

THE WORLD COURT NOT A JUDICIAL BODY.

It requires about six hundred words to demonstrate that the World Court is not a Court. In fact, if pressed for space, one could safely cite Article XXXI. of the Statutes of the Permanent Court of International Justice and then rest one's case.

It is this text which points out how the Judges of the World Court are chosen. It reads as follows:

Judges of the nationality of each contesting party shall retain their right to sit in the case before the court.

If the court includes upon a bench a judge of the nationality of one of the parties only, the other party may select from among the deputy judges a judge of its nationality, if there be one. If there should not be one, the party may choose a judge, preferably from among those persons who have been nominated as candidates as provided in Articles IV. and V.

If the court includes upon the bench no judge of the nationality of the contesting parties, each of these may proceed to select or choose a judge as provided in the preceding paragraph. Should there be several parties in the same interest, they shall, for the purpose of the proceeding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decisions of the court.

It will have been observed that the dominant note of this entire section is that "each contesting party" has a right to have a representative on the Bench before which it appears. Such a conception strikes at the very basis of judicial impartiality. It makes of the World Court a board of partisans and not a bench of judges.

The guarantee to "each contesting party" of a representative in the Consultation Room of the World Court and the right accorded, in certain instances, to "each contesting party" of "choosing a judge" to sit on that bench were deliberately inserted into the statutes governing that body. It was done, writes Fachiri in his authoritative work on the Hague Tribunal, because:

The principles applicable to National Tribunals do not extend integrally to an international Court. Some modifications are involved by the differences inherent in the nature of their respective functions.

If this language means anything it implies that an international Court is an impossibility. The framers of the Constitution of the United States had no such idea when they created the Supreme Court of the United States. They brought into being an inter-Commonwealth or inter-State Court. They felt that they were

founding an International Court. They did not adopt any such principle as that sanctioned by Article XXXI. before quoted.

They took the position that a Judge did not represent a contending party but that he personified the majesty of the law and the principle of impartiality.

An institution which decrees that a Judge shall be the champion of an interest is not a Court. It may be an admirable board of arbitration; it may be an incomparable safety valve to insure the maintenance of peace; it may be the last word in altruistic perfection. It is, nevertheless, not a Court.

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THE SPLIT INFINITIVE.—Chief Baron Pollock once said that Judges are philologists of the highest order. Therefore we are not surprised to find their Lordships of the Judicial Committee of the Privy Council, in *The Proprietary Articles Trade Association Case*, recently decided by them, taking exception to the weakness for split infinitives on the part of the draftsman of our Customs and Tariff Act of 1897. They quoted a clause of the Act which empowered an enquiry as to whether a combination existed "to unduly enhance the price of such article or otherwise to unduly promote the advantage of producers." Their Lordships said that there were other instances in the Act where the draftsman had taken a similar liberty with the rules of syntax.