

ment in investigation of the facts by an international tribunal.

"The nations have had machinery for war — they could go to war in a week — but strange to say, they had no machinery for the adjustment of disputes which defied diplomatic settlement. They were compelled to rely upon good offices or mediation with nothing to prevent acts of hostilities before either could be offered. The peace treaty plan furnishes the machinery, and it can be invoked as soon as diplomacy fails. The time may come when all questions, without exception, will be submitted to arbitration; until that time, the treaty providing for investigation in ALL cases is the best insurance we have against war."

TEXTS OF THE TREATIES

Taking Mr. Bryan's account of the nature, purpose and scope of the treaties, officially called, "Treaties for the Advancement of Peace", as accurate, as indeed Mr. Bryan must be regarded as the primary source of authority in such matters, we are now prepared to consider the texts of the treaties which he negotiated to give effect to his views. They are thirty in number. The first five were quite naturally concluded with American countries, of which Salvador was the first to sign, and these countries were willing to go farther than the European countries in which a step in advance is the subject of much discussion and is only taken with extreme caution. The first European treaty was, as previously stated, appropriately concluded with the Netherlands, which country has been for some years the very pivot and center of an enlightened and reasonable peace movement, and since the meeting of the two conferences at The Hague and the location in that city of the Peace Palace, due to the munificence of an American citizen, Mr. Andrew Carnegie, to house the Permanent Court of Arbitration and a library for its use, The Hague may with considerable propriety be called the very center and capital of internationalism.

Let us therefore compare the treaties with Salvador and the Netherlands and then pass to a consideration of the other treaties which Mr. Bryan was fortunate enough to negotiate with the remaining American and European countries, and with China and Persia.

But before doing so, it is advisable to state that treaties embodying Mr. Bryan's plan were concluded with the following countries, arranged according to the dates of signature which are given in each instance:

Country	Date of Signature
Salvador	August 7, 1913
Guatemala	September 20, 1913
Panama	September 20, 1913
Honduras	November 3, 1913
Nicaragua	December 17, 1913
Netherlands	December 18, 1913
Bolivia	January 22, 1914
Persia	February 4, 1914
Portugal	February 4, 1914
Costa Rica	February 13, 1914
Switzerland	February 13, 1914
Dominican Republic	February 17, 1914
Venezuela	March 21, 1914
Denmark	April 17, 1914
Italy	May 5, 1914
Norway	June 24, 1914
Peru	July 14, 1914
Uruguay	July 20, 1914
Brazil	July 24, 1914
Argentine Republic	July 24, 1914
Chile	July 24, 1914
Paraguay	August 29, 1914
China	September 15, 1914
France	September 15, 1914
Great Britain	September 15, 1914
Spain	September 15, 1914
Russia	September 15, 1914
Ecuador	October 1, 1914
Greece	October 13, 1914
Sweden	October 13, 1914

Of these treaties, thirty in number, the senate of the United States has advised and consented to the ratification of the following twenty-eight, arranged in order of such approval:

Country	Ratification advised by the Senate
Argentine Republic	August 13, 1914
Bolivia	August 13, 1914
Brazil	August 13, 1914
Costa Rica	August 13, 1914
Guatemala	August 13, 1914
Honduras	August 13, 1914

Italy	August 13, 1914
Netherlands	August 13, 1914
Nicaragua	August 13, 1914
Norway	August 13, 1914
Persia	August 13, 1914
Portugal	August 13, 1914
Salvador	August 13, 1914
Switzerland	August 13, 1914
Uruguay	August 13, 1914
Venezuela	August 13, 1914
Chile	August 20, 1914
Peru	August 20, 1914
France	September 25, 1914
Great Britain	September 25, 1914
Spain	September 25, 1914
Denmark	September 30, 1914
China	October 12, 1914
Russia	October 13, 1914
Ecuador	October 20, 1914
Greece	October 20, 1914
Paraguay	October 22, 1914
Sweden	October 22, 1914

Of these twenty-eight, ratifications have been exchanged with the following countries, arranged according to the date of such exchange:

Country	Ratifications Exchanged
Guatemala	October 13, 1914
Norway	October 21, 1914
Portugal	October 24, 1914
Great Britain	November 10, 1914
Costa Rica	November 12, 1914
Spain	December 21, 1914
Bolivia	January 8, 1915
Sweden	January 11, 1915
Denmark	January 19, 1915
France	January 22, 1915
Uruguay	February 24, 1915
Peru	March 4, 1915
Paraguay	March 9, 1914
Italy	March 19, 1915
Russia	March 22, 1915
China	October 22, 1915
Chile	January 19, 1916
Ecuador	January 22, 1916
Honduras	July 27, 1916
Brazil	October 28, 1916

The preamble in all of the treaties is identical and states the contracting countries as "desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace".

ALL DISPUTES SUBMITTED

In the first article of the treaty with Salvador the high contracting parties "agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an international commission, to be constituted in the manner prescribed in the next succeeding article". That is to say, all disputes, whether involving questions of fact, law or policy, are to be submitted for investigation and report, provided only that diplomacy shall have failed to adjust them. The treaty with the Netherlands is more cautious, and makes it clear that the new supplements but does not supplant an older treaty providing for arbitration. Thus: "The High Contracting Parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustments have failed, be referred for investigation and report to a permanent international commission, to be constituted in the manner prescribed in the next succeeding article".

This limitation is just and proper from every point of view.

In the first place, an obligation to arbitrate is not satisfied by submitting a dispute covered by such a treaty, to the commission which only investigates and reports, whereas an arbitral tribunal decides the questions laid before it and binds the conscience and the good faith of the parties to comply with and to execute the award.

In the second place, the membership of the arbitral tribunal may well differ from that of the commission, inasmuch as different qualifications may be required to pass upon questions of law and apply them to the facts as stated or found, from those fitted to facts or take into consideration questions of honor, or vital interest which inevitably involve politics and international policy and in which questions of law may play but a modest or subdued role.

In the third and final place, for only essential differences are to be pointed out, the Netherlands government wanted to have it distinctly

appear that, as far as it was concerned, the treaty was primarily to bring to investigation and report questions ordinarily reserved from the obligation to arbitrate contained in the general treaties of arbitration, although if the agreement to arbitrate under the general treaty or agreement has not been complied with, the Bryan treaty may then be utilized to cause the particular matter to be submitted to the commission. Such action is, however, to be the exception, not the rule.

The two treaties are, however, alike in the final and vital clause of the first article, for the text of both is so similar as to be almost identical in language as in meaning. Thus the treaty with Salvador provides, as do all of the series, that the high contracting parties "agree not to declare war or begin hostilities during such investigation and report".

In each treaty the commission of inquiry is to be composed of five members, one to be chosen by each from its citizens or subjects, a second from a third country, and in the treaty with Salvador "the fifth member shall be chosen by common agreement between the two governments"; in the treaty with the Netherlands the proviso is added "that he shall not be a citizen of either country". Doubtless in practice the umpire would be a foreigner to each, but it was well to state it in order that three of the members, that is the majority, must be indifferent to the dispute. In each treaty the expenses of the commission are to be paid in equal proportions; in the treaty with Salvador the commission is to be appointed within four, in that with the Netherlands, within six months after exchange of ratifications and vacancies are to be filled in each as in the case of original appointments.

The third article of both is very similar, but not identical, as Mr. Bryan did not attempt to secure absolute uniformity of detail, wisely leaving something to the other side to suggest and to the United States to accept. By the first paragraph of each treaty the dispute is to be submitted to the commission immediately upon the collapse of diplomacy. In the Salvadorian treaty the commission may "act upon its own initiative", notifying and requesting the co-operation of the governments; whereas in the Netherlands draft the commission may "spontaneously" offer its services. The meaning seems, however, to be identical in each case, as where special formalities are to be required, they are stated in the treaties.

In the second sentence of the third article the treaty with Salvador presumes that the request of co-operation is tantamount to an obligation to co-operate. This is not, however, left to conjecture by the Netherlands, as by the third paragraph of the article, the high contracting parties "agree to furnish" the commission "with all the means and facilities required for its investigation and report". In the next paragraph of the article the commission has a year in which to investigate and to report upon the dispute, which, in the case of Salvador, may be extended by mutual agreement. In each the report is to be triplicate, one copy for each of the parties and the third for the files of the commission.

The concluding paragraph is identical and as it is of the essence of Mr. Bryan's plan it is found in all of the treaties in similar if not in identical language. According to the text of the Salvadorian and Netherlands treaty it reads: "The high contracting parties retain the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted."

DIFFERENCES IN TEXTS

Thus far there have only been slight differences in the two texts making for clearness in thought and expression, and precision in the nature and extent of the obligation assumed. There was, however, an important difference between the treaties with Salvador, Guatemala, Panama, Honduras, Nicaragua and Persia on the one hand, and all the others, including, of course, the Netherlands, which latter country was the first to strike out the fourth article of the five American treaties in which it was followed by all other countries with the exception of Persia.

This article is thus worded:

"Pending the investigation and report of the International Commission, the high contracting parties agree not to increase their military or naval programs, unless danger from a third power shall compel such increase, in which case