

The quest for peace yesterday and today [Continuation]

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THE QUEST FOR PEACE YESTERDAY AND TODAY.

Memorial Lecture given by Professor William E. Rappard, of the University of Geneva, Director, Graduate Institute of International Studies, at the David Davies Memorial Institute of International Studies, in April, 1954.

(Continuation)

HOW THE UNITED NATIONS WERE BORN.

The chapter in Mr. Hull's *Memoirs* in which he deals with the Moscow Conference of 1943 is entitled "Birth of the United Nations Organization". This is certainly a misnomer. The United Nations cannot be said to have been born before the drafting of the Charter, whose coming into force alone gave it legal existence. And it was only in the summer of 1945, nearly two years later, that that document was elaborated at San Francisco.

The story of this birth has often been told. It would serve no useful purpose to repeat it here. I shall therefore be content merely to give a chronological outline of the discussions concerning the United Nations before and at the San Francisco Conference, and then to call attention to three points which strike me as especially significant.

On his return from Moscow in the autumn of 1943, Mr. Hull was impatient practically to promote the preparation of the "general international organization based on the principles of the sovereign equality of peace-loving states" to the creation of which the four signatory powers had then pledged themselves. He accordingly instructed the experts of the State Department to draft, under his own personal guidance, a memorandum embodying what in his *Memoirs* he calls "our latest ideas on international organization". This memorandum was completed on December 23, 1943, and approved by President Roosevelt on February 3, 1944. It contained, he informs us in his *Memoirs*, "practically all the points...later embodied in the proposals...submitted to the Dumbarton Oaks Conference."

That Conference was to meet in Washington on October 7, 1944. During the intervening months Mr. Hull was busily engaged in consulting, besides the British Government, his own experts and especially many leaders of American opinion. In the course of these conversations, two points seem to have given rise to particular discussion.

The first was that of the exceptional powers which, in the international organizations, were to be conferred upon the states whose co-operation was deemed essential. As appears from the following quotation from Mr. Hull's *Memoirs*, the so-called question of the veto of the great powers arose even long before the Dumbarton Oaks Conference. He writes:

"We now drew up an outline of the provisions to be contained in a proposed charter which, dated April 24, 1944, embodied the conclusions upon which we had been able to agree up to that point. We suggested an Executive consisting of the four major nations and four other selected by the General Assembly for annual terms, to have primary responsibility for the maintenance of international security and peace.

This draft recommended that the Council should make decisions by a majority vote — including the concurring votes of all permanent members — on four

categories of questions. These were: the final terms of settlement of disputes; the regulation of armaments and armed forces; the determination of threats to the peace, of breaches of the peace, and of acts obstructing measures for the maintenance of security and peace; and the institution and application of measures of enforcement.

Other decisions would be taken by a simple majority vote. In this respect we were resolved to avoid the unhappy experience of the League of Nations, whose decisions required a unanimous vote of all members. Any member of the Council had the right in our plan to abstain from voting, but that nation would still be bound by the decision.

In previous drafts we had provided that the vote of a member of the Council directly involved in a dispute would not be counted, but this we dropped in our draft of April 24, leaving the whole question open. Our experts differed on this point, some maintaining that the veto power should not be impaired and others that the ends of justice would not be served by permitting a nation to vote in a case to which it was a party. We decided to leave the question for future consideration."

Another question which came up in the internal American discussions prior to the Dumbarton Oaks Conference was that of the necessary relations between the peace settlement and the international organization which was to guarantee its terms. Although that all-important point seems strangely to have been lost sight of since, it is bound to arise again. In order to avoid what he repeatedly refers to as "the tragedy of the League of Nations", Mr. Hull very

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wisely took several Congressional leaders into his confidence even before he communicated his draft to the United Kingdom and to the Soviet Governments.

On April 25, the very day after the completion of the above-mentioned draft, it was placed in the hands of eight leading Senators chosen from both political parties. At their second and third meetings, at the State Department, on May 2 and 12, 1944, an exchange of views took place of which Mr. Hull, in his *Mémoires*, writes as follows:

"A major point was quickly raised, as one of the Senators said he desired to know whether we should have a good or a bad peace agreement before he could commit himself finally to an agency to keep the peace.

Knowing that this was an important question probably on the minds of others as well, I commented that the Senate would of course pass on the peace treaties and therefore would itself have much to do with the adoption of a good or a bad peace. I then asked what we should do if the peace agreement were not quite to our notion. Would we abandon all idea of an organization to keep the peace, or would we proceed with determination — as the statesmen did in bringing about the adoption of the Constitution amidst every difficulty — to perfect the peace and, if necessary, to develop further and perfect further the proposed organization to keep the peace?...

When we met again, on May 12, the view was again expressed that it would be unjust to the American people to commit them to supporting a peace that to them might be odious, and that it therefore would be well to see more fully the nature of the peace before any final commitments were made on the proposed postwar organization.

I argued that, if we should halt our forward movement in support of the postwar organization proposal, the remainder of the world would promptly conclude that we had surrendered our leadership in the situation. The small nations, which were looking mainly to us for leadership, and for the championship of the basic principles involved, would become utterly discouraged...

One of the Senators, strongly supporting my position, emphasized that we were concerned about furnishing leadership and basic programmes that would include the preservation of peace and world order

under law, and would be most helpful in avoiding what some of the other Senators called a possible bad peace. He added that, if the peace should prove bad, we should not stand for it for a moment, and that naturally and inevitably both the peace treaty and the organization now proposed to keep the peace would all go down in a crash together. I added, 'And automatically.'

But another Senator argued on the other side, saying that at this time it would be impossible to get ratification by the Senate of our document without some definite assurance that it would not be used to protect and perpetuate a bad peace."

At the same meeting with the Senators, the veto rights of the great powers were again very thoroughly discussed. It is interesting to note that Mr. Hull on this occasion defended it in the following terms:

"The veto power,' I replied, 'is in the document primarily on account of the United States. It is a necessary safeguard in dealing with a new and untried world arrangement. Without it the United States would not have anywhere near the popular support for the post-war organization as with it in, any more so perhaps than in 1920. We might as well recognize that this is about the best than can be done as a beginning, and that it would be inadvisable to throw out this veto power for each of the four large nations, and especially the United States. We should not forget that this veto power is chiefly for the benefit of the United States in the light of the world situation and of our own public opinion. We cannot move any faster than an alert public opinion in perfecting a permanent peace organization, but we should not be deterred for an instant from pursuing

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the sole course that is open, the alternative being international chaos such as we have had heretofore.' ”

After much further discussion in the United States and after May 30, 1944, when the American draft was communicated to the British, Russian and Chinese Governments, the Dumbarton Oaks Conference finally met on August 21, 1944.

As is well known, there were two phases in that Conference. The first, which was attended by the American, the British and the Russian delegations, ended on September 8, 1944, and the second, in which the Chinese replaced the Russian, began immediately after and lasted until October 4, 1944.

It is not my purpose to review the debates of that Conference, in which, to use Mr. Hull's words, was laid "the cornerstone" of the United Nations, nor do I intend to analyze the well-known "Proposals for the establishment of a general international organization" of October 7, 1944, in which were very fully outlined the intentions of the four governments who jointly put them forward.

I recall only that in the moot question of the veto powers of what already in the Dumbarton Oaks Proposal was called the Security Council, no agreement could be reached. In spite of the initial position of the United States which, as we have seen, were far from unfavourable to the principle of the veto but rejected the idea that the great powers should, in case of conflict in which they were themselves involved, be able to prevent its consideration before the Security Council, it was found impossible to extract the slightest concessions on this point from the Kremlin.

The question was therefore still left open, until it was taken up again at Yalta on February 6, 1945. In the meanwhile the State Department had prepared a compromise formula which President Roosevelt sent direct to Marshall Stalin on December 5, 1944. The clearest account I have read of what happened at Yalta is that given by Mr. James F. Byrnes, later Secretary of State, who was a witness of the scene. This is what he writes about it in his book published in 1947:

"At the conclusion of the Dumbarton Oaks Conference, in the autumn of 1944, the only major point remaining at issue was the formula for voting in the Security Council. The Soviet delegation had insisted that all decisions in the Security Council must be by a unanimous vote on the part of the major powers.

We agreed that no decision committing our military forces to action should be taken without our consent but did not believe the right of veto should extend to all matters.

We finally had devised a compromise formula which we hoped the Soviets could be persuaded to accept, and the President sent it direct to Marshal Stalin on December 5. At the same time, the State Department prepared and delivered to the Soviet and British embassies in Washington lengthy statements in explanation and support of the President's proposal.

We sought to meet the Soviet insistence that the votes of the five permanent members of the Security Council must be unanimous on all questions by suggesting that Paragraph 3 in the section of the plan dealing with voting procedure in the Security Council should state that unanimity would be required for all categories of decisions except one: in those decisions involving promotion of peaceful settlement of disputes, a permanent member of the Council would not cast a vote if it were party to the dispute in question. Such cases, we believed, would be quasi-judicial in character and no nation should be placed above the law in an organisation based on the principle of equality under the law. Where the decisions might require the use of force, we felt justified in placing the permanent members in a special position, since they would have to bear the principal responsibility for such action.

(To be continued.)

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