

# On Joining the World Court

By Scott Nearing

**S**HALL the United States join the World Court? President Harding, Secretary Hughes and other authorized spokesmen have recently made speeches concerning it; it has been officially laid before the Senate, and it will constitute one of the biggest factors in the 1924 election unless it is settled before that time.

The very first thing is to clear up our ideas about the Court. What is it? How did it come into being? Who started it? These questions have not been answered in the newspapers.

Article 14, of the Covenant of the League of Nations reads: "The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly."

Under this article the Court may hear cases brought before it by members of the League and by the Council and the Assembly of the League. The process of organizing the Court took about a year. At the end of 1920 (December 13th), the League of Nations issued a statement regarding the organization of the Court. This statement was signed by a number of nations—some forty odd small nations and the Big Four,—Japan, Italy, the United Kingdom, and France. The World Court as it exists today is the product of the action of the League in 1920.

The important section of the statute for the permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations is in part as follows:

3. The Court consists of fifteen members—11 judges and 4 deputy-judges.
4. Members of the Court are elected by the Council and the Assembly of the League from nominees made by "the national group in the Court of Arbitration".
13. The members of the Court shall be elected for nine years. They may be re-elected.
23. A session of the Court shall be held every year.
32. The salaries of the judges to be determined by the Assembly of the League, on the proposal of the Council.
33. The expenses of the Court shall be borne by the League of Nations, in such manner as shall be decided by the Assembly on the proposal of the Council.
35. The Court shall be open to the members of the League and also to States mentioned in the Annex to the Covenant.
37. When a treaty or convention in force provides for the reference of a matter to a tribunal to be instituted by the League of Nations, the Court will be such tribunal.

Secretary Hughes says the fundamental question is whether or not the League of Nations controls the Court. The Court was constituted under the Covenant of the League of Nations; its judges were elected by the Council and the Assembly of the League of Nations; its salaries and expenses are paid by the League of Nations; otherwise, it is in-

dependent of the League. Plainly the Court is the official judicial organ of the League of Nations.

The judges as originally elected were from Spain, Brazil, Cuba, Holland, Switzerland, Denmark, Italy, Great Britain, United States, Japan and France. One each from six small countries and from five great countries, although one can hardly call Cuba a separate country. The project for the Court was submitted by an advisory committee of jurists consisting of Elihu Root, United States; Lord Phillimore, Great Britain; Albert de Lapradelle, France; Arturo Busatti, Italy; M. Adatci, Japan; B. C. J. Loder, Netherlands; R. Altamira, Spain; Clovis Bevelacqua, Brazil; Baron Descamps, Belgium; and Francis Hajemp, Norway. The project was modified by the Council, October 27th, 1920, and by the Assembly on December 13th, 1920. Of the committee of jurists that constituted the Court, five represented five great empires, and five represented very small countries.

These are a number of facts connected with the organization of the World Court which give a basis for judging the questions raised regarding it. First, that the Court is not a part of the League of Nations is of course pure legalistic bosh, out of which Hughes may make the best case he can. The second question regarding the Court is whether or not it can stop war, and stabilize the life of the world. The Court is the Court of last resort—paragraph 60 of the Statute says: "The judgement is final and without appeal". That does not give it power; it merely gives it finality. The only thing that gives it power is its capacity to see its decisions carried out, and that is no greater than the capacity of the League of Nations, which established it and which pays its bills. Therefore, if the League is capable, the Court is undoubtedly capable; if the League is incapable, the Court is just as incapable, because its powers cannot be greater than those of the body which constituted it and which maintains it.

Why is it that the same gentlemen who so fluently opposed the League are so thoroughly in favor of the World Court? Because they want to go in by the back door where they originally refused to go in by the front door. They have decided that the time has come to join the League, and since they cannot swallow their own words so soon they have decided to do it legalistically. Why do they want to do it? Various prominent business men and bankers are anxious to join it because of the essential change in the economic situation which has occurred in the last three or four years. After the war, business men came back from Europe and told us that everything would be going on as usual in a very short time; they made all kinds of optimistic promises. Then came the calamitous financial panic of the spring of 1920, followed by the depression which is still felt; during those years, economic life has steadily disintegrated, and the events of the last few months in the Near East and the Ruhr have turned grave doubts on the possibility of fixing things up.

Three or four years ago the American banker thought that he could buy up the European junk heap; the theory was that the United States could hold itself aloof and buy Europe under the hammer. It was a dream; instead of a sheriff's sale, there was a funeral.

This is just a speculation, but I believe that the American

business man in 1920 thought that it was perfectly possible to go on profiteering—it looked like a good thing. The last years convinced him of his error; he has come to see that aloofness is impossible, and that he has to be saved by a united front, and this move of Harding's is an attempt to set up a united front of the capitalist world.

The business men are out to establish a unit in the world of economic affairs, and they want to organize an international business court to settle international questions between business men. This represents a part of the general effort of the business world to establish and maintain an economical and political front.

There is another question—the possibility of having a series of nations functioning through a world court. There are forty odd nations belonging to the World Court; how can they work together? For instance, France has high tariffs; will she lower them after she joins the World Court? Will England withdraw or modify her oil concessions? Are these things submitted to the World Court? Not at all. When France gets ready to invade the Ruhr she invades it, because nobody is compelled to take a case before the World Court; it is optional.

What does modern economic life consist of? A hopeless mess of monetary difficulties, a tremendous national competitive struggle. What control over it has the League of Nations,—the World Court? None, until somebody gets ready to submit these difficulties to it. If France does not choose to submit to it her controversies, the Court is oblivious of what is going on. Will the World Court prevent war? Hughes lays great emphasis on the supposition that it will. Will it? Yes, providing the contending parties take their differences before the Court, and providing they abide by its decisions; but the Court cannot make them come, and cannot enforce its decisions after they appear. If great issues are raised, the parties interested will not bother the World Court.

The World Court being a subsidiary of the League, it is subject to all the limitations that exist for the League. Since the League of Nations was organized there have been 26 wars; they claim to have prevented three, but the other 26 went right on. The World Court being a subsidiary of the League, can hardly expect to score higher than the League; we may very reasonably expect that the World Court will be as impotent as the League, and probably less potent.

How effective will the World Court be in the case of labor disputes? Will the World Court do the same thing to world labor that the American courts do to American labor? The World Court was constituted by Elihu Root and his like, is dominated by the great empires of the world and functions in their interests, and when they are threatened by a labor uprising they will undoubtedly do what they can to maintain the status quo. The Court is no different from the League; the League is no different from the great empires with one important exception, and that is that in the League there is a handful of great aggressive robber powers and a lot of little fellows who are afraid they may be robbed at a minute's notice, and who hope they may be able to exert an influence that they could not accomplish separately.

Shall the United States join the League of Nations? Shall the United States join the World Court? It is the same question, and the answer depends on what the United States wants to do. A representative of Standard Oil, or United States Steel should be for it 100 percent. Harding is speak-

ing as an intelligent advocate of the business interests; the wise and expedient thing for the business man to do is to join the League. As far as capitalist communities are concerned it is a gesture in the direction of internationalism, although all the mechanisms of nationality remain and all the hindrances are still here.

Will this World Court solve any of the important questions that confront the world? No, it is a fine gesture with no conceivable result; there is nothing much to be lost, but there is nothing much to be gained. On the whole, we might as well join it, but as far as hoping that it will stop war is concerned, or that it will stabilize economic life, it is like the fine phrases that Wilson spun for us—talk—and although Hughes talks to the tune of eight columns in the newspaper, it is still talk, and in his case, very cheap talk, because he overlooks the facts.

The World Court is bred out of the present order,—bone of its bone and flesh of its flesh. Go where you will, whether in China or the Near East or South America, you will find that big capitalists are all trying to get in on the ground floor. The financial structure has reached an impasse, where war threatens every move, and having reached that, they are seeking a way out by constituting impotent bodies which camouflage the real issues. Harding may be re-elected on the strength of this program. But as far as the people who have faced the facts are concerned—people who recognize the essential economic and political situation—there is no reason why they should be fooled.

On the other hand, the Court is a world suggestion; it has no power, but it sounds as though it had, and it at least leads men to think in terms of world affairs, in terms of bringing questions before a World Court; it builds up the idea of international political power. It brings no practical advantage in the immediate present, it will not stop war, it will not now affect political or economic life, but it will build up habits of thought in a new direction. Insofar as it does that, it represents a move in a new and advantageous direction.

What A. C. Bedford and Elihu Root want is not a world controlled by workers and equalization of economic opportunity, but the danger of revolution reduced, law and order established. What we are interested in is seeing a world constituted in which men and women are living together and working out their problems on a world scale. Bedford and Root are interested in the preservation of nationalism and property; we are interested in seeing the human race as a co-operating group. They want world consciousness and so do we, and insofar as they can produce that, let them do it. But the World Court need not seriously concern us, because we can expect practically nothing serious from it.

The world is interdependent economically; since 1914 the means of preserving this interdependence have steadily disintegrated. This breakdown is not due to natural disasters—not famine, nor flood—the iron and coal are still in the ground, the sun still shines—but to political frontiers, customs, armaments, wars, etc., to the incapacity of man to work out the economic problems. Obviously, the solution does not at all lie in the reconstitution of these nationalistic obstacles; if we expect to get anywhere in the solution of economic world problems it will probably not be done through the rebuilding of nations as such but through the ignoring of nations as such. These impediments,—frontiers, customs, barriers,—are the logical and inevitable outcome of national-



"To Hell wit' 'em; they ain't got no rights!"

ism and competitive imperialism, and the questions they bring up cannot be solved by wars or by conquest. If they could, they would have been completely solved in the World War, because it was a great, sterile military triumph. The conquerors did everything that a conqueror could do. Has that brought about economic peace in the world? Not at all. You cannot beat up the rest of the world and thus make the economic system run. It depends on credit and credit cannot be coerced.

Ever since 1914 productivity has been lowered, and it cannot be restored to its pre-war status until something happens to rehabilitate it. What shall that be? It has to be some form of cooperation—getting people together. How can we get people together? If it cannot be done through nationalism how can it be done? By organizing people who work at various occupations along the lines of economic activity, miners with miners, agricultural workers with agricultural workers, building up a structure of society based upon the things that people do, and not on the places where they live.

Is it possible to organize the world on that basis? If not, it is not possible to organize it on any basis, because the normal course is the channel of least resistance, and that

is the line of economic activity, where people are working together without serious hitches, smoothly, miners with miners, builders with builders, etc. Our only rational hope lies in the organization of world economic affairs sufficiently vigorous to direct world economic life, sufficiently strong to decide economic questions and enforce decisions which are sufficiently general, so that every important group will come under its jurisdiction.

One of the great difficulties with the World Court is that Russia and Germany are excluded. We need a re-organization of the world's economic life that shall have as a part of its activities a world court which can hear and decide cases and enforce its decisions. The economic life of the world has gone on to a world plane,—has jumped the boundaries of nationalism. It remains for those recognizing the change to build on a new foundation. The League of Nations is merely a gesture of the old order, and the World Court is merely a gesture of the League of Nations. The demand for peace, bread, and liberty,—for life, liberty, and happiness,—will not be met by the League or the Court, will not be met by financial imperialism. While Harding and Hughes are talking, it behooves us not to be fooled by them, but to work for a new world order.