

FIFTH AMENDMENT

Add to Article IX the following:

Such commission shall have full power of inspection and verification personally and by authorized agents as to all armament, equipment, munitions, and industries referred to in Article VIII.

SIXTH AMENDMENT

Add to Article XXIV the following:

The Executive Council shall call a general conference of members of the League to meet not less than five or more than ten years after the signing of this convention for the revision thereof, and at that time, or at any time thereafter upon one year's notice, any member may withdraw from the League.

LETTER OF THE HONORABLE ELIHU ROOT TO SENATOR HENRY CABOT LODGE REGARDING THE COVENANT OF THE LEAGUE OF NATIONS ¹

NEW YORK, *June* 19, 1919.

The Honorable HENRY CABOT LODGE,
WASHINGTON, D. C.

MY DEAR SENATOR: You were good enough to ask that after studying the whole of the proposed treaty with Germany and the amendments already made to the League of Nations part of it I should write you my opinion as to the amendments and as to the action which would be wise in view of existing international conditions.

I should be glad to see the peace terms and the League of Nations Covenant separated, as proposed in the resolution offered by Senator Knox, so that the latter could be considered by the people of the country without coercion from the necessities of speedy peace.

To avoid repetition, I inclose a copy of a letter which I wrote to Mr. Will H. Hays, March 29, 1919, proposing amendments to the League of Nations Covenant, and giving the reasons for them. Amendments similar in substance were proposed at about the same

¹ *Congressional Record*, June 23, 1919.

time by many Americans familiar with public affairs both in and out of the Senate. The amendments subsequently made in the Covenant by the Paris Conference, while to some extent dealing with the subjects of the amendments so proposed, are very inadequate and unsatisfactory.

Nothing has been done to provide for the reestablishment and strengthening of a system of arbitration or judicial decision upon questions of legal right. Nothing has been done toward providing for the revision or development of international law. In these respects principles maintained by the United States without variation for half a century are still ignored, and we are left with a program which rests the hope of the whole world for future peace in a government of men, and not of laws, following the dictates of expediency, and not of right. Nothing has been done to limit the vast and incalculable obligation which Article 10 of the Covenant undertakes to impose upon each member of the League to preserve against external aggression the territorial integrity and political independence of all members of the League all over the world.

The clause authorizing withdrawal from the League upon two years' notice leaves a doubt whether a mere charge that we had not performed some international obligation would not put it in the power of the Council to take jurisdiction of the charge as a disputed question and keep us in the League indefinitely against our will.

The clause which has been inserted regarding the Monroe Doctrine is erroneous in its description of the doctrine and ambiguous in meaning. Other purely American questions, as, for example, questions relating to immigration, are protected only by a clause apparently empowering the Council to determine whether such questions are solely within the domestic jurisdiction of the United States. I do not think that in these respects the United States is sufficiently protected against most injurious results which are wholly unnecessary for the establishment and maintenance of this League of Nations.

On the other hand, it still remains that there is in the Covenant a great deal of very high value which the world ought not to lose. The arrangement to make conferences of the Powers automatic when there is danger of war; provisions for joint action as, of course, by representatives of the nations concerned in matters affecting common interests; the agreement for delay in case of serious disputes, with opportunity to bring the public opinion of the world to bear on the

disputants, and to induce cool and deliberate judgment; the recognition of racial and popular rights to the freedom of local self-government; and the plan, indispensable in some form, for setting up governments in the vast regions deprived by the war of the autocratic rule which had maintained order—all those ought not be lost if that can possibly be avoided. The condition of Europe requires prompt action. Industry has not revived there. Its revival requires raw materials. To obtain these credit is necessary, and for this there must be security for the fruits of enterprise, and for this there must be peace. Satan is finding evil work for idle hands to do in Europe—evil work that affects the whole world, including the United States.

Under these circumstances, what ought to be done?

I am clear that if the Covenant has to be considered with the peace terms included, the Senate ought to include in its resolution of consent to the ratification an expression of such reservations and understandings as will cure, so far as possible, the defects which I have pointed out. You will probably be unable to do anything now about the system of arbitration and the development of international law. You can, however, put into the resolution of consent a reservation refusing to agree to Article 10, and I think you should do so; you can clarify the meaning of the withdrawal article and you can also include in your resolution the substance of the third amendment which I proposed in my letter to Mr. Hays, of March 29, relating to purely American questions, and I think you should do so. These clauses of the resolution shape themselves in my own mind as follows:

The Senate of the United States advises and consents to the ratification of the said treaty with the following reservations and understandings to be made a part of the instrument of ratification, viz.:

(1) In advising and consenting to the ratification of the said treaty, the Senate reserves and excludes from its consent the tenth article of the Covenant for the League of Nations, as to which the Senate refuses its consent.

(2) The Senate consents to the ratification of the said treaty reserving Article 10 aforesaid with the understanding that whenever two years' notice of withdrawal from the League of Nations shall have been given, as provided in Article 1, no claim, charge, or finding that international obligations or obligations under the Covenant have not been fulfilled will be deemed to render the two years' notice ineffectual or to keep the power giving the notice in the League after the expiration of the time specified in the notice.

(3) Inasmuch as in agreeing to become a member of the League of Nations, the United States of America is moved by no interest or wish to intrude upon or interfere with the political policy or international administration of any

foreign state, and by any existing or anticipated dangers in the affairs of the American Continents, but accedes to the wish of the European states that it shall join its powers to theirs for the preservation of general peace, the Senate consents to the ratification of the said treaty, excepting Article 10 aforesaid, with the understanding that nothing therein contained shall be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions, or to require the submission of its policy regarding questions which it deems to be purely American questions, to the decision or recommendation of other Powers.

This reservation and these expressions of understanding are in accordance with long-established precedent in the making of treaties. When included in the instrument of ratification they will not require a reopening of negotiation, but if none of the other signatories expressly objects to the ratification with such limitations, the treaty stands as limited as *between the United States and the other Powers*.

If any doubt were entertained as to the effect of such action, the doubt could be readily dispelled by calling upon the four other principal Powers represented in the Council to state whether they do in fact object to the entrance of the United States into the League with the understandings and reservations stated in the resolution.

As to these limiting clauses, I wish to say something further. As to Article 10:

First. It is not an essential or even an appropriate part of the provisions for a League of Nations to preserve peace. It is an independent and indefinite alliance which may involve the parties to it in war against Powers which have in every respect complied with the provisions of the League of Peace. It was not included in General Smuts's plan, the provisions of which have been reproduced almost textually in the League Covenant. It stands upon its own footing as an independent alliance for the preservation of the *status quo*.

Second. If we agree to this article, it is extremely probable that we shall be unable to keep our agreement. Making war nowadays depends upon the genuine sympathy of the people of the country at the time when the war has to be carried on. The people of the United States certainly will not be willing ten years or twenty years hence to send their young men to distant parts of the world to fight for causes in which they may not believe or in which they have little or no interest. If that is the attitude of the people when we are hereafter called upon to wage war under Article 10, no general, in-

definite agreement made years before will make them disposed to fight; and we shall be in about the worst possible position of having made an agreement and not keeping it.

Our people ought not to be forced into such a position, and we ought not to make any agreement that is liable to force them into such a position.

The recent controversies over the disposition of Kiaochow and of Fiume illustrate very well the way in which territorial arrangements are likely to be made in councils of the great Powers controlled by expediency. I would not vote to bind our country to go into a war in years to come in defense of those arrangements.

If it is necessary for the security of western Europe that we should agree to go to the support, say, of France if attacked, let us agree to do that particular thing plainly, so that every man and woman in the country will understand the honorable obligation we are assuming. I am in favor of that. But let us not wrap up such a purpose in a vague universal obligation under the impression that it really does not mean anything likely to happen.

Third. It is reported that Switzerland is much disturbed over the invitation to join the League of Nations and wishes to preserve her neutrality, because her people are partly French, partly German, and partly Italian, and she wishes to keep out of all quarrels which may involve those nationalities. In this country the census of 1910 showed that 35 per cent (more than one-third) of our people were of foreign birth or the children of foreign parents. We can call upon these people to stand by America in all American quarrels, but how can we control their sympathies and their actions if America interferes in foreign quarrels and takes sides in those quarrels against the countries to which they are attached by tradition and sentiment? How can we prevent dissension and hatred among our own inhabitants of foreign origin when this country interferes on foreign grounds between the races from which they spring? How can we prevent bitterness and disloyalty toward our own Government on the part of those against whose friends in their old homes we have intervened for no cause of our own? Article 10 confronts us with consequences very similar to those which Washington had in mind when he advised us to keep out of the quarrels of Europe and to keep the quarrels of Europe out of America. It is by following this wise policy that the United States has attained a position of unity and of disinter-

estedness which enables her to promote peace mightily, because she is not a party to the quarrels that threaten to disturb peace. She is free from suspicion; she is not the object of hatred or distrust; her friendship is valued; and her word is potent. We can be of infinitely more value to the peace of the world by keeping out of all the petty and selfish quarrels that arise than we can by binding ourselves to take part in them. Just so far as it is necessary to modify this settled historic American policy in order to put into effect a practical plan for a League of Nations to preserve peace we ought to go, and we ought not to go one step farther. The step proposed by Article 10 is not necessary for such a plan, and we ought not to take it.

As to the statement of understanding about American questions contained in the foregoing paragraph No. 3, the most ardent advocates for accepting the League Covenant exactly as it stands insist that the provisions already inserted about the Monroe Doctrine and other purely American questions mean just what this proposed resolution says. If that be true, then nobody can object to the resolution which puts the meaning beyond question. It is important not only for the interests of America, but for the peace of the world, that such provisions should be free from doubt and occasion for dispute. If, on the other hand, their view is wrong and the provisions already inserted may be construed not to mean what the resolution says, then the resolution certainly ought to be included in the consent to the ratification.

There is one other thing to be mentioned, that is, the recital of the proposed resolution (No. 3) disclaiming any intention by the United States to intrude upon or interfere with the political policy or internal administration of any foreign state. I think that to be of real importance, because I perceive evidence of an impression in Europe that the part taken by the representatives of the United States at Paris in the local questions and controversies of Europe indicates an abandonment by the United States of her traditional policy and a wish on her part to dictate to European states and control European affairs, thus assuming responsibility for those affairs. That impression should be dissipated. It is not well founded. I am sure that the people of the United States have no such intention or wish. Such interposition in the affairs of Europe as our representatives have been engaged in was properly but a temporary incident

to the fact that we had engaged in the war, and had therefore to discuss the terms of peace; and we should make it clear that we neither assume responsibility for nor intend interference in the affairs of Europe beyond that necessary participation under the organization of the League of Peace, which we enter upon, by the request of the European nations themselves.

To return to the subject of arbitration and the development of international law, I certainly should not advise regarding the League Covenant in its present form as the final word upon an organization for the preservation of the peace of the world. I think that when the Senate consents to the ratification of the treaty with some such reservations as I have indicated, it ought also to adopt a separate resolution not a part of the action upon the treaty, but practically at the same time, formally requesting the President without any avoidable delay to open negotiations with the other Powers for the reestablishment and strengthening of a system of arbitration for the disposition of international disputes upon questions of right, and for periodical meetings of representatives of all the Powers for the revision and development of international law.

I think that hereafter, when the life of Europe has become settled, when credit and industry are reestablished there and governments are stable and secure, and we know what reduction of armaments the Powers are going to consent to, the United States should insist upon a revision of the League Covenant. I am sure that the changed circumstances will then permit material improvement.

Faithfully yours,

ELIHU ROOT.