

# THE 'OUTLAWRY OF WAR'-MOVEMENT IN THE "PEACE MOVEMENT COLLECTION" AS COMPILED BY DR JACOB TER MEULEN IN THE PEACE PALACE LIBRARY IN THE HAGUE

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■ De Bibliotheek van het Vredespaleis bedient met zijn volkenrechtelijke collecties onder meer het Internationaal Gerechtshof van de Verenigde Naties. Een befaamde Directeur-Bibliothecaris was Jacob ter Meulen. Ter Meulen vormde twee belangrijke historische verzamelingen: over Hugo de Groot en van de Vredesbeweging. De Vredesbeweging-collectie bevat ook stukken van pacifisten die pleitten voor de uitbanning van de oorlog. Ter commemoratie van het einde van de Eerste Wereldoorlog en in een themanummer over oorlog en vrede is het uiterst opportuun om aandacht te besteden aan de Vredescollectie van de Bibliotheek van het Vredespaleis.

■ La Bibliothèque du Palais de la Paix, avec ses collections de droit international, sert, entre autres, à la Cour internationale de Justice des Nations Unies. Jacob ter Meulen était un célèbre Directeur-Bibliothécaire. Ter Meulen a constitué deux collections historiques importantes, l'une à propos de Hugo Grotius, l'autre sur le Mouvement Pacifiste. La collection du Mouvement Pacifiste contient des documents des pacifistes qui ont plaidé en faveur de l'élimination de la guerre et de la mise hors la loi de la guerre. Pour commémorer la fin de la Première Guerre mondiale et dans un numéro spécial sur la guerre et la paix, il est extrêmement opportun de s'intéresser à la collection du Mouvement Pacifiste de la Bibliothèque du Palais de la Paix.

**S**I VIS PACEM, PARA PACEM - if you want peace,  
prepare for peace

## Introduction

2018 marks the commemoration of the Kellogg-Briand Pact of 1928, named after the American Secretary of State Frank Kellogg and the French Minister of Foreign Affairs Aristide Briand. The Kellogg-Briand Pact, or Pact of Paris, is officially called "*General Treaty for Renunciation of War as an Instrument of National Policy*".

In this article the domain of the Peace Palace Library in The Hague will be described, and the work of Dr Jacob ter Meulen as Peace Palace Library Director, in particular concerning the formation of the archival Peace Movement Collection<sup>1</sup>, which contains files on the 'Outlawry of War'-movement.

The post-WW1 'Outlawry of War'-movement is interrelated to the 1928 Kellogg-Briand Pact. Correspondence available in the forementioned documentation of the 'Outlawry of War'-movement gives an extra and Dutch insight into the ideology and operations of the 'Outlawry of War'-movement. The article contains citations from these files.



Fig. 1: The Peace Palace Library, especially the Reading Room bridging between the historic monumental Peace Palace and the new Library & Academy Building.

## The Peace Palace Library

The Peace Palace Library fulfills a facilitating role for the documentary information provision of the International Court of Justice, of the Permanent Court of Arbitration, of the International Criminal Court, of other courts and tribunals in The Hague, of the Dutch Supreme Court (for comparative legal research), of the Hague Conference on Private International Law and for the 'corps diplomatique' in The Hague.

The Peace Palace Library also serves the Hague Academy of International Law, and any other academic audience of professors, researchers and students from abroad and from within the Netherlands.

The Peace Palace Library tasks are acquiring and maintaining, cataloguing/indexing and making

available books, ebooks, and (e)book items, (electronic) journals and e-journal articles, and databases, both in the reading room and via the digital library.

## Dr Jacob ter Meulen

Dr Jacob ter Meulen, the Peace Palace Library Director from 1924 till 1952, was born in a Mennonite (Christian-pacifist) family, he believed in peaceful resistance and stood for defenselessness; this might explain ter Meulen's library collection development work and the crucial role he played in the shaping of the Special Collections of the Peace Palace Library.

Ter Meulen expanded the Hugo Grotius-collection during the Interbellum, after the obliging initial donation by the The Hague based bookseller Wouter Nijhoff who presented to the Peace Palace Library his 55 copies of "De Iure Belli ac Pacis" ("On the Laws of War and Peace"), as a welcome gift in 1913 at the formal opening of the Peace Palace.

With ter Meulen's expertise many other important works of scholars of International Law of the pre-modern era were collected. Through this endeavour the unique History of International Law collection of the Peace Palace Library came into being. As such ter Meulen was the ultimate Hugo Grotius-bibliographer.

## The Peace Movement Collection

The Peace Movement Collection in the Peace Palace Library is undisputedly connected to Dr Jacob ter Meulen. He accumulated a collection consisting of books, pamphlets, newspaper clippings, letters and photographs from pacifist organizations and individuals connected to these organizations. These groups and individuals strived for world peace in the period 1900-1940. Most of the materials are in Dutch or in Western-European languages. Ter Meulen also was the ultimate bibliographer of the Peace Movement Collection.

All of the records in the Peace Movement Collection, roughly 1.500 items, are searchable in a database (a word from the title or description, or an author's name). Digitization of the Peace Movement Collection took place after all documents in the 55 folders were put on microfilm and photographed in 2004-2005 under the "Metamorfoze-project"<sup>2</sup> of the Koninklijke Bibliotheek, the National Library of the Netherlands. As each item was scanned and has become available in separate PDF-files, all texts in the Peace Movement Collection will be available online.

## The 'Outlawry of War'-movement; what it is

Against the background of World War I and the eventual peace negotiations which were to take place whenever the war would finally come to an end (and equally the discarded "*dulce et decorum est pro patria mori*") the debater-internationalist Salmon Oliver Levinson (1865–1941), an American corporate lawyer from Chicago, corresponding with the philosopher (of education) John Dewey, started authoring 'New World Order' articles describing the abolitionist aims of the 'Outlawry of War'-movement. It was all about the outspoken renunciation of war: not only prohibiting offensive wars - since resorting to war in such mode stands for failing to submit the dispute to arbitration and causing a crime, according to James T. Shotwell, director of research at the Carnegie Endowment for International Peace, who, by the way, in the course of time ended up at another view concerning outlawry - but also banning defensive wars - upon the advice given by John Bassett Moore, Judge at the Permanent Court of International Justice -, notwithstanding the permissible right of self-defense. In the words of Levinson, battling against the humanization of warfare through international treaties, such as the Hague Conventions: "*We should have, not as now, laws of war, but laws against war; just as there are no laws of murder or of poisoning, but laws against them.*" For the 'Outlawry of War'-movement courts of justice

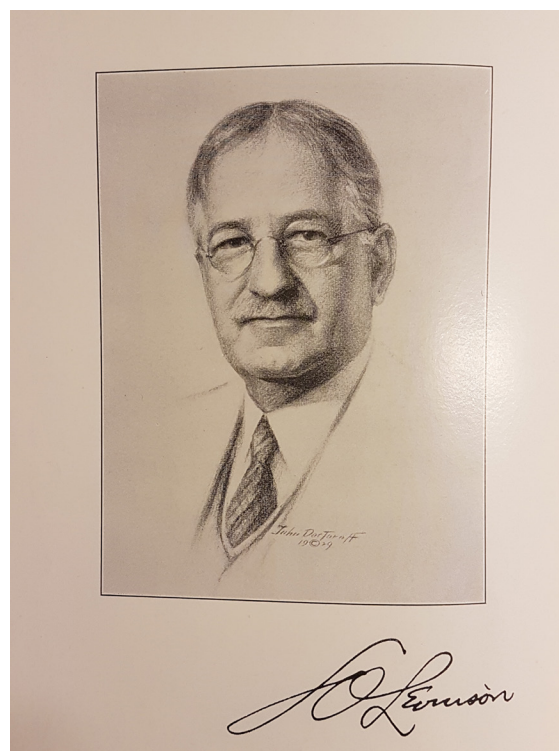


Fig. 2: Portrait of Salmon Oliver Levinson (1865-1941) - Source: J.E. Stoner, *S.O. Levinson and the Pact of Paris. A Study in the Techniques of Influence*. University Of Chicago Press, 1943.

respected by all civilized nations would have to rule for the peaceful settlement of international disputes.

This movement, over time, influenced public opinion in the United States and impelled politicians, such as senator William Borah, and leaders in other fields of society, such as the Christian-socialist minister C.C. Morrison; and the 'Outlawry of War'-movement evolved into the "American Committee for the Outlawry of War", which soon got a European branch as well. The main ideas of the 'Outlawry of War'-movement even reached the American Presidents Warren G. Harding and Calvin Coolidge in the early 1920s. By then, it still chiefly concerned the phenomenon of aggressive war, to be outlawed.

(Gunboat) diplomacy, supranational institutions, international courts all represent political force, according to the 'Outlawry of War'-movement, and ought to be superseded by confidence and trust amongst nations regarding their foreign relations. The League of Nations, in which the 'Outlawry of War'-movement had not placed that much faith, had not yet outlawed war (viz. articles 10 - 16 of the Covenant); war, as much as military sanctions, was still an accepted but ultimate mechanism to regulate and remedy deficiencies between States.

Reading on the 'Outlawry of War'-movement in the many brochures and letters in the Peace Movement Collection it may be concluded that the 'Outlawry of War'-movement, contrary to a criminal appeal to military force and warfare, does an appeal to reason, furthers codification of international law on the basis of the assumption of illegality of all types of war, favours the judicial solution of interstate disputes; more in particular concerning justice the 'Outlawry of War'-movement adopts the position that it should be established by means of an international treaty, enabling dispute settlement and court decisions, which are characterized by compulsory and affirmative jurisdiction without any reservation, at the level of a World Supreme Court, where all States are equal before the law, capable of summoning in the offending state upon the petition of a complaining State, and this all would result in justice and peace. The World Supreme Court is distinct from arbitration courts (since arbitration lives in the same house as war) and the Permanent Court of International Justice because these bodies do not have such a power.

### The 'Outlawry of War'-movement in the Peace Movement Collection

Were, as mirrored in the Peace Movement Collection, reactions and reflections of the Peace Movement on the Kellogg-Briand Pact of 1928 enthusiastic or euphoric, critical or cynical? How was written in the

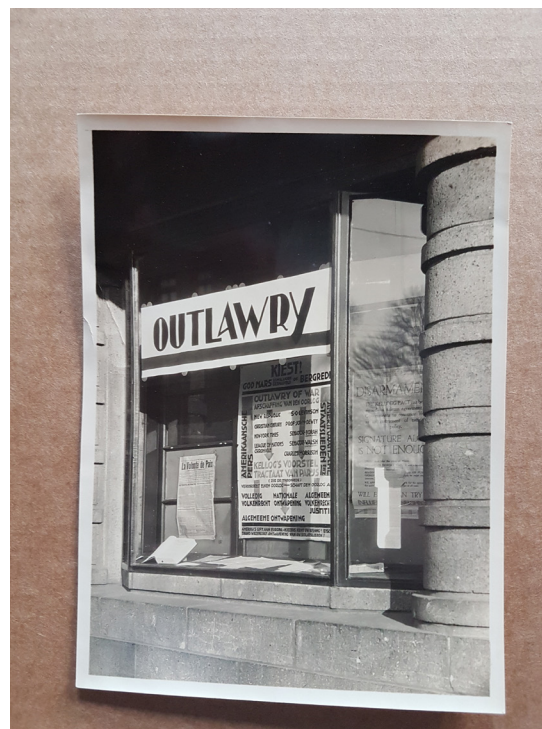


Fig. 3: Photo of a poster in Dutch on Outlawry in a store display.

Peace Movement Collection about the impact of the Kellogg-Briand Pact on the League of Nations, would the Kellogg-Briand Pact weaken the League of Nations since the League of Nations contains already the seeds for a future World Peace? Would, according to the documentation in the Peace Movement Collection, the Kellogg-Briand Pact eventually bring about or distract from the unilateral and national disarmament?

### W.H.A. Elink Schuurman in the 'Outlawry of War'-movement in the Peace Movement Collection, first part: brochures

W.H.A. Elink Schuurman - about whom hardly any biographical detail can be found -, was a lawyer, chiefly working in fire insurance and in social insurance. And foremost for the 'Outlawry of War'-movement, he was in the anti-militarist community, he was an anti-war activist. Later in his lifetime Elink Schuurman became lecturer at the Polytechnic School in The Hague.

Elink Schuurman authored (at least) three brochures very much characterizing his political and legal stand as an anti-war activist. In 1929 he wrote "*Het Kellogg-verdrag van 27 augustus 1928, een schets van de voorgeschiedenis*" ("The Kellogg-treaty of 27 August 1928, its history"), in 1926 "*Recht door Vrede. Een ontwapening rondom 's Gravenhage, zetel van het Permanente Hof van Internationale Justitie*" ("Peace through Justice. A disarmed zone around The Hague, the seat of the Permanent Court of International Justice"), and in 1922 "*De*

verklaringen van Washington. Waartoe in Indië een oorlogsmarine?" ("The declarations of Washington. Why a navy in the Dutch East Indies?").

### J.B.Th. Hugenholtz, the Red Reverend, in the 'Outlawry of War'-movement in the Peace Movement Collection

(George) Harrison Brown<sup>3</sup> was born in Surrey, England, in 1893, and died as a Canadian citizen in 1977. In 1914 he enlisted in the British Army and served in France during the First World War. Thereafter Harrison Brown became active in (the European branch of) the 'American Committee for the Outlawry of War', headed by Salmon Levinson.

Harrison Brown was in contact with The Netherlands and his interaction and communication was not confined to pacifists within the Peace Movement. Harrison Brown also received full support from Clasina Albertina Kluyver, a permanent official in the Dutch Foreign Office, and secretary to the Dutch delegation negotiating on the 1924 Geneva Protocol for the Pacific Settlement of International Disputes, stating that a nation unwilling to accept dispute settlement by law would be labelled an aggressor. Through Clasina Albertina Kluyver Harrison Brown could also reach out to J. Limburg, member of the Dutch Council of State, and to the diplomat J. Loudon.

Harrison Brown succeeded as well to establish a highly supportive connection with the Christian-pacifist Professor David van Embden, a parliamentarian of the progressive-liberal Free-thinking Democratic League.

On 27 July 1927, Harrison Brown, in his capacity of European Representative of the "American Committee for the Outlawry of War", writes to the "Red Reverend" J.B.Th. Hugenholtz, a friend of Elink Schuurman. He announces his European tour to promote the Levinson plan, which he perceives as a programme not so easy, and he writes that it will be difficult to attract supporters, because the Levinson programme is sceptical about the phenomenon of justice.

Another recurrent item is the desire of States to be entitled to defensive war. Brown writes: "*The point you raise about defensive war is a good one. I of course agree with you that there is no such thing in modern politics as the necessity for a defensive war.*"

Brown continues: "*Levinson does not believe in the parallel between individual and national self-defence, the phrase about 'genuine self-defence not being affected' is in my opinion pondering to the ignorance of the public. Levinson however says that in America he could not get a start without that mention, his own idea is that these 'self-defence'*

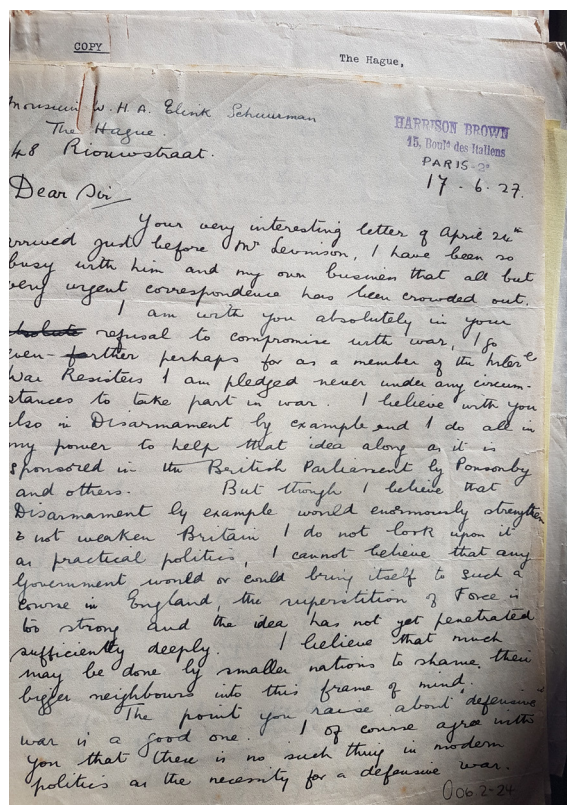


Fig. 4: First page of a letter by Harrison Brown to Elink Schuurman.

stories are nonsense and that no such case exists today but that if such a case did exist nothing that Law or anything could do would have more affect." And he goes on: "If a man is attacked he will defend himself, the thing to do is to make it impossible for diplomats to persuade people that their country is in danger from attack when in reality it is the diplomats themselves, intentionally or through incompetence, who have brought about the situation."

Brown adds: "*I find that this mention of 'defence not being affected' gives an entirely wrong impression in Europe and as I have now had an opportunity of talking the matter over with Mr Levinson I do not propose to use it in any form in future publications.*"

Then Brown continues on the Kellogg-Briand Pact and mentions that Levinson in no sense shares the views of Professor Shotwell, Levinson's internationalist intellectual counterpart working on aggressive warfare and the criminalization thereof. Levinson considers all attempts to "define the aggressor" long-winded and rather ridiculous.

About Briand's stand Brown writes the following: "... Briand sent through his official proposal on the lines suggested - that is for a simple treaty with no reservations whatsoever undertaking 'that under no circumstances will France and America go to war with each other.'"

Then Brown admits that there are dangers: "... This idea has been much discussed ..., there has been much talk of outlawing 'guilty' nations, now we shall begin to hear something about outlawing a guilty system. Until international relations are civilized to this elementary extent I see little hope of more than an armed truce - which cannot last very long anyway."

But he ends more positively: "Once France and America stand committed to this new attitude towards war it will be difficult for either to refuse similar treaties with other countries. The ball will have been set rolling and I strongly believe will have started with such impetus that even the personal chicanery of politicians and the interests of profiteers will be unable to stop it. Another important thing is that if we obtain such a Treaty ... [it] will very probably be voted by the American Senate."

Brown concludes: "Once that is done I believe it will be possible to induce a number of European Parliaments to do the same thing and pass similar resolutions. All this will in itself provide enormous impetus to the Peace Movement and afford unprecedented publicity."

### W.H.A. Elink Schuurman in the 'Outlawry of War'-movement in the Peace Movement Collection, second part: Harrison Brown

Harrison Brown explains the system of reservations to the Kellogg-Briand Pact to Elink Schuurman on 7 October 1928: "due to the British reservation the [American] Senate is likely to insert a reservation concerning the American Monroe Doctrine. [...] we are doing our utmost to prevent [this]."

And Brown expands: "Briefly the history of the Pact is as follows. Its background is the intense peace feeling of the American public whose strength is shown by the fact that, with Sen. Borah's help, the peace movement stopped the Administration from starting war with Mexico in the spring of 1927 and also broke the Big Navy Bill which called for 71 NEW SHIPS."

### W.H.A. Elink Schuurman in the 'Outlawry of War'-movement in the Peace Movement Collection, third part: Salmon Levinson

Salmon Levinson, Chairman of the 'American Committee for the Outlawry of War', writes to W.H.A. Elink Schuurman on 9 April 1929. Apparently Elink Schuurman asks how things concerning the Kellogg-Briand Pact came into being - perhaps for the brochure he plans to write. Levinson answers: "Do not ask about the intellectual rooting or the people initiating the Pact", "[w]e are now

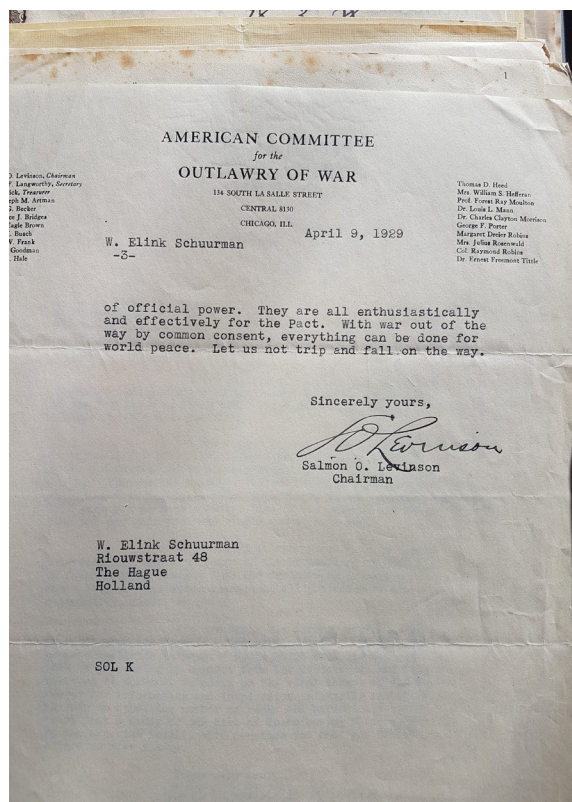


Fig. 5: Third page of a letter by Salmon Oliver Levinson to Elink Schuurman.

working to get the Peace Pact ratified universally so that it may become fundamental international law."

On the position of small or smaller States Levinson says: "I know of no greater advantage to the so-called smaller states than to be rid of war altogether and therefore become the equal of all nations before the law. Hitherto priority has been awarded internationally to the nations with the largest and most effective fleets and armies. Hereafter, if public opinion supports and protects the Peace Pact, justice and right will hold the scales even between the nations."

He proceeds: "And again: The League has been helpless in trying to make article 8 of the Covenant on disarmament effective. So long as war is lawful and available it is illogical and impractical to get rid of the implements of war. You can no more carry on wars without armament than you carry on lawsuits without courts, lawyers, juries or law. War has been used as the great international court to determine right and justice - to the shame of civilization."

After having expressed his appreciation for the French and for Briand, he continues: "We must get all the ratifications in, then celebrate the World Peace Holiday Festival on August 27, not with prayers for the dead but with hopes for the living and joy for the common people; then have the Assembly of the League of Nations, early September, put its great

power behind the Pact by declarations, speeches, resolutions, etc. After that the work of disarmament will become logical and irresistible."

And Levinson ends: "With war out of the way by common consent, everything can be done for world peace."

Let's end with Elink Schuurman: "Defensive wars are as unjust as all other wars, and ought to be outlawed, for all wars should be outlawed, irrespective of the circumstances out of which they came into being. Land army or naval fleet expansion is serving God Mars. He who chooses for the legality of a defensive war, which will lead to a series, a chain, an avalanche

of subsequent so-called defensive wars, approves of millions of casualties, caused by God Mars. But he who lives after the Sermon of the Mountain, the word of the Almighty, chooses for outlawry of war: no force - an eye for an eye -, but love - love your enemies -."

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## Notes

1. Peace Palace Library. Peace Movement Collection [on-line]. <<https://www.peacepalacelibrary.nl/collection/special-collections/peace-movement-collection/>> (retrieved on 13 October 2018)
2. Koninklijke Bibliotheek. Metamorfoze [on-line]. <<https://www.metamorfoze.nl/>> (retrieved on 13 October 2018)
3. Sanford, J., Simon Fraser University Special Collections and Rare Books, Harrison Brown Fonds – MsC 57 s.l. 2010, [on-line]. <<https://www.lib.sfu.ca/system/files/28909/BrownHarrisonFonds.pdf>> (retrieved on 13 October 2018)