

Dumbarton Oaks Plans Held in Need of Modification

Viewed as Repeating Essential Errors of League of Nations and Offering No Assurance of International Security—Some Remedies Suggested

The writer of the following letter is a New York lawyer of international reputation. He was leader of movements that resulted in the presentation of the Burke-Wadsworth bill and the enactment of the Selective Service Law and was an organizer of the first Plattsburg Training Camp.

TO THE EDITOR OF THE NEW YORK TIMES:
Do the Dumbarton Oaks proposals offer reasonable assurance for the realization of the basic purpose—the maintenance of "international peace and security"? Or are they so deficient in principle and detail that they offer no such assurance, and should, consequently, be radically modified?

With regret, I am constrained to the latter view. It is my firm conviction that these proposals repeat the essential errors of the League of Nations, which so signally failed in its prime purpose; that the proposals are demonstrably ineffective to the end in view, and that drastic changes are imperative if we are to avoid failure and disillusionment.

Proposals Analyzed

The Dumbarton Oaks proposals call for three main organs:

1. A General Assembly, with one vote for each member country irrespective of population or resources;
2. A Security Council of eleven members, of whom five would be permanent members representing the United States, the Soviet Union, the United Kingdom, China and "in due course" France, the other six to be chosen for rotating terms by the Assembly; and
3. An International Court of Justice with a jurisdiction evidently intended to resemble closely that of the present World Court. Since space forbids a discussion of the judicial organ, I confine myself to the proposed Assembly and Council.

It needs no argument that with the rule of one vote for each country the proposed Assembly must necessarily be a subordinate organ. It would indeed be contrary to all reason and common sense to confer important powers in vital matters upon a body in which Panama and Luxembourg have an equal vote with the United States and the Soviet Union, and in which Costa Rica and Ethiopia have an equal voice with the United Kingdom, China and France.

Assembly Restricted

In recognition of this obvious fact, the Dumbarton Oaks proposals carefully exclude the Assembly from any direct participation in the concerting of definite measures to prevent or put down aggression, which is the basic purpose of the organization. It would be virtually confined to the election of the rotating members of the Council and the supervision of various auxiliary agencies.

It will be seen that this restricted scope of the proposed Assembly results from the unsound conception that the doctrine of the "sovereign equality" of all States implies that each country shall have an equal vote. From this perversion of the idea of sovereign equality comes the ironical result that, while all the members of the Assembly are accorded a vote, the very fact that the votes are equal necessitates a narrow restriction of the subjects upon which these votes can be cast. The net result is an Assembly subordinate to the super-directorate of the Great Powers, to be exercised through the proposed Security Council.

Turning to this proposed Council, we find an almost equal ineffectiveness, but for a different reason. This is the requirement of unanimous consent by the representatives of the Big Five, at least with relation to the most important decisions.

Big Five's Position

Much discussion has occurred as to whether any one of the Big Five should be permitted to veto sanctions against itself. But it is necessary to bear in mind that if this problem were solved tomorrow, the requirement of unanimity for sanctions against any other possible aggressor would remain intact.

The proposition, incredible as it may seem, is that any one of the Big Five may, by its sole fiat, paralyze the whole world organization.

The uncertainty of the functioning of the Council under this unanimity rule is best revealed by assuming a resurgence of the effort of Germany and Japan, or both, for world domination. Their warlike and dynamic peoples are not going to take their subjection lying down. If we go through to our objectives—the unconditional surrender or complete defeat of Germany and the stripping from Japan of all her conquests since 1895—it will be like having two rattlesnakes in one's bedroom that will need to be watched with an eagle eye and a heavy club for a long time to come. Nothing less, therefore, will suffice than international machinery that can operate with maximum certainty and promptness in bringing to bear irresistible power.

I submit, therefore, that this combination of a nearly impotent Assembly, on the one hand, and, on the other, a Council that is hamstrung, or at best hampered, by the right of any one of the Big Five to veto sanctions must be a weak reed to support the peace of the world.

If this analysis be sound, the questions may fairly be asked, "What better plan have you to suggest?" and "What procedures have you to recommend whereby the radical modifications to which you refer can be achieved?"

As to a better plan, I propose (1) that there should be a strong instead of a weak Assembly and (2) that the Council should function under policies prescribed by the Assembly in much the same way as the executive com-

mittee of a corporation functions under the supervision of its directors.

The recommendation for a strong Assembly raises at once the question of representation in that body. The solution of this question is the crux, I believe, of the whole problem of a truly effective and workable world organization, as distinguished from machinery which, however impressive in appearance, would inevitably break down under the first severe strain.

Votes Based on Population

In an article in the Indiana Law Journal for July I sought a solution of this crucial issue by proposing a concrete formula for voting power of all the nations in a World Congress.

This formula would provide that the United States (with a population of 138,000,000), the British Commonwealth and Empire, as a whole (with 557,000,000), the Soviet Union (with 193,000,000) and China (with 457,000,000) should each have fifty votes; and that France, and her empire as a whole (with 110,000,000), should have twenty-six. As applied to the present United Nations (including France), the Big Five would thus have 226 votes out of a total of 354. The remaining 128 votes would be apportioned among the other present United Nations upon the basis of one vote for each 2,000,000 of population up to 14,000,000 and one vote for each 5,000,000 in excess of 14,000,000, with the proviso that even the smallest country would have one vote.

To illustrate the application of this formula, the Netherlands and its former possessions would have 20 votes, Brazil 12, Belgium 9, Czechoslovakia 7, Greece 4 and Norway 3, with eight of the smallest countries having one vote each. If and when Germany and Japan were admitted (with an assumed population of 80,000,000 each), they would each have 20 votes.

Controlled by Big Five

Under this formula, the 226 representatives of the Big Five would, indeed, have the controlling vote, as they should, both by reason of population and power. There would, however, be the vital difference that all the countries of the world desirous of sharing in the organization of peace could do so on a basis of full participation, and would take their parts as a matter of right in approximate proportion to their populations and resources.

I do not, of course, offer this suggestion as necessarily the best possible. But I do insist that only under an application of this general conception of unequal voting rights in a World Assembly can an enduring foundation be laid for world organization.

I would propose that under a well-balanced plan of proportionate representation of this general character the representatives of the member countries would vote as individuals just as in our own Congress and that decisions should be taken by a majority vote. In contrast to the Dumbarton Oaks proposals, this avowedly involves a modification of the traditional external sovereignty of all the member countries within the definite field of the prevention and suppression of war. But should not bitter experience have taught us at last that the price of complete sovereignty is nothing less than recurrent war?

In respect of the extent and distribution of the authority of the organization the solution of the problem of representation would open the way for the conferring of important powers upon a World Assembly. It would then be possible to confer upon that body all the authority conferred by the Dumbarton Oaks proposals on both the General Assembly and the Security Council. These powers, in so far as they authorize binding decisions, would be narrowly limited to matters directly and plainly concerned with the forestalling or suppression of aggression. In so far as they involve merely the right to investigate and recommend and to supervise the activities of auxiliary agencies, they could be far wider.

Powers Merely Nominal

The underlying defect of the Dumbarton Oaks proposals, as was also true of the League of Nations, is not in their failure to grant ample nominal powers. It is rather that no machinery is proposed whereby the nominal powers can be exercised with any certainty in a time of crisis. The concentration of authority in a World Assembly, operating by majority vote, would provide the means for certain and prompt action. There would, it is true, be a Council. But it would function under delegated powers from the Assembly and purely as its agent.

As to the procedures whereby a satisfactory result may yet be achieved, I submit the following:

1. Let the policy of treating the Dumbarton Oaks proposals as merely tentative be adhered to not only in letter but in spirit. Fortunately Mr. Stettinius in his report of Oct. 9 was careful to refer to the recent conference as merely "exploratory" and "preliminary." In spite of this, there may be a human tendency for the American participants to defend their handiwork and to attempt to rally support behind the proposals before they have been subjected to the "searching examination" which you recommend in your editorial of Oct. 10. Any such tendency should be firmly resisted.

2. Let the coming world conference be given a free hand to consider not only the Dumbarton Oaks proposals but any and all other plans. Let them all be weighed with an open mind and without predilection toward the Dumbarton Oaks proposals. Let the conference be in truth and fact a World Constitutional Convention. Let it include representatives not only of the present United Nations and France but also of all the neutrals,

3. Let there be no tendency to try to

rush through the Dumbarton Oaks proposals or any other plan. Let sufficient time be taken before the World Convention convenes to permit thorough discussion throughout all the nations. Let the Convention, when it meets, itself take sufficient time to weigh all responsible ideas.

4. Let all the United Nations and neutrals invited to the Convention send their most trusted representatives. In particular, let our Government search our whole country for men and women of the broadest vision and greatest authority. Let our representatives not be restricted almost entirely to professional diplomats and military men. Rather let our Government seek out all the talent of the country best suited to deal with the vast issues at stake.

Maturity Held Lacking

We must recognize, indeed, that in comparison with the unique galaxy of our Revolutionary statesmen, our generation lacks maturity for the framing of great institutions. Even from a population thirty-five times greater than that of 1787 we cannot duplicate such men as Washington, Franklin, Hamilton, Jefferson, Madison, John Jay, Roger Sherman, the Pinckneys, George Mason, George Wythe and James Wilson. But instead of occasion for despair this is all the more reason why we should search out the best available talent to deal with this great subject.

Let no one be considered exempt from draft for this purpose, save only those who are engaged in positions of the highest responsibility in the actual conduct of the war. Let all our occupational groups be examined for men and women of the highest vision—the world of education, the clergy, the legal, engineering, medical and other professions, the editorial and literary world, men of original minds among our inventors and scientists, leaders of labor and captains of industry.

Let Mr. Hull himself be included; and let there be on the list of eligibles such men and women as Warren R. Austin, Joseph H. Ball, Tom Connally, James W. Fulbright and James W. Wadsworth; Chief Justice Stone and Justice Roberts; Karl H. Compton, James B. Conant, Harold W. Dodds, Charles Seymour and Robert G. Sproul; Bishop Henry Tucker and the Rev. Robert I. Gannon; Vera M. Dean and Anne O'Hare McCormick; Vannemar Bush, Irving Langmuir and Charles F. Kettering; David Dubinsky and Winthrop W. Aldrich.

Let the armed forces be represented, and let Comdr. Harold E. Stassen be on the list with other younger men who, by service at the front, know what war means. From a panel of such personalities as these we could produce a delegation in which the country could truly have confidence. If ever the United States needed to put its "first team" on the field, it is now.

Not in Washington

5. Let the World Constitutional Convention sit elsewhere than in Washington. We ought to recognize that the atmosphere of Washington is not conducive to a meeting which should be held wholly free from political intrigue and from any coercive influence of a minority of the American Senate. If held in the United States it might well be convened in Philadelphia. And it would do no harm if there were inscribed over the portals of the meeting room the inspiring saying of Washington at Independence Hall: "Let us raise a standard to which the wise and honest can repair; the rest is in the hands of God."

6. Pending the formulation of the final plan let the American people rise up to demand the abrogation of the constitutional provision whereby international engagements, even though approved by a vast majority of our people, may be vetoed by one vote more than one-third of the Senate and the substitution of a provision for the approval of the final plan by a majority of both houses of Congress. The time is overdue for recognition of the fact that the requirement that treaties be approved by two-thirds of the Senate is an anachronism which is not only unfair to ourselves but capable also of vast damage to the whole world.

The treaty provision of our Constitution has already done deadly work in trimming down what might have come out of Dumbarton Oaks. But there is still time to remove this fatal influence before we come to the great decision.

7. Finally, I emphasize that we need above all imagination and a creative spirit, capable of a great leap forward in the organization of a world now truly to be made one by modern invention. The founders of 1787 not only had the vision of this nation but also the practical skill to find the formulas that made it possible. If we cannot fully equal their mature political wisdom, we can at least try to rival their capacity for original and adventurous thought.

Let us all hope and pray that, as our people have in other crises summoned their intelligence and resolution, they may do so again and rise to the height of this supreme occasion. The situation can still be retrieved; but the hour is late. We must indeed summon up all that is best within us. Unless we do so our descendants can justly hold us accountable as an irresolute and inert generation.

GRENVILLE CLARK.

New York, Oct. 13, 1944.