

THE PEACE TREATY AND THE LEAGUE OF NATIONS

An Analysis by a Canadian Jurist of Both Treaty and Covenant Which Canada's Parliament is Now Called Upon To Ratify

John S. Ewart, K.C., has probably more carefully than any other Canadian analyzed the texts of the peace treaty and the treaty supplementary thereto, between Great Britain and France, whereby the United Kingdom undertakes to go to the assistance of France if wantonly attacked by Germany. The Ottawa Citizen has printed a series of five short articles by Mr. Ewart, the reading of which will greatly help those who are interested in this, the great question of the day. Whether The World or its readers will agree or not with Mr. Ewart's conclusions or recommendations as expressed in these articles, his views will surely be of interest and value at this juncture.

The Treaties.

Two treaties are to be submitted to parliament next week. The one is usually referred to as the peace treaty. The other—ominous commencement of the slyian period that was to have been introduced by the "war to end war"—the other may be called the French war treaty. Parliament is to be asked to ratify the peace treaty, a treaty that has a little need of ratification by Canada as of a proud privilege. Parliament is to be asked to approve the French war treaty, and, very clearly, no approbation of it occurs to be given.

The peace treaty is a document of 440 articles, but 26 of these are devoted to the subject of the league of nations—a most desirable institution, if properly framed—and 40 relate to labor. Neither of these subjects has any relation whatever to the arrangements with reference to the establishment of peace. The war was not preceded by any international quarrel with regard either to a league or to labor. And it was peculiarly inappropriate, when the treaty was being framed by one set of belligerents, in order to be imposed upon the other set, that subjects, as extraneous to the terms of peace as would have been provisions with reference to the most office or to radio-telegraphy, should have been attached to the stipulated conditions of peace.

The provisions of the treaty with reference to labor mark a very substantial advance upon the convention of 1906 with reference to the "prohibition of night work for women in industrial employments," both in their range and in their establishment of a permanent organization to be composed of (1) a general conference of representatives, and (2) an international labor office controlled by a governing body of twenty-four persons. The general conference is to meet at least once a year, and is to be composed of four representatives of each of the members (the original membership is identical with that of the

league of nations), of whom two shall be appointed by the respective governments, two others by the employers, and the remaining two by the working people of the respective members. For Mr. Ewart's consideration, it may be noted that, by this arrangement, the British empire will have twenty-four representatives to the United States' four. The governing body consists of twenty-four persons. Eight of these are to be appointed by the governments "which are of the chief industrial importance." Four are to be appointed by the governments or the other members. Six will be elected by the delegates to the conference representing the employers, and the remaining six by those representing the workers. The international labor office will have its seat at Geneva, and will be under the control of "the director of the international labor office."

The chief functions of the conference will be the framing of recommendations and the drafting of conventions. There will, however, be no obligation on the part of any member to conform himself to the recommendations, or to agree to the proposed conventions. Perfect liberty of action with reference to all such matters remains with each member. If, however, after a convention has been agreed to, any representation is made to the international labor office, by an association of employers or workers, that any agreeing member has failed to secure in any respect the effective observance of the convention, the governing body may communicate the representation to the government concerned, and invite it to make a statement with regard to it. If no reply is made, or if the statement be deemed unsatisfactory, the governing body may publish the representation and the statement, if any, made in reply to it. Any member, too, may complain of the lack of observance by any other member of the terms of any convention which both have agreed to and that is more serious. If conciliation is impossible, the matter may be referred to a commission of enquiry, which is to determine any issues between the parties, and make recommendations as to the steps which may be taken with reference to the complaint. It shall also indicate in this report

the measures, if any, of an economic character against a defaulting government which it considers to be appropriate, and which it considers other governments would be justified in adopting. An appeal may be taken by either of the contestants to the permanent court of international justice in regard to the decision of the permanent court of international justice in regard to a complaint or matter which has been referred to in pursuance of article 415 or article 416 shall be final. The permanent court of international justice may affirm, vary or reverse any of the findings or recommendations of the commissions of enquiry, if any, and shall in its decision indicate the measures, if any, of an economic character which it considers to be appropriate, and which other governments would be justified in adopting against a defaulting government. If any member fails to carry out the decision arrived at, either by the commission of enquiry, or in case of appeal, by the permanent court of international justice, "any other member may take against that member the measures of an economic character indicated in the report of the commission or in the decision of the court as appropriate to the case." Under the heading of general principles, the following are said to be "of special and urgent importance." First—The guiding principle above enunciated that labor should not be regarded merely as a commodity or article of commerce. Second—The right of association for all lawful purposes of the employed as well as by the employers. Third—The payment to the employed of a wage adequate to maintain a reasonable standard of life, as this is understood in their time and country. Fourth—The adoption of an 8-hour or a 48-hour week as the standard to be aimed at where it has not already been attained. Fifth—The adoption of a weekly rest of at least twenty-four hours, which should include Sunday wherever practicable. Sixth—The abolition of child labor, and the imposition of such limitations on the labor of young persons as shall permit the continuation of their education, and assure their proper physical development. Seventh—The principle that men and women should receive equal remuneration for work of equal value. Eighth—The standard set by law in each country with respect to the conditions of labor should have due regard to the equitable economic

treatment of all workers lawfully resident therein. Ninth—Each state should make provision for a system of inspection in which women should take part in order to ensure the enforcement of the laws and regulations for the protection of the employed.

The Peace Treaty Proper.

Omitting from the peace treaty the articles relating to the league of nations and labor, the part which remains may be called the peace treaty proper. It contains the terms imposed upon Germany—terms which, although drastic beyond precedent and upon the basis of Germany's sole responsibility for the war, not unjust, nevertheless, in some respects, as inexperienced as was the enforced cession of Alsace-Lorraine in 1871. Explanation of all the points cannot be attempted in these letters. I confine myself to the provision by which— "Germany renounces, in favor of Japan, all her rights, title and pretensions—particularly those concerning the territory of Kiaochow, railways, mines and submarine cables—which are acquired in virtue of the treaty concluded by her with China on March 8, 1908, and of all other arrangements relative to the province of Shantung."

In other words, instead of handing back to China the property which Germany had stolen from her, the great powers, whose office it is to maintain the peace, have decided to give it to one of themselves. The Partition of China. Before condemning Japan, let us remember that she is but carrying on the predatory policy of the United Kingdom, Russia, Germany, Italy and herself. China has been helpless, and every one of the imperialistic nations has been accustomed to make appropriations as it wished. Not to go back to the British "opium wars," to the French annexations in Tonkin, Annam and Cochinchina and to all the economic imperialisms known as "concessions," take a look at the year 1896. The murder of two of her missionaries in Shantung gave Germany an opportunity to make demand for a naval base in that province. China could not resist, and the convention (March 6, 1898), badly parading the burglary, was phrased in this way: "With the intention of meeting the legitimate desire of his majesty, the German emperor, that Germany, like other powers, should hold a place on

the Chinese coast for the repair and equipment of her ships, for the storage of materials and provisions for the same, and for other arrangements connected therewith, his majesty the emperor of China cedes to Germany on lease, provisionally for ninety-nine years, both sides of the entrance of the Bay of Kiaochow."

During the same month (March 27) Russia insisted upon receiving a lease of Port Arthur (the Gibraltar of the Pacific), and, in utter contempt of all truth and honesty, intimidated by the other powers that: "This arrangement is a direct and natural consequence of the amicable relations existing between the two vast neighboring states, whose every effort should aim at the maintenance of tranquility over all the immense expanse of their contiguous territories for the good of their peoples."

(Port Arthur, as a result of the war of 1904-1905, is now in the possession of Japan.) As a result of one of the "opium wars" China had been compelled (1842) to cede to the United Kingdom the island of Hong Kong—properly styled "the Gibraltar of the East." At the end of another war (1860), China had transferred the peninsula of Kowloon (about five miles in area) on the mainland, opposite Hong Kong, as protection for it. And in 1898, helpless China added to the peninsula a tract of territory covering over 1,200 square miles. The convention gives the reason for the exaction: "Whereas it has for many years past been recognized that an extension of Hong Kong territory is necessary for the proper defence and protection of the colony."

The United Kingdom took Hong Kong; then she took Kowloon to protect Hong Kong, and then she annexed an immense tract to protect Kowloon and Kowloon. Protection against whom? Against the Chinese themselves. Provision for the defence of British territory against a neighboring people appears to have been a sufficient reason for slicing territory from that people—when the neighbors are too weak to object. Japan and Shantung. After Japan had entered the war—not in the least in pursuance of her treaty with the United Kingdom, but solely with a view to the acquisition of the German thiefs in China—she (Japan) forced China to sign a convention (26th May, 1915), as follows: "The Chinese government agrees to give full assent to all matters upon which the Japanese government may hereafter agree with the German government relating to the

disposition of all rights, interests and concessions which Germany, by virtue of treaties or otherwise, possesses in relation to the province of Shantung."

The only stated reason for the convention—the absolutely untruthful reason—was that China and Japan had "Resolved to conclude a treaty with a view to the maintenance of general peace in the extreme east and the further strengthening of the relations of friendship and good neighborhood now existing between the two nations."

Shantung is in many respects the most important of the Chinese provinces. It dominates on the south, as Port Arthur does on the north, the Pe-chih-li gulf—the entrance to Peking. It has a population of over 37,000,000. That treaty was had enough, but in the worst of bad faith to her allies, Japan interposed her negative against China entering the war until they would agree that the Japanese claim to the German properties should be upheld at the peace conference. That assurance was given (February and March, 1917). It was honored. "His honor rooted in dishonor stood. And faith unfaithful kept him falsely true."

And Japan having threatened to withdraw from the conference if her demand was denied, President Wilson very reluctantly gave way. He now pleads that Japan has promised to restore the properties—with some notable exceptions—to China; but Japan has refused to put that promise in the treaty, declaring that her honor would be impeached by a refusal to take her word. "I don't know" whether the president was aware that the experience of lawyers teaches them that a man who refuses to put his agreement into contract form, leaving you to rely upon his honor, is asking you to depend upon something that does not exist. Japan will never withdraw from Shantung.

What an encouraging outlook for the league of nations! What unconscionable pillaging of the weak by the strong! It well illustrates what the future has in store. Might is not right. But might is might. And China is being forced by "the leaders of civilization" to learn that lesson. It was "the leaders" of the time that kicked Japan into activity and launched her on the imperialistic path. They wish that they had left her alone.

And now the question for the Canadian parliament is, will Canada make herself a party to such abominable practices? Parliament will be asked to ratify a treaty which places its seal of approval upon as despicable an illustration of "might is might" as is recorded anywhere in history. Our parliament ought to refuse to ratify the treaty, first, because Canada can neither ratify nor reject—the action of the British parliament is conclusive (as I shall demonstrate in my next letter)—but, secondly, and upon much better ground, because Canada's hands are as yet unsoiled by hypocritical imperialistic thievery, and she ought to try to maintain her respectability.

Ratification of Treaty.

Parliament is to be asked to ratify the peace treaty. Ratification is "the adoption by a person, binding upon himself, of an act previously done in his name or on his behalf." But Canada, as Canada, is not a party to the treaty. As a part of the British Empire, she is—like the City of Liverpool—included in it; just as is the State of Illinois, because of her inclusion in the United States of America. The signatures of Mr. Doherty and Mr. Sifton are to be found at the end of the treaty, but the signatures of the mayors of Liverpool and Chicago might as well be there.

Parties to the Treaty. The treaty expresses itself as one between "The United States of America, the British Empire, France, Italy and Japan" (referred to as "the Principal Allied and Associated Powers"), and twenty-two smaller powers (all together being "the Allied and Associated Powers"), of the one part; and Germany of the other part. These are the "High Contracting Powers" or "Parties." Canada is not among them. Then follows a statement of the representation of "The High Contracting Parties," and in the list is the following: "His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, by the Right Honorable David Lloyd George," etc.

"And for the Dominion of Canada, by the Right Honorable Charles Joseph Doherty," etc. In other words, the British Empire is the party to the treaty; the sovereign of the empire is represented by Mr. Lloyd George, etc.—and that completes the contract. To add "For Canada" is absurd. The draftsman might as well have added "For Liverpool" and would have done so had he had in view for that place what he covertly contemplated for Canada.

Altho Canada's name is in this way interjected into the treaty, she is carefully excluded from its obligations (save, of course, as part of the empire). The phrases employed are always "the High Contracting Powers" or "the Principal Allied and Associated Powers"—of none of which is Canada one. Most noticeably, she is excluded even from among the parties agreeing to the formation of the League of Nations, for in that connection the phraseology is: "The High Contracting Parties," etc. agree to this Covenant of the League of Nations."

Ratification. The last clause of the treaty, providing for ratification, clearly indicates that it was the "Powers" only who were expected to ratify. It provides for the method of notification of ratification by the "Powers." It provides for the period at which, for certain purposes, the treaty shall come into force "between the High Contracting Parties." (Continued on Page 10, Col. 1.)

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