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The Peace Treaties Explained.

No. 1. THE COVENANT OF THE LEAGUE OF NATIONS.

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THE COVENANT OF THE LEAGUE OF NATIONS.

THE Treaty of Peace between the Allied and Associated Powers on the one hand and Germany on the other, was finally ratified and became operative on Saturday, January 10, 1920. The Treaty is divided into fifteen parts, of which Part I is entitled "The Covenant of the League of Nations."

The draft Covenant presented to the Peace Conference at Versailles by President Wilson, on February 14, 1919, was widely circulated and criticized, and the Covenant which now stands as part of the Treaty is a somewhat revised and extended version of that 1919 draft. The Women's International League issued, in March 1919, a short pamphlet criticizing both favourably and unfavourably that draft. It now issues this further pamphlet, descriptive of the provisions of the Covenant, noting the principal differences between it and the First Draft and considering the effect upon the Covenant of the political situation at the time of its signing by the Allied and Associated Powers and its coming into force by the ratification of three of them. Part I of this pamphlet deals with the Provisions of the Covenant; Part II with the International Conditions under which the Covenant came into force.

Part I.—PROVISIONS OF THE COVENANT.

International Co-operation.

Preamble.—The text describing the purpose of the Covenant is so admirable, and if the subsequent Articles were adapted to this purpose the Covenant would so command the support of everyone desiring a true League of Nations, that we give it textually. It runs:—

"In order to promote international co-operation and to achieve international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just, and honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, the High Contracting Parties agree to this Covenant of the League of Nations."

Amending the Covenant.

Article 26.—In drawing up an instrument whose functions are so new and untried in the history of human institutions, it would have been modest as well as wise to allow of amendments being easily made. When we further consider that this instrument was fashioned in the very heart of the bitterest war feeling, by the conquerors alone, without the counsel even of Powers which had remained neutral during the war, we see how inevitable it was that it should fail to be an impartial instrument and how necessary it was to make it easy for the Neutral Powers and the defeated Powers to modify it speedily, and for the growing peace spirit to permeate it.

Yet, when we refer to the Article providing for Amendments to the Covenant, we find that it has not been altered (save for an addition about the resignation of a dissenting member from the League) and amendments can still take effect only "*when ratified by members of the League whose representatives compose the Council and by a majority of the members of the League whose representatives compose the Assembly.*" That is to say, unanimity is required from the Council before the Covenant can be in any way amended (Article 26, First Draft).

Membership.

Articles 1 provides that the signatories named in the annex and such other States named in the annex "*as shall accede without reservation to this covenant*" shall be "*original members*" of the League. It is further provided that "*any fully self-governing State, Dominion, or Colony not named in the annex may (under certain obvious conditions) become a member of the League if its admission is agreed to by two-thirds of the Assembly.*" Two curious facts may be noted:—(1) That America is the first of the signatories, although there seems at the moment little prospect of the Senate consenting to ratification "without reservation";

(2) That in addition to the British Empire, five British Dominions (Canada, Australia, South Africa, New Zealand, India) are reckoned as "Original Members," although the first four are not "fully self-governing" in regard to foreign policy and India in no sense. (Article 7, First Draft.)

To this article we make the objection we made in the pamphlet on the First Draft:—"The first requirement for a League of Nations which is to establish and administer Courts of Arbitration and Conciliation is that it should be trusted by all the world to be administered impartially for

the benefit of all the world. This will not be unless membership of the League is, from its inception, open without distinction to all self-governing States which express (a) their desire to become members and (b) their willingness to perform the duties of members."

Administrative Bodies.

Article 2 lays down that there shall be three bodies—the Assembly (corresponding to the Body of Delegates in the First Draft), the Council, the Secretariat. (Article 1, First Draft.)

Article 3 declares that the Assembly shall be composed of three representatives of each of the member States, with one vote for each State (Article 2, First Draft). There is no provision or suggestion that the delegates to the Assembly should be chosen so as to ensure, to the widest extent possible in each country, popular representation.

Article 4 declares that "*the Council shall consist of representatives of the United States of America*, of the British Empire, of France, of Italy, and of Japan, together with representatives of four other members of the League. These four members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the representatives of the four members of the League first selected by the Assembly, representatives of Belgium, Brazil, Greece, and Spain shall be members of the Council.*" The first Council is thus composed of the five great Allied and Associated Powers and of four other Powers selected by them, three of which were on the Allied side in the war. Switzerland, Holland, and the Scandinavian countries (surely more advanced both in democracy and in international feeling than any of the selected Powers) are significantly overlooked. This article, bad as it still is, does include one great improvement upon the First Draft. This is a provision for increasing the number of permanent members of the Council and also the number of members to be selected from time to time by the Assembly for representation on the Council. True, this can be done only by a unanimous Council with the approval of the majority of the Assembly, but it provides a way of abolishing the existing majority of self-appointed members of the Council and for increasing the number of more democratically selected members. (Article 3, First Draft.)

* The American Senate having refused to ratify the Treaty, it came into operation without her and the first Council of the League met without any official representation of America.

In addition to the above criticisms, we would repeat the suggestion made in our previous pamphlet that the Assembly should be enlarged and democratically elected and should nominate the States which appoint the Council. Provision should be made for changing these States from time to time.

Article 6 provides for the Secretariat and declares the first Secretary-General to be "*the person named in the annex*" (Sir Eric Drummond). (Article 5, First Draft.)

Unanimity.

Article 5 lays down that "*except where otherwise expressly provided in this Covenant, or by the terms of this Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the members of the League represented at the meeting.*" This is a new provision and makes it improbable that decisions of any importance will ever be reached. Matters of procedure and appointment of committees are, however, to be decided by majority.

Women.

Article 7 deals with the seat of the League (for the present at Geneva) and with sundry other miscellaneous points rather oddly assorted with the epoch-making provision that "*All positions under or in connexion with the League, including the Secretariat, shall be open equally to men and women.*" This is a declaration of an importance difficult to exaggerate, since it involves the admission that Foreign Affairs come within the scope of women's interests and activities.

Armaments.

Article 8 on the reduction of armaments was in the First Draft sufficiently feeble. It is further enfeebled by altering the declaration that the Council "*shall formulate plans for effecting such reduction*" to "*shall formulate plans for such reduction for the consideration and action of the several Governments.*" (Article 8, First Draft.)

Permanent Commission.

Article 9 provides for the appointment of a permanent Commission "*to advise the Council on the execution of the provisions of Articles 1 and 8 and on military and naval questions generally.*"

In the First Draft this Commission had to deal only with the execution of the provisions of Article 8 and military and naval questions generally. It seems a pity to give this

Commission (which will necessarily be mainly military and naval in its composition) the wider duty of advising on Article 1, which deals with the whole question of membership of the League. This question should not be dealt with from a militarist standpoint. (Article 9, First Draft.)

Integrity and Independence.

Article 10 binds the members of the League "*to respect and preserve, as against external aggression, the territorial integrity and existing political independence of all members of the League.*"

In spite of the storm of hostile criticism which this article raised in America, it remains in the same form as it appeared in the First Draft. It commits the members of the League to preserving all the bad (as well as any good) territorial provisions of the Treaty and is an endeavour to stereotype the Victory Peace. It must, of course, be taken in conjunction with two other Articles (Nos. 11 and 19 referred to below), but, after all possible use has been made of these, the obligation to "preserve" the terms made, not by the League on a basis of co-operation but by the victorious Allies on a basis of conquest, lies heavy on the League. (Article 10, First Draft.)

Threat of War.

Article 11 declares "*any war or threat of war*" to be a matter of concern to the whole League and directs that the Council shall be forthwith summoned to deal with it. This is one of the contingencies in which the Council must be unanimous before it can act. There is a further useful provision that "*it is also declared to be the friendly right of each member of the League to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends.*" Under this Article attention might be drawn to the folly of insisting upon the "political independence" of an Austria possibly desirous of joining a South German Federation or upon the "territorial integrity" of a Poland containing unassimilable nationalities. But after such friendly offices, it does not appear that the League will be able to do anything but advise, which is very far from the obligation laid upon it in Article 10 to "preserve." This Article differs from the original in making obligatory the calling of a Council on the request of any member of the League. (Article 11, First Draft.)

Arbitration and Inquiry.

Article 12 binds the members not to go to war before having submitted the matter in dispute to Arbitration or Inquiry. (Article 12, First Draft.)

Subjects for Arbitration.

Article 13 differs from the corresponding Article in the First Draft mainly by introducing broad definitions of what disputes are justiciable and suitable for arbitration. The members themselves are, however, to decide whether any given dispute is suitable. The Council, which is given the task of proposing what steps shall be taken in the event of any member failing to carry out an award, has to be unanimous in such proposals. (Article 13, First Draft.)

Permanent Court of Justice.

Article 14 makes an important modification in the corresponding Article of the First Draft. There the Council was to "formulate plans for the establishment of a Permanent Court of International Justice"; in the Covenant they are directed to "submit (these plans) to the members of the League for adoption." Although this must cause delay, it is a sign of grace that the Allies (who proposed to be themselves judge, jury, and executioner in the "trial" of "war criminals"), drew back from the task of setting up, in conjunction with their four nominated colleagues on the Council, a Permanent Court of International Justice. (Article 14, First Draft.)

Settlement of Disputes.

Article 15 contains important modifications of the corresponding Article in the First Draft. Both Articles deal with disputes not suitable for Arbitration, in which the Council is to act as a Court of Conciliation. Members of the League agree to submit non-justiciable disputes to the Council and the first modification occurs on the point of publicity: in the First Draft the words are: "Where the efforts of the Council lead to the settlement of the dispute, a statement shall be published indicating the nature of the dispute and the terms of the settlement, together with such explanations as may be appropriate"; in the Covenant the words are: "a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate." It will be seen that in the First Draft the publication of

facts is made obligatory; in the last the publication of facts as well as explanations is left in the discretion of the Council.

In the event of failure to settle the dispute, the Council must publish a report and recommendations (either unanimously or by majority vote), and minority reports are also allowed. If no unanimous report is reached (and where a settlement is not arrived at, we may be pretty sure that the report will not be unanimous) there is a new provision by which "*the members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.*" In unadorned language this means that if an award goes against a Power, and there is a minority on the Council supporting that Power, it may go to war to upset the Council's decision. Now it is quite one thing to face the certainty that, for many years to come, Powers that think themselves strong enough to defy the League may be tempted to do so if the prize be big enough, and another to enshrine in a document which is directed towards the establishment of "justice" a clause empowering both parties to a dispute to fight for justice. A candid statement that impartial justice may break down would be vastly preferable.

It is provided in this Article that disputes may go before either the Council or the Assembly, but in any case no action except persuasion and publication can be taken by the League without unanimity. This must be a great satisfaction to all those who dread the use of coercive force. (Article 15, First Draft.)

Breakers of the Covenant.

Article 16 provides for the use of economic, military, and naval force against any member of the League who breaks the Covenant. (Article 16, First Draft.)

States not Members.

Article 17 declares that a State not a member of the League, having a dispute with a member, "*shall be invited to accept the obligations of membership in the League for the purpose of such dispute,*" and if it refuses shall come under the provisions of Article 16. (Article 17, First Draft.)

There would be less objection to this Article if the League were really open to all States desiring to become members; but it seems a very high-handed action to say "You shall not join the League and be on its governing bodies, but you shall obey the League's rules and awards."

Registration of Treaties.

Article 18 provides for the registration and publication of all Treaties or international engagements. This will not, of course, prevent secret Treaties and engagements and "conversations," but it declares that none such shall be considered binding by the League. (Article 23, First Draft.)

Reconsideration of Treaties.

Article 19 allows the Assembly to advise from time to time "*the reconsideration by members of the League of Treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.*" (Article 24, First Draft.) This has been held by some people to be a very important modification of Article 10. If Article 10 were eliminated and Article 19 stood, it would be an important step in the direction of recognizing that the Covenant should be an instrument of growth and development and co-operation. As it is, the *obligation* to "preserve" the *status quo*, expressed in Article 10, is to be set against the mere *permission* to "advise reconsideration" granted in Article 19. (Article 24, First Draft.)

Inconsistent Obligations.

Article 20 binds members of the League to accept the abrogation of all obligations or understandings inconsistent with the obligations thereof and binds intending members to free themselves from any they may have. (Article 25, First Draft.)

Valid International Engagements.

Article 21 is a new one and very vaguely worded, so that it is difficult to know what it may be made to include. It provides that "*Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe doctrine for securing the maintenance of peace.*" It is obvious that "regional understandings" may remove from the jurisdiction of the League many matters affecting the welfare of others besides the regions which the understanding covers.

Mandates.

Article 22 lays down that colonies and territories which have been taken from the defeated Powers and are not able to stand by themselves shall be administered by Powers

holding mandates under the League of Nations and responsible to the Council. (Article 19, First Draft.) The changes in the First Draft are merely verbal and the old criticisms stand. It is a good idea that such countries should be administered for the good of their inhabitants, and that if the administrators be foreigners they should have to render account to an international body such as the League ought to be. One does not see, however, why only the territories taken from the defeated Powers should be administered in this way. No one can say that all the victorious Powers have shown themselves unselfish and humane administrators of subject populations. Again, if the League of Nations is to control the mandatories, it should also appoint them and have power to remove them. It is not clear whether the League is to have so much as the power to endorse them, and, in any event, the Council is at present a body nominated by the Allies and therefore little likely to refuse endorsement.

International Co-operation.

Article 23 has six clauses (covering the subjects in the First Draft under Articles 18, 20, and 21, and introducing three new ones). Just treatment of natives [Clause (b)] is curiously inserted in reiteration of a part of the mandatory clause; supervision of traffic in women, children, and dangerous drugs is named in Clause (c); prevention and control of disease are the subjects of Clause (f). Of the three old clauses, one [Clause (a)] declares the purpose of establishing and maintaining international organizations for securing and maintaining "*fair and humane conditions of labour*"; a good beginning has already been made in the first International Labour Congress under the League and the establishment of an International Labour Bureau in connexion with it. (Article 20, First Draft.)

Clause (d) relates to the "*general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest.*" (Article 18, First Draft.) Frankly we do not understand what this means. All traffic in arms is of common interest and should be internationally controlled until it is abolished. If this were so the traffic between the Allies and the Russian counter-revolutionaries would now come under the control of the League of Nations. From what we know of the Allies, we think that it is more likely they were concerned to limit the power which a supply of tanks and aeroplanes might give to, say, the border tribes of India to resist British methods of restoring order.

Clause (e) relates to the securing and maintenance of "freedom of communications and of transit and equitable treatment for the commerce of all members of the League." (Article 21, First Draft.) This would be excellent if the League had been thrown open immediately to all countries desiring to become members. As it is, the "original members" can oppose the admission of their late enemies and discriminate against them, while insisting that their late enemies shall grant them "most favoured nation" treatment. "In this connexion," proceeds the clause, "the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind." This also would be excellent if it were universally applied to all regions devastated by the war (and we would add "by the armistice of 1918-1920"). For there are other ways of devastating regions than by guns and poison-gas, rapine and loot; regions may be devastated by the destruction of the most precious things they contain—the children, the men, and the women in them—by cold, pestilence, and famine. These, too, should be "borne in mind."

Existing International Bureaux.

Article 24 places under the League, with the consent of the parties concerned, all international bureaux already established by general treaties. (Article 22, First Draft.)

Red Cross.

Article 25 is a new one declaring the resolve of the League to encourage and promote duly authorized national voluntary Red Cross organizations.

Summary.

As we said at the beginning, the purpose of the Covenant is admirably expressed in the Preamble, but the Articles are not well adapted to carry out this purpose. By far the most important criticisms can be summarized thus:—

- (1) The League is not international;
- (2) The League is inflexible;
- (3) The League is undemocratic.

Until all nations are freely admitted, the League will not be international. Until the constitution can be freely amended and adapted to changing conditions, the League will not be flexible. Until the Assembly is a democratically chosen body to which the Executive Council is responsible, the League will not be democratic.

Part II.—INTERNATIONAL CONDITIONS UNDER WHICH THE COVENANT COMES INTO FORCE.

In Part I we dealt with the machinery of the League, the actual terms of the Covenant on their face value. But he would be a very shallow politician who really considered a political instrument to be independent of the politicians who make and use it and of the people who choose or are dominated by those politicians.

The official and semi-official advocates of the Covenant mostly defend it *in vacuo*. They take the Articles one by one and commend them to us without any reference to the political, economic, and psychical conditions under which they were made and will have to be applied. But the Covenant was made by certain politicians who, at the very time they were engaged in forging this instrument and declaring it to be for "co-operation and justice," were forging another to destroy co-operation and justice. The League is no better than the men who made it. Those who made this Covenant made the Treaty of Versailles of which it is a part. It is not possible to forget this. The memory of it must affect our whole mental attitude towards the Covenant. The acceptance of the broad principle of a League of Nations to secure impartiality and co-operation would seem a tremendous thing if one could believe that it had been accepted in deed and in truth by those who drew up the Covenant. But it is the unhappy fact that M. Clemenceau has never disguised his belief that France must look for security not to the League but to the utter crushing of Germany, the establishment of buffer States under the military and diplomatic leadership of France, and the welding of a militarist Balance of Power against Central Europe. He did not object to a "reinsurance" by the League, but he made it clear that if the Balance of Power and the League were incompatible, it would be "Tant pis pour la Ligue!" Mr. Lloyd George, on the other hand, rarely speaking of the League as anything better or more life-giving than a coercive force, has done everything his familiar rhetoric can do to discredit generous feeling, foment panic, and encourage a vindictive spirit of revenge, thus creating a sterilizing atmosphere in which co-operation cannot develop. President Wilson, by allowing the many breaches which the Treaty makes in his famous "Fourteen Points," finally destroyed the hope that he could interpret impartially any principles he might lay down. He had proved himself, from whatever cause, no match for European politicians. Of Baron Sonnino it is not necessary to speak; he never showed the

faintest conception of any duty but that laid down by Signor Salandra of "sacred egoism."

While they were discussing the terms of the Covenant and after they had signed it, what were the representatives of the victorious Great Powers doing? They, who were presuming to lay down the lines of a Covenant so admirably designed that other Powers were to be asked to adhere to it "without reservation!" They were (1) imposing, by the weapon of starvation, treaties of peace which would, if carried out, maintain their defeated enemy in permanent economic slavery.*

(2) Demanding the surrender of the ex-Kaiser with the intent to try him before a court composed of his enemies on a charge unformulated in any body of law.†

(3) Appropriating to themselves (and incidentally quarrelling over the distribution of) the territories which they were to hold under the mandatory system as a "sacred trust of civilization." Portions of Palestine and of East and West Africa have been carved up and allotted to one or another of the "Big Three" merely on the principle of sharing the spoils. It is not clear whether the Allies will even ask the League of Nations to ratify the mandates which they have complacently dealt out to each other.

(4) Proposing a militarist alliance within the League, of three Powers—France, Great Britain, and the United States—against Germany.

(5) Allowing Rumania, one of the signatories to the Covenant, to overrun Hungary in spite of the armistice, to loot and ravage and despoil her.

(6) Allowing the various parts into which they had broken the Austro-Hungarian Empire to raise barriers against each other and so intensify the famine already devastating Central Europe.

(7) Inducing Poland, Finland, Esthonia, and other States bounding old Russia to carry on war with Soviet Russia.

(8) Without themselves declaring war with Soviet Russia, committing innumerable acts of war against her.

* See "The Economic Consequences of the Peace," by J. M. Keynes, C.B., especially Chapter V on *Reparation*.

† In the dignified reply made by the Dutch Government on January 23, 1920, to the demand for the extradition of the ex-Kaiser, the following passage occurs:—"If in future it were the intention of the nations to establish an international jurisdiction, competent in the event of war to judge acts alleged to be crimes and liable to be punished by statutes passed previous to the commission of the acts, it would be for Holland to associate herself with the new régime." The Dutch have always been great international lawyers and this reply gives us some measure of the loss the League sustained in not having their voice in the drafting of the Covenant.

The list is a long one and might be greatly lengthened. The outstanding problem of the pacification and settlement of Europe at the time the Armistice was signed was an economic problem. It was a race against pestilence and famine on a scale never known. To found a League of Nations, it was necessary in the first place to keep the nations alive and to set them producing and exchanging. Yet we have it on the authority of Mr. Keynes, who was present at Versailles, that "*it is an extraordinary fact that the fundamental economic problem of a Europe starving and disintegrating before their eyes, was the one question in which it was impossible to arouse the interest of the Four. Reparation was their main excursion into the economic field, and they settled it as a problem of theology, of politics, of electoral chicane, from every point of view except that of the economic future of the States whose destiny they were handling.*"

Indeed, those of us who had for years preached a League of Nations and worked for its fulfilment might well feel that our child had been stolen and a misbegotten changeling substituted for it.

Now, however, if we ask ourselves the question what is best to be done, the answer is not so easy. Looking at the situation as realists (as we must, if we wish to get anything done, while all the time holding fast to our ideal), we see that a skeleton—truly a very rickety one—of a League is actually in being; the first Council has met; the first steps towards a Labour Bureau have been taken; women are organizing to put forward the claims of women under Article 7; commissions are being appointed to carry out certain work allotted to them by the Treaty. Of the great Allied and Associated Powers, France, Great Britain, and Italy have adhered; Holland and Switzerland have put forward their intention to do the same, accompanying their declaration with statements of grave doubts and deep objections, and in the case of Switzerland with a reasoned claim to a reservation on account of her perpetual neutrality. The United States Senate refuses ratification except with very important reservations, mostly directed to preserving her sovereignty as against the authority of the League.*

Should we desire that America and the neutrals should adhere? Should we work for the speedy admission of our late enemies? Or should we say: "The League concentrates power in the hands of those who have proved themselves unfit to wield it. Every nation which adheres to the League strengthens that power. The League is not a League of

* At the time of writing the deadlock between President Wilson and the Senate is complete; he refusing all reservations, they refusing to ratify without reservations.

Peoples, it is a League of Capitalist Governments, and democratic internationalists ought to work for its destruction”?

It is the old controversy whether you must first knock down the rotten house and then rebuild it, or whether you can rebuild it brick by brick even from the foundation. True, the League is not a League of Peoples, and it will not be one till the People insist on leaguizing themselves. True, it is a League of Capitalist Governments and it will cease to be that only when the people turn out their Capitalist Governments and replace them by others. True, the Covenant needs drastic amendment and it will not be amended till the Assembly and the Council are sent by people who desire a real League. But the adherence of every fresh nation makes the League more international; the co-operation within it of all democratic forces makes it more democratic. The defeated Powers have been compelled to accept a Reparation Commission composed of victorious Allies which will have power of life and death over the German people. Is it better that that Commission should be controlled by the League of Nations composed of Neutrals as well as of Allies, or free to impose crushing conditions? Is it better to press for the admission of Germany and Austria to the League, or to hope that they may keep out of it and consolidate a hostile Balance of Power against the League? Should we desire Soviet Russia to join and bring with her the profound modifications of policy which would be inevitable, or should we hope that she would remain uncompromisingly hostile to any co-operation with other systems of government?

There appears to be two prime considerations in coming to a conclusion. One is that the alternative to a development of the League of Nations is not another order, but a period, probably very much prolonged, of international anarchy, which, in view of the oppressive and destructive nature of the Peace Treaty and the tortured, diseased, and disorganized condition of the peoples of Europe, would certainly result in widespread national anarchy, in a further suspension of production and exchange, and in an incalculably extended starvation and pestilence among the peoples. Out of this there might or might not emerge a better order.

The other consideration is that whereas, under the Covenant of the League, the nations taking part in it would have the right to demand, and the power to ensure, a certain amount of publicity, outside the League secret diplomacy would have unchecked and uncriticized sway.

The Realist in us must admit that the League is in being; the Idealist must admit that it is not the League of his loyalty and his devotion and must ask himself how best this can be established.