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LEGAL ASPECTS OF UNITED NATIONS CITIZENSHIP

By S. Raymond Dunn*

This article does not purport to deal with the question of the advantages of United Nations citizenship, "derivative and dependent upon" allegiance to one's own national sovereignty. The subject of the numerous advantages of the plan, which, as will be seen, is really not a new idea, but merely a recognition of an already existing fact, must be discussed elsewhere. In this paper we limit ourselves to an inquiry into the matter of legal aspects of citizenship for individuals in the United Nations.

We are first of all confronted with the fact that many of the nations of the world are reluctant to permit any diminution from their sovereignty and independence. Does not this create a dilemma? A greater measure of world order is advocated by many thinking persons on the ground that recent mechanical inventions and improvements, such as the aeroplane, television and atomic power, have united the globe into one community, just as, for example, the invention of gunpowder rendered obsolete the castles of the feudal nobles and, therefore, made inevitable the destruction of feudalism, and as the steamboat, the railroad and the whole system of national improvements, in the period surrounding the great decision of Mr. Chief Justice Marshall in Gibbons v. Ogden,1 united our nation into one community. As Pope Pius XII has stated,2 mankind has now attained a "unity of dwelling place". On the other hand, for numerous reasons, psychological, social, political, etc., many nations are loath to part with an iota of sovereignty.

Is the spirit of the law sufficiently accommodating and flexible to supply the answer? It is perhaps the noblest aspect of the law that it has always succeeded in establishing institutions which were the necessary answers to the

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19 Wheat. 1 (1824).

*NAUGHTON, PIUS XII (1943) 41, citing Summa Pontificus 38.
most basic human needs. The law is now confronted with the greatest challenge in its history. Can it reconcile the deeply felt need for world order, which is now nothing more than order in one community, with the insistence on the part of nations upon clinging to their respective sovereignties?

Consequently, it first behooves us to determine whether or not United Nations citizenship is compatible with national sovereignty, whether or not the plan would entail a divided, inconsistent and possible contradictory allegiance.

Secondly, there arises before us the question of the Charter of the United Nations. Assuming for the moment that our first proposition shall be satisfactorily answered, i.e., that there is no inconsistency between such dual citizenship as is contemplated and national sovereignty, may a system of United Nations citizenship be established under the provisions of the existing Charter? Reflection will be quick to convince us that this is, in the final analysis, a matter of convenience rather than a fundamental question, for, if United Nations citizenship is proved to be both desirable and possible, possible from the standpoint of general constitutional law, then even the prospect of an amendment to the Charter might be worthy of consideration. The Charter exists to serve world peace and order and, if the cause of humanity's peace and order requires a Charter amendment, then a Charter amendment we shall have. However, it goes without saying that an amendment to the Charter, under the terms of Articles 108 and 109 thereof, would be an inconvenient and lengthy task. Such inconvenience, difficulty and waste of precious time may, on the other hand, be prevented if United Nations citizenship is within the contemplation of the present Charter.

As we shall see, no Charter amendment is necessary. All such plans and institutions as are necessary and proper are already authorized by the signatory nations, and as a matter of fact, most of us are citizens of the United Nations at the present time, despite the fact that only a few of us are aware of this highly important fact.
Thirdly, we shall discuss certain aspects of procedural law concerning United Nations citizenship.

Our disquisition, therefore, is in three portions: (1) Is United Nations citizenship compatible with national sovereignty? (2) Is such citizenship authorized by the existing Charter of the United Nations? (3) What are the practical, procedural steps which are worthy of recommendation?

I. UNITED NATIONS CITIZENSHIP IS COMPATIBLE WITH NATIONAL SOVEREIGNTY

The United Nations is a Confederation, and citizens of a member-nation within a confederation may also enjoy dual citizenship, that of the Confederation, together with that of the member-nation, without any loss or diminution of sovereignty on the part of the member-nation. Citizenship in the Confederation is "derivative and dependent upon" the basic citizenship.

It goes without saying, it is implicit in the very definition, that a Confederation is a group of sovereign and independent States bound together by treaty or compact. As Willoughby states3:

"The State is by nature a unity, and is characterized by the possession of a sovereign political will that is of necessity a unity. Therefore, all those unions, in which individual members still possess their sovereignty and maintain a continued existence as States, must be founded upon treaty relations, for in no other way can sovereign States enter into mutual relations with each other... A central government may indeed be created, but its acts look for their validity to the authority of the individual States, and, when performed, must be considered as the separate acts of each of the States. Thus when a treaty is formed, accepted and ratified by a so-called confederate or composite State, it must be considered as though such a treaty had been separately made by each of the respective States in the union."

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3 WILLOUGHBY, EXAMINATION OF THE NATURE OF THE STATE (1896) 243 et seq.
The same eminent author further states:  

"In the Confederacy... the individual States retain their character as States, and their relations to each other are of an international or treaty character. Consequently, no central State is created, and Sovereignty lies wholly within such individual political units. What union there is in a Confederacy, is the creation of the wills of the individual States."

Although it is hardly necessary at this time to consider academically all the various aspects of the distinction between the Confederacy and the Federal State, enough has already been shown to make it appear that the United Nations is a form of Confederacy or Confederation, established by treaty, with a retention of sovereignty on the part of member states, the powers of the central organization being merely delegated and strictly enumerated.

Is it legally possible for an individual citizen of a confederate State to have direct, personal relations with the Confederacy itself; can he have dual citizenship; can he be a citizen of the Confederacy as well as of his own sovereign and independent state? Are there any legal and historic precedents for such a dual relationship? Both of these questions must be answered in the affirmative.

Let us consider, by way of example, the Confederate States of America, the Articles of Confederation which united our States prior to the Constitution and the British Commonwealth of Nations.

The Confederate States of America furnishes an example of a Confederacy of a particularly emphatic, dramatic and self-conscious character. Because of historical circumstances, great stress was deliberately placed upon the complete sovereignty and independence of each of the member-states. The actual current of events was in the direction of separateness rather than, as often happens in the history of the establishment and development of Confederacies, such as, for instance, the Swiss Confederation, in the direction of increasing unity. The member-states were loud and self-assertive in proclaiming their absolute sovereignty.

UNITED NATIONS CITIZENSHIP

Consider the Preamble of the Constitution of the Confederate States of America:5

"We, the People of the Confederate States, each State acting in its sovereign and independent character . . . ."

Nevertheless, this same Confederate Constitution, emphasizing as it did the "sovereign and independent character" of each and every one of the States, still provided for citizenship in the Confederate States of America.

"Article I, Sec. 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall be citizens of the Confederate States, and have the qualifications requisite for electors of the most numerous branch of the State Legislature; but no person of foreign birth, not a citizen of the Confederate States, shall be allowed to vote for any officer, civil or political, State or Federal.

"No person shall be a Representative who shall not have attained the age of twenty-five years, and be a citizen of the Confederate States . . . ."

"Article I, Sec. 3. . . . No person shall be a Senator who shall not have attained the age of thirty years, and be a citizen of the Confederate States . . . ."

"Article II, Sec. 1. . . . No person except a natural born citizen of the Confederate States, or a citizen thereof born in the United States prior to the 20th of December 1860, shall be eligible to the office of President . . . ."

Not only is the meaning entirely obvious in itself, but its clarity is further emphasized by comparison with the earlier Constitution for the Provisional Government of the Confederate States of America, adopted on February 8, 1861, whereas the permanent Constitution was adopted March 11, 1861. The provisional compact contained a different provision.

5Davis, The Rise and Fall of the Confederate Government.
“Article II, Sec. 3. . . . No person except a natural-born citizen of one of the States of this Confederacy at the time of the adoption of this Constitution, shall be eligible to the office of President . . .”

Let us now consider the United States of America during the period of the Articles of Confederation, from the final consent, on the part of Maryland, the last of the individual States to enter in 1781, until the Articles were superseded by the Constitution in 1789. We deal with “Articles of Confederation and Perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhode-island, and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.”

The United States was then unquestionably a Confederacy, and the individual States were fully sovereign:

“Article I. The stile of this confederacy shall be ‘The United States of America’.

“Article II. Each State retains its sovereignty, freedom and independence . . .

“Article III. The said States hereby severally enter into a firm league of friendship with each other . . .”

The Articles contained the provision that the free inhabitants of each of the States should, as a general rule, “be entitled to all privileges and immunities of free citizens in the several States”. The exact text is as follows:

“Article IV. The better to secure and perpetuate friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have ingress and regress to and from any other States, and enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively . . .”
It is obvious from the above that the United States during the period of the Articles, although merely a Confederacy, went very much further than creating a dual citizenship; it went far in the direction of creating a sort of consolidated citizenship, with all of the practical attributes thereof, i.e. “all privileges and immunities” within each of the component sovereignties. Article IV of the Articles of Confederation, which prepared the way for Article IV, Section 2 (1) of the Constitution, greatly exceeded the scope of the United Nations citizenship, by which, of course, is merely meant allegiance to the Confederation itself without any reciprocal granting of “privileges and immunities” by the member-sovereignties. In other words, it goes without saying, each nation will naturally retain complete control over its own immigration laws, naturalization laws, etc.

A Confederacy is founded, as has been seen, upon a treaty between sovereign States. Such a treaty is a compact, which in turn is a glorified word for a contract. Just as contracts between private persons may contain an almost infinite variety of provisions, depending upon the wills of the respective persons who enter into such agreements, so may compacts between States likewise be characterized by a variety of provisions, similarly depending upon the sovereign wills of the States. In the present era of world history it is neither necessary nor practicable for immigration, naturalization, tariff barriers, and the like to be abolished, and naturally there neither exists nor is there contemplated any proposal for their abolition or modification. However, as we shall see, the Charter of the United Nations does contain provisions granting the great privilege of United Nations citizenship to individuals.

The Articles of Confederation offer further evidence of the proposition that, as Willoughby states: 6

“... in the Confederation, law may operate in some instances directly upon the individual. Thus while we have been accustomed to distinguish our present Union

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* Supra, n. 2, 261.
from that maintained under the Articles of Confederation upon this ground, as a matter of fact, the rule does not hold in all cases."

Professor Willoughby then goes on to quote at length the following significant passage from the *Federalist*, No. 40, written by James Madison, the Father of our Constitution:

"In some instances, as has been shown, the powers of the new government (under the Constitution) will act on the States in their collective characters. In some instances also, those of the existing government (under the Articles of Confederation) act immediately on individuals. In cases of capture; of piracy; of the post-office; of coins, weights and measures; of trade with the Indians; of claims under grants of land, by different States; and above all, in the case of trial by court-martial in the army and navy, by which death may be inflicted without the intervention of a jury, or even of a civil magistrate; in all these cases the powers of the Confederation operate immediately on the persons and interests of individual citizens."

There can be, therefore, a direct, immediate relationship between an individual citizen of a member-sovereignty and the Confederacy itself, e.g. between an individual New Yorker or New Jerseyite and the United States under the Articles, or between an individual American or Mexican and the United Nations.

Before proceeding further to the contemplation of the British Commonwealth of Nations, we pause to remind ourselves that, according to the theory of constitutional interpretation of Madison, Jefferson, Taylor of Caroline, Calhoun, Hayne, Taney, Davis and others, the Constitution of the United States itself was a compact between independent and sovereign States from the time of its ratification until the final outcome of the War between the States. Senator Hayne, for instance, spoke of "the sovereignty and independence of the States." He added: "Sir, I am one of those who believe that the very life of our system is the

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7 *Hayne, The Great Debate Between Hayne and Webster* (1898).
independence of the States . . . ." In the view of this interpretation, the Constitution during a lengthy period of the history of the United States established a non-sovereign central government which was merely the joint organ of numerous Sovereignties, a Confederacy in other words. It cannot in all fairness be denied that the opinion of James Madison, who fathered the Virginia Resolutions, as well as the Constitution, is entitled to a not inconsiderable measure of respect. Such a viewpoint would furnish another example of citizenship in a Confederation. Concerning the matter of an oath of fidelity or allegiance to the central government, which under this "compact" theory was a Confederation, it was provided, as, of course, it is still so provided, in Article VI (3) of the Constitution:

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all Executive and Judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution . . . ."

It is interesting to mention in passing that a practically identical provision appears in Article VI of the Constitution of the Confederate States.

Let us now consider the British Commonwealth of Nations.

Prime Minister Attlee, in his Address on Armistice Day 1947 stated: "We are showing the world how freedom and association in a wider policy can be combined." His statement contains a generous measure of inspiring truth.

The British Commonwealth of Nations is an international association, which is, juridically speaking, even looser than a Confederation. For the British Commonwealth of Nations, unlike such Confederations as the Confederate States, the United States under the Articles, the Germanic Confederation, or the United Nations, has no central governmental body. Policies are agreed upon at

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*U. S. Const., Art. I, Sec. 2 (2); Art. I, Sec. 3 (3); Art. II, Sec. 1 (4).*
conferences between the sovereign member-nations of the Commonwealth.

Nevertheless, there is a form of dual “citizenship”, which is referred to in the language of British constitutional law as “allegiance to the Crown”. In other words, a Canadian citizen bears allegiance to the Crown; so does a subject of the United Kingdom, an Australian citizen, a New Zealand citizen, etc. By virtue of the Statute of Westminster of 1931, following the Imperial Conferences of 1926 and 1930, Canada, Australia and New Zealand enjoy full sovereignty within the British Commonwealth of Nations. Since there is no central Government, not even of the vaguest Confederate nature, it follows that the general pledge of allegiance is the sole bond between the Sovereignties. In the event of secession on the part of New Zealand, for example, from the British Commonwealth of Nations, a New Zealander's allegiance to the Crown would immediately terminate, since his loyalty to the sovereign and independent government of New Zealand is paramount and primary, and his allegiance to the Crown is, so to speak, the individual implementation of his sovereign's international policy.

As is well known, each sovereign nation within the Commonwealth makes its own laws concerning immigration, tariffs, etc. This is necessarily the case, since in the absence of a Confederacy of any kind, there is a complete absence of contractual provisions concerning the passage of such laws by even a non-sovereign governing body.

There is nothing perhaps to be gained by a further multiplication of examples. Enough has been surveyed to make it clear that individual citizenship in a Confederation, a jointly created non-sovereign body, in no way detracts from the sovereignty of the member-states. Since only the member is sovereign and the central body non-sovereign, there arises no question whatsoever of divided loyalty. Citizenship in one's own State is paramount, primary, original. Citizenship in the Confederation is subsidiary, secondary, derivative. It depends upon and is the implementation of the international policy of the Sovereign. There is, therefore, no conflict, but cooperation. The loyalty
of a Virginian or a Carolinian to the South, was his personal, patriotic endorsement of the most significant and important exercise of the sovereignty of his State. The loyalty of an Englishman or an Australian to the British Commonwealth of Nations is such a personal, patriotic endorsement. The loyalty of an American or a Norwegian to the United Nations will be such a personal, patriotic endorsement.

II. United Nations Citizenship is Authorized by the Charter of the United Nations

A Charter Amendment would be difficult to obtain; it would require much time and effort. Fortunately, no such amendment is necessary. Individual citizens of the member-states of the United Nations are entitled to citizenship as the Charter now stands.

In order to consider this question, it is now necessary for us to leave the field of general constitutional law and to enter upon the terrain of the law of contracts. For a treaty is a contract, or compact, although, to be sure, the highest type of contract, a contract between two or more sovereign States.10

It is, therefore, in the light of the law of contracts, as applied to treaties, that we must view the provisions of the Charter of the United Nations which pertain to individuals.

If we may borrow a phrase from Samuel Adams, let us pause at the threshold. Let us consider the Preamble of the great Charter and of the Constitution of the United States:

The Charter begins: "We, the Peoples of the United Nations . . ."

The Constitution begins: "We, the People of the United States . . ."

In both instances, the people are, it appears, made parties to the instruments. The people are the creators. The people made the Constitution of the United States. The

people made the Charter and are making the United Nations.

Even to one utterly unversed in the language of diplomacy, it must certainly seem obvious that the three opening words of the Charter constitute a most unusual threshold for a treaty. This must be and is a treaty of a very special kind. It is a treaty which embraces the people.


Such is the customary language of diplomacy. As we shall see, there are a few treaties which constitute noteworthy exceptions, of which the Charter of the United Nations is one.

"No word, clause, or provision is presumably redundant; and effect is, if possible, to be given to each of them.
'Treaties are formed upon deliberate reflection. Diplomatic men read the public treaties made by other Nations and cannot be supposed either to omit or insert an article, common in public treaties, without being aware of the effect of such omission or insertion.'”

This is, of course, no startlingly novel proposition. It is in line, for example, with the familiar principle that “in interpreting an amendatory act there is a presumption of change in legal rights.”

As a vivid illustration, let us now contemplate the sharp contrast between the words, “We, the Peoples of the United Nations,” in the Preamble of the Charter, with the expectedly formal opening of the Preamble of the Covenant of the League of Nations, “The high contracting Parties . . .”

Does the history of the law of treaties afford a similarly dramatic contrast? There are some examples which come to mind. They also serve to highlight the differences between two types of treaties creating confederations, i.e. compacts of union. Some compacts of union, like the usual treaty, have States only as their parties. There are, however, other compacts of union which admit individuals as well to appear as parties to the instrument. It is in such cases that individuals become citizens of a confederation, despite the retention of sovereignty on the part of the member-States.

The Constitution of the United States, in the opinion not only of the Confederates, but also in that of the Federalists of New England (Quincy, Cabot, Pickering and others), was originally a treaty between sovereign States, a compact of union. At all events, as we have seen, there have been citizens of the United States ever since the ratification of the Constitution. Under the old Articles of Confederation, on the other hand, the people were not made parties to the instrument, although, as has also been seen, there were several highly interesting direct connections between the Confederation and individuals even in that period.

11 Crandall, op. cit., supra, n. 10; The Nereide, 9 Cranch 388, 419 (1815).
12 1 Sutherland, Statutory Construction (3d Ed.) Sec. 1930.
How do the Articles of Confederation begin?

"To All to Whom These Presents Shall Come, We the Undersigned Delegates of the States Affixed to our Names, Send Greeting.

"Whereas, the Delegates of the United States of America in Congress assembled did on the fifteenth day of November, in the year of our Lord One Thousand Seven Hundred and Seventy-seven, and in the Second Year of Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, North-Carolina, South-Carolina, and Georgia in the words following, viz:

"Articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay . . ."

It is the cold, impersonal, formal language of a typical treaty. And then came the Constitution, informal, personal, intimate: "We the People . . ."

There is a similar difference between the Constitution of the Provisional Government of the Confederate States of America, which appears to have made no provision for citizenship in the Confederacy, providing, for example, in Article II, Section 1, subsection 3: "No person except a natural-born citizen, or a citizen of one of the States of this Confederacy at the time of the adoption of this Constitution . . .", and the Constitution of the Confederate States, ordained and established shortly thereafter.

The Preamble of the provisional constitution was in the usual treaty form:

"We, the deputies of the sovereign and independent States of South Carolina, Georgia, Florida, Alabama, Mississippi and Louisiana, invoking the favor of Almighty God, do hereby, in behalf of these States, ordain and establish this Constitution for the provisional Government of the same . . ."

The Preamble of the Constitution of the Confederate States, which, as has been seen, contained provisions con-
cerning citizenship practically identical with those of the Constitution of the United States, was as follows:

“We, the People of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent Federal Government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity . . . invoking the favor and guidance of Almighty God . . . do ordain and establish this Constitution for the Confederate States of America.”

Here again the people were made parties.

What is the contractual significance of the inclusion of the people in a compact of union between sovereign States, such as the Constitution of the Confederate States, the Charter of the United Nations, and the Constitution of the United States (in the view of Jeffersonian theorists) prior to the radical change in the basic theory of citizenship brought about by the Fourteenth Amendment? The contractual significance is simply this: a contract between States, even more so than a contract between individuals, since the States are sovereign and the individuals are subject to the sovereignty of their respective States, may contain any contractual provisions that the contracting parties may see fit to include. In the Covenant of the League of Nations, the only parties to the contract were “the high contracting parties”, i.e. the States themselves. In the Articles of Confederation, individuals were included within the scope of the compact for certain limited purposes. In the Constitution of the United States, individuals were made parties to the compact; they were parties both as creators and as beneficiaries.

It now behooves us to consider some of the eminent authorities who have dealt with the meaning of the words, “We the People”.

The phrase was eloquently interpreted by Daniel Webster, in his reply to Hayne:

“It is, sir, the people’s Constitution, the people’s Government, made for the people, made by the people, and answerable to the people . . . We are all agents of the same supreme power, the people.”
The words in question were explained by Madison himself, one of the most important members of the Constitutional Convention, only a few months after the drafting of the Constitution. The occasion was the third day of the Virginia Convention, convoked for the purpose of passing upon the ratification of the Constitution. Ratification was opposed by Patrick Henry, who argued:

"What right had they to say, We, the People? My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, who authorized them to speak the language of 'We, the People', instead of We, the States? States are the characteristics and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated national government of the people of all the states."

The next day, Patrick Henry, again arguing on behalf of the sovereignty and independence of Virginia, added:

"The fate of this question and of America may depend on this. Have they said, We, the States? Have they made a proposal of a compact between States? If they had, this would be a confederation; it is otherwise a consolidated government. The question turns, sir, on that poor little thing—the expression, 'We, the people', instead of the States of America."

Madison's answer was as follows:

"Who are parties to it (the Constitution)? The people—but not the people as composing one great body; but the people as composing thirteen sovereignties..."

The people are parties to the Constitution. And the people are, by the same token, parties of the Charter. Does history offer a more eminent authority on this proposition than James Madison?

The main point in the controversy between Henry and Madison does not, of course, concern us here, i.e. whether

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13 Elliott's Debates (1836) 54.
14 Ibid, 72.
15 Ibid, 114.
The "people" in Preamble of the Constitution composed one great body or thirteen separate and distinct sovereignties. As history tells us, the fears of Patrick Henry were fulfilled at Gettysburg and Vicksburg. "We the People" was ambiguous on this question of whether there was one or thirteen sovereignties. In the Confederate Constitution there is no room left for doubt: "We, the people of the Confederate States, each State acting in its sovereign and independent character..." Nor is there any ambiguity in the Charter. "We, the Peoples" make it clear that each people is looked upon as composing a separate and distinct sovereignty.

The fact that the Henry-Madison discussion is quoted, with full approval of Madison's explanation, by Jefferson Davis proves, incidentally, that the latter, a distinguished authority on the theory and practice of a Confederacy, was of the opinion that the fact that individuals are parties to a Confederacy's compact of union does not violate the sovereignty of the member-States.

The cardinal proposition, however, that, by virtue of the words on the very threshold of our Constitution, the people are parties thereto, is a principle upon which both of the two great schools of political thought of our Nation have apparently always been in accord. This viewpoint has been expressed, for example, by two Chief Justices of the Supreme Court of the United States in celebrated decisions. The Chief Justices in question were men who, in other respects, were of decidedly different outlook; the first was Mr. Chief Justice Marshall; the other, Mr. Chief Justice Taney.

Marshall, in delivering the opinion of the Court in McCulloch v. Maryland, stated:

"The government proceeds directly from the people; is 'ordained and established' in the name of the people; and is declared to be ordained, 'in order to form a more perfect union, establish justice, insure domestic tranquility and secure the blessing of liberty to themselves and to their posterity'."

16 Supra, n. 5, 104-105.
17 4 Wheat. 316, 403 (1819).
Mr. Chief Justice Taney, in delivering the Court's opinion in *Scott v. Sandford,* is even more explicit:

"The words 'people of the United States' and 'citizens' are synonymous terms and mean the same thing."

Does it not follow that, in the Charter the words "Peoples of the United Nations" and "citizens" are synonymous terms and mean the same thing? What other rational explanation would be possible for the presence of such highly unusual phraseology at the commencement of a treaty, of a compact of union? Citizenship in the United Nations was intended within the meeting of the minds which resulted in the greatest contract in the history of law.

The insertion of the words, "We, the Peoples of the United Nations," was proposed by the Delegation of the United States. The purpose was to emphasize that the Charter is an expression of the peoples and is primarily concerned with their welfare.

The words of Webster are applicable to the present situation. It is the peoples' Charter, made for the peoples, made by the peoples. Patrick Henry's eloquence may also be brought to date—The question turns on that poor little thing—the expression, "We the peoples", instead of "the high contracting parties" or formal phraseology of like nature.

The Supreme Court of the United States has stated: "This Court would not readily lean to favor of restricted construction of language, as applied to the provisions of a treaty, which always combines the characteristics of a contract, as well as a law."

Our conclusion is strengthened by a consideration of the great instrument as a whole.

First, however, let us compare the entire Preamble of the Charter with the whole of the Preamble of the Covenant of the League of Nations.

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18 60 U. S. 393, 404 (1856).
20 The Bello Corrunes, *supra,* n. 171.
That of the Covenant:

"The high contracting Parties,

In order to promote international cooperation and to achieve international peace and security

by the acceptance of obligations not to resort to war,

by the prescription of open, just and honorable relations between nations,

by the firm establishment of the understanding of international law as the actual rule of conduct among Governments,

and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another,

Agree to this Covenant of the League of Nations."

Nations, and Nations only, are made parties to the contract. The agreement is between the "high contracting parties". Within the scope of the compact are "international cooperation", "international peace and security", "relations between nations", "conduct among Governments" and "dealings of organized peoples with one another". The peoples are mentioned only once and then only as "organized peoples", i.e. they are contemplated only within the framework of their respective political organizations.

What a contrast is offered by the Preamble of the Charter:

"We, the Peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

... to promote social progress and better standards of life in larger freedom,"
And for these Ends

to practice tolerance and live together in peace with one another as good neighbors, and

... to employ international machinery for the promotion of the economic and social advancement of all peoples,

Have Resolved to Combine our Efforts to Accomplish These Aims."

These are words which appear upon the threshold of the greatest Charter in the history of the world. Let us weigh and assay these words.

"We, the Peoples" has already been analyzed from the points of view of intrinsic meaning, of contrast with the customary phraseology of treaties and the consequent evidence of intent to effect a change, and the interpretations of eminent statesmen and jurists.

It is the peoples who are determined; it is the peoples who have resolved. The peoples have resolved to combine "our" efforts.

They are determined to save succeeding generations from the scourge of war. People have generations. Governments have no generations. The birth and death of governments have nothing whatsoever to do with generations.

"... in our lifetime..." Here, if ever, are perfect words of personality. The word "lifetime" can apply only to individual persons, not to organized peoples, not to governments, not to states. The Charter is the contract of the persons of the United Nations, persons who were living on "the twenty-sixth day of June, One Thousand Nine Hundred and Forty-five" when the great compact of union was signed in the City of San Francisco.

"... to reaffirm faith... in the dignity and worth of the human person..." Here is the voice, in Webster's words, of the peoples' Charter, for the peoples, by the peoples. Observe the note of individuality, even the use of the word
"person" in the singular. The individual person is within the contemplation of the makers of the Charter.

"... in the equal rights of men and women and of nations large and small ..." Men and women come first, they take precedence over the nations.

It is the peoples who are to practice tolerance and to live in peace with one another as good neighbors.

The peoples have made the compact. The peoples are the beneficiaries of the compact.

People, instead of governments, appear also in Article 71:

"The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations, and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned."

As is stated by Goodrich and Hambro,21 "this Article goes one step further, and beyond what has been customary in the past, in making provision for consultation with non-governmental organizations which are concerned with the matters under discussion". Already, for example, the following non-governmental organizations have been so admitted: The World Federation of Trade Unions, the International Co-operative Alliance, and the American Federation of Labor.22

The peoples, parties to the Charter, are citizens of the United Nations, which they have created for the benefit of themselves. This conclusion appears inescapable. It is a citizenship which is "derivative and dependent" upon their respective national citizenships, in exactly the same fashion as the citizenship of a citizen of the United States, prior to the Fourteenth Amendment, was "derivative and dependent" upon state citizenship.23

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21 Supra, n. 19, 224.
22 DOLIVET, THE UNITED NATIONS, 61.
III. MATTERS OF PROCEDURE

There remains for our consideration the question of how the thoughts, aspirations and activities of individual citizens may be best correlated with the already established system and work of the United Nations.

Obviously, United Nations' citizens should not remain unorganized. An organization, such as the United Nations Citizenship League, will be of inestimable value in playing a similar part to that of the Committees of Correspondence in the early days of our own national history, i.e. in disseminating information and suggestions from country to country, in mobilizing all available resources of manpower, in advocating worthy legislation and treaties. In such a manner will the peoples become less conscious of mutual suspicions and antagonisms, and they will learn to live "with one another as good neighbors."

At the earliest possible moment, suitable arrangements should be made, pursuant to Article 71 of the Charter, for consultation between the Economic and Social Council and the non-governmental organization in question, the United Nations Citizenship League.

The absence of a right to vote should not be discouraging. The non-governmental organization, representing well over a billion citizens, would enjoy enormous respect, prestige and influence. Again our own national history affords an analogy; it was provided by the Northwest Ordinance of 1787, re-enacted by the first Congress under the Constitution, that a delegate from each territory sit in the Congress of the United States without a vote. Puerto Rico, for example, is so represented in our Congress at this very day.

Almost immediately an important step forward in the direction of further progress will be available. Member governments may provide by treaty for the creation of a specialized agency, another aspect of the United Nations'
Citizenship League, which can be brought into relationship with the United Nations, in accordance with Articles 57 and 63.

"Article 57. 1. The various specialized agencies established by inter-governmental agreement and having wide international responsibilities, as defined in their basic instruments . . . shall be brought into relationship with the United Nations, in accordance with the provisions of Article 63.

... "Article 63. 1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly."

Member governments, it appears, have already pledged themselves to do everything within their power to achieve this purpose, not only by their general ratification of the Charter but also, more specifically, by Article 56.

"Article 56. All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55."

The establishment by inter-governmental agreement of such a specialized agency will offer great and far-reaching advantages. The agency's activities may be coordinated with those of other specialized agencies, such as the United Nations' Food and Agriculture Organization (FAO), the International Labor Organization (ILO), the United Nations' Educational, Scientific and Cultural Organization (UNESCO), etc.

"Article 58. The Organization will make recommendations for the coordination of the policies and activities of the specialized agencies."

... "Article 63. 2. It may coordinate the activities of the specialized agencies through consultation with and
recommendations to such agencies and through recommenda-
tions to the General Assembly, and to the Mem-
bers of the United Nations.”

Representatives of the United Nations Citizenship
League, as a specialized agency, may participate, without
vote, in the deliberations of the Economic and Social Coun-
cil and in those of its commissions.

“Article 70. The Economic and Social Council may
make arrangements for representatives of the special-
ized agencies to participate, without vote, in its delib-
erations and in those of the commissions established
by it, and for its representatives to participate in the
deliberations of the specialized agencies.”

The scope of the functions and powers already vested
by the Charter in the Economic and Social Council is
tremendous. With the backing of a specialized agency rep-
resenting the vast numbers of citizens, these functions and
powers would acquire enormous practical significance.

“Article 62. 1. The Economic and Social Council
may make or initiate studies and reports with respect
to international economic, social, cultural, educational,
health and related matters and may make recommen-
dations with respect to any such matters to the General
Assembly, to the Members of the United Nations, and
to the specialized agencies concerned.

2. It may make recommendations for the purpose
of promoting respect for, and observance of, human
rights and of fundamental freedoms for all.

3. It may prepare draft conventions for submission
to the General Assembly, with respect to matters fall-
ing within its competence.

4. It may call, in accordance with the rules pre-
scribed by the United Nations, international confer-
ences on matters falling within its competence.”

By means of such procedure, there exists the possibility
of creating a democratic, competent and efficient central
authority for the United Nations. This can be brought
about with a surprising amount of speed. It can, as has
been seen, be done even on the basis of the Charter as it
now stands, without amendments, although Charter amend-
ments, whenever deemed desirable, will be greatly facili-
tated if advocated and promoted by the sort of specialized
agency herein considered or, for that matter, even by a
non-governmental consultative organization.

World order is too great and too complex a thing to be
brought into being by theory or plan. It can come about
only on the basis of the experiences of mankind. The most
that can be done for the time being is to assist in the creation
of a system of workable and working United Nations citi-
zenship which will make such essential experiences both
possible and inevitable. Such is the principal task of the
United Nations' Citizenship League. Its experiences will
help (to paraphrase the language of the Congress under
the Articles in its resolution of February 1, 1787, convoking
the Constitutional Convention) to render the United
Nations adequate to the exigencies of world order and
the presentation of world peace.

Today it would apparently be premature to provide for
direct popular representation in the General Assembly or
even, perhaps, on the Economic and Social Council. Is
humanity still too immature, psychologically and socially?
At any rate the conditions for our psychological and social
maturation are available. The sooner we begin, the sooner
will come the day when the peoples of the world can
begin to take an active part, through their elected repre-
sentatives, in the conduct of all the affairs of the United
Nations. Just as the tribunes of Ancient Rome, although
at first possessed of no lawmaking powers, were eventually
admitted because of their great influence and prestige, to
membership in the Senate, so will the representatives of
United Nations citizenship be inevitably admitted to Coun-
cil and to Assembly, and to full voting privileges every-
where.

The United Nations, all the world in fact, is waiting for,
is in desperate need of, this tribunitian power, to symbolize
the growing unity and cooperation of mankind and to work
for even greater unity and cooperation.
Does there remain any lingering doubt as to whether such a tribunitian institution is chartered (i.e. constitutional)? James Madison, in the *Federalist, No. 40*, answered the question in 1778:

“There are two rules of construction, dictated by plain reason, as well as founded on legal axioms. The one is, that every part of the expression ought, if possible, to be allowed some meaning, and be made to conspire to some common end. The other is, that where the several parts cannot be made to coincide, the less important should give way to the more important part; the means should be sacrificed to the end, rather than the end to the means.”

Although it cannot even be said of the Charter that “the several parts cannot be made to coincide”, it is impossible to escape the full impact of the statement in the Preamble of one of the ends for which the peoples of the United Nations are determined... “to employ international machinery for the promotion of the economic and social advancement of all peoples”.

As we have seen, it is chartered for the activities of all the other specialized agencies of the United Nations to be coordinated with the United Nations’ Citizenship League and with its tribunitian representatives (Articles 58 and 63 (2)) and for those representatives to participate in the deliberations of the Economic and Social Council as well as in the deliberations of every one of the Economic and Social Council’s commissions (Article 70).

But this is not all:
The tribuneship can have direct contact with the General Assembly:

“Article 22. The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.”

Direct contact between the tribuneship and the Security Council is similarly available.

“Article 29. The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.”
Branches of the tribuneship may be included among such "subsidiary organs".

It is also important to keep in mind that the United Nations, unlike the League of Nations, has a judicial branch. The old Permanent Court of International Justice was not a part of the League of Nations; it was a separate and distinct international institution. The new International Court of Justice, on the other hand, is an "integral part", "the principal judicial organ of the United Nations".

"Article 92. The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter."

Furthermore, in passing, it appears that the United Nations, like the United States is authorized to have inferior Courts ordained and established from time to time. It appears from the first sentence of Article 92 of the Charter, that the International Court of Justice need not be the only judicial organ of the United Nations, but the "principal judicial organ". The Charter appears to permit the establishment of "Other—and subsidiary—judicial organs of a regional or functional character."

"Article 92. Nothing in the present Charter shall prevent members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future."

See also the general provisions of Article 7, Section 2:

"Such subsidiary organs as may be found necessary may be established in accordance with the present Charter."

Will the tribuneship of the United Nations' Citizenship League have access to the judiciary? Such access will be

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7 See also, Art. 7.
8 U. S. Const., Art. III, Sec. 1.
9 Goodrich and Hambro, supra, n. 19, 258.
available by virtue of the provisions pertaining to advisory opinions.

"Article 96. 1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."\(^{30}\)

Although the text of Article 96, Section 2, does not make it entirely clear whether the General Assembly's authorization must be given in each individual case or whether an organ or agency may be given a general authorization, the requisite clarity is supplied by the intent of the framers of the Charter. The technical committee refused to adopt a proposal which sought to substitute the words "in each case" for "at any time".\(^{31}\) In other words, regular and frequent application by a specialized agency to the judiciary of the United Nations is within the contemplation of the Charter. The full historic significance of this aspect of the rights and activities of United Nations' Citizenship will be considered in another article.

Enough has already been presented in this third section of this paper to establish the fact that United Nations' citizenship has far more than educational and psychological value—not that educational and psychological value with nothing in addition would be unimportant. The main international problems of our age are, in truth, psychological problems, and, therefore, in the words of the Preamble to the Charter of the United Nations Educational, Social and Cultural Organization, since "wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed". But, let it be repeated and emphasized, a great deal more is available under and by virtue of the provisions pertaining to advisory opinions.

\(^{30}\) See also, Art. 65 of the Statute of the International Court of Justice.

\(^{31}\) UNC 10, Summary Report of Twentieth Meeting of Committee IV/1, Doc. 894, IV/1/71, 3-4; Goodrich and Hambrö, supra, p. 19, 206.
of the United Nations Charter; participation in all phases of the governmental activities of the United Nations, even in the judicial phase, is available to the Confederation's citizens.

Of necessity, it has been impossible within the narrow confines of this paper to accomplish more than the merest sketching of the international machinery and the nature of the democratic procedures which are chartered for the peoples of our great Confederation, the Confederation, if not of the world, at least of the overwhelming majority of mankind. It is hoped that numerous matters of detail will quickly be clarified in subsequent discussions.

It is, in any case, even at this moment, apparent that the international machinery to be employed by the United Nations citizenship (by means of its League) is not something that will take many decades to put into effect. On the contrary, the mechanism is fortunately so simple, thanks to the wisdom of the founding fathers of the Charter, that it can be started within a few months.

Democratic international self-confidence and technical know-how will both become rapidly strengthened by exercise.