

Reconstruction of International Good Will

By HUSTON THOMPSON

Commissioner, Federal Trade Commission, Washington, D. C.

ONE of the peculiar characteristics of the human mind is that while it has been taught that the world is round, it continues to think in terms of the earth with a flat surface. This is demonstrated by the fact that humanity does not appreciate that certain practices cannot go on, or certain occurrences happen in a distant and so-called isolated nation, without affecting the rest of the world. How few realize that the emotions, thoughts and actions of the people of South

Africa necessarily interweave with those of the people in our land?

Just as we have learned that all utterances are caught on sound waves and circle the earth, so any action of any group of people in any one place of the world sends forth vibrations that cross and recross and interweave with the daily existence of those of distant lands. As the stone tossed into the center of the pool causes wavelets to reach the circumference and disturb the entire pool, so the actions of any

one nation may affect all those on the earth's surface.

UNIVERSAL MEANS OF COMMUNICATION

Second thought reveals a remarkable situation in the means of communication between the peoples of the world. If we stop to consider, we must realize that the Christian religion, while carried by the superb efforts of missionaries from one hemisphere to another, and assisting in keeping the "open door," has so far failed to reach many millions among other nations; that in the Orient today myriads of people do not know Christianity any more than by a name.

Art is much less a common tie than religion. There is no tongue or language by which there is universal communication.

In all this world, there is but one universal means by which men communicate, bringing them together and establishing joint interest, and that is through business channels. Trade is the carrier of the thoughts of one nation to another. Hence, insofar as nations are concerned, the spiritualizing of trade becomes the most important question, individually as well as collectively.

POTENTIAL SOURCES OF INTER- NATIONAL DISCORD

One of the great troubles that the world at large is trying to meet in its present attempt to stabilize itself, is that it has discovered but has not made practical application of something which the business world has known for a long time, namely, that business has become internationalized. Back in the days of Carthage and Venice and of the glory of Spain, the business of one nation, through governmental forces, established its zones of influence among other nations. And

these zones of influence were the sore spots of the country which they encompassed.

Today we are witnessing a closer linking up of the peoples of the world than ever before. Hardly any one nation is free from the charge of seeking zones in the territory of another. It may be that it is a wise thing for the business interests of one nation to maintain spheres of influence in the territories of other nations, though the experience in history up to date has been to the contrary.

It is also true that facilities for quick movement in the world have caused the buyers of nations to group themselves together and go into the markets of other nations, using all of the possible tactical advantages of organization that they have obtained. Invariably, however, this policy reacts to the detriment of the domestic market, and in all of this moving and shifting of situations, there is rarely a case in which the one who is doing the buying has in mind the thought of benefiting either the domestic consumer of his own country, or the initial producer of the country in which he is buying. Between the ultimate consumers and the initial producers of the world, there have grown up groups of distributors who have at least a potential power of working to the detriment of the common people of the several nations. Moreover, they have the constant temptation to work for their own particular advantage, and their incentive for gain is so strong that they do not project their minds into the future and visualize the results and effects which may come from their acts.

There is still another thought-line that weaves its way into this problem. Despite the various means of international communication, the ultimate consumers of one nation have no

assistance from the producers of other nations in the face of the modern systems of distribution. And in addition they lack information.

A famine in India is a thing unknown to or unheeded by most of the producers of America. The oversupply in the Argentine is registered in the trading markets of Russia when Russia is normal, but is brought to the attention of the farmer of Russia in such a way, if at all, that he has nothing by which to guide him.

Today, since the world has been brought together within limitations much closer than were the geographical lines of a nation of fifty years ago, it becomes more necessary than ever, if the ultimate consumers and the initial producers of the world are not to be helpless, that there be some means of communicating to them what is going on as to the state of the markets or crops in the rest of the world. Thus there confronts us in this whole situation, a problem of international communication which is stimulating enough to excite the keenest of imaginations.

GOOD WILL—THE SINE QUA NON

In seeking after the means for the reconstruction of international good will, there are many remedies suggested, each of which contains some features of value. The problem is to find the one which goes to the source, and is not simply a surface remedy.

Much is being said about reorganizing the finances of the world, about reparations, debts, loans, etc. These matters will have to be attended to, but will they reach the source of the present international disease, which, as I see it, is lack of faith of individuals and groups of individuals in each other?

We may perform operations on our international patient and change his avenues of distribution. We may

rewrite the legal formulas of the world. In fact, we may do many things, all of which will be helpful and incidentally necessary to bring about a readjustment of the economic fabric of the world. But in the last analysis will they be of permanent healing value?

Today, we have a wonderful cure for surface cancer in radium. The radium cure may stay disease if it is local. But if the source of the trouble is in the blood, the cancer will reappear in some other part of the body. Today, we are dealing with a cancerous situation involving the arteries of trade, and one which cannot be localized.

GUIDE-POSTS FOR TRADING NATIONS

A recent decision of the Supreme Court of the United States sets up a standard which, it seems to me, the nations of the world could well adopt as the principle upon which their peoples shall trade with one another. It says that fair competitors shall not lend themselves to practices "opposed to good morals, because characterized by deception, bad faith, fraud, or oppression, or as against public policy because of their tendency unduly to prevent competition or create monopoly."

Here is a broad general standard which all men of all nations could agree to without reservation. If we remove the negative from this declaration and translate it in terms understandable by the ultimate consumers of the world, it would amount to this: that trade shall be carried on in free and open competition wherein the ultimate consumers of all nations shall have the benefits resulting from prices unrestricted by artificial means for goods sold on the basis of quality, service and the advantages of location.

Looking at these requisites in the

light of human history from earliest times down to our own day, we find they have invariably brought universal satisfaction to the ultimate consumer. Whenever he has been deprived of their benefits, or when they have been restricted by artificial means, either he has revolted or the nation to which he belongs has gone down into obscurity.

The universal satisfaction which obtained whenever this policy, that trade must be governed by principles of fairness and good faith, was followed, and the constant recurrence of such a policy in nations while they were youthful and virile, leads to the conclusion that such principles are governed by forces as permanent and necessary in the life of man as the forces of nature. The adoption and putting into effect of such a definition of business will clear the arteries of international trade and purify its life-giving properties in such a way that all of these other elements of international relation, financial, political, etc., shall have some permanency and the surface disease resulting in local disturbances may be localized and treated, and reduced to a minimum so far as the world's peace is concerned.

MEANS OF ESTABLISHING INTERNATIONAL FAIR COMPETITION

Undoubtedly, the approach to the solution of the problem of international fair competition for the benefit of the ultimate consumer will be through the process of a treaty. By such means commissioners could be empowered to draft not only the definition but also the machinery for the vitalizing of the functions comprehended within the definition of fair competition. But the treaty provisions could reach only those needs which are determined in advance and specifically set forth in the convention signed. Experience

has shown that this is not sufficient. The question is primarily not legal but economic. Unfairness is predicated, not so much upon the deed itself as upon the intent and purpose of the deed and its effect upon others whose rights have been infringed. And this intent and purpose cannot always be predetermined.

Such a situation has been met in domestic legislation by the commission form of organization. In our own country, unfair competition is prohibited by law, and the Federal Trade Commission is given the power to receive and consider complaints arising from violation of the law. The advantage of the Federal Trade Commission lies in the fact that it is an active and independent agency, acting primarily in the public interest, whose duty it is to consider this phase of business relations, to review each case presented in the light of its cause and effect, and to serve, not as a punitive body, but with the authority to issue an order to cease and desist if violation of law is determined. The Commission has made possible the expeditious handling of complaints, both large and small, without the long and expensive processes of litigation.

It has been the experience of industrial and trade commissions in this and other countries, that preventive measures are more productive of public good than punitive or paternal measures. The business concern, to whom is issued an order to cease and desist from an unfair practice, in ninety cases out of a hundred, changes its course without appeal to the courts, and, at the same time, serves as an example to others who may be chargeable with the same practice.

Why cannot this experience within our own nation be applied in a larger sense to the family of nations? The idea of a permanent international

tribunal is not a new one. In 1915, the Pan-American Financial Conference in Washington considered the development of a "Pan-American international code of what shall constitute fairness in trade," such a code to be sustained by the nations and peoples of the Western Hemisphere, and interpreted and executed by a Pan-American tribunal.

In 1920, the Pan-American Financial Conference proposed the creation of an inter-American tribunal for the adjustment of questions of a commercial or financial nature involving two or more American countries, and the determination of such questions by law and equity.

The Court of Arbitration, organized by the Conventions of the Hague of 1899 and 1907, and the Permanent Court of International Justice, as provided by Article 14 of the Covenant of the League of Nations, include provisions for the submission and settlement of disputes between nations, but it is very doubtful as to whether the scope of these tribunals could be extended to include commercial disputes between nationals, or whether their machinery and procedure would be adapted to the litigation of such disputes.

The only practical illustration of such a tribunal is found in the operation of the commission established in 1902 for the purpose of administering the Brussels Sugar Convention. This treaty provided for the suppression of direct and indirect bounties on the production and exportation of sugar, and the regulation of import duties. It was signed by nine European countries and later joined by Peru, Russia, Switzerland and Luxemburg. The commission was in continuous and successful operation for sixteen years, or until the expiration of the treaty in 1918. It appears to have proved

the efficacy of such machinery to abolish and prevent evils in international trade which, by common consent, are conceded to be harmful to all the nations involved, but which are beyond the ability of any one nation alone to handle. The Sugar Commission pointed the way to a new form of international body, along the lines of economic investigation rather than legal adjudication.

AN INTERNATIONAL TRADE COMMISSION

With experience pointing toward a commission form of administration, one's thoughts naturally turn to the functions of the Federal Trade Commission of the United States, and the question arises as to whether its procedure could be adapted to an international trade commission which would be practical and yet not cause a surrender of sovereignty on the part of those nations coming before the commission.

Let us suppose an unfair practice arising on the part of the business interests of Italy against the business interests in France, acting in contravention of the definition of unfair competition laid down by the Supreme Court of the United States, and of fair competition as I have hereinbefore defined it.

Consider an international trade commission sitting to hear complaints and the charges of the Italian business interests against the French lodged with this commission. Certain lines of procedure based upon informality and quickness of action would be required in order to bring the question to a speedy issue before the commission. The commissioners in the supposed case would, as in all cases, be drawn from representatives of countries other than those of the litigants appearing before the commission. Having heard the

evidence, the commission would make findings dismissing the complaint, or finding those before it guilty and setting forth in detail the practice condemned. In the event that the charges were sustained, the commission would draft a form of order requiring those guilty to cease from the practices complained of. The order would be returned to the proper authority of the nation in which those chargeable were citizens for whatever enforcement that nation might see fit to make.

The publicity given to the findings and the record made, would be so revealing to the nations whose citizens were being charged, that, undoubtedly, it would have very much the same effect as does the publicity given to an order of the Federal Trade Commission with respect to domestic business.

The history of our own country, as well as of modern nations generally, shows that once a whole people is informed of and thoroughly understands a political, social or economic evil, it will sooner or later react against it and set in motion forces for its elimination. Christian nations have in the long run placed themselves on the side of good morals, righteous principle and a just cause, even though temporarily influenced or dominated by corrupt individuals or groups. I believe human experience has amply proved the truth of the old Latin adage, *Tandem bona causa triumphat*—"The good cause will triumph in the end."

Undoubtedly, it is the determination of the facts by an independent non-partisan body like the Federal Trade Commission which has the salutary effect, rather than the enforcement of orders. Moreover, in order to stimulate an incentive for fair competition such an international trade commission could in its findings place upon a roll of honor those who were found

in its investigations to have sought to sustain the definition of fair competition and to have refused to enter into unfair methods of competition.

FURTHER POSSIBILITIES OF THE COMMISSION

To such powers and functions as I have roughly outlined should be added an investigatory force which could be constantly gathering data of the conditions of world trade. Through the wireless and other means, it could keep the ultimate consumers of all the nations informed of the state of the markets so that there could be, to a great extent, an elimination of the hazards of shipping goods into speculative markets; and at the same time the initial producer and the ultimate consumer could be put on a parity with the distributing forces of the world in such a way that there could be no manipulation of the world markets.

With the dual power of informing the nations as to world situations and needs, and at the same time stopping unfair methods of competition, or trade practices through their exposure to the various nations of the world, the commission could so open up and keep open the channels of world trade that there would be a free flow of commerce, leaving the initial producers and the ultimate consumers in a peaceful state of mind and the markets of the world stabilized in a way that would minimize either famine or over-production.

To bring all this about would be no easy task. Undoubtedly, such a commission would stagger and stumble frequently, just as all other commissions have done, until they had demonstrated their feasibility and usefulness. There is, however, unquestionably, a sufficient residuum in the minds of men of every nation to give such an organization their support,

in order at least, to move, if nothing more, toward eliminating this greatest cause of war from the international arteries of trade.

My answer, then, to the question of American coöperation in the security of the industrial and financial situation in Europe is in the affirmative. I believe America owes it to herself and to the rest of the world to become a party to permanent plans looking to an economic rehabilitation of Europe. The fundamental motive, as I see it, that should prompt us in shaping a policy of that kind, arises out of the fact that the nations of the world are today linked together with one universal community of interest. Vital interests of our own nation are interwoven too closely with those of Europe to permit any permanent policy of aloofness in world commerce.

Coöperation of this kind would not

mean entangling relations. It would not mean a surrender of our own rights, or a denial of America's lofty ideals and aspirations. It would be responsive to the assertions of the other nations that in our position, as the leading industrial and commercial nation of the world, there rests upon us the sacred duty of rendering a service to the world and in a larger sense to humanity.

In this hour of stress the age-old question is again being asked by worn-out nations: "What good can come out of the American Nazareth?" My answer would be: Let America blaze the path of human progress; reëstablish and purify the one tie that binds together all of the peoples of the earth—international commerce and trade—by basing it on the rock foundation of good faith and justice, and giving it propulsion by practical machinery which will make it effective.