

REFERENDUM ON WAR

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NO TRUE believer in the principle of democratic rule could contend that wars should be made by the government of a democracy otherwise than in accordance with public opinion. But there is controversy as to how far and in what manner such opinion should be ascertained.

The proposal is older than the Great War, but it was the apparent drift of the United States into the war that first gave rise to much practical discussion of the application of the referendum to a declaration of war by congress. Advocates of the referendum were, many, if not all of them, opposed to our participation in the war, and the proposal was at that time, therefore, naturally obnoxious to all (including this writer) who favored our participation in the war. The same sort of opposition met the proposal of the referendum on war when advocated in connection with the ratification of the Covenant of the League of Nations. But the referendum may now, perhaps, be considered more or less in the abstract, as a democratic institution, and its real merits appreciated.

In the absence of proper means of bringing public opinion to bear, the people's representatives may easily involve the country in a war without popular approval. This is considered to have been the case with the German people in the Great War. Said our president: "We have no quarrel with the German people. We have no feeling towards them but one of sympathy and friendship. It was not upon their impulse that their government acted in entering this war. It was not with their previous knowledge or approval. It was a war determined upon as wars used to be determined upon in the old, unhappy days when people were nowhere consulted by their rulers and wars were provoked and waged in the interests of dynas-

ties or of little groups of ambitious men who were accustomed to use their fellow-men as pawns and tools.”¹ And the same is possible in our own democracy.

Experience has shown that a people, although bitterly opposed to a war, will, once it is actually begun by the constituted authorities, cease their opposition and aid in bringing the war to a successful conclusion. As Bryan, an opponent to our entering into the Great War, said, after the decision had been made: “There is no such thing as pacifism now. No matter what our own and separate views on the question of war and preparedness before the war, there is only one opinion now, and that is for the best preparedness and in as short a time as possible.”² Let the people be substituted for congress as the final authority, so far as possible.

Whatever the actual facts in the case, a government always necessarily assumes that a war it wages is a popular war, and it must do all in its power to make it actually such, once the war has begun. “It is . . . evident from the run of facts as exemplified in these modern wars that while any breach of the peace takes place only on the initiative and at the discretion of the government, or state, it is always requisite in furtherance of such warlike enterprise to cherish and eventually to mobilize popular sentiment in support of any warlike move.”³

It is sheer folly to assert that “the constituted authorities,” elected by the people, necessarily voice the sentiments of the people in regard to war. It is true that if unusual circumstances permit, as in the presidential election of 1916, entry into war becomes more or less an issue. Thus, both Wilson and Ford received many votes because of their inclination “to keep us out of the war.” But in such cases issues and men are necessarily badly mixed, and the popular majority is not really finally conclusive of anything at all. However, insofar as such a majority is used as evidence of public opinion on war, the *principle* of the popular referendum is practically accepted.

And the principle is in fact accepted generally, in the view that the authorities *should and do* attempt to ascertain the people’s will

¹ *Congressional Record*, Vol. 55, p. 103 (1917).

² *New York Times*, April 23, 1917. See also Henry Ford, *Ibid.*, August 16, 1917. “To this day I regard the Mexican war . . . as one of the most unjust ever waged by a stronger against a weaker nation. It was an instance of the republic following the bad example of European monarchies, in not considering justice in their desire to acquire additional territory. . . . Even if the annexation itself could be justified, the manner in which the subsequent war was forced upon Mexico cannot.” U. S. Grant, *Memoirs*, Vol. I, p. 53 (1885).

³ T. Veblen, *Nature of Peace*, p. 4 (1917).

in the matter. Referring to the Great War, it is said: "Editorial comments in more than two thousand daily newspapers assured the president that the people were with him at each step toward the final call to arms. How carefully the head of the nation studied the popular effect of these messages was demonstrated by the fact that summaries of editorial opinion embracing extracts from several hundred leading newspapers in every part of the country were laid before him within twenty-four hours after the publication of an address or message."⁴ On March 21 the state of public opinion was more than evident, it was loudly vocal, and the president would hesitate no longer."⁵ The president stated his position thus: "One day one of my colleagues said to me, 'Mr. President, I think the people of the country would take your advice and do what you suggested.' 'Why,' I said, 'that is not what I am waiting for. . . . I do not want them to wait on me; I am waiting on them. I want to know what the conscience of the country is speaking. I want to know what the purpose is arising in the minds of the people of this country with regard to this world situation. I must wait until I know that I am interpreting their purpose, then I will know that I have got an irresistible power behind me.' And that is exactly what happened! When I thought I heard that voice, it was then that I proposed to the congress of the United States that we should include ourselves in the challenge that Germany was giving to mankind."⁶

It is of course the right, and the duty, of citizens to influence their government to proper action in making or refraining from war, as well as in other directions. As Roosevelt said: "While I believe that once war is on, every citizen should stand by the land, yet in any crisis which may or may not lead up to war, the prime duty of the citizen is, by criticism and advice, even against what he may know to be the majority opinion of his fellow-citizens, to insist that the nation take the right course of action."⁷

The principle of the proper relation of representatives to the people in this regard, which, under present conditions, would probably be universally accepted, is embodied in a powerful address by Elihu Root⁸ before the Union League Club. "Germany is making war upon us. . . . Gradually a feeling is making its appearance, a restiveness of the people of the country. . . . There are multitudes

⁴ H. S. Houston, *Blocking New Wars*, p. 132 (1918).

⁵ J. S. Basset, *Our War With Germany*, p. 107 (1919).

⁶ H. Foley, *Woodrow Wilson's Case for the League of Nations*, pp. 13-14 (1923).

⁷ *New York Times' Current History*, Vol. 3, p. 18 (1915).

⁸ March 20, 1917. *United States and War*, pp. 27-32.

of American citizens who are asking, 'What can I do for my country now in this grave crisis?' They can do nothing except through the executive department at Washington. What is there we can do? Only this: We can perform the duty of a free, self-governing people, by speaking in clear and certain tones, so that the spirit and the purpose and the will of a free people may be heard in Washington, and our government may know that the American people will be behind it, supporting it, approving it, sustaining it in maintaining the honor and the integrity and the independence and the freedom of our republic. My diagnosis of the situation is that the president wants to hear from the people. He has said so many times. He wants to hear whether the people want him to go on and act. Let us answer to his want and tell him that the American people do want the government not to discuss, and plan, and talk about what is going to be done, but to act. Let us say to him, and if we say it, others will say it also, that we wish all the powers he has now to be exercised; and let us say to congress—and if we say it others will say it also—that we wish to give to the executive all the additional powers that may be found needed for the exercise of the entire force of this great nation for the support of its independence and honor. . . . Now, if our voice can be heard, if we can do something, anything, to make our government feel that the free and loyal people of America want it to assert the principle of American liberty and freedom, and to assert them with the power of this great people, for God's sake, let us do it."

And it is the general custom of individuals and groups of every description, through platform and press, by letters, petitions, and memorials to their representatives, and otherwise, to urge or to discourage the government's entry into war. But however frequent and emphatic such demands may be they are, at best, but a poor index of what public opinion actually is. What is really needed is the expression of opinion by *all of the people* rather than by *part of the people*. This can be obtained in no other way than by the submission of the question to *all of the people*.

There is certainly nothing of more vital importance to the people, and nothing which the people have more of a right to decide for themselves, than the question of making war. A matter of such vital interest as war is always considered by the people from its earliest possibility; the facts in the case, widely published, are generally available for their consideration; and the people are thus better qualified for deciding this question than any other question

of policy that can possibly come before them. Opponents of the referendum should, logically, also oppose all those practices, now generally approved, the object of which is to influence the government's policy as to the declaration of war.

Opposition to the referendum on war is, at bottom, opposition to the principle of democratic government in general.⁹ "If there is any merit at all in the doctrine that governments must derive their just powers from the consent of the governed, surely the governed ought to have the right to decide for themselves, by popular vote, a question as important as going to war."¹⁰

It is very true that there may be cases of emergency in which it would be entirely impracticable for congress to consult the people upon the policy of declaring war. But probably no responsible person has ever seriously advocated a mandatory referendum that should bind congress in cases of emergency.

The proposition has usually assumed one of two forms. One requires a referendum of the declaration of war, except in the case of "threatened invasion," "actual invasion," "imminent danger," "defensive warfare"—in general, in case of "emergency." The other calls for an "advisory" vote on the question of peace or war—generally, or except in case of invasion, etc.

In either form the immediate decision must of course rest with congress. Whether under the circumstances an emergency has arisen of sufficient gravity to justify action without consulting the people, whether the advice should under sudden change of conditions be followed, can be decided immediately by no other authority. But in the absence of a popular vote, no declaration of war should be effective unless passed by an extraordinary majority of the two houses of congress.

Doubtless it is possible that congress, even under this restriction, might abuse its discretion in this matter, as it does in many other matters. However, much the same situation obtains at present in relation between congress and the president in making war. Although the final authority is vested in congress, before congress can act the initiative may be taken by the president, and thus war

⁹ "The ready, courageous recognition of national duty must necessarily lie with those charged with supreme responsibility, who are best able to judge of the exact situation, and the measures required for the security of the true interests of the state, and international society in general. . . . The 'democratization of foreign policies' . . . cannot mean that democracy, by a process of initiative and referendum, could commit the folly of refusing confidence and support to its responsible statesmen in times of diplomatic complications and international danger." P. M. Brown, *International Realities*, pp. 190, 199 (1917).

¹⁰ W. J. Bryan, in *Congressional Record*, Vol. I, p. 1865 (1920).

may in fact be begun without the authority of congress. But the possibilities of the presidents' abuse of power are much greater than are the probabilities. The final discretion of congress operates as a very substantial check upon him.

In case of the abuse of power by congress resulting in the arbitrary determination of the existence of an emergency and a declaration of war contrary to the wishes of the people, it is very probable that, except under the most extraordinary circumstances, public sentiment would yield, however reluctantly, to the decision even if further provision should be made for an appeal from congress to the people *while hostilities continued*. But a really outraged public sentiment would have at least some protection from such further provision.

Of course, it would be best, if possible, to secure world-wide provision for the referendum through international convention; but, in the absence of such convention, there is no good reason why the referendum with the limitations advocated, should not be adopted first by the United States acting alone—and this whether or not the United States becomes a party to the League of Nations or any similar form of world organization.