

Petrograd

A CITY reared with curses and resting its foundations upon the bones of its nameless builders. A stately giant sunk knee-deep in the mire of a Finnish fen. The magnificent and fruitful whim of the most brutal of rulers, who nearly rode the Russian horse to death. A cross between a muddy dock-yard and an unassuming parody on Potsdam. A mongrel seaport promoted to the rank of a world capital.

Granite, stern and sumptuous. Cast-iron. Ever veiled, joyless skies. Spacious, gloomy vistas. Austere architectural forms, broken by airy spires and flame-like church domes. An air of snobbishness and cold reserve. Sickly gardens. Bridges. Red palaces haunted by time-scented memories of much gaiety and many crimes. Morose governmental offices, the hatching-place of the Byzantine-Pomeranian statehood whose strait-jacket Russia wore two hundred years.

A challenge to Russia and yet profoundly Russian: twin-souled, twin-tongued. The home of bureaucrats and regicides, of uniformed minds and souls naked of all inner restraint. The city on whose pavements the blood of the firstlings of Russian freedom, the Decembrists, is mixed with the blood of an Emperor of all the Russias. The brain of Russia, divided by the noiseless waves of the Neva into two hemispheres. The worshipper of clarity and reason. The city of Pushkin's serene muse. But also the City Phantasmal, the city of Dostoevsky. Its yellow mists and its white nights, sated with mystic light, are heavy with apocalyptic visionings.

The midwife and the grave-digger of a great and tragic revolution. The City of Revolt. The Quartier St. Antoine of Slavdom, feeding on resolutions and led by Don Quixotes, energumens, and demagogues. The storm centre of immemorial animosities and new loyalties. The cradle of an abortive gospel of active proletarianism and universalism, denying Old Russia and yet voicing some of its innermost yearnings and hopes. The work-shop of a new dogmatism. A confused symphony in which the outcries of the triumphant Caliban mingle with hosannas never heard before and the death-rattle of a nation. Half Babylon, half Nazareth.

Darkness is swooping down on the heart of the great city. The hour draws near. The enemy is at the gates. If fall he must, the blinded giant will not be the only one to die. The embers from his funeral pile will set the conqueror's dwellings on fire and kindle the standing corn of his fields.

ABRAHAM YARMOLINSKY.

The Legal Status of War

SUPPOSE the world at peace. Abruptly Germany declares war upon France and invades her territories without even disguising the intention of annexation or even of reducing her neighbor to vassalage. What happens legally? What happens, that is as far as international law is concerned? Or, if this question seems to be framed on the basis of the present hatred of Germany, ask a similar question about an unjustified attack by the United States upon Mexico or Canada. The resulting legal situation is in no uncertainty. Immediately the war comes under the sanction of international law. It is henceforth a "legal war." Other nations are as much bound to neutrality and the observance of the rules laid down by international law as if the war were a benign enterprise.

Most discussions concerning war ignore this primary fact, namely, that the civilized world puts all wars, as soon as they are initiated, upon the same plane of legality, without any regard to their origin and objectives. The present legal situation is summed up in the definition given by Charles Sumner:

War is a contest between nations under the *sanction of international law* for the establishment of justice between them.

It is this fact which ties the hands of those who desire a permanent improvement in international relations. If it is lawful to do a thing, why make such a cry about its being done? If war is legal, why object to militarism, which is a necessary effect of the legality of war rather than, as is popularly assumed, the cause of war? If war is legitimate it inevitably follows that those extensive and chronic preparations for war which constitute militarism are as practically sensible as they are legally justified. As long as international law continues to legalize war all nations are moral accessories before the fact to "collective murder." Conversely, outlaw war and militarism is out of a job.

It may be contended that although these statements have applied in the past they will not hold good if the League to Enforce Peace comes into existence. But however radical the plan for the formation of such a League may have seemed before the war, a fundamental defect is now obvious. It does not propose to declare war illegal; it proposes simply to refine those regulations under which war is legal: To increase the preliminary ceremonies which must be gone through in order that the benediction of legality may descend upon a war. So far so good. But as long as nations are educated to think of war as a legalized institution the distinction made by the League between

"justiciable" and "non-justiciable" might utterly defeat the main purpose of the League. The distinction invites manipulation at the hands of astute statesmen with aggrandizing tendencies. What more could a Bismarck or a Disraeli desire than exclusion from the forceful jurisdiction of the supreme Tribunal of all causes involving "national honor" and "vital national interests"? The non-justiciable exception would be an open bid for skilled manoeuvring. Would not the assassination of the crown prince at Sarajevo have supplied a non-justiciable issue through which to usher in the present world war? The matters which reasonably constitute points of vital interest and honor to the respective nations are precisely the matters to be formulated and safeguarded in the proposed International Code. These large questions would then be fought out by experienced statesmen in the council chamber rather than by boys on the field of battle.

In the history of English law after the establishment of a right to trial and evidence before a court, private murderous brawls (though doubtless reduced in number) continued under the guise of "affairs of honor." From the time of Henry II down to the nineteenth century any private dispute might have two aspects: One a mundane, material aspect relating to property rights and as such justiciable—i. e., capable of determination upon evidence by a court; the other affecting the character, not the property, of the injured party, and hence non-justiciable, i. e., capable of settlement not by a court upon evidence, but only by a murderous conflict called a duel. Since either alternative was lawful, it was open to any skilled bully to emphasize the honor or prestige element in a dispute, turn his back upon the courts, and, in full exercise of his legal rights, insist upon a settlement on "the field of honor."

In fact, the whole history of the duel closely parallels the course of international law with respect to war. For centuries efforts were made in most countries to moderate and regulate dueling by "Codes," fixing the terms and conditions, weapons, distance, duties of seconds, etc., etc. The code became more and more elaborate; more and more "humane." Seconds were morally bound to act as a "council of conciliation." But the whole thing rested on the premise of the legality of dueling. It assumed affairs of honor in which it was the obligation as well as the right of a gentleman to resort to the shedding of blood. An interesting volume might be written comparing the code of honor between individuals with that called international law between nations, the Hague Conventions occupying the place of culminating futility in the latter. In one case as the other, we

want not laws *of* war, but laws *against* war, just as we have laws *against* murder, not laws *of* murder. Perhaps three-fourths of the contents of treatises on international law are devoted to rules and regulation of war.

On this subject Woolsey says:

International law assumes that there must be wars and fighting among nations and endeavors to lay down rules by which they shall be brought within the limit of justice and humanity. In fact, wars and the relations in which nations stand to one another as belligerent or neutral, form the principal branch of international law, so much so, that in a state of assured and permanent peace there would be little need of this science.

The quotation enforces the similarity between international law and the old dueling codes. Both are intended simply to set certain limits within which a perfectly legal practice shall go on. The aim of both is simply to mitigate and humanize. Upon the whole the advantage is on the side of the dueling codes; for at least they were enforceable; while, as the present war shows, it is quite possible for any nation which is ruthlessly bent upon victory to ignore under the pleas of self-preservation, military necessity, or *lex talionis*, any provision which it finds in its way. As long as war is the lawful method of establishing justice between nations there seems indeed to be something incongruous in the notion of war plus rose-water, and much to be said for the logic, though not the morality, of a nation which, like Germany, carries the idea of war to its extreme conclusion as a legitimate science.

The outlawing of war is manifestly the primary condition under which the League to Enforce Peace can be made effective. If war is to remain lawful, its antecedent, military preparation, is legitimate and necessary; if war is made criminal international force is required for prevention and punishment. The power to enforce any law must always be adequate. A trial before an international court must not be an alternative to war; it must be made a substantial and complete substitute for war. We must not indulge in the absurdity of committing ourselves to the proposition that we may use force to compel a nation to submit its cause to arbitration, but shall not use force to execute the decision of the international court in such arbitration.

War, though made illegal, might still conceivably occur but it would be branded as a crime and the force of the world would be organized to deal with the criminal. Without these safeguards reduction of armaments would only too probably be a mere temporary expedient during economic convalescence, to be later evaded under one pretext or another when some nation thought that its inter-

ests would be furthered by resorting to war.

With these safeguards, reduction of armaments would occur as a matter of course to the point required to protect domestic tranquillity and other intra-national needs. In course of time the very existence of a tribunal where all international wrongs may be redressed would render the great force behind it protective and merely potential, like the force now behind our own national and state tribunals.

In closing I wish to say that I write from the standpoint of a lawyer, although not an international lawyer. My experience has been largely in dealing with problems arising from conflicts of interests due to industrial breakdowns and a consequent need for reorganization. It has convinced me that the problem of adjusting large conflicting corporate interests is not essentially different as a human problem from that of the adjustment of conflicting national interests. At present, however, the practical application of such a point of view

to international affairs is hampered and at critical moments made impossible by the survival of the old tradition of the legality and necessity of war. When war is released from the embrace of international law, then and then only can sensible methods of adjustment be resorted to with adequate promise of success. Moreover, the elimination of war would automatically sweep away most of the present vexing international questions. The problems of contraband, blockade, in short the freedom of the seas, buffer states, the so-called balance of power, the sanctity of neutrality treaties, integrity of small nations, the "rectification of boundaries," are created by the existence of war and have no significance under peace conditions.

To sum up, two things are indispensable to the reorganization of the world: The specific outlawing of war by the code of nations and the ability by force to execute the decrees of the international tribunal.

S. O. LEVINSON.

CORRESPONDENCE

The African Riddle (An Essential Preliminary)

SIR: Mr. Wells aptly terms it the African Riddle and offers no concrete programme beyond suggesting some sort of international control of the dark continent after the war. Yet even this first step, so obviously desirable for the future peace of the war, presents difficulties.

The purpose of such international control, while incidentally assuring all nations equal economic opportunity in Africa, would be to secure for its undeveloped peoples freedom from selfish exploitation, until such time when the principle of self-determination may fairly be applied to them. The success of an undertaking of such magnitude, the guidance of one hundred and fifty million souls, would depend almost entirely on the character and personnel of the international commission entrusted with this great task. Now any such control presupposes the general acceptance by all nations of the Wilsonian definition of democracy which is today practically axiomatic throughout the world save in Germany and the dwindling imperialist groups in Entente countries. Because of the President's magnificent vitalization of democratic principles, American leadership may well be expected to continue and enlarge in any future system of international control. Particularly would this seem indicated in regard to Africa, where the United States of all great nations is most palpably without selfish designs.

But would our leadership be adequate in the case of Africa? Would the consensus of intelligent "colored" opinion, in whatever lands it may be found, acclaim such leadership for the mother continent? Indeed, could any Americans, sincerely eager to have democratic principles applied to all the world and all its races, conscientiously approve American leadership there?

Pitiless national self-scrutiny (a wholesome process just now) reveals the handling of our race problem, with its

industrial and social ostracism, its burnings at the stake, its unpunished peace-time massacres, as the supreme anachronism of civilization. While preaching self-determination of peoples, we have violated the integrity of a weak neighbor, Hayti, for one hundred and fifteen years a republic, where despite revolutions and political upheavals no American woman was ever molested, no American citizen slain. And already some of the advance guard of our democracy, wearing its uniform, have "made scenes" in Paris cafés because French colored troops were served there.

But here is the vital point. The failure of our democracy in this one respect does not invalidate the principles for which we contend—the less so if we recognize our paradoxical weakness and forbid its extension elsewhere.

Granting American failure in respect to the darker races, whose leadership remains? Not that of Belgium, herself the unhappy victim of barbarism, haunted by the mutilated children of the Congo. Not Germany, stained with Von Trotha's infamous massacres in West Africa. Not Italy, with the memories of her attempt on Abyssinian sovereignty still green. England? Yes, perhaps, although her own Indian problem is still unsettled, and because, further, any enlargement of her territorial influences would surely be viewed in many quarters with disfavor.

There remains France, whose treatment of her colored Colonials is the shining light in the history of black and white racial contact. There are the innately democratic peoples of Scandinavia whose remoteness from the problem has kept them unaware of the subtleties of Jim-Crow democracy. Finally there are the South American republics where color counts little and "a man's a man for a' that."

Before trying to solve Africa's problem it will be necessary to determine not only whether its races are fit for self-government, but which of the civilized nationalities are qualified to act as its preceptors. Officially the United States is least so—just as old Russia would have been unfit