

interpretive eye, I find that it contains nothing which forbids me to *criticize* Mr. Baruch for his virtues. I shall not go beyond that.

Mr. Baruch often has been called to Washington to clarify what was in confusion, to speed what was slow, and to put in balance what was out of poise. He has brought to such tasks variety of experience, ripeness of knowledge, depth of patriotism, and straightforward vigor of thought and utterance. He is a man of the sort that other men follow and take counsel of gladly. His influence is courageous without being rash and he has a tenacious confidence in the deeper principles of our free institutions. I am glad to join the CHURCHMAN and its friends in recognizing a greatness in this man that is distinctively American.

The most fundamental certainty about the post-war world is in some ways the most discouraging one—it will be inhabited by people, mostly by the same people who populate it now. It is their suspicions and fears and ancient hatreds and conflicts in ambition and economic interest that have wrecked previous plans of world organization. These same things will again endanger world peace.

I suppose we would agree that better—much better—understanding among peoples is fundamental to concord amongst them. A sound understanding of other peoples is a matter of simple prudence in a country like this where popular opinion so largely shapes foreign policy. So let us take inventory of our own public understanding of the great and disastrous currents that have stirred other peoples.

Did the American people understand the significance of the Spanish civil conflict? Did we apprehend the implications of the rising power of Hitler in Germany? And when we awoke to the viciousness of that regime did we have any idea of its preparations, its strength, and its aims? Did we appreciate the disintegration that had undermined the French Republic? Were we not astounded as well as humiliated at the audacity, the preparations, and the striking power of Japan? Were we not equally surprised at the political cohesion, military preparation and industrial efficiency of Russia? Of course men of exceptional understanding have been right on some or on most of these matters. But is it not true of public sentiment as a whole that it has made an almost perfect score of errors—errors of a kind it is dangerous for a democracy to make? Fortunately for us, Hitler made some, too—and so did Hirohito. They somewhat underestimated us. But it is a hazardous thing to gamble that ignorance of our enemies always will offset ignorance of our own.

The shame of our ignorance has been that it was so largely voluntary. We Americans did not want to be bothered with much news and certainly not with responsibilities about doings in Europe or Asia. So we let our predilections and dislikes clamp a censorship on our minds and refused to understand what our neighbors in the world were doing. Better understanding among peoples does

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Justice U. S. Supreme Court

☛ TOASTMASTER: I speak the deep sentiment of the Secretary of War in asking plaintively why somebody does not write a song for the infantry? He used to be an infantryman. Presiding at this dinner and hiding behind the cloak of such distinguished gentlemen as you see on this platform, particularly Mr. Baruch, I am reminded irresistibly of a dedication once written to me by a distinguished humorist, F. P. A. It read this way: "To Herbert Bayard Swope, without whose aid and friendly counsel every word in this book was written." My participation tonight is much on the same basis. I am uncertain as to whether or not the introduction of the next speaker is necessary on the radio. I think we will abate the noise that I am making and give you at least three minutes in which to compose yourselves for the heavy battery that is still to wheel into action. We will have a two-minute interval. (Two-minute recess was taken.) Ladies and Gentlemen, we now reach into the cloister for our next witness. He was once nearly the governor

of the state of New York, or am I wrong? Then he was an extraordinarily good Attorney General, and now is an active and leading member of that high body, the United States Supreme Court, and he is altogether a most attractive man. He has come to us also from Washington. I present to you, with certain pride in my pronunciation of his middle name, the Hon. Robert Houghton Jackson, Associate Justice of the United States Supreme Court.

MR. TOASTMASTER, Mr. Baruch, and friends of THE CHURCHMAN: I was deftly warned by Dr. Shieler to indulge in no eulogy lest we overtax Mr. Baruch's modesty. Of course I have a good deal of confidence that, if his modesty has survived the achievements and honors of his life, it would withstand any words of mine. But I recognize Dr. Shieler's word as law. I take only those liberties with his instructions which judges usually take with the law—we only interpret it. So; examining Dr. Shieler's edict with an

not mean just keener foreign offices; it means a more interested, more open-minded, more intelligent *you and me*.

It is these same peoples who have so surprised us who will be the problems of the post-war world. Many people are struggling to overcome these human defects by some form of international organization. Undoubtedly schemes for integrating a community of nations are important. But it is much more important that we understand the attitude and problems of peoples. Institutions are inevitably characterized less by their forms than by the spiritual and cultural level of the people who run them. There are countries whose written constitutions are almost duplicates of our own, but where life, liberty and property have a very uncertain security. Different peoples breathe into the same forms and documents very different spirits. Then, too, there are countries such as England with a pattern of political organization very foreign to our ideas, but which with great fidelity accomplish results quite like our own. We must not neglect the formal and organizational aspects of the peace, but only a sustained goodwill among peoples will produce lasting peace.

How completely the success of institutions of government depends on support among the people is well illustrated by the history of efforts to substitute the judicial process for violence in settling disputes. A frontier society may have courts, but it shoots out its grievances. It slowly comes to the principle that every individual will submit his grievances to the judgment of a court and will not try to "take the law into his own hands." This is not because people think the courts always will make right decisions. But there grows up a conviction that the risks of occasional wrong decision are better to be endured than the perpetual disorder of individuals trying to remedy their wrongs.

The idea is of slower growth that controversies between groups of people separated in geographic divisions or economic interests also should be composed by reason instead of by tests of strength. Contests between states of the Union as important as those which in Europe cause wars repeatedly have been adjudicated by the Supreme Court. Lately, progress has been made toward the commission method of settling some, at least, of the struggles between employers and employees.

But disagreements between different peoples, represented by separate governments, are the most stubborn of all to bring within the law. People have been taught that sovereignty would be compromised by submission of controversies to a neutral judgment. That sentiment is stronger abroad than here. In this country we are accustomed to seeing the State or the Federal Government summoned into court to answer for the legality of its action. It never occurs to us that this compromises governmental honor. Still, many of our people feel that it would do so to give any real power to an international court. If so, there is at times no alternative to war.

There are serious psychological obstacles to the extension of adjudication and arbitration as a substitute for war in settling disputes between peoples. One is the widespread belief that it is impossible to obtain a really neutral and unbiased international tribunal. Of all the forces that distort judgment, patriotism is the most respectable. The success of international adjudication or arbitration depends on a cultural attitude that there is a rightness about disputes which may not coincide with our interests in them and that neutral men will be better able to discern and declare what that rightness is. Until we are prepared to concede that a larger welfare and a higher good than our own national policy must guide decision of an international tribunal, there is no real basis for international organization. The public has not realized how successful we really have been in establishing fair tribunals and how many well-settled principles of international law there are for their guidance. If that could be understood throughout the world, as we English-speaking peoples understand it, people might learn that in many disputes at least there is an honorable alternative to war.

There is a Court of International Justice which has functioned quietly but acceptably in the rather narrow field permitted to it. In particular matters third party arbitrators have rendered conspicuous service. But what is to me the really hopeful experience has been between Great Britain and the United States. We have made a really audacious test of the possibilities of achieving neutrality in arbitration and of testing public support for it. We have set up arbitration tribunals consisting of an equal number of British citizens and of our own. You see, if such a tribunal ever reaches decision, it will be neces-

sary for one or more members to reject the claims of the sovereign to whom they owed allegiance. What happened?

Not so long ago in such an arbitration the late Mr. Justice Van Devanter of the Supreme Court was named by the United States. He joined in an award against this country. It is true that it was not in a matter vital to our national existence, but it awarded substantial damages against the United States, a humiliation to which most European sovereigns would think they could not submit. We not only paid the award, but the confidence of the public in the process and in the judgment was such that I never heard any responsible person claim that Justice Van Devanter was under a patriotic duty to approve the claims of his own country, whether right or wrong.

But it was not always so. At the time of the Alaskan Boundry dispute the idea of arbitration was not so well understood. Lord Alverstone, one of the British commissioners, joined in an award against his country. Criticism of him was sharp, as I am sure it would have been at that time in this country, had the shoe been on the other foot. The whole case for international justice was put by Lord Alverstone in the simple answer which he is said to have made to his critics: "If when any kind of arbitration is set up they do not want a decision based on the law and the evidence, they must not put a British judge on the Commission." When all peoples may be brought to that understanding of the duty of international jurists and statesmen and to confidence that they will have the integrity and courage to discharge it, the honorable alternative to war will be recognized and the world may know a peace instead of an armistice.

The Editor, Mr. Baruch, Mr. Watson, Justice Jackson

