

THE WAY OUT

PROPOSALS SUBMITTED TO

PRESIDENT WILSON

BY

DR. S. VAN HOUTEN

PRESIDENT OF THE COMMISSION OF THE INTERPARLIAMENTARY
UNION FOR PREPARATION OF THE THIRD PEACE-CONFERENCE



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After the first rejoicing over the birth of the Wilson-Clemenceau project-treaty grave disappointment arose. Evidently whatever it might be as a safeguard against disturbance of peace in the future, it also organised the permanence of the paramount world-power of the victorious Entente. With even this dark side that evidently there was not found a guarantee against discord of the leading powers of this Entente. Indeed just at the moment the draft of the treaty was ready, the American representatives voted an immense increase of their war-fleet and the first signs of a rivalry at sea became visible, at least as dangerous as that between the British and German empires, which was one of the causes, probably more than any other *the* cause of the actual disaster.

As I have tried to show the *way out* of the war in the essay I published in the Recueil de Rapports of the central organisation for a durable peace, published by Nyhoff at the Hague, and distributed among the members of the Interparliamentary Union, I will now try to indicate the *way out* of the difficulties which, when unsolved, will surely make the Wilson-Clemenceau treaty a failure. As it stands it will not be generally adopted.

At the very outset I must make the preliminary remark, that it is absolutely impossible to prevent by any international organization every appeal to force. No League of Nations can be more than a guarantee against unnecessary and frivolous use of force. Who

was not already convinced of this evident truth may consider the actual state of Russia. The best international organization cannot prevent civil wars nor their spreading over the frontiers if these wars are caused by economical difficulties also existing in neighbouring countries. It is a grandiose conception of the authors of the Wilson-Clemenceau treaty to bring these questions at once before the League of Nations. Still I think it a mistake not to keep them wholly separate of the organization of this League itself. The more so, because these questions are inseparable from the agrarian legislation and the division of landed property of the different countries, which are so widely divergent. Once existing the League of Nations may occupy itself with these questions. This must however be left to that League and be better entirely eliminated from its constitutive treaty.

What makes the Wilson-Clemenceau treaty unacceptable and not viable is the mixing up of the Constitution of the League with the solution of many questions arising by the dissolution of the Austrian-Hungarian empire, the Russian empire, Turkey etc. The League of Nations must be a permanent organization of moral forces, working by moral means and quite independent of the solution of frontier-questions between actual States and new States in more or less advanced embryonic form, which the present coalition of military power in the Entente intends to solve. Relatively their solutions will have much more uncertain foundations than the League of Nations itself. Mistakes are unavoidable and presumably one of the first tasks of the League of Nations

will be the cognizance of complaints, which will arise from the delimitations of the new States which the victorious Entente intends to form.

That the Wilson-Clemenceau treaty does not keep these two objects quite separate and mixes up the constitutive organization of the moral power of the coming League of Nations with the care for the stability of the projects of the victorious Entente causes the unavoidable necessity of amendment of this treaty, to which I will now draw the attention.

The machinery of the League consists of 1° a Body of Delegates; 2° an Executive Council and 3° a Secretariat.

In the Body of Delegates each State shall have one vote but can have as many as 3 representatives. (art. 1 and 2).

The Executive Council consists of representatives of the United States of America, the British Empire, France, Italy, and Japan together with representatives of four other States, members of the League (art. 3).

The constitution of this Executive Council is surely well founded when only a permanent organization of the present Entente is intended. But this is not the intention. Act 7 refers to a not yet published protocol in which States are named to be invited to adhere to the covenant, and foresees moreover the admission of new members by at least two-thirds of the States represented in the Body of Delegates. Supposing Russia is coming again to unity and peace is restored with Germany nevertheless these States will be considered as minor powers. And all States except the five named in the treaty will have only 4 representatives together, even if the already exis-

ting States will all come in and their number will be increased by a dozen new ones.

The provisions of the treaty about the Executive Council are evidently unfit for a really general and all-comprising League and their amendment (art. 26) is too difficult.

Even of more importance is the proposed relation between the Body of Delegates and the Executive Council. In the natural order of things an Executive Council is inferior to those, whose resolutions it has to execute. Therefore the Body of Delegates has the higher authority and the Executive Council is ruled by the majority of the Delegates. In the Body of Delegates each admitted State has an equal vote. In the Executive there cannot be a majority against abovementioned great Powers but in the Body of Delegates these may be beaten by a majority of the smaller States. When the League might become general they might possibly agree with half a dozen of the greatest of the others and still be in minority. And evidently the treaty recognizes this majority as deciding power. The last part of art. 15 leaves no doubt on this point. Every party in a dispute has the right to refer it to the Body of Delegates.

Speaking about this point President WILSON says in his speech :

In order to safeguard the popular power, so far as we could of this representative body (n.l. the Body of Delegates) it is provided, you will notice, that when a subject is submitted not to arbitration, but to discussion, by the Executive Council it can upon the initiative of either one of the parties to the dispute be drawn out of the Executive Council on to the larger forum of the general Body of

Delegates, because throughout this instrument we are depending primarily and chiefly upon one great force, and that is the moral force of the public opinion of the world — the cleansing and clarifying and compelling influences of publicity — so that intrigues can no longer have their convents, so that designs that are sinister can at any time be drawn into the open, so that those things that are destroyed by the light may be promptly destroyed by the overwhelming light of a universal expression of the condemnation of the world.

With these considerations everybody can agree, provided that the open and free discussion of international matters and the expression of opinions in order to form the moral influence of a body of men of high standing, ability and experience remains the sole object and aim of the organization and its influence upon the ultimate decisions and actions of conflicting parties be left to these parties themselves.

But the delegates will *vote*. Every State represented, how different may be their physical power and moral influence, will have *one* vote. Behind the Executive will stand according to art. 15 the physical force of the League. Now I may ask: Is there even the least guarantee that in disputed questions the majority of the Delegates will find an Executive which accepts and is willing to execute the majority's decision? Also when the physical force of the States of the minority may be superior, even largely superior to that of the States of the majority?

Every man of experience knows that even the best prepared decisions of judicial or parliamentary bodies by majorities may be bad and unjust. But *lites finire oportet* and in the ordinary course of judicial and legislative matters the minority has to submit not to the decision

itself but to superior organised powers which have to execute it. Many projects of a League of Nations have analogous provisions. The Wilson-Clemenceau treaty has not. The only armed force is that of the States themselves. The majority-votes of the Body of Delegates will not regularly find powers to execute them, on the contrary be endless causes of conflicts.

I have devoted all my time in latter years to these questions and my conclusion remains the same as three years ago :

That the essential point of a League of Nations is the obligation not to use force before there has been sufficient time to have the claim investigated and publicly discussed by a Body of Delegates consisting of eminent men of all States but that *voting only takes place to give an easy and clear survey of the final instructions of the governments.*

I think I may here insert my proposals of 1917, before I state the changes I deem absolutely necessary in the Wilson-Clemenceau treaty. Then I wrote :

I have in view in the first place a college which advises and elaborates opinions and projects but where — excepting resolutions about its own methods of working — no resolutions are voted by majorities. In conformity with these functions the college's name could be *Council of States for international affairs*. The States-Council ought to have a President or Presidential college for its own administration and a secretary with the necessary assistants, all to be paid by all the participating States in a way that the most prominent personalities could be found for these offices and permanently live at the seat of the council in conformity with their high position. Election, term of office, admissibility of reelection etc. could be left to further agreement. Only the Presidency and membership of a

presidential college must be absolutely independent from every individual State and therefore a member of the Conference elected as such, must cease to represent his State. To take part in the conference those Governments are invited who were represented at the Peace-Conference.¹⁾ These appoint so many members as, within certain limit, they may think convenient, but at their own expense, and in special cases they may give them experts as assistants. If more members are appointed one of them has to be designated as first member. The sole, respectively the first representatives have to live at the seat of the council or so near it that the Presidency can convocate a general meeting within a couple of days at the very most. Plenary conferences for definitive discussion meet as is usual for the Peace-Conferences, as far as material is prepared, also by publication, for final decisions. Here it may be remembered once more, that voting only takes place to give an easy and clear survey of the final instructions of the governments not to bind minorities. Treaties are becoming binding by ratification (Recueil, III, p. 54-55).

Generally speaking my project differs from what is projected under the head *machinery of the league* (this head may be of *the Times*) in the first 6 articles only about the ambiguous Executive Council which is really more than its name indicates. This council, though by its name the mandatary of the Body of Delegates would quite efface its Superior, if claimants had not the power put on the foreground by WILSON to pass the Executive. Perhaps here is a matter of compromise between conflicting views among the parties to the treaty. But reconsidering the stipulations they will surely recognize that by attributing the final decisions to a majority of the Body of delegates but without clear provisions how far

¹⁾ This was published in 1917. Admission to the coming Peace-treaties will of course also open the door of the Leagues-Council.

the Executive Council is obliged to their execution, the matter is hopelessly confused.

Lord ROBERT CECIL asked one of these days that critics might not only criticize but show the better way. Complying to his wish my propositions are the following:

1e. Make a separate treaty for the organization of the Body of Delegates. Organize it as a moral power only, according to the high sentiments and visions of President WILSON.

2e. Leave out of this treaty every appeal upon physical force now standing on the background as WILSON says, and trust that the moral power will be sufficient either for one party to withdraw its claim or for the other to submit to it. Do not try to get a judgment about such claims and execution of such a judgment.

3e. Let the present Executive Council and its one-sided organization in art. 3 disappear from this constitutive treaty of the League of Nations and let it give place to a Presidency or presidential College for the leading of the work and discussions of the Body of Delegates. As the sole object is to organize the election of some of the most prominent men from a body of 4 or 5 dozen of men of high standing it does not seem difficult to agree on this point. Otherwise its own constitution may be left to the Body of Delegates itself.

In doing so you will be sure of success, while every attempt to make this League subservient to the temporary interests of the Entente will change materially its object and divide the world more than ever. What the treaty contains besides the organization of the League may find a place in the peace-treaties with the States to

which the territories and colonies belonged before the war. The questions relating to labour and commerce can be brought before the League of Nations as soon as it will be constituted.

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