

the positive imperfections of the law as upon the incompetency or prejudice of judges. A clarification of international law, from whatever source it may come, would go far, in the first instance, to secure obedience to its provisions, and in the second place to create confidence in the justice of the decisions of an international tribunal.

Indisputably, however, the first step to take is to establish a permanent court the end of which shall be justice and not mere temporary expediency. A determination of what class of cases can be brought before it will be, perhaps, the next step; but its final triumph must await the further development of the law.

When the nations have the wisdom and the courage to stand by the law and realize their obligation not only to obey but to support its enforcement, it will become more clearly apparent that the world's peace does not rest upon a combination of military forces pledged to protect territorial possessions and pretensions, but upon the opportunity to vindicate a right and redress a wrong by an appeal to a tribunal whose aim and whose glory consist in the fearless pursuit of justice under accepted law.

DAVID JAYNE HILL.

THE RIGHTS OF MINORITIES UNDER THE TREATY WITH POLAND

It has been neither difficult nor unpopular to pick flaws in the settlements which have been negotiated to wind up the World War. Nevertheless, the great mass of such treaty provisions have been in accord with the conscience and the sense of justice of the Allied and Associated Powers, rather than with their mere material interests. Relatively the flaws are trifling.

Amongst the provisions necessary to a stable and enduring future for the newly formed states, is the just treatment of those minorities which by reason of race or religion might suffer discrimination. We recall the repeated efforts of Prussia to stamp out language and spirit of nationality in her Polish subjects, and still more those of Russia. Are the tables now to be turned? The treaty which creates Poland is a sample of the working of the new spirit. For as Clémenceau declares in his letter on the subject of the treaty to M. Paderewski, referring to Article 93 of the German treaty, "This clause relates only to Poland, but a similar clause applies the same principles to

Czecho-Slovakia, and other clauses have been inserted in the Treaty of Peace with Austria and will be inserted in those with Hungary and with Bulgaria, under which similar obligations will be undertaken by other states which under those treaties receive large accessions of territory." This was to warn Poland and to reassure the beaten states which were now to lose portions of their soil by incorporation in new political units.

I have spoken of the new spirit, but the new conscience is a better word. Let us hope that it will endure.

Article 93 to which M. Clémenceau refers, in the Treaty of Peace with Germany negotiated at Versailles, is as follows:

Poland accepts and agrees to embody in a treaty with the Principal Allied and Associated Powers such provisions as may be deemed necessary by the said Powers to protect the interests of inhabitants of Poland who differ from the majority of the population in race, language or religion.

Poland further accepts and agrees to embody in a treaty with the said Powers such provisions as they may deem necessary to protect freedom of transit and equitable treatment of the commerce of other nations.

How has this pledge been fulfilled, and how are the minority rights guaranteed! The answer must be largely in the Treaty language.¹

Article 3 declares that those German, Austrian, Hungarian or Russian nationals who before the war were resident in the partitioned Poland, are now to become nationals of the new created Poland, subject to special arrangements which may be contained in the treaties with Austria and Germany. But, nevertheless, they may opt (dreadful word) unhindered some other nationality. If so, they must change residence to this preferred state within a twelvemonth. And property

¹ Treaty of Peace between the United States of America, the British Empire, France, Italy and Japan and Poland. Signed June 28, 1919. Supplement to this JOURNAL, October, 1919, p. 423.

Art. 1. Poland undertakes that the stipulations contained in Articles 2 to 8 of this chapter shall be recognized as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

Art. 2. Poland undertakes to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race or religion.

All inhabitants of Poland shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

rights under such option are equitably laid down, also the status of minors.

This provision is less liberal than the usual one, as found, for instance, in our treaty with Spain of 1898, Article IX of which permits Spanish subjects to continue residence in ceded territory upon declaration of a desire to retain the old allegiance.

Art. 7. All Polish nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Polish national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions and honors, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Polish national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment by the Polish Government of an official language, adequate facilities shall be given to Polish nationals of non-Polish speech for the use of their language, either orally or in writing, before the courts.

Art. 8. Polish nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Polish nationals. In particular they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

Articles 9 and 10 relate to education in the public schools. Though teaching the Polish language may be made obligatory, yet in the primary schools instruction of the children of minorities of another tongue must be provided also. And such minorities shall have their fair share of the public funds for educational, religious or charitable purposes. Jewish schools shall be no exception to this rule. Nor may Jews be compelled to violate their Sabbath under penalty of legal disability, though this shall not exempt them from military or other obligations to the state.

Such are the specified rights of minorities in the new Poland. How now are these rights to be guaranteed? The answer is found in Clémenceau's letter of transmission, accompanying the Polish Treaty.

It is indeed true that the new treaty differs in form from earlier conventions dealing with similar matters. The change of form is a necessary consequence and an essential part of the new system of international relations which is now being built up by the establishment of the League of Nations. Under the older

system the guarantee for the execution of similar provisions was vested in the Great Powers. Experience has shown that this was in practice ineffective, and it was also open to the criticism that it might give to the Great Powers, either individually or in combination, a right to interfere in the internal constitution of the states affected which could be used for political purposes. Under the new system the guarantee is entrusted to the League of Nations. The clauses dealing with this guarantee have been carefully drafted so as to make it clear that Poland will not be in any way under the tutelage of those Powers who are signatories to the treaty.

M. Clémenceau's reference is to Article 12 of the Treaty with Poland. This will illustrate how the Covenant of the League is interwoven with all the treaties. It is necessary to quote Article 12 in full.

Poland agrees that the stipulations in the foregoing articles, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the British Empire, France, Italy and Japan hereby agree not to withhold their assent from any modification in these articles which is in due form assented to by a majority of the Council of the League of Nations.

Poland agrees that any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

Poland further agrees that any difference of opinion as to questions of law or fact arising out of these articles between the Polish Government and any one of the Principal Allied and Associated Powers or any other Power, a member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Polish Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant.

Under the old system, discredited because ineffective, treaty stipulations looked for enforcement to the military power of the guarantors. The new order, without military power because it presupposes that a large reduction of armament has taken place and that conscription is a thing of the past, has to rely upon judicial determination at the hands of the League Court, to be executed in last resort by boycott or the force of all against one.

Note also the preferred position of the Council Members. If one of them is party to a dispute with Poland, then the machinery of the League is set in motion. But if not, if for instance, the dispute were between Poland and Germany, then the remedy depends upon whether a Council Member takes up Germany's cause.

It is truly a complete change in the organization of the Society of Nations. To visualize it requires imagination and hopefulness. But the alternative is despair.

THEODORE S. WOOLSEY.

THE MANDATE OVER ARMENIA

President Wilson, on May 24th, appealed to Congress to authorize the United States to undertake a mandate over Armenia in response to the request of the Supreme Council at its meeting in San Remo. The President indicated at the same time that he had agreed to delimit the boundaries of Armenia within the Turkish Vilayets of Van, Bitlis, Trebizond, and Erzerum. It should be observed that both requests emanated from the Supreme Council and not from the League of Nations under whose control all mandates are to be placed.

On May 29th, after a brief and somewhat partisan debate, the United States Senate passed the following concurrent resolution declining to accede to President Wilson's appeal:

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby respectfully declines to grant to the Executive the power to accept a mandate over Armenia as requested in the message of the President dated May 24, 1920.

No formal reasons were adduced for this action, though the debate brought out certain fundamental objections. These objections were based for the most part on the special report submitted by Major-General James G. Harbord, head of the American Military Mission to Armenia appointed by President Wilson.

While not making any specific recommendations, this report stressed certain difficulties in the way of undertaking a mandate over Armenia. The military problem of preserving internal order and guarding against external aggression from troublesome neighbors was presented as being grave in character. The political complications bound to result from interjecting the United States into the mael-