

**INTERNATIONAL TRIBUNALS TO  
ENFORCE PEACE. HEARING BEFORE THE  
SUBCOMMITTEE OF THE COMMITTEE  
ON THE JUDICIARY UNITED STATES  
SENATE SIXTY-FOURTH CONGRESS  
SECOND SESSION S. J. RES. 131**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649139743

International tribunals to enforce peace. Hearing before the subcommittee of the committee on the judiciary united states senate sixty-fourth congress second session S. J. Res. 131 by Various

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**VARIOUS**

**INTERNATIONAL TRIBUNALS TO  
ENFORCE PEACE. HEARING BEFORE THE  
SUBCOMMITTEE OF THE COMMITTEE  
ON THE JUDICIARY UNITED STATES  
SENATE SIXTY-FOURTH CONGRESS  
SECOND SESSION S. J. RES. 131**



*July 3*  
**INTERNATIONAL TRIBUNALS TO ENFORCE PEACE** *26*

---

---

**HEARING** *cf°*

BEFORE THE

**SUBCOMMITTEE OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**SIXTY-FOURTH CONGRESS  
SECOND SESSION**

ON

**S. J. RES. 131**

**PROPOSING AN AMENDMENT TO THE CONSTITUTION OF  
THE UNITED STATES, AUTHORIZING THE CREATION,  
WITH OTHER NATIONS, OF AN INTERNATIONAL PEACE-  
ENFORCING TRIBUNAL OR TRIBUNALS FOR THE  
DETERMINATION OF ALL INTERNA-  
TIONAL DISPUTES**

THURSDAY, JANUARY 18, 1917

Printed for the use of the Committee on the Judiciary



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1917

143  
—  
126

COMMITTEE ON THE JUDICIARY.

CHARLES A. CULBERSON, Texas, *Chairman*.

LEE S. OVERMAN, North Carolina.	CLARENCE D. CLARK, Wyoming.
WILLIAM E. CHILTON, West Virginia.	KNUTE NELSON, Minnesota.
JAMES A. O'GORMAN, New York.	WILLIAM P. DILLINGHAM, Vermont.
DUNCAN U. FLETCHER, Florida.	GEORGE SUTHERLAND, Utah.
JAMES A. REED, Missouri.	FRANK B. BRANDEGEE, Connecticut.
HENRY F. ASHURST, Arizona.	WILLIAM E. BORAH, Idaho.
JOHN K. SHIELDS, Tennessee.	ALBERT B. CUMMINS, Iowa.
THOMAS J. WALSH, Montana.	JOHN D. WORKS, California.
HOKE SMITH, Georgia.	

C. W. JURNER, *Clerk*.

SUBCOMMITTEE ON S. J. RES. 131.

DUNCAN U. FLETCHER.	LEE S. OVERMAN, <i>Chairman</i> .	WILLIAM P. DILLINGHAM.
	E. P. BOWYER, <i>Assistant clerk</i> .	

## CONTENTS.

	Page.
Text of resolution (S. J. Res. 131) under consideration .....	5-6
Statement of Senator Shafroth.....	6-9
Statement of Oscar T. Crosby, Esq.....	9-25

MAR 21 1917



## INTERNATIONAL TRIBUNALS TO ENFORCE PEACE.

THURSDAY, JANUARY 18, 1917.

### UNITED STATES SENATE, SUBCOMMITTEE OF THE COMMITTEE ON JUDICIARY, *Washington, D. C.*

The subcommittee met in the room of the Committee on the Judiciary in the Capitol at 10.30 o'clock a. m., when there was present: Senator Overman, chairman.

The subcommittee thereupon proceeded to the consideration of Senate joint resolution 131, which was introduced by Senator Shafroth and referred to the Committee on the Judiciary on May 18, 1916, and by them referred to this subcommittee on December 13, 1916, and January 15, 1917, as follows:

(1)

#### JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States, authorizing the creation, with other nations, of an international peace-enforcing tribunal or tribunals for the determination of all international disputes.

1     *Resolved by the Senate and House of Representatives*  
2     *of the United States of America in Congress assembled,*  
3     That the following amendment to the Constitution of the  
4     United States be proposed to the several States of the Union,  
5     with recommendation that they adopt the same by vote of  
6     their respective legislatures:  
7     "The President is authorized to negotiate and, after  
8     ratification by two-thirds of both Houses of Congress, to sign  
9     a treaty or treaties with all or a part of the other sovereign  
10    nations of the world, engaging the United States to submit  
11    for final determination all its international disputes threaten-  
12    ing war to an international tribunal or tribunals, and also  
13    engaging the United States to assist in supplying funds for

(2)

1    the support of said tribunal or tribunals and of any inter-  
2    national civil and military establishment, to be controlled  
3    by an international authority, that may be required by the  
4    treaty or treaties as a sanction for the execution of the

5 decrees and the fulfillment of the demands of the said inter-  
6 national organisms when such decrees or demands are made  
7 in conformity with the agreements instituting said organisms,  
8 and engaging the United States to recognize the authority  
9 of said international organisms (or one or more of them) to  
10 make final interpretation of the powers conferred upon  
11 them."

Senator OVERMAN. Senator Shafroth, will you proceed?

**STATEMENT OF HON. JOHN F. SHAFROTH, A SENATOR OF  
THE UNITED STATES FROM THE STATE OF COLORADO.**

Senator SHAFROTH. Mr. Chairman, I desire to say a few words concerning Senate joint resolution 131, proposing an amendment to the Constitution of the United States, authorizing the creation, with other nations, of an international peace-enforcing tribunal or tribunals for the determination of all international disputes.

Mr. Chairman, the moving spirit who has induced me to examine into the question as to the kind of an arbitration tribunal which should be created is Mr. Oscar T. Crosby, who has made a life study of this question, who has traveled all over the world, and is familiar with the governments therein. He is a graduate of the United States Military Academy at West Point, but is an ardent advocate of peace. It has been largely through conferences with him that I have arrived at the conclusion that this joint resolution should be adopted. I wish, after the few minutes that I shall speak upon the subject, to ask you to hear Mr. Crosby upon this matter.

Senator OVERMAN. Senator, before you begin I should like to ask you why you think an amendment to the Constitution is necessary?

Senator SHAFROTH. I will come to that, if you will allow me.

When Mr. Crosby first presented this matter to me and suggested a constitutional amendment my thought was that the treaty-making power of the United States is broad enough to include the negotiating of an agreement for a peace-enforcing tribunal. Mr. Crosby took an opposite position and through his talks with me he converted me to his view. I maintained that if a government, by its treaty-making power, has a right to acquire territory or to cede territory, which right affects the sovereignty of the nation over the same, surely it would have a right to enter into an agreement such as is proposed. But I have come to the conclusion that it does not possess that power unless a constitutional amendment grants it.

What we are proposing is the creation of a court which shall recognize and keep inviolate the territorial boundary of each nation as against foreign powers as it exists at the time of ratification of the treaty unless modified by mutual consent, and which tribunal shall determine all disputes between nations.

We propose that the international court shall have the power to enforce its decrees; that each nation shall contribute its proportionate part of the navy and army with which to enforce its decrees, and also such funds as are necessary for the support of the tribunal; that each nation shall maintain an army only of sufficient size to maintain order among its inhabitants and to prevent raids of ban-

dits from other countries; that it shall maintain a navy only of sufficient size to enforce its own laws.

If such a tribunal is created it will end wars. A conflict between nations is a losing transaction to both the vanquished and the victors. When we look across the waters and see the death and destruction that are now taking place, the intense hatred that is being engendered, and realize the enormous national debts being contracted which will oppress the people for hundreds of years, there ought to be a universal approval of any measure that will produce a lasting peace. The competition among the nations of the world for the largest navy and greatest army must cease in order to preserve our civilization.

We have courts in our own country with power to enforce their decrees in disputes between our own citizens. We have the court armed with the sheriff in the case of a State court, or with the marshal in the case of a United States court, and each has a right to invoke all the powers of the State or the powers of the National Government to enforce them.

There is in the Constitution a clause which, in my judgment, prevents the United States Government from entering into such an agreement or such a treaty with other nations, and that is the clause which says that the Congress of the United States shall have the power to declare war. Now we propose to have the Congress and the States consider the advisability of taking away that power in order to establish a lasting peace. That power is inconsistent with the very court we propose for obtaining peace by the enforcement of its decrees in international disputes. On that account, in order to repeal the clause of the Constitution which says that Congress shall have the power to declare war, we maintain that it is necessary to have a constitutional amendment. Therefore, we are asking for the passage of this joint resolution, which does not compel the United States to take any action, which does not require the United States to enter into any agreement; but in the event that there is a bona fide effort upon the part of the nations of the world after the close of this European war to come to a distinct and clear agreement with relation to a lasting peace, we want to have all the powers that those governments possess to enter into such an agreement. We do not want to be met with the objection of other nations that "You are a Government of limited delegated powers, and we do not find that this power has been delegated in your Constitution, but we do find that Congress has the sole power to declare war; and here you are proposing by this peace treaty to take away that power without authority."

It is on that account that we want a constitutional amendment such as this in order to permit the Government, if it should deem it wise and proper, to enter into an agreement to establish an international court with power to enforce peace.

Senator OVERMAN. You want to take away the power of Congress to declare war?

Senator SHAFROTH. Yes, sir; I want to take away the power, in order to have all international disputes settled by a tribunal which shall have the means to enforce its decrees. If you leave in Congress the power to declare war, then you are going to have the same obstructions to peace that you have now. It will be necessary to