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THE BRITISH COMMONWEALTH, THE UNITED STATES AND WORLD PEACE

No thinking person will deny that the question of world peace is one of vital importance, one which affects every individual now living and one which will affect every individual hereafter to be born, for upon it depends the future existence of civilization as we know it and, therefore, the material, intellectual and spiritual status of every present and prospective member of the human race. And, unfortunately, no well-informed person can deny that the existing relations between the United States and the British Commonwealth of nations are not such as give that guarantee of solidarity of purpose and consonance of action in preserving world peace which ought to be expected from national communities such as they who loathe war, who entertain the same ideas of human progress and human liberty and who have each founded all hope for the future on democratic principles of government which are in themselves the negation of the use of force in human relations. Such a situation must appeal to all intelligent men and women, but particularly to lawyers who by avocation are the sworn servants of justice and law as one calling for intensive study with a view to its immediate amelioration. I am not egotistical or rather asinine enough to attempt here remedial suggestions. I propose merely to state to you as fully and fairly as I can the underlying facts of the case and to enumerate some of the possible methods of success—fully dealing with the present deadlock which have been suggested in your country and mine.

Since this is exclusively a legal audience, let us put the discussion into a form made familiar to us by every-day experience. Who are the parties, what are the issues, upon what principles are the issues to be decided.

As to the parties one needs no introduction. The United States is the most compact, the richest and potentially the most powerful of existing national entities. The other, the British Commonwealth, calls for a word of definition since its make-up is a relevant fact, as will appear when I come to discuss the issues. It covers about one-quarter of the land surface of the earth and there dwell within its confines over four hundred and fifty million persons or about one-quarter of the total human family belonging to every race, color, civilization and religion. Because it is called the British Empire and because the word empire usually connotes to educated persons who have not given the matter any particular

study a political organization similar to that of ancient Rome or, at all events, to that of pre-war Germany and Austria-Hungary there exists a widespread impression that underlying all its various political forms in the last analysis there will be found the iron hand, deeply covered, it is true, with the velvet forms of democracy but none the less the iron hand of despotism. There could be no more egregious error. The British Commonwealth is made up politically of the British Isles, the five Dominions—in reality independent nations—and the various dependencies and crown colonies. It rests on four fundamental principles, viz., the reign of law, individual liberty, nationality and responsible government. The first three are everywhere lived up to, the last has only been approximately reached, but it is the ultimate form that government is expected to take on wherever the British flag floats and progress towards its attainment is, if sometimes slow, at all events continuous. To critics who demur and point to India I would simply mention your insular possessions, such as the Philippines and Porto Rico and leave the matter at that. The primary basis of the existence of the British Commonwealth is the reign of law, the Pax Britannica, the outlawry of war within its boundaries. No question arising within its far-flung territories can be settled by violence. The whole force of the empire is behind that prohibition. On the other hand no question can arise but that a peaceful forum, either judicial or political, is provided for its settlement.

Surely it is no small thing that thereby one-quarter of the human race as between themselves and one-quarter of the land surface of the earth as between its inhabitants are withdrawn from the arena of war. Surely, too, it is no small thing that in the other greatest aggregation of the human race living under a single political organization, the United States of America, the same outlawry of war is the basic principle of its existence. And since both are founded on the ideals of the reign of law, peace and individual liberty, since neither one nor the other desires further aggrandizement at the expense of its neighbors both are staunch exponents of peace in international relations. Why, then, have we arrived at a stage when we are stating that a war between us is unthinkable? For if recent world history is any guide when such talk begins we may well recall the language of Scripture as to impending calamity "So you also when you shall see these things know ye that it is nigh, yea even at the doors." Three questions only are pointed to as likely to cause trouble: trade competition, war debts and what is known as "the freedom of the seas."

The two first need only be stated to be eliminated. A British-American war originating in trade rivalry is indeed unthinkable. Both the British and the Americans are keen traders, but were a government in either country even to suggest the use of force as an aid to commercial enterprise the common people would rise in their might and destroy it in the twinkling of an eye. For the British the war debt question is non-existent. It has been settled and over two hundred years of history prove that in financial matters a British pledge rings as true as a British sovereign.

Remains the freedom of the seas, the crux of the present situation, not by any means a new question but one containing novel elements of the most dangerous kind since they have led the chairman of the Foreign Relations Committee in the United States Senate to declare from his place in that body that the United States is on the eve of a naval race with Great Britain. If that is true, then recent world history points with warning finger to the almost certain outcome. And not recent world history alone. The only war that has occurred between the two countries since the United States became a sovereign state—that of 1812—originated from this question of sea power. Twice since then war between them has been imminent, once during the American Civil War and continuously during the first two years of the World War, and each time the freedom of the seas was the issue.

What, then, are the respective contentions? The British peoples say that the heart of their commonwealth happens to be an island containing over forty-two million people. Food for its inhabitants cannot be supplied from its soil owing to limited area. Food must, therefore, come from abroad. At no time is there more than six or seven weeks' supply on hand. The sea lanes must, therefore, be kept open. The alternative is starvation. Again, this population can only live by manufacturing goods and selling them abroad. Necessary raw materials are not obtainable on the island and must, therefore, be brought from overseas. Further, the British Commonwealth, like any other living entity, can live only if there is a healthy circulation from its heart to all its parts. The sea lanes are its veins and arteries. For these reasons the viewpoint of the British people, in the past, has been that it is necessary to their existence that the British fleet should dominate the seas in time of war.

What does this imply? Simply that as Lord Wester Wymss puts it

“Every Englishman knows in a general way that his safety and even the national existence depend entirely on the navy, but he has the vaguest idea what a fleet does. Its chief power lies not in guns and torpedoes but in the immemorial right of all belligerents to suppress entirely all sea-borne supplies of enemies on which the enemies’ continued existence must depend.”

Nor does that statement, of course, apply only to the British navy. The World War demonstrated that modern navies do not intend to fight each other. They exist for purposes of blockade. We British and American people may well ponder the implications of this fact when considering the present situation.

In addition the British appeal to history to prove that having attained this domination of the sea they have always used it to resist despotism and to advance the cause of human liberty. The struggle with Phillip II at the time of the Spanish Armada, with Louis XIV, with Napoleon and finally with the Kaiser, were all in essence struggles between autocracy and democracy. In the first three victory for democracy was won by the British fleet, and in the last the British fleet made victory for democracy possible. Finally, the British contend that the existence of the empire is one of the most important factors for securing world peace, since it outlaws war over one-quarter of the world’s territory and amongst one-quarter of the world’s population.

With the British position the people of the United States take violent issue. It is noteworthy that in considering this question of sea power the American people always regard it from the standpoint that they will be neutrals and Great Britain a belligerent. To the British this seems a rather large assumption. It is not so many years ago that alarmists were talking of a war between the United States and Japan. The American stand is of no recent date. It was expounded in the early days of their history by Jefferson.

“Reason and usages,” said he, “have established that when two nations go to war those who choose to live in peace retain their natural right to pursue their agriculture, manufactures and other ordinary vocation. to carry the produce of their industry for exchange to all nations belligerent or neutral, as usual, to go and come freely without injury or molestation, and in short that the war among others shall be for them as if it did not exist. One restriction on these natural rights has been submitted to by nations at peace, that is to say, that of not furnishing to either party

implements merely of war for the annoyance of the other nor anything whatever to a place blockaded by its enemy. If any nation whatever has a right to shut up to our produce all the ports of the earth except her own and those of her friends she can shut these also and so confine us within our limits. No nation can subscribe to such pretensions."

And this situation, say the Americans, has been made infinitely worse by the enormous expansion of international trade in modern times. As late as March last, Senator Borah made this declaration

"It has been said that Great Britain would perish without her foreign commerce. The United States, if it should not actually perish, would suffer to such an extent without its foreign commerce that the American people would not for a moment abide the result, but whether it is more acute and more direct in the case of the one or the other makes very little difference because the moving, controlling question is how to protect our commerce against the inroads of those who may be at war."

The American people further contend that Great Britain is running the risk of serious misunderstanding with them for a chimera. The development of the submarine and of the aeroplane has, they say, not only rendered the old-fashioned blockade impossible, but has so crippled the effectiveness of the surface command of the seas as to render such command illusory. But be that as it may, as Senator Borah puts it "The United States will not consent to its commerce being subject to the whim of some other power. If the United States cannot protect her commerce by understanding, by agreement, by law, she will do so by the supremacy of her navy." No one questions the financial ability of the United States to outbuild the British if that policy is determined upon. Such, then, is the present situation, surely one charged with dynamite.

What are the suggested remedies? Senator Borah would have a codification of international maritime law whereby the rights of neutrals and belligerents would be clearly defined. Rights of search, seizure, contraband, blockade, continuous voyage would all be exhaustively dealt with. Admirable, say his critics, but what hope is there of accomplishing this and what guarantee would there be that such regulations would be observed in the stress of war? To be effective they would have to be universal, and what chance is there of that? Previous to the World War such codification had been attempted in the Declaration of London, yet no

government ratified that declaration simply because it went too far in extending neutral rights. Even if the British government should agree to abolish the right of seizure, would France waive the right in case of war of blockading England with submarine and aeroplane? Her attitude at the Washington Conference and emphasized ever since against the abolition of submarines is the answer. Would the United States itself with one of the two strongest navies in the world agree to abolishing the right of seizure. And what about the stress of war? During the Civil War the United States greatly extended, if it did not invent, the doctrine of continuous voyage, thereby much enlarging the then existing conception of the rights of belligerents. When the United States entered the World War it adopted and acted upon the English attitude which simply wiped out all rights of neutrals.

Another solution is suggested in the act authorizing the construction of the fifteen cruisers. Congress thereby proposes an agreement providing for the inviolability of private property at sea. Thus, if the language is to be taken in its ordinary significance, would wipe out contraband altogether, but whether that is the proposal or not makes little difference. The World War proved that war is now a struggle between nations and not between armies and navies, and consequently almost every article of commerce is contraband in the sense that it directly aids the enemy in carrying on the struggle. Is it to be expected that a naval power would consent to an agreement that would thus strengthen a nation whose military power lies on land.

More promising seems to be the position of those advocates of a good understanding, who maintain that the difficulties between Great Britain and the United States rest upon conceptions that have as the result of international action become obsolete. During the past ten years the status of war has profoundly changed. In pre-war days all wars were considered just in the sense that neutrals were in no way concerned with the merits of the struggle. Wars were legal because they were an attribute of sovereignty. Further, the nations as a body felt no obligation either to protect a state from aggression or to preserve the peace of the world. Hence came the pre-war conceptions of neutrality. To stand aside, to be utterly impartial was regarded as the best way of localizing the conflict. No means existed to determine the merits of the contest and no method whereby sanctions could be applied against an offending state even had it been possible to determine which

belligerent was in the wrong. As Dr. Whiton, professor at the Academy of International Law at the Hague, puts it

“pre-war neutrality had no moral basis whatever. It rested upon the conception that nations are not bound by any ethical law of good or evil and that the conflicts arising between them were simply a matter of force, free from all nations of justice and equity ”

But, as he points out, law among nations as well as individuals is merely a reflection of life, and the Great War brought out clearly certain features of international life which up to then had been obscure. First, it showed that in a struggle between first class powers the whole world will be drawn in. I need not emphasize this point to Americans. In November, 1916, you elected President Wilson on the slogan, “He kept us out of war,” and in the following April that same President Wilson went before Congress and asked that body to declare war. “War,” says Professor Shotwell of Columbia University, “spreads like contagion across the frontiers of states that try to remain neutral.” Further, that struggle showed that in any future war the continued existence of civilization as we know it will be in jeopardy. Neutrality, then, can no longer be regarded as in the pre-war days as the best means of localizing a contest. Under modern conditions the doctrine of neutrality becomes a source of danger not only to peace but to civilization itself.

Nor can the old conception of all wars as legal or just now persist. Two international instruments have been set up to deal with that defect. So far as nations who are members of the League of Nations are concerned, they are bound to submit all disputes whatever to judicial or arbitral settlement or to investigation by the league for a period not exceeding six months, and in case of failure by the council to reach a unanimous decision they are bound not to go to war for a further three months under penalty of international boycott and ostracism by all league members. Yet the covenant of the league did not make war illegal and its effectiveness was much impaired by the fact that some great world powers, notably the United States and Russia, are not adherents. The other instrument, the Pact of Paris, commonly called the Kellogg Peace Pact, does in terms make war illegal. It has been signed by forty-six leading nations, including the United States and Russia. By its terms the signatories renounce war altogether

as an instrument of national policy and agree not to settle their disputes except by peaceful means.

But whilst war is thereby outlawed no machinery is provided for the enforcement of the doctrine thereby enunciated. This weakness has been recognized and remedies suggested. A resolution has been introduced into the United States Senate by Senator Capper authorizing the President to impose an arms embargo against an aggressor. The rooted objection of the people of the United States in the past to take any action which may lead them into international entanglements makes it unlikely that such a resolution could be passed. In addition it would place upon the President a tremendous responsibility and one he might find it impossible to discharge. Experts are still disputing whether France or Prussia was the aggressor in the Franco-Prussian war of 1870.

The most fruitful, because seemingly the most practical suggestion of a solution has been made by Mr. John W. Davis of New York. He points out that the Kellogg Peace Treaty, if it means anything at all, necessarily implies that all the nations who are parties to it have a mandate to concert measures to prevent a breach of that treaty or to repress such breach as it occurs. He proposes, therefore, that there must be introduced into the rest of the world the principle established for the Pacific area by the Four Powers Treaty of 1921, that of joint conference for consideration and adjustment. If possible this agreement should extend to all the naval powers, but, in any event, it would be made between the United States and Great Britain. If it were once understood by the world at large that the navies of Great Britain and the United States were to be utilized not to make war but to forbid war that, to quote Mr. Davis, "the navies of the two countries will act together or at least that as a result of diplomatic consultation neither will be used to protect the trade inbound or outbound of a state found to have broken the covenant then the problem of the freedom of the seas would be solved." For granting the existence of such an understanding Great Britain *ex hypothesi* must abandon her ancient stand for sea supremacy. On the other hand, the United States is called upon to go but little further than she already has gone by signing the Kellogg Pact and no further than she has gone so far as the Pacific Ocean is concerned. The four-power pact has eliminated that vast area from being the scene of warlike preparation or of possible combat. It ought to be clear that the best means of preventing war is not in the creation of preventive machinery, but in preventive measures of a conciliatory consul-

tative character. What can be thus accomplished was demonstrated within the past few months when the Pan-American Arbitration Conference, acting jointly with the League Council, stopped a war between Bolivia and Paraguay. Consultation could take place without committing the United States to any form of action, joint or otherwise, against an aggressor.

Whatever be the solution, fortunately there are evidences in both countries that Great Britain and the United States are resolved to make a determined effort to ameliorate the present situation. At the Washington Conference in 1921 Great Britain agreed to parity of naval power with the United States insofar as battleships are concerned. This action in essence marked her abandonment of her age-old policy of being mistress of the seas. It was because parity in reality was lost sight of and because however unconsciously sea dominance was made their aim by the negotiations on both sides that the recent tripartite Conference for Naval Disarmament broke down. No other point of view could be expected from naval experts, and the conference was in the hands of naval experts. This was bad enough, but worse was to follow. By a diplomatic blunder the stupidity of which was only equaled by its naivete Great Britain, in association with France, presented to the United States the identical proposal that the American negotiators had rejected at Geneva. This gave rise to the natural though unfounded suspicion that Great Britain and France had come to some naval understanding vis-a-vis the United States. The bill for the immediate construction of fifteen cruisers was the American reply.

But it may well be that here as elsewhere the darkest hour is just before the dawn. The error of conference between naval experts is not likely to be repeated. The Anglo-French demarche has been emphatically repudiated by everybody, including its own authors. Leaders on both sides now purpose to approach the question from the basis of the Kellogg Peace Pact. With the pact as a foundation the American government proposes to negotiate for, not limitation, but reduction of naval armament. In his Memorial Day address, President Hoover said

“The present administration of the United States has undertaken to approach this vital problem with a new program. We believe the time has come when we must know whether the pact we have signed is real. whether we are condemned to further and more expensive programs of naval construction. It is fitting that we should give

our minds to these subjects on this occasion. that we should give voice to these deepest aspirations of the American people. That aspiration is that the world should have peace. Fear and suspicion will never slacken unless we can halt competitive construction of arms. They will never disappear unless we can turn this tide toward actual reduction."

The President was not content with words. Mr. Gibson had already by his direction taken the initial steps at Geneva, and these are now being energetically followed up by the American ambassador, Mr. Dawes, in London.

The recent British election shows a like determination on the part of the British people to better the existing situation on the same basis. When that campaign opened it looked as though it were to be waged on the unemployment question exclusively, but as it progressed the unsatisfactory condition of foreign relations, especially with the United States, came more and more to the front until at the close the improvement of those relations had become the dominant note of both the Liberal and the Labor program. By a majority of over five million votes, the British people demanded that immediate remedial steps be taken. As long ago as January last, Mr. Ramsay McDonald wrote in the "New York Nation"

"It is imperative that steps be taken to end all this foolish and mischievous feeling which is alienating the United States from Great Britain."

And in almost his final campaign speech he said.

"In the great crusade for the peace of the world, I think my country should not trail but lead. If I come to power I will make an international appeal fair to France, fair to America, fair to ourselves. We shall place our flag on the front lines. In the event of any such proposal as that made by the American delegate (he was referring to Mr. Gibson's speech at Geneva), the English delegate will give his entire and complete support."

No sooner was he in office, as you all know, he entered upon negotiations still in progress to carry out the ideas thus expressed. They have now advanced to a point where the President could say, on July 25th last, "Mr. McDonald has introduced a policy of parity which we now have adopted, and its consummation means that Great Britain and the United States are not to compete in armaments as potential opponents, but to cooperate as friends in the

reduction of them." Great Britain has cancelled a large part of the current year's program of navy expansion, and the President has suspended a large part of that of the United States for the time being.

Such, then, is the present position. Is there anything that men of good will in both countries can do to advance the cause of peace? The reply is EVERYTHING. Government in both rests upon and is immediately responsive to public opinion, and that the public opinion of a country is the aggregate of the individual opinions of its citizens. Every American citizen, every British subject, therefore, is a potent power for good or ill in the determination of what shall be the future of British-American relations. Particularly is this true of members of the legal profession who, by their training and by the position they occupy in the community, are peculiarly fitted to place any question before their neighbors in its true perspective. If that is done with reference to this matter of "the freedom of the seas" then there can be no doubt that a solution will be found that will not only ensure peace and good feeling between our respective countries but will make the outlawry of war a reality, for if the seas be policed in the interests of peace then war on any extended scale becomes an impossibility. In view of our peculiar fitness for the task and in view of the possible abysmal consequences of continued misunderstanding is it not the duty of every one of us to do our utmost to educate public opinion. And in order that I may possibly bring the sense of that duty home to you more fully, let me venture to remind you albeit, doubtless in a very lame and halting fashion, of what war is.

It is the fashion now-a-days to say "Oh, let us forget the war," and truly we should do so if there were no good reasons for remembering it. It is easy for us on this prosperous continent to forget the war. Neither in the United States nor in Canada are there memories of whole generations of children suffering from rickets and tuberculosis, the result of war. In neither country are there whole adult populations sunk in direst misery and despair, with scarce a glimmer of hope for the future as is the case in many if not most European continental countries. In neither are there bodies of permanently unemployed running from a million and a half to two millions, men and women willing, nay eager, to work and yet forced to suffer the last degradation of self-respecting human beings, that of living on a public dole, as is the case, and has been the case for over ten years, in what was once, prosperous England.

But there are those in Canada as there are those in the United

States, who do not forget the war. I will speak of Canada because the conditions to which I am about to refer are more accentuated there owing to our longer participation in the war, and to our comparatively small population. There are probably in this audience, as there always are in every Canadian audience, those to whom the memory of the war is an enduring sorrow. In that hour wherein by any word of mine I wantonly add one iota to their grief, may my tongue cleave to the roof of my mouth and my right hand wither at my side. But we can visualize what war in one of its aspects is if we remember that throughout the length and breadth of Canada, in the most remote settlement, as in the most congested city, the Canadian Rachel mourns for her children and will not be comforted. In Canada there are thousands, yes, tens of thousands, aye, nearly sixty thousand homes, almost one home in every hundred, in which the war is not forgotten. In those homes there are vacant chairs, ruined lives, bruised and broken hearts. For them the sun of joy has gone out forever in this world. Oh no, they do not forget the war, those others. Although ten long years have passed since the Armistice was signed yet throughout the live-long day, and alas, too often throughout the sleepless watches of the night, every tick of the clock beats on those bruised and broken hearts that awful phrase—Never again in this world! Never! Never! But for us others it is easy to forget the war. Let us take no thought of its possible recurrence, but go about our personal affairs until it comes again, as come it will in our time as sure as day follows night unless right-minded men and women in every land work constantly and determinedly for the creation of a world opinion that will prevent it. And when it comes, then our boys, your sons and mine who were too young to go the last time will be ready, ripe for the Grim Reaper, ripe for the crimson harvest of death! And when it comes let us beat the drums and play the bands, and sound the bugles, and send forth our stalwart manly sons, whom we have reared to strength and manhood with such loving care and at no small amount of self-sacrifice—forth into the bloody shambles to be smashed and ripped asunder, to be blown into the face of God's blue heaven to come down a livid mass of shattered flesh and bone, which even the mothers that bore them would not recognize, by the million once again. And when it is all over, and the glory is all won, and the tumult and the shouting dies, let us, you and I—for we have no reason to believe that we will be amongst the fortunate ones whose sons will come back and if we fail to do our part, surely a just Providence will see that we meet with a just retribution,—let us I say, listen to our

friends and neighbors say,—“Oh, let’s forget the war.” Yes, and then let us take our way to our several homes where for us, too, the sun of joy shall have forever gone out in this world, and entering there take our seat beneath the mantle-piece opposite the vacant chair, and in our turn listen to every tick of the clock beat on our bruised and broken hearts that same awful phrase—Never again in this world. Never! Never! Shall we Americans and Canadians, realizing such awful possibilities, sit inactively by and do nothing to prevent the recurrence of that fearful thing and this time on our own peace-loving North American continent? Shall we Americans and Canadians who with only an imaginary line between us have dwelt here in peace, concord and amity—shall we now revert to the law of the jungle, shall we now begin to crouch and snarl and end finally by springing like tigers at one another’s throats? If so, well may it be said of us—“Oh, wisdom thou hast fled to brutish beasts and men have lost their reason.” Or shall we unite ourselves with all right-thinking men and women, in the world, not necessarily in any formal organization but in a cooperative spirit, and so act as to be entitled to say that we will drive that damnable thing called war down the nethermost depths of hell, for only amongst incarnate devils should it exist, that we shall change the significance of that awful phrase, change it from a dirge of unending sorrow to a psalm of likewise unending joy, for we shall make it apply not to death—not to the death of the young, but to war and we shall say in all reverence but likewise in all sincerity of war—“Never again in this world. Never! By the Great Loving Father in heaven who made us all, by the Great Loving Redeemer who died to save us all, never!

—HON. DENIS MURPHY*

*Judge of the Supreme Court of British Columbia. The foregoing address was delivered at the annual meeting of the Washington State Bar Association at Olympia, August 15, 1929.