873, the doughty Henry Richard, encouraged perhaps by a message to Congress from President Grant, of which even Laveleye[1] describes the 'accent' as 'too Utopian,' once more brought before the House of Commons his proposal for the settlement of international disputes by Arbitration; and his motion for an address in favour of the principle was, though in a thin House, carried by a majority of ten against the Government (July 9th). He quoted the stupendous figures on the annual cost of armaments recorded by P. Larroque in his celebrated book,[2] and, among other arguments against the growth of the spirit of militarism, mentioned the great recent increase of emigration from Germany to America. The Government, in the person of Gladstone, offered a purely formal opposition to Richard's motion, and a royal message subsequently promised to communicate it to foreign Powers. The mover soon started on a journey to win converts in the various states of Europe. The ground had been particularly well prepared in Italy, where questions of international relations had long been attentively studied, and where dynastic interests and traditions had but a feeble hold on the population. In November Dr. Mancini (who shortly afterwards held the portfolio of Justice) moved, in the Chamber at Rome, in the sense of the House of Commons address; but he did not go so far as Richard, and asked for no immediate action. During the Berlin

[1] *Op. cit.*, p. 203, note.

[2] *De la Guerre et des Armées Permanentes* (3rd edit., 1870).

Congress of 1878, the delegates of the Peace Societies of Great Britain and several other countries, though they could not obtain admission to Bismarck or support from Lord Salisbury for their proposal to reaffirm in a more decisive form the principle of the 'wish' of 1856, were encouraged by a friendly reception on the part of Lord Odo Russell and Bismarck's versatile *famulus*, Lothar Bucher. In the same year—which was that of the Paris Universal Exhibition—several meetings in favour of Arbitration were held in the French capital, and, after a great preliminary meeting of French and English working-men, 'the first International Peace Congress held since 1849 assembled in the same city. This Congress, which was itself on a large scale, appointed a committee to draw up a plan for a universal federation of peace societies; and great exertions followed on the part of the widespread agencies of the common cause. The list of later popular Congresses need not be given here; but it included meetings at many of the principal cities of Europe, from London to Rome, and from Hamburg and Antwerp to Milan and Budapest, as well as one great American centre of population (Chicago). Much was done at these Congresses to prepare or carry on the decisions of the Hague Conferences of 1889 and 1907.

Pacificism in the Commons (1880, etc.)

On June 16th, 1880, the new House of Commons accepted, *nem. con.*, Henry Richard's motion in favour of a simultaneous reduction of armaments; but it lost much of its point by the introduction of the words 'on all occasions when the circumstances admit of it.' Thus, there was more force in the motion (although it was

lost by 72 to 64) by which, on April 29th of the following year, the House was invited to protest against arbitrary annexations by colonial governors and others—incontestably too often the cause of wars more or less obscure in origin. In 1885, after continuous exertions at home and abroad, Richard resigned the secretaryship of the 'Society for the Promotion of Permanent and Universal Peace'; but he continued his parliamentary activity, and, on March 19th, 1886, on the motion for going into supply, proposed an amendment which, though ultimately defeated by a majority of six (115 against 109), deserves to be remembered. This amendment asserted that it is not just or expedient to embark in war, to contract engagements involving grave responsibilities for the nation, or to add territories to the empire, without the knowledge and assent of Parliament; and the mover argued that, as a matter of practice, war was made by this country before Parliament could use its power over the national purse and refuse a vote of credit. Although the Transvaal War had been stopped by the Government on better information, this had been a wholly exceptional instance. Parliament ought, in every case, to have a voice in the decision of war or peace; and the aim should be, in Cobden's words, 'the greatest possible contact between peoples and the least possible between Governments, inasmuch as the former promotes peace, and the latter war.'[1] The opposition

[1] Attention was directed, in the course of the discussion, to the large number of territorial guarantees contracted by Great Britain, and appeal was made to the statement on this head by Lord Salisbury in 1871. For this noteworthy debate, see Hansard, ser. III., vol. ccciii., pp. 1386 *ff.* It deserves close attention as bearing both on the guarantee question in general, and on that of the expediency

offered to Richard's arguments by the Under-secretary for Foreign Affairs (Mr. Bryce) was even less rigid than the Prime Minister's, and dwelt above all on the practical difficulty that the Executive would always maintain any particular case to be exceptional.

The Hague Conferences (1899 and 1907)

The two Hague Conferences (as they have always been called) of 1899 and 1907, which were to have been followed by a third in the summer of 1915, represent what may be called the second stage of the preventive efforts on behalf of the Peace of Europe and the world —the stage at which these efforts have mainly been carried on under the authority and with the consequent responsibility of the several Governments, acting on principles agreed upon between them. The third stage, at which the principles themselves shall have come to form a binding International Code, lies still before us. In the meantime, both the proceedings and the results of these two Conferences have been subjected to careful analysis by several competent hands; but there is no reason for referring to them here except in so far as they concern the main methods discussed for averting the danger of sudden, predetermined or insufficiently considered resorts to war.[1] To every one of these methods, as the foregoing sketch will have made clear, attention

[1] What is here said as to the proceedings and achievements of the two Hague Conferences is for the most part taken from W. P. Hull, *The Two Hague Conferences and their Contributions to International Law* (Boston, 1908); J. B. Scott's *Texts of the Peace Conferences of the Hague, 1899 and 1907* (Boston and London, 1908), and the same author's *Lectures* on the subject (2 vols., Baltimore, 1909); and Dr. A. P. Higgins' *The Hague Peace Conferences* (Cam-

had been directed, long before they became the subjects of deliberation among accredited delegates of the European, and certain other, states appointed for the purpose. The methods in question were mainly of two kinds—first, the diminution of the risks of premature resort to war by the Reduction of Armaments; secondly, the delay or prevention of the outbreak of war by the nearly related, but not identical, processes of Mediation and Arbitration.

The demand for the Reduction of Armaments, the heaviest of all the burdens imposed upon the populations of Europe, had, as we have seen, long engaged the attention of those who had at heart the maintenance of peace among the nations. Bentham had proposed the 'fixation'—*i.e.*, limitation on settled principles—of the armed forces of the several European states: Great Britain, for instance, allowing to France, Spain and Holland, as together supplying a balance to her own sea-power, a combined naval force equal to half, or some such proportion, of hers. (He, also, with a view to decreasing the defensive responsibilities of certain Powers, suggested that those possessing distant dependencies or colonies should let them go free.) Towards the close of the nineteenth century, the question was again uppermost, and to it, indeed, was due the conception of the earlier of the two Peace Conferences in question. The sincere desire of Tsar Nicholas II. to promote the peace of the world found practical expression, when, in the summer of 1898, General Kuropatkin, together with two members of the Imperial Cabinet, M. Witte (minister of Finance) and Count Mouravieff (minister for Foreign Affairs) were anxious to avoid the great expense of superseding

the antiquated Russian artillery by a new and costly kind. Primarily, the first thought of an official Peace Congress seems to have sprung from the plan of the Interparliamentary Union, a highly influential association, consisting of representatives of the people in the Congress of the United States, the Parliament of Great Britain and Ireland, the various Congresses of other American republics and (with two exceptions) of the Parliaments of the several states of continental Europe. The object of this association was to promote the cause of peace and the spirit of mutual friendliness among the legislatures of the world, besides arousing by its meetings a genuine desire for international concord among the peoples at large. Its meeting at Budapest in 1896 so impressed one of the Tsar's ministers, M. Basily, that he at once began to advocate a reduction of Russian armaments. The summoning of a Second International Peace Conference in 1907 was, as will be seen, originally due to the same initiative, and the association was as active a factor in this Congress as it had been in its predecessor, especially by means of the plan of Obligatory Arbitration prepared by it and presented by the (Portuguese) Marquis de Soveral. In 1898, Count Mouravieff's celebrated rescript or report, dated August 24th, as to the great increase of European armaments and the evils thence resulting, was communicated to other Governments; and both this and a second rescript by the same hand, sent out January 11th, 1899, were so well received that, early in the following April, invitations were issued for the First International Peace Congress, to meet at the Hague on May 18th. Thither, delegates were sent by 26 out of the world's 59 Governments, estimated to have

under their sway something like three-quarters of the existing human race: the principle on which the summonses were issued (though it could not be carried out completely) being that the state invited had a diplomatic representative at Petersburg. The Pope declined, and of the American republics only the United States and Mexico sent delegates. Before the Hague Conference of 1907, the Anglo-Boer and the Russo-Japanese wars had been waged; but, already in 1904, while the latter conflict was still in progress, the Inter-parliamentary Union, sitting at St. Louis, had adopted a resolution requesting the Governments of the world to assemble in a Second Congress, and had sent a deputation to President Roosevelt at Washington to request him to convoke it. He readily promised compliance, and a circular suggesting the Hague as the place of meeting was speedily sent out by the Secretary of State (Mr. John Hay). After, however, in the following year, the Russo-Japanese War had been brought to a close by the Treaty of Portsmouth—a very effectual pacific effort on the part of the President of the United States—he courteously deferred to the Tsar's expression of his desire to be the convener of the Conference; and in April, 1906, the Russian Government issued its invitations. But, since the American republics had already decided to hold the third of their Pan-American Congresses at Rio in 1906, the Hague Conference was postponed till 1907, with the result that, when, in the spring of this year, the Russian Government renewed its invitations, the acceptances returned included all the Latin republics of South America; so that the Conference which met at the Hague on June 15th was even more fully representative than its predecessor.

Reduction of Armaments

On the head of the Reduction of Armaments, the action of the First Hague Conference (1899) was restricted to the unanimous expression of a belief and a wish—the belief, that 'a limitation of the military expenditure would be greatly in the interests of the material and moral well-being of mankind,' and the wish, that 'the Governments, having regard to the propositions laid before the Conference, would study the possibility of an agreement concerning the limitation of armed forces on land and at sea, and of military budgets.' This conclusion could not be regarded as an adequate response, either to the vigorous denunciation, in the Tsar's rescript, of the system of increasing armaments as 'a blow to public prosperity in its very source,' or to the Russian proposal at the Conference, that the actually existing condition of armed forces and military estimates should not be exceeded for five years. It is noticeable that neither the French nor the German delegates were prepared to subscribe to the view that the intellectual forces of national life were at present being unproductively consumed, and labour and capital to a large extent diverted from their natural channel of usefulness, although the Armed Peace of Europe had become a more and more intolerable burden. But M. Bourgeois, at least, agreed that, as a whole, the prosperity of the several countries would be more rapidly increased, if part of the resources now devoted to military uses could be placed at the service of peaceful and productive purposes. At Berlin, where the enthusiasm for naval armaments had in 1898 enabled

could only be carried after the number of cruisers demanded had been considerably reduced. But the practical difficulties in the way of a general agreement as to Reduction were unsurmountable, and the discussions on the subject were plainly not free from hollowness.

In the interval between the two Hague Conferences (1899 and 1907), the question of a Reduction of Armaments, accordingly, met with rather haphazard treatment. Early in 1905 the French Minister of Marine (M. Thomson) accounted for the increase in the French navy by the growth of the German. As the date of the Second Conference drew nearer, the British Government thought it well to justify before the world its intention of entering there into the question of an 'Arrest of Armaments.' In an article in *The Nation*, Mr. Asquith (Chancellor of the Exchequer) declared his belief that the actual British naval preponderance gave no offence to foreign Powers. If this were so, a scale of armaments might reasonably be expected to be agreed upon at the Hague; but Mr. Asquith's statement was regarded as optimistic both at Paris and at Berlin; and, in the debates on the Naval Estimates which soon followed in the House of Commons, was declared to have excited alarm in France and agitation in Germany, and not to admit of being considered reassuring at home. The delegates sent by the British Government to the Hague were, however, instructed to favour a discussion of the principle of the Limitation of Armaments, even were it to result in temporary failure, and, if such a discussion arose, to signify the willingness of the British Government to accept a proposal that the Great Powers should communicate to one another in advance their programme of new naval construction.

With regard to this crucial question in particular, the anticipations as to the results of the Conference of 1907 did not improve as its actual opening approached; and the hope expressed in Mr. Carnegie's speech, at a peace-gathering in 1907, that Great Britain, the United States, France and Germany would unite in preventing other states from making war, seemed to have a far-off sound. Prince von Bülow, and his organs in the German press, left no doubt as to Germany's intention of taking no part in any discussion on the Armaments question at the Hague. She had not, he declared (thus really going to the root of the question), discovered any formula for meeting 'the great diversities that mark the geographical, economic, military and political positions of the several countries of the world, or which would be calculated to put an end to these diversities, and at the same time to furnish a basis for an agreement.' The German press, though it was to become more friendly after the Emperor's handsome reception in England in November, 1907, showed itself steadily opposed to any proposal for a Limitation of Armaments, and, at the same time, suspicious of England's motives in furthering it, and the Federal Council, in the same month, adopted the new Navy bill. Meanwhile, in Russia, at least one important organ of opinion[1] observed that it was impossible for other European states to limit their armaments while Germany pursued what it described as a 'Chauvinist' policy. It must be allowed, as was pointed out by a vigilant German publicist and historian,[2] that for Germany this question

[1] *The Exchange Gazette.*

[2] Th. Schiemann, *Deutschland und die grosse Politik* (Berlin, 1902 *sqq.*), a. 1907, pp. 85-6.

possessed an interest not confined to the political considerations of the moment, though these, and the claim of naval preponderance to which Great Britain adhered as of vital significance to her, were of course primary. But it also affected the maintenance of the existing military organisation, based on general conscription, in what on social as well as political grounds was deemed a right proportion to the increase in the population.

At the Second Hague Conference, Germany adhered to her position, and thereby rendered that of France uncertain; while, on this occasion, the Russian, with several other Governments, exerted itself to exclude the whole subject from discussion. Even the attitude of the United States, where President Roosevelt had so strongly insisted on the necessity of strengthening the defensive power of the state, was not without an element of uncertainty. Thus, the action of the Conference on this head did not go beyond a renewal of the recommendation to the Governments to study the question of the ways and means for finding a practical plan for the Reduction of Armaments, and for securing a national agreement upon it ('inasmuch as military expenditure has considerably increased in almost every country since' 1899); while advantage was taken of the presence of the delegates of all nations to give a concrete example of Disarmament by agreement in the shape of an arrangement made for five years between Argentina and Chile. About the same time, the International Peace Congress, assembled at Munich, requested its standing bureau at Berne to continue the appointment of committees in the principal states of Europe for the further 'study' of that question, which

although during the seven years after 1907 it became one of more and more intense interest.

Opening of Hostilities

With the question of the Limitation of Armaments that of the regularisation—if the phrase be admissible—of the Opening of Hostilities is, in a certain measure, connected. The preliminary process of Mobilisation, on which, as is well known, the outbreak of wars has in more recent times come in the main to turn, is one of which the rate of speed must inevitably differ in different countries; considerations of extent, of relative remoteness, and of existing systems of military or naval service, having, among others, to be taken into account. Moreover, the regularisation of the Opening of Hostilities almost ceased to be a question of practical importance, after the diversity of procedure on this head had come to be itself something like an accepted principle. The late General Sir Frederick Maurice, in a luminous essay on the subject,[1] showed how the extraordinary effects of modern science, by breaking down many of the natural barriers between nations, offered dangerous facilities for an invading army. Hence, on the supposition (which our age, at least, is unlikely to gainsay) that war and peace are really distinct conditions of national existence, sufficient time ought to be allowed to a nation, when face to face with war, to adapt itself to the change. The question thus arises, whether modern

[1] *Hostilities without Declaration of War. An Historical Abstract of the Cases in which Hostilities have occurred between Civilised Powers prior to Declaration or Warning: from* 1700 *to* 1870. Compiled in the Intelligence Branch of the Quartermaster-General's Department,

experience has shown that a nation can reasonably trust to the certainty of such an interval, or whether it is, 'in fact, true that, under the excitement of popular passion or private ambition, rulers of armies or of armed nations have sometimes disregarded all obligations of the kind, and have, in the midst of profound peace, taken advantage of the confidence of their neighbours.' General Maurice, recognising the necessity of making provision, not only against what will certainly happen, but also against what past experience shows *might* happen, enters into a careful examination (called forth by the Government enquiry into the Channel Tunnel question in 1881-2) of the circumstances in which, between the dates 1700 and 1871, hostilities have been begun by different countries against one another, previously to, or without, a declaration of war. To his own surprise, his investigation led to the conclusion that, so far from 'declarations of war' having been the established usage among civilised nations during the eighteenth and in the first three quarters of the nineteenth century, not so many as ten instances of previous declarations of war are, apart from doubtful cases, to be found in this period; while, in it, 107 cases are on record in which hostilities have been begun by European Powers or the United States of America, or by their subjects, against other Powers, or the subjects of these, without previous declarations.[1] And this

[1] According to M. Charles Malot, of the *Journal des Debats*, cited by T. Schiemann, *Deutschland und die grosse Politik*, vol. iv. (a. 1904), p. 60, in the 120 wars carried on by civilised Powers within the years 1700 and 1850, only 10 opened with formal declarations of war, while 100 opened with acts of war. Within this wide period, Great Britain issued no single declaration of war; in the case of the

number would be largely increased, if the whole history of Indian, Chinese, and extra-colonial wars with savage tribes, were added.

The present is not an occasion for following General Maurice in his analysis of the cases enumerated by him; but it is desirable to point out that they by no means admit of being described as a list of precedents quite out of date. Only 47 out of 107 cases mentioned by him occurred between the years 1700 and 1799, while 60 happened within the seventy-one years from 1800 onwards. Thus (to say nothing of the French invasion of the Spanish Netherlands, which began the war of the Spanish Succession), the invasion of Silesia, which opened the First Silesian, and that of Saxony which opened the Seven Years', war, as well as the 'invasion of republican Switzerland by republican France,' were but the precedents of the Napoleonic seizure of Spain, the British bombardment of Copenhagen, and a long miscellany of events of later dates—among which is not to be included the opening of the great war of 1870-1, which was preceded by a declaration and warning. Yet this instance, at the same time, illustrated the difficulty of deciding what amounts to a Declaration of War, and, more especially (as, also, did that of the attempted French mediation in our quarrel with Greece in 1850), what meaning should attach to the recall of an ambassador, according to the circumstances in which it takes place. In general, the issue of a Declaration of War has, like its actual terms, come to be regarded rather as a reasoned notification to the subjects of the Government issuing it, than as a warning to the Power against whom war is declared.

rapid intercommunication at the present day, the difference in time between the one and the other kind of announcement may not be considerable, it may, nevertheless, have an important bearing upon the conduct of individuals obliged to form a precise judgment on the actual date of the beginning of a state of war between two nations.[1]

In the Conference of 1899, the topic of the Opening of Hostilities was not included in those proposed for discussion. In 1907, however, a Sub-commission of the Commission on the Laws and Customs of War was asked to consider the questions: whether the Opening of Hostilities should, in every case, be preceded by a Declaration or an equivalent act; whether (and to this question special attention may be directed) a fixed interval ought to elapse between the Declaration and the Opening of Hostilities; and, last, whether and by whom the Declaration should be announced to the Powers in general. It was ultimately resolved, with virtual though not actual unanimity, that 'hostilities should not begin between the' signatory 'Powers without a previous distinct warning in the form either of a declaration stating the causes of the war, or of an *ultimatum* with a conditional declaration of war.' The addition, proposed by the Netherlands, that the delay to follow 'a previous warning' before the opening of hostilities should not be less than four-and-twenty hours, was rejected, but only by 16 to 13 votes, with 5 abstentions. It may be mentioned that the *ultimatum* sent to Russia by Germany on July 31st, 1914, demanded that the former Power should countermand her mobilisation within twelve hours.

[1] See the case of Vice-Consul Ahlers, decided in December, 1903.

The Hague Conference of 1907 unanimously adopted the further resolution that 'the state of war must be notified without delay to the neutral Powers'; though 'the neutrals cannot insist on the lack of notification, if it be conclusively proved that they were, as a matter of fact, aware of the existence of such a state.'

Unlike the question of the prevention of war by means of a Limitation of Armaments, which, as has been seen, met with insuperable objections at the outset, the question of its arrest or prevention by means of a Pacific Settlement of International Disputes, assumed so great an importance at the Hague Conferences as, in the minds of those who had a prominent share in these deliberations, to take precedence over all others. It even threw into the shade the question which it had been sought to advance by means of the revised Geneva Convention of 1906, for the Amelioration of the Treatment of the Wounded and Sick on the Field, strongly though this appealed to the common instincts of humanity.

Convention for Pacific Settlement of International Disputes (1899)

The Convention for the Pacific Settlement of International Disputes adopted by the Hague Conference of 1899, was, at the time; described, in a phrase that can scarcely be called grandiloquent, as the *Magna Carta* of international law. Of the series of expedients for the settlement of international disputes which it provided, the adoption, of course, remained, in the first instance, voluntary. But to the fundamental principle of the settlement of disputes by pacific means the Conference stood committed by this Convention, which constituted

a declaration binding its signatories to its terms, instead of being a mere platonic statement or pious 'wish.'

The Hague Conferences distinguished, more carefully than had perhaps always been the case in attempts to settle international disputes by pacific means, between processes of Mediation (including, as its preliminary stage, the tender of Good Offices) and of Arbitration. The two processes have, as a matter of fact, not unfrequently been combined, in cases where the main purpose of the former was to lead up to the latter. But, in their essence, they do not admit of being confounded with each other; for the one of them is of its nature diplomatic, and the other judicial.[1]

Mediation

The use of the method of Mediation, then, was unanimously approved by the Hague Conference of 1899; but, while resolving, in confirmation of the Protocol of 1856, that, in cases of serious disputes or conflicts, the disputants, before making an appeal to arms, should

[1] It may be worth pointing out, in a note, that *Intervention*, though at times spoken of as if identical with Mediation, is, of course, a term of far wider application, and may, or may not, be undertaken with a view to the interests of both parties to an international dispute, or even in the interests of peace in general. Many wars, no doubt, from the Austro-Prussian of 1866 to that between Greece and Turkey in 1897, as well as the Balkans war of 1912-13, have been brought to a close, or interrupted, by Intervention; but it is undeniable that in some cases the effort made by the intervening Power or Powers might, with great advantage to the Peace of Europe or of the world, have been made earlier, in the form of Mediation rather than in that of Intervention. Still less need we concern ourselves here with those varieties of neutrality which more or less imply preferential goodwill towards *one* of the parties to a dispute —such as, for instance, Germany avowedly displayed towards Russia

have recourse to the Good Offices of one or more other friendly Powers, the Conference decided to qualify this declaration by two clauses. These reservations limited the application of the mediatory process, by the words 'in case of serious difference or conflict' and 'so far as circumstances permit.' The former reservation was a matter of course, inasmuch as, in its Convention for the Pacific Settlement of International Disputes, the Conference laid it down as expedient, in such disputes, when 'involving neither honour nor vital interests,' for the parties to resort to another mode of settlement—viz., the constitution of an International Commission of Enquiry. It seems, however, strange that, under the heading 'Mediation' no further definition was given of the terms 'serious difference or conflict.' They were, it appears, understood to mean any dispute of so much gravity as to imperil the maintenance of peaceful relations between the differing states. On the other hand, the insertion of the second reservation was, in a sense, a step backwards rather than forwards: for, though this restriction had been included in the Protocol of 1856, it had been omitted from the Act of Berlin of 1885, the application of which, as already noted, was local only. It was, however, thought prudent to reinsert it in the Convention of the Conference of 1899, of which the application was general, in the hope that, in the present instance, the less might meet with readier assent than the more.

The Convention was not confined to the affirmation of the principle that disputant Powers should have recourse to—*i.e.*, engage or accept—the Good Offices or Mediation of other Powers; but, in the next article, the

should, of their own initiative, and so far as circumstances permitted, offer their Good Offices or Mediation to the disputants. And, on the motion of the Italian delegate, Count Nigra, a special addition was made, to the effect that this right should be exercised even during the progress of hostilities. These provisions obviated the possibility of any charge of officious interference being made against any Power that should decide to act upon the Convention; and it was expressly added that the exercise of this right by a third Power should be at no time—as it conceivably might have been in 1866[1]—regarded by either of the parties to the dispute as an unfriendly act. The dread lest Mediation should pass into Intervention was very perceptible among the lesser states of Europe; and, with a view to such apprehensions, it was declared, in a later article of the Convention, that Good Offices and Mediation were to be regarded as advice pure and simple, without possessing any binding force, and that they could not have the effect of preventing or interrupting mobilisation. These articles show that the Mediation recommended in the Convention of 1899 in no sense partook of the nature of Arbitration, or of Authoritative Intervention, or of so-called 'Armed Mediation,' or of a hegemony, imposing its will.[2]

[1] Cf. *ante*, p. 25.

[2] It may, perhaps, be worth noticing that the Serbian delegacy at the Hague in 1899 insisted on making a formal statement to the above effect, besides proposing that the refusal of an offer of Good Offices or Mediation should at no time be regarded as an unfriendly act. This latter proposal was withdrawn, on condition that it should be entered on the minutes as a statement of opinion. Serbia played no very comfortable part at this Conference, and, with Greece, supported Roumania in taking objection to the Commissions of Enquiry which will be mentioned below.

The value of Mediation was conspicuously illustrated in the interval between the two Hague Conferences by the negotiations which, in 1905, led to the termination of the Russo-Japanese War, before it had assumed dimensions which might have rendered its further course uncontrollable. These negotiations were due to the disinterested initiative of President Roosevelt, who tendered the good offices of the United States, and thus took the first step towards the restoration of peace between the belligerent Powers.

The Conference of 1899 further recommended a particular application of the principle of Mediation—'Special Mediation,' as it was called—which seems to call for mention here, not so much on its own account (for it was never put into practice or further developed), as because of a provision which accompanied it, and which was of enduring significance. In cases of serious difference between two Powers, each of them was to be at liberty to entrust some other Power selected by it with the task of communicating with a Power similarly chosen by the other party to the dispute—something on the analogy of the appointment by an intending principal in a duel of a 'second' whose duty it is to enter into communication with the 'second' appointed on the other side; though, of course, in the present instance the object of the commission is to 'prevent the rupture of pacific relations.' The period over which the mandate given by a disputant to a friendly Power extended was, unless otherwise stipulated, not to exceed thirty days; and, during this period, the states in dispute were to discontinue all direct negotiation concerning the subject on which they differed, and to refrain from entering into any com-

munications concerning it, except through the special mediator. This provision, which virtually constituted one month the normal interval, could hardly fail to discourage the kind of Mediation which comes in too late, and at a point of time when nothing short of Intervention can prevent the actual beginning, or stay the progress, of a war.

Commissions of Enquiry

Half-way, if the expression may be used, between Mediation and Arbitration stands the agency of Commissions of Enquiry, to which reference was made above, and which, on the proposal of the Prussian delegation, was approved at the Conference of 1899. This expedient was not altogether an innovation, since the usefulness of such commissions had already proved itself, more especially in boundary-disputes, when they succeeded in clearing up the obscurities often besetting controversies of this kind, besides, even more effectively than any prolonged process of mediation, giving time for passions to cool. It was through an international Commission of Enquiry, proposed by France, that the dispute between Great Britain and Russia, caused by the sudden incident of the Dogger Bank, in October, 1904, was brought to a complete conclusion, by means of an award delivered in the following February, and the imminent danger of an armed conflict between the two Great Powers was averted.

At the Hague Conference of 1907, the Russian programme made no mention of Good Offices or Mediation by the side of, or as introductory to, Arbitration Tribunals

or Commissions of Enquiry; but, at an early meeting of the Conference, the United States delegacy proposed a change in the form of the section of the 1899 Convention dealing with Good Offices and Mediation, and intended further to encourage the offer of them. The Powers were now asked to declare it 'desirable' (as well as 'useful') that in cases of dispute one or more of them should offer Good Offices or Mediation; and the proposal was accepted without discussion. An attempt to amend the provision as to *Special* Mediation was, however, rejected. As to Commissions of Enquiry, the Hague Conference of 1907 adopted a declaration in which they were stated to be 'desirable' as well as 'expedient.' Several further amendments on this head were discussed, but not adopted, and the scope of Commissions of Enquiry was not extended to cases of all sorts and kinds. A series of rules, however, was recommended for the use of future Commissions, since, in the Dogger Bank case, proceedings had been considerably retarded by the lack of such aids.

Arbitration

The question of pacific settlement by **Arbitration** engaged the attention of both the Hague Conferences, and was necessarily discussed by them. The President of the Conference of 1899, the Russian Baron de Staal, began by observing that, 'although diplomacy had long included among its functions Arbitration and Mediation,' it remained for the present assembly to determine the method of applying these expedients, as well as the occasions on which they should be brought

into use.[1] At the first meeting of the Arbitration Committee of the Conference, when not less than seven articles were submitted by the Russian delegates on the subject of Arbitration and Arbitral Procedure, it was immediately pointed out that, while Voluntary resort to Arbitration naturally and necessarily depends on the preliminary agreement reached between the parties to the dispute, so that it may be applied to any case or subject, Obligatory Arbitration cannot admit of the same general application. For no Government or nation could, it seemed, be expected to accept, in advance, an obligation to submit every controversy to a tribunal whose conclusions would claim to be internationally as inviolable as a statute passed by legislation is in the eyes of any individual nation; for, if it were ready to do so, it would surrender the right of every state to determine for itself its own future. This would imply the establishment of an international authority which would, in certain respects, supersede the supreme

[1] In the Appendix to his valuable documentary work, *International Arbitration* (4th edit., 1904), Dr. W. Evans Darby has collected a large number of 'Instances of International Settlements involving the application of the principle of International Arbitration' from 1794 onwards, in which year the 'Jay' Treaty referred certain questions (of boundaries, recovery of debts, and maritime seizures) to Commissions appointed under it. Of these cases, more than 200 occurred previously to the year 1899. In addition to these, he cites nearly 100 cases—less formal in kind, but involving the application of the principle of Arbitration—of the appointment of Regulating Courts or Commissions, and more than 200 of that of Delimitation Commissions, ranging in date from 1808 to 1914), besides national Commissions for the settlement of *international* claims and questions. It may be added that, of formal international arbitrations in the twentieth century, he cites 40, including not less than 12 referring to claims against Venezuela.

national right of self-government, and would, by formal agreement, be invested with powers converting Obligatory into Compulsory Arbitration, in the strict sense of the epithet. But these ulterior considerations did not prevent the First Hague Conference from discussing the question as to which classes of disputes should invariably be submitted for decision to Arbitration.

The Convention for the Peaceful Settlement of International Differences adopted by the Conference, accordingly, while recognising the voluntary character of the arbitration contemplated, stated the object of the process to be the decision by judges chosen by the parties to a controversy of questions involved in it in their nature fit for judicial treatment ('justiciable'), more especially if concerned with the interpretation or application of international treaties. The adoption of this method left the sovereign authority of the several states over their own action unimpaired, inasmuch as they retained the right of pronouncing whether or not any particular case was of its nature judicial, or concerned with the interpretation or application of a treaty or treaties. All the signatory Powers, with the solitary exception of Roumania, agreed, in cases of this kind, to accept Arbitration. This did not mean that they collectively declared Arbitration applicable to all differences concerning territorial limits or other political or commercial interests, but that they approved of the conclusion of agreements between any two or more states as to Arbitration, either on any question in dispute between them or on questions of a particular class of character only. This diversity and freedom of choice among the ques-

tions to be referred to Arbitration was sufficiently illustrated by a comparison of the numerous Arbitration Treaties between particular states already in existence.[1]

The Conference was, hereupon, invited by the Commission on the subject to adopt a declaration laying it down as the duty of the Powers to suggest the use of Arbitration to states in dispute with one another, while leaving it to the disputants to find the best way of carrying out the suggestion. Roumania, which refused to swerve from the principle that any such resort should be absolutely voluntary, proposed that, instead of declaring that they 'considered it their duty,' the Powers should merely state that they 'judged it useful' to make suggestions in the above sense. A discussion followed, which went very near to the root of the whole matter; finally, however, the article drafted by the Commission was unanimously adopted in its original form. But it called forth an important declaration on the part of the United States delegation, safeguarding that Power against any construction implying a departure from the principle of Non-intervention as binding upon its foreign policy, or from the maintenance of the Monroe doctrine as prohibitive of non-American interference with the political institutions or territorial system of any American state.

Between the First and the Second Hague Conference the use of Arbitration as a method of settling international disputes made notable progress. At the Second International Congress of American states held at Mexico, in 1901, a Convention was concluded for eight years on the basis of submitting to Arbitration

[1] *Cf.* the preceding note.

all claims that might have arisen between any of these states for compensation of pecuniary loss or damage and have proved not determinable by amicable negotiation; and, at the meeting of the Third Congress, at Rio, in 1906, this Convention was renewed for a further period of five years. It was at this (Third) Congress that the Mexican delegate Romero moved to extend the application of the Monroe doctrine to international relations between any American states—a proposal unmistakably pointed at the intentions of the United States with regard to Mexico.

Arbitration Treaties (1902-1908)

Among the twenty-seven Arbitration Treaties of various sorts stated to have been concluded between 1902 and 1908 was the *rara avis* of a German Arbitration Treaty, concluded with Great Britain in 1904, and prolonged, in January, 1910, to 1914. In 1902, the refusal of Venezuela to accept either Arbitration or the judgment of a Mixed Commission on the debts owing by her subjects to British, German, and Italian subjects led to the blockade of her ports by the combined fleets of the Powers interested. But the mediation of the United States prevented a prolongation of the conflict, which might have endangered the maintenance of the Monroe doctrine and of the 'Drago doctrine,' put forward as supplementary to it in 1902, and denying to European Powers the right of intervention in the affairs of any American state, and, *a fortiori*, that of occupying any part of its territory, in order to recover from it a public debt.

The question as to whether the British, German and Italian claims ought to receive preferential treatment was submitted to the Permanent Arbitration Court at the Hague (*see post*) in 1903, and the sums due on the claims were settled by a Mixed Commission. In 1903, an Anglo-French Arbitration Treaty provided for referring to a permanent Court of Arbitration all disputes of a judicial nature and concerned with the interpretation of treaties, but added that the subjects dealt with were to include nothing affecting the vital interests or independence or honour of the two signatory Powers. The Anglo-American Arbitration Treaty of December, 1904, was not ratified. Treaties between Italy and Denmark, Denmark and the Netherlands, and Chile and Argentina, signed within this period, made resort to Arbitration obligatory in all cases of dispute between these Powers respectively which had not been settled by diplomatic negotiation; and divers other Treaties signed about this time rendered Arbitration obligatory between particular Powers in specified classes or categories of cases.

On the other hand, the most important armed conflict of the period, the Russo-Japanese war of 1904-5, opened without any attempt having been made at Arbitration (or Mediation) between the two Powers concerned. There was much fear that other Great Powers might be involved in the conflict, since the Anglo-Japanese Alliance had existed since February, 1902; while Russia made it known that the Franco-Russian Treaty of Alliance extended to the conditions of things in the Far East. But the French Declaration of Neutrality issued in February, 1904, put an end to any Russian

till it was arrested in consequence of the mediatory process already noted.[1]

Compulsory Arbitration

Thus, at the Second Hague Conference, in 1907, a strong feeling manifested itself in favour of a substantial advance as to the use of Arbitration for pacific purposes. Four of the Great Powers were found prepared to conclude a general treaty on the basis of Obligatory Arbitration in specified classes or categories of cases, while a fifth assented in theory, though reserving its final decision. But a sixth Power was opposed to a general treaty, while expressing cordial approval of the conclusion of further treaties providing for Obligatory Arbitration between particular states. This Power was Germany, whose views were made known at the Hague through her very able delegate, Marschall von Bieberstein. Yet it seemed a considerable gain that she should have accepted the principle of Obligatory Arbitration at all, and, in token of this, have signed two Treaties—one with Great Britain and the other with the United States—agreeing to Arbitration on judicial questions bearing on the interpretation of treaties. The Conference facilitated the resort to Arbitration in particular cases by enabling any Power in dispute with another to notify the International Bureau established at the

[1] The Algeciras Conference of 1905 was of significance in the present connexion, inasmuch as, like the Berlin Congo Conference of 1885, it asserted the claim of all the Powers to take part in a deliberation affecting the economic interests of the world at large, instead of leaving a limited number of Powers to settle a particular question for themselves. Its actual conclusions do not concern us

Hague of its willingness to submit any difference in which it had a part to Arbitration, the Bureau being charged with notifying this without loss of time to the other disputant Power.

A large majority of the Powers represented at the Conference had agreed to accept the application of the general principle of Obligatory Arbitration to specified classes of cases, which, as had been already proposed at the Conference of 1899, were, in the main, of secondary moment, and would rarely of themselves give cause to a war—although, of course, they might call forth, or intensify, inimical feelings between the states at variance. The number of classes of cases, or kinds of treaties, brought under discussion for inclusion in the specified list, rose, in the Second Conference, to twenty-four. The categories actually approved were relatively unimportant; but their acceptance would have formed a good beginning, had not a minority of delegates been resolved to shelve the whole question of applying the principle of general Obligatory Arbitration. Thus, in the end, the Conference adopted a temporising makeshift, formulated by its Commission, instead of recording a plain assent to the United States' proposal, that 'differences of a judicial kind, and above all such as relate to the interpretation of treaties existing between two or more contracting states, which have not been settled by diplomatic means, shall be submitted to Arbitration, provided that they affect neither the vital interests nor the independence nor the honour of either (or any) of the contracting states, or the interests of any other state.' Recognition was thus accorded to the principle of Obligatory Arbitration, and it was added that certain differences, more especially such as

bore upon the interpretation or application of existing international treaties, were capable of being submitted to Compulsory Arbitration without any restriction. It had not proved possible to conclude at present a convention of this tenour; but the discrepancies of opinion had been of a legal kind only. The United States may be excused for having abstained from assenting to so half-hearted and insincere an utterance. Manifestly, the adverse attitude maintained by Germany, with the support, to some extent, of Austria-Hungary, while Italy showed a disposition to hold back, had reduced the total result of the discussion to little more than the recognition of the *principle* of Obligatory Arbitration, and a pious wish for its general adoption at some future time. A step in advance had, however, been taken, and, though a concrete treaty between the Powers, embodying the principle of general Obligatory Arbitration and defining the range of its application, would have been of infinitely greater value than the formula actually adopted by the Conference, it had deserved well of the Peace of Europe by approving the most hopeful of known methods of pacific settlement.

Permanent Court of Arbitration

With the efforts of the Hague Conferences for an agreement on the adoption of Arbitration, and of Obligatory Arbitration in particular, is directly connected the system of Arbitral Tribunals and Procedure instituted by them. The Russian proposals submitted to the Conference of 1899 did not, at first, include any scheme for the establishment of a Court of Arbitration. Such a plan was, however, speedily put forward on

behalf of Great Britain by Sir Julian Pauncefote, who based it on the arguments of Descamps in his *Essay on Arbitration*. After certain reservations had been made by the German delegate Zorn, a discussion ensued on the British plan and on a Russian plan, brought forward by de Staal (a third had been presented, in addition, on behalf of the United States). It was resolved that a Permanent Court of Arbitration should be established, competent for all cases of Arbitration, unless, in any case, the parties should have agreed on the establishment of a special tribunal; while, as has been seen, an International Bureau was set up at the Hague for carrying on the business of the Court, and to this it was proposed as soon as possible to add a Permanent Administrative Council. The number of judges forming the Court, to be appointed by the several signatory Powers, was at first fixed at two, and afterwards raised to four. In order to constitute the Arbitral Tribunal for the judgment of any particular case, it was resolved that each party to the dispute should choose two arbitrators from among the members of the Permanent Court, and that these arbitrators should choose an umpire, or, if they could not agree on one, select a Power for choosing him. If they could not agree on a third Power, each was to name a Power to choose him for them. At the Conference of 1907, these rules were amended by providing that not more than one of the two arbitrators named by any particular state should be a subject of the Government naming him, and that, if, after the lapse of two months, the Powers named to choose an umpire could not agree on one, each should present some member of the Permanent Court, and the lot should decide between the two

presentees. The Conference, also, embodied in the Convention approved by it a French proposal adapting its principles (more especially) to the settlement of disputes of a technical nature, in which the choice of arbitrators could not be limited to members of the Permanent Court. This 'Summary Procedure of Arbitration,' as it was called, need, in view of the nature of the cases to which it applied, not further detain us here. The Permanent Court created in 1899 was constituted without delay, and, already in 1902, the earliest case was submitted to it and decided. This was a dispute between the United States and Mexico, and concerned the treatment of a Catholic ecclesiastical fund known as the 'Pious Fund of the Californians.' Other cases were brought before the Permanent Court in the interval between the two Peace Conferences—including, in 1903, the question as to the Venezuelan claims (mentioned above), of Great Britain, Germany and Italy, which, early in 1904, the Court declared to be entitled to preference over those of other states. A third case, in 1905, concerned the exemption of perpetual leases granted to Great Britain, Germany and France in Japan from imposts not expressly mentioned in these leases, and was decided in favour of the European Powers. A fourth, also decided in 1905, turned on a controversy between Great Britain and France as to the application, contested in certain points by the latter Power, of the Declaration of 1862, in which both Powers had engaged to respect the independence of the Sultan of Muscat. The Second Conference of the Hague (1907) unanimously agreed to Permanent Courts of Arbitration.

nent Court, a code of rules adopted already in 1899 was confirmed in the First Conference, and greatly enlarged in that of 1907. This code was intended to govern the treatment by the Permanent Court of cases for which no regulations had been drawn up by the parties to the arbitration themselves; and the Court was authorised, if so desired by both parties to a dispute, to formulate the *Compromise*, or terms of reference, presented by the parties. An apparently useful suggestion made by the German delegates, that an arbitral decision by the Court should determine the period within which it should be carried out, was rejected. The Conference of 1899 had, already, adopted the principle that arbitral decisions should admit of revision; and, notwithstanding the logical contention of de Martens that revision was contradictory to the very essence of arbitration, this principle was maintained at the Second Hague Conference in 1907.

Court of Arbitral Justice

At this Conference, it was further agreed to supplement the Permanent Court of Arbitration by calling into life another tribunal—that of Arbitral Justice or Judicial Arbitration. The Permanent Court could not, as cases occurred, be organised without considerable expenditure of time and money; the new Court, to quote the draft Convention as to its creation and constitution, was to be easily accessible, and to be composed of judges representing the various juridical systems of the world. The controversies submitted to it would, primarily, be of a legal nature; but it was to be competent to deal with any kind of case brought before it,

arbitration or of a special agreement between the parties. But, precisely because it was to be of easy, ready and general use, the question of its composition proved one of great difficulty, and called forth fundamental differences of opinion. The theory, that from the point of view of international rights, all states are equal, which hampered the proceedings of the Conference in a general way, could not but prove a stumbling-block to the establishment of a Court such as this was designed to be. On the part of the lesser states, led by Belgium (through her delegate M. Bennaert) and including Mexico and Brazil as well as Servia and Roumania, there was much opposition to the original scheme, according to which the Court was to consist of eight judges, appointed by what were now considered the Eight Great Powers, and holding office for a period of twelve years, while the remaining nine sat for various shorter periods. A series of amended schemes for the constitution of the Court, including a final one of great practical simplicity prepared by the United States delegate, Mr. Choate, having been persistently rejected by the opposition, headed by the Brazilian delegate Ruy Barbosa, the Committee of the Conference, on the motion of the British delegate, Sir Edward Fry, by a large majority resolved to accept the draft scheme, leaving out, however, all provisions as to the nomination and tenure of the judges.[1] And, even then, it could only be submitted to the Conference, and adopted by it, as a *wish*—not as a declaration, since another small state, the Swiss Confederation, declined to accept it. Thus, the Convention as to the establishment of a Court

of Arbitral Justice remains in the form of an *annexe* to a 'wish' placed on record by the Second Hague Conference.[1]

The lesson thus conveyed to the Gr at Powers was not administered in vain, as is shown by the fact that certain important international Conferences subsequently held were confined to a select number of larger Powers. But, though no doubt much time was wasted in obstructive debate during the Second Hague Conference, it was, as a whole, by no means the utter failure which blustering organs of prejudiced opinion were pleased to pronounce it. Apart from what had been gained for the principle of Arbitration, a number of Conventions had been adopted relating to the conduct of warfare by land and sea; another had established the principle of an International Prize Court—thus pointing the way to the future growth of precedents based on international, and not solely on national, law; while yet another had recognised that hostilities must not begin between any of the signatory Powers without a previous and unequivocal warning, which should take the form either of a Declaration of War, with a statement of reasons, or of an *ultimatum*, accompanied by a conditional Declaration of War.

[1] It should not be overlooked, though not directly bearing on the subject of this paper, that the Permanent International Prize Court, for which the Hague Conference of 1907 framed a definite organisation, and for whose use the Declaration of London of 1909 formulated regulations with respect to neutral commerce, implied a great international advance (though, of course, its services could not be called into requisition till after an outbreak of naval warfare). And this, not only with regard to the actual purpose of the Court, but, also, because of its composition. It was to consist of judges appointed by the Great Powers (including the United States and Japan), who would sit permanently, and of others appointed by the remaining contracting Powers, who would sit according to a fixed system of rotation. (*Cf.* W. H. Taft, *The United States and*

Peace Securities (1907-1914)

In the course of the seven years that intervened between the signing of the final act of the Peace Conference of 1907 and the outbreak of the great War, not a little was done to maintain or extend the provisions of the various Conventions on which, with or without reservations, the Powers represented in that Conference had agreed. Difficult as it is to keep a notice of them detached from a general survey of the phases of policy and the currents of opinion and feeling successively observable in this troubled chapter of recent history, the attempt may be made, in order to complete the outline here essayed. For in no other way is it possible, in considering the Securities of future Peace, to start from even a slender basis of antecedent facts. We may, at the same time, safely neglect unsubstantial rumours like those which enveloped the visit of the Emperor William II. to this country in November, 1907, at the very beginning of the period under notice; while, in approaching its close, we may suspend judgment as to devices of diplomacy which only the lapse of time can place in their true historical light—such as the German 'mediation' between Russia and Austria on the eve of the final rupture.

Limitation of Armaments

In the matter of the *Limitation of Armaments*, no progress was made in 1908 with the idea of imposing it on all the Powers by means of a general agreement between them, while Germany in particular showed no inclination to recede from the position assumed by her at the recent Conference. (It was virtually the same

as that expounded, of course in a most amicable form, in the Emperor William's letter to Lord Tweedmouth early in 1908, which remained 'private' till six years afterwards.) The protest of the Socialist deputy Bebel in March, 1908, against the magnitude of naval armaments fell on deaf ears. At the Naval Conference held in London in 1908-9 between ten of the Powers—including all the Great Powers, with the addition of Spain and the Netherlands—for the purpose of laying down the generally recognised principles of international law, within the meaning of the Convention as to the establishment of an International Prize Court, signed at the Hague in 1907, when no final decision had been reached on the subjects of Contraband and Blockade, that of the Limitation of Armaments was not brought up. On the other hand, the Declaration, adopted by this Conference, and known as the Declaration of London, which imparted greater definiteness as well as breadth to the Declaration of Paris of 1856, would have had a very direct bearing on the question of the Limitation of Armaments, and of Naval Armaments in particular, had the argument advanced in the British Parliament and elsewhere proved maintainable: that no other Power could even consider the question of such a limitation, so long as Great Britain refused to listen to any proposal to sanction the principle of the immunity of enemies' merchant ships and private property from capture at sea in time of war. This argument, however, was not based on any statement, or expression of feeling, on the part of any of the Powers, and there was no reason for attaching weight to it. Thus, notwithstanding courteous disclaimers on both sides, no serious intention of a definite agreement as to Limita-

tion or Reduction of Armaments was, in the course of 1908, manifested either in the Wilhelmstrasse or in Downing Street, or as between any two Great Powers. The interview, in August, between the Emperor William and King Edward, and the friendly comments to which it gave rise, did not advance the matter. Prince von Bülow, on September 18th, appeared at the Berlin meeting of the Interparliamentary Union (which, as we saw, had been active at both the Hague Conferences), and, while claiming for the Emperor and himself the credit of being among the most determined advocates of peace, blandly announced that Germany had not the remotest intention of reducing her armaments. 'She had, he pointed out, not been at war for thirty-eight years. When asked, in the *Reichstag*, on December 9th following,[1] why the Government had declined to entertain proposals for the limitation of naval armaments, he said that Germany had for a long time past recognised an international Limitation of Armaments as in itself highly desirable; but that a solution of the question had seemed impracticable. He dwelt, once more, on the insuperable difficulty of distinguishing between just and unwarrantable national aspirations: who, he asked, could assess in advance the rate of growth of economic interests and of ambitious economic speculations in the future? And, with regard to Germany in particular, he added that her position in Europe was 'strategically the most unfavourable in the world, and that her armaments were dictated by the necessity of her being able to defend herself on several sides at once.'

[1] Ten days before this, Lord Roberts had made a very impressive

No change occurred in the relations of the Great Powers to this question after Prince von Bülow's resignation of office, in 1909. The debate on the Naval Estimates, in March of that year, brought out the fact that informal communications as to the mutual reduction of expenditure had taken place between the British and the German Governments in the course of 1908, and a statement on the subject in the *Reichstag* by the Foreign Minister, Baron von Schoen, indicated a further stiffening of Germany's 'attitude' on the subject, inasmuch as he declared the construction of the German fleet, which involved no menace to any other nation, to be conditioned solely by the needs for the protection of German interests. A few days later (March 29th), Sir Edward Grey retorted in the House of Commons by a general survey of the naval situation and the actual conditions of the Anglo-German naval competition, declaring that, while an arrangement for its cessation would be most welcome, Great Britain had no right to complain of the view taken by Germany of her own interests; as for our own, any arrangement made must be based on the maintenance of the superiority of our navy, which to us was a matter of life and death.[1] The German Government's statements as to its present intentions with regard to shipbuilding were not binding upon it; and, accordingly, though the growth of naval armaments must eventually lead to national bankruptcy, Great Britain could not abandon the competition. Thus, the tension continued, ministerial declarations being answered by counter-declarations, Great Britain maintaining the desirability

[1] In June, the President of the American Branch of the Association for International Mediation is found contending that the British two-Powers standard was the greatest hindrance to a Reduction of Armaments.

of a Reduction of Armaments, and Germany declining to negotiate on the subject, so long as a practical basis was lacking, though protesting at the same time that she had no idea of running a race with Great Britain as to sea-power. Inasmuch as the work of construction visibly continued in the yards at an increased rate, it is no wonder that, in 1910, there was renewed uneasiness, although signs of an advance towards a better understanding on the subject between the two Powers were, also, thought observable. The British Prime-Minister sought to dissociate the necessity of increasing naval armaments from any idea of hostility against Germany, and a section of the German Liberal Press advocated negotiations for a limitation of armaments on both sides. In December, the new Chancellor, Dr. von Bethmann Hollweg, seemed inclined to discuss the possibility of fixing by agreement the naval strength of the two Powers: but, while he could not say that he had received proposals from Great Britain admitting of definite acceptance or rejection, neither had he, apparently, any of his own to make. Could there be any force in the paradox put forward in this year (1910) by Admiral Mahan, to the effect that the armed peace of the last generation had been equivalent to a demonstration of strength, which had repeatedly served the very purpose with which nations engage in war?

In 1911, the debate on the British Navy Estimates led, as will be seen, to much discussion on the use of Arbitration as a preventive of war; but this had no effect upon the progress of the cognate question—though the close connexion between the two was denied—of a Lessening of Armaments. On this latter subject, the

and legitimate policy—it was in a speech delivered on August 27th that the Emperor William II. applied to Germany the time-honoured French phrase of her 'place in the sun.' In the *Reichstag*, the Chancellor had, earlier in the year, described the proposal of a Reduction of Armaments as impracticable, 'so long as men were men and states were states,' and, in the spirit of Mahan's remark just cited, went so far as to assert that proposals of disarmament might disturb the peace: fixing numbers meant fixing relations of power. At the same time, he was ready for an agreement with Great Britain as to 'exchange of information' about shipbuilding. Towards the close of the year early in which the *Reichstag* had accepted the new law as to the peace strength of the army, the National Defence League was formed in Germany, and demanded that the military expenditure, being less there per head than in either England or France, should be further augmented.

In 1912, in connexion with Lord Haldane's visit to Germany, there were rumours as to first steps towards a comprehensive scheme of Disarmament; but Mr. Churchill's speeches (at Glasgow in January, and on the Navy Estimates in March) showed that he simply accepted the principle of competition in naval armaments, though accompanied by exchange of information. The additions made to the strength of the navy of the greatest maritime Power, or the reductions to which its rate of construction was subjected, would be regulated simply by the process adopted, in one or two other respects, by the next greatest. In other words, British naval construction would preserve its superiority over German, while any reduction of the rate of German

replying to the criticisms of his speech on the Naval Estimates, the First Lord gave it as his opinion that the attempt at a reduction of naval armaments set on foot by Sir Henry Campbell-Bannerman in 1907 had led to an increase of German shipbuilding; but that Great Britain could put an end to uncertainty by forecasting the rate of her construction, and to suspicion by exchange of information; and he added that negotiations to that end were actually in progress. The new German Navy Law, passed in May, 1912, was consistently followed by the British Supplementary Naval Estimates, laid before the House of Commons in the same month; and, in moving their adoption, Mr. Churchill referred to the condition of naval affairs in different parts of Europe —even in the Mediterranean, where he said that the Admiralty had information of an intended increase of her fleet by a certain Power. Much excitement was caused by this oratory, taken together with the passing by a large majority in the Russian Duma of a Navy Law for providing 'an active fleet from a defensive point of view,' and the conclusion, in August—the month of Krupp's 'secular jubilee'—of an offensive and defensive Maritime Convention between France and Russia. Once more, the British Government was pressed to take away any pretext for the maintenance of strong navies by other Powers by making large concessions to neutrals with regard to the immunity of goods carried by them in wartime. The Government, in vain, appealed to its earlier efforts for arresting the growth of naval armaments—endeavours which the new German Navy Law manifestly ignored. Accordingly, a move towards a tentative course of action was made in March, 1913, when Mr. Churchill

suggested a 'naval holiday' for one year, during which both Germany and Great Britain were to abstain from further naval construction. This, it was understood, would have left the relative strength of the naval armaments of the two Powers at the point at which, according to the statement of Mr. Churchill, it was imperative that the ratio should remain—viz., a proportion of 10 to 6 in favour of Great Britain. But the suggestion was politely negatived by the German Government, it being contended in Germany that the shipbuilding capacity of Great Britain exceeded that of Germany in the proportion of 3 to 2, so that the former Power could more rapidly alter the balance. Thus, there was, again, no actual interference with the progress of naval armaments; and in July, 1913, the French Government at last succeeded in carrying (by a majority of nearly 3 to 2) its Law for a three years' military service, a measure intended as a reply to the German Army Law of 1911. The last effort in favour of a Reduction of Armaments was made in February, 1914, at a meeting organised by the Committee which had been formed on the subject.[1]

Arbitration Treaties

With regard to Arbitration, it was not long before the machinery for the pacific settlement of international disputes, as elaborated up to a certain point by the Hague Conferences, was put to use. In November,

[1] I do not know what was the nature of the discussion held at Berne in 1913, and renewed at Bâle in May, 1914, between a large number of members of the French Legislature and some German

1908, after much demur on the part of Germany, French and German plenipotentiaries signed a *Protocole de Compromis* agreeing to refer the Casablanca affair (Morocco) to Arbitration, while, as to points not regulated by the *Compromis*, the Powers in dispute bound themselves to follow the terms of the Convention of 1907. In January, 1909, Great Britain and the United States signed an agreement for referring to Arbitration disputes that had multiplied between them as to the interpretation of the Treaty of 1818, concerning rights of fishery on the coasts of Newfoundland, Labrador, etc. In February of the same year, the British and German ambassadors at Madrid requested the King of Spain to name an arbitrator to decide as to the settlement of the boundary of the German territory of Walfisch Bay, in accordance with a clause of the Agreement between Great Britain and Germany of July, 1890.

It was in the following year, 1910, that an important declaration of policy, the fruits of which had hardly so much as begun to be gathered in before the great cataclysm of 1914, was made by the President of the United States, Mr. W. H. Taft. In 1910, at a banquet of the Society for the Judicial Settlement of International Disputes, he delivered a speech expressing his willingness that the United States should submit *all* international controversies in which they were concerned to a duly constituted international tribunal, 'no matter what such a submission involved.' In the debate on the Navy Estimates in the House of Commons, early in the following year, the Foreign Secretary, Sir Edward (now Viscount) Grey, made significant reference to this speech and declared that it should not be left without

under the pressure of armaments, and public opinion might rise to the adoption of such a course. But, although Sir Edward Grey's speech aroused much attention, the debate swung round to our relations with Germany, upon which, and not upon those with the United States, the actual estimates depended. And in Germany, though the speech was well received, it was, in some quarters at least, represented as an indication that Great Britain was coming to the end of her resources for expenditure on armaments.

The essence of President Taft's proposal lay in the fact that, while the Anglo-American Treaty of 1907-8 (concluded with Lord Salisbury's Government, but subsequently rejected by the United States Senate, together with an Arbitration Treaty with France on the same lines) had expressly omitted from its purview all disputes concerning matters gravely affecting the honour or interests of the Powers who were parties to the Treaty, it was now intended to include these, with any other, subjects. There was much diversity of opinion on this proposal in the United States, due not only to party but to racial feeling (among the German and certain Irish elements of the population), as well as to jealousy in the Senate of the alleged interference with that body's right of control over the foreign policy of the nation. When, therefore, the Treaties of Arbitration with Great Britain and France, signed on August 3rd, 1911, came before the Senate, they were not well received there. In Germany, the omission of the vital interests clause from these Treaties was contemptuously dealt with by the Chancellor in a speech to the *Reichstag*, in which he waved aside the notion of a Limitation of Armaments with the maxim 'the only condition of pacific inten-

tions is strength.'[1] A mass meeting held in the Carnegie Hall, Washington, in December, 1911, in support of the Arbitration Treaties which the Committee of Foreign Affairs of the Senate had advised it to reject, was broken up by German opposition, without coming to a vote. Thus, when, in 1912, the Arbitration Treaties came up before the Senate, they were altered after a fashion which practically reduced their value to that of a device for postponing, instead of preventing, the outbreak of war between the signatory Powers. Nor was it till more than two years later, in September, 1914, that the Arbitration Treaties between the United States and Great Britain and France respectively were at last ratified by the Senate of the first-named Power in a complete and satisfactory form. A joint International Commission was to be established, for the investigation of any subject of dispute between the contracting Powers, which was to issue its report within *a year*. During this period, no step was to be allowed towards a settlement either by force or by arbitral judgment, so that an ample cooling-time was provided. The Commission was to consist of five members, two being subjects of each of the signatory Powers and appointed by them, two nominated by these Powers from the subjects of a neutral Power (one by each), and the fifth a subject of a neutral Power agreed upon by the two signatory Powers. Some thirty or forty Arbitration Treaties were negotiated by the United States Government with lesser Powers on similar lines.[2]

[1] It reappeared, not long afterwards, in a British Opposition journal, *The Standard*, in the Mahan-like form: 'the best way of avoiding a war is to be strong enough to fight it out.'

[2] *Cf.*, as to these 'all-inclusive' Arbitration Treaties, T. Roosevelt,

In the latter part of 1912 and during the greater part of 1913 the Balkans war was in progress; and, though the efforts of Sir Edward Grey brought about a peace between the Balkan states and the Porte in August, 1913 (which was succeeded by another struggle among those states themselves), it was rather the Concert of Europe which, through the exertions of the British Foreign Secretary, imposed its counsels upon the belligerents, than any mediatory efforts—still less any process of arbitration—by which a temporary settlement was effected.

The Outbreak of the Present War and Attempts at Prevention

It remains, so far as the historical portion of the present essay is concerned, to indicate in a few words—and they need only be of the very fewest—what were the relations between the outbreak in 1914 of the tremendous War which has only recently come to a standstill and the existing machinery, as described above, for the prevention or arrest of outbreaks of hostilities between any of the Powers of the world.

The Limitation or Reduction of Armaments remained, as has been seen, a 'wish,' towards the accomplishment of which by means of an agreement between any two or more of the Powers, or among the Great Powers or the civilised states of the world at large acting in Concert or Congress, no practical step of any kind had been taken. Furthermore, very little, if any, progress had been made towards changing the opinion of those Powers—Germany being the most outspoken among them—which held that the determination of the measure

of its armed forces and military and naval preparations was a right which no sovereign state could be called upon or expected to surrender. Thus, the mobilisations which preceded the successive declarations of a condition of war between the several Powers were carried out on the basis of armaments which each Power had determined for itself; and, if the actual state of the armaments by land or sea affected the earlier operations of any one of these Powers as a belligerent, or its choice between belligerency and neutrality, this was due to the character of its own military or naval system, or of its own policy as governed by its own interests, and not to any agreement of an international nature.

For Mediation no time was left by the action of several of the Powers who were parties to the dispute or disputes: inasmuch as the question whether the quarrel between Austria-Hungary and Serbia was, in its essence, one between Austria-Hungary and Russia, really formed the chief element in the crisis. Still less was an opportunity allowed for Arbitration; although this term, like that of Mediation, was loosely employed in the course of the negotiations. Finally, though a non-judicial settlement by means of a Conference of the Great Powers was actually proposed, it was found impossible, on the present occasion, to carry it through as it had been carried through in 1906, and informally by a meeting of ambassadors in December, 1912, because of the relations in which those Powers stood to one another and to the particular question at issue.

Upon these relations, after the assassination of Archduke Francis Ferdinand and his Consort in the capital of Bosnia, the decision between the two alternatives—

transformation into a European war—depended.[1] They formed a strange, and in no way hopeful, substitute for what had of old been called the 'Balance of Power,' or for the 'Concert of Europe,' which had, at one time, striven to maintain order among the nations. When, in 1908, Bosnia and Herzegovina had been annexed by Austria, this step—whether it was avoidable or not—had been taken without the approval of a Conference of the Powers, such as Sir Edward Grey was desirous of assembling, even *ex post facto*. Austria and Russia deliberately confronted each other, and it was the declared espousal of Austria's interests by Germany which induced Russia to hold her hand and thus averted war. 'In my speeches to the *Reichstag*,' writes Prince von Bülow,[2] 'I made it quite clear that Germany was resolved to preserve her alliance with Austria at any cost.' 'Great Britain,' the same authority states, 'sided with Russia'; but she made no official declaration of her sympathies; and her relations with Germany remained unaffected by the annexation or its consequences. Indeed, during the Balkan war, her policy, in some respects, distinctly cooperated with that of Germany. But Russian policy—this is the present point—like that of Austria-Hungary, remained unchanged; and the friendly interest of the Russian Government in the aspirations of Serbia continued to be not less manifest than the ill-will inspired in the Austrian by the Serbian successes. Meanwhile, Germany's adhesion to Austria-Hungary had been modified by no sign or token; and France remained, more firmly than

[1] It has not been possible for me to use, for what follows, Professor C. Oman's *Outbreak of the War of* 1914-8, just published by H.M. Stationery Office.

ever, the ally of Russia. Italy was bound to Germany and Austria by a defensive alliance only. As for the British Government, it had, indeed, entered into certain naval arrangements with the French, and discussed with it certain naval and military contingencies. A knowledge or a suspicion of the fact of these 'conversations' must have led to conjectures on the part of other Powers as to our ultimate intentions, and, in the case of France, to a reliance upon them in certain eventualities. But the risk of this reliance lay with France; and the British Parliament had been left uninformed as to what had taken place. An Anglo-Japanese Alliance existed since 1902. The United States had their hands free. Such were, in roughest outline, the relations between the Great Powers at the date of the perpetration of the Serajevo crime. These antecedent relations, which virtually precluded any common action on the part of the Powers of Europe and the world in the interest of peace, while they reduced to nullity the control of the affairs of Europe and the world by a 'Concert,' suffice to account for what followed, when the Austro-Hungarian *ultimatum* to Serbia brought about the crisis.

In the ensuing rapid summary of the efforts made to avert the opening of the Great War by pacific methods more or less vaguely described as Mediation, it may be worth while, short as was the period which they covered, and doomed as one and all of them were to failure, to distinguish between their successive stages. Of any real use of the method of Arbitration there was, with the exception of the belated proposal of Russia to appeal to the Hague Tribunal to be mentioned below, no question whatever; nor could there have been, in view of the breathless rapidity of the sequence events

and of the predetermined unwillingness of some of the chief agents in the awful drama to stay its course.

Not quite a month had passed since the murder of Archduke Francis Ferdinand, when, on July 23rd, 1914, the Austro-Hungarian Government, without in this instance laying itself open to the charge of unreasonable haste, sent in its *ultimatum* to the Serbian, allowing it what, on the other hand, must be described as the narrow limit of forty-eight hours for its reply. In the matter of Austria's treatment of the offence given to her by Serbia, it was recognised from the first that there could be no attempt at forcing Mediation without prejudice to her position as a Great Power. Indeed, she so little desired even the friendly advice of any other Great Power, except her ally Germany, that neither the British nor even the allied Italian Government was made aware beforehand of the terms of her *ultimatum*[1] (though the British Foreign Secretary had assumed that she would publish her case against Serbia before taking any action[2]); while the Russian Government likewise remained uninformed (although its ambassador at Vienna had been instructed to urge that the Great Powers should be made acquainted with the basis of the Austro-Hungarian accusations against Serbia[3]).

In addition to other demands warranted, more or less, by the responsibility incurred by Serbia with regard to the Serajevo outrage, and by the natural anxiety of the Austro-Hungarian Government to place its relations with Serbia on a settled footing, the *ultimatum* insisted on the

[1] *Correspondence respecting the European Crisis* (presented to Parliament, August, 1914), No. 161. [2] *Ibid.*, No. 1.

[3] *Ibid.*, No. 13. The question as to Germany's knowledge of the

virtual surrender by the Serbian Government to the Austrian of the control of the measures to be taken by the former for the suppression of the incessant agitation in Serbia against Austria.

The Crown-prince of Serbia had time enough for telegraphing to Petersburg, and for receiving a reply, before the *ultimatum* was answered. On July 24th, the Serbian Minister in London expressed a hope that the British Government would use its influence in moderating the Austro-Hungarian demands. But the Foreign Secretary could offer no definite advice to be communicated to Belgrade till the French and Russian representatives there should have been consulted;[1] and it would seem that from neither Great Britain nor from France was any advice received by the Serbian Government before replying to the Austrian *ultimatum*. Thus, the initial and, as it was to prove, decisive rupture was not avoided through the good offices or mediation of Powers uninvolved in the dispute between Austria and Serbia, while the advice given to the latter by Russia is only matter of conjecture. On July 25th, the Serbian Government accepted the Austrian *ultimatum* 'with reservations,' which were treated at Vienna as equivalent to a refusal.[2]

The reception with which the Serbian reply to the

[1] *Correspondence respecting the European Crisis*, No. 22.

[2] *Ibid.*, No. 21. The full text of the Serbian Note and the Austro-Hungarian criticisms upon it was printed in the *Norddeutsche Allgemeine Zeitung* of July 25th, 1914, and is reprinted in *Der Kriegsausbruch*, 1914 (Berlin, C. Heymann). The crucial difference arises on clause 5 of the Serbian Note. This clause confesses that the Serbian Government is unable to understand clearly the demand of the Austro-Hungarian, to the effect that the Serbian shall bind itself to permit the cooperation in its dominions of agents of the Aust-

Austrian *ultimatum* would meet at Vienna, and the action which Russia would take in consequence, were still uncertain, although the gravest apprehensions could not but be entertained on both heads, when, on July 25th, the British Foreign Secretary first suggested the 'Mediation' of the four Powers—Germany, Great Britain, France and Italy—in the event of discord between Austria-Hungary and Russia manifesting itself by mobilisation on both sides. 'No diplomatic intervention or mediation' (the phraseology chosen is loose, intentionally or otherwise) 'would be tolerated by either Russia or Austria, unless it was clearly impartial, and included the Allies or friends of both. The co-operation of Germany would therefore be essential.'[1] The term 'impartial' can here only mean evenly balanced; and the idea of Mediation is evidently merged in that of advice jointly tendered by the four Great Powers not immediately concerned in the quarrel, who could not otherwise than by Conference arrive at a basis of common action. On the same day, the British Foreign Secretary gave expression to his opinion that, 'while there could be no question of British Intervention between Austria and Serbia, yet, so soon as the matter became one as between Austria and Russia, the Peace of Europe was affected, in which we must all take a

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Hungarian; but the Note at the same time declares that the Serbian Government would be prepared for any cooperation which should onf orm to the principles of international and criminal law and to friendly and neighbourly relations. The Austrian commentary states that the Serbian reservation, as formulated, would lead to insuperable difficulties in the endeavour to reach the contemplated agreement.

hand.'[1] The Russian telegram sent to Vienna and transmitted to the British Foreign Office on the same day (July 25th) proved what was already clear: that Russia had no intention of abstaining from interference in the Austro-Serbian quarrel—indeed, she had immediately begun preparations for a partial mobilisation—and insisted on a prolongation of the time-limit to Serbia,[1] who, on the same day, was sending her reply to the Austrian *ultimatum*.

The British Foreign Secretary's proposal, made, on July 26th, to the German, French and Italian Governments, to instruct their ambassadors to meet him in Conference in London, for the purpose of 'discovering an issue which would prevent complications,'[2] was readily accepted by France and Italy. And it might still be hoped that, if the fourth Power not directly involved in the dispute—Germany—were to follow suit, the representations of the four Powers would prevail at Vienna and Petersburg, as well as at Belgrade, to bring about the suspension of all military movements. On July 27th—the day before the Austro-Hungarian Declaration of War against Serbia—the German ambassador in London informed the Secretary for Foreign Affairs that the German Government accepted, in principle, 'Mediation' by the four Powers between Austro-Hungary and Russia, reserving, of course, to Germany the right as an ally to aid Austria if attacked.[3] The peculiar form of Mediation suggested by Prince Lichnowsky did not, however, commend itself to his

[1] *Correspondence respecting the European Crisis*, No. 26. *Cf.*, as to Russia's action, J. W. Headlam, *The German Chancellor and the War* (1917), pp. 86 *f.*

[2] *Ibid.*, No. 36.

[3] *Ibid.*, No. 46.

Government; for, on the same day, the British ambassador at Berlin telegraphed that, in the opinion of the German Secretary of State, the proposed Conference 'would practically amount to a Court of Arbitration, and could not, in his opinion, be called together except at the request of Austria-Hungary and Russia.'[1] It was, obviously, true that Arbitration could not be imposed upon any Power, great or small, without its previous consent to defer to the authority imposing it; nor could the Conference be intended to arrive at a formal agreement among the participant Powers, which, in the last resort, they were prepared to support by force. As a matter of fact, the Russian Government, while expressing its preference for direct communication with the Austro-Hungarian, indicated its general willingness to accept the British proposal of a Conference, or any other procedure that might favour the end in view.[2] But the Austro-Hungarian Government, on being pressed as to the proposal of conversations between the representatives of the four Powers in London, in which an acceptable arrangement might be reached on the basis of the Serbian reply to the *ultimatum*, declared—and not unnaturally—that no discussion on this basis could be accepted.[3]

Throughout these negotiations, the German Government abstained from suggesting any form of joint mediatory procedure, or of intervention. But, on

[1] *Correspondence respecting the European Crisis*, No. 43.

[2] *Ibid.*, No. 53.

[3] *Ibid.*, No. 62. On the same day (July 28th), Count Berchthold informed the German ambassador at Vienna, that, since there was now war between Austria-Hungary and Serbia, the British mediation was 'belated.' *Germany's Reasons for War with Russia* (Foreign Office, Berlin, August, 1914), Exhibit 16.

July 28th, although Sir Edward Grey still considered the German Government to have accepted of the 'Mediation' of the four Powers in principle, Sir Edward Goschen, the British ambassador at Berlin, stated that the German Government was unable to accept the proposed Conference, inasmuch as it would have the appearance of an 'Areopagus' consisting of two Powers of each group sitting in judgment upon the other two. The Imperial Chancellor was still anxious to cooperate with Great Britain for peace; but he took the opportunity of pointing out that Austria's quarrel with Serbia was a purely Austrian concern, with which Russia had nothing to do.[1] This opinion Dr. von Bethmann-Hollweg put even more strongly, in a circular addressed to the Federal Governments on the same day (July 28th), in which he declared that, should Russia intervene on behalf of Serbia in her dispute with Austro-Hungary, it would be on Russia that would rest the responsibility of the European war which might ensue. In such a war, which would imply the design of breaking up the Triple Alliance and isolating Germany, she must accordingly stand on Austro-Hungary's side.[2] On the day on which this despatch was issued (July 28th) Austro-Hungary declared war against Serbia; and Russia partially mobilised.

Although the Russian Government, hereupon, announced that the time had now passed for any direct communications between itself and the Austro-Hungarian, the German Chancellor expressed his opinion that such a discussion, could it be brought about, would still be desirable, while he repeated his objections

[1] *Correspondence respecting the European Crisis*, No. 71.

[2] *Germany's Reasons for War with Russia*, Exhibit 2.

to an 'Areopagus' of the sort in view. In point of fact, he had no contribution to make towards an improvement of the existing situation, except a general assurance of his Government's desire to cooperate with the British in the interests of peace.[1] He declined to act on the British suggestion, by this time certainly out of date, that the Serbian reply to the Austrian *ultimatum* might be taken as the basis of further discussion.[2]

The plan of a Conference of Ambassadors, as proposed by the British Foreign Secretary, but of which he had throughout regarded the cooperation of Germany as an indispensable condition, had, therefore, broken down, primarily in consequence of the inability or unwillingness of Germany to take part in carrying it out, or to put pressure upon Austria to allow her *ultimatum* to be reconsidered in the light of the Serbian reply. The proposal of the Tsar, made on July 29th, before any official decree of mobilisation had been issued by him, to refer the whole matter in dispute to the Hague Conference—*i.e.*, presumably, to a Court of Arbitration constituted by it—was passed over by the German Government, on the ground that, as was afterwards stated by the Imperial Chancellor, military movements had already begun.[3] Yet the idea of Mediation had not been dropped, though the use of it had been moved into another sphere. On July 29th, in the course of a brief telegraphic correspondence between them, Tsar Nicholas requested the Emperor William that he would do all in his power to restrain his (Austrian) ally from going too far; and, on the same day, the Emperor

[1] *Correspondence respecting the European Crisis*, Nos. 10, 11.

[2] *Ibid.*, No. 75.

[3] Headlam, *op. cit.*, p. 125.

described himself to the Tsar as having accepted the position of Mediator. On the 30th, the Tsar is found applying the same designation to his correspondent; and, on August 1st, the Emperor William is, not very lucidly, described by his Chancellor as having attempted to play a mediatory part in agreemcnt with Great Britain.[1]

This imperial *intermezzo*, if one may venture so to call it, had little or no influence upon the actual course of events, or even of negotiations. On the same July 29th on which the two celebrated correspondence opened and nearly ran its course, the British Foreign Secretary, who had been informed that Germany was endeavouring to "'mediate' between Russia and Austria-Hungary, urged the German Government to suggest some method whereby the 'Mediation' or 'Mediating Influence' of the four other Great Powers might still be used jointly to prevent war between the two contending Powers." 'France agreed. Italy agreed. . . . In fact, Mediation was ready to come into operation by any method that Germany thought possible, if only she would press the button in the interests of peace.'[2] On the same day, however (July 29th), on which Sir Edward Goschen at Berlin was, after this urgent, but, perhaps unavoidably, vague fashion being instructed to induce the German Chancellor to obtain from the disputants a hearing for counsels of peace, he received from the same quarter what he describes as 'a strong bid for British neutrality' in the highly probable event of Germany and France becoming involved in the quarrel between Austria-Hungary and Russia, while Germany would not

[1] *Germany's Reasons for War with Russia*, Exhibits 21-23A, and 26.

[2] *Correspondence respecting the European Crisis*, No. 84.

undertake in all circumstances to respect the neutrality of Belgium.

The momentous decisions which ensued were not reached in consequence of the negotiations carried on, or attempted to be carried on, for the preservation of Peace—the point of view which interests us in the present connexion. They must therefore only receive such mention here as will render this part of our discussion intelligible. On the evening of July 29th a Great Council met at Potsdam, when the proposal that Germany should mobilise—or, in other words, convert the War into a European War—was made, but not carried. After the Council, the Chancellor saw the British ambassador, and made the 'bid' to him.

But this was not the only element in the situation on which the deferred decision depended. On the same July 29th—though whether or not before the Potsdam Council had arrived at its decision to postpone Mobilisation (or, in other words, the declaration of war) remains unknown—Dr. von Bethmann-Hollweg was informed by telegram from Petersburg that the Austrian Government had refused to enter into a direct discussion with the Russian, and that accordingly the British proposal of a Conference was the only way left open. Hereupon, on the 30th, the German Chancellor telegraphed to Vienna that Germany must refuse to be drawn into a world-war by Austria's refusal to follow her advice. This was—or seemed—a correct course. But when, on the same day, Austria ordered Complete Mobilisation—*i.e.*, mobilisation against Russia as well as Serbia—no German advice is known to have attempted to stop this course and thereby to have prevented the outbreak of a world-war; and when, on the same day, Russia

before responding by ordering Complete Mobilisation in her turn, offered to stay her military preparations if Austria would arrest the advance of her troops in Serbia,[1] the German Government would have nothing to say to the message, and did not send it on to Vienna. Russia, on the same day—whether or not before Austria, is a point which cannot be settled by external evidence—ordered Complete Mobilisation; and, on the morrow, Bethmann-Hollweg could artlessly send word that his efforts to urge moderation at Vienna had been 'seriously handicapped' by the news of Russian mobilisation against Austria—of which the news had reached Berlin just as the German Emperor was responding to the Tsar's urgent appeal to him to 'mediate' with the Austrian Government.[2]

On July 31st, Sir Edward Grey was still attempting to secure a solution by means of an offer that the four 'disinterested' Powers would be sure to obtain full satisfaction of Austria's demands upon Serbia, provided that the sovereignty and territory of that state remained unimpaired. It must be remembered that, although Austria had declined throughout to negotiate on the basis of the Serbian reply to her *ultimatum*, she had, so far back as July 27th, made it known[3] that she had no desire for Serbian territory. But she had entered into no binding engagement on the subject; and Sir Edward Grey was, therefore, perfectly justified in saying that mediation between Russia and Austria, if it only meant Russia standing on one side, while Austria was free to go to any length she pleased, was not Mediation at all, but simply putting pressure upon one of the

[1] *Correspondence respecting the European Crisis*, No. 120.
[2] *Ibid.*, No. 108.
[3] *Ibid.*, No. 48, and *cf.* No. 90.

disputants in the interest of the other. Germany, then, it was still hoped, would press the quadruple Mediation upon Austria-Hungary, and, with the assent of France, urge it upon Russia.[1] This effort of Mediation *in extremis* for a moment seemed—but seemed only—to tremble on the verge of success. Thus, on August 1st, Sir Edward Grey was able to inform Sir Edward Goschen that Austria-Hungary was willing to accept such a basis of Mediation as he had proposed, and to discuss the substance of her *ultimatum* to Serbia at a Conference between the Great Powers in London.

Everything seemed gained; but everything had really been already lost. Mobilisation, not negotiation, had been the touchstone of the progress of the crisis. While professing her willingness to accept the proposed Conference, and expressing a hope that the Russian mobilisation against her might be brought to a standstill, Austria-Hungary had insisted on the continuation of her military operations in Serbia. On July 31st, Russia, who had ordered a partial mobilisation on the 29th, had extended it to the whole of her forces; and, on the same day, Germany sent her *ultimatum* to Russia, demanding her demobilisation and allowing twelve hours for a reply. 'The reply of the Russian Government,' in the words of the German Foreign Office, 'never reached us'; but a telegram from the Tsar, sent two hours after the expiration of the time-limit, was answered by the Emperor by an announcement that he had been forced to mobilise, and could not, unless he received the reply required, enter into further negotiations.[2]

[1] *Correspondence respecting the European Crisis*, No. 90, No. 111.
[2] *Germany's Reasons for War with Russia*, p. 14.

While the last 'mediatory' efforts just described were in progress, on July 31st and August 1st, despatches were being exchanged, between the Powers concerned, as to the neutrality of Belgium in the event of the outbreak of war; British merchant-ships were detained at Hamburg; and a General Mobilisation was successively ordered in France, Austria and Germany. In the afternoon of August 1st, Germany declared war on Russia. On August 2nd, she sent her troops into Luxemburg, and, on the 4th, into Belgium (after allowing the Belgian Government a term of twelve hours—from the evening of the 2nd to the morning of the 3rd—to consider the conditions offered in the event of its agreeing to a 'benevolent' neutrality). A day earlier, on the ground of 'a certain number of flagrantly hostile acts committed on German territory by French military airmen,' Germany had declared herself in a state of war against France.[1] The state of war between Germany and Great Britain began an hour before midnight on the 4th; but it was not till August 6th that Austria-Hungary was at war with Russia. With Great Britain she was not formally at war till the last hour of August 12th, or with France, it would appear, till a few days later. The Power which, without effective hindrance from its sympathetic ally, had allowed its own quarrel to expand into a European war, stepped into this wider sphere of conflict with characteristically formal deliberateness.

It must have been a satisfaction to the most courteous of diplomats, the Austrian ambassador, Count Mensdorff, to be able to call the attention of Sir Edward Grey on August 1st to Count Berchtold's contradiction

[1] *Diplomatic Correspondence respecting the War*, published by the French Government and presented to Parliament, December, 1914.

of 'the wholly erroneous impression' in Petersburg that 'the door had been banged' by Austria-Hungary on all further conversations. But what view are we to take of the entire series of negotiations which, though not by the fault of at least some of the diplomats concerned, and, certainly, in some quarters at all events, not without the interference of super-diplomatic authorities, came to so abrupt and impotent a conclusion? So long as there was any reality in the 'mediatory' process, it was hopelessly crippled by the actual relations between the Powers by whom it was carried on; and it ceased altogether to be real, when these relations finally asserted themselves in directions to which the 'Mediation' shut its eyes, and when the 'mediators' were (in the end, all of them) transformed into belligerents. Thus all efforts at Mediation, and all projects of Conference, proved utterly futile; and there was no serious question of resort being had to the method of Arbitration.

Yet this was the method which many of the most far-sighted and open-minded political thinkers of our age had long hoped to see established as universal and obligatory in the settlement of all international disputed questions. It has been shown above, at sufficient length for the present purpose, what progress had been made in bringing the principle of Arbitration to honour among the nations, by applying it in a large number of instances which, in various ways, affected the interests of most of the civilised nations of the world. And it was, also, shown that these nations have, more and more widely, come to recognise the wisdom and expediency of putting this principle into practice in the case of international disputes of the gravest importance and

of the widest range, and of making this application obligatory, instead of leaving it to depend upon particular or occasional use. The most recently concluded Arbitration Treaties—those between the United States on the one side, and Great Britain, France and Spain respectively on the other, ratified by the United States' Senate in September, 1914—are at once the most important and the most comprehensive of the entire series. They provide for the setting-up, in every case as it may occur, of an International Commission empowered to investigate the subject of dispute between the Governments concerned, which is to issue a report of its findings within a year (allowed as a 'cooling-off period'), no steps being taken during this interval towards either a forcible or any other arbitral settlement.

No such 'cooling-off period' preceded the outbreak of the recent world-war; and it must remain on record that, on this occasion, the national as well as the international points of view from which a reasonable delay in the outbreak of hostilities has been recognised as indispensable to modern civilisation and to free popular government were alike ruthlessly ignored. The violation of the territory of a neutral state, whether or not supposed to be protected by a guarantee of its neutrality, constitutes a direct violation of the first article of the first chapter of a Convention signed by Germany and the other Powers at the Hague in October, 1907; and the sudden flooding of a peaceful nation with all the horrors of war revolts the sense of humanity that has become the common property of the world to which we belong. On the other hand—and here it is not Germany to whom the remark applies—the undertaking

the approach of war, without the knowledge or, in other words, without the consent, of Parliament, should be impossible in the case of a nation possessed of real representative institutions. There are few matters in reference to which executive Governments are less willing to submit to the rule of law or precedent—there are, also, few which democratic states have it more completely in their own hands to manage as they may deem right. In the United States of America, every constitutional usage and every treaty of state is *ipso facto* a law; and no public act involving the honour or welfare of the state ought in any free country to be valid except by the method of rogation.

It need not be added that the method of preventing the sudden outbreak of war discussed in so many 'Conferences' and Parliaments—the Reduction or Limitation of Armaments—seemed less likely to be adopted by the nations at the period immediately preceding the outbreak of the present war than it did when Russia, whose rate of mobilisation at the actual time of the outbreak astonished her best friends, summoned the First Peace Conference at the Hague, with a view to considering the possibility of putting that method into operation. Certainly, the treatment of the question in the years preceding the war seemed to show that, unless any future international agreement actually came to shift the basis on which the modern idea of the state had hitherto been held to rest—namely, that of ultimate self-dependence for existence—the right of every state to determine its own means of self-defence would have to be left intact. Conversely, however (as we shall have occasion for repeating before we come to a close), should any international organisation seek to absorb into

itself the most important of the rights hitherto claimed by the states composing it, a necessary preliminary must be the creation of adequate machinery for controlling the proportions of their armaments.

Existing Desire for Better Securities of Peace

It would carry this outline beyond the limits of a brief historical survey, were we to discuss the present position of the problem of which it has been sought to trace the general progress up to the outbreak of the recent War. But past and present hang together so closely that a few concluding words as to the prospect of finding better securities for peace than the modern world has hitherto possessed seem indispensable. With regard to these, we may start from the concrete ground of the United States Arbitration Treaties referred to above. They provide, in the case of disputes between the two signatory Powers, for an International Commission of Enquiry, of which each 'shall name three of the members, variation being reserved as to the character of the nominees.'[1] It is, therefore, in conception, not an 'Areopagus,' but a Tribunal of the simplest composition, although it cannot be constituted (so to speak) in a moment, like a Conference of Ambassadors.

In one of the most striking passages of his classic book, already several times quoted in this paper, *Des Causes Actuelles de la Guerre et de l'Arbitrage*, the late M. de Laveleye speaks of an International Tribunal and an International Code as of two things indispensable, if public wars are to cease in the civilised world, as private wars already have ceased.

[1] *Cf.* Taft, *op. cit.* p. 109.

The Code, I take it, will probably be best made by the Tribunal. 'The code of actually observed rules, in international law,' Maitland wrote to Henry Sidgwick, 'is all shreds and patches—in short, international law is all incoherent.' Coherency can only be imparted to the law regulating the procedure of a great judicial tribunal, if it makes its own precedents, with the aid of those supplied by lesser tribunals dealing with similar subjects, whether treaties or others. But, if the great Tribunal in question is to be universal—in the sense of international—if it is to be, in fact, a Court containing representatives of all the nations, formally acting together in a judicial capacity—it must derive its origin from a general agreement of all the Powers, or at least of a select number of them which, with the assent of the entire body, has been empowered to use its authority in the name of that body. Now, an assembly like the Hague Conference requires unanimity in order to give validity to its conclusions. A Congress like that of Vienna, or any of its successors, needs the ratification of its acts by its signatory Powers and by those who have acceded, before it becomes binding upon them severally. But no provision of either a unanimously adopted or a ratified Final Act can be imposed upon any Power, unless it shall have previously promised its willingness to submit to such an imposition, or unless it has agreed that the members of the Congress or Conference, as a whole, shall be invested with the authority, and provided with the means, for asserting its decision against recalcitrance.

Idea of a League of Nations—Its History and Prospects

In other words, some organism needs to be called into life which shall be qualified to give its consent to the creation of such a Tribunal of Arbitration as that contemplated, and which shall possess the power of insisting upon the carrying out of its judgments. How far that insistence should go—whether, in the last resort, it should extend to the use of force of arms—is a question of crucial importance, but one which may be left over at this point of the argument. But when the Conference or Congress assembles, on which it will devolve to settle finally the conditions of the Peace that will formally close the present War, it must either itself call the required Federation into life—thus constituting itself, in Viscount Grey's words,[1] 'the vital beginning' of a League of Nations—or assign the task to some other representative international body. As we write, we learn that the initial step towards the former, and more direct, of these alternatives has been actually taken, and that the Preliminary Conference of the Allied Powers at Paris has, on the motion of President Wilson, seconded by the Prime-Minister of Great Britain, resolved[2] that a League of Nations shall be created, and that the establishment of it shall be treated as an integral part of the general Treaty of Peace.

This Federation, then, as 'the keystone of the whole

[1] See his Introduction to *The Peace Conference and After* (essays reprinted from *The Round Table* of December, 1918, by the Research Committee of the League of Nations).

[2] January 25th, 1919. The League of Nations Covenant, unanimously adopted by the representatives of five Great Powers and nine other belligerent states, was communicated to the Conference by President Wilson on February 14th.

fabric,' must have power to acknowledge or constitute, and to maintain as a permanent Court, a Tribunal of Arbitration as the supreme judicial authority for the settlement of disputes among its members, and must, in the future, be prepared as well as responsible for the execution of the decrees of the organ created by itself.

The idea of a Federal Organisation of the states of Europe, or of the civilised world, is by no means new, though it has a twentieth-century sound on the lips of modern political philosophers and publicists. We saw, earlier in this outline, how intimately the idea associated itself with the projects of an enduring, or a 'perpetual,' peace, and how, indeed, a reorganisation of the European state-system was regarded as indispensable to the pacific consummation which those who planned such a transformation had ultimately in view. But Sully's 'great design' presupposed the overthrow of a predominance which could not be accomplished except by a preliminary general struggle such as that through which the House of Habsburg had actually to pass; Grotius frankly advocated the forcing of recalcitrant disputants by 'disinterested' neutrals; and the Abbé de St. Pierre's federal project depended on the acquiescence of a number of Courts and Governments, mainly despotic, in a scheme intended for the disappointment of dynastic ambition. Leibniz, Rousseau and Kant hardly proceeded beyond the plan of a Congress attended by delegates of these despotic Courts, such as repeatedly assembled in the earlier half of the eighteenth century,[1] the only distinctive feature added being the permanency or standing nature of such Congresses. This suggested innovation Metternich, had he possessed the

full courage of his opinions, or had Tsar Alexander been likely to accept any proposal of a statesman so detested by him, might logically have grafted upon the European policy of which he laid the foundations at Vienna. The root-idea of permanency was not wanting either to the political agreement of Chaumont, or to the religious conception of the Holy Alliance, or to the final establishment of the 'Pentarchy' at Aix-la-Chapelle.

But the Holy Alliance was never accepted by more than an imposing group of Powers; the Treaty of Chaumont, although renewed again and again, fell to pieces, when the interests as well as the principles of the signatory Powers went more and more asunder, and the Pentarchy shrank at Troppau into a Triple Alliance, and, in essentials, remained such at Laibach and at Verona.

After the two great Revolutions of 1830 and 1848 had broken up the state-system pieced together and patched up by the Congress of Vienna and its successors, and after the downfall of democracy in France had been succeeded by great wars and the triumphant assertion of the principle of Nationality by two great European peoples, it is not surprising that the idea of an International Federation of Europe—not necessarily as a preliminary to the purely fanciful conception of a 'Parliament of Man'—should, in the first instance, have reappeared as cherished by individual minds endowed with the gift of a courageous imagination. This gift has more frequently been bestowed upon poets or poetical speculators than upon statesmen and political thinkers; but it has been characteristic of some of the ablest of these, both in the field of action and in the sphere of the study and the academic chair.

In 1877, the late Professor Lorimer, of Edinburgh, one of the founders of the Institute of International Law, and a jurist who in some respects held a unique position among his countrymen, produced a plan of International Federation, which he does not seem to have regarded as a contribution of lasting value to the discussion of the question, since he apparently did not care to reprint it.[1] The plan is interesting, especially as showing affinity to the ideas of Cobden in respect to the due representation of popular rights and opinions; but it placed itself, practically, out of court by aiming at the creation of a Federal *State*—a federal republic, it would seem, which was to comprehend in its organism states of diverse forms, including monarchies. As if these latter would have found it any easier to assimilate their existence to that of this super-state than, for instance, the German sovereigns found it to merge their authority in that of the Frankfort Empire of 1848-9! The radical defect of that Empire was the hopeless weakness of its executive—and a modern European Federal State must have proved impossible, in the absence of any national basis and, consequently, of any national Parliament.[2]

Bluntschli's scheme, not of a European Federal State, but of a Federation of European States, was on narrower lines, but constructed with more of solidity. This eminent historical and legal scholar, though trained in

[1] It was printed in 1877, under the heading of *Le Problème Final du Droit International*, in No. 11 of the *Revue du Droit International*.

[2] See the criticisms of Lorimer's scheme in Bluntschli's essay, *Die Organisation der Europäischen Staatenvereine*, reprinted from *Die Gegenwart* (1878), in *Gesammelte Kleine Schriften*, vol. ii. (Nördlingen, 1881, the year of the writer's death).

Germany under the conservative influences of Niebuhr and Savigny, had, before he settled down as a teacher of public law at Munich and Heidelberg, breathed the free atmosphere of political life and political struggles in his native Switzerland, and, without having become a professional statesman, looked on political conflicts of the future with a clear insight into actual circumstances and difficulties. In his essay on the Organisation of the Federal State he laid down the fundamental principle or proposition, that in the establishment of, not a Federal European State, but a Federation or Federal Association of European States, their independence must be maintained, though the grouping of the eighteen several states, of whom six were reckoned as Great Powers, could not be left out of sight. The purposes of Federation must be clearly defined, as determining the limits of the operations of the Federal principle. These purposes included, together with the laying down of rules of international law and their formulation as the subject of international legislation, the maintenance of international peace and the conduct of high international policy—functions in which we are here more especially interested—and, together with these, the management of concerns of international administration, of international jurisdiction and of international practice of law.

The action of the Federation was to be carried on by means of two bodies, a Federal Council and a House of Representatives; but, perhaps, the most distinctive feature of the scheme was the proposal that the smaller, and not the larger, body was to be the regular legislative organ. The Council was to consist of 24 voting members, half of whom were to represent the Great

(or greater ?) Powers and half the rest. By its side was to stand the House of Representatives or Senate, numbering 96 or 120 members, chosen on account of their familiarity with international law and higher politics. Questions concerning the preservation of the peace and important matters of European policy were, however, to be, primarily, dealt with by the Council; and the approval of the Senate was to be requisite only when it was desired to introduce a permanent change affecting members of the Confederation—such, presumably, as a cession or increase of territory.

With the object, probably, of guarding the organs of the Federation against an undue exertion of popular influence, it was proposed to locate them in one of the lesser capitals of Europe or a larger town not a capital —Brussels or Ghent, Zurich or Geneva, Baden or Leipzig, Nancy or Orleans, Milan or Florence. There, a permanent Federal Chancery would have to be established for the regular conduct of federal business.

But the most difficult point remains. The decrees of the Federal Council on European affairs were to be carried out if they had been passed in it by a two-thirds majority, and, in matters of importance, as already noted, if they had been approved by the Senate. But this execution was to be guaranteed by a body selected from the Council for this particular purpose and consisting of representatives of the Great Powers, with whom, therefore, the supreme responsibility was, after all, to lie. Thus, it will be seen that, while the Federation through its organs was to possess a supreme judicial, it was not, as such, to possess a supreme executive authority; and, as to the exercise of this, the last word

was to remain with the Great Powers, so that they would themselves form the last resort.

It should be added that the object of this scheme, the moderation and, in many respects, the practical good sense of which are undeniable, was not so much to facilitate the reduction of armaments, as to lead to such a reduction as its natural consequence. The treatment of colonial questions was in this scheme, as it had been in Professor Lorimer's, excluded for the present from its purview.

It will be seen that the Federal organisation contemplated in such a scheme as Bluntschli's falls short of the grand simplicity of a 'World-Council,' assembled as the organ of a great League of Peace between the Nations, afterwards enthusiastically suggested by Mr. Andrew Carnegie, and vaguely hailed by Sir Henry Campbell-Bannerman, as a Parliament of Nations, meeting periodically to deliberate on the common interests of civilised mankind. This striking conception was not, in itself, new, and had found practical expression, although of a more or less tentative sort, before its adoption was advocated on so comprehensive a scale and in so sonorous a fashion. The Concert of Europe, to which, as we have seen, appeal was repeatedly made in the Period of Congresses, and which was, with temporary success, revived during the Balkans war of 1912-3, was, after all, a crude form of European Council; while the series of Pan-American Congresses (1889-1909), culminating in that of Buenos Aires, aimed, more or less consciously, at developing into a Permanent Council of the American Continent. Their most notable result lies in the Arbitration Treaties between the United States and the southern Governments which they brought about.

The main lines of Bluntschli's scheme were still further simplified in the plan of action more recently commended to the attention of the world by ex-President Taft, carrying further the precedent of the policy of his predecessor, Mr. Roosevelt[1]—but, in the opinion of that statesman, extending it in such a way as to render it nugatory. The 'Hay' Treaties negotiated during Mr. Roosevelt's presidency (1903-1907) contained a clause providing that all questions of a legal nature, except such as should involve national honour or vital interests, should be submitted to the Hague Tribunal, and that, on any difference arising, the specific agreement entered into between the parties in dispute should be laid before it. With the objections taken by the United States Senate to these Treaties as ignoring its own *locus standi*, we have no concern here. It will, therefore, suffice to say that Mr. Taft regarded the range of questions excepted in the 'Hay' Treaties as too wide. The Treaties negotiated under his own presidency and that of his successor, accordingly, defined the questions which the parties bound themselves to submit to the Arbitral Tribunal, at the Hague or elsewhere, as '*justiciable*' questions—*i.e.*, disputes susceptible of decision by the application of the principles of law or equity (including the rules of International Law affecting the rights and duties of nations towards each other). Mr. Taft's plan, then, as described by himself, keeps in view, as an indispensable first step, the maintenance of a Permanent Court of Arbitral

[1] See *op. cit.*, more especially chaps. iii. and iv., 'Arbitration Treaties that mean Something,' and 'Experiments in Federation for Judicial Settlement of International Disputes.' For Mr. Roosevelt's views, see his *America and the World War*, already cited.

Justice, such as was actually recommended, as desirable at the Second Hague Conference, on the same lines as the International Prize Court of which that Conference definitely laid down the organisation, and which was thereupon actually set to work in one or two cases.[1] The Judicial Arbitration Court, having been fully organised and made the subject of a Convention between the Great Powers, to which the remaining Powers could hardly fail to give in their adhesion, would be put in operation with renewed authority and augmented effect; and there would, Mr. Taft appeared to think, naturally follow the extension of the range of questions submitted to the Court, from 'justiciable' to all other disputes between the nations. 'He hoped that, within measurable distance of time, the Court of Arbitral Justice would be 'recognised as a Federal Court, with the right on the part of any nation aggrieved against another to bring its complaint into the Court, have the Court determine its jurisdiction of the complaint in accordance with the definition of the jurisdiction in the convention, and then summon the offending nation and require an answer, and after hearing enter judgment.'[2] Apparently, this plan intended to leave out for the time any attempt to combine with the Court of Arbitral Justice which would be based on Federal principles, a Federal Council of a legislative, administrative or advisory character. For the rest, the scheme was to be, essentially, a self-developing one; and its most promising feature was, from another point of view, its weakest side. 'Justiciable' questions would, no doubt, for the most part

[1] *Cf. ante*, p. 69; and see W. I. Hull, *The Two Hague Conferences* (Boston, 1908), pp. 401 *ff.*

[2] *Op. cit.*, p. 175.

not be of a kind likely to lead to serious jealousy and illwill; but they might occasionally be such. It did not, however, follow that the great nations of the world would, unless, perhaps, in exceptional instances (such as that of Great Britain and the United States), agree to submit to legal judgment questions involving their honour or their vital interests.

The establishment by the representatives of the great nations of the world assembled in Congress of an International Arbitral Tribunal, for the decision, at all events, of a large class of cases, might, therefore, seem to have offered the easiest starting-point for any negotiations as to Securities of Peace which might take place there. It is, however, manifest that this could not be the sum of the effort. The above-mentioned step would be useless—indeed, it would be worse than useless, since a futile step in political affairs is always a false step—were it not to be accompanied by another. This other step (it may be stated at once) would not be intended to supersede resort to those earlier securities of peace which have been reviewed above, and the insufficiency—not the uselessness—of which it has been attempted to demonstrate. Good Offices and Mediation, although in many critical emergencies they have proved inadequate to the solution of the problem at issue, will never be discarded in dealing with the relations between states any more than with their *analoga* in respect to those between individuals. Nor will diplomacy (notwithstanding the outcries of journalism, which has not always successfully sought to take over its functions) cease to be called upon, at all stages of international disputes, and at the earlier as a matter of course, for the exercise of its trained and tried skill. The

use of Conference has, in these days of swift intercommunication and consequent increased public impatience, become more and more difficult to apply effectively; but, as the experience of recent European, and especially British, foreign policy suggests, it is very far from having become a thing of the past. On the other hand, the employment of fixed Delays in the Outbreak of Hostilities (*moratoria*), and of similar safeguards, can only be imposed by declarations issued by a stronger international authority than has yet succeeded in establishing itself. And, finally, the Limitation of Armaments is, beyond all doubt, an indispensable condition of the opening of an era of peace; but it presupposes settled relations of mutual confidence between the Powers who agree upon it, or upon the basis of an understanding which will bring it about, and the readiness of those Powers to submit, by means of such an agreement, to a restriction of their right to provide for their own security.[1]

[1] In Viscount Bryce's 'Project for a Treaty,' cited in a subsequent note, the Permanent Council of Conciliation to be established by the signatory Powers is to be at liberty to submit for their consideration suggestions as to the limitation or reduction of armaments, or any other suggestions towards the avoidance of war or the diminution of its evils. Viscount Grey of Fallodon, whose pamphlet *The League of Nations* (1918) materially helped to mark the advance of the general idea treated in it into the sphere of practical politics, left this particular topic undiscussed, although it was manifestly as fully present to his mind as to that of any of his readers. But in his far ampler tractate on the same subject, published later in the same year, and referred to in a subsequent note, General Smuts, although he describes 'a limitation of armaments in a general sense' as impracticable, opines that the Peace Conference should agree to the abolition of Conscription or Compulsory Military Service, the future defence forces of the Members of the League to consist of militia and volunteers, and that the Council of the League should prescribe the limits

It is obvious, then, that, even if, after a world-war like the present, it were possible to look forward to the gradual peaceable extension of the scope of the existing International Arbitral Tribunal, so as to include in it the *settlement* of international differences of a non-'justiciable' kind, touching the vital interest, honour or independence, of nations, this process would, after the experience through which the world has passed, no longer satisfy what may be called its international conscience. These differences are, no doubt, the main, but they are not the sole, causes of those outbreaks of wars against which it has become the urgent task of the present generation to provide enduring securities; nor would the constitution of the tribunal itself (which must consist of legal, not political, members) be such as to meet all the responsibilities that will devolve upon it. And the world has something greater at heart than even the negative end of facilitating the prevention of wars in the days to come. To this intent, in an unforgotten speech delivered quite early in the war now ended,[1] Mr. Asquith defined his conception of the idea of public right which it behoves the nations to establish as dominant. 'It means, finally,' he said, 'or it ought to mean, perhaps by a slow and gradual process, the substitution for force, for the clashing of competing ambitions, for groupings and alliances and a precarious

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of military equipment and armament for these defensive forces. Finally, a thoroughly expert critic of the scheme, Professor W. I. Hull, declares that 'the *sine qua non* of success, both in adjudication of disputes and in causing the award to be accepted, lies in the restriction of the size and use of armaments to purely municipal purposes, or in their conversion into a genuine international police force.' See *Problems of the International Settlement* (1918).

[1] At Dublin, on September 25th, 1914.

equipoise—the substitution for all these things of a real European partnership, based on the recognition of equal right, and established and confirmed by a common will.'

Two methods, then, have suggested themselves of securing a reconstitution of international relations, which shall go beyond the continuation and development of the Permanent Arbitrary Tribunal already in existence. These methods were brought under discussion early in the course of the war, and before—unless it be with the exception just cited—the authoritative voices of eminent statesmen had lifted the idea of a League of Nations beyond the range of more or less academical discussion. Further than this it would, in existing circumstances, serve no purpose to carry the present historical survey. As we write, thanks mainly to the championship of the President of the United States, the initial step towards the realisation of the idea has been actually taken.[1]

Of the two methods in question, the one has been sought in the creation of a Federal Executive Council

[1] President Wilson's speech of May 27th, 1916, first broadened the basis of his predecessor, Mr. Taft's, League to Enforce Peace into what he described as that of 'a Universal Association of the Nations.' The 'Programme of the World's Peace,' which he announced on January 18th, 1918, and in which the German Government (whose earlier head, Bethmann-Hollweg, had, so early as November, 1916, vaguely approved the notion) diplomatically acquiesced on October 12th, included the formation of such a General Association; on September 27th he described the contemplated League as the indispensable instrumentality of a Permanent Peace. Lord Grey of Fallodon's brief, but favourable, commentary on the scheme, bearing the date of May 11th, has been already noticed. See also *Proposals for the Prevention of Future Wars*, by Lord Bryce and others, 1917, containing the 'Project of a Treaty' on lines not dissimilar to those mentioned in our text. The whole subject was treated in the most definite fashion by General Smuts in his *The League of Nations* (1918). This memorable publication, which

representing the same states as those represented in the Permanent Arbitral Tribunal, but chosen with a different purpose and, therefore, composed of members differently qualified. (In the end such a Council would assume, in addition to its primary consultative function, certain administrative duties on behalf of the Federation at large; with the aid of localised International or Federal Chanceries or Bureaux. Precedents for such organisations are not wanting—the best known to which the nations of the world have on the whole very willingly submitted are, as Mr. Dickinson has pointed out, the

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the Paris Conference in February, 1919, advocated a clearly elaborated scheme for the constitution and functions of the League to be adopted as an integral part of the Treaty of Peace, and the uses of which for the prevention of war are most distinctly demonstrated. With some of these proposals—the 'Mandatory' Article (19) *ff.* for instance—we need not here concern ourselves; the preceding articles, 'Limitations of Armaments' (8-10), 'Peace Safeguards (11-13), 'Court of Internal Justice' (14-15), and 'Punishment of Guilty States' (16-18), call for a close examination, which it is not possible now to give them, in connection with our immediate subject. The collection entitled *Problems of the International Settlement* (1918), edited by Mr. G. Lowes Dickinson, has not come to hand in time for more than a rapid perusal; but its value, as a record of the aims pursued and the efforts made for the organisation of a durable Peace, is enhanced by the fact that it is itself an international collection of authoritative contributions to its purpose. Mr. Dickinson's earlier publications, *After the War* and *The Choice before Us*, lucidly showed forth the whole development of the idea.

Mr. H. N. Brailsford's eloquent treatment of the problem and its application, *A League of Nations* (2nd edition, 1919), has not failed to find numerous readers. *The League of Nations Series*, published by the Oxford Press, of which Lord Grey's pamphlet was the earliest, and the publications of the League of Nations Society (which was founded in 1915, and in December, 1918, by amalgamation with the League of Free Nations Association, became the League of Nations Union) have appeared in continuous sequence—among them the *Contributions by Various Writers on the Project* (1917), which include several interesting essays.

International Bureaux of the Universal Postal and International Telegraph Unions. But such a development lies beyond the range of the present survey.)

The composition of the suggested Executive Council, the conditions of its constitution, and the adjustment of its relations with the Permanent International Arbitral Tribunal, and with the Body of Delegates which in the Paris scheme has superseded the wider General Conference contemplated by General Smuts, must be matter of much consideration and debate. Mr. Dickinson's conclusion is, probably, well grounded that, 'in the event of the formation of such a Council, the most hopeful plan would be that it should have a permanent constitution, the members being appointed for fixed periods of time, and not for special issues. But it seems to be asking too much at the present day, and to evince a trustfulness which even a Castlereagh might have scrupled to claim, when it is suggested that the members of the Council should act 'without instructions from their Governments, although, of course, acquainted with their Government's point of view, and having the confidence of their nation.' Nor does the proposal commend itself, that the question whether any particular dispute is 'justiciable' or not—in other words, whether it is to be submitted to the decision of the Arbitral Tribunal or of the Conciliation Council—might be decided by either the one or the other of these. Only a judicial, not a political or a diplomatic, authority can deal satisfactorily with such a question as this.

The fundamental difficulty of the problem, however, lies elsewhere. There are questions, of a non-justiciable kind, which affect the whole future of a nation's life, materially or morally: and these questions are not

the same in the case of all nations. Again, some nations may possess treaty rights which are necessary to their very existence; others may have treaty rights the continued enjoyment of which may have become absolutely unbearabl to their neighbours or si ter nations. It cannot be contended that such questions can be settled, or such rights upheld or set aside, by a Council whose decisions are essentially political rather than judicial decisions. And to this has to be added the consideration that, if such a question be suddenly decided, or a right violated, by an act of violence, the remedy of a discussion at the Federal Council may be sought too late. In the speech of Mr. Asquith, cited above, he pointed to the necessity of establishing, in the place of alliances and understandings and attempts to maintain the old expedient of a Balance of Power, a real European partnership. But this was only mentioned last among the *desiderata*, on which he dwelt, for a European policy in keeping with the age in which we live and the ideals which it should cherish. It was preceded, in the same speech, by the simpler demand that room should be found and kept for the independent existence and free development of smaller states: in other words, that their safety, which can only be preserved by their territory being neutralised and rendered inviolable, should be assured to them by International Treaties more binding than some of which recent history has to tell. In general, Treaties between states belonging to or joining the Partnership must be secure under its protection, or altered (or abrogated) only with its consent.

On some such principles was founded a second scheme, put forward by Mr. Roosevelt[1] early in the war, which,

[1] In his work, *America and the World-War* (1915), with which we have no concern here from other points of view.

if only because of that lamented statesman's sincere attachment to this country, must not be passed by before concluding the present paper. He here discusses the treatment in the future of international differences lying outside the range of the Arbitral Tribunal which he joins in advocating. He proposes that, for this Tribunal, rules should be drawn up, and that, by virtue of one of these rules, the territorial integrity of each state belonging to or joining the proposed Partnership should be inviolate, every such state being further guaranteed absolutely against the infringement of its sovereign rights in certain particulars specified by it and approved by the Tribunal as involving the honour or vital interests of the state in question. These guaranteed rights would not be arbitrable like the 'justiciable' subjects of disputes submitted to the Arbitral Tribunal.[1] It is thought very possible that, in addition to the Contracting Powers—the 'Great Powers' of the world—and smaller states near home, 'outside nations,' which might (for obvious reasons) be unwilling or unable to undertake the responsibilities of the contract, might, provided they are 'civilised' and 'well behaved,' be admitted to a share in the uses and benefits of the Tribunal. Thus might be provided a safeguard better than the 'guarantees' of the inviolability of smaller neutral states—of which the world has seen quite enough.

[1] As to Treaties, Mr. Roosevelt argues (pp. 51, 52), that, inasmuch as it may become an imperative duty for a state to abrogate a Treaty, every Treaty ought to contain provision for the abrogation of it, and that an International Arbitral Tribunal would be the proper authority to which a state should apply for such abrogation. This opens a further question, germane to the subject but involving issues of a more general bearing than could be profitably considered here.

Mr. Roosevelt (who had no expectation that all the states of the world would at once ask admission into either the one or the other 'circle' of the contemplated union—and no desire that they should) commended his scheme by saying that 'if it is a Utopia, it is a Utopia of a very practical kind.' At all events this scheme is explicit as to the crucial difficulty under which all proposals on the subject, earlier or later, labour, but on which a clear deliverance must be demanded from everyone who desires to discuss it as a problem not of speculation, but of statesmanship. *How are the judgments of the International Tribunal to be enforced?* Without the means of enforcing them they must remain futile, and cases are quite conceivable in which they might become mischievous.

Here, we revert to the fundamental question to which Moltke, when Bluntschli showed him his scheme, had no hesitation in replying by a simple rejection of any such attempt as neither practicable nor desirable. Are the nations likely to agree to the maintenance of an International Military or Naval Force, or to authorise the Executive Council of the League to collect from its members such a Force which shall carry out the decisions of an International Tribunal, formed in accordance with a gradually constructed International Code—to say nothing of the resolutions of other possible Federal organs? Is it conceivable that—either now, when a tremendous war has reached a close equally beyond precedent problematical, or at a later date, when passions may have in some measure cooled and the political system of the world may have again reached some degree of stability—all the Great Powers will consent to bind themselves not only to the enduring

acceptance of such an authority, but to the joint enforcement of its decrees? Unless an affirmative answer can be confidently given to this question, what chance remains of the preservation of the Peace of the World in the future now opening before it?

Confining ourselves to the treatment of this point by some of the more recent political thinkers or statesmen to whom special reference has been made, we find that Lorimer, whose scheme of Federation lacked a general basis of reality, hardly took note of the gravity of the requirement; while Bluntschli proposed to leave the ultimate decision as to the execution of the decrees of the Federal Council proposed by him to a Committee consisting of representatives of the Great Powers—a kind of Concert *ad hoc*, where the discussion of supreme issues would very possibly have to begin over again. Mr. Dickinson rightly perceived the difficulties of the position, and the disadvantage of attempting too much at once. 'Justiciable' disputes are, moreover, as he pointed out, not the most likely to lead to war; they are less likely than are questions of a different description to involve vital interests of the states that are parties to them, and still less likely to arouse a passionate and obstinate determination on one side or the other, or on both, to have them settled in a particular way. He, therefore, advocated the employment of force by the members of the partnership in defence of any one of them who should be attacked before a dispute has been submitted to arbitration; but he refrained from proposing that the partnership should trust itself to employ force to ensure the execution of a decision of the Council of Conciliation, or the adoption of a recommendation of the Court of Conciliation. It was not to be expected

that the proposals to be laid before the Conference charged with preparing the conditions of the Treaty of Peace would be confined to so incomplete a sanction of the employment of force, as this. It would be necessary, as a matter of course, to fix a term for the delivery of the Arbitral decision, or the recommendation of the Council—and here would come in, as a direct additional gain, the invaluable principle of the 'cooling-time.' The Paris Draft (Art. 12) accordingly, provides that Arbitration or Enquiry by the Executive Council shall be applied in any necessary case; that the awards shall be made within reasonable time, and recommendations within six months; and that, for three months after the award or recommendation, there shall be no resort to war between members of the League.

The power of public opinion has grown enormously, and has more and more assumed the proportions of a world-power, since the conditions of intercourse have come to be what they are. And its whole moral pressure would, to begin with, be strong upon a State which, after accepting the principle of an International Arbitral Tribunal with obligatory powers by joining the Federation or League of which it formed an essential condition, should refuse to refer any dispute that would be entertained by it to its decision, or to accept the decision when delivered by it, as to be all but irresistible. And, if such a State were, notwithstanding, at either stage of the process, to continue its recalcitrance, the isolation to which it would condemn itself would, in the end, become intolerable; and the fact of it would form a very potent arrow in the quiver of diplomacy when making its final efforts to set the machinery provided in effective

motion. And, it should be added, the "cooling-time" would, also, afford opportunities for the popular voice to make itself heard in the representative assemblies—the Parliaments and Diets of Europe and of the world—and remove any fear of that voice being silent or ignored.

But the occasion is too momentous a one for a world settling back, as it were, on its hinges, to be content with this achievement and this prospect. The permanent establishment of an Arbitral Tribunal whose decisions would not be enforced, and the grafting on it of a Council of Conciliation similarly 'academical' or impotent, would not satisfy the aspirations of the peoples, disillusioned for ever by the awful experiences of the last four years; and they would mistrust the institution of conciliar bodies which should be conciliar only. The principle of the enforcement of decisions by the Arbitral Tribunal or by the recommendations of the Executive Council is, therefore, the irreducible *minimum* of the requisite demand. The methods of that enforcement remain the innermost *crux* of the problem.

Mr. Roosevelt, indeed, *more suo*, felt no hesitation about meeting its difficulties, while he looked with infinite and reiterated scorn upon all Arbitration Treaties of the past which failed to provide any method of securing their enforcement, 'by putting force behind the pledge.' He therefore insisted, as on 'the prime necessity,' that all the great nations should agree in good faith to use their combined war-like strength to coerce any nation, whichever one it may be, that declines to abide the decision of some competent international tribunal. We have seen that he advocated this use of force both against any contracting

Power which should decline to accept a decision of the Tribunal, and against any such Power which should decline to recognise the obligation of respecting the rights of states declared before the same authority and recognised by it.

Something less than this armour-plated demand seemed far more likely to obtain the assent of a representative International body, however anxious it might be to rise to an all but unprecedented occasion in the history of the world. Such a 'compromise' was, as a matter of fact, suggested by General Smuts, and has since found expression in the Paris Draft. Recognising that 'the institution of peace must be planted in the very heart of the European system,' he advocated—in addition to an agreement among the Members of the League as to armaments and munitions, which would go far towards preventing a precipitate outbreak of war—a binding engagement on their part not to declare war without previous submission of the matter in dispute to Arbitration or to the Council of the League, or even to declare it against any member of the League who complies with the award or recommendation. If any Member of the League breaks this covenant, he should *ipso facto* become at war with all the other Members, and be subjected by them all to an economic and financial boycott, while the Council of the League should determine what effective naval or military force the Members (if not exempted as being small states) should severally contribute. The recommendations of the Council should not have the force of a legal decision, but should be made public so as to exercise their full moral effect. In the case of a dispute in which one of the parties were a

Member of the League, but the other not, and in which the Member applied for arbitration or for a hearing by the Council, should the non-Member make war on the Member, while the dispute is under consideration by the League, the Member should *ipso facto* become at war with the non-Member.

This method is, substantially, reproduced in the Paris Draft (Art. 16 and 17), which is not possible to examine more closely here. Whether or not the process indicated be held to meet the requirements of the case, it may be averred that their essence, at the present stage of the problem, to use Lord Grey's words, lies in securing a declaration on the part of those states that have the necessary power to use, for the purposes of the League, 'all the force, economic, military or naval, that they possess.' And the gain for the cause at issue would be immeasurable, if to the enforcements of the decisions of the Tribunal of Arbitration and recommendations of the Council could be added the enforcement, with their sanction, of the rights of the Powers included in the Partnership and of states placed under its protection. Thus a League of Nations deserving the name would be *de jure* and *de facto* established.

One further question remains for decision—would that League, and could it, include the Powers, and the foremost of them in especial, which, in the judgment of the nations allied against it till yesterday, broke the Peace of the World, and broke it after the lawless fashion in which, as we believe, history will record the rupture to have been actually carried out? The treatment of this question, together with that of the preliminary conditions of Peace which the vanquished Powers will be called upon to accept and that of the

securities which they may have to furnish, will both tax the statesmanship of the Governments, and test the moral as well as the political conscience of the nations whose common efforts and sacrifices have brought them nearer to brotherhood. The Paris Draft lays down explicitly (Art. 7) the condition under which a State can alone be admitted into the League. It must 'give effective guarantees of its sincere intention to observe its international obligations,' and it must 'conform to the principles adopted by the League as to its naval and military forces and armaments.' But, from whatever point of view the problem is considered and ultimately solved, it may confidently be asserted that, if Germany, with Austria, Hungary and Bulgaria, were not to enter into such a League, the responsibility should rest with them, and with them alone.

At this point our discussion must necessarily close, but it should not come to an end, least of all in a publication of the Society whose name appears on its title-page, without a single word in acknowledgment of the truth that no political organisation will fulfil the purpose of establishing the universal and permanent reign of Peace, unless the nations—unless, indeed, the world—shall learn that to bring about this consummation is a duty obligatory upon national, and essential to international, life. The League, as Lord Parker declared, in a statement which his lamented death prevented from becoming an invaluable summary of what, in the opinion of a great jurist, such a federation might undertake to accomplish, should 'recognise that war from whatever cause is a danger to our common civilisation, and that international disputes ought to be settled on principles of right and justice, and not by force of

arms.'[1] Thus interpreted—and what other interpretation is admissible?—President Wilson's 'conception of the League of Nations' may be accepted by us all: 'that it should operate as the organised moral force of men throughout the world;[2] nor can it fail ultimately to absorb all lesser 'Securities of Peace.'

[1] *Cf.* Sir Alfred Hopkinson's both generous and circumspect book *Rebuilding Britain* (1918), p. 38, where he writes on his own account: 'To put these questions on the highest moral basis—on a true religious basis, if you will—is not cant, but only a recognition of the real facts.' The late Lord Parker's draft of heads of agreement for the establishment of a League of Nations, with its examination of the crucial question of the surrender of sovereign authority, formed the substance of his memorable speech in the House of Lords, reprinted by the League of Nations Society, No. 10.

[2] See his speech at the Sorbonne on December 21st, 1918.

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