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SOME DIFFERENCES BETWEEN THE PROPOSED ORGANIZATION AND THE  
LEAGUE OF NATIONS

A. Powers in the Field of Security

The proposed Organization would have more far-reaching and clearly defined powers in the field of security than did the League of Nations:

1. The Organization would be empowered to deal not only with acts of aggression or war as was the League, but would be empowered also to act where threats to or breaches of the peace are involved.
2. Unlike the League, where both the Assembly and the Council had similar powers for dealing with matters affecting the peace of the world, in the proposed Organization the primary responsibility for enforcement action would be assigned to the smaller Security Council which, in view of this defined responsibility, would be in continuous session, and in view of which special duties would be laid upon the permanent members. The General Assembly, which would discuss principles and questions relating to peace and security, would not, however, on its own initiative make recommendations on matters relating to the maintenance of international peace and security being dealt with by the Security Council.
3. The proposed Organization, in contrast to the League, would be empowered to decide whether regional agencies or arrangements, and their actions in the field of pacific settlement and enforcement were consistent with the purposes and principles of the Organization, and no enforcement action would be permitted under regional arrangements or by regional agencies without the authorization of the Security Council.
4. The projected agreements and arrangements for provision of armed forces, facilities and assistance would strengthen much beyond the powers of the League Council the powers of the Security Council in enforcement action by placing two basic obligations on states not explicitly recognized under the League, the obligations (a) to make available forces, facilities, and assistance necessary to the Security Council in maintaining peace, and (b) to hold immediately available national air force contingents for combined international enforcement action.

B. Functions in the Field of Economic and Social Cooperation

The proposed Organization would be vested with broader and more clearly defined functions in the field of economic and social cooperation:

1. The Organization would be empowered to consider not only an enumerated list of problems in the field of economic and social cooperation, as was the League, but to facilitate by its recommendations the solution of international economic, social and other humanitarian problems, generally, and to promote respect for human rights and fundamental freedoms.
2. Unlike the League, where both the Assembly and the Council had similar functions with respect to economic and social questions, the proposed Organization would assign responsibility for recommendations in this field to the General Assembly, and under its authority to an Economic and Social Council.
3. In contrast to the League which provided for placing only existing international bureaus under the direction of the League, it is provided in the present Proposal that each specialized economic, social and other organization and agency existing or projected, should be brought into relationship with the League on mutually agreeable terms, and that the General Assembly should make recommendations for the coordination of the policies of these agencies.

#### C. Voting and Structure

1. The unanimity rule that prevailed in the League would not be applied in the new Organization, except in restricted categories of cases, yet to be completely defined, where unanimity of the permanent members of the Security Council would be necessary. The General Assembly would deal with important questions by a two-thirds majority vote, and the Economic and Social Council would make its recommendations by majority vote.
2. The proposed Organization would not have one Council to act on all matters, as did the League, but would have instead more specialized councils, including a Security Council and an Economic and Social Council, each with responsibilities in clearly defined fields and with different composition and powers to correspond with their specialized tasks.
3. The international court of justice would be one of the principal organs of the proposed organization, instead of being a related body as was the case with the Permanent Court of International Justice.
4. The Military Staff Committee, composed of the Chiefs of Staff of the permanent members of the Security Council, would be a new feature in international organization.
5. The development of semi-permanent seats which occurred in connection with the League Council, would be precluded in the proposed Security Council by the provision that elected members are not immediately eligible for reelection.

#### D. Membership

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1. New members of the proposed organization would be admitted by action of the General Assembly upon recommendation of the Security Council, not simply by action of the Assembly as in the League.
2. The proposed Organization would ensure that states not members of the Organization act in accordance with the principles of the Organization so far as might be necessary for the maintenance of international peace and security, whereas the League Covenant contained no such provision with respect to non-member states.
3. Provision would be made for the suspension from the exercise of any right or privileges of membership of any member of the Organization against which preventive or enforcement action might be taken, a provision not contained in the League Covenant.

E. Independence of Treaty

1. The Charter of the proposed Organization would be an independent instrument, unlike the League Covenant which was part of the Treaty of Versailles.

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DEPARTMENT OF STATE

FOR THE PRESS

DECEMBER 15, 1944  
No. 644

CONFIDENTIAL RELEASE FOR PUBLICATION AT 11:30 A.M., E.W.T.,  
SATURDAY, DECEMBER 16, 1944, NOT TO BE PREVIOUSLY  
PUBLISHED, QUOTED FROM OR USED IN ANY WAY.

ADDRESS DELIVERED BY MR. LEO PASVOLSKY AT THE  
AMERICAN LABOR CONFERENCE ON INTERNATIONAL AFFAIRS,  
IN NEW YORK CITY, SATURDAY, DECEMBER 16, 1944,  
AT 11:30 A.M., E.W.T.

DUMBARTON OAKS PROPOSALS FOR  
ECONOMIC AND SOCIAL COOPERATION

The Dumbarton Oaks Proposals deal with the problem of organized international action for the maintenance of world peace and security and for the advancement of the material and cultural well-being of individuals and of nations. These two great factors of human progress are closely interrelated. The advancement of material and cultural well-being requires a state of affairs in which progress will not be interrupted by wars or impaired by preparations for war. Yet, in the interdependent world of today, whatever arrangements might be set up for the prevention of wars and the elimination of preparations for war will necessarily be precarious and uncertain unless there exist adequate arrangements for collaborative action in the solution of economic and social problems.

One of the great lessons of the recent unhappy past is that it is entirely possible to have, in a period of political and military peace, a condition of violent and destructive economic warfare. That was precisely the situation in which the world found itself during the two uneasy inter-war decades, in spite of many efforts to reverse the trend. It would obviously be an exaggeration to say that the second world war was caused solely by the condition of international economic strife which prevailed in the twenties and even more virulently in the thirties. There were, of course, many other decisive elements in mankind's fatal drift toward the catastrophe of another world war. But it is not too much to say that so long as international economic relations remained in the state in which they were in the recent decades, both peace and prosperity were forlorn hopes, and the fatal drift toward disaster could not be arrested.

With this recent experience starkly before them, the representatives of the four governments who met at Dumbarton Oaks sought to fashion a set of proposals which would take into account all of the main factors involved in the task of maintaining international peace and security and of promoting human progress. In the document which emerged from their meeting, that task is regarded as being of a two-fold character.

First,

First, it is necessary that the nations of the world assume a solemn obligation to resort to none but peaceful means in the settlement of whatever controversies or disputes that may arise among them, and in the adjustment of any situations and conditions that may lead to friction or disputes among them. Accordingly, they must assume an obligation not to use armed force or threat of force for these purposes. Having assumed these obligations, they must join together in creating arrangements whereby the peaceful settlement of disputes and the adjustment of conditions which may threaten the peace or security of nations may be facilitated and made effective. They must also join together in combined action to remove threats to the peace and to suppress breaches of the peace -- by armed force, if all other means fail.

Second, it is necessary that the nations of the world recognize that disputes, controversies and frictions among them are less likely to occur if they work together in creating conditions conducive to stability and well-being within nations and, therefore, essential to the maintenance of stable and peaceful relations among nations. They must join together in creating arrangements for facilitating the solution of international economic, social, humanitarian and related problems and for cooperative action in promoting the type of international relations which are necessary for material and cultural progress.

These are the two great purposes of the international organization outlined in the Dumbarton Oaks Proposals. They define its scope and indicate the kind of institutional structure that is necessary for their attainment.

It is proposed that the organization should be open to membership by all peace-loving states. It is proposed that there should be a General Assembly, in which all member states would be represented on an entirely equal footing. There should also be a Security Council, a smaller body, in part elected periodically by the General Assembly.

The General Assembly would be the focal point for international discussion and action with respect to the second of the two great purposes, which I have just outlined -- the creation of conditions of stability and well-being essential to the preservation of a peaceful world order. The Security Council would be the focal point for the attaining of the first great purpose -- the peaceful settlement of disputes, the removal of threats to the peace, and the suppression of breaches of the peace. In my talk this morning, I shall deal primarily with the proposed General Assembly and with its functions, especially in the field of economic and social cooperation.

The General Assembly, it is proposed, would meet annually or more frequently as special circumstances require. It would be charged with the task of reviewing the state of relations among nations and of making recommendations to the nations as regards the advancement of their cooperative effort in the improvement of political, economic, social, humanitarian and other relationships and in the promotion of observance of human rights and fundamental freedoms. It would be free to consider any questions that concern relations among nations, including those which arise out of problems of peace and

security



security and out of international cooperation in the solution of international problems and in the promotion of human freedom and human progress. It would not be in any sense a legislative body or an agency of a superstate. It would rather be an instrumentality for common and agreed action by a free association of nations.

The General Assembly would be empowered to create any agencies which it may find necessary for the performance of its tasks. The most important of such agencies is provided for in the proposals themselves. It is the Economic and Social Council which would operate under the authority of the Assembly and would perform functions of far-reaching importance.

In the vast and complicated field of economic, social and related activities, there is a great need, now more widely recognized than ever, for specialized functional agencies and arrangements to deal effectively and intensively with particular types of activities. Some such agencies and arrangements were set up during the inter-war years, and even before. Their creation and utilization was an important part of the efforts to arrest the course of economic war. The International Labor Organization; the various commissions and committees of the League of Nations in the fields of economic, financial, transportation, and social problems; the International Institute of Agriculture; the Bank for International Settlements; the Institute of Intellectual Cooperation were among conspicuous examples of such agencies. They were all useful, but not sufficiently effective, even when supplemented by various international conferences and by such far-reaching developments as our Trade Agreements Program and the Tripartite Declaration on currency problems. There were not enough such agencies; many of them were inherently weak; and no machinery existed for their effective coordination and stimulation.

For the past two years, the United Nations and certain other nations associated with them in the prosecution of the war have been making great forward strides toward the establishment of new specialized agencies or toward strengthening the existing ones. The conference at Hot Springs in May 1943 resulted in a plan for an international food and agriculture organization on a much broader basis than the Rome Institute of Agriculture. The Labor Conferences in New York and Philadelphia have laid plans for enlarging the usefulness of the International Labor Organization. A conference in London in the spring of this year brought forward plans for an eventual creation of an international agency for educational and cultural cooperation, again on a broader basis than the Institute of Intellectual Cooperation. The conference at Bretton Woods in July of this year resulted in projects for the establishment of an International Monetary Fund and of an International Bank for Reconstruction and Development, new agencies of far-reaching importance in these great fields. The International Conference in Chicago, just concluded, has brought forward proposals for cooperative action in the solution of problems of civil aviation. Plans are being worked out for similar action in the fields of trade, commodities, cartels, other forms of transportation, communication, health, and others.

These are great steps toward the creation of a system of organized international relations in those fields in which satisfactory progress is impossible except on the basis of effective international cooperation. But the fact that a number of such specialized agencies is being brought into existence, itself raises a problem. Unless the policies and

and activities of these agencies are coordinated into a coherent whole from the point of view of the overall picture and of general welfare, their operations may result in overlapping and confusion, and, consequently, in impairment of the efficacy of each of them. In order to meet this great need for coordination it is now proposed to place the responsibility for such coordination in the General Assembly and, under it, in the Economic and Social Council.

It is, however, not to be anticipated that by the time the international organization is created there will be a specialized agency in every field in which it will be desirable to have such an agency. There may be many fields in which a specialized agency may not be feasible. Hence, the General Assembly and its Economic and Social Council must also engage in promoting cooperation in those fields in which specialized agencies do not already exist, in facilitating the creation of such agencies where they are feasible, and in overall coordination in the whole realm of constructive international cooperation.

It is proposed that the Economic and Social Council should consist of representatives of eighteen countries, elected every three years by the General Assembly. Neither it nor the Assembly would have any executive functions in the sense that their decisions would be binding upon either the specialized agencies which it coordinates or upon the member governments. The thought is that in this area the international organization should not go beyond the powers of recommendation and should leave to the member states themselves the carrying out of such recommendations, except in such respects as the members of the organization may request it to assist them more fully.

There were important and, to those of us who worked on the problem, cogent reasons for placing the basic responsibility in these fields in the General Assembly, rather than in a smaller body, the Economic and Social Council, and for giving the Assembly and the Council recommendatory rather than executive powers.

The specialized functional agencies already in existence or in contemplation will be fully representative bodies in the sense that each of them will be based on a wide membership. Hence, it would scarcely be appropriate to assign the task of coordinating their policies and activities to a less representative body, the Economic and Social Council. Yet, the Assembly, a large body meeting at infrequent intervals, will hardly be an effective instrumentality for the task of carrying out its great responsibility. Hence it is our thought that the Economic and Social Council would be the active agency of the organization in these respects, but that it would operate within the framework of policies laid down by the highest representative body in the world and with the backing of that body's authority and prestige. And the Assembly would be the place where really important conflicts and problems would be resolved.

The specialized agencies will necessarily differ in scope and power. Some of them will be operating in character. Some will be promotive and recommendatory. The Dumbarton Oaks Proposals envisage that the terms on which they would be brought into relation with the general organization may differ according to their respective character and that, therefore, these terms would be determined by agreement

between



between the organization and each agency. Some of these agreements may provide for close integration, some for a looser connection.

In any event, it is not anticipated that at this stage it would be either possible or desirable to place them under the control of the general organization. A system of organized international relations must grow and develop, and the machinery established for stimulating its growth must be flexible and capable of adaptation to changing conditions. A technique of systematic and centralized investigation and analysis used as a basis of recommendations for action, should be admirably suited to the end in view.

To provide for systematic study and analysis, it is proposed that there be set up under the Economic and Social Council a series of commissions for economic problems, for social problems, for educational problems, etc. These commissions would consist of experts in each of the fields and would have attached to them highly competent research staffs. Each commission would be responsible for the collection and analysis of information relating to its particular field and would act, with respect to its field, as an authoritative advisory body for the Economic and Social Council and for the General Assembly.

There is a provision that representatives of the specialized agencies would participate without vote in the deliberations of the Economic and Social Council and of its commissions whenever matters of concern to them are under discussion. It may be found desirable for the Council or its commissions to maintain additional contact with the specialized agencies through their own representatives at the respective headquarters of the various agencies.

It is hoped that in all these ways there would be created, in connection with the world organization, a sort of an international economic and social general staff. And it seems more than likely that recommendations made by the General Assembly or by the Economic and Social Council on the basis of informed and careful preparation by such a staff would command sufficient attention and respect to provide a very real impetus to effective solution of difficult and complicated, but immensely important, problems of economic and social advancement.

There is one other important function of the Economic and Social Council that should be mentioned. It is proposed that the Council itself, as well as its commissions and staffs, should assist the Security Council, both in the latter's investigation of conditions or situations which may lead to international friction and disputes and in the application of economic measures which may be utilized in connection with the maintenance of peace and security.

Our problem today and our great responsibility is to see to it that after this war the world will be spared, as it was not spared after the last war, the ravages of disruptive and destructive economic strife and the tragedy of another world war. The kind of machinery that is proposed in the Dumbarton Oaks document is indispensable for this purpose. Without this much, at least, the future will be dark, indeed. But no machinery, however well constructed, can by itself guarantee peace and ensure progress. Our nation and other nations must be resolved, not alone to establish an effective international organization and a structure of specialized agencies for international cooperation, but, in the years ahead, to use them and to act in accordance with the obligations assumed by virtue of membership in them. If the peace-loving nations of the world do this, mankind will have made a tremendous advance toward the realization of its age-old dream of a warless world and toward an increasing measure of success in its continuing search for economic, social, and cultural betterment.



DEPARTMENT OF STATE

FOR THE PRESS

JANUARY 27, 1945  
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CONFIDENTIAL RELEASE FOR PUBLICATION AT 8:30 P.M., E.W.T.,  
SATURDAY, JANUARY 27, 1945. NOT TO BE PREVIOUSLY  
PUBLISHED, QUOTED FROM OR USED IN ANY WAY.

ADDRESS BY THE HONORABLE GREEN H. HACKWORTH,  
LEGAL ADVISER, DEPARTMENT OF STATE, BEFORE THE  
SECTION OF INTERNATIONAL AND COMPARATIVE LAW  
OF THE AMERICAN BAR ASSOCIATION AND CONSTITUENT  
MEMBERS OF THE INTER-AMERICAN BAR ASSOCIATION  
AT THE PAN AMERICAN UNION, SATURDAY, JANUARY 27,  
1945, AT 8:30 P.M., E.W.T.

SETTLEMENT OF DISPUTES UNDER THE DUMBARTON OAKS PROPOSALS

There are certain features in the situation relating to proposals for a United Nations Organization for the maintenance of peace and security in the world that are of marked significance. One is the apparently general agreement among the nations and peoples that an organization is essential; another is that the Government and people of the United States are of this view; and still another--a most heartening one--is that the subject is being approached from a non-partisan point of view. This is as it should be. The objective spirit demonstrated by all political shades of thought reflects the innate desire of our people for peace.

The Dumbarton Oaks Proposals are being discussed in the columns of the press, in the assembly halls, in the forums of the air, and in the pulpits of our churches. It is well that they should be so discussed and that we as a people should decide, in our own deliberative way, whether these Proposals, if perfected and adopted by the peace-loving nations as the guiding Charter for future international relations and behavior will give us a reasonable degree of safeguards against the outbreak of another unspeakable war. All must agree that unless the nations that desire peace shall band together in some common undertaking of mutual assistance for self-preservation against aggression, the future outlook must be dark indeed. It has been only too well demonstrated during the past twenty-five years that pious thinking and temporizing tactics do not afford security. These methods do not deter the lawbreaker or dim his lust for world domination. They only give him time.

It is particularly gratifying that this meeting is being held under the auspices of the International and Comparative Law Section of the American Bar Association and of  
member

member organizations of the Inter-American Bar Association. The lawyers have a special mission in this field. Theirs is the responsibility for upholding the dignity and supremacy of law. A quickening of the sense of that responsibility in the international field should augur for good.

Coming now more directly to the Dumbarton Oaks Proposals, I should like to dwell for a few moments on the methods there contemplated for the peaceful adjustment of differences between nations. The very first purpose of the proposed International Organization is, of course, the maintenance of peace and security. As corollaries to this are the development of friendly relations among nations, and the promotion of international cooperation in the solution of economic, social, and other humanitarian problems. The Principles of the Organization are declared to be (1) sovereign equality of all peace-loving states, (2) fulfillment by members of the Organization of the obligations assumed by them in accordance with the Charter, (3) the settlement of disputes by peaceful means, (4) the avoidance of the use of, or threats to use, force in a manner inconsistent with the purposes of the Organization, (5) the obligation to give assistance to the Organization in any action undertaken by it under the Charter, (6) the obligation to refrain from giving assistance to any state against which action is undertaken by the Organization, and an undertaking by members of the Organization to see to it that non-member states shall act in accordance with these Principles so far as may be necessary for the maintenance of peace and security.

The Organization is not to be a closed corporation: rather, it is to be open to all peace-loving states. It would have an Assembly in which all member states would be represented; a Security Council with limited membership but representative of all states; an international court of justice; and subsidiary agencies and organizations. Both the Assembly and the Security Council would have jurisdiction to entertain questions relating to peace and security. Both could make recommendations regarding peaceful settlement but the Assembly would not, on its own initiative, make such recommendations as to matters concerning peace and security if they were being dealt with by the Security Council. This latter qualification is designed to prevent the possibility that the Assembly and the Security Council might be working at cross-purposes on a matter in which the Council would have ultimate responsibility.

The Security Council, which would function continuously, would be charged with primary responsibility in maintaining peace and security. It would be empowered to investigate any dispute, or any situation which might lead to international friction or give rise to a dispute. The investigation would be for the purpose of determining whether continuance of the dispute or the situation would likely endanger international peace and security. This investigation may be referred to as a first step in maintaining the international equilibrium. An investigation by a representative group of men before a dispute reaches fever heat may well prevent it from ever reaching that stage. The focusing of the light of day on differences between two states is bound to have a sobering, as well as a deterring, effect, especially if it is known that this may be followed, if necessary, by more stringent measures against the recalcitrant state.



Coming now to the International Court of Justice contemplated in Chapter VII of the Proposals, little can here be said except that the representatives of the four Powers meeting at Dumbarton Oaks were in entire agreement that an International Organization would be incomplete without a Court. They were also in entire agreement that all members of the International Organization should ipso facto become parties to the Statute of the Court, and that the Statute should be annexed to and be a part of the Charter of the Organization. They realized the painstaking care with which the present Statute of the Permanent Court of International Justice had been prepared initially by a Committee of distinguished jurists and with which the amendments had been drafted in 1929; also that there had developed around the Statute a considerable body of jurisprudence which it might not be desirable unnecessarily to disturb. On the other hand, they recognized that at least some changes would be necessary to fit the Statute to the pattern of the new Organization. They therefore suggested that the Statute should continue in force with such modifications as may be desirable or that it should be used as the basis of a new Statute.

Public discussions of the Court have, to a considerable extent, revolved around three major topics, (1) compulsory jurisdiction, (2) enforcement of decisions, and (3) the possible creation within the framework of the Court of auxiliary courts with original jurisdiction.

The first of these propositions (compulsory jurisdiction) relates to the question whether, as in municipal law, a plaintiff should be empowered to bring an action against a defendant without the latter's consent, or whether there should be a prior agreement between the parties to submit to the jurisdiction of the Court. Article 36 of the present Statute of the Permanent Court of International Justice provides that "The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force." It also contains the "compulsory-jurisdiction" clause by which members may declare that they recognize "as compulsory ipso facto and without special agreement", in relation to any other member or State accepting the same obligation, the jurisdiction of the Court in all or any of four classes of legal disputes:

- (1) the interpretation of a treaty;
- (2) any question of international law;
- (3) the existence of any fact which, if established, would constitute a breach of an international obligation; and
- (4) the nature or extent of the reparation to be made.

The declaration accepting compulsory jurisdiction of the Court may be made unconditionally or on condition of reciprocity on the part of several or certain members or States, or for a certain time. Approximately fifty States have accepted compulsory jurisdiction of the Court in one form or another. Of these, forty-four States conditioned their acceptance on reciprocity.

Jurisdiction

Jurisdiction of the Court, as indicated previously, comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions. Article 26 of the British Mandate for Palestine, for example, provided for submission to the Court of any dispute between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, which could not be settled by negotiation. In the Mavromatis Palestine Concessions case, the Greek Government brought an action against the British Government, relying, inter alia, upon this article. The British Government countered that the Court did not have jurisdiction, but the Court held otherwise and heard and decided the case.

The number of treaties and conventions which make special provision for matters which shall fall within the Court's jurisdiction is very large. Instances of application to the Court to take jurisdiction over matters concerning which reference to it was specially provided for in treaties include the case just mentioned, the S.S. Wimbledon Case, the case concerning German interests in Polish Upper Silesia, the Chorzow Factory Case, the case concerning the Rights of Minorities in Upper Silesia, the case concerning the Interpretation of the Statute of Memel, the case concerning the Administration of the Prince of Pless, and the proceedings concerning the Polish Agrarian Reform and the German Minority.

As to the enforcement of decisions of the Court, arguments pro and contra can of course be made, but to my way of thinking it is not a matter on which hasty conclusions should be reached.

The Constitution of the United States provides in Article III, Section 2, that "The judicial Power shall extend to ... Controversies between two or more States". By the same section it is provided that the Supreme Court "shall have original Jurisdiction" in all cases "in which a State shall be Party". There is, however, no provision in the Constitution with respect to the enforcement of decisions in such cases.

In 1906 the Commonwealth of Virginia filed a bill in equity in the Supreme Court seeking a decree for an accounting as between Virginia and West Virginia with respect to the balance due from the latter State following its separation from Virginia, on the public debt as it existed prior to January 1, 1861, and praying that West Virginia "be made a party defendant". West Virginia demurred on the ground, among others, that the Court lacked jurisdiction because "this court has no power to render or enforce any final judgment or decree thereon". Virginia v. West Virginia, 206 U.S. 290, 306, 307 (1907). The Court overruled the demurrer, Mr. Chief Justice Fuller delivering the opinion. The Court stated:

"But it is objected that this court has no jurisdiction ... because the court has no power to enforce and therefore none to render any final judgment or decree herein. ...

"The object of the suit is a settlement with West Virginia, and to that end a determination and adjudication of the amount due by that State to Virginia, and when this court has ascertained and adjudged the proportion of the debt of the original State which it would be

equitable



equitable for West Virginia to pay, it is not to be presumed on demurrer that West Virginia would refuse to carry out the decree of this court. If such repudiation should be absolutely asserted we can then consider by what means the decree may be enforced. Consent to be sued was given when West Virginia was admitted into the Union, and it must be assumed that the legislature of West Virginia would in the natural course make provision for the satisfaction of any decree that may be rendered." Ibid. 317, 319. See also Virginia v. West Virginia, 220 U.S. 1, 34, 35-36 (1911).

There will be various classes of cases before the international court, some important, some less important. Public opinion will have its effect where the integrity of the litigant state is not alone sufficient. Moreover, in the important cases where non-compliance with a decision of the Court might constitute a threat to the peace, the Security Council would have jurisdiction to suggest or require adjustment.

On the proposal for the erection of so-called auxiliary courts, the House of Delegates of the American Bar Association at its Annual Meeting in Chicago resolved that the Permanent Court of International Justice should be so organized that a member would "be available to sit as an International Circuit Court, with original jurisdiction".

Articles 26 and 27 of the existing Statute of the Court contain provision for the appointment by the Court of special Chambers of five judges each, who may, if the parties so demand, hear and determine labor cases and also cases relating to transit and communications. In these classes of cases recourse may also be had to the summary procedure provided for in Article 29 of the Statute. This Article provides that for the purpose of the speedy despatch of business, the Court shall form annually a Chamber of five judges who, at the request of the contesting parties, may hear and determine cases by summary procedure.

It may well be that the Court envisioned by the Dumbarton Oaks Proposals should have an auxiliary branch or branches to pass upon certain classes of cases or cases which parties to a dispute are prepared to submit to such a Chamber or court. Such an auxiliary court could hold its sessions at places other than the seat of the principal Court, as might be desired by the parties or as might in the judgment of the Court best promote the administration of justice. There is much to be said for bringing the Court closer to the people and closer to the locale of the dispute. Such a procedure might follow either of two courses: one would be to have the Chamber sit as a court of first instance with a right of appeal by either party to the full Court in any or in certain classes of cases, and with the right of the principal Court to determine whether it should grant an appeal; and another course would be to make the decisions of the auxiliary Chamber final. Certainly it could hardly be said that if the right to go to such a Chamber is made optional, denial of right of appeal would work a hardship. If the parties were not prepared at the outset to accept its judgment as final, they could take their case in the first instance to the principal Court.

To summarize, the cardinal feature of the Dumbarton Oaks Proposals is peaceful settlement of international disputes. Those Proposals envisage an undertaking by the nations who would become parties to the Charter to be evolved to settle disputes by peaceful means. The different steps for such a settlement are indicated. They are: negotiation, mediation, conciliation, arbitration, or judicial settlement, or such other peaceful means as the parties may choose. Any state, whether a member of the Organization or not, may bring any dispute or situation to the attention of the Assembly or of the Council. Both the Assembly and the Council would be empowered to consider any such dispute or situation and to make recommendations looking to an adjustment. If the dispute related to a legal question, such as the meaning of a treaty, the location of a boundary, the obligation of one of the parties toward the other, and solution could not be found through other peaceful means, the parties could have recourse to arbitration or to the international Court. The possible employment of force by the Security Council would be only a last resort and should, if these peaceful processes are followed, rarely if ever be necessary.

We are faced not with a theoretical situation but rather with a practical question as to whether nations shall follow the course that they have followed through the centuries with one war after another, or whether nations are capable of reformulating their attitudes and conduct along enlightened and constructive lines by placing wars of aggression in the limbo of the past.

The lawyers of this and other countries, no less than other seriously-minded people, have a responsibility as well as an opportunity in this most important movement for the advancement of law and order in the international field. The maintenance of law and order among nations must not be pursued with less vigilance than the maintenance of law and order within nations if peace is to be assured.

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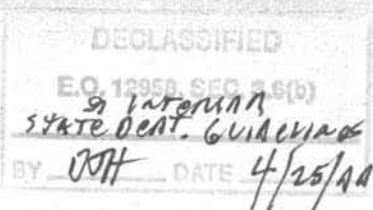
TO: THE SECRETARY OF STATE

FOR: COMDR. HAROLD STASSEN, U.S. DELEGATE,  
SAN FRANCISCO MR. CHARLES TAUSSIG, ADVISER TO U.S. DELEGATION,  
UNCIO, SAN FRANCISCOFROM: MR. ABE FORTAS, ADVISER TO U.S. DELEGATION,  
(UNDER SECRETARY OF THE INTERIOR)

19 MAY 26

HAVE RECEIVED FROM TAUSSIG COPY OF PROPOSED WORKING PAPER FOR TRUST-  
EESHIP CHAPTER DATED MAY 21 AND SUGGESTED REVISED SECTION A DATED MAY  
25. SINCE THIS DIRECTLY AFFECTS INTERIOR DEPARTMENT JURISDICTION AND  
PROBLEMS I SUBMIT MY GENERAL COMMENTS:

I STRONGLY ENDORSE IDEA OF ENUMERATING BASIC PRINCIPLES AND OBJECTIVES  
RESPECTING ADMINISTRATION OF COLONIES AND DEPENDENT TERRITORIES. MAY 21  
DRAFT NOW CONTAINS GENERALLY EXCELLENT STATEMENT OF OBJECTIVES OF TRUST-  
EESHIP SYSTEM. IT WOULD BE ANOMALOUS IF THE STATEMENT OF RESPONSIBIL-  
ITIES OF NATIONS ADMINISTERING COLONIES OR DEPENDENT TERRITORIES WERE  
LESS COMPREHENSIVE OR SET INFERIOR STANDARDS. NEITHER PUBLIC OPINION  
NOR UNITED STATES TRADITIONS WOULD BE SATISFIED UNLESS THERE WERE STRONG  
STATEMENT OF PROGRESSIVE AND LIBERAL PRINCIPLES CONCERNING ALL DEPENDENT  
AREAS. CHAPTER SHOULD NOT IN MY OPINION BE MERE STATEMENT OF  
MACHINERY BUT SHOULD INCLUDE HUMAN PRINCIPLES AND VALUES. THIS HAS BEEN  
ACCOMPLISHED RESPECTING TRUST AREAS IN A GENERALLY COMMENDABLE FASHION.  
THE SAME SHOULD BE DONE FOR NON-TRUST

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WITH RESPECT TO TAUSSIG SUGGESTED REVISED SECTION A:

1. PARAGRAPH 1-B. IN VIEW OF INCLUSION OF INDEPENDENCE WITH REFERENCE TO TRUST AREAS "SELF-GOVERNMENT" OBJECTIVE CAN HARDLY BE ARGUED TO INCLUDE INDEPENDENCE. I BELIEVE THAT HISTORIC ATTITUDE OF UNITED STATES SHOULD BE MAINTAINED AND WE SHOULD INSIST UPON LANGUAGE FOR ALL DEPENDENT AREAS EQUIVALENT TO THAT OF DRAFT RESTRICTED TO TRUST AREAS.

2. PARAGRAPH 2. PROVISIONS ARE ADAPTED TO PRIMITIVE AREAS BUT NOT TO MORE ADVANCED AREAS LIKE UNITED STATES TERRITORIES AND MAY CAUSE SUSPICION AND RESENTMENT THERE.

SUGGEST THAT PARAGRAPH BEGIN AS FOLLOWS: "IN PARTICULAR, MEMBER STATES UNDERTAKE WITHIN THE LIMITS OF THEIR JURISDICTION". THIS NECESSARY TO AVOID INDICATION OF INTENT THAT WE WILL TAKE OVER LIQUOR CONTROL AND OTHER MATTERS WHICH WE HAVE COMMITTED TO LOCAL GOVERNMENTS.

STRONGLY OBJECT TO ANY QUALIFICATION WHATEVER CONCERNING FREEDOM OF CONSCIENCE AND RELIGION. SUGGEST SUBSTITUTION OF EXCELLENT LANGUAGE OF B-2-C FOR THIS.

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AT BEGINNING OF 2-C SUGGEST REVISION "(C) WHERE SUCH PRACTICES OR ABUSES EXIST, TO ABOLISH" ETC.

SUGGEST COMBINING 2(D) AND 2(F) ALONG LINES DISCUSSED WITH TAUSSIG SO AS TO EMPHASIZE RESPONSIBILITY FOR MEASURES INCLUDING (BUT NOT LIMITED TO) RESEARCH TO RAISE STANDARD OF LIVING.

IN PARAGRAPH 3, URGE THAT REGIONAL OR GENERAL CONFERENCES INCLUDE REPRESENTATIVES OF INHABITANTS OF TERRITORIES WHERE FEASIBLE.

I SHALL TAKE THE LIBERTY OF SENDING YOU MY DETAILED COMMENTS ON TRUSTEESHIP DRAFT AS SOON AS POSSIBLE AS SETTING FORTH MY PERSONAL VIEWS AND VIEWS OF THIS DEPARTMENT WHICH IS CHARGED WITH ADMINISTRATION OF MAJOR

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THIS IS PAGE THREE OS W-18 AND W-21

W-23

PAGE THREE OF 19/26TH MAY

UNITED STATES TERRITORIES. IN GENERAL, IT APPEARS TO ME THAT MAY 21  
DRAFT REFLECTS GREAT IMPROVEMENT SINCE ORIGINAL UNITED STATES DRAFT  
AND FOR THIS I CONGRATULATE AND THANK YOU.

SENT NR 19/26TH MAY 7 15 PM EWT STATE HIB

RECD NR 19/26TH MAY 4 15 PM PWT UNCIO WT

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