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Genève, 30 septembre 1921.

DEUXIÈME ASSEMBLÉE DE LA SOCIÉTÉ DES NATIONS.

Trafic de l'Opium.

RÉSOLUTIONS ADOPTÉES PAR L'ASSEMBLÉE

A SA SÉANCE DU VENDREDI 30 SEPTEMBRE 1921 (matin)

(à la suite du rapport de la cinquième Commission).

I. L'Assemblée approuve les paragraphes 1, 2, 4 et 5 de la Résolution du Conseil du 28 juin 1921 :

1. Que les Etats Membres de la Société qui n'ont pas encore signé ou ratifié la Convention internationale de l'Opium soient invités à le faire le plus tôt possible.

2. Que le Gouvernement des Pays-Bas soit invité à continuer ses efforts en vue d'obtenir la ratification de la Convention internationale de l'Opium par les Etats qui ne sont pas Membres de la Société.

3. (Paragraphe 4 de la Résolution du Conseil.)

Que les Gouvernements parties à la Convention soient invités à adopter la procédure suivante, en vue de remplir les obligations résultant des articles 3, 5 et 13 de la Convention internationale de l'Opium :

« Toute demande d'exportation faite par un importateur pour la fourniture de l'un quelconque des produits auxquels s'applique la Convention devra être accompagnée d'un certificat du gouvernement du pays importateur, déclarant que l'importation de la quantité mentionnée est approuvée par le Gouvernement et qu'elle est nécessaire pour des besoins légitimes.

« Dans le cas de drogues visées au chapitre III de la Convention, le certificat spécifiera expressément qu'elles sont uniquement destinées à des usages médicaux ou scientifiques. »

4. (Paragraphe 5 de la Résolution du Conseil.)

Que l'attention des Puissances contractantes ayant des traités avec la Chine soit particulièrement attirée sur les dispositions de l'article 15 de la Convention internationale de l'Opium, en vue de faire prendre les mesures les plus efficaces pour réprimer la contrebande de l'opium et autres drogues dangereuses.

II. — L'Assemblée approuve la seconde recommandation adoptée par la Commission consultative du Trafic de l'opium, à sa session du 2 au 5 mai 1921 :

5. Que tous les pays qui ont pris part à la Convention présentent chaque année à la Société des Nations un rapport exposant les mesures prises sur leur territoire pour appliquer les clauses de la Convention et donnant des détails statistiques sur la production, la fabrication et le commerce de l'opium.

III. L'Assemblée adopte en outre les recommandations suivantes, présentées par sa cinquième Commission :

6. L'Assemblée approuve le paragraphe 3 de la résolution du Conseil du 28 juin 1921, étant entendu que les enquêtes entreprises auront un caractère scientifique et que, lorsqu'elles s'appliqueront en particulier à un pays déterminé, elles seront faites par l'intermédiaire du gouvernement du pays ou avec son consentement.

7. L'Assemblée recommande au Conseil que, dans sa résolution N^o. 5 du 28 juin 1921, il attire également l'attention du Gouvernement de la Chine sur l'article 15 de la Convention internationale de l'Opium.

8. L'Assemblée recommande au Conseil que, afin que l'examen visé dans le paragraphe 7 de sa résolution du 28 juin 1921 s'étende sur toute la quantité d'opium dont la consommation peut être considérée comme légitime, le mot « strictement » soit supprimé et les mots « médicaux et scientifiques » soient remplacés par le mot « légitimes » et aussi que le Conseil supprime toute mention de l'« opium préparé », c'est-à-dire, l'opium préparé pour être fumé, dont la suppression complète est prévue par la Convention au chapitre II:

9. L'Assemblée recommande au Conseil d'inviter les divers Gouvernements à fournir au Secrétariat, quand ils n'y voient pas d'obstacle, outre le rapport officiel annuel, tous renseignements relatifs à la production, à la fabrication et au commerce illicites d'opium et autres drogues nuisibles, utiles à la Société dans l'accomplissement de sa tâche.

10. L'Assemblée recommande au Conseil d'examiner si toutes les nations particulièrement intéressées à la culture ou à la fabrication de l'opium et autres drogues nuisibles, ne devraient pas être représentées à la Commission consultative.

11. L'Assemblée prie instamment ceux des Etats Membres de la Société (1) qui n'ont pas encore signé et ratifié la Convention de l'Opium, qu'ils le fassent aussitôt que possible.

12. L'Assemblée prie instamment tous les Etats Membres de la Société qui sont signataires de la Convention, de faire connaître, aussitôt que possible au Secrétariat, leur adhésion à la quatrième recommandation de la Commission consultative relative à la nécessité de certificats d'importation, afin de faciliter l'exécution de la Convention.

13. L'Assemblée recommande au Conseil de charger la Commission consultative d'étendre ses études, de façon à ce qu'elles comprennent non seulement les drogues visées dans la Convention de 1912, mais toutes les autres drogues nuisibles, quelle que soit leur origine, et produisant des effets similaires, ainsi que de lui faire connaître les avantages qu'il y aurait à convoquer une nouvelle Conférence internationale des Etats signataires de ladite Convention, et de ceux Membres de la Société des Nations, afin que celle-ci rédige une Convention à l'effet de supprimer l'usage illégitime de ces drogues.

(1) Les Membres suivants de la Société n'ont pas encore ratifié la Convention de l'Opium de 1912, ni signé le Protocole de 1914 :

Albanie.

Argentine.

Chili.

Colombie.

Costa-Rica.

Esthonie.

Finlande.

Lettonie.

Lithuanie.

Paraguay.

Perse.

Salvador.

Suisse.

Les Membres suivants ont ratifié la Convention, mais n'ont pas encore signé le Protocole de 1914 :

Danemark.

Venezuela.

GENEVA, September 18th, 1925.

LEAGUE OF NATIONS.

FINANCIAL RECONSTRUCTION OF AUSTRIA.

REPORT OF THE SECOND COMMITTEE TO THE ASSEMBLY.

Rapporteur : H. E. M. MICHELET, Delegate for Norway.

The Second Committee has noted with extreme satisfaction the progress which has been accomplished in the financial reconstruction of Austria. The reconstruction scheme drawn up by the Council and the Financial Committee during the Third Assembly aimed principally at the stabilisation of Austrian currency and the balancing of the State budget. From the information given to the Second Committee by His Excellency M. Mataja, the Austrian Minister for Foreign Affairs, and M. Zimmerman, Commissioner-General of the League of Nations in Austria, it is clear that this twofold programme has been realised. As the Financial Committee stated in its Report to the Council, dated September 10th, 1925 (document C. 528, 1925 II) :

" 1. The Austrian currency has been stable since the League of Nations Reform Scheme was drawn up in the autumn of 1922.

" 2. The ordinary budget for 1924 showed a surplus, which was devoted to covering a substantial part of the capital expenditure. In view of the figures at present available, a similar result is expected as regards the budget for 1925. The level at which these results have been reached has been higher than was originally hoped. A part of the capital expenditure has been, and is being, met from the League Reconstruction Loan."

According to the Geneva Protocols of October 4th, 1922, the work of the Commissioner-General will be terminated by a decision of the Council of the League of Nations when the latter shall have ascertained that the financial stability of Austria is assured.

This provision in the Protocol was subsequently defined by an Agreement concluded with the Austrian Government on September 16th last year, under the terms of which the Financial Committee might recommend the Council to declare that financial stability had been attained :

(1) If the budget results for 1925 remained within the limits agreed upon, that is to say, if expenditure did not exceed a maximum of 545 million gold crowns, including 50 millions for capital expenditure ;

(2) If the budget adopted for 1926 remained within the same limits ;

(3) If certain reforms mentioned in the Agreement had been carried out ;

(4) And, finally, if the general economic situation inspired sufficient confidence.

The progress in carrying out the Agreement of September 1924 — although in some points it has not been possible to carry out the programme laid down — has enabled the Council at its present session to take up the question of terminating the control. The Financial Committee's report (document C. 528, 1925, II) shows clearly the form in which this problem presents itself and the solution which has been found.

The problem is not, in point of fact, so simple as might be thought at first sight. The intervention of the League of Nations has played a decisive part in the reconstruction of Austrian credit, both in the country itself and abroad. Austria still depends to a very great extent on foreign credits. These credits are at present at its disposal principally in the form of short-term credits. As is stated in the report by Mr. Layton and Professor Rist, the two experts whom the Council appointed to make a general enquiry into the economic situation of the country : " In existing circumstances, it is of supreme importance to Austria that her foreign credits should not be withdrawn. This is not merely a question of the rate of interest. It also depends upon the confidence of foreign money markets in the financial situation of the country "

It is therefore necessary at all costs to avoid any uneasiness which might be caused by a sudden and total withdrawal of control. It is for this reason, which is, moreover, fully understood by the Austrian Government, that a system of gradual transition in several stages has been decided upon.

The first stage is marked by the Commissioner-General's decision to attenuate the control, which was communicated to the Austrian Government on August 11th last. By

this decision the Commissioner-General ceased, from that date, to exercise supervision over the various chapters of the budget and over detailed expenditure and restricted his activities to the supervision of the general budget position.

Further, at its meeting of September 10th, the Council, at the suggestion of the Financial Committee and in agreement with the Austrian Government, adopted the following measures :

(a) As from January 1st, 1926, the Commissioner-General's control shall be limited to a control over the assigned revenues and over the expenditures of the remainder of the reconstruction loan. He shall from that date be released from the obligation to reside permanently at Vienna if he considers such residence to be unnecessary. These measures will be equivalent in reality to a suspension of the control.

(b) When the budget for 1926 has been passed and the closed accounts for 1925 have been presented, which may be expected about May or June of next year, the Commissioner-General's control will cease.

The application of these measures depends on the passing by the Austrian Parliament of enactments allowing the maintenance, for three years, of the foreign Adviser to the National Bank, appointed by the Commissioner-General, and leaving to the Council for ten years the right to re-establish its control by a three-fourths majority, if the proceeds of the assigned revenues should prove insufficient to cover the service of the loan or if the balancing of the budget should be seriously threatened.

The point of these proposals submitted to the Austrian Parliament is to give foreigners every confidence in the monetary and financial future of the country, even after the control has been removed. We may be sure that, after experiencing the disastrous consequences of inflation, the Austrian people will do its utmost to pursue a thoroughly sound financial policy and to maintain the stability of the budget and currency, so that the question of re-establishing control will never arise.

We see, therefore, that the work of financial reconstruction is nearing its end. The Assembly will no doubt wish to congratulate the Austrian Government, and the organs of the League which have co-operated with it — the Council, the Financial Committee and, above all, the Commissioner-General. It is thanks to the constant and intimate collaboration of statesmen and technical experts, rendered possible by the organisation of the League and not conceivable outside the League, that it has been possible to accomplish this work, so entirely new in conception and presenting such almost insurmountable difficulties in execution, to the advantage not of Austria alone but of Europe and the world as a whole.

The financial task completed, the economic still remains. The Assembly knows, from the excellent report of Mr. Layton and Professor Rist, that Austria possesses all the necessary resources and has made remarkable progress during the last few years. Much still remains to be done in that sphere, however, as regards both the improvement of conditions of production and the development of markets. This report is in the hands of the Council, which has laid it before the Economic Committee. The economic problems are, it is true, even more complicated than the financial and currency problems, and we are under no delusion as to the difficulty of solving them, but the Second Committee expresses the hope that the work undertaken by the Economic Committee will soon show positive results.

The Second Committee has the honour to propose to the Assembly the adoption of the following resolutions :

" 1. The Assembly desires to express its satisfaction at the progress made by Austria towards the stabilisation of her finances, as shown in the Commissioner-General's reports and in the declaration of the Austrian Minister for Foreign Affairs. It tenders its congratulations to the Austrian Government and to the Commissioner-General.

" 2. It is happy to see that the work undertaken by the League is approaching its conclusion and notes the resolutions of the Council and the report of the Financial Committee, which contemplate the speedy termination of the control.

" It hopes that the measures which will allow the control to be abolished will soon be realised.

" 3. The Assembly has further noted the conclusions embodied in the report of the experts entrusted by the Council with the investigation of the economic situation of Austria.

" It hopes that the enquiry to be carried out by the Economic Committee will soon yield positive results."

Geneva, September 19th, 1925.

LEAGUE OF NATIONS

WORK OF THE FINANCIAL COMMITTEE

(Other than Austria and Hungary).

REPORT OF THE SECOND COMMITTEE TO THE ASSEMBLY.

Rapporteur : Mr. SAMUEL, *Delegate of the British Empire.*

The members of the Second Committee will have read the passages in the Report and Supplementary Report to the Assembly regarding the financial work of the year. They have also had the opportunity of hearing the Commissioners-General in Austria and Hungary; and the reconstruction work in these two countries is to form the subject of separate reports. I shall therefore confine myself to commenting upon the remaining work of the Financial Organisation.

It falls under five heads, *i. e.* :

1. The Greek Refugee Settlement Scheme ;
2. Danzig ;
3. Esthonia ;
4. The question of double taxation ;
5. The financial publications of the League.

1. THE GREEK REFUGEE SETTLEMENT SCHEME.

When the Assembly met last year, the Geneva Protocol had been signed and a beginning had been made with the £3,000,000 advanced by the Bank of England and the Bank of Greece. You will remember that the total number of refugees requiring settlement had been estimated at about 1,000,000 ; that about £6,000,000 could be raised on the securities offered and that this sum would make it possible to settle most of them in productive employment and that, in order to organise the work of settlement, the Greek Government had agreed to establish the Settlement Commission, consisting of a Chairman of American nationality, representative of relief organisations ; a member representing the Council of the League ; and two Greek members. The first two are appointed by the Council, and the Chairman has a casting vote. It was also agreed that the Greek Government would raise a loan up to £6,000,000, the proceeds of which would be handed over to this Commission for the work of settlement. This work was limited to productive settlement, and charitable grants were expressly excluded.

While the last Assembly was meeting, discussions took place between the Financial Committee and the Greek Government, in which it emerged that the securities offered by the Greek Government had greatly increased since 1923 ; that the value of the land was higher than had originally been estimated ; and that improvements had taken place in the general financial situation.

In these circumstances it was agreed that the amount of the loan might be raised to an effective sum of £10,000,000, and this provision, together with a few minor alterations to the original Protocol, was embodied in an Additional Act. The Assembly, in its resolution of September 25th, 1924, expressed the hope :

“ That the loan might be successfully issued, and that the whole of the undertaking, so vital to the economic and political stability of Greece, might be carried through to a successful conclusion.”

The progress of the work during the past year has justified this hope. The loan, which yielded an effective sum of slightly over £10,000,000, was subscribed in London, New York and Athens in December 1924, and with it the prospect of being able to complete the main part of the settlement work was assured.

Over 700,000 refugees have been productively settled in agriculture or housed in urban settlements near Athens, and on this work £7,000,000 out of the £10,000,000 have been expended.

It was obvious that a task of such magnitude, and in which so many interests were involved, would encounter difficulties. Some of these have been mentioned in the last Report of the Commission. I need not refer to them in detail as they have now been entirely eliminated under arrangements made by the Greek Committee of the Council.

The Commission still has a considerable task before it, and, owing to a considerable influx of refugees into Greece since the scheme was launched in excess of the number originally estimated, the Greek Government and the Commission believe that more money will be required if all the refugees are to be productively settled. But the Commission has already broken the back of the work, and I think the Assembly may congratulate itself on its success in the past and may, in view of the arrangements now made by the Council, have every hope for its future.

All observers are agreed that the refugees form admirable material. They are energetic and industrious and rapidly take advantage of the opportunities afforded them.

The details of the work are described in the Quarterly Reports of the Commission, which are submitted, in accordance with the Protocol, to the Council and to the Greek Government.

The Settlement Commission instituted under the auspices of the League, on a scheme prepared by its Financial Committee, has thus been the successful instrument of carrying out this vast piece of work, the effect of which is not only to relieve suffering and open up a happier future for the unfortunate refugees themselves, but also to strengthen permanently the whole economic life of Greece.

2. DANZIG.

Almost since its foundation the League of Nations has, by reason of its political responsibilities, devoted attention to the financial problems of the Free City of Danzig, whose territory was placed in a special category by the Treaty of Versailles. You are aware of how the Financial Committee in previous years helped to bring about the monetary reform in this territory and established the new gulden currency.

In 1925 the League of Nations was connected with the issue of a loan of a million and a-half pounds sterling floated by the Municipality of Danzig.

I wish to draw your attention to the differences and similarities between this loan and those already granted to Austria, Hungary and Greece, under the auspices of the League of Nations.

The Danzig loan was not required for reconstructive work of such importance as to be almost vital for the territories in question. Moreover, the responsibilities undertaken by the League of Nations in connection with this municipal loan are much more limited, owing to the circumstances in which its assistance was requested, than those which it assumed in connection with the three large loans to which I have just referred.

The Council was merely requested to appoint a trustee to examine the receipts of the municipal undertakings and to see that the money raised by the loan should be expended on certain definite objects.

It is also competent to approve modifications in the programme of expenditure.

The Municipality had previously entered into negotiations with the banking houses representing the lenders. The bankers were prepared to make the advances required on condition that the Financial Committee and the Council of the League of Nations accepted certain definite responsibilities connected with the execution of the loan programme.

Having pointed out these fundamental differences as compared with the three preceding loans, I may refer to the similarities, in which you will recognise the customary methods of the League's technical organisations. Allowing for the difference in the amounts, the difficulties were the same. Agreement had to be brought about between the various interests concerned and political considerations had to be reconciled. The object of the loan was not only to bring about an improvement in the municipal undertakings, but also to carry out certain work in the port of Danzig. The administration of this port is under the control of a special body (Harbour Board) composed of Poles and citizens of Danzig. The Polish Government and the authorities of the Free City of Danzig were consequently directly interested in that part of the loan which was to be used for port works.

When the Financial Committee examined the proposals submitted to it, it had to consider all these aspects of the problem. According to its custom, it acted both as a mediator and as a technical expert. In March 1925, various agreements were concluded under its auspices and in accordance with its directions between all the parties in question, namely, the authorities of the Free City and of the Municipality, the Harbour Board, and the Polish Government.

The results of all these negotiations were as satisfactory as those obtained in connection with the previous loans. This, the fourth loan issued under the auspices of the League of Nations, was successfully floated in London in March 1925.

3. ESTHONIA.

The assistance given to Esthonia by the League of Nations is of a different kind from that accorded to the countries already mentioned. The League was not called upon to assist in the raising of a loan nor to appoint an adviser residing for a certain period in the country.

At the request of the Esthonian Government, the Financial Committee, in February 1925, sent out a delegation consisting of M. Avenol and Mr. Loveday, and, as a result of this mission, a very interesting report was published with the assent of the Esthonian Government, including a general statement of the principal economic and financial factors of the situation.

and recording the opinion of the Committee in reply to certain definite questions put by the Estonian Government.

The Financial Committee recommends that the statutes of the Bank of Estonia should be modified so as to bring them into line with those adopted by Austria, Hungary and Danzig. It gives advice to the bank of issue with a view to the employment of its reserves abroad to the best advantage and recommends that the question of establishing a mortgage institution should be investigated.

It is of interest that a State, without in any way sacrificing its independence, should ask the technical organisations of the League of Nations for advice, and authorise the publication of this advice, which may be found useful by any of the States Members confronted with similar problems.

4. DOUBLE TAXATION AND TAX EVASION.

After speaking of various countries which the Financial Committee has in one way or another helped with specific advice, I have yet to touch on a problem of general interest: the question of double taxation and tax evasion.

You will remember that the Financial Committee appointed a small Committee, consisting of the representatives of the fiscal administrations of seven European countries, to discover whether it would be possible to arrive at an agreement upon certain common principles. These experts finished their work in February 1925, the Financial Committee approving the results in their main outlines. Their aim is, in the first instance, to decrease or eliminate the *double taxation* which arises when a taxpayer living in one country and deriving a portion of his income from another country has to pay a tax on that income in both States.

I shall not here discuss in detail the solutions proposed by the experts. It will be enough to point out that they are different in the case of the so-called impersonal or schedular taxes and of personal or general income tax respectively. In the first case, the principle adopted is that the State in which the source of income is situated is entitled to impose these taxes. In the second case, on the contrary, it is only the State of domicile of the taxpayer which — apart from certain exceptions — can levy the general tax. The definition of these exceptions and exemptions constitutes an important part of the experts' report and requires exhaustive study. This report, which was published under the auspices of the Council of the League, has already called forth comment, especially in the British financial Press. It should be noted that, simultaneously with the work of the League experts, the International Chamber of Commerce has had under consideration this same question of double taxation. Its views, at first widely divergent from those of the Geneva experts, have, after repeated reconsideration, gradually come into line with them, and at its last general conference held at Brussels this year, the International Chamber of Commerce agreed, subject to a few amendments, to the conclusions of the technical experts, which had been already approved by the Financial Committee of the League of Nations.

We have here, therefore, a text which may be considered to be the co-ordinated results of investigations simultaneously undertaken by the revenue authorities and by the representatives of the great commercial associations of the whole world. What is to be the outcome of this document?

The Council of the League of Nations, following the suggestions of its Committee, and desiring to secure practical results, has laid down the principle of convening a conference of experts, constituted on a wider basis than the Committee of which I have spoken, and including representatives of the following States: France, Great Britain, Italy, Switzerland, Czechoslovakia, the Netherlands, Belgium, Poland, Germany, Japan, the Argentine Republic, the United States and Venezuela.

The invitations have just been sent out, and this Conference should meet during the year 1926. Basing its investigations on the text of the seven original experts and availing itself of the new light thrown on the subject by the delegates of the States newly represented, the object of the conference will be to ascertain whether it is possible to prepare preliminary drafts of an international convention. These drafts could then be used as the programme of a general international conference.

The importance of the advance which has been made since the last Assembly needs no further reiteration. The practical solution of the problem of double taxation is one of those which at first aroused the deepest scepticism. It is true that this problem involves so many divergent interests that a certain scepticism must be admitted to be natural. In order to gauge the difficulties of the problem, it must be remembered that one of the fundamental reasons for the opposition between the points of view of the various Governments lies in the fact that it is in the interest of certain States that taxpayers resident within their territory should bear the burden of a tax on their entire income wherever it arises, while other countries obtain revenue by taxing income procured within their territories by foreign investment.

Solutions are, however, possible and have already been realised to a limited extent. Last year, conventions with respect to taxation of maritime transport were concluded between the United States, Great Britain, Sweden, Japan, etc. Again, various Central European States have concluded mutual treaties marking the limits of the competence of the various Treasuries with respect to income-tax; Italy has also signed and ratified a treaty with Czechoslovakia, and the Succession States of the former Austro-Hungarian Empire drew up an international convention at Rome in 1921.

The efforts which were made by the original experts and those that will be made by the proposed conference in the attempt to find a solution as general as possible for the problem of double taxation are therefore worthy of praise.

While attempting to protect the taxpayer from the payment of multiple income-tax, the experts also endeavoured, in accordance with the recommendations of the Genoa Conference, to take measures to prevent States from losing a part of their revenue by what is known as tax evasion. This is, in fact, another aspect of the fiscal problem, and the correlation between the two questions examined by the experts is well expressed by the following passage in the report :

“ Taxpayers alarmed by proposals for fiscal control do not understand that, before or during the framing of measures which may prove embarrassing to them, States do not come to some agreement in order suitably to define their respective jurisdictions as regards taxation and to avoid double taxation. On the other hand, if States, in concluding agreements to avoid double taxation, are driven to make sacrifices in the matter of the yield from taxation owing to the granting of exemption or relief, or a reduction of the rates of their taxes, they may properly endeavour to find compensation for what they thus surrender in measures against tax evasion. Essentially, however, connection between the two problems is much more a moral than a material one ; the idea of justice in the production of taxes is the predominant consideration in all the investigations which all the experts have adopted.

“ The proposed measures against tax evasion are in the interest of all honest taxpayers.

“ The Committee adds that, by making good the loss suffered by any Treasury through the concealment of income, States can not only indemnify themselves for the sacrifices necessitated by the abolition of multiple taxation but can also reduce the rates of their taxes.”

We can only commend the object aimed at by the experts, but we must not minimise the difficulty of the means to be used. I know that my own country has already concluded a convention with France, more or less restricted in its application, with respect to evasion in the case of death duties. Certain Central European States have also entered into arrangements to assist one another in the recovery of taxes. But the greatest precautions are necessary and the experts have themselves recognised — and this does credit to their sense of realities and their practical merit — that conventions intended to restrict tax evasion should be as far as possible universal, for, if only two States conclude agreements, there is some danger of an exodus of their capital to another country which has not signed any convention.

The experts have, however, drawn up general resolutions and these, together with the resolutions concerning double taxation, will be examined by the proposed conference of which I have already spoken.

5. FINANCIAL PUBLICATIONS OF THE LEAGUE.

In conclusion, I should like to say a word as to the financial publications of the Statistical Section of the Secretariat.

This work has been proceeding as in past years. Apart from the regular issue of the *Monthly Bulletin of Statistics*, volumes are being brought out on *Currency and Central Banks*. It is important that information on this subject should be published.

Owing to the pressure of work, I understand that one of the enquiries which had been recommended by the Brussels Conference has not yet been completed, but I am informed that a volume on the Joint-Stock Banks is to appear in the course of next year.

Another edition of the *Memorandum on the Balance of Payments and Foreign Trade Balances* will also appear shortly.

Many of you will have had occasion to use these financial publications of the League ; their reputation is growing ; this kind of information, comprehensive in scope, intelligently arranged and objectively presented, affords the most valuable assistance in getting to understand financial, and I may add also the economic, problems of the day.

* * *

I have the honour to propose the following resolutions :

I.

“ The Assembly :

“ (a) Has learnt with satisfaction that the scheme which was prepared, and partially put into execution through temporary advances last year, for the settlement of Greek refugees has been realised through the successful issue of a loan, yielding an effective sum of £10,000,000 in Athens, London and New York, on the basis of the Protocol signed on September 29th, 1923, and the Additional Act signed on September 19th, 1924 ;

“ (b) Notes that, of the 1,200,000 refugees who, on the estimate of the original scheme, required settlement in productive work, over 700,000 have already been settled in agricultural districts, or housed in urban settlements near Athens ;

“ (c) Notes with pleasure the reports received that the refugees form an energetic and industrious class, rapidly taking advantage of the opportunities afforded

them, and will put to good use the land and materials which it is the work of the Commission to place at their disposal ;

“(d) The Assembly observes that the Settlement Commission thus instituted under the auspices of the League has been able to effect a piece of work which, apart from the benefit to the refugees themselves, should have far-reaching beneficial results for Greece of both an economic and political character ;

“(e) Expresses the hope that, through close collaboration between the Greek Government and the Settlement Commission, the work may be successfully pursued and brought to a conclusion. ”

II.

“ The Assembly approves the part taken by the Financial Committee and the Council in the issue of a loan for the economic development of Danzig and for the equipment of the port, under conditions which have fully satisfied all those interested. ”

III.

“ The Assembly notes the conclusions which have been formulated by the representatives of the Revenue Departments of certain European countries on the problems of double taxation and fiscal evasion. It observes with satisfaction that agreement has been reached on certain common principles, which are expressed in these conclusions, and that a further Conference of Experts is to be convoked in 1926, selected on a larger basis. It hopes that this technical conference, which for the first time undertakes at the request of the Council the study of a financial problem of universal importance, may be able to submit practical proposals. ”

IV.

“ The Assembly has learnt with interest of the new publications which are in course of preparation by the Statistical Branch of the Secretariat for the use of the Financial and Economic Organisation of the League, and considers that they form a useful contribution to the study of economic and financial problems. ”

Geneva, September 23rd, 1925.

LEAGUE OF NATIONS.

INTERNATIONAL RELIEF UNION.

REPORT BY THE SECOND COMMITTEE TO THE ASSEMBLY.

Rapporteur : H.E. M. FERNANDEZ Y MEDINA, *Delegat of Uruguay.*

The Fifth Assembly had requested the Council to entrust a special committee with the study of Senator Circolo's scheme for establishing an International Relief Union against calamities. This committee was to endeavour, in conjunction with the Secretary-General, to determine the sphere within which the Union would be called upon to take action, the approximate needs which would have to be met and the contribution which would appear to be necessary from each State in order to ensure the execution of the scheme. These investigations were to lead to concrete proposals to be laid before the Council so that, after consultation with the various Governments, it might submit to the Assembly such resolutions as it considered desirable.

The Preparatory Committee was appointed by the Council at its Session in Rome in December 1924. It met in Geneva and Paris and made a careful study of Senator Circolo's scheme and of the observations of certain Governments, delegations to the Fifth Assembly and Red Cross Organisations. On the conclusion of its work, while maintaining intact the principles on which the initial scheme was based, the Committee arrived at the formula which was submitted to the Council and forwarded by it to the Governments and to the Sixth Assembly.

The Statute drawn up by the Preparatory Committee provides for the establishment of a permanent autonomous organisation having at its disposal a moderate initial fund which will in no way impose a heavy burden on the Governments, but which will nevertheless be sufficient to secure the working of the organisation and provide for its primary requirements. But the generous assistance of the people will nevertheless be possible and even necessary and appeals for such assistance will be made.

The Organisation should make it possible, without delay, without waste of funds and without duplication of work, to employ effectively the funds placed at its disposal by the public and the Governments. In fact, it would be a permanent, impartial, active and competent institution capable of affording immediate assistance and of giving every guarantee by permitting strict supervision and a large measure of publicity as to the employment of its funds.

At the same time, by giving the Red Cross the principal share in its work, the organisation would carry out the provisions of Article 25 of the Covenant.

The Preparatory Committee has confined itself to this modest and at the same time elastic form which, in its opinion, corresponds to a new idea of international co-operation and solidarity of which the development, effect and means are very difficult to decide in advance.

The Committee also awaited the observations of the Governments and delegations to the Assembly, in order, with their necessary co-operation, to draw up a formula which would no doubt be more perfect than that of the draft submitted.

The Council of the League of Nations was pleased to approve the Committee's work, and, after communicating the scheme to the Governments, forwarded it to the Sixth Assembly with the request "to consider the possibility of placing the question on its agenda for discussion. The statement of the objects of the Union and the text of the draft statutes as established by the Assembly as a result of that discussion might be communicated to the various Governments".

The Second Committee considered the draft very carefully. During the discussion some very interesting observations were submitted with regard to the definition of disasters, and in particular with reference to the possibility of including in the Union's sphere of action certain disasters to which territories as extensive as India or China are exposed. Observations were also made in respect of the work of the Advisory Committee and the necessity for its existence, the Executive Committee's powers, the amount of the initial fund and the future obligations of the Governments in case the fund should have to be refilled, certain legal principles relating to the character of the Union and the powers of its General Council in respect of the revision of the fundamental statute, and the part played by the Red Cross and other charitable organisations.

The Finnish delegate, M. Erich, submitted a personal proposal, which is not without interest, with regard to relief which might be granted to a nation subject to an act of aggression; it appeared to him that such an act might come within the sphere of the Geneva Protocol at the same time as within that of the International Relief Union.

These discussions clearly showed that a great number of States represented on the Committee and even other States not members of the League, such as Germany, approved the fundamental idea of establishing the International Relief Union. It appeared, however, that it was still necessary to consult with all the Governments, as it had been impossible to arrange for such consultation prior to the Sixth Assembly, and that the Preparatory Committee must investigate the changes to be introduced in the scheme while taking into consideration the observations and suggestions of the Second Committee and those to be received from the Governments.

The Second Committee, therefore, unanimously adopted the following resolution :

“ The Assembly,

“ Having taken note of the report of the Preparatory Committee instructed to draw up concrete proposals regarding Senator Ciruolo's scheme for the creation of an organisation of international solidarity between peoples against the calamities which may befall them ;

“ Noting with great interest the Preparatory Committee's proposal to set up an International Relief Union ;

“ Considering that an international institution such as that contemplated in the present instance, and possibly including among its members States not belonging to the League of Nations, should be constituted by a special agreement between the various Governments ; that the Fifth Assembly in its resolution of September 26th, 1924, laid down that the different Governments should be consulted ; and that it has not yet been possible for this consultation to take place ;

“ Requests the Council to refer the scheme back to the Preparatory Committee in order that the latter may introduce any modifications which may be called for by the observations put forward in the Second Committee of the Assembly ;

“ Requests the Council to submit the statutes thus revised to the Governments of all States, whether Members or not of the League of Nations, for their formal consideration ;

“ Recommends that the Governments should be requested to communicate their views by a date to be fixed by the Council, in order that the Council may, if necessary, proceed to the convocation of a meeting of the duly authorised technical representatives of the aforesaid Governments with a view to the conclusion of the necessary arrangements for the definite establishment of the proposed union, if the Council considers that the replies received are such as to permit the conclusion of an Agreement to this effect.”

Geneva, September 23rd 1925.

LEAGUE OF NATIONS.

General Economic Conference.

REPORT BY THE SECOND COMMITTEE TO THE SIXTH ASSEMBLY.

Rapporteur : M. BELLONI (Italy).

The Sixth Assembly referred for examination to the Second Committee a proposal by the French delegation to invite the Council to set up a preparatory committee with a view to the subsequent convening of an International Economic Conference.

Nearly all the members of the Second Committee took part in the discussion of this proposal, the debate dealing with the question both of principle and procedure.

Those delegates who spoke were unanimously of the opinion that an attempt to deal with the economic problem as a whole was in conformity with the mandate given to the League of Nations by Article 23, paragraph e, of the Covenant.

The observations made by the different delegations during the discussion showed that the proposal was generally considered a most necessary one. Very valuable suggestions were made, which will, no doubt, be utilised during the later stages of the work.

The delegations were unanimous in thinking it desirable that public opinion should be provided with information on the subject as full and as objective as possible, in order that the grave nature of the economic difficulties with which most countries are faced and the necessity of finding a remedy for them may be understood.

Since it was thought that the questions to be considered ought not to be too limited and fragmentary, and that the work to be undertaken should be given wide publicity, it did not seem expedient that the task should be entrusted to the Technical Organisations alone. The Committee therefore approved the proposal to consider the idea of a general Conference, and it was of opinion that all measures should be taken to prepare for this Conference with the utmost care and in the most methodical manner. The Committee thought that the details of this preparation should be settled by the Council, which ought to be granted complete freedom as regards the convening of the Conference itself and as regards its programme, due account being taken of the results of the preparatory work.

The British delegation thought that it was also necessary not to prejudice the Council's decision as regards the expediency of establishing the Preparatory Committee for the Conference. It pointed out that this short delay would have the advantage of giving those Governments which had come to the Assembly unprepared, and which had not known in advance of the French proposal, the time to study it and to take any necessary advice with regard to it.

The Second Committee agrees with these observations and proposes to the Assembly the adoption of the following resolution :

“ The Assembly :

“ Firmly resolved to seek all possible means of establishing peace throughout the world ;

“ Convinced that economic peace will largely contribute to security among the nations ;

“ Persuaded of the necessity of investigating the economic difficulties which stand in the way of the revival of general prosperity and of ascertaining the best means of overcoming these difficulties and of preventing disputes ;

“ Invites the Council to consider at the earliest possible moment the expediency of constituting on a wide basis a Preparatory Committee which, with the assistance of the Technical Organisations of the League and the International Labour Office, will prepare the work for an International Economic Conference.

“ The convening of this Conference under the auspices of the League of Nations shall be a matter for subsequent decision by the Council. ”

The French delegation further declared that, in its view, the decision arrived at meant that the Council would at its next session, in the month of December, consider the expediency of setting up the Preparatory Committee, and that the French Government intended to submit to the Council before this session proposals with regard to the measures to be taken.

In order that the Council should have at its disposal all information necessary for coming to a decision, it is understood that, as soon as the proposals of the French Government are received, the Secretary-General is authorised to ask the Technical Organisations and the International Labour Office to communicate to him their views with regard to the composition of the Committee, without, however, prejudging the programme of the Conference. With regard to this programme, the Council will subsequently examine, if necessary, the proposals of the Preparatory Committee.

The Second Committee endorsed this declaration and agreed to this procedure.

The Minutes of the Committee which deal with this question will, needless to say, be communicated to all Governments in order that they may take into consideration the suggestions contained in the proposals made by the various delegations, in particular that of M. Zumeta (Venezuela) and that of M. Avramovitch (Kingdom of the Serbs, Croats and Slovenes).

Geneva, September 24th, 1925.

LEAGUE OF NATIONS.

ALLOCATION OF EXPENSES.

REPORT OF THE FOURTH COMMITTEE TO THE SIXTH ASSEMBLY.

Rapporteur : M. ADATCI (Japan)

In accordance with the practice adopted in previous years, the Fourth Committee entrusted to a Sub-Committee the task of examining the report submitted to the Assembly by the Committee on the Allocation of Expenses (Document A. 6. 1925. II). On September 15th, it further assented to a suggestion put forward by your Rapporteur that any delegations having observations to make on that report should submit them in the first instance to this Sub-Committee.

The Sub-Committee had thus two distinct tasks : first, the study of the principles on which the Allocation Committee had arrived at its recommendations and, secondly, the careful consideration of the representations submitted to it by certain delegations. Its first task was greatly facilitated by the able and lucid exposé which M. Réveillaud, who has presided over the Allocation Committee now for a number of years with so much distinction, was good enough to make to it.

I do not think I need enter here into the history of the scale at present in force, a history which was so excellently summarised last year by my predecessor, M. Bignami, delegate for Italy. It will be recollected that, in its report of June 1923 (Document A. 23, 1923, II), the Allocation Committee indicated the principles on which it believed that a just and equitable allocation could ultimately be based. Let me quote the relevant passages from that important report, which was accepted in principle by the Fourth Assembly :

“ The main objection to the view hitherto held that ‘ net revenue ’ constitutes the most accurate index of capacity to pay is that, through the upheaval caused by the war, most countries are no longer able to preserve a due relation between taxation and their national resources. They have been forced by sheer necessity to levy exorbitant taxes or to resort to the floating of various kinds of loans. The conclusions drawn from an analysis of the budget receipts have therefore lost much of their significance ; if we take a recent year the figures are abnormal, and if we take a year previous to 1914, as being normal, the figures have too little relation to the present position. In neither case is the desired object attained.

“ The best method of escape from this dilemma appears to be to take the other side of the budget — the expenditure side. Suppose that for a given year we are in possession of all the items of every kind which make up the budget expenditure of the respective Members of the League. Any one of these expenditure budgets taken individually will correspond fairly closely to the revenue of the State in question for the same financial year. Thus no essential alteration is made in principle in the method hitherto accepted for determining capacity to pay.

“ It will, however, be possible to analyse these various expenditure budgets— to eliminate all factors which are abnormal or which are peculiar to certain States, and to retain only those which may be used as ‘ comparable items ’ in the general analysis.”

It has been along these lines that the Allocation Committee, on the request of successive Assemblies, has pursued its labours.

The budgets for 1923 of all the 54 Member States have been analysed and all ‘ abnormal items ’ of expenditure eliminated. Under normal items of expenditure are included : Defence, General Administration, Financial Administration, Justice, Posts and Telegraphs, Colonies, Economic Administration, Public Works, Education, Church, Health, Social Administration, Pensions and miscellaneous items. The various items have been grouped in different ways by the Allocation Committee after converting the national currencies into dollars so as to form a series of indices which could guide the Committee in making its decisions. The Allocation Committee, however, as it indicated in its last report, did not find it possible to employ these indices with any sort of mathematical precision nor claim that they alone constitute by any means an unerring guide of capacity to pay.

M. Réveillaud explained at length to the Sub-Committee the various difficulties with which the Allocation Committee was faced. Thus some States are much more highly socialised than others, with the result that the magnitude of certain items of their expenditure is a measure rather of their social policy than of their national income; in some countries a greater part of the total administration is undertaken by the central and in others by the local governments. To compare the various budgets of a Federal with the single budget of a unitary State necessarily involved a number of highly technical problems, some of which are scarcely solvable. Finally, the exchanges of the world are even now by no means stable and were subject to still greater fluctuations in the year 1923, taken by the Allocation Committee as the basis of their work, so that the conversion of the national currencies into dollars unavoidably entails the possibility of error.

The Allocation Committee endeavoured, therefore, to check the preliminary conclusions to which these budget figures seemed to point by certain other economic data — the production of cereals and minerals, international trade, etc. The economic data, however, no less than the financial, were found to be open to a number of objections, although no doubt of certain value as a corrective.

But I would remind the Assembly that the Allocation Committee, after so many years of active and patient study, in the possession now of so great and varied a mass of evidence, has acquired an experience and knowledge which enables it to sift its evidence with special skill and to speak with quite exceptional authority.

Some delegations have enquired whether it would not be desirable to publish the data on which the Allocation Committee's conclusions were based; but I think that the Assembly will agree with me in view of what has just been said that such a procedure would be more likely to lead to confusion than enlightenment. For it is impossible for the casual reader or even for the careful student of all this mass of data to know the particular weight which should be attached to this or that figure or to apprehend the considerations which induced the Committee, after so many laborious sessions devoted to this subject, to attach particular importance to this or less importance to that set of facts.

I would also remind the Assembly that the scale of allocation now before it is not a rectification of the old scale but is based on quite distinct principles. The reduction which was made, therefore, in the allocation of certain States on account of the devastation which was suffered during the war disappears. That reduction was made on the grounds that the former allocation was based on indices of pre-war wealth, which no longer applied to those countries which had materially suffered during the war. The present allocation, on the other hand, is based, as I have already indicated, on post-war data, which automatically reflect the losses which have been incurred.

The delegations of Austria, Belgium, Hungary, Lithuania, Poland, China and Roumania were all heard by the Sub-Committee with reference to the proposed scale. But only the first five of these raised any objection to the contributions which the Allocation Committee had recommended should be demanded from them.

The Fourth Committee, however, despite its earnest desire to give satisfaction to all the States Members of the League, found that the effect of the proposed modifications was to upset the delicate balance of the scale and inevitably entail further changes the fatal results of which it is easy to imagine. This very difficulty with which the Committee met is in its opinion the best proof of the nicety of the balance which the Allocation Committee has achieved. The Fourth Committee recommends, therefore, that the scale should be adopted without change, and I venture to appeal in its name to the delegations of all States to support that recommendation in the common interest of all the Members of the League.

There is one point in connection with certain of the observations made before the Sub-Committee which I think, however, demands a word of additional explanation. States very naturally tend to compare the contribution demanded from them with that demanded from their immediate neighbours with whose economic conditions they are familiar, and it may happen, as it no doubt does in the case of Lithuania, that the percentage difference between the units ascribed to each is not in proportion to the real difference in capacity to pay. The Fourth Committee is fully conscious of that fact; but unless fractions and minute fractions of units are to be demanded this discrepancy is unavoidable. Nobody claims that countries asked to pay two units are necessarily or presumably twice as rich as those asked to pay one.

A further question remains to be mentioned. The Allocation Committee in its report suggests that the Assembly should put this scale into force for the years 1926, 1927 and 1928. The Fourth Committee ventures to endorse this proposal and suggests that the Allocation Committee should continue to exercise its functions simply with a view to following the economic development, so that it may be in a position to present in 1928 the results of its researches on which a future scale of allocation may be based.

In view of the various considerations which have been set out above, the Fourth Committee ventures to submit the following resolutions for adoption by the Assembly:

" The Assembly,

" I. Requests the Council to ask the Committee on the Allocation of Expenses to follow the economic development of the various Member States with a view to submitting a revised scale to the Assembly of 1928.

" II. Approves for the years 1926, 1927 and 1928 the scale for the allocation of the expenses of the League annexed to the present resolution."

SCALE OF ALLOCATION OF THE EXPENSES OF THE LEAGUE FOR 1926, 1927 AND 1928.

<i>Country</i>	<i>Units</i>	<i>Country</i>	<i>Units</i>
		<i>Brought forward...</i>	547
Abyssinia	2	Irish Free State	10
Albania	1	Italy	60
Argentine	29	Japan	60
Australia	27	Latvia	3
Austria	8	Liberia	1
Belgium	18	Lithuania	4
Bolivia	4	Luxemburg	1
Brazil	29	Netherlands	23
Bulgaria	5	New Zealand	10
Canada	35	Nicaragua	1
Chile	14	Norway	9
China	46	Panama	1
Colombia	6	Paraguay	1
Costa Rica	1	Persia	5
Cuba	9	Peru	9
Czechoslovakia	29	Poland	32
Denmark	12	Portugal	6
Dominican Republic	1	Roumania	22
Esthonia	3	Salvador	1
Finland	10	Serbs, Croats and Slovenes (Kingdom of)	20
France	79	Siam	9
Great Britain	105	Spain	40
Greece	7	South Africa (Union of)	15
Guatemala	1	Sweden	18
Haiti	1	Switzerland	17
Honduras	1	Uruguay	7
Hungary	8	Venezuela	5
India	56		
		<hr/>	937
	<i>Carried forward...</i>		547

Geneva, September 25th, 1925.

LEAGUE OF NATIONS.

ARMENIAN LOAN.

REPORT OF THE FIFTH COMMITTEE TO THE SIXTH ASSEMBLY.

Rapporteur : M. DE BROUCKÈRE, Belgian Delegate.

The Fifth Committee has given the most careful consideration to the problem of the settlement of Armenian refugees during several of its plenary meetings. It has instructed a Sub-Committee to collect all information likely to be of assistance in forming a definite opinion on the matter. Technical and financial experts have been good enough to cooperate in this investigation. At the conclusion of its discussions, the Fifth Committee decided to propose that the Assembly should adopt the following resolution :

“ The Sixth Assembly,

“ In view of the resolution adopted by the Fifth Assembly at its meeting on September 25th, 1924, inviting ‘ the International Labour Office, in collaboration with Dr. Nansen, to institute an enquiry with a view to studying the possibility of settling a substantial number of Armenian refugees in the Caucasus and elsewhere ;

“ In view of the reports by Dr. Fridtjof Nansen and by the experts who were sent with him to Armenia ;

“ In view of the fact that these reports are unanimous as to the possibility of carrying out irrigation works which would allow of the settlement in Armenia under good conditions of at least 15,000 Armenian refugees, now in Greece and Constantinople, as also of 10,000 refugees already repatriated, on condition that the sum of 9,000,000 gold roubles (900,000 pounds sterling) is forthcoming for the execution of the necessary work ;

“ Desirous of availing itself of every practical opportunity of giving effect to the resolution so often renewed by former Assemblies, regarding the return of Armenian refugees to a national home ;

“ Invites the Council to appoint at once not more than five Commissioners whom it would empower :

“ (a) To ascertain finally the technical possibility of the proposed undertaking;

“ (b) To exchange views, as may be necessary, with the organs of the League of Nations, the Government of the Armenian Republic, and the other Governments, the associations and private individuals whose help would appear useful for the realisation of the scheme ;

“ (c) If their findings are favourable, to propose to the Council the constitution of a Body of Trustees to whom its statutes would give especially the following powers :

“ (1) To conclude with all authorities public and private all necessary contracts for the execution of the plan for settling the refugees ; to accept if necessary from the Armenian Government a concession of the areas to be irrigated.

“ (2) To negotiate, if necessary, the issue of a loan ; and, in that case, to act as trustees of the funds, and to assure the financial service.

“ The Assembly invites the Council to place at the disposal of the Commissioners the sum required in 1925 for the execution of the above resolution, this sum to be entered in the Budget under unforeseen expenditure.

“ It decides to enter an item of 50,000 francs in the 1926 Budget for the same purpose.”

Genève, le 25 septembre 1925.

SOCIÉTÉ DES NATIONS

L'EMPRUNT ARMÉNIEN.

RAPPORT DE LA CINQUIÈME COMMISSION A LA SIXIÈME ASSEMBLÉE.

Rapporteur : M. DE BROUCKÈRE, délégué de la Belgique.

Le placement des réfugiés arméniens a attiré toute l'attention de la cinquième Commission, au cours de plusieurs de ses séances plénières. Elle a chargé une Sous-Commission de recueillir tous les renseignements de nature à lui permettre de se former une opinion éclairée. Des experts techniques et financiers ont bien voulu apporter à cette étude leur concours précieux.

En conclusion de ses débats, la cinquième Commission a décidé de proposer à l'Assemblée la résolution suivante :

« La sixième Assemblée,

« Vu la résolution adoptée par la cinquième Assemblée dans sa séance du 25 septembre 1924, « invitant le Bureau international du Travail, en collaboration avec le D^r Nansen, à procéder à une enquête qui aura pour but d'étudier la possibilité d'établir un grand nombre de réfugiés arméniens au Caucase et ailleurs » ;

« Vu le rapport du D^r Fridtjof Nansen et ceux des experts qui se sont rendus avec lui en Arménie,

« Vu que ces rapports concluent unanimement à la possibilité d'effectuer des travaux d'irrigation qui permettraient d'installer en Arménie, dans de bonnes conditions, au moins 15.000 réfugiés arméniens nouveaux se trouvant en Grèce et à Constantinople, ainsi que 10.000 réfugiés déjà rapatriés, pourvu que l'on puisse disposer d'une somme de 9.000.000 de roubles-or (900.000 livres sterling) environ, destinée à l'exécution des travaux nécessaires ;

« Désireuse de saisir toute possibilité pratique de donner suite aux résolutions si souvent renouvelées par les Assemblées précédentes et relatives au retour de réfugiés arméniens au foyer ;

« Invite le Conseil à désigner dès maintenant des commissaires dont le nombre ne dépassera pas cinq, auxquels il donnerait le mandat suivant :

« a) S'assurer définitivement de la possibilité technique de mener à bien l'entreprise proposée ;

« b) Poursuivre tous les échanges de vues utiles avec les organisations de la Société des Nations, le Gouvernement de la République Arménienne et les autres gouvernements, les associations et les particuliers dont l'intervention leur paraîtrait utile à la réalisation du projet ;

« c) S'ils arrivent à une conclusion favorable, proposer au Conseil la constitution d'un organisme autonome (body of trustees) auquel ces statuts donneraient notamment les pouvoirs suivants :

« 1. Conclure avec toutes les autorités publiques et privées tous les contrats nécessaires pour exécuter le plan d'établissement des réfugiés, accepter au besoin une concession que le Gouvernement arménien lui ferait des terrains à irriguer,

« 2. Négocier au besoin l'émission d'un emprunt, rester dans ce cas dépositaires des fonds et en effectuer le service financier,

« L'Assemblée invite le Conseil de placer à la disposition des commissaires la somme nécessaire en 1925 pour la mise à exécution de la résolution ci-dessus, somme qu'il préleverait sur le poste du budget relatif aux dépenses imprévues.

« Elle décide d'inscrire pour le même objet un poste de 50.000 francs au budget de 1926. »

Geneva, September 17th, 1926.

LEAGUE OF NATIONS

**REPORT ON THE WORK OF THE GREEK REFUGEES
SETTLEMENT COMMISSION**

presented to the Assembly by the Second Committee.

Rapporteur: M. van CAUWELAERT (Belgium).

The Committee has had before it the section of the Report to the Assembly on the work of the Council dealing specifically with the question of the establishment of Greek Refugees. It has also had the advantage of hearing a review of the work of the Commission since its inception from Mr. Howland, its Chairman, of whose resignation the Committee has learnt with great regret.

The situation as disclosed by these reports is in many respects very encouraging.

This piece of settlement work was the first of its kind undertaken by the League; and it was an attempt to tackle a problem without a precedent in history. As the Chairman of the Commission has stated, it is obvious that the problem presented by the influx of 1,400,000 of refugees into a country small in extent, whose population amounted approximately to 4,700,000, involved for the Greek Government and for the League of Nations a task of great delicacy, the humanitarian character of which is obvious; only those who have witnessed it can realise the amount of suffering, the misery, sickness and death in all their possible forms, which has occurred among these people uprooted by the war, and even these witnesses have had to make an effort of imagination to realise the proportions of this disaster.

It will be remembered that the original plan was prepared by the Financial Committee after an enquiry by M. Parmentier and Colonel Proctor in Greece. In order to carry out the settlement work a Commission was appointed, consisting of two Greek members and two members appointed by the Council of the League, and a public loan of £10 millions was floated in London and New York. Of this sum nearly £8 millions were expended up to June 30th of this year. Of the balance, a considerable part has been budgeted, and what is left constituted the reserve fund of the Commission for contingencies and for making a survey of the lands on which the refugees have been settled.

The Commission estimates that, of the 1,400,000 refugees, some half-a-million, either because they had independent means, or with help from other sources, have required no aid from the Commission. Some 700,000 have been settled or assisted by the Commission, and some 120,000 (5,000 agricultural families and 20,000 urban families) still need to be dealt with. To complete the installation of those already assisted and to deal with the remainder, the Commission estimates that a further £5 millions would be required.

The large majority of the refugees who have so far been settled are agriculturists. The Commission has established in Macedonia 116,000 families or approximately 550,000 people; in Thrace 16,596 families or approximately 75,000 people; in the other provinces 14,250 families or nearly 62,000 people — nearly 700,000 people. They have been supplied by the Commission with seed for all agricultural products, including certain products specially adapted to the needs of the country, such as vine roots from California, pasteurised against phylloxera, and mulberry trees for the silk-worm growers. Each farming family has received a plough animal (mule, ox or buffalo), and a transport animal (a pony or a donkey). The refugees have also been supplied with ploughs and harrows and each family has received an interest in a waggon for the carriage of supplies and grain. Subsistence and seed for planting also had to be furnished until the first crop could be harvested. In those cases where refugees could not be given shelter in houses left vacant by the exodus of peasants who have now gone to Turkey under the system of exchange of populations, the Commission has had to supply them with houses.

According to information supplied to the Committee, the average cost of establishing a family has been continually pared down until it amounts to £100 per family (£50 for the house and £50 for all the rest of the assistance given). This expenditure is obviously exceedingly moderate.

The work of the Commission was at one time seriously endangered by malaria. The figures quoted by the Chairman of the Commission are exceedingly significant and illustrate well the humanitarian aspect of this piece of work. He states that "in some communities the death rate for a short time would, if continued, have amounted to over 40 per cent per annum of the entire refugee number. Nearly all children who were attacked with malaria died, and the ratio of deaths to births in 1923 was 3 to 1. Fortunately, with better living conditions, more nourishment and works of drainage undertaken by the refugees themselves and the establishment of a medical service by the Commission with the distribution of quinine, a large part of which was given to the Commission by the American Red Cross, the malarial situation seems to be improving rapidly. The number of cases in 1925 out of a "controlled" group of 200,000 persons was only about half that of 1924, and the birth rate among the refugees now substantially and continuously exceeds the death rate."

The urban refugees number between 500,000 and 600,000. Of these the Commission has completely or partly housed between 100,000 and 200,000 who are gradually, at their own wish, buying their houses under an instalment system spread over fifteen years. These urban refugees have established various industries, in particular, the industry of carpet-making, which they brought with them from Turkey.

It is to be noted in general that the refugees have been settled in urban or agricultural districts according to their capacities and according as land and housing have been available. No restriction has been placed on the districts in which they may be lodged.

It will be remembered that the land for settlement was to be transferred under the Protocol signed by the Greek Government in 1923 in full property to the Settlement Commission. A number of legal difficulties had to be overcome before the full legal title could be transferred. It is satisfactory to note that this was accomplished by a *Decret-Loi* published on May 15th of this year.

In this connection there remains, however, a necessary but difficult task for the Commission to perform. There exist no adequate maps in Greece, and a careful survey of the land on which the refugees are settled will have to be undertaken in order that the boundaries of their properties may be fixed. It is obvious that this piece of work is of great importance in creating among them a feeling of security.

The facts contained in the above account speak for themselves; and it is not necessary further to emphasise the manifold significance and value of this piece of work.

On the humanitarian side it has prevented untold misery and distress; on the social and economic side it has greatly strengthened the whole position of the country by turning into productive citizens a large proportion (nearly 25 per cent) of the population, who without this help might have become a source of disorder in the country or who would have starved in enforced idleness.

As has been seen, about another £5 millions would be required in order to bring the work to a successful conclusion. It is obvious that, as is the case with any other loan publicly subscribed, certain conditions must be fulfilled by the borrowing country before such an operation can be successful. It is to be hoped that conditions may be such that the money required may become available in due course to complete this piece of work which has been begun so successfully, and the results of which have so amply justified the association of the League with it.

Draft resolution.

"The Assembly:

"(1) Has learnt with satisfaction that the work of settlement effected in collaboration between the Greek authorities and the Settlement Commission set up under the auspices of the League has made continuous and satisfactory progress during the past year, within the limits of the available funds, which are now nearly exhausted;

"(2) Observes that this piece of work is attaining the results expected of it; more than a half of the 1,400,000 destitute refugees who have entered Greece have been assisted to establish themselves and have become productive citizens. Apart from the humanitarian significance of the scheme, it is having permanent beneficial results in strengthening the economic life of the country and in promoting social stability;

"(3) Expresses the hope that conditions may be such that the money required may become available in due course for the completion of this work, which has progressed successfully under the League's auspices, and the results of which have amply justified the association of the League with it."

Geneva, September 20th/1926.

LEAGUE OF NATIONS.

Work of the Preparatory Committee for the International Economic Conference.

Report to the Assembly by the Second Committee.

Rapporteur: M. LOUCHEUR (*Delegate of France*).

I

The last Assembly invited the Council, in a resolution dated September 24th, 1925, to consider at the earliest possible moment the expediency of constituting a committee which would prepare the work for an International Economic Conference. It was understood that the convening of this Conference under the auspices of the League of Nations should be a matter for subsequent decision by the Council.

The Second Committee considered the effect given by the Council to this resolution in the course of an interesting discussion.

The Preparatory Committee was constituted by the Council at its meeting in December 1925. It is composed of eminent men, as the Council desired to ensure a just proportion between nationalities and at the same time secure members who by their former work and experience could be considered as representing the principal interests engaged; men of science and manufacturers, Government officials and workers.

The first session of the Preparatory Committee was held in April. M. G. Ador, who has rendered such unforgettable services to the League of Nations, was appointed Chairman by the Council, but his state of health prevented him from carrying out his duties, and the discussions were therefore presided over — with extraordinary ability — by M. Theunis. Under the obligation of finding a successor to M. Ador, the Council has since wisely called upon M. Theunis to continue formally also in the office which he had exercised in fact since April.

The report on the work of the first session of the Committee explains that, before submitting its reply to the Council on the questions which had been referred to it, that is to say, before submitting proposals concerning the agenda, the nature of the composition and the date of the Conference, the Committee thought it indispensable to pass in rapid review the essential elements of the economic problem as it exists to-day, and accordingly it has asked the Secretariat and the International Labour Office, with the aid of the International Institute of Agriculture and of the International Chamber of Commerce, to compile a documentation the general plan of which the Committee has, however, itself drawn up. This documentation is at present being constituted.

In accordance with a decision of the Council, the Secretary-General was invited to select the date of the second session of the Preparatory Committee and, after consultation with the Chairman, this was fixed for November 15th, 1926. The Committee will then have before it the results of the researches which it considered indispensable, and it will be able to begin the most difficult part of its task.

II

The Assembly itself indicated last year that it desired to leave the Council complete freedom as regards the organisation of the preparatory work for the Conference. Thus also the instructions given by the Council to the Preparatory Committee, which were summarised in a remarkable report by M. Hymans, are very wide.

The Council keeps in contact with the Committee by means of a Special Committee, before which M. Theunis himself appeared last June in order to explain the progress of the work.

The Second Committee was unanimous in considering that there was no reason for modifying the methods and procedure applied so far, and that it would cause more harm than good to surround the Preparatory Committee with restrictive instructions, thus losing, in part at least, the benefit of the work of the Committee itself.

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The remarks which follow are not therefore intended to reduce the possible scope of action for the next session of the Committee, but merely to emphasise briefly and generally the points upon which all the delegations present in the Second Committee appeared to manifest agreement.

The Second Committee has observed, concerning the programme of the Conference, that, if it was indispensable to include in the plan of documentation adopted during the first session of the Committee a considerable number of different items, covering all the principal aspects of the economic problem, on the other hand the utility of the Conference would be lost if the Committee had not succeeded in detaching a small number of essential questions upon which the efforts of the Conference should be concentrated. The Committee should submit proposals to the Council which would allow it to choose the main lines of the programme.

On account, however, of the close connection between the different aspects of the economic problem, it will obviously be necessary to include questions in the discussions of the Conference, which, while not belonging to the essential problems inserted in the agenda, may nevertheless have a certain influence upon them. This is quite in keeping with the indications given to the Committee by M. Theunis.

With reference to the composition of the Conference, there seem to be two difficulties to be avoided. On the one hand, some delegations would have objections to calling upon experts, appointed exclusively for their personal qualifications, who could only arrive at theoretical conclusions, as the Conference would then run the risk of becoming purely academic. On the other hand, a diplomatic conference is not what is desired and the members, who will be designated by the Governments, must not be too closely tied by their official responsibilities in their study of the problems submitted to the Conference. In such a case, if it were necessary to arrive at an immediate agreement, they might be constrained to place too narrow a limit upon the scope of their discussions and thus neglect those aspects of the economic problem the solution of which by means of Governmental conventions did not appear to them as an immediate possibility.

It should be possible to find a happy mean avoiding both these difficulties, which would at the same time allow the scope of the discussion to be widened and ensure that the Conference's conclusions should have a practical value and an influence upon the economic policy of the Governments. The same procedure for the appointment of the delegates might be employed as in the case of the Brussels Financial Conference.

As regards the date of the Conference, some members proposed recommending in the resolution that the Conference should be convened for next spring. The Second Committee considered that it would be better not to make any definite recommendation before the Preparatory Committee, which will examine this point during its next session, has stated its opinion. The Committee, nevertheless, is unanimous in desiring that the Conference should be convened without unnecessary delay, as soon as the state of the preparatory work permits and the general conditions appear sufficiently favourable.

Whilst emphasising its view that the League of Nations should lose no time in undertaking a programme of international action in economic affairs, which the state of the world renders increasingly necessary, the Second Committee has realised very clearly the importance of the initial work accomplished under the direction of the Preparatory Committee. The Second Committee is aware, in particular, that the meetings of the Preparatory Committee are in themselves an indispensable factor in creating gradually a current of favourable public opinion in the different countries and in the different circles concerned, without which any action organised on an international basis would be impossible.

III.

On behalf of the Second Committee, I have the honour to request the Assembly to adopt the following resolution :

" The Assembly notes that the Council has given effect to its decision of December 15th, 1925, by constituting a Preparatory Committee for the Economic Conference.

" It realises that the general economic situation of the world calls more imperiously than ever for an effort towards international co-operation and makes it yet more necessary that the Economic Conference should be held.

" The Assembly therefore hopes that the Committee will actively push forward its work, so as to enable the Economic Conference to be convened as soon as possible."

Geneva, September 21st, 1926.

LEAGUE OF NATIONS

FINANCIAL RECONSTRUCTION OF HUNGARY

Report submitted by the Second Committee to the Assembly

Rapporteur: M. SUVICH, Italian Representative.

I

The scheme for the financial reconstruction of Hungary came into force on May 1st, 1924. In the programme drawn up at the commencement of this undertaking, it was anticipated that financial stability would be attained by June 30th, 1926, and that consequently the duties of the High Commissioner would come to an end on that date.

The scheme has succeeded beyond all expectations.

In order to realise the importance and extent of the work accomplished, we must consider the condition of Hungary before the intervention of the League.

The consequences of the war, the revolution which followed and the continued depreciation of the currency had left Hungary in a state of distress and prostration from which she was vainly striving to recover.

The situation necessitated an entire reorganisation of the country on a durable and solid basis, and a re-casting of its whole economic system.

If the work of reconstruction was to succeed, the most urgent points to be considered were the finances of the State which were going adrift, the currency which was depreciating daily, and the burdens imposed by the Treaty of Peace, which were not yet clearly defined.

The scheme for the financial reconstruction of Austria, which was then in full development and had already begun to produce appreciable results, was there to indicate the path to be followed.

It was in fact proposed to apply in Hungary the experience acquired in Austria.

It was on these lines that the Financial Committee drew up the scheme of reconstruction, which included:

- (a) An international loan, secured by certain of the State revenues, to be used to cover the budget deficit.
- (b) The creation of a Central Bank of Issue enjoying the monopoly of issue and authorised to make loans to the State against satisfactory cover only;
- (c) The fixing for twenty years of the reparations payments at an average rate of 10 million gold crowns per annum, and the establishment of a Supervisory Commission appointed by the Reparation Commission to guarantee that the rights conferred upon that Commission by Article 180 of the Treaty of Trianon should not be prejudiced;
- (d) The appointment of a Commissioner-General to supervise the execution of the whole programme and control the use of the loan;
- (e) Administrative reforms such as those providing for the reduction of the number of State officials.

As we have pointed out, the intention was that the scheme should be completed by June 30th, 1926, that is to say the end of the financial year 1925-26, when it was hoped that the currency would have been stabilised and the budget made to balance.

II

Actual facts have proved that the scheme was wonderfully well thought out. By good fortune its execution was entrusted to Mr. Jeremiah Smith¹, a man who possessed all the qualifications necessary to ensure its success and who has devoted himself to this work with genuine enthusiasm, and a sense of proportion and tact which all those who have come in contact with him have recognised.

¹ A citizen of the United States.

In his twenty-five reports to the Council of the League, drawn up with rare lucidity and precision, the Commissioner-General has given us an accurate picture of the successive phases through which the reconstruction scheme has passed.

This is not the place to recapitulate the history of the undertaking; a few data will suffice to show how the application of the scheme has transformed the economic and financial conditions of Hungary.

It had been calculated that the loan would be required to cover the deficit for the financial years 1923-24, 1924-25, 1925-26; only in the first of these financial periods was there a deficit, which amounted to about 70 million gold crowns. By the conclusion of the financial period ending on June 30th, 1925, there was a surplus which was maintained in the subsequent year. It was therefore possible, with the consent of the Council of the League of Nations, to devote part of the loan which remained unemployed to productive investments. In the financial period 1925-26, 50 million gold crowns were used for this purpose, and authorisation has been given to expend a similar sum in the financial period 1926-27, subject to the supervision of a member of the Financial Committee, during the current financial year. Added to the budget surplus available, this provides a considerable sum for capital expenditure in 1925-26 and 1926-27, a very much larger amount than it had been thought possible to include in the reconstruction programme. The chief objects to which the surplus is to be devoted are the reclamation of land by means of drainage and irrigation works, the building of roads and bridges, of dwelling-houses, and of the new free port of Budapest, the laying of an underground telephone cable between Vienna and Budapest, and loans to help smallholders, having received plots of land under the Land Reform Act, to make a start.

After deducting certain expenses, the reserves and the repayable advances granted to the Hungarian Government, there still remains an unassigned and available surplus of more than 81 million gold crowns. No decision has yet been reached as to the manner in which this sum shall be employed, since the amount which it has already been decided to release is in respect of a period which closes on June 30th, 1927.

As regards the service of the Loan to which has been assigned the revenue (secured revenue) from the Customs, the tobacco monopoly, the tax on sugar and the salt monopoly, the situation is entirely satisfactory, since this revenue, according to the provisional results for the financial year 1925-26, is already eight times in excess of the annual sum required for the interest and redemption of the loan.

This result is rendered all the more remarkable by the fact that taxation has been reduced on quite a considerable scale.

The problem of administrative reform presented special difficulties, but it was a problem which had to be solved, the new State not being able to bear the heavy burden of its former bureaucracy.

Although a certain amount has already been done, the Council decided, on the suggestion of the Financial Committee, to recommend the Hungarian Government to make an effort to reduce the number of State officials still further, since on this the possibility of maintaining budget equilibrium largely depends.

As regards the economic conditions of Hungary, the situation has vastly improved.

Agricultural production is again approximating to the pre-war level and, in the case of certain crops, even exceeds it.

The adverse trade balance is also on the decrease; in 1922 it was 209 millions of gold crowns; in 1923, 185 millions; in 1924, 128 millions, and in 1925, 41 millions.

During the first few months of the present year, the deficit remained at approximately the same level as for the corresponding period last year.

One point to which I desire to direct your special attention concerns commercial treaties. On the Second Committee's proposal, the Sixth Ordinary Session of the Assembly adopted the following resolution:

"It would welcome the conclusion of further commercial agreements between Hungary and other countries — particularly the adjoining countries with which negotiations are in progress — which would tend to bring about a progressive reduction of the tariffs in Central Europe and would thus contribute to establishing closer economic relations."

The Assembly, which has already been informed of the commercial treaties concluded with Italy, Poland, France, Greece and Spain, will learn with satisfaction that a treaty with Austria came into force on August 14th last and that a provisional agreement with Czechoslovakia has been in force since September 1st, pending the conclusion of a definitive treaty.

In view of the circumstances which I have briefly outlined above and which are clearly set forth in the reports of the Commissioner-General, the Financial Committee and the Council, Hungary has been able to embark upon the most important and difficult reform of all, that of her currency.

The fact that the paper crown, the currency previously in circulation, had been stable for a fairly long period, as compared with foreign currencies, constituted the necessary basis for the complete conversion and reform of the monetary system.

This stability of the currency is confirmed by an examination of the wholesale and retail index numbers, which have not risen since 1924, but on the contrary have shown a downward tendency. During the same period the increase in the deposits in savings banks and other banks has continued.

This reform has undoubtedly been made possible by the success of the scheme for the reconstruction of Hungary and by the resulting economic recovery.

It is generally admitted that there can be no question of the stabilisation or conversion of the currency until two essential conditions have been fulfilled, these being the balancing of the budget and the approximate establishment of equilibrium in the balance of payments.

The other circumstances, such as the amount of currency in circulation, the proportion of reserves, etc., are of importance rather in determining the relation to be fixed between the old and new forms of currency.

As regards the budget, the deficit, as already stated, had disappeared in the accounts for the year ending June 30th, 1924. The balance of payments, judging by the principal factor, *i.e.*, the trade balance, is approximately even; the foreign payments due by Hungary on account of her long-term debts (including reparations) are considerable (henceforward they will be 94 million gold crowns per annum), but not so considerable as to have any decisive influence on the exchanges.

As regards the service of short-term foreign credits, which is subject to fluctuations and is not easy to determine at any given moment, the Commissioner-General is of opinion that the amount is not excessive and at any rate not sufficient to exercise any very adverse effect on Hungary's financial situation.

The policy of inflation had already been brought to an end by the creation of a National Bank of Issue independent of the State and governed by a statute which prohibits it from making advances to the State.

Having thus been withdrawn from Government influence, the new Bank was in a position to exercise an effective influence on the monetary policy of the country.

A foreign Adviser was attached to the Board of Directors, in order to assist the new Bank in accomplishing its task, which constituted the pivot of the whole reconstruction programme.

The Bank's policy has been extremely cautious and conservative. While the reserve laid down in the reconstruction plan represented only 20 per cent of the notes in circulation, the actual reserve on June 30th last amounted to 55 per cent, one-half of which consisted of minted gold or bullion.

The discount rate, which was fixed at 12 per cent at the beginning of 1925, has now been reduced to 6 per cent. It is true, however, that in private transactions a much higher rate still obtains.

Towards the end of 1925 a law was passed in Hungary providing for the introduction, as from January 1st, 1927, of a new currency which can, however, be used for purposes of reckoning before that date. The value of this new currency, the "pengo", has been fixed at one unit per 12,500 old paper crowns.

The balance-sheet of the National Bank is already expressed in "pengos", and measures have been taken for all private concerns to draw up their balance-sheets in terms of gold in accordance with the principles laid down.

The form and value of the new currency have been exhaustively studied, attention even being given to the psychological factors which might have had a dangerous effect on the cost of living in the country at the moment of its introduction.

The considerations which I have just explained and the fact that the whole economic life of the country is gradually becoming accustomed to the "pengo" justifies the hope that it may be possible to arrive at the gold standard without undue disturbance.

III.

The programme of the financial reconstruction of Hungary conceived and applied in the manner I have indicated constitutes an achievement of which the League can justly be proud. The problem submitted to the League has been solved with brilliant success alike from the technical, social and political points of view.

In expressing its appreciation of the results obtained, the Council approved the Hungarian Government's proposal — which had received the support of the Commissioner-General and of the Financial Committee — that the supervision exercised by the Commissioner-General should cease on June 30th, 1926. The duties of the foreign Adviser attached to the Bank of Issue also ended on that date.

The service of the secured revenues will in future be ensured by the Trustees; the balance of the loan — in regard to which no decision has yet been taken — will be kept available in a separate account in the name of M. ter Meulen, who has been appointed for the purpose by the Financial Committee. The Committee of Control shall remain in office and shall communicate directly with the Hungarian Government.

I have the honour to submit, on behalf of the Second Committee, the following draft resolution:

" The Assembly:

" (1) Notes that, the Council having ascertained that the financial stability of Hungary is assured, the functions of the Commissioner-General were brought to an end on June 30th, 1926, and that with this step the work of reconstruction has been brought to a successful close within the minimum period contemplated under the original plan;

" (2). Congratulates on this result the Hungarian Government and people, the Commissioner-General and the Financial Committee, who prepared the original plan. It confidently hopes that, by a prudent financial policy, the Hungarian Government will in the future maintain and consolidate the satisfactory position now attained;

" (3) Observes with satisfaction the conclusion of commercial agreements between Hungary and the neighbouring States with whom about half of her total foreign trade is transacted; and repeats the hope expressed at the last ordinary session of the Assembly that the further progress of such commercial agreements may tend to bring about a progressive reduction of the tariffs in Central Europe and will thus contribute to establishing closer economic relations."

Geneva, September 21st, 1926.

LEAGUE OF NATIONS.

FINANCIAL RECONSTRUCTION OF AUSTRIA

Report submitted by the Second Committee to the Assembly.

(Rapporteur : M. STRASBURGER, Delegate for Poland.)

The last ordinary session of the Assembly took note of the proposals by the Financial Committee and of the Council's decisions preparatory to bringing to an end the duties of the Commissioner-General of the League in Austria.

Two conditions had appeared necessary to enable the Council to renounce all direct responsibility for the administration of Austrian finances : the retention in office of a foreign adviser to the National Bank for three years and the right of the Council during a period of ten years to re-establish control if, contrary to all expectations, the yield from the assigned revenues should not suffice for the service of the loan or if the budgetary equilibrium were seriously endangered.

Austria having accepted these conditions, the abolition of control was effected during the past year in two stages as anticipated :

(1) As from January 1st, the functions of the Commissioner-General were limited to control of the assigned revenues and the employment of the balance of the reconstruction loan.

(2) As from June 30th, 1926, the duties of the Commissioner-General came to an end. The Trustees, representing the interests of the holders, took charge of the administration of a special account into which is paid the yield from the gross pledged revenues. M. Dubois, Chairman of the Financial Committee, continued to manage the account in which the balance of the reconstruction loan is to be retained in a liquid form.

To sum up, the year 1926 has seen the Austrian Government reassume full responsibility for its financial policy. The last report by the Commissioner-General appeared in Geneva on June 30th, 1926. These results do the utmost credit to the Commissioner-General, the Financial Committee and the Austrian Government and people.

The time has come to indicate briefly the general results of the work which started with the Geneva Protocols of 1922, and to show the situation of Austria after these three years of effort, the arduous nature of which the Financial Committee did not attempt to conceal.

Of the net yield from the reconstruction loan, amounting to 568.7 million gold crowns, only 79.9 millions, or 13 per cent, were used to cover current deficits. 121.5 millions went towards repaying credits previously granted to the Austrian Government, 35.4 millions served as a deposit equal to six months' service of the loan, while 230.6 million gold crowns were spent on productive investments.

On June 30th, when the duties of the Commissioner-General came to an end, the total residue of the loan was 169.4 million gold crowns, not including the Swiss Government loan of 13.9 million gold crowns, which has not yet been received by the Austrian Government. With the permission of the Financial Committee, this residue will be employed on productive investment work of various kinds : electrification of the railways, construction of telephone cables, etc.

In its last report, the Financial Committee states that it agrees in principle to release about 41.7 million gold crowns for 1927, on condition that a detailed programme is submitted to it at its December session with regard to the use made of this sum.

The closed accounts for 1924 showed a deficit of 9 million gold crowns. The closed accounts for 1925 gave a surplus of 28.4 million gold crowns after covering all expenditure on investments and so-called current account expenditure in the nature of advances which have subsequently to be repaid to the Austrian Government.

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The economic difficulties, which Austria has been no more able to avoid than any other European country, have not affected the Treasury receipts or the yield from taxation, and still less the stability of the currency. The balance-sheets of the National Bank show that Austrian circulation, including that part representing the State debt to the Bank — a legacy from the period of inflation — is covered by the metal reserve and foreign currency to the extent of 60 per cent. Savings bank deposits, which were reduced to nil during the period of inflation, have steadily increased.

Nevertheless, Austria first passed through a financial crisis which succeeded the period of speculation in 1923 and the first few months of 1924. This was followed by a grave economic crisis resulting in a large amount of unemployment. The report by Mr. Layton and Professor Rist, who were instructed by the Council to examine how far this economic crisis might affect the financial and budgetary situation, clearly revealed the nature of the crisis, which does not cast the least doubt upon the country's ultimate power of recovery but which is a crisis directly connected with reconstruction. Recovery must necessarily be slow, but it is certain, if the Austrian people and the Austrian Government strive energetically, as the League of Nations is sure they will, to maintain budgetary equilibrium and to exploit to the full Austria's natural advantages.

By thus justifying the confidence which the Council has placed in her, Austria will have accomplished to the end the work of financial recovery which she has been the first to realise. In this way she will contribute towards the economic stability of the whole of Central Europe.

Draft Résolution.

“The Assembly

“Has taken note of the Council resolution of June 9th, 1926, whereby the functions of the Commissioner-General for Austria were brought to an end on June 30th, 1926 ;

“Is gratified that Austria has been able to reassume full responsibility for her budgetary and financial policy ;

“Does not doubt that the Austrian people and the Austrian Government will by their own efforts be able finally to ensure the results of the work of reconstruction ;

“And expresses its thanks to the countries which have helped Austria with their credit and thus made possible a great act of international co-operation.”

Geneva, September 21st, 1926.

LEAGUE OF NATIONS.

SETTLEMENT OF BULGARIAN REFUGEES

Report submitted by the Second Committee to the Assembly.

Rapporteur: Commander Hilton YOUNG (*British Empire*).

The scheme which has just been adopted by the Council for the settlement of refugees in Bulgaria is the second of its kind undertaken under the auspices of the League. The first, which has now been in operation for two years in Greece, is well known to this Committee. The two plans resemble each other in particulars which it is of interest to emphasise.

We have in each case the same kind of problem, viz., a large flow of refugees into a country unable, without external aid, to bear the strain. In the case of Greece, the problem was more serious. The number of refugees was larger and their arrival was concentrated within a shorter period. About 1,400,000 refugees have arrived in Greece since 1922. The number with which Bulgaria has to deal probably does not amount to more than about 220,000, many of whom have been moving about the country since the Balkan wars. In both countries, however, the refugees created a humanitarian problem. Many of them were almost destitute and dying of disease and famine. They created also an economic, social and political problem, some of them were liable to become disorderly, and not only to create internal trouble but to strain relations with neighbouring countries.

The two problems have similarities, and so have their solutions. In each case the finances of the country have been examined by the Financial Committee, which has drawn up a plan containing, amongst other things, a statement of the securities which could suitably be given for a foreign loan to pay for the work of settlement. In both cases the Government has agreed to provide for settlement a minimum quantity of suitable land and to accept the control of an authority responsible to the Council to ensure the expenditure of the money on the specified objects. The sums involved, the objects on which they are to be spent and the manner of the control of expenditure differ in a noteworthy manner. For the Greek scheme, the Financial Committee advised that £10 million would be required at the outset. For the Bulgarian scheme the sum is much smaller, only £2¹/₄ million. The objects of expenditure are approximately the same in both cases, namely, the provision of seed, implements and houses for the refugees. Greece is the easier case, because many suitable houses were made available by the return of peasants to Turkey under the system of exchange, and enough cultivable land was available. In Bulgaria, on the other hand, there are not nearly enough houses or land, and a part of the proposed loan will have to be spent on reclaiming land and making it fit for cultivation. It is proposed that another part of the loan should be spent on ways needed for access to the districts thus prepared.

In general, the preparation of the Bulgarian plan took long negotiations, which were not needed for the Greek plan, with the neighbouring countries, and with the reparation authorities, whose consent was necessary in order to provide securities for the new loan. It has been provided that the work of settlement shall be done under the supervision of a single Commissioner appointed by and responsible to the Council of the League, with power to investigate and approve all plans for the work of settlement and with sole control over the proceeds of the proposed loan. The powers of the League's Commissioner and the undertakings of the Bulgarian Government in regard to the scheme are contained in a Protocol signed at Geneva on September 8th, 1926, and I think members of the Committee will be of opinion, after reading this Protocol and the reports of the Financial Committee of June, July and September 1926 (document C. 522. M. 204. 1926. II), on which it is based, that every reasonable precaution has been taken that the money already advanced, and the money which, as we hope, will shortly be subscribed by public loan, will be properly expended on the objects set out in the plan.

I think the Committee may feel a confident hope that the present plan will do much to alleviate suffering and to relieve Bulgaria of an economic burden which is beyond her power

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to bear, and for which she was not responsible. We trust that it will increase social and political stability both internally and in the relations between Bulgaria and her neighbours. I have the honour to propose on behalf of the Second Committee the following draft resolution :

“ The Assembly :

“(1) Has learnt with great satisfaction that the negotiations of the last six months have resulted in the adoption by the Council of a scheme for the settlement of some 120,000 refugees in Bulgaria ;

“(2) Observes with satisfaction that, by means of an advance of £400,000, this work has already been begun ;

“(3) Expresses the hope that the total sum estimated for this work, namely, £2¹/₄ million, may be successfully subscribed in the near future ;

“(4) Desires to express its appreciation of the valuable work once more done by the Financial Committee, on whose advice the plan was adopted by the Council, and whose long and unique experience in such work of reconstruction has borne fruit in Austria, Hungary and Greece ;

“(5) Expresses the belief that the execution of this plan will not only alleviate widespread suffering but will also benefit economic and social order within Bulgaria, and consolidate and improve the political relations of Bulgaria with neighbouring countries. ”

Genève, September 21st, 1926.

LEAGUE OF NATIONS

WORK OF THE FINANCIAL COMMITTEE

Report submitted by the Second Committee to the Assembly,

Rapporteur: M. R. M. AVRAMOVITCH (*Kingdom of the Serbs, Croats and Slovenes*).

The reports which have been submitted to the Second Committee on the financial reconstruction of Austria and Hungary and on the settlement of refugees in Greece and Bulgaria have illustrated the activity of the Financial Committee and demonstrated its title to the gratitude of the Council. There are, however, certain other points of no less importance to be mentioned with which the Financial Committee has dealt during the current year. Chief among these are the part it has played in the reconstruction of the public finances of the Free City of Danzig and the work which has been carried out by the Committee, or under its direction, in connection with double taxation, fiscal evasion and the suppression of currency counterfeiting.

I. DANZIG.

As in the case of Austria and, later, Hungary, when the League of Nations lent those countries its aid to re-establish their financial positions, the assistance which the Financial Committee has given to Danzig is closely connected with those problems of reconstruction which have arisen in such an urgent form throughout Europe since the war. Here, more particularly, the League had special reasons for intervening, on account of the responsibilities which it has assumed towards the Free City, whose constitution is under its guarantee.

Last June, at the express desire of the Danzig Senate, the President of the Council requested M. Janssen, a member of the Financial Committee, to investigate the financial position of the Free City, which had become somewhat serious during the months immediately preceding, and to visit Danzig in order to obtain all the information he required. M. Janssen submitted a report to the Financial Committee at its session held in London in July.

"The monetary reform which Danzig carried out in 1923, with the aid of the League of Nations, has been wholly successful, the stability of the Danzig gulden having since then been maintained without difficulty in relation to the pound sterling and the notes of the Bank of Danzig being covered to the extent of over 100 per cent."

Since the beginning of 1926, the Free City has been faced with serious budgetary difficulties, partly due to the increase in expenditure on account of unemployment, partly to the decrease in Customs revenue. Under the convention now in force, the Free City, which is a portion of the Polish Customs territory, is entitled to a percentage of the duties collected in its territory. These duties are collected in zloty. The decrease in the import traffic to Poland and the depreciation of the zloty have seriously affected this source of revenue, particularly as the expenditure of Danzig on Customs administration is paid in Danzig currency, and has not decreased in proportion to the revenue.

At its July session the Financial Committee declared that it hoped to be able at its next meeting in September to recommend the contracting of a loan for the following principal purposes:

- (a) To cover the deficit in the 1926-27 Budget resulting from exceptional circumstances, and to repay the floating debt;
- (b) To undertake certain productive expenditure.

This recommendation could not, however, have been made had not the Committee been assured that the budgetary equilibrium of Danzig would be permanently re-established by a series of enactments which would enable expenditure to be reduced by about 10 per cent and by the

conclusion of a new arrangement between the Free City and Poland, which would secure to Danzig for at least two years a certain minimum revenue representing its share of the Polish Customs revenues.

At its September session, the Free City submitted to the Financial Committee a new Budget providing for certain readjustments in expenditure. The Financial Committee held that the measures adopted or contemplated did not entirely correspond to what it had proposed in July; consequently it has not yet declared itself ready to make a definite recommendation with a view to the issue of a loan. It has asked the authorities of the Free City to make a new effort at budgetary compression between now and December, and has renewed its declaration to the effect that it would be prepared, after examining the proposal submitted to it in December and subject to the rights of the Polish Government, to recommend the issue of a loan of approximately 30 million gulden in favour of the Free City. Such is the position to-day.

According to the declaration of the Polish Commissioner in Danzig, the negotiations with the Free City concerning the apportionment of the product of the Customs duties, the conclusion of which is essential to budgetary equilibrium, have already resulted in a settlement satisfactory to the two parties.

The effort of administrative reorganisation and simplification which is asked of Danzig is considerable. It is nevertheless essential in order to bring about the return of definite financial stability and ensure a brilliant future for Danzig and its port, which is called upon to become one of the vital centres of the economic life of that part of Europe.

II. SUPPRESSION OF COUNTERFEITING.

The attention of the Financial Committee was directed to this question by the Council, in consequence of a letter from the French Government drawing attention to the necessity of a methodical investigation as to the methods of international collaboration calculated to facilitate the suppression or prevention of counterfeiting, which does such serious damage to the credit of the country whose currency is forged.

The Financial Committee attaches to this question the great importance which it merits, and began its work in the matter at its July session by drawing up a questionnaire for despatch to Banks of Issue. Many replies to this questionnaire have reached the Committee, but the latter prefers, before proceeding to examine them in detail, to complete its information.

The Financial Committee will continue its work in this matter, which would seem to be a peculiarly suitable subject for organised collaboration between the various Governments and Banks of Issue. That important improvements can be realised in this connection is evident.

III. DOUBLE TAXATION AND FISCAL EVASION.

For several years now the League of Nations has been dealing with the question of double taxation and fiscal evasion. After the report of four distinguished economic experts on the theoretical solutions of the problem, the Council authorised the Financial Committee to convene a first Committee of Experts, including representatives of the fiscal administrations of certain European countries. In 1925, the Assembly noted the conclusions of this first Committee of Experts. In conformity with the proposals put forward by the Committee, the Council convened a further conference of experts on fiscal questions, which met at Geneva in May 1926. These experts were members of the administrations of the following countries: Argentina, Belgium, Czechoslovakia, France, Germany, Great Britain, Italy, Japan, the Netherlands, Poland, Switzerland, Venezuela. They had been so chosen as to ensure that the Committee should be composed of nationals of countries whose interests and outlook in fiscal questions were as different as possible: countries which exported capital and new countries partly financed by foreign capital.

The similarity of the views of these experts was remarkable. They prepared three preliminary draft conventions regarding:

- (a) Double taxation;
- (b) Judicial assistance with regard to the recovery of taxes;
- (c) Fiscal evasion and administrative assistance.

These drafts only constitute as yet a preliminary basis for discussion, which the experts intend to revise at a later session.

It is, moreover, preferable not to regard as final even the form in which the experts have set out their conclusions. They themselves reserved the right to consider later whether the progress to be realised would be easier to attain by means of a general international convention or by bi-lateral conventions, but they were obviously and rightly anxious that, even in the latter case, endeavours should be made to preserve a certain unity both as to form and principle in these bi-lateral conventions, by reaching an agreement beforehand regarding the general conception to which each of these conventions should conform.

I wish to direct my colleagues' attention to the extreme importance of these meetings of experts in one branch of administration, which ensure personal contact, and, whatever may be the items on the agenda of the meeting, make it possible for each to derive benefit from the experience of his colleagues and examine the solutions applied in other countries to the problems which form his daily task at home.

FINANCIAL PUBLICATIONS OF THE LEAGUE.

In conclusion, I should like to draw your attention to the economic and financial publications of the Economic Intelligence Service of the Secretariat.

New editions of the volumes published in former years have been prepared. Apart from the *Monthly Bulletin of Statistics*, which appears on the last Saturday of the first fortnight of each month, the *Memorandum on Currency and Central Banks* for the period 1913-25 has already been published and volumes on the *Balance of Payments and Foreign Trade Balances* for the years 1910-25 will shortly be ready for publication.

The Secretariat has also now in course of preparation a new edition of the *Memorandum on Public Finance*.

Evidence of the world-wide appreciation of these economic and financial publications of the League of Nations increases yearly. The number of countries preparing special estimates of the balance of payments has grown steadily since the work was first undertaken on the suggestion of the Second Committee of the Third Ordinary Session of the Assembly. Doubtless many of you will have had occasion to use these collections of detailed and objectively presented information when studying the financial and economic problems of the day and will have proved for yourselves their utility and value.

Draft Resolution.

I.

" The Assembly has taken note of the Financial Committee's two reports on the restoration of the public finances of the Free City of Danzig.

" It trusts that, in accordance with the conclusions of these reports, it may be possible for the Financial Committee, when the Free City has effected the necessary administrative and budgetary economies, to recommend the issuing of a loan designed to consolidate the financial and economic situation of Danzig.

II.

" The Assembly has noted that, at the request of the Council, the Financial Committee has undertaken a study of the methods whereby the Governments and Banks of Issue might collaborate to prevent the issuing of counterfeit currency.

" It trusts that the Financial Committee's work will be actively pursued, so that practical proposals may be submitted to the Council for consideration at the earliest possible date.

III.

" The Assembly has taken note, according to the Financial Committee's reports, of the results of the work of the last meeting of experts on double taxation and tax evasion.

" It trusts that their work will be continued and will serve as a useful preparation for the development and progressive unification of international law in the matter, by means of general conventions or of partial conventions based upon common principles."

Geneva, September 22nd, 1926.

LEAGUE OF NATIONS.

WORK OF THE ECONOMIC COMMITTEE.

Report and Draft Resolutions
presented by the Second Committee to the Assembly.

Rapporteur : H. E. M. NAGAI (Japan).

Since September 1925 the Economic Committee has held four sessions. As usual, it has submitted to the Assembly a report on the whole of its work during the past year.

This report shows that the Economic Committee is systematically pursuing the study of the various problems set before it, and is ascertaining in each case, by comprehensive and exhaustive enquiry, how far the proposals which it is considering are of practical value and capable of realisation in the international sphere.

Without entering into details, which may be found in the Economic Committee's report to the Assembly, the Second Committee would like to give a brief summary of the main questions the Economic Committee has dealt with during the past year.

1. In 1924, in a resolution drawn up by this same Committee, the Assembly expressed the wish that the Economic Committee should make an exhaustive study of the problem of the abolition of import and export prohibitions and restrictions.

After two years, during which the Economic Committee has gone into all the details and conducted enquiries in 36 countries, the Committee has now proposed to the Council that an international conference should be held — probably during the first half of 1927. The exact date will be fixed by the Secretary-General in consultation with the Chairman of the Economic Committee and the Chairman of the Preparatory Committee for the International Economic Conference, in order that both Conferences may carry on their work side by side without any inconvenience.

Although the question of prohibitions and restrictions is also on the agenda of the Preparatory Committee for the International Economic Conference, the Council is convinced that no overlapping or waste of effort need be feared. Whereas the International Economic Conference is more in the nature of a consultation, as comprehensive as possible, regarding the world economic situation and the remedies to be applied, and is not expected to lead immediately to inter-governmental agreements, the conference on prohibitions, which the Economic Committee proposes, will, on the contrary, endeavour to bring about as soon as possible, in the form of a Convention, an international agreement to abolish a system which is regarded as injurious to international trade.

As far as may be seen, the International Economic Conference is bound to urge the necessity of a return to unrestricted trade. If, through the suggested Convention, freedom of trade as regards prohibitions and restrictions is reintroduced, this will be an important step towards that economic reconstruction which is the final aim of the International Economic Conference.

A very concise and at the same time comprehensive document, drawn up by the Economic Committee and annexed to its report to the Assembly, will form the foundation of the Conference's discussions on the subject of prohibitions. The efficient preparation, due to the continued efforts of the Economic Committee, will undoubtedly assist this diplomatic Conference very considerably in its work. As you are of course aware, careful preparation is essential to success in undertakings of this kind.

2. The *Convention relating to the simplification of Customs formalities*, signed at Geneva in 1923, has so far been ratified or adhered to by 20 States.

Quite apart, however, from this official recognition of the Convention, it appears from the Committee's report that it is also being indirectly applied, inasmuch as certain of its clauses are being embodied in an increasing number of commercial treaties. In many cases, certain matters are dealt with in these treaties simply by reference to the Convention, which is thus tending to establish a kind of common doctrine.

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3. After protracted attempts to solve the difficult problem of the *suppression of false Customs declarations* by the means of an international agreement, the Committee tells us that it thinks it wiser, before taking any definite step in this direction, to make a fuller study of the question, and to enlarge its scope so as to embrace every kind of false declarations which may be injurious to trade.

4. During the Ordinary Session of the Assembly, in 1923, the Protocol on Arbitration Clauses was opened for signature by any States desirous of adhering. It will be remembered that countries which adhere to this Protocol undertake to recognise the validity of the arbitration clause in contracts, particularly commercial contracts. Considerable progress has thus been made in the extension of *commercial arbitration*, a question of whose importance you are fully aware. At the same time, the 1923 Protocol does not oblige the States adhering to it to execute arbitral awards unless those awards are rendered in their own territories; in other words, the Protocol imposes no obligation on the parties adhering to it as regards the execution of arbitral awards rendered abroad. It is for reasons of expediency that those who framed the 1923 Protocol thought it better not to touch upon the question of the execution of foreign arbitral awards, because, owing to certain aspects of the problem, this question seemed to be linked up with the yet more delicate question of the execution of foreign judgments.

Since then, however, the Economic Committee has rightly decided that the two questions ought to be separated, since, in its opinion, the first question does not present all the difficulties involved by the second. The Committee's investigations are now making it inclined to have recourse to the assistance of legal experts of recognised competence in this matter, and the report which it is submitting to us shows that it is contemplating the possibility of supplementing the 1923 Protocol by an additional act, securing the execution in the territory of one adhering State of an arbitral award rendered in the territory of another such State.

The Second Committee need hardly emphasise the importance attached to the solution of this problem in international commercial circles.

5. With regard to the attempted unification of *legislation concerning bills of exchange*, the Economic Committee informs us that, taking into account the desire repeatedly expressed in international commercial circles, it has resumed its investigations upon somewhat different lines.

The Economic Committee is convinced that, in view of the present state of affairs, it would be vain to attempt any general unification of legislation on this subject, but thinks that some progress could probably be achieved towards a gradual assimilation of the different national legislations, more especially of those of the so-called continental type.

However, before taking any steps in this direction, it proposes to adopt its usual course and investigate how far the existing divergences of the various legislations are in practice a hindrance to trade. To this end it will, still in the course of the present year, consult a number of experts who are specially qualified to give an authoritative opinion.

6. In 1925, a Conference was held at The Hague with the object of revising the International Convention for the Protection of Industrial Property.

It will be remembered that the Economic Committee suggested amendments to several articles of the Convention, adding fresh and more effective provisions for the suppression of *unfair competition*.

The Conference considered these proposals, and the Economic Committee is now happily in a position to inform the Assembly that the majority of the measures it suggested have been embodied in the new text of the Convention, in consequence of which the principles advocated by the Committee will henceforward be applied in the 36 States of the Union. The Second Committee thinks that this is a success on which we should congratulate the Economic Committee.

7. With the help of the International Labour Office and the Financial Committee, the Economic Committee has continued its investigation of the involved problem of *economic crises and consequent unemployment*.

It would take too long to enter into all the details of the question; these are to be found in the Committee's report. It should, however, be stated that, at the suggestion of the Joint Committee on Crises, the Council has drawn the attention of the States to the necessity of collecting and publishing at short regular intervals statistics which will serve to establish reliable indices.

It is evident that accurate information concerning the fluctuations of production is essential. The Council therefore took this opportunity of reminding the States of the importance it attaches to statistics of production and stocks.

Finally, the Committee contemplates convening a meeting of a number of experts at an early date, in order to obtain their opinions as to the scientific and technical aspects of the establishment of indices and economic barometers.

In addition to these statistical questions, the report shows that the Joint Committee is continuing its investigations for the purpose of ascertaining what are the essential elements which cause excessive fluctuations in economic activity.

8. In June 1925, the Council of the League of Nations requested two distinguished economists, Mr. Layton and Professor Rist, to hold an enquiry into *economic conditions in Austria*, with a view to discovering what effect these conditions had on the work of financial reconstruction undertaken by the League.

In September of the same year, the Council referred the conclusions of their report to the Economic Committee for consideration. The latter devoted its December session to this

work, making special efforts to discover appropriate means of removing the obstacles to reciprocal trade and more especially Customs tariffs between the succession and cessionary States of the former Austro-Hungarian monarchy.

It has presented a reasoned report embodying two main ideas ; first, that the intensification of the agricultural production of Austria seems to be the most urgent remedy, and that such production could be fostered by an appropriate system of long-term agricultural loans. Certain members of the Economic Committee have helped the Financial Committee to conduct a more searching enquiry into this subject.

The second conclusion reached by the Economic Committee is that it would be to the advantage of the States which have succeeded to or to which have been ceded portions of the former monarchy to conclude the closest possible commercial agreements with one another so that the needs of each country may be met, without any country departing from any obligations it may have assumed with regard to third States.

This recommendation was also intended for the other States asked to take the special needs of Austria into account by revising their commercial conventions with that country.

The Council, approving the proposals of the Economic Committee, has forwarded these recommendations to the States concerned.

9. The Economic Committee examined the recommendations submitted to it by the Committee of *Enquiry into the Statistics* regarding the Census of Industrial Production, and subsequently, when these recommendations had been approved by the General Conference of the International Institute of Statistics which met at Rome in October 1925, recommended that the Council should communicate them to the various States for favourable consideration, asking the latter to communicate any observations they might have to make.

10. The Second Committee was glad to observe in the Economic Committee's report an assurance that the documents collected by the Economic Section regarding the various means of *protecting the foreign buyer against worthless goods* would be published shortly. The Second Committee, however, requests that every effort be made to secure their publication before the next ordinary session of the Assembly.

11. The Assembly will doubtless have noted with satisfaction that the Economic Committee and the Committee on Intellectual Co-operation have established close relations in the study of the problem of scientific property undertaken by the latter which will surely prove effective and valuable. You will also have observed that the Economic Committee is anxious to see this co-operation extended to all the work common to both bodies. The Second Committee is in sympathy with this desire and is sure that it will be realised, for it is simply common sense.

In conclusion, the Second Committee wishes to express its high appreciation of the work of the Economic Committee and has the honour to propose to the Assembly the following draft resolutions :

" The Assembly :

" (1) Again states its conviction that commercial relations would be greatly improved by the conclusion of an international convention for the abolition of import and export prohibitions and restrictions.

" It notes with satisfaction the progress which has been made, thanks to the efforts of the Economic Committee, towards the realisation of the recommendation made by the Ordinary Session of the Assembly in 1924.

" It notes the Council's resolution to convene, for this purpose, at as early a date as possible, a Conference of Representatives of the Governments of States Members and non-Members of the League of Nations, and expresses a most earnest hope that this Conference's work will be crowned with success.

" (2) It notes with satisfaction that the Protocol established in 1923 is still making its influence felt in the direction of a wider recognition of commercial arbitration, and that the Economic Committee has recently begun to consider the possibility of preparing an additional act, the object of which will be to ensure the execution of arbitral awards given abroad.

" (3) It records the fact that the number of ratifications of the International Convention for the Simplification of Customs Formalities is increasing and notes that this international act has had a beneficent influence on the conclusion of certain treaties of commerce.

" (4) It observes with satisfaction that most of the methods suggested by the Economic Committee to ensure more effective protection against unfair competition have, in most cases, been embodied in the new provisions of the Convention of the Union for the Protection of Industrial Property revised at The Hague in November 1925.

" (5) It follows with interest the enquiries being conducted by the Economic Committee with regard to measures for the repression of false Customs declarations ; the standardisation of legislation with regard to bills of exchange and cheques ; the unification of economic statistical methods ; the protection of the buyer against worthless goods, and the Committee's research work regarding the causes of excessive fluctuations in economic activity."

[Distributed to the Council
and the Members of the League.]

C. 569. M. 211. 1926. II.
(F. 322)

GENEVA, October 5th, 1926.

LEAGUE OF NATIONS

**SCHEME FOR THE SETTLEMENT
OF BULGARIAN REFUGEES**

GENERAL DESCRIPTION AND PRINCIPAL DOCUMENTS

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NOTE.

In the Report of the Financial Committee of June 9th (page 25, *sub (c)*), in the Protocol (page 36, Article III) and in the Introduction (page 8, section 4), the specific revenues of the Bulgarian Budget on which the Refugee Loan is to have a first charge, and which are at once to be controlled, are described as: (a) the excise duty on salt, (b) the excise duty on alcohol, and (c) the net receipts of the match monopoly; and the yield in the last year is given as 280, 144 and 109 million leva respectively, or a total of about 19.7 million gold francs. The decision of the Inter-Allied Commission in Bulgaria of July 22nd, following this description, releases from the general charge "the excise on salt (2) the excise on spirits (3) and the net receipts of the match monopoly" (page 29).

The revenues which the Bulgarian Government proposed and intend to assign as assets for the new loan are exactly the revenues included in Chapter 15 of the Budget (which is entitled "Excise on alcohol and other Bulgarian and imported articles"), in Chapter 16 (which is entitled "Excise on salt and other Bulgarian and imported articles"), and in Chapter 21 ("Sale of matches"). The first two chapters (15 and 16) include other articles beside alcohol and salt; and the figures of last year's yield given above are the totals of all the revenues in the three chapters.

An application has been made to the Inter-Allied Commission to take a further decision so as to make it clear that the release covers the other items, so that the total value (on the basis of last year's yield) will amount, as contemplated by the Financial Committee, to about 533 million leva, or about 19.7 millions of gold francs. These revenues are, of course, in addition to the sums received from the refugees and the further revenues which would be assigned in case of need, in accordance with paragraph 1 (4) and (5) and paragraph 5 of Article III of the Protocol (page 36).

The full list of the revenues in question is as follows:

Chapter 15. — Appearing in the Budget as "Alcohol and other Bulgarian or imported goods":

A. Excise chargeable on home and imported goods:

Pure alcohol and derived products for heating, for industrial purposes and for making vinegar,
Beer,
Carbonic acid.

B. Excise chargeable exclusively on imported goods:

Liqueurs,
Aerated waters,
Fruit syrups.

Chapter 16. — Appearing in the budget as "Excise on salt and other Bulgarian and imported goods":

A. Excise chargeable on home and imported goods:

Salt,
Cane and beet sugar,
Grape-sugar,
Other kinds of sugar.

B. Excise chargeable exclusively on imported goods:

Preserved fish,	Sugar products,
Rice,	Alimentary pastes,
Bananas,	Perfumes,
Spices, various,	Toilet articles,
Benzine, petroleum, gasoline,	Rouge, paint, etc.
turpentine and nitro-benzole,	Tooth-pastes, powders, etc.
Calcium carbide,	Aromatic oils and essences.
Sweetmeats and biscuits,	Soap,
Chocolates and caramels,	Vegetable oil,
Cocoa and coffee,	Medicaments containing sugar or alcohol,
Preserves, jams and syrups,	Preserved fruits,
Ice,	Preserved food products, various,
Balsams,	Barley, prepared,
Vanilla and cinnamon,	Cheese,
Snuff and cigars,	Chicory,
Olives,	Husker rice,
Candles, paraffin and stearine,	Pepper,
Vinegar,	Preserved caviar,
Tea,	Perfumed paper.

Chapter 21. — Appearing in the Budget as "Sale of matches".

All the revenues in the above three chapters of the Budget have been under the control of the Commission since October 15th, 1926.

The new decision of the Inter-Allied Commission, making it clear that the revenues released include all those comprised in the above chapters, as also the further decision authorising the Bulgarian Government to increase the total of the loan (without increasing the amount available for refugees' establishment) in order to deal with the debt to certain creditors represented by the Banque de Paris et des Pays-Bas as contemplated in the Report of the Financial Committee of September 6th (page 33, *sub (a)*), will be published as soon as they have been taken.

I. — INTRODUCTION.

It has been recognised for some years that League assistance might be required in the task of settling the refugees in Bulgaria. During the almost continuous fighting from the outbreak of the Balkan war of 1912 to the end of the great war in 1918, and throughout the troubled post-war period of shifting populations in the Balkans, considerable numbers of refugees have entered Bulgaria from the neighbouring countries. In some cases they have left their former homes as the result of international conventions to which Bulgaria has been one of the parties, in others the departure has been unorganised. In the thirteen years from 1913 to 1925, the official Bulgarian statistics give a total of 221,191 refugees of Bulgarian nationality who have so arrived and remained within the narrowed frontiers of the new Bulgaria, and, while many of these have been absorbed in one way or another, a large number are still unsettled and continue in the greatest misery and distress. They have constituted a serious factor both in the interior politics and the external relations of Bulgaria. Internally they have naturally formed the material ready to hand for any revolutionary and disruptive forces threatening the social order. In the external relations they have been no less serious. They have given recruits, and shelter, to the comitadjis, whose activities have led to so many frontier incidents. Moreover, the existence of so many destitute and miserable refugees, with the vivid memories of their expulsion or forced abandonment of their former lands across the frontier — sometimes scarcely out of sight — has necessarily constituted a standing menace of more far-reaching and ambitious movements.

It has been obvious, therefore, for some years, to those who have watched the Balkan situation, that a settlement loan, with the aid of which these refugees could be securely settled in their new country, among those of their own race, would not only relieve an immense mass of human misery but would have a stabilising effect on the whole Bulgarian — indeed the whole Balkan — situation altogether out of proportion to the sum involved.

Till this year, however, the internal situation in Bulgaria, and some factors in her external relations, have not been favourable to the successful undertaking of such a scheme through the League. The situation was carefully followed, but as an unsuccessful application for assistance or an abortive attempt to help would have done nothing but harm both to Bulgaria and to the credit of the League, on which ultimate success would depend, no encouragement to make a formal demand was given in earlier years. By the spring of this year, however, after the new Liapcheff Government had been in office for some months, the conditions seemed favourable for success and, after careful soundings of the position, the Government made formal application on May 3rd (Document II).

It was important that the work of settlement should begin before the winter, and this would have been impossible if the Financial Committee and the Council had not been able to accept responsibility at their June meetings. It was therefore arranged that M. René Charron, who was just finishing his work on the staff of the Commissioner-General in Hungary, should at once visit Bulgaria and assist the Government in preparing the information which would be necessary for a proper examination of the problem (Document III).

M. Charron presented his report (Document IV) on May 31st. The time at his disposal obviously did not allow a full critical investigation either of the facts or of the proposals of the Bulgarian Government, nor indeed did his mission include such a responsibility. His task was to assist the Government in placing their plans before the Committee and the Council in such a form, and supported by such information, as would render a rapid and effective consideration practicable. The proposals so put forward on the responsibility of the Government are clearly and fully analysed in the report. Excluding Russian and Armenian refugees, who for the most part are not suitable for settlement on the land and are not dealt with in the scheme, the Government's proposals contemplated the settlement of 30,180 families on the land and the assistance of some 5,000 families in the towns. These figures must not be regarded as more than approximate. On the one hand, they have been criticised as not allowing sufficiently for refugees already absorbed. On the other, the statistics do not include recent arrivals or allow for possible new arrivals. The standard sum for full settlement of a family was taken at 50,000 leva (or about £75) to cover the provision of a house, an ox or cow, a half use of a plough and cart and a fourth use of a harrow, minor implements, seed and subsistence for eight or nine months. This sum compares with the standard figure of about £100 in the Greek refugee scheme, the difference resulting from differences in local conditions and standards. Only 36 per cent of the refugees, however, are believed to be entirely destitute; 20 per cent have the means of subsistence for a few months; 17 per cent have a house and 27 per cent have a house and implements. Allowing for this, it was calculated that some £1,625,000 would be required for settlement on the land (excluding the

cost of preparation of land where suitable land was not available). In addition, it was calculated that, if the 5,000 urban families were to be assisted, £150,000 would be required.

The land required for settlement presents a greater difficulty than in Greece, where the departure of the Turks left recently cultivated land available and where it was possible to find land for practicably all the refugees without work of reclamation. In Bulgaria this will not be possible. The standard allowance, under the Bulgarian land law, is five hectares. Some 10 per cent of the refugees will, however, be settled in districts of intensive cultivation (vines, orchards, tobacco, silkworms), where only half this land will be required to support a family. The general average may therefore be taken at four hectares, or a total of 132,000 hectares (this compares very closely with the Greek experience). The land proposed for settlement is analysed under different categories in the report (page 15). The important point to note here is that it will be necessary to undertake clearing and deforestation work, which will make 36,000 hectares available, at a cost of £125,000, and drainage works (which will bring into cultivation 40,000 hectares of State domain, of which 21,000 are to be at the disposal of the refugees), at a cost of £225,000.

In addition, some of the districts in which settlement is planned are seriously defective in communications; and the Bulgarian Government desired to spend £225,000 in completing a railway from Haskovo to Mastanly¹ and a further railway, at the same cost, from Ladjene to Nevrocop. The former of these was said to be the more urgent and, as we shall see, the latter has in fact since been omitted from the plan.

The full plan of expenditure as presented by the Government therefore comprised:

Country settlements	£1,625,000
Town settlements	150,000
Expropriation	75,000
Clearing	125,000
Drainage	225,000
Communications	450,000
	<hr/>
	£2,650,000

This total was, as we shall see, ultimately reduced by the Financial Committee to £2¹/₄ millions, mainly by the omission of the less urgent railway line and the elimination of the estimate for town settlements.

M. Charron's report concludes with suggestions as to possible securities for the proposed loan and full statistics showing the yield of the revenues proposed, the budget position both now and in former years, the service of the public debt, the foreign trade, production, area and population of Bulgaria and information as to the National Bank.

The Financial Committee, at its meeting in June, examined this report and the whole problem which it described, with the further aid of previous reports by M. Tixier and Colonel Procter and with the personal assistance of the Bulgarian Minister of Foreign Affairs, M. Bouroff, and the Governor of the National Bank, M. Ivanof.

The Committee in its report of June 9th (Document V) pronounced definitely in favour of the League proceeding with the enterprise. It was impressed "with the great advantages which the settlement of these refugees would have: (a) in reducing difficulties in internal politics where the still destitute refugees are the chief source of social unrest; (b) in improving external relations in which the problems arising out of the existence of these refugees also play a prominent part; (c) in adding to the economic resources of the country by putting into productive work some 60,000 workers (apart from the families which they support) eminently fitted for agricultural work, who are at present a source of expense and not of wealth, and bringing into cultivation land now unused but easily capable of being made fertile and productive; (d) in assisting the Bulgarian Government to proceed with the work of reconstruction which it has undertaken and of which the first results have been the real progress achieved in the last three years in the direction of the re-establishment of budgetary equilibrium and the maintenance of monetary stability, the consolidation of this work being the best means of improving the credit of the country".

The Committee thereupon stated in its main outline the scheme which was subsequently approved and is described below. Before, however, the Council could be properly asked to associate the credit of the League with a loan operation, some important negotiations, which could not be concluded at the June meeting, needed to be undertaken. In particular, it was necessary to persuade the reparation authorities (the Reparation Commission and the Inter-Allied Commission at Sofia) to release from the general reparation charge the revenues on which it was desired to place a first charge in favour of the new loan, and to institute a system which would safeguard the Bulgarian currency (and consequently the assigned revenues)

¹ Referred to in some documents as the Rakowsky-Mastanly line.

from losing their value through reparation payments. At the same time, the Committee recognised the extreme urgency of securing money for expenditure before the winter, which would be impossible if it could only be obtained from a loan issued after the next ordinary meeting of the Committee and Council in September. The Committee therefore proposed to leave a month for these and other negotiations and to meet again in special session in July to verify the results, and asked the Council to authorise negotiations for immediate advances for urgent needs if the results were satisfactory.

The Council on June 10th approved this proposal, fixing the limit of the advances at £400,000. The three Member States who are neighbours of Bulgaria — Greece, Roumania and the Kingdom of the Serbs, Croats and Slovenes — represented to the Council that they were deeply interested in the system of control being such as to secure that the proceeds of the loan were devoted solely to the permitted objects and in the plan of settlement being such as not to involve danger of frontier trouble; and the Council undertook to consult these States in determining the definite form of control in September (see extract from Council Minutes, Document VI, and Council resolution, Document VII).

The required negotiations continued and from July 19th to 23rd the Financial Committee met in special session in London, where statements were heard from M. Molloff, Bulgarian Minister of Finance, and M. Ivanoff and views exchanged with the representatives of the three neighbour States. During the meeting the reparation negotiations reached a successful conclusion (Document VIII), and the Committee was able to recommend the President of the Council to authorise the Bulgarian Government to begin negotiations for an advance of £400,000 and to appoint M. Charron to control their expenditure (Document IX).

Within the next few weeks this sum of £400,000 was obtained in the form of an advance from the Bank of England to the Bank of Bulgaria.

In the meantime progress had been made in overcoming one of the other main obstacles to the issue of a loan of which no mention has so far been made. Bulgaria owed considerable sums in respect of pre-war loans and, while some payments were being made in respect of these obligations, only short-term arrangements had been made, and the Committee took the view that, unless a more definite settlement were made, the issue of a loan would be difficult or impossible. Early in September an agreement covering the major part of these debts was concluded, and, while a few others remained to be dealt with, the problem was so far reduced in dimensions as to present no obstacle to the final approval of the main scheme of settlement at the September meeting.

On September 2nd the Financial Committee met at Geneva and its report of the 6th (Document X) included recommendations on all the outstanding points requiring settlement by the League before the loan could be issued and the plan be brought into full operation. The most important and difficult part of these recommendations related to the system of control at Sofia and the procedure by which the three neighbour States could secure due consideration of any representations they might desire to make on matters specially affecting their interests. In particular, anxiety had been expressed as to the settlement of refugees near the frontiers. The Committee proposed that, "in principle, the land chosen for new settlement should be a considerable distance (50 kilometers) from any frontier of the three neighbouring States". Exceptions to this principle were, however, contemplated where the characteristics of the region served as an effective natural barrier and made its strict application unnecessary. Roumania at once agreed to such an exception in a region south of the Danube, and the exact definition of further exceptions in certain other regions of Bulgaria was deferred till the December meeting. The principle was also laid down that no expenditure was to be allowed on communications "designed not for necessary requirements of the refugees but for strategic purposes". The main importance of this latter provision was its application to the proposed railway line from Haskovo to Mastanly, which caused certain anxiety to Greece. On September 20th the Council was, however, able to note that Greece had, as the result of certain declarations made by the representative of Bulgaria, withdrawn her objections to the construction of this railway (Documents XIV and XV).

The Committee's report included also a draft Protocol for signature by Bulgaria, embodying the obligations undertaken by Bulgaria and the system of control (Document XI).

The scheme so recommended was approved by the Council on September 7th, 1926 (Documents XII and XIII), and the Protocol was signed by the representative of Bulgaria on the following day, September 8th, 1926.

On September 24th, the Assembly expressed its appreciation of the work done (Document XVI).

SUMMARY OF THE SCHEME.

It is time to set out, in main outline, the whole scheme so negotiated and approved.

1. *Objects.*

The purpose of the scheme is the establishment on the land of refugees, exclusively of Bulgarian nationality.

The refugees to be so dealt with have been estimated provisionally as comprising about 30,180 families (or 60,360 persons capable of work, or some 120,000 persons altogether including children and other dependants).

The scheme is exclusively one of *land settlement*, and does not, like the Greek scheme, include provision for urban workers. It is contemplated that the Bulgarian Government will be able to assist, from its own resources, the relatively small number of urban workers requiring assistance.

Settlement will consist of the provision of land, of housing, of supplies in kind of agricultural implements, cattle, seed and in some cases subsistence for a limited period.

In addition, expenditure will be allowed in certain cases for work of *drainage, clearing and communications*.

The total loan of £2 $\frac{1}{4}$ millions (net yield) is to be devoted "as to about two-thirds to the provision of houses, initial equipment and advances, and as to one-third to the preparation of land, so as to make it suitable for settlement and communications".¹

Particulars as to expenditure under the first category are given in M. Charron's report (Document IV). The latter category includes some £125,000 for clearing, £225,000 for drainage and £225,000 for communications (mainly the completion of the Haskovo-Mastanly railway line).

2. Land for Settlement.

The Bulgarian Government has undertaken (Article VIII of Protocol, see p. 38) to provide not less than 132,000 hectares of land which is, or may be made, suitable for agricultural settlement (exclusive of pasture land) and the character and situation of which must be approved by the Commissioner. This land must be unencumbered property of the Government. It is contemplated that of the above total about 36,000 hectares may require some work of clearing and deforestation and some 21,000 some work of drainage, for which provision has been made in the estimates of expenditure. The remainder will be land immediately available for cultivation without such preparatory work.

3. The Loan.

The loan is to give a total net yield of £2 $\frac{1}{4}$ millions, including the sum required to repay the advance of £400,000 already arranged and now in course of expenditure.

This total will be increased if it is found desirable to convert a certain pre-war debt of Treasury bonds, of which some 81 million French francs are still outstanding, into bonds under the new loan, so that the amount available for refugee work will be unaffected.

It is contemplated that the loan will be international, issued in national tranches, all based on the same securities.

4. Securities of the loan.

The loan will be secured by a first charge upon :

See Note, page 4.

- (a) The excise duty on salt ;
- (b) The excise duty on alcohol ;
- (c) The net receipts of the match monopoly ;
- (d) All sums received after September 1st, 1928, in respect of rent or interest due from refugees (sums received from refugees in payment for the purchase of land, building or material, or as repayment of advances, will be applied to amortisation) ;
- (e) Other additional revenues to be specially assigned if the above revenues should at any time fall below 150 per cent of the annual sum required to meet the service of the loan.

The competent reparation authority (the Inter-Allied Commission at Sofia) has released the above revenues (a) to (d) and has undertaken to release the further revenues mentioned in (e), if required (Document VIII.1), and the Bulgarian Government has undertaken to give the necessary first charge.

The Government has undertaken that the assigned revenues shall not be used (*i. e.*, even on the basis of a second charge) as a security for any new loan without the consent of the Trustees (Protocol, Article III, 3). In the last completed year, the first three assigned revenues — (a) salt, (b) alcohol, (c) match monopoly — produced a yield of 280, 144 and 109 million leva respectively, *i. e.*, a total of 19.7 million gold francs (or rather more than one-third of the total yield of the new loan of £2 $\frac{1}{4}$ millions, or rather less than one-third if the total is increased to cover a conversion of the pre-war Treasury bonds).

Trustees will be appointed by the Council of the League to represent the interest of the bondholders of the settlement loan.

The assigned revenues as they are collected will be paid into a special account controlled solely by the Commissioner (Protocol, Article IV, 2) and, after the termination of his office,

¹ See page 24 : Report of Financial Committee dated June 9th, 1926.

by the Trustees ; the sums required for the service of the loan being retained and devoted to that purpose and the balance returned to the Government.

The terms of issue will include provision for an amortisation fund and a reserve fund (Protocol, Article IV, 3).

5. *Bulgarian Finances and Currency.*

Apart from the specific securities of the loan, two precautions have been taken to safeguard the stability of the Bulgarian currency against a depreciation which might diminish the gold value of the assigned revenues.

The scheme is, of course, one of refugee settlement, as in Greece, and not of financial reconstruction as in Austria and Hungary, and direct responsibility with regard to the general finances of Bulgaria is not undertaken by the League. Nor is such a responsibility called for. For the Bulgarian budget has been balanced (with a surplus) since 1922, and the leva has been stable for about the same period.

Nevertheless, the Financial Committee has taken the opportunity of the settlement scheme to strengthen the position in two important respects.

In the first place, the powers of the National Bank have been carefully examined and, as a result of prolonged study and negotiation, new draft statutes, in harmony with the accepted principles of central banking, have been agreed by the Government. As soon as the necessary legislation required to bring them into force has been enacted, the Committee considers that the Bank will be established on a satisfactory legal basis.

The second new safeguard is of no less importance. The reparation payments of Bulgaria are prescribed in an agreement of March 1923. The payments this year amount only to eight million gold francs, but the annual obligation increases in later years till it reaches in 1934-35 a maximum of a little over 43 million gold francs (see page 19). The Financial Committee considered that, unless provision was made to secure that demands for such considerable payments in foreign exchange were not pressed without due regard to the exchange position, the stability of the currency might be endangered. After prolonged negotiation, a satisfactory arrangement has been made with the Reparation Commission, which has taken a decision under which payments of reparation over the exchange will, if the need arises, be controlled by a Transfer Committee. (Document VIII, 3). The Bulgarian Government may request the suspension, "in whole or in part, in the interests of the stability of the exchange", of the purchase of foreign currency necessary for reparation payments. A Transfer Committee, consisting of three "experts on questions of exchange", will then be appointed : one of these members (the Chairman) being a citizen of the United States of America, or of a country neutral in the war, to be appointed by the unanimous vote of the Reparation Commission, or, failing unanimity, by the President of the Hague Court of Justice ; one by the Reparation Commission (after consultation of the Commission at Sofia), acting if necessary by a majority ; and a third by the Trustees of the settlement loan. This Transfer Committee will then be responsible for purchasing foreign exchange for reparation payments "to the extent to which it considers that the stability of the Bulgarian currency allows".

6. *Control.*

(a) *In Bulgaria.*

The control of the execution of the scheme will be in the hands of a Commissioner appointed by, and responsible to, the Council of the League. He will reside in Sofia and report at least every three months to the Council. He has authority to engage personnel, including inspectors, within a budget limit fixed by the Council. The proceeds of the settlement loan and of the advance of £400,000 are paid into an account controlled by him. He is responsible, subject to such instructions as he may receive from time to time, for agreeing to the choice, or the establishment, of the central and local organisation through which the work of settlement will be effected ; for taking all precautions to ensure that the money is expended only upon the specified purposes ; for certifying the land prepared for settlement as suitable both in character and in position (in relation, *e.g.*, to any rules limiting settlement near the frontiers), and for controlling the assigned revenues account.

M. René Charron has been appointed to this office till November 1928. Once the work of settlement is completed, the control of the assigned revenues account will pass to the Trustees.

(b) *In Geneva.*

Normally every three months, and at other times should occasion require, the general progress of the scheme will be examined by the Financial Committee, and by the Council on its advice. The Committee and Council will have before them the reports of the Commissioner, who is likely normally to be present in person to give further information and explanations.

The Council has also recognised that the three neighbour Member States are interested in certain aspects of the settlement work, in particular the choice of land for settlement in relation to the frontier (see Document X, Section 3, and Document XIII, paragraph 4). It has therefore recognised the right of these three States to form a consultative committee, which may meet

in Geneva or elsewhere, but not in Bulgaria. The three Members, or any one of them, can ask for information from, or present observations to, either the League or the Commissioner, and will receive copies of the latter's reports and of official documents submitted by him to the Council on such questions as they claim to affect specially their interests. Moreover, any one, or all three, may (with or without prior consultation in the consultative committee) send a letter to the Council on a subject affecting its or their interests in the sense of Article 4 of the Covenant, and in that case during the consideration of such a letter the State or States would be present at the Council as Members.

The principle accepted with regard to the choice of land in relation to the frontiers has been stated above.

It is contemplated that detailed plans of settlement will be examined in December and that the exact limits within which establishment may be permitted will then be defined.

PREPARATORY WORK REMAINING TO BE DONE.

The scheme has therefore been approved in its main outline. The first advance of £400,000 has been obtained, the Commissioner appointed and the work begun.

Some further preparatory work remains, however, to be completed before the settlement scheme can come into full operation :

- (a) Bulgarian legislation, ratifying the Protocol and enacting the laws determining the general plan of principles and providing the necessary land, requires to be passed.¹
- (b) The new Statutes of the National Bank, as agreed by the Financial Committee, require to be embodied in law.
- (c) While the settlement of pre-war obligations has not been made, a condition of the League approval of the settlement scheme, the absence of settlement (as the Financial Committee has pointed out) would have constituted an obstacle to the successful issue of a loan. Settlements have been made covering about 80 per cent of the ordinary pre-war debts. Negotiations are proceeding with the remainder. In addition, there is the special pre-war Treasury bonds debt which may involve some increase in the nominal total of the loan (and in that event will necessitate the consent of the Inter-Allied Commission of Sofia as regards an amendment to the release of the assigned revenues).
- (d) The main loan requires to be negotiated and issued, probably in several countries.
- (e) Afterwards there still remain certain minor questions as to the exact place of establishment of some of the refugees within a distance of less than 50 kilometers of the frontier for decision by the Council in December.

With the successful settlement of these remaining questions the way will be clear for the practical work of establishing the refugees and for securing the results which the League and Bulgaria confidently expect : the transformation of the destitute and impoverished refugees into prosperous agricultural producers ; the increase in the internal social and political stability of Bulgaria ; the development of her economic resources ; the improvement in her external relations by the removal of one of the chief dangers which have menaced them.

Geneva, September 28th, 1926.

J. A. SALTER,
*Director of the Economic and
Financial Section.*

¹ On September 30th, while this document was in the press, Parliament adopted a law for the ratification of the Protocol ; the law also authorised the Government to organise, with the approval of the League's Commissioner, the administrative services for the settlement of the refugees.

II.

LETTER FROM THE BULGARIAN CHARGÉ D'AFFAIRES AT BERNE TO THE
SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

Royal Bulgarian Legation in Switzerland,

Berne, May 3rd, 1926.

[Translation.]

I have the honour, on behalf of my Government, to bring the following to your notice. On several occasions in the past the Royal Bulgarian Government has ventured to draw the attention of the Council of the League of Nations to the exceptionally difficult situation created in Bulgaria by the influx of enormous numbers of refugees.

In spite of the unceasing efforts of the Bulgarian Government, not only has the position not improved but, in certain ways, it has grown more critical.

Plots of land, sufficient for their support, have been allotted to some 9,000 refugee families ; 5,000 other families have also been given land, though not enough for their needs. Unfortunately there remain some 24,000 families — 7,000 of these are temporarily accommodated in the towns — which are without any means of subsistence and for which the Government has been unable to do anything up to the present. It should be pointed out that the land hitherto allotted to the refugees has been taken from the available reserves, which are really intended to meet the requirements of Bulgarian peasants whose holdings are inadequate for their needs, the consequence being that, in its endeavours to assist the refugees, the Bulgarian Government has had to sacrifice the interests of the native population.

There is no need to dwell on the acute suffering and the exceptionally high death rate among these unfortunate people. The presence in this country of hundreds of thousands of refugees intensifies the prevailing economic crisis and has the most disastrous effect upon labour conditions in the country. Furthermore, the existence of so many centres of misery and discontent reacts inevitably and in a deplorable manner upon the state of mind of the population.

Owing to its economic structure, Bulgaria, which has no great industries and possesses very limited material resources, is incapable normally of assimilating so large a number of refugees in a short space of time. Again, its financial position prevents it from applying large sums to stimulating economic life and to providing work for these refugees.

In the circumstances it will be seen that a foreign loan under the auspices of the League of Nations is necessary.

The major part of this loan will be used in assisting the refugees directly, by advancing to them the necessary funds for the purchase of agricultural stock and implements and the erection of buildings, and the remainder, in providing — by irrigation, the draining of marshy ground, etc. — suitable land for agricultural work and for the settlement of refugees, and also for certain public works, which will furnish the refugees with an immediate means of subsistence.

According to the estimates of the Bulgarian Government, the money required for the above purposes will amount to at least £3,000,000, £1,700,000 to be used for direct assistance to refugee families (allowing on an average £70 per family) and £700,000 to be used in irrigation and draining. The remainder, less the cost of floating the loan, could be used, in connection with the settlement of refugees, for any undertakings which might, during the course of the work, appear desirable or necessary.

The Bulgarian Government is, needless to say, prepared to guarantee the service of the loan by appropriating certain items of its revenue for the purpose.

In view of the fact that immediate assistance is absolutely necessary, and in order that advantage may be taken of the summer season of the present year to carry out the work of settling refugees, the Bulgarian Government urgently requests the Council of the League of Nations to deal with this matter at its June session. The Bulgarian Government is convinced that a prompt decision by the Council will be facilitated if measures are taken immediately to study this question before that date. It therefore ventures to suggest that an official of the League of Nations should be sent to Bulgaria immediately in order to obtain, on the spot, information and details on the matters to which this letter refers.

The Bulgarian Government, which has always in view the need of urgent relief for the refugees, ventures to bring the following points before the Council :

(a) It is essential that, when a decision is taken on the question of the loan, authority should be given for an advance of at least £1,000,000 on account of the loan, in order that the work of settling refugees may be begun in June next ;

(b) It is desirable to use, for the purposes of the loan, the organisations already existing in Bulgaria, viz : The Office for the Allotment of Land according to Working Capacity, which controls the landed property of the State ; the Agricultural Bank of Bulgaria and its branches, which undertake financial operations ; and the organisations of the Ministry of Agriculture ;

(c) It is also desirable to avoid setting up intricate control machinery, and improvised services, which would have the twofold disadvantage of causing undue

expense and delaying the organisation of the work. The Bulgarian Government is of opinion that supervision will be fully ensured if a representative of the League of Nations, with definite duties, is attached to the central autonomous organisation to be set up;

(d) The Bulgarian Government is also of opinion that it would be desirable to leave part of the loan provisionally unappropriated for any specific purpose, and to authorise the autonomous organisation, acting in agreement with the representative of the League of Nations, to decide how this money should be employed once the actual work of settlement has begun.

Having in view the keen interest which the Council of the League of Nations has always taken in the fate of the unfortunate refugees, the Bulgarian Government is confident that it will deal with this matter at its forthcoming session and will succeed in reaching a satisfactory settlement.

(Signed) MIKOFF,
Chargé d'Affaires.

III.

REPLY FROM THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS TO THE BULGARIAN CHARGÉ D'AFFAIRES AT BERNE.

Geneva, May 4th, 1926.

I have the honour to acknowledge receipt of your letter, dated May 3rd, in which the Bulgarian Government makes a request to the League of Nations for assistance in a scheme for the settlement of Bulgarian refugees.

Your letter has now been communicated to the Members of the Council and the question will be placed on the agenda of the Council session for June, when the Financial Committee will also meet.

It is impossible to state, before the Council meeting in June, whether the League can accept any responsibility whatever in connection with a scheme of the kind suggested by you.

I am, however, in agreement with the suggestion of your Government that, in order that the Council may be better able to decide on its attitude in June, it is desirable that full information with regard to the details of your proposals should then be available, and that, with this purpose in view, an official of the League of Nations should consider, in conjunction with the Bulgarian Government and the services concerned, any supplementary information and explanations which might usefully be supplied.

In this connection, I have pleasure in informing you that, in response to the invitation of your Government, I have been able to make arrangements for M. Charron, who is attached to the staff of the Commissioner-General of the League of Nations in Hungary, to proceed to Sofia on or about May 8th, to discuss matters with your Government Departments. During this visit, M. Charron will act as a member of the Secretariat of the League.

It must be understood, however, that M. Charron's visit will be of a private nature, and that his duties will be limited to assisting the Government in submitting, with its proposals, such information as the Council might need in order to decide as to its attitude towards the request which has been put forward. It must, furthermore, be clearly understood that M. Charron's mission in no way implies that the Council will be prepared to accept any responsibility whatever in connection with this scheme. It is of the highest importance that there should be no misunderstanding on this head and, should any information be published giving rise to such misunderstandings, I trust that your Government will make a point of issuing an immediate denial.

(Signed) J. AVENOL.

IV.

REPORT BY M. RENÉ CHARRON ON THE SETTLEMENT OF REFUGEES IN BULGARIA.

I. Number of Refugees to be settled.

May 31st, 1926.

The statistics relating to refugees are kept by three different administrations; they have never been co-ordinated and furnish data which frequently overlap. Moreover, some of these data apply to families, others to the different categories of persons (women, children, etc.) and others to the active population capable of work. It is this active population which must be ascertained in the last resort, since it constitutes the main problem as well as one of the factors which will enable this problem to be solved.

The statistics investigated cover the years 1913-1925; refugees previous to 1913 are regarded as having been absorbed. This investigation has enabled the following figures to be established, which refer exclusively to refugees of Bulgarian nationality.

Number of families : 51,931 consisting (minus deaths) of . . .	83,155 men
	67,716 women
	70,320 children
Total	<u>221,191 persons</u>

forming an active population capable of work of 115,782 persons.

In the last twelve years the Bulgarian Government has spent a sum of about 160 million leva on these refugees (houses, land, etc.); but it is impossible to discover exactly, with a view to eliminating them, which refugees have already benefited from such assistance. These families of refugees form a floating population passing from town to country according to the circumstances and the condition of the labour market. A family which had been settled on the land with house and live-stock may be discovered in an urban centre whither it had moved either owing to friction with the local population, or because it had found more remunerative work. It may be admitted, however, that the above figure of 115,782 persons can be reduced by 30,422 persons, who have finally settled down, either with the help of the State or by their own efforts, and with whom we need no longer concern ourselves.

The Ministry of Labour (M. Nicoloff) also agrees that a second reduction of 25,000 persons may be made in this figure, provided that partial assistance be given to some of them. These are workmen and minor artisans already settled in the towns and provided with work or able to obtain it, and who may remain in the urban centres without causing serious disturbance to the national labour market. All that need be done as regards these people is to help some 10,000 individuals to an extent which will be defined later.

Having made these two deductions, viz :	115,782
less (30,422 plus 25,000)	<u>55,422</u>
There remain	60,360 persons

capable of work whom it is proposed to settle permanently in the country districts.

We may take it as an average that there are two persons capable of work in each family, i.e. 30,180 families (with an average of four persons per family, or about 120,000 individuals).

All the evidence goes to show that the 60,360 workers are either by calling tillers of the soil or can easily adapt themselves to such work.

Summary.

60,360 persons or 30,180 families to be settled on the land.
10,000 persons or 5,000 families to be settled in the towns.

II. Russians and Armenians.

The Bulgarian Government does not contemplate assisting refugees of these two categories. There are many objections to such a course; the Russian and Armenian refugees are not tillers of the soil and are not adaptable to agricultural labour; even if this were not so, public opinion would view with great disfavour the granting of land to foreigners in a country where there is not enough land for the natives.

The Armenians (8,616) are not labourers; they are nearly all shopkeepers, artisans, agents, etc. The Russians (11,918) work somewhat irregularly and as a general rule give little satisfaction in the undertakings where they are employed. A certain number exercise the liberal professions (doctors, engineers, architects). The Ministry of Labour is of the opinion that the great majority will not remain in the country.

At the present moment there are about 7,500 unemployed in these two categories of refugees.

III. Prospects of Future Immigration.

It does not seem likely that any more refugees will come from the Kingdom of the Serbs, Croats and Slovenes. The same is not the case, however, as regards the Bulgarians of Roumania and Greece, and it is probable that a certain number of refugees will continue to come to Bulgaria from these countries in the next two or three years. The treatment they receive in those countries in virtue of existing agreements or of negotiations in progress will naturally have an influence on the extent of the exodus.

Arrivals from Roumania have ceased for the moment, but a few families are still arriving from Greece.

The Bulgarian authorities estimate that 2,000 families may arrive in the next year or two. The Ministry of Labour considers that, once the bulk of the present unsettled refugees have been provided for, the country could absorb this fresh immigration without much difficulty. This absorption would naturally be easier if, meanwhile, large tracts were rendered fit for cultivation.

IV. Cost of Settlement.

Certain settlements of refugee families arranged jointly by the Bulgarian Government and an English charitable society have cost as much as 120,000 leva per family. This sum is undoubtedly too great for our purposes.

The Bulgarian authorities consider that a *minimum* basis of 50,000 leva per family may be adopted, this sum to be distributed as follows :

1 house — representing about half the 50,000 leva.	} One-third of the initial sum.
1 ox or cow — these animals being distributed in such a way that each colony of refugees may have sufficient draft animals for clearing and cultivating the soil, and the animals necessary for their milk supply ;	
1 plough for every two families ;	
1 cart for every two families ;	
1 harrow for every four families.	
Minor implements ;	} One-sixth of the initial sum.
Seed ;	
Living expenses for eight or nine months (calculated at 40 leva per day for a family of four persons).	

The subsistence allowance would be paid in the form of food and only in the event of the family having no resources of its own or being unable to provide food by its work. Many refugees will work this summer among the peasants (harvesters, etc.), while others will be employed in draining swamps and in clearing uncultivated land. As the cost of draining and clearing has been calculated separately, the above estimate is sufficiently liberal and probably will even leave a certain surplus.

The plan of distributing animals and agricultural implements for common use by several families appears to be easy to carry out in Bulgaria. Co-operation of this kind has existed for a long time past and is a deeply rooted custom of the country. This plan also has the advantage of reducing to a minimum the initial costs of settlement.

Our statistics show that there are :

- 30,180 families to be settled on the land ;
- 5,000 families to be assisted in consolidating their position in the towns.

(a) *Families to be settled on the Land.*

In order to allow for the necessarily theoretical character of the calculations on which this figure of 30,180 families is based, we can take as a starting-point a figure increased by 10 per cent, *i.e.*, in round numbers 33,000 families.

About two-thirds of these families have been in Bulgaria for several years ; arrivals in the last two years do not exceed 12,000 families. It is therefore reasonable to assume that a considerable number are not absolutely destitute. The Bulgarian authorities share this view and the proportion is estimated as follows :

- 27 per cent have a house and implements ;
- 17 per cent have a house only ;
- 20 per cent only have the means of providing for their subsistence for a few months ;
- 36 per cent are entirely destitute.

This last category seems to correspond to the refugees who have arrived in the last two years.

If we consider the above figures in conjunction with the sum of 50,000 leva allowed for the expenses of settlement, we find that the following expenditure will be required :

		Million leva.
One-sixth of 50,000 leva for	8,910 families (27%) making	75
One-half " " " " "	5,610 " (17%) " "	141
Five-sixths " " " " "	6,600 " (20%) " "	278
" " " " "	11,600 " (36%) " "	594
	Total	1,088

At the rate of 670 leva = £1, this is equivalent to £1,625,000 in round figures.

This sum may probably be regarded as sufficient, despite the theoretical character of the arguments and calculations on which it is based. Many refugees, as stated above, will receive in the form of wages a considerable part of the sums provided for the preparation of some of the land on which they will be settled. Furthermore, the expenditure provided by the first two categories above is certainly very liberal ; those of the families of refugees who already possess a house and implements probably need nothing more than a plot of land on which to settle permanently.

(b) *Families to be settled in the Urban Centres.*

A maximum expenditure of £150,000 would be sufficient to provide these 5,000 families with all that they require for permanent settlement.

Summary.

A sum of £1,800,000 in round figures would cover the costs of settlement of the families of refugees.

The average per family works out at :

- £49 for families in the rural districts.
- £30 for families in the towns.

V. Land required for the Settlement of a Family.

In conformity with the law on agrarian reform of August 1st, 1924, Bulgarian peasants without land or with insufficient land are to receive 50 decares per family of four persons (1 hectare = 10 decares).

This standard has also been adopted for the settlement of refugees. Ten per cent of the families, however, will be settled in districts of intensive cultivation (vines, orchards, tobacco, silkworms) in which an allowance of 25 decares per family will be sufficient. The general average may therefore be put at 40 decares, making a total of 1,320,000 decares.

The question of pasture land will be settled without the need of providing such land with each plot allocated. The families settled in the existing villages will have at their free disposal the common pasture land of these villages; and the new colonies which it is proposed to set up will be formed into new villages in the vicinity of pasture land which will be common property.

VI. Land Available.

The Bulgarian Government's intention is to settle the refugees as far as possible on the land which will be placed under cultivation after the preparatory work (drainage, clearing, etc.) has been done, the national soil as it now exists being reserved for the native population. This policy is justified by the fact that the density of the population on the cultivable land is very high in Bulgaria: 136 per square kilometre in 1925 (the density for the whole country during the same year being 49 per square kilometre). The Real Estate Department has drawn up a plan for the settlement of refugees over 1,568,971 decares divided as follows:

210,000 decares	reclaimed for cultivation by the drainage of <i>marshes</i> . These lands can be cultivated almost immediately the water has been drained off; they consist of very fertile alluvial soil.
258,971 decares	lands belonging to the <i>Greek emigrants</i> . They are ready for cultivation. A certain area is still occupied by the Greeks, but they will leave at the latest in autumn after the harvest.
60,000 decares	State or communal <i>forest land</i> devastated by animals or by the peasants and already partially under cultivation.
480,000 decares	State or communal <i>forests</i> which can with advantage be converted into agricultural land.
350,000 decares	of land abandoned by <i>Turkish</i> subjects. These lands are situated in the mountains of the south, to the south of Burgas and along the shores of the Black Sea.
65,000 decares	unoccupied land belonging to the State.
45,000 decares	land re-purchased from Serb-Croat-Slovene and Roumanian subjects who have left Bulgaria. Half this land is fallow.
100,000 decares	communal pasture land.

The Serb-Croat-Slovene and Roumanian subjects expropriated from the 45,000 decares mentioned in this list have not yet been fully compensated; Bulgaria still has to pay a sum of 34 million leva. Other expropriation indemnities still outstanding amount to 15 millions, making a total of 50 million leva or £75,000. This is a maximum figure.

Once these indemnities have been paid, the Bulgarian authorities declare that all the lands enumerated above will be the full and entire property of the Bulgarian State.

VII. Plan for the Preparation of the Land available.

A. Clearing and Deforestation.

It is not necessary to remove the trees from all the wooded land and to clear all the uncultivated surfaces before beginning the settlement of the refugees; this would involve considerable expenditure. The main thing is to place at the disposal of the refugees sufficient land to obtain a harvest; they can meanwhile, on their own initiative, push their ploughs further, and, having thus made a beginning, they will in the long run do all the work required. It is in this way that the Bulgarian peasant has conquered his land. The task incumbent upon the State is therefore to provide a sufficient area for the next sowing. This area is estimated at 360,000 decares.

The work will be done by private contract, the method which has already been employed. Mechanical tractors will be used which break up the ground to a depth of 30 centimetres. There are already a sufficient number of machines in the country and the State will not have to buy any.

The cost varies from 120-350 leva per decare, according to the nature of the soil; the expenditure already acquired on 16,000 decares of different kinds of land show an average expenditure of 226 leva per decare.

In the present instance, therefore, the expenditure would amount to $360,000 \times 226 = 81,360,000$ leva or £125,000 in round figures.

B. Drainage of Marshes.

The drainage plan drawn up by the Waterworks and Irrigation Department covers all the marshes and lands situated in the neighbourhood of Varna and Burgas and along the Danube. Of the land reclaimed, the State proposes to place 210,000 decares at the disposal of the refugees, taken from its own property, but the total area reclaimed for cultivation in consequence of the proposed works will amount to nearly 400,000 decares. In addition, vast fertile districts in the neighbourhood, particularly near the two Black Sea ports, which are almost deserted at present on account of malaria, will become habitable.

The proposed plan estimates an expenditure of 150 million leva, i.e. at £225,000 on the following basis :

Earthworks, canals and embankments :			Leva
500,000 cubic metres at 10 leva	=		5,000,000
338,800 " " " 20 "	=		6,776,000
3,432,500 " " " 25 "	=		85,812,500
Bridges :			
3 at 150,000 leva	=		450,000
4 " 200,000 "	=		800,000
1 " 1,000,000 "	=		1,000,000
1 " 400,000 "	=		400,000
1 " 1,500,000 "	=		1,500,000
Other artificial constructions, miscellaneous works and unforeseen expenditure			28,761,500
Programme not yet studied, the total expenditure of which is estimated at			19,500,000
			<hr/>
			150,000,000

The proposed works, which have already been begun at certain points, will be completed within a period of from one to three years, according to their nature. They will be constructed as far as possible by the refugees, who will be settled on the land as and when it is reclaimed.

The plan of work summarised above may appear to be on a rather large scale. It covers, indeed, practically all the drainage works which would have to be undertaken at some date or other, even if there were no refugees to be settled.

In addition to the very appreciable increase in the cultivable surface of the country, drainage will result in the disappearance of malaria in very fertile districts, where the mortality due to this disease is extremely high ; whole villages have been decimated.

It is clear, moreover, that the nature of this kind of work precludes its being undertaken in a partial manner over an area strictly confined to the need of the refugees.

C. Communications.

Means of communication for the transport of material or the conveyance of crops exist in all the districts in which it is proposed to settle refugees, except in the south and south-east districts, in which are situated the lands abandoned by the Turks, i.e. the plateaux of the southern mountains and the coast districts south of Burgas. A few roads exist, but the majority are impassable as soon as winter begins. These are districts of intensive cultivation (tobacco, orchards, attar of roses) ; they are among the richest, yet least populous owing to the defective communications. Stone and timber are available on the spot, but it seems difficult to settle refugees without appropriate means of communication being provided, for otherwise the obtaining of supplies would remain a precarious matter, as it is at present ; the cereals which come from the districts north of the mountains where they are produced are largely transported on mule-back, and the price of bread is twice what it is in the capital.

The Railway Administration has drawn up a plan for the improvement of communications in these districts. Different branch-lines have already been begun over short distances, starting from the main Sofia-Adrianople line, and going towards the south. The two most necessary lines in connection with the settlement of the refugees appear to be those at the two extremities of the massif, namely :

- the Rakowsky-Mastanla line to the east ;
- the Ladjene-Nevrocop line to the west.

The former is the more urgent. It is of normal gauge, 93 kilometres in length, 40 kilometres of which are already under construction. The last sector of 53 kilometres will be the most expensive. Its course passes through the Rhodope range and necessitates large artificial constructions and seven tunnels of a total length of 2,317 metres. The cost of the artificial constructions, tunnels and laying of the rails is estimated at 150 million leva, with an average price of about 3 million leva a kilometre.

The second line, which has also been begun, is 135 kilometres in length and is of a narrow gauge of 0.76 metres. The total cost is also estimated at 150 million leva.

The above estimates do not include the cost of rough labour (earthworks, clearing of ground, etc., and even some of the artificial constructions). The reason is that Bulgaria has an abundant and cheap labour supply, owing to the system of forced labour, each citizen under a certain age being obliged to provide a certain number of days' work. This labour will be utilised on the construction of these railways.

The total expenditure on the two lines will amount to 300 million leva, or £450,000 in round figures.

In case of absolute necessity this sum could be reduced, but should not fall below the sum required for the completion of the Rakowsky-Mastanla line, viz. £225,000.

D. *Irrigation.*

The irrigation of the land on which the refugees will be settled would be an improvement, but is not an absolute necessity. In the opinion of the Real Estate Department, it is not necessary to contemplate such works for the moment; it would even be preferable to wait until the settlement of the refugees has acquired a certain stability. The Government has drawn up a plan of irrigation covering the whole country, which it is proposed to carry out later when resources permit; it would be difficult and more expensive to undertake partial work on isolated sectors.

Recapitulation of the cost of settlement :	£
(a) Country settlements	1,625,000
Town settlements	150,000
Expropriation	75,000
Clearing	125,000
Drainage	225,000
Communications	225,000
Total	2,425,000

VIII. *Revenue proposed as Security for the Loan.*

The Bulgarian Government proposes to set aside the following cumulative securities as guarantee for the Loan :

- (a) First mortgage on the property of the refugees settled with the help of the loan (land, houses, implements);
- (b) The available surplus on the tax on the manufacture of tobacco (bands, including the "mururieh" tax);
- (c) The available surplus on the fiscal stamp duties;
- (d) The tax on matches.

According to the information communicated by the Finance Ministry, the yield of these sources of revenue during the 1924-1925 and 1925-1926 financial periods has been as follows :

	Estimates.			Actual receipts.	
	1924-25	1925-26	1926-27	In millions of leva.	
				1924-25	1925-26
Tobacco bands	560	620	750	573.3	632.2
Fiscal stamps	270	420	410	399.7	407.2
Matches	85	110	110	100.8	109.2
				1,073.8	1,148.6
			In sterling	£1,600,000	£1,700,000

The revenue from the tobacco bands and fiscal stamps has already been assigned to the service of the three pre-war loans : 5 % 1902 ; 5 % 1904 ; 4½% 1907 (see details below in the chapter on the Public Debt). The service of these three loans is governed by an agreement concluded with the bondholders on June 23rd, 1925, stipulating payment of interest in gold francs at 42 per cent. Redemption payments have been suspended between April 1st, 1925, and April 1st, 1927. The agreement expires on April 1st, 1927.

In pursuance of this agreement, the interest paid on these loans amounted to the following sums during the 1925-1926 financial period :

	Gold francs
5 % Loan 1902	1,885,879
5 % " 1904	1,803,879
4 ½% " 1907	2,514,716
	6,204,574 or £247,000.

If redemption drawings had been made, the payments for the year would have amounted to :

	Gold francs
Interest	6,204,700
Redemption	1,627,500
	7,832,200 or about £288,000.

If the service of these three loans had been effected at 100 per cent, according to the contracts of issue, the payments made in 1925-26 would have amounted to the following sums :

	Interest	Gold francs Sinking Fund	Total
5 % 1902	4,319,313	1,470,000	5,789,313
5 % 1904	4,236,125	1,227,500	5,463,625
4 ½ % 1907	5,940,844	1,070,000	7,010,844
	<u>14,496,282</u>	<u>3,767,500</u>	<u>18,263,782</u>

or approximately £725,000.

IX. Public Debt.

I. External Debt.

		Original amount	Balance on March 31st, 1925
<i>(a) Consolidated :</i>			
1. 6 % Loan 1892	Gold francs	124,962,500	7,566,500
2. 5 % " 1902	"	106,000,000	86,750,000
3. 5 % " 1904	"	99,980,000	85,025,000
4. 4 ½ % " 1907	"	145,000,000	132,282,500
5. 4 ½ % " 1909	"	100,000,000	88,246,500
6. 4 ¾ % " 1909	French francs	82,000,000	78,783,951
7. Debt in respect of the occupation of Eastern Roumelia	Roubles	10,618,250	3,618,250
8. Reparation debt (Article 121 of the Treaty of Neuilly)	Gold francs	550,000,000	618,783,281
9. Cost of occupation (Article 133 of the Treaty of Neuilly)	"	25,000,000	21,898,427
10. 6 ½ % Loan 1923 for the settlement of debts arising out of the awards of the Mixed Arbitral Tribunals	French francs	22,942,500	22,942,500
<i>(b) Not consolidated :</i>			
11. Debt to the Banque de Paris et des Pays-Bas for advance against Treasury Bills 1912-1913 with interest up to 1922	"	116,220,000	81,080,000
12. Debt to the Diskonto Gesellschaft, Berlin : <i>(a)</i> Advance of 150,000 francs on the yield of the Bulgarian 1914 loan of 500 million francs	Francs	150,000,000	150,000,000
<i>(b)</i> Advance of 97,500,000 marks on the yield of the same loan	Marks	97,500,000	97,500,000
13. Debt to the Salonica-Constantinople Junction Railway Company, Treasury Bills with interest up to 1932	French francs	27,500,000	25,500,000
14. Debt to the Kingdom of the Serbs, Croats and Slovenes, in pursuance of the Agreement of September 26th, 1923.	Gold francs	14,700,000	6,384,945

II. Internal Debt.

<i>(a) Consolidated Debt :</i>			
15. 6 ½ % Loan 1914	Leva	85,366,300	74,956,300
16. 6 ½ % " 1921	"	171,916,700	157,387,900
17. 6 % " 1923, in pursuance of the Greco-Bulgarian Convention for the Emigration of Minorities	"	29,414,000	29,414,000
<i>(b) Not consolidated :</i>			
18. To the Bulgarian Agricultural Bank . . .	Leva	—	3,897,558
19. To the Bulgarian National Bank (inflation) . . .	"	—	5,002,537,668
Total of the Internal Debt		—	<u>5,278,193,426</u>

The above list does not include the following debts to which Bulgaria is liable under the Treaty of Neuilly :

Claims by Roumania (in particular a claim for 350 millions in respect of the removal of the sequestration on Bulgarian property in Roumania). (This question has been in dispute for several years.)

Compensation due to Bulgarian nationals whose property was sequestrated and liquidated in England.

Bulgaria's share in the Ottoman Public Debt. This question is still awaiting settlement, but it seems unlikely that Bulgaria's liabilities will exceed :

First five years	183,000 Turkish pounds.
15 succeeding years	180,000 " "
21st and succeeding years	106,000 " "

Indemnity due to the European Danube Commission (approximately 135,000 Swiss francs).

Remarks.

No. 1. Issued at Vienna, repayable in 33 years — secured by a first mortgage on the ports of Burgas and Varna and on certain railways — the interest is paid at 32 per cent — redemption payments suspended until 1927.

No. 2. Issued by the Banque de Paris et des Pays-Bas, repayable in 50 years — secured on the tobacco tax (bands) and on the mururieh tax (tax on raw tobacco) — payment of interest at 42 per cent — redemption payments suspended until 1927.

No. 3. Issued by the Banque de Paris et des Pays-Bas — repayable in 50 years — secured on the surplus of the tobacco taxes and fiscal stamp duties — interest and redemption as No. 2.

No. 4. Issued by the Banque de Paris et des Pays-Bas — repayable in 60 years — secured on the surplus of the tobacco taxes and fiscal stamp duties. Interest and redemption as No. 2.

No. 5. Issued at Vienna — repayable in 50 years — no special security — payment of interest at 30 years — redemption payments suspended.

No. 6. Debt to pay off liabilities to Russia. Repayable in 75 years — no special security — the arrears of this debt are no longer paid to the Russian Government but are paid into a special account at the National Bank as they fall due.

No. 7. Carries no interest. Debt to Russia repayable in 22 years as from 1912 — no special security — as regards arrears, same as for No. 6 above.

No. 8. In pursuance of the Protocol for the settlement of the Reparation Debt dated March 21st, 1923, the Bulgarian Government will only pay part of the interest due during the period from October 1st, 1923 to October 1st, 1934; the balance is added to the balance of the debt and the latter will therefore continue to increase until October 1st, 1934. The debt is secured on the Customs revenue.

Schedule of payments of the Reparation Debt. (Block "A".)

Year		Gold francs	Annual payments.
1923-24.	. . . . .	5,000,000	5,000,000
1924-25.	. . . . .	6,000,000	6,000,000
1925-26.	. . . . .	7,000,000	7,000,000
1926-27.	. . . . .	8,000,000	8,000,000
1927-28 to 1931-32	. . . . .	10,000,000	10,000,000
1932-33.	. . . . .	20,000,000	20,000,000
1933-34.	. . . . .	32,895,336	32,895,336
1934-35 to 1982-83	. . . . .	43,395,336	43,395,336

No. 9. Application of Article 133 of the Treaty. Debt settled by agreement of March 28th, 1924, payable in ten years with interest of 6 per cent as follows :

Year		Gold francs	
1924-25.	. . . . .	2,500,000	
1925-26.	. . . . .	3,000,000	
Succeeding six years	. . . . .	4,000,000	
1932-33.	. . . . .	1,000,000	
1933-34.	. . . . .	876,663	

secured on the Customs revenue.

No. 10. Bonds issued against the debts due to French and Belgian creditors recognised by the Arbitral Mixed Tribunals. These bonds are issued as and when awards are made by the tribunals or agreements are concluded; the amount shown is therefore liable to be increased. Redemption is undertaken by the creditors themselves, formed into an incorporated company, who allow a reduction of 20 per cent on the amount of the bonds handed in on condition that if the payment of interest is suspended by the Bulgarian Government for more than two years, the system of redemption will lapse.

No. 11. This debt is governed by an agreement concluded between the Bulgarian Government and the Banque de Paris et des Pays-Bas on August 12th, 1921. Under this agreement the capital and the interest in arrears is to be paid in twelve years by annual payments of : 13 millions of French francs for the years 1922-23 and 1923-24; 15 millions of French francs for three years 1924-25 and 1926-27; 15 millions of French francs for six years 1927-28 and 1932-33; 3,772,521 French francs for the last period 1933-34. Notwithstanding this agreement, however, the Banque de Paris et des Pays-Bas appears to retain the right conferred on it by an agreement in 1913 of claiming the reimbursement of the outstanding portion of the debt "out of the proceeds of the next financial operation undertaken by Bulgaria abroad".

No. 12. Payment of interest has been suspended since 1919. The origin of this debt is as follows : To enable it to pay off the liabilities resulting from the Balkan wars, the Bulgarian Government negotiated in July 1914 a large loan of 500,000,000 gold francs with the Diskonto Gesellschaft of Berlin. On July 12th, 1914, four contracts were signed : the first relating to a loan of 300,000,000, the second to the discounting of 120,000,000 French francs of Treasury Bills, the third relating to the concession of the State mines of Pernika and Bobor Dol and the fourth relating to the concession of the Mikailovo-Hascovo-Porto Lagos line and of the port of Porto Lagos.

The loan of 500,000,000 gold francs was to be secured : (a) on the surplus of the tobacco taxes and fiscal stamp duties after deduction of the sums necessary for the loans of 1902, 1904 and 1907; (b) on the proceeds of the State monopoly on cigarette paper; (c) on the import duties.

The loan was to be issued in two blocks of 250,000,000.

The German bank accepted the first block (with a reservation in case of a European war) and agreed to float it on September 30th, 1914. Out of the yield of this first issue were to be repaid the 120 millions

of Treasury Bills forming the subject of the second contract. The bank also took an option of 2 years on the second block, which was intended to finance the work provided for in the fourth contract.

Only the second contract was carried out. The Diskonto discounted 120 millions of Bills repayable on August 1st, 1915. As regards the loan, the first block was granted to the amount of the 120 millions of Treasury Bonds falling due on August 1st, 1915. The option on the second block was taken up on November 20th, 1915, but only as regards the sum necessary for repaying a second series of 150 millions of Bills discounted in January and February 1915.

Bulgaria's debt in consequence of these negotiations amounts to 270 million francs.

Article 139 of the Treaty of Neuilly entitles the Reparation Commission to take over this debt, together with all rights resulting from the contracts negotiated in 1914 with the Diskonto Gesellschaft in connection with this loan. Hitherto only the sum of 75 millions has been transferred to the Reparation Commission. The disposal of the balance is still awaiting decision. The view held by the Director of the Public Debt is that the final settlement of this question cannot result in any heavy burdens being placed on the budget, as Bulgaria has counter-claims against Germany.

No. 13. Debt representing the damages and interest due to the "Salonika-Constantinople Junction" Company for having been dispossessed of certain of its lines during the war. The agreement settling this debt was approved by the Franco-Bulgarian Mixed Arbitral Tribunal on December 1st, 1923. This debt will be paid off by 1932.

No. 14. Debt resulting from the requisitions made by the Bulgarian army in Serbia and not paid for. The compensation fixed is payable half in cash and half in kind (corn, maize and coal). This debt will have been fully paid off in June 1927.

No. 15. Loan issued for the payment of requisitions after the Balkan wars.

No. 16. Loan issued for the reconstruction of the railways.

No. 17. Loan issued for the application of the Greco-Bulgarian Convention concluded at Neuilly on November 27th, 1919, with regard to the exchange of minorities. The property of the emigrants is purchased by the country in which they are situated and paid for 10 per cent in cash by the country the emigrants are leaving and 90 per cent in Treasury Bonds by the country to which they are going. A clearance account of fixed-term debts is kept between the two countries, the balance of this account having to be settled by the debtor State within six years as from July 1st, 1926.

The issue is repayable in twelve years as from July 1st, 1926.

X. Service of the Public Debt for the Years 1925-26 to 1945-46.

If the payment of interest and redemption were resumed on the basis of the original contracts, *i.e.*, at 100 per cent (with the exception of the five external loans of 1892, 1902, 1904, 1907 and 1909, the service of which for 1926-27 is calculated on the basis of the existing agreements and after that year on the basis of 100 per cent) we should get the following figures :

	Gold francs	French francs	Leva	Approximate Total Sum in £
1926-27	21,431,000	16,000,000	20,800,000	988,500
1927-28	47,217,000	16,000,000	20,800,000	2,012,000
1928-29	37,312,000	16,000,000	20,800,000	1,618,000
1929-30	37,300,000	26,000,000	20,800,000	1,685,000
1930-31	37,300,000	15,500,000	20,800,000	1,614,000
1931-32	37,300,000	15,500,000	20,800,000	1,614,000
1932-33	44,314,000	25,500,000	20,800,000	1,960,000
1933-34	58,177,000	3,772,521	20,800,000	2,365,000
1934-35	66,700,000	—	20,800,000	2,678,000
1935-36	66,700,000	—	20,800,000	2,678,000
1936-37	66,700,000	—	20,800,000	2,678,000
1937-38	66,700,000	—	20,800,000	2,678,000
1938-39	66,700,000	—	20,800,000	2,678,000
1939-40	66,700,000	—	20,800,000	2,678,000
1940-41	66,700,000	—	20,800,000	2,678,000
1941-42	66,700,000	—	16,800,000	2,672,000
1942-43	66,700,000	—	12,900,000	2,667,000
1943-44	66,700,000	—	12,900,000	2,667,000
1944-45	66,700,000	—	12,900,000	2,667,000
1945-46	66,700,000	—	12,900,000	2,667,000

This table does not include :

(a) Arrears on the two Russian debts, payment of which has been suspended (4 ¾ per cent loan of 1909 and debt for the occupation of Eastern Roumelia). These annual payments amount respectively to 4,025,600 French francs and 500,000 roubles ;

(b) The service of the 1923 6 ½ per cent loan, of the Diskonto Gesellschaft debt, and of the 1923 6 per cent loan, the annual payments on which have not yet been fixed ;

(c) The interest on the debt to the National Bank ;

(d) Costs of commission, brokerage, etc.

A. Revenue.

XI. Budget. — Closed Budget Accounts for 1924-25 and 1925-26 and Estimates for 1926-27.

	FINANCIAL YEAR 1924-1925		FINANCIAL YEAR 1925-1926		FINANCIAL YEAR 1926-1927
	Estimates	Actual receipts	Estimates	Actual receipts	Estimates
Direct taxes	830,000,000	343,158,318	890,000,000	393,078,496	860,000,000
Indirect taxes	2,717,000,000	2,863,313,409	2,970,000,000	2,826,215,401	2,960,000,000
Miscellaneous taxes	441,500,000	598,793,382	630,000,000	623,660,299	610,000,000
Fines and confiscations	53,000,000	65,886,800	70,000,000	72,181,713	65,000,000
Railway receipts	917,000,000	967,104,105	1,080,000,000	954,389,888	1,102,000,000
Receipts of the Posts, Telegraphs and Telephones	278,000,000	234,735,114	250,000,000	234,056,142	275,000,000
Receipts from Domains and capital holdings	637,600,000	502,713,147	335,000,000	297,397,209	397,000,000
Contribution of the Communes to the upkeep of the schools	494,000,000	384,960,725	420,000,000	247,796,855	420,000,000
Incidental receipts	211,150,000	256,507,669	170,000,000	166,771,959	175,000,000
Receipts in respect of past budgets	25,000,000	640,858,831	60,000,000	539,743,758	60,000,000
TOTAL	6,604,250,000	6,858,031,505	6,875,000,000	6,355,291,723	6,924,000,000

The "receipts for past budgets" are the sums received after the accounts of a given financial period have been closed; in most cases these receipts are in respect of direct taxes.

B. Expenditure.

	ORDINARY BUDGET 1924-1925		ORDINARY BUDGET 1925-1926		BUDGET ESTIMATES 1926-1927
	Estimates	Actual expenditure	Estimates	Actual expenditure and probable liabilities	
Head of the State	51,001,240	48,587,455	62,864,136	54,168,123	55,813,140
Public Debt	1,227,579,686	1,032,767,716	1,416,339,279	1,204,217,000	1,438,082,730
Audit Office	10,427,540	8,641,157	27,605,450	24,278,328	20,728,280
Ministry of Foreign Affairs	114,601,061	97,009,530	109,785,360	103,939,362	94,325,110
Bulgarian Church and Public Worship	39,297,600	38,377,170	42,242,627	45,007,887	38,565,300
Ministry of the Interior	277,064,240	238,815,836	374,845,778	330,060,770	313,011,170
Department of Public Health	189,094,510	158,342,798	222,583,080	169,100,795	163,267,870
Ministry of Education	747,271,500	692,898,171	818,155,690	813,473,000	663,909,840
Ministry of Finance	301,394,780	248,310,978	269,344,958	272,126,913	202,636,510
Ministry of Justice	152,233,710	143,194,392	193,646,036	178,585,752	156,189,220
Ministry of Commerce, Industry and Labour	483,878,651	401,828,788	176,200,740	151,401,567	141,289,000
Ministry of Agriculture	246,852,290	180,389,493	263,898,450	250,725,000	215,739,850
Ministry of War	1,267,961,980	1,131,854,555	1,357,569,480	1,235,373,190	1,234,670,580
Ministry of Public Works, Roads and Communications	316,086,570	262,603,556	304,396,010	257,842,421	278,710,610
Revenue Department	190,390,000	170,802,825	190,482,360	172,356,702	152,619,540
Aviation Department	23,243,040	18,656,662	42,824,316	41,896,591	32,880,000
General Railway Directorate	817,201,604	692,049,043	965,306,640	869,263,530	894,828,010
Directorate of Posts, Telegraphs and Telephones	197,631,000	178,437,114	231,980,790	217,778,372	220,126,580
Bulgarian Commission attached to the Reparation Commission	171,800,000	155,386,595	68,491,545	53,021,933	46,767,930
TOTAL	6,825,011,002	5,898,953,834	7,138,572,733	6,444,617,236	6,354,161,270
				Increase of salaries	350,000,000
				Redemption of the State debt to the National Bank	150,000,000
				Miscellaneous debts of previous years	70,000,000
				TOTAL	6,924,161,270

	Results of financial period		Estimates
	1924-25	1925-26	for 1926-27
Receipts	6,858,031,505	6,355,291,723	6,924,000,000
Expenditure	5,898,953,834	6,444,617,236	6,924,161,270
Surplus	959,077,671	—	—
Deficit	—	89,325,513	161,270

The figures for 1925-26 are provisional: the above figures for expenditure include expenses which may be incurred on account of the 1925-26 financial period up to June 30th, 1926, *i.e.*, three months after the close of the financial year. It is already known, however, that economies have been effected on these estimates and it is probable that the deficit indicated above will disappear.

Results of Budgets since 1912.

	Receipts	Expenditure	Deficit	Surplus
		(In millions of leva)		
1912	170	310	140	
1913	168	349	181	
1914	224	292	68	
1915	194	335	141	
1916	193	578	385	
1917	338	1,088	750	
1918-19	566	1,560	994	
1919-20	844	1,517	673	
1920-21	2,006	3,233	1,227	
1921-22	2,844	4,380	1,536	
1922-23	4,423	4,212	—	211
1923-24	5,357	5,147	—	210
1924-25	6,858	5,898	—	959

The receipts of the State, including those of the Railways, Posts, Telegraphs and Telephones, are centralised at the National Bank, which acts as State treasurer. They are paid in by the collectors within a period of from two to five days.

The Ministry of Finance exercises strict supervision over all expenditure. The method employed is as follows:

A commission consisting of the Chief of the Budget Section at the Ministry of Finance, a representative of the Audit Office, and a representative of the National Bank meets each week to consider proposals for expenditure exceeding 50,000 leva. Expenditure is only approved in so far as it can be covered by receipts. This commission at the same time investigates the possibility of effecting economies.

A representative of the Ministry of Finance is attached to each Ministry. Approved expenditure is authorised by him by means of a letter of credit on the National Bank. This letter of credit is then countersigned by the Audit Office.

The State has no working capital fund and the above-mentioned commission has to adjust the flow of expenditure to the flow of receipts; in the months when receipts are insufficient, as at the present time, for example, unessential expenditure is postponed until later. There is still a certain margin below the legal maximum of advances which can be made by the National Bank to the State, but the State refrains from using it and the margin, moreover, is not a large one.

The Government, under the incentive of the Ministry of Finance, is pursuing a vigorous policy of economy. Considerable reductions have already been made in staff: in 1924-25 the number of State officials excluding the army, the priesthood and temporary workmen, was 84,717; this was reduced to 78,832 in 1925-26, and for 1926-27 the figure will be further reduced to 76,761. Before the war the number of officials was about 65,000.

The Ministry of Finance is of the opinion that the present level of taxation calculated at its real value does not exceed the pre-war level.

XII. National Bank.

The National Bank has a capital of 500 million leva, 93 millions of which have not been called. This capital is the property of the State. It is proposed to increase it to one milliard in the next five or six years by the employment of part of the annual profits.

The National Bank is a State bank subject to the authority of the Ministry of Finance (see Article 49 of the Statutes). The governors, deputy-governors and directors are appointed by the State.

The Law of June 1924 fixed at 4,700 millions leva the maximum of advances by the National Bank to the State. This item figures in the balance sheet of March 31st, 1926, at 4,602 millions. This debt carries interest at 3 per cent and the State's share in the annual profits is applied to the redemption of debt. The State is also a debtor to the extent of 400 millions for discounted Treasury bills. Certain items of revenue are set aside for the redemption of these debts; the budget for 1926-27 contains an item of 150 millions which will be added to the fund of 265 millions already formed and deposited at the bank.

The same Law of June 1924 fixed the fiduciary circulation at the equivalent of the State debt plus a sum equal to twelve times the cash reserve. On the basis of the figures of the

balance sheet of March 31st, 1926, the currency in circulation could reach a maximum of 5,400 millions; it figures in the balance sheet at 3,465 millions or about half the pre-war circulation in gold value.

The cash reserve is entered in the balance sheet at 59 million leva; it is not valorised.

The rate of discount is at present 10 per cent. In principle, the bank does not discount for a period of more than three months; but it grants credits for six months secured on bills of this duration.

The monthly balance sheets for the last two years do not reveal any great activity and rather give the impression that the bank's chief rôle is to act as treasurer of the State, responsible for Exchequer transactions and for the administration of certain public funds. The holdings of bills, which are small (341 millions), are tending to diminish still further, as the bank follows a very conservative policy. The result is a great scarcity of money and the rate of interest is very high (as much as 20 to 25 per cent). The management of the bank explains that its position does not allow it to be more liberal; apart from claims on the State, the balance sheet includes:

370 millions for advances on goods;
520 » » long-term mortgage credits.

It is desired to mobilise the latter item, but it appears difficult to do this rapidly. Above all, owing to the bad harvest in 1924 and the unfavourable sales in 1925, the bank's holdings in foreign currencies in the last two years have gradually diminished, falling from over a milliard to 400 millions. This association of circumstances to some extent explains the conservative attitude adopted.

The foreign exchange market is centralised by the National Bank. The rate of 138 leva to the dollar has been adopted as the basis of stabilisation, and the rate of the other currencies is established according to the prices quoted on the foreign bourses.

All applications for foreign currencies have hitherto been met, and there is practically no clandestine market.

XIII. Statistics.

Area and Population of Bulgaria.

Year	Area in sq. km.	Population.	Density per sq. km.
1902.	96,345	3,800,800	39.7
1907.	96,345	4,094,300	42.8
1912.	96,345	4,400,600	46.0
1920.	103,146	4,803,900	46.8
1926.	103,146	5,081,700	49.0

Foreign Trade.

	Imports. (In 000's of leva.)	Exports.	Plus or minus.
1911.	199,345	184,634	— 14,711
1915.	73,495	109,415	+ 25,920
1922.	4,037,662	4,329,718	+ 292,056
1923.	5,123,840	3,537,135	— 1,586,705
1924.	5,557,311	4,902,226	— 655,085
1925.	7,291,341	5,642,466	— 1,648,875

Production.

(a) Agricultural Products (in 000's of quintals).

	1922	1923	1924	1925
Wheat	8,863	7,929	6,721	13,510
Maize	4,157	5,532	6,288	7,152
Other cereals	7,044	5,248	4,254	8,331
Tobacco	263	539	491	488

(b) Coal (in tons).

1915.	533,735
1921.	911,664
1922.	1,021,327
1923.	1,063,662
1924.	1,214,840
1925.	1,219,570

(c) General index of the cost of foodstuffs, fuel, lighting, clothing.

1901-1910 = 100

1915.	161
1921.	2,537
1922.	3,463
1923.	3,275
1924.	3,745
1925.	3,985
1926 (January)	3,916

V.

REPORT OF THE FINANCIAL COMMITTEE, DATED JUNE 9TH, 1926.

(1) The Financial Committee has, as requested by the Council, examined the proposals of the Bulgarian Government with regard to the settlement of Bulgarian refugees and the raising of a loan for the purposes of the construction of houses, the provision of equipment and the preparation of land and communications required for such settlement.

The Committee has had before it :

(a) The information obtained by M. Tixier¹ and Colonel Procter² in connection with enquiries made in Bulgaria for other purposes ; and

(b) A special report from M. Charron³, who paid a special visit to Bulgaria in connection with the present application, and has presented both written and oral evidence ;

(c) Further information and explanations by M. Bourroff, Bulgarian Minister for Foreign Affairs, and M. Assen Ivanof, Governor of the National Bank of Bulgaria.

(2) Before proceeding to make recommendations, the Committee thinks it may be well to preface a short *résumé* on the situation on the basis of the available data.

Since 1913, Bulgaria, according to the information supplied to the Committee, has had to receive nearly 52,000 families of refugees, numbering at present about 220,000 persons. Of these about 116,000 persons are capable of working. Some 30,000 of these have been definitely established either by the Bulgarian Government or through their own resources. Another 25,000 can be established in urban districts by partial assistance from the Bulgarian Government, which has already spent 160 million leva on general settlement work. There remain therefore about 60,000 workers who require settlement on the land, representing about 30,000 families or some 120,000 persons including dependants. These refugees are in serious distress, and the mortality will be great, unless effective aid can be given before the winter. They are in a migratory state and move about between town and country, as chance or passing opportunities of work may direct. It is true that a certain number have been provisionally established on hired land, but their presence is a continued source of friction with the local peasant population.

The Committee is impressed with the great advantages which the settlement of these refugees would have : (a) in reducing difficulties in internal politics where the still destitute refugees are the chief source of social unrest ; (b) in improving external relations in which the problems arising out of the existence of these refugees also play a prominent part ; (c) in adding to the economic resources of the country by putting into productive work some 60,000 workers (apart from the families which they support) eminently fitted for agricultural work, who are at present a source of expense and not of wealth, and bringing into cultivation land now unused but easily capable of being made fertile and productive ; (d) in assisting the Bulgarian Government to proceed with the work of reconstruction which it has undertaken, and of which the first results have been the real progress achieved in the last three years in the direction of the re-establishment of budgetary equilibrium and the maintenance of monetary stability, the consolidation of this work being the best means of improving the credit of the country.

The Committee is of opinion that, for the purpose in view, a loan giving a net yield equivalent to not more than 2 ¼ million pounds sterling would be sufficient.

This sum should be devoted as to about two-thirds to the provision of houses, initial equipment and advances, and as to one-third to the preparation of land, so as to make it suitable for settlement, and communications.

Assistance from the loan should be confined to agricultural workers, the Bulgarian Government continuing to deal with the relatively small number of non-agricultural urban refugees from their own resources.

The Bulgarian Government should undertake to place the product of the loan in an account which should be subject to the independent control of an authority or agent appointed by the Council of the League of Nations. He should supervise the expenditure of the loan and release money only for expenditure on the purposes defined in the scheme, and, in accordance with detailed plans approved by him, should have the power to stop advances if he is not satisfied that any money previously released has been properly employed on the authorised objects. He should have the power to appoint a small staff (including especially inspectors) who would be responsible to and paid by him. He should generally employ Bulgarian services. The Bulgarian Government should arrange for the provision of land suitable for settlement, as to character and situation, whether from lands already available or from the land which is to be

¹ "Refugees and Labour Conditions in Bulgaria". International Labour Office, *Studies and Reports*, Series B ("Economic Conditions"), No. 15.

² Lieut.-Colonel Procter, who made the first enquiry into the conditions of the refugees in Greece, which preceded the refugee settlement scheme there. "Enquiry into the economic situation in Bulgaria arising out of the influx of refugees, made at the request of the International Labour Office on the invitation of the Bulgarian Government, by Lieut.-Col. James Procter, C.B.E."

³ Of the General Commissariat at Budapest.

prepared under the scheme ; and the agent should have power to withhold expenditure from the loan for settlement on any land which he does not consider suitable in both respects.

Assistance from the loan should be definitely restricted to Bulgarian citizens.

The exact terms of the loan would be for arrangement between the Government and the lenders, but the Committee thinks that it may be convenient to make the following remarks as to the measures which would probably be found necessary :

(a) The Committee believes that the Bulgarian Government will find it necessary to arrive at a satisfactory agreement with the bond-holders of the pre-war loans for the future and to meet certain other pre-existing rights.

(b) The situation would be further assisted by a modification of the statutes of the National Bank designed to bring them into conformity with the best principles of central banking. The Committee suggests that the Bulgarian Government might, as part of the arrangements discussed in this paragraph, undertake to secure such a modification, the details of which could be discussed in due course with the Committee.

The amount of the prospective external obligations weighing upon Bulgaria in respect of (a) pre-war debts and (b) the scale of reparation, etc., charges appears considerable in relation to the present level of the budget. The Committee notes that the Treaty empowers the Reparation Commission to make, upon the recommendation of the Inter-Allied Commission, " either a reduction or a postponement of any particular payments due, or a reduction of the total capital sum to be paid by Bulgaria ". But neither the Bulgarian Government nor the Financial Committee suggests any modification in the scale of payments now in operation. The Committee thinks, however, that the Council could not with confidence recommend a new external loan until an arrangement (such as, e.g., the appointment of an arbitrator in case of difficulty) had been made by the Reparation Commission, which, in the view of the Financial Committee, would protect the securities assigned to the loan against losing their value through instability of the currency. Such an arrangement would be in the general interest both of Bulgaria and of all her creditors.

See Note, Page 4.

(c) The refugee loan would have to be secured by a first charge on adequate specific revenues. The Committee thinks that there would be revenues available for this purpose, such as the excises on salt and alcohol and the match monopoly, which produced in the last completed year 280, 144 and 109 million leva respectively, i.e., in total 19.7 million gold francs, provided such revenues could be freed from the general charge established under Part VIII of the Treaty of Neuilly. It would be necessary to arrange with the Reparations authorities for an exception to be made in this general charge so as to give a first charge to the proposed new loan.

It should be remarked that reparation payments and charges for armies of occupation are secured by special assignment of the Customs with which the Committee does not contemplate any interference.

The Committee is of opinion that the revenues assigned to the service of the loan should be paid into a special account, controlled, through a local representative, throughout the currency of the loan by trustees to be appointed by the Council, it being provided that the surplus of the account not required for the service of the loan be refunded at stated intervals to the Bulgarian Government. Power should also be given to the Trustees to call for the assignment of further revenues if the revenues already assigned should at any time fall below 150 per cent of the service of the loan, subject to appeal to the Council. It would probably be convenient for the agent to be the local representative of the Trustees to control this account during his term of office.

The Committee considers that a loan should be practicable under the above conditions and hopes that the Council will be able to associate itself formally with a completed scheme. The issue of the loan, however, after September would clearly not provide money for settlement before the next winter, and the Committee is impressed with the urgency of making at least a beginning with the new expenditure before then. It does not know whether it would be possible to arrange for earlier advances, in anticipation of the loan and based on the same securities, if it should prove practicable to make the above arrangements within the next month or so.

Such advances would not, however, be practicable unless there was an assurance that the League would be associated with the scheme. In these circumstances, perhaps, it would be possible for the Council, at its present session, to give its general approval of this report and to declare that it is prepared to associate itself with the scheme, and to authorise the President of the Council, on the recommendation of the Financial Committee, to take any necessary measures to bring the scheme into operation which may be required before the next meeting of the Council.

VI.

EXTRACT FROM THE MINUTES OF THE FIFTH MEETING OF THE FORTIETH SESSION
OF THE COUNCIL, HELD AT GENEVA ON JUNE 10TH, 1926.

1756. *Loan for the Settlement of Bulgarian Refugees: Request from the Bulgarian Government.*

M. Bouroff, representative of Bulgaria, and M. Dubois, Chairman of the Financial Committee, came to the Council table.

M. VANDERVELDE, Rapporteur, reminded the Council that it had asked the Financial Committee for its advice on the question of the establishment of the refugees in Bulgaria, which had been laid before the Council by the Bulgarian Government. He was glad to find that the Financial Committee's opinion was favourable. The Council had received its report (document V), and it was unnecessary for him to point out the great importance of the problem.

As the Financial Committee had stated, the establishment of the refugees would have very great advantages:

(a) It would diminish the difficulties of internal politics in which the refugees, who were still without resources, constituted the principal source of social agitation:

(b) It would make it possible to improve external relations, in which the problems raised by the existence of these refugees also played a very important part;

(c) It would increase the economic resources of the country, owing to the productive work which would be done by about 60,000 workers, apart from the families which these workers had to support — workers who were eminently suitable for agricultural labour and who were now a source of expense and not of wealth to the country. It would also allow the cultivation of land, which was not now utilised, but which it would be easy to render fertile and productive;

(d) It would help the Bulgarian Government to carry on the work of reconstruction it had undertaken, the first results of which had been real progress for the last three years towards the re-establishment of a stable budget and the maintenance of a stable currency. The consolidation of this work would be the best means of improving the country's credit.

He therefore submitted to the Council the following resolution (document VII).

M. Vandervelde asked to be allowed to add a few additional remarks. He had had an opportunity two years ago of travelling right through Bulgaria and visiting the camps of refugees, and although he had seen many sad sights in the world, nothing had given him a more painful and tragic impression than the spectacle of these thousands of unhappy people, most of whom had been recently torn away from their homes, and were unable to count on being fed and housed, except through the very meagre resources of their compatriots.

During this enquiry, he had become convinced that the intervention of the League of Nations for the refugees was not merely a question of elementary humanity. There were other reasons for making this intervention.

These groups of refugees formed a culture on which all the bad ferments which existed in a country could thrive. Moreover, from the point of view of international relations, there was no doubt that misery, by aggravating national feeling, might easily provoke incidents, of which there had been only too many examples.

From the point of view of the economic restoration of a country, which also had endured terrible suffering from the war, it was important to obtain the help which could be given by about 60,000 working men, capable of hard work and who could be employed, not only in improving agriculture but also in a number of industries. As had been pointed out only a few days ago, one of his compatriots, M. Salmon Laurent, had explained that in Bulgaria the forests could easily be exploited and that the refugees could be employed in this work. They could, moreover, make their own furniture and carts and build their own houses. There was other work, too, which could be undertaken with the help of the refugees, and on this question he would hand in a note to the Secretariat.

He added that, after having seen in Bulgaria how wretched the condition of the refugees was, he had observed in Greece the results of the work undertaken for other refugees who had been in no better plight. He had seen round Athens new towns of thirty, forty and fifty thousand inhabitants, who were already happy and prosperous. Industries which existed in Asia Minor had been transferred to Greece and were a large source of revenue. Difficulties had arisen and there had sometimes been incidents which had better be forgotten, but it was evident that the work done in Greece was admirable and exemplary. It was by such interventions that the League of Nations acquired in the eyes of the world the title of respect and gratitude which helped its great work of international pacification.

The Belgian representative was convinced that, in coming to the help of the Bulgarians, the League would add a fresh title of respect to those it had already won, and for that reason he was glad that the Financial Committee, with all the authority it had acquired from its earlier work and with admirable rapidity, had made practical proposals which would allow, before winter came, assistance to be given to the refugees in Bulgaria.

M. Leopold DUBOIS said that the Financial Committee wished, first of all, to confirm its report. As the Belgian representative had said, the question of the refugees was not only of political interest, of what might be called sentimental interest, and of interest from the point of view of the material welfare of the refugees, it was also of great economic interest to Bulgaria, which had begun the work of economic restoration, since about 50,000 families, who at the present moment were living as an expense to the country — as consumers and not as producers — would contribute by their work to the economic restoration of the country, if they could be given the instruments they required.

The Financial Committee realised not only the opportunity but the necessity of action. That necessity was immediate, since the longer the present situation was allowed to develop, the more difficult would it be to bring about the changes required, and the habit of the refugees not to work would be harder to eradicate.

The Financial Committee had looked for a way of finding the funds necessary for this action. It was useless to imagine, in view of the present financial state of Bulgaria, that that country itself could be asked to make the necessary effort. It was practically certain that Bulgaria could not obtain an external loan unless she had the patronage of the League of Nations. The Committee had considered the conditions under which such a loan could be negotiated, as well as the conditions of control which might be applied. This was not the moment to talk of securities. The Bulgarian Government would have to negotiate with her future lenders. The idea of the Financial Committee was of course that the revenue assigned for special purposes, in particular the Customs revenue allotted for the payment of reparations, should not be touched by the new loan.

The transfers of money was one of the questions which had occupied the attention of the Financial Committee. Bulgaria had on the one hand to make payments abroad of the annuities which she owed for her pre-war debts and also of reparation annuities. The annuities which she would have to pay for the new loan would mean the expenditure of further sums of money, and the question of transfers might arise. It was a very difficult matter, and, if arrangements were made, they would require authorisations and negotiations on the part of the Bulgarian Government which did not come within the competence of the Committee. M. Dubois wished merely to call attention to this question.

Then there was the question of control — control of expenditure and, if necessary, of revenue assigned as securities. With regard to the control of expenditure, the first question which arose was to whom should the funds be paid. The Financial Committee's opinion on this point was quite definite. The funds should be paid to the Bulgarian refugees: "refugees" and "Bulgarians" — these two words should be understood in the following sense: "refugees" to the exclusion of any other part of the population; "Bulgarians", *i. e.*, persons of Bulgarian nationality who had definitely taken that nationality and renounced thereby any other nationality.

Supposing that the control could be established, the next question was the floating of the loan; but everybody knew how long and difficult negotiations with a group of lenders might be. In this particular case there was another question, namely, the question of the negotiations of the Bulgarian Government with other organisations, for example, negotiations with the Reparations Commission on some questions and on others with the representatives of the holders of pre-war loans. All this would take time, but the work was urgent. In order that the work might be started, use must be made of the summer months for sowing. It was necessary to provide an advance, say £400,000, which could be procured in Bulgaria from outside investors and could be reimbursed out of the produce of the loan.

In short, the Committee's ideas were as follows: The Council of the League of Nations, under the conditions contained in the resolution which had been submitted, might give, in principle, its patronage to the loan for the Bulgarian refugees, and in the meantime it might be understood that, if necessary, this authorisation would include authority for an advance of an amount which might be put at about £400,000.

M. BOUROFF, representative of Bulgaria, wished first to thank the Rapporteur as well as the Chairman of the Financial Committee for what they had said and for their very accurate description of the situation of the Bulgarian refugees. In the name of the Bulgarian Government, he also wished to express his gratitude to the Council of the League of Nations, to the Financial Committee and to the Financial Section of the Secretariat for the efforts they had made to find a solution of the question of the loan for the establishment of the Bulgarian refugees.

As the report of the Financial Committee showed most fairly and accurately, the realisation of this loan would be an important contribution to the work of general pacification in the Balkans, and would improve the economic condition of Bulgaria, while helping to lessen the undeserved sufferings of thousands of refugees.

He did not ignore the difficulties which might be encountered in carrying out the recommendations contained in the Financial Committee's report, but he could say that the Bulgarian Government would at once take the necessary steps to carry out those recommendations. To that end the Bulgarian Government counted on the active and valuable assistance of the organs of the League of Nations — assistance which was all the more necessary since the Bulgarian Government considered it an almost essential condition for the rapid success of the work which had been undertaken.

As stated in the report, he wished to emphasise the point that, in the position in which Bulgaria now was, the funds required for an advance on the loan must be found during the summer, in order to start immediately the plan of establishing the refugees.

In thanking the Council once more, he gave the assurance that the Bulgarian Government

would most willingly follow the indications given by the Council in this work of charity and pacification.

M. BENES said that the Czechoslovak Government looked with great sympathy on the measures proposed for helping to solve this difficult question of the refugees.

He would like to put two questions to the Rapporteur and to the Chairman of the Financial Committee :

(1) Would the specific security of the Customs revenue earmarked for the payment of reparations remain untouched ?

(2) Would those interested countries which were not represented on the Council be bound by the arrangements made or by the arrangements now proposed ?

M. DUBOIS, replying to the first question put by M. Benes, drew the attention of the Council to the following passage in the report of the Financial Committee :

“ It should be remarked that reparation payments and charges for armies of occupation are secured by special assignment of the Customs, with which the Committee do not contemplate any interference. ”

In the remarks which he had just made, he had drawn attention to this point, but he repeated it now. The Financial Committee's report proposed no interference on the part of the Financial Committee with this revenue, which, in its opinion, should remain exclusively for the use which had been assigned to it.

M. VANDERVELDE replied in the negative to the second question put by M. Benes. Before fixing definitely, however, the details of control, the Council proposed to consult the representatives of those States Members of the League of Nations which were neighbours of Bulgaria.

M. BOUROFF said that he left to the wisdom of the Council whatever decision it thought best to take regarding the establishment of the refugees.

The Council noted the replies to the questions put by M. Benes and adopted the resolution proposed by the Rapporteur.

M. Dubois and M. Bouroff withdrew.

VII.

RESOLUTION ADOPTED BY THE COUNCIL ON JUNE 10TH, 1926.

The Council,

(1) Notes and adopts the Report of the Financial Committee with regard to the settlement of the Bulgarian refugees ;

(2) Recognises the importance of securing a satisfactory solution of this problem, and declares its readiness to associate itself with the scheme ;

(3) Recognising the importance of securing advances for such immediate needs as the provision of seed, etc., for sowing in the early autumn, authorises the President of the Council, on the recommendation of the Financial Committee, to take any necessary measures for this purpose proposed by the Committee ;

(4) Notes and approves the principle that there must be a strict and effective control of the employment of the loan and of the choice of land on which the settlement is to be made ; and proposes to consider the actual system to be instituted for this purpose at its next session.

VIII.

DECISIONS OF THE REPARATION AUTHORITIES.

I.

Decision of Inter-Allied Commission of Bulgaria dated July 22nd, 1926.

[Translation.]

Sofia, July 22nd, 1926.

The Inter-Allied Commission :

Having taken cognisance of the scheme approved on June 10th, 1926, by the Council of the League of Nations concerning the issue by Bulgaria of a loan for the settlement of Bulgarian refugees, to be secured by a first charge on the excise on salt and spirits, on the match monopoly

and possibly on other revenues, if the returns from the above-mentioned revenues should fall below 150 per cent of the sums required for the service of the loan ; and

A recommendation having been made to the Reparation Commission to take measures to safeguard the securities assigned to the loan against any depreciation in value that might result from fluctuations of exchange due to reparation transfers ;

Unanimously deciding, by virtue of the powers conferred upon it by Article 132 of the Treaty of Neuilly, to grant exceptions to the first charge laid down by this Treaty on all the assets and revenues of Bulgaria for the settlement of reparation and all other costs and by virtue of all other powers which it may possess to this effect :

Releases from the charge laid down in the said Article 132 for the settlement of reparation and all other costs arising under the Treaty of Neuilly or any treaties or agreements supplementary thereto, or under arrangements concluded between Bulgaria and the Allied and Associated Powers during the Armistice signed on September 29th, 1918, and from other charges which may come within the jurisdiction of the Inter-Allied Commission, for a period to be determined for the redemption of the said loan, which shall not be more than fifty years from the date of the present decision :

- (1) The excise on salt ;
- (2) The excise on spirits ;
- (3) The net receipts of the match monopoly ;
- (4) All sums accruing in the form of rent, sales, or advance repayments in cash, interest or otherwise, by the beneficiaries of the assistance granted under the said Refugee Loan.

Furthermore, the Inter-Allied Commission undertakes, in case the returns from the above revenues for any year fall below 150 per cent of the sums required for the service of the loan, to release from the same charge other sources of receipts, with the exception of Customs, to be selected by it on the proposal of the Council of the League of Nations, to whom the question shall be referred by the Trustees, in so far as it may be necessary to make up the 150 per cent referred to above.

The said release being granted without prejudice, in each case, to any first charges, other than those waived by the present provision, which may now exist on the duties, receipts and revenues above enumerated, and on the express condition that, outside the exercise of such first charges, if any exist, no part of the securities enumerated shall be assigned to any use other than the said Refugee Loan or the advances granted on this loan, until the Treaty charges have been completely extinguished ; and

The object of the said release being to ensure the repayment of the above-mentioned Refugee Loan during the period it remains in force, the Inter-Allied Commission agrees that if, during this period, any part of the said Refugee Loan, or the interest on it, is not entirely liquidated, that part of the loan or of the interest shall, until complete redemption, continue to enjoy a first charge on such part of the duties, receipts and resources above enumerated as may be necessary to cover, up to 150 per cent, the service of the unliquidated portion.

It being hereby understood and declared that, if the Inter-Allied Commission has not before December 31st, 1926, received notice from the League of Nations that it has been possible to put the said scheme into execution, the present decision shall be null and void, without prejudice, however, to the first charge of all advances that may have been made under the heading of the Refugee Loan or of any short-term loan that may have been negotiated in anticipation of the said Refugee Loan.

2.

Decision of Inter-Allied Commission of Bulgaria dated July 23rd, 1926.

[Translation.]

Sofia, July 23rd, 1926.

The Inter-Allied Commission :

Having taken cognisance of the report of the Financial Committee of the League of Nations of June 9th, 1926, on the scheme for a loan for the settlement of refugees in Bulgaria, and of the decision of the Council of the League of Nations adopting this report ; and

Being willing, to allow, in favour of the revenues which, according to the report of the Financial Committee, are required for the service of this loan, an exception to the first charge laid down in Article 132 of the Treaty of Neuilly on all the assets and revenues of Bulgaria for the discharge of Reparation and other costs arising under the said Treaty or any treaties or agreements supplementary thereto ;

Recommends that the Reparation Commission take all the measures which it may deem necessary in conformity with the Treaty of Neuilly to give effect to the arrangement recommended by the Financial Committee of the League of Nations for the safeguarding of the securities assigned to the contemplated loan against any depreciation in value that might result from fluctuation of exchange.

(Signed) F. DESTAILLEUR,
W. A. M. DOLL.
A. FALLETTI DI VILLAFALLETTO.

Decision of Reparation Commission dated July 23rd, 1926.

[Translation.]

3314. LOAN FOR THE SETTLEMENT OF BULGARIAN REFUGEES.

The *Reparation Commission*, considering :

(a) The scheme approved on June 10th, 1926, by the Council of the League of Nations for the issue of a loan by Bulgaria for the purpose of the settlement of Bulgarian refugees ; and

(b) The telegram addressed on July 22nd to the Reparation Commission by the Inter-Allied Commission for Bulgaria worded as follows :

“ Inter-Allied Commission for Bulgaria unanimously decided to grant derogation to the first charge established by Article 132 of the Treaty of Neuilly for revenues required as securities for loan intended for settlement of Bulgarian refugees. Inter-Allied Commission for Bulgaria further decided to recommend that Reparation Commission should take all necessary measures of a nature to protect securities assigned to this loan against any loss of value which might result from instability of exchange. Report and text of decisions follow. — CINTERDED ” :

Agrees so far as it is concerned to give effect as hereinafter provided to the proposals of the Financial Committee of the League of Nations approved on June 10th, 1926, by the Council of the League with a view to protect the securities assigned to the loan against any loss of value which might result from an instability of the exchange caused by reparation transfers :

(a) The Bulgarian Government will have the right at any time during the existence of the said loan to make to the Inter-Allied Commission a request that, in the interest of the stability of the Bulgarian exchange, purchases of foreign currency necessary for the payment of reparations under the Protocol signed at Sofia on March 21st, 1923, be suspended either in whole or in part.

(b) The Bulgarian Government will undertake to accept, as from the date on which such a request is made and from the very fact of its being made, the regulations for the operations of transfer contained in the attached schedule, which the Reparation Commission also on its part accepts, and to co-operate with the Reparation Commission in the fullest manner for establishing and keeping in force those regulations.

(c) This decision shall be void and of no effect if, before December 31st, 1926, the Reparation Commission has not received :

(1) A notification from the League of Nations that the entire scheme approved on June 10th, 1926, has been carried into effect ; and

(2) A notification from the Bulgarian Government that it accepts fully and unreservedly all the provisions of the present decision and of the schedule with which it is concerned.

(Signed) S. A. ARMITAGE-SMITH,
General Secretary.

Schedule to the Decision of the Reparation Commission.

1. As from the date on which the Bulgarian Government addresses to the Inter-Allied Commission of Bulgaria a request for the suspension in whole or in part in the interests of the stability of the exchange of the purchase of foreign currency necessary for reparation payments, an organisation under the name of the Transfer Committee, entrusted with the obligation of operating reparation transfers, will be constituted in manner hereinafter provided.

2. If, before the Transfer Committee enters upon its duties, any reparation payments fall due, the Bulgarian Government will have to meet them in the same manner as heretofore.

3. The Transfer Committee shall consist of :

(a) A member to be appointed by the unanimous decision of the Reparation Commission, a national of the United States of America or of a country which was neutral during the war of 1914-1919, as Chairman. If the Reparation Commission shall not have reached a unanimous decision for this purpose within one month from the date of the request above referred to, the President for the time being of the Permanent Court of International Justice at The Hague shall be requested to appoint the Chairman of the Transfer Committee ;

(b) A member appointed by the Trustees of the Bulgarian Refugees Loan ;

(c) A member appointed by a decision of the Reparation Commission, taken, if necessary, by a majority vote, after consulting the Inter-Allied Commission of Bulgaria.

These three members must be chosen from persons who are experts on questions of exchange.

4. Account A of the Bulgarian Treasury at the National Bank of Bulgaria established under Article 3 of Ukase No. 10 annexed to the Protocol of Sofia shall be transferred into the name of and managed by the Transfer Committee.

5. The Transfer Committee will make, through the National Bank of Bulgaria, to the extent to which it considers that the stability of the Bulgarian currency allows, the purchases of foreign exchange requisite for reparation payments.

6. If it should have proved impossible to transfer in cash all the sums to the credit of the account of the Transfer Committee, the Committee will authorise the employment of such amounts for such purposes, other than the purchase of foreign currency, as may be proposed by the several creditor States and as the Committee does not consider likely to compromise the stability of the Bulgarian exchange.

7. The Transfer Committee shall have a right to demand all information of utility for the discharge of its duties, especially as to the preparation and carrying into effect of the budget, the situation of the Treasury and the management of the National Bank of Bulgaria.

The Committee in particular will have a right to examine without restriction into the exchange market and the establishment of the statistics of foreign commerce.

8. If the Transfer Committee, by a decision which may be taken by a majority only, provided that the President is among the majority, finds that concerted financial manœuvres have been made either by the Bulgarian Government or by any group for the purpose of preventing reparation transfers, the Bulgarian Government undertakes to take any measures which the Transfer Committee might require from it to defeat the effect of the manœuvres which have been detected and to prevent their repetition (including the appointment by the Transfer Committee of a Counsellor at the National Bank of Bulgaria with the powers necessary to supervise the execution of any such measures).

9. The expenses of the Transfer Committee and in particular the remuneration of its members shall be fixed by the Reparation Commission and charged against the Bulgarian Government.

The members of the Committee shall not be entitled to any remuneration except for periods during which the Committee is in operation.

10. If the Transfer Committee, after having been called into operation, at any time decides that the conditions of the Bulgarian exchange are such that reparation transfers can thenceforth in all probability be effected without danger to the stability of the exchange and if at the same time the Bulgarian Government undertakes to carry into effect reparation transfers in future, the Transfer Committee will suspend its operations without prejudice to their resumption at any time when, contrary to expectation, the Bulgarian Government presents a new request for the total or partial suspension of reparation transfers.

11. Any question of interpretation of the present schedule shall be decided by the Transfer Committee without appeal.

(Signed) S. A. ARMITAGE-SMITH.

IX.

REPORT OF THE FINANCIAL COMMITTEE, DATED JULY 23rd, 1926.

I.

The Financial Committee was requested by the Council to consider the question of the settlement of Bulgarian refugees at its present session and, if the conditions contemplated in its report of June 9th had been fulfilled, to recommend to the President of the Council the measures necessary to obtain advances on a loan.

The Committee has had the opportunity at its present session of hearing statements by M. Molloff, the Finance Minister of Bulgaria, and by M. Ivanof, Governor of the National Bank.

It has also had an exchange of views with the diplomatic representatives in London of Greece, the Kingdom of the Serbs, Croats and Slovenes and Roumania, the representative of Czechoslovakia being also present.

In its report of June 9th, 1926, the Committee made certain recommendations with a view to furthering the negotiation of a loan. In respect of these recommendations, the Committee has ascertained that the situation is as follows :

(1) The necessary decisions, releasing the revenues required as security for the loan from the general charge for reparations and armies of occupation and providing safeguards against the depreciation of the leva, have now been taken by the Inter-Allied Commission at Sofia and by the Reparation Commission at Paris, and, on the information received, are in a form which satisfies the requirements of the Financial Committee's report.

(2) Satisfactory assurances have been received from the Bulgarian Government and the Governor of the National Bank as to the modification of the statutes of the Bank.

The conditions affecting the security of the loan may now therefore be regarded as satisfied.

There remains the fact that, in the negotiations of the advances and of the loan, the Committee is of the opinion, as already stated in its June report, that the Bulgarian Government will find it necessary to arrive at a satisfactory agreement with the bondholders of the pre-war loans and to meet certain other pre-existing rights.

Negotiations to this effect have made good progress, and it is hoped that a settlement may be reached almost immediately. (With regard to the special question of the bills of 1912-13 discounted by the Banque de Paris et des Pays-Bas, the Committee trusts that a suitable arrangement can be made in connection with the issue of the loan.)

2.

In these circumstances, the Financial Committee recommends to the President of the Council to authorise the following measures, to come into force as soon as the President of the Financial Committee is able to verify formally the official texts of the reparation decisions:

- (1) The Bulgarian Government is authorised to enter into negotiations with bankers in order to obtain advances (not exceeding a net sum of £400,000) on the main loan to be issued on the basis of the scheme outlined in the report of the Financial Committee to the Council. The letter of authorisation should add, however, that the President of the Council thinks it necessary to call attention to the opinion of the Financial Committee that "the Bulgarian Government will find it necessary to arrive at a satisfactory agreement with the bondholders of the pre-war loans for the future and to meet certain other pre-existing rights," and that he expresses the hope that this difficulty will soon be removed.
- (2) M. René CHARRON is appointed for a period of three months as representative of the League of Nations to supervise the expenditure of the advances.
- (3) Before becoming final, the contracts for such advances as may be obtained by the Bulgarian Government, in accordance with paragraph 2 (1) above, shall be submitted for the approval of the President of the Financial Committee.

X.

REPORT OF THE FINANCIAL COMMITTEE, DATED SEPTEMBER 6TH, 1926.

Introduction.

The following persons attended part of the meetings of the Financial Committee in connection with the settlement of Bulgarian refugees:

- M. MOLLOFF, Bulgarian Minister of Finance.
- M. IVANOF, Governor of the National Bank of Bulgaria.
- M. COMNÈNE, Minister of Roumania in Berne.
- M. YOVANOVITCH, Minister of the Kingdom of the Serbs, Croats and Slovenes at Berne.
- M. CACLAMANOS, Minister of Greece in London.
- M. René CHARRON, appointed as Agent for the advances.

1. — *Recent Action.*

The Financial Committee begs to inform the Council that, in pursuance of its report on the work of its Twenty-third Session held in London from July 19th to 23rd, the following action has been taken:

(a) The Chairman of the Financial Committee formally verified the official texts of the decisions of the Inter-Allied Commission of Bulgaria dated July 22nd and 23rd, and of the Reparation Commission dated July 23rd and found them in conformity with the recommendations made by the Financial Committee in its report to the Council of June 9th, 1926.

(b) The President of the Council, on the recommendation of the Financial Committee, authorised the Bulgarian Government to enter into negotiations with banks in order to obtain advances (not exceeding a net sum of £400,000) on the main loan to be issued on the basis of the scheme outlined in the report of the Financial Committee.

(c) On the basis of this authorisation, the Bulgarian Government conducted negotiations in London and it was found possible to arrange the advances by means of an advance of £400,000 from the Bank of England to the National Bank of Bulgaria. The draft agreement between the two banks was submitted to the Chairman of the Financial Committee and was approved by him. It was signed on August 25th.

(d) In accordance with the recommendation of the Financial Committee, the President of the Council appointed M. Charron for a period of three months as from August 1st to supervise the expenditure of this advance, and issued to him the instructions which had been drawn up by the Financial Committee and accepted by the Bulgarian Government in so far as they are concerned.

(e) The instructions contemplated a report from M. Charron before the September meeting of the Council. As the advance was only arranged for at the end of August, no sums from the advance have as yet been released, and it is still too early for a report.

2. — *Arrangements for the Main Loan.*

It remains to establish the conditions upon which the main loan can be issued.

This means mainly, so far as the League is concerned, the definite arrangement of a system of control, with due regard to the undertakings that have been given in this respect and to the representations received. This question is dealt with in the next chapter.

Apart from this, the Bulgarian Government will desire to terminate certain negotiations with regard to existing obligations in order to be able to negotiate the loan under favourable conditions.

This is not a matter affecting the League or requiring any comment here except upon two points.

(a) One of the obligations in question is a debt of about 80 million French francs towards creditors represented by the Banque de Paris et des Pays-Bas, in respect of which, unlike other pre-war debts, a claim can be made under existing contracts for repayment out of the proceeds of any new external financial operation by the Government.

It may be that the most convenient form of settlement would be the substitution for the existing unsecured obligation of bonds of the new secured loan on terms to be arranged. This would not mean new money and would not provide funds for the establishment of the refugees. The Committee considers the revenues already arranged sufficient to cover an additional *tranche* of this character. It therefore recommends that, if necessary for this purpose, the sum required should be allowed as a nominal addition to the total maximum authorised, no such additional sum being, of course, in any event available for expenditure in Bulgaria. A slight amendment will be required in the reparation release of the Sofia Commission decision, but this can be most conveniently arranged when the agreement with the Banque de Paris et des Pays-Bas has been completed and the precise sum involved can be stated.

(b) As some months may elapse before market and other conditions may be favourable for the issue of the main loan, it may be desirable that a part of the temporary advance of £400,000 should be spent upon such work as that of building houses, etc., which would not fall within the limited purpose for which the advances were contemplated. As the reason for strictly limiting the purposes on which this advance was authorised was the desire to avoid capital expenditure before the arrangement of a definite system of control at this session of the Council, the Financial Committee recommends that expenditure from the advance should be authorised on the objects to which the main loan may be devoted, and subject to the same conditions and control.

3. — *Form of Control and Connected Questions.*

The Council at its June session laid down the principle that there must be a strict and effective control of the employment of the loan and of the choice of the land on which the settlement is to be made, and decided to consider the actual system at the present session, after consultation with the neighbouring Member States.

The Council has asked the Financial Committee to consider the whole question, in consultation with the representatives of Bulgaria and the three neighbour States, and to recommend the system to be instituted.

The Committee has discussed the questions involved with the representatives of Bulgaria and of the three neighbour States at its July meeting in London, with special reference to the letters of the three States dated July 7th, 12th and 14th, 1926¹, and again with representatives of the same States during the present meeting with special reference to the letters dated August 5th, 20th and 21st².

The Committee first of all studied the observations in these letters concerning the number of refugees and the expenses of settlement contemplated both per family and per individual, and has heard both the representatives of Bulgaria and of the three neighbouring States on these points. It is clear that the statistics as to the number of refugees are not in all respects complete, and the Committee does not feel able to take any precise number as absolutely definite. There are, for example, certain categories of refugees who are not included in the official Bulgarian statistics on which the arguments of the neighbouring Powers are based, *e.g.*, the refugees who came in the years 1920-1925, including those who came from Eastern Thrace, and those from Greece who had not registered under the Lausanne Convention on the Exchange of Populations.

With regard to the question of the sums contemplated per family in Greece and in Bulgaria respectively, the Committee desires to state that the calculations are based on a sum which, if anything, is less, and certainly not greater per family in the latter case than in the former as regards comparable expenditure. It must, however, be remembered, in taking the total sum, that the migration of Turks from Greece left cultivable land and houses ready in a far greater proportion for settlement in Greece than in Bulgaria, whereas a substantial part of the present loan must be devoted to drainage, necessary communications and preparation of land, which did not fall on the loan fund in the case of Greece.

In view of these considerations, the Committee considers that no change should be made in the sum of £2,250,000 authorised for the total work of settlement, but it considers that it would be reasonable and desirable to stipulate definitely that no sums should be expended on the settlement or assistance of any other persons than the refugees defined in the Protocol, and provision is made accordingly in the draft Protocol.

¹ Documents F, 298, F, 299, F, 300.

² Document C, 471, 1926. II.

In the second place, the Financial Committee has considered the two requests made in the letters of the three neighbour States dated August 5th, 20th and 21st.

The Committee, after consulting the representatives of the three neighbour States and of Bulgaria, desires to make the following observations and proposals :

The Committee, recognising that certain special questions, such as, for instance, the situation of the refugees in relation to the frontiers, might be considered as questions affecting the interests of the neighbouring States, is of opinion that it is desirable to adopt a method which would enable these States to be present as Members at the meetings of the Council during the discussion of such questions.

Proposed Procedure.

The Committee therefore recommends the following system :

The Council should recognise the right of the three neighbour States Members of the League to form a consultative committee. This committee would meet in Geneva or elsewhere, but not in Bulgaria. The three members, or any one of them, could ask for information from or present observations to either the League of Nations or the Commissioner, and would receive copies of the official documents submitted by him to the Council of the League on such questions as they claim to specially affect their interests. In addition, they would receive all the regular reports of the Commissioner. Any one, or all three, of the States would have the right, with or without prior consultation in the consultative committee, to send a letter to the Council on a subject affecting its or their interests in the sense of Article 4 of the Covenant, and in that case during the consideration of such a letter the State or States would be present at the Council as Members.

4. — Control at Sofia.

With regard to the controlling authority in Sofia, the Committee recommends the appointment of a Commissioner, who should not be a national of any neighbouring State to Bulgaria, whose powers and duties are defined in the attached draft Protocol for signature by the Bulgarian Government.

The Committee recommends that he should be specially instructed as follows :

I. With reference to the decision of the Council of June 10th, 1926, that there shall be a strict and effective control of the employment of the loan and of the choice of land on which the settlement is to be made, and to limitations of the objects upon which expenditure may be permitted under Article V of the Protocol, the Commissioner is to observe the following rules :

(a) No expenditure is to be authorised for new settlements upon land which is not approved by the Commissioner as suitable both in character and in its position in relation to the frontiers. In principle, the land chosen for new settlement should be at a considerable distance (50 kilometers) from any frontier of the three neighbouring States ; and exception should only be made to this rule in the case of the settlement of unimportant numbers of refugees or of the settlement of a large number in a district where the characteristics of the region serve as an effective natural barrier making the strict insistence on a distance of 50 kilometers unnecessary for the purpose for which it is designed.

In accordance with these provisions, it has been agreed that, in principle, refugees who are not of Roumanian origin can be established along the Danube between Lom to the west and Svichtov to the east, and to the east of the latter place in the region limited to the north by a line Svichtov-Bela on the river Jentra.

The Financial Committee considers that, in addition, it will be necessary, in order to carry out the whole of the settlement plan contemplated, to establish refugees within a zone of less than 50 kilometers in the districts Provadia-Varna and Mastanla, Oratakeui, Svilengrad, but it proposes to examine this question again at its next session with a view to a definitive decision by the Council.

The Committee also reserves the examination at its next session of the question whether attenuations should be made in certain cases of the principle that the refugees to be installed in the zone defined above shall not be of Roumanian origin.

(b) The provision in the Protocol that money may be expended on " such improvements in communications as are required for the contemplated settlement of refugees " ¹ is intended to exclude expenditure on communications designed not for the necessary requirements of the refugees but for strategic purposes.

II. The Commissioner is to take every practicable precaution to ensure that the personnel appointed on his staff is suitable in every respect.

III. The Commissioner will on request furnish information on subjects specially affecting the interests of any neighbour Member State of States, and will receive and take into consideration information supplied by them.

¹ Article V (4) of Protocol.

This is in addition to the receipt by such States of the regular three-monthly reports of the Commissioner and of any other documents submitted by him to the Council on subjects specially affecting their interests.

IV. The Commissioner will strictly limit expenditure from the loan to the objects defined in the scheme and the Protocol, and in particular will in no case authorise assistance or grants to any other than the refugees defined therein.

5. — *Statutes of the Bulgarian National Bank.*

The Bulgarian Minister of Finance and the Governor of the Bulgarian National Bank have submitted to the Financial Committee a draft of statutes which it is proposed to substitute for the existing ones in order to bring those statutes more into harmony with the accepted principles of central banking. The Committee has examined these draft Statutes, in which it has suggested certain modifications which were accepted by the Bulgarian representatives. Subject to these, the Committee considers that the draft Statutes may properly be accepted. The Committee hopes to see the necessary legislation rapidly enacted so that there may be no obstacle on this account to the issue of the loan.

XI.

PROTOCOL.

Whereas the Bulgarian Government has requested the Council of the League of Nations to approve the issue by that Government under the auspices of the League of Nations of a loan, the yield of which shall be applied, under the control of a Commissioner responsible to the Council, for the purpose of promoting the settlement on the land of certain refugees at present in Bulgaria¹ and of thereby transforming them into productive citizens of the Bulgarian State,

And whereas the Council has approved for this purpose the provisions of the present Protocol,

The undersigned, duly authorised for the purpose, accepts on behalf of Bulgaria the following provisions :

Article I. — Appointment of a Commissioner.

1. Bulgaria accepts the appointment by the Council of the League of Nations of a Commissioner for the settlement of refugees, who shall carry out the functions ascribed to him in the present Protocol. He shall be responsible to the Council and removable by it. The Council may give any necessary instructions to the Commissioner as to the performance of his functions within the terms of this Protocol and the scheme of settlement as laid down in the reports of the Financial Committee of the League of Nations dated June 9th, July 23rd, and September 6th, 1926, approved by the Council.

2. The Commissioner may provide himself with the necessary technical staff. His expenses and those of his office shall be approved by the Council and defrayed by Bulgaria. The Commissioner and his substitute (if any) shall enjoy diplomatic privileges and immunities.

3. The Commissioner shall submit to the Council of the League of Nations not less frequently than once every three months reports upon the settlement operations.

4. If the Bulgarian Government considers that the Commissioner has abused his authority, it may appeal to the Council of the League of Nations.

5. The Commissioner may appoint a substitute to replace him during any period for which he is himself unable to act, subject to confirmation by the President of the Council for any period exceeding thirty days.

6. The Council shall terminate the functions of the Commissioner as soon as it decides that the services of the Commissioner are no longer required, but in no case before the proceeds of the Settlement Loan have been expended for the purpose contemplated, without prejudice to the control over the assigned revenues hereinafter provided.

Article II. — Settlement Loan.

1. For the purpose of the intended settlement of refugees, the Bulgarian Government may issue a settlement loan yielding an effective sum equivalent to not more than two and one-quarter millions sterling. The expenses of issue, negotiation and delivery shall be added to the capital of the loan as fixed above. The amount mentioned is also exclusive of any part of the loan which it may be necessary to include in order to satisfy the claim (referred to in sub-paragraph 2 of the second paragraph of Article 139 of the Treaty of Neuilly) of the holders of the Bulgarian Treasury Bills issued in France in 1912 and 1913.

2. The yield of this loan may not be employed except in conformity with the provisions of the present Protocol.

¹ This is to be considered as including persons who before December 31st, 1924, had made declarations to the Mixed Commission set up under the Convention between Greece and Bulgaria respecting Reciprocal Emigration, signed at Neuilly-sur-Seine November 27th, 1919, in order to be transferred to Bulgaria under that Convention even if they have not left Greece at the date of the signature of this Protocol.

3. The capital and interest of the loan contemplated under paragraph 1 above shall be paid by the Bulgarian Government free of all deduction in respect of taxes, dues or charges for the benefit of the Bulgarian State.

4. The conditions of the loan, the issue price, the rate of interest, the amortisation, the expenses of issue, of negotiation and of delivery, shall be submitted for approval on behalf of the Financial Committee of the League of Nations to a person appointed by the Committee for this purpose; the amount of the annuity necessary for the service of interest and amortisation of the loan shall likewise be so approved.

5. The Bulgarian Government may raise temporary loans in advance of and repayable out of the settlement loan.

6. The yield of the settlement loan or any temporary loans (paragraph 5 above) shall be paid as directed by the Commissioner into a special account or accounts which he alone may control. Interest on any outstanding balances shall be added to such account (or accounts).

7. If the terms on which the loan is issued include a stipulation that the issuing house shall retain any part of the proceeds of the loan for the purpose of the service of the loan, a corresponding amount shall be paid forthwith from other sources by the Bulgarian Government into the settlement account under the control of the Commissioner.

Article III. — Securities and First Charge.

1. The Bulgarian Government will furnish as securities for the settlement loan contemplated under Article II the following revenues:

- (1) The excise duty on salt.
- (2) The excise duty on alcohol.
- (3) The net receipts of the match monopoly.

See Note, page 4.

(4) All sums received after the expiry of two years from the appointment of the Commissioner in respect of rent or interest due from persons assisted out of the yield of the settlement loan. Sums received from such persons as payment for the purchase of land, building or material, or as repayment of advances in cash or in kind, shall be applicable to amortisation of the loan.

(5) Such other revenue or revenues (if any) (excluding the Customs) as may from time to time be assigned in accordance with paragraph 5 below.

2. The amounts required for the service of the settlement loan shall be, and shall remain, a first charge upon the revenues mentioned in paragraph 1 above, and the Bulgarian Government acknowledges that such revenues shall stand charged accordingly.

3. The revenues mentioned in the preceding paragraph shall not be used as a security for any new loan without the consent of the Trustees of the settlement loan.

4. The Bulgarian Government will not take any measures which, in the opinion of the Trustees, would be such as to diminish the aggregate value of the revenues mentioned in paragraph 1 to such an extent as to threaten the security of the bondholders.

All decisions taken by the Trustees in virtue of this paragraph shall require confirmation by the Council if within 14 days of the notification of any such decision by the Trustees to the Bulgarian Government the latter shall have lodged an appeal against it with the Council.

5. If at any time the total yield of the revenue referred to in paragraph 1 should fall below 150 per cent. of the annual sum required to meet the service of the loan, the Trustees may request the Council to call upon the Inter-Allied Commission established under Article 130 of the Treaty of Neuilly to release from the charge laid down in Article 132 of the Treaty of Neuilly, in accordance with the decision taken by the Inter-Allied Commission on July 22nd, 1926, such additional revenues (other than the Customs) as may be sufficient to assure the immediate restoration of the yield to the above percentage, and such additional revenues, so released, shall be forthwith assigned to the service of the settlement loan.

Article IV. — Trustees.

1. The Council of the League of Nations will appoint Trustees to represent the interests of the bondholders of the settlement loan, and the Bulgarian Government accepts that the Trustees shall fulfil the functions and perform the acts assigned to them in this Protocol until the loan, and every part thereof, and every claim in respect thereof, shall have been completely discharged.

2. The revenues mentioned in Article III, paragraph 1, will be paid into a special account, as and when collected for the purpose of assuring the service of the settlement loan. The Commissioner and, after the termination of his functions, the Trustees, may alone control this account.

Any balance of the account not retainable in accordance with the following provisions or with the terms of issue of the loan shall be reimbursed to the Bulgarian Government, subject, however, to the powers conferred on the Trustees in the event of a default under paragraph 3 (c) below.

3. The terms on which the loan is issued shall include, among other provisions :

(a) Provisions as to amounts which, at the intervals fixed by such terms, shall be paid out of the special account provided for in the preceding paragraph by the Commissioner to the Trustees, and during such times as the Trustees may be in control of the account, set aside by the Trustees themselves and retained for the service of the loan, including interest, amortisation and all charges, commissions or other payments, to be met by the Bulgarian Government in connection therewith.

(b) Provisions for the constitution and for the maintenance by the Bulgarian Government in the hands of the Trustees of the reserve fund applicable at their discretion to make good any default or deficiency on the part of the Bulgarian Government in providing the sums required for the service of the loan.

(c) Power for the Commissioner at the request of the Trustees, or for the Trustees themselves if they shall be in direct control of the account mentioned in Article IV, paragraph 2, to retain, collect or otherwise provide out of the said revenues (including such other revenues as may be brought into charge under the provisions of Article III) sufficient sums to remedy and make good any default of the Bulgarian Government in whole or in part in carrying out any of its obligations contained in the conditions of the loan.

Article V. — Employment of Settlement Loan.

The yield of the settlement loan shall be applicable to and the Commissioner shall permit payments to be made therefrom for the following purposes only :

(1) Supplies in kind to refugees of agricultural implements and other requirements for their settlement on the land ;

(2) Housing of refugees to be settled on the land ;

(3) Drainage and in general reclamation of land to be used for the settlement of refugees ;

(4) Such improvements in communications as are required for the contemplated settlement of refugees ;

(5) In exceptional cases, loans in cash to refugees for the purpose of their settlement on the land provided by the Bulgarian Government in accordance with Article VIII below ;

(6) Such other purposes connected with the settlement of refugees on the land as the Commissioner may approve.

All assistance given to refugees out of the loan shall be on terms of repayment and no part of the loan may be used for any charitable purposes or for the acquisition of land. Nevertheless, when settlements on a large scale are established, *e.g.*, when villages are created, such disbursements of a general or social nature may be made on such terms as the Commissioner may approve as may serve to promote the development of these settlements and improve the health conditions of the population.

Article VI. — Centralisation of Organisation.

The Bulgarian Government undertakes to centralise all its existing services and organisations at present dealing with refugees under one authority, in such manner as to establish to the satisfaction of the Commissioner the organisation necessary for the proper utilisation of the settlement loan.

Article VII. — Work of Settlement.

1. The settlement of refugees contemplated by this Protocol and the expenditure of the settlement loan for this purpose shall be effected by the organisation contemplated by Article VI in agreement with and under the supervision of the Commissioner. A general plan of settlement shall be drawn up as soon as possible by this organisation, shall be submitted for the approval of the Commissioner and published.

2. All plans for settlement and for expenditure out of the settlement loan shall be drawn up and executed by the organisation contemplated in Article VI subject to the approval of the Commissioner. He shall release money from the settlement account only for purposes approved by him, and he may at any time refuse to release money from the settlement account if he is not satisfied that monies previously released have been expended in accordance with his authorisation.

3. Annual accounts of the expenditure of the settlement loan shall be drawn up and audited in such manner as the Commissioner shall direct and be submitted through him to the Council of the League of Nations and be published.

4. The Bulgarian Government undertakes to give to the Commissioner at its own expense every facility in the execution of this task and to give him all information concerning the work of settlement which he may require. The Commissioner shall at all times be entitled to make enquiries as to the manner in which any part of the loan has been expended; in particular, he shall be entitled to communicate directly with the services carrying out the settlement work. He shall also be entitled to obtain such expert advice as he may require, the expenses of experts being defrayed by Bulgaria.

Article VIII. — Land assigned for Settlement.

1. The Bulgarian Government undertakes to provide not less than 132,000 hectares of land which is or may be made suitable for agricultural settlement (exclusive of pasture land) and the character and situation of which must be approved by the Commissioner for the purpose of settling refugees. The land shall be land which is already the unencumbered property of the Bulgarian Government or land of which the Government has acquired the unencumbered property for the aforementioned purpose.

2. The Bulgarian Government undertakes that it will secure the capital payments due in respect of any instalment of purchase price or of any advances in cash or kind by means of mortgages created either by contract or the operation of law on the land occupied by the refugees.

Article IX. — Designation of Refugees.

Persons settled on the land or assisted with grants or loans out of the proceeds of the loan or loans contemplated by the present Protocol shall be persons who have been certified to the Commissioner by the Bulgarian Government to be Bulgarian nationals and to have declared in writing that they will consider themselves in future exclusively as such.

Article X. — Protocol Articles.

1. Any difference as to the interpretation of this Protocol shall be settled by the Council of the League of Nations.

2. All decisions to be taken by the Council in execution of this Protocol shall be taken by a majority vote.

3. This Protocol shall be ratified by Bulgaria and the ratification shall be deposited at the Secretariat of the League of Nations as soon as possible, and in any case not later than one month from the date of its approval by the Council of the League of Nations.

In faith whereof the undersigned, duly authorised for the purpose, has signed the present Protocol.

DONE at Geneva in a single copy on the eighth day of September 1926, which shall be deposited with the Secretariat of the League of Nations and be registered by it without delay.

(Signed) Wl. MOLLOFF,
Bulgarian Finance Minister.

XII.

EXTRACT FROM THE MINUTES OF THE FIFTH MEETING OF THE FORTY-FIRST SESSION OF THE COUNCIL

(held at Geneva on September 7th, 1926.)

1783. Loan for the Settlement of Bulgarian Refugees.

The PRESIDENT invited M. Molloff, representative of Bulgaria, and M. Pospisil, Chairman of the Financial Committee, to come to the Council table.

The PRESIDENT said that the Council had before it two Reports of the Financial Committee [Documents IX and X] as well as a draft Protocol submitted for the signature of the Bulgarian Government [Document XI]. The Council had also had three letters from Roumania, the Kingdom of the Serbs, Croats and Slovenes, and Greece regarding certain aspects of the question which interested them¹; in particular, the system by which it was proposed to control the execution of the plan for establishing the refugees.

The Council would remember that it had decided to consult the representatives of these States before taking a final decision. In accordance with this resolution, the Council had some days ago asked the Financial Committee to draft proposals in consultation with the representatives of these States, as well as with the representative of Bulgaria. The President accordingly invited the representatives of these States to come to the Council table.

(M. Caclamanos (Greece), M. Comnène (Roumania) and M. Yovanovitch (Kingdom of the Serbs, Croats and Slovenes) took their places at the Council table.)

¹ Document C. 471. 1926. II.

M. VANDERVELDE, Rapporteur, read the following report :

" You will remember that in May the Bulgarian Government approached the League of Nations on the question of the issue of the loan for the establishment of refugees in Bulgaria. The Council discussed this question in June and, recognising the great importance of ensuring a satisfactory solution of the problem, it declared its readiness, in the resolution adopted on June 10th, 1926, to be associated in a scheme prepared by the Financial Committee. The scheme provided for the issue of a loan of two and a-quarter million pounds sterling to be used in building houses, furnishing an initial equipment and providing advances for the refugees, as well as in the preparation of land and the installation of the necessary means of communication. The loan was to be secured on certain revenues of the Bulgarian State; in the first place, the rights of excise on salt and alcohol and the receipts of the match monopoly. These revenues being a first charge for the settlement of reparations, it was necessary to secure the waiving of this privilege. The Inter-Allied Commission at Sofia and the Reparation Commission took the required decisions on June 22nd and 23rd. Thereupon, the Financial Committee, which met in London, recommended the President of the Council, in conformity with the Council resolution of June 10th, to authorise the Bulgarian Government to open negotiations concerning a temporary advance of £400,000.

"As you know, these negotiations succeeded and Bulgaria was recently able to obtain this sum in the form of a temporary advance from the Bank of England to the National Bank of Bulgaria.

"The main question for the Council to deal with at to-day's meeting is the question of control. In June, the Council approved the principle that it should have a strict and efficient control over the use of the funds and over the choice of land on which the refugees were to be established. The Council reserved the right to examine at its September session the method of effecting this control. As the President has reminded you, the Council decided to enter into consultation with the representatives of the States Members of the League, which are neighbours of Bulgaria, before fixing the final details of this control. These States, the Kingdom of the Serbs, Croats and Slovenes, Roumania and Greece, have addressed letters to the Council on the subject, and we asked the Financial Committee at the beginning of this session to examine these documents and to seek an agreement with the representatives of these three States. I am happy to say that the Financial Committee has succeeded in drawing up a system of control which, in my opinion, is in every way satisfactory.

"The Financial Committee submits a report together with a draft Protocol for signature by Bulgaria. This Protocol provides for the appointment by the Council of a Commissioner who will report to the Council at least every three months. The proceeds of the loan will be placed under the control of this Commissioner and he will have to approve all the plans for establishing refugees. He will always be free to refuse to liberate sums drawn from the loan if he is not sure that the sums thus liberated have been expended in conformity with the conditions which he has authorised. The plan provides for certain precautions against establishing large numbers of refugees near the frontiers and lays down a procedure by which the neighbour States will have the opportunity of taking part in the discussion of matters specially affecting their interests in the sense of Article 4 of the Covenant. The Council will notice that it is proposed to reserve until the December session the question whether certain districts are suitable for the establishment of refugees. I understand that there is another question which has not been settled and on which a more rapid decision is required; that is the question of the construction of a certain railway on which depends the establishment of a considerable number of refugees, and I propose that the Council should deal with this question at a later meeting of the present session. This new plan of establishing refugees, to which the Council agreed to give its patronage in June and the details of which it is now in a position to approve, is the fourth important piece of economic and financial reconstruction work undertaken by the League. This summer we have seen the work of reconstruction of the finances of Austria and Hungary brought to a successful conclusion. We have had at this session a report on the remarkable progress made in the establishment of the Greek refugees. I am sure that it is the sincere desire of the Council that this new plan, like its predecessors, will not only relieve human distress but will also increase the economic prosperity and the political stability of the country directly concerned, and will at the same time help the League's general work of maintaining the peace of the world."

M. MOLLOFF spoke as follows : " I should like to thank you, Sir, for your kind welcome. I would also thank the Council for the care with which it has examined the proposals drawn up by the Financial Committee. We accept the terms of the Committee's report as well as the Protocol. I have no observations to make on either.

" If the Council will allow me, I would like here to express the great gratitude of the Government of Bulgaria and of its people for the work undertaken by the Council and by the League.

" We would also thank the Chairman of the Financial Committee and the Committee itself, which has had to perform an extremely difficult task in drawing up regulations for the establishment of refugees as well as all the other regulations and provisions necessary to set on foot the loan.

" Finally, I would like to thank the distinguished representative of Belgium for the eloquent report which he has read to the Council and which explains in a remarkable manner the great importance of the work which is to be undertaken. I entirely agree with the conclusions which he has put forward. In doing so, I am voicing the feelings of the Bulgarian people, faced as they are by so important a question as the establishment of the refugees,

and still more important if judged by the possible results as regards the general pacification of the Balkans. To the already valuable work which it has done, the League of Nations has added a work of an humanitarian kind, the consequences of which will be exceptionally great. Once more I would express my gratitude on behalf of my Government and the Bulgarian people."

The PRESIDENT, in conformity with the decision of the Council to consult the representatives of the three neighbouring States, asked these representatives whether they had any observations to make.

M. CACLAMANOS said: "Praiseworthy efforts have been made by the Financial Committee to draw up a plan for establishing the Bulgarian refugees. These efforts have been crowned with success. I would, however, like to submit an observation — not an objection — to the Council on the report of M. Vandervelde.

"This observation deals with the construction of a railway to maintain communication between the places where refugees may be established. The railway will be constructed, I understand, near the Greek frontier, and it is concerning this railway that I would like to make my observation.

"The Financial Committee has authorised a slight exception in the plan as regards the principle of establishing refugees at a distance of 50 kilometres from the frontier. Nevertheless, as technical difficulties have arisen, this point has been reserved for discussion at a future session of the Council.

"M. Vandervelde recommends in his report that the question of the construction of the railway should be dealt with at the present session of the Council. I would like to point out that this railway line must be drawn up with the distinct object of facilitating the establishment of a considerable number of refugees to be given homes at special places as an exception to the general principle adopted by the Financial Committee. These two questions are accordingly indissolubly linked.

"I do not quite see, therefore, how the Council can reserve the question of the districts in which the refugees are to be placed and at the same time take a decision about the railway, which is essentially for the purpose of establishing communications between these districts.

"I would repeat that I do not wish to make an objection, but merely an observation."

M. YOVANOVITCH said: "I agree with the observations presented by my colleague M. Caclamanos, and I would thank the Council for having recognised the special interest which States bordering on Bulgaria attach to the question of the Bulgarian loan. This has made it possible for us to co-operate in a spirit of entire loyalty and sincerity. My Government has approved the reasons of solidarity and humanity which guided the Council when it authorised Bulgaria to float a loan for Bulgarian refugees. My Government has made certain observations and criticisms solely with a desire to consolidate peace in the Balkans, to clear up the situation and to do away with anything that might trouble the good relations established between Bulgaria and her neighbours. It has wished to prevent an atmosphere which might make the relations between Bulgaria and her neighbours difficult and thereby prevent the consolidation of peace. We hope that these relations will improve so that one day, with the co-operation of the League of Nations, a Balkan Pact may be concluded on the basis of the Locarno Treaties."

M. COMNÈNE said: "I entirely agree with the observations of my colleagues the representatives of Greece and the Kingdom of the Serbs, Croats and Slovenes. I am happy to be able to adhere in the name of my Government to the report which we have just heard. You will appreciate, I am sure, this new proof of the spirit of sincere and brotherly international co-operation which Roumania shows to all her neighbours.

"I am, moreover, convinced that the strict application of the plan which has been drawn up will be an important contribution to the work of peace, which is so necessary in this severely tried portion of Europe."

The PRESIDENT said that, if he rightly understood M. Caclamanos' observations, it was agreed that the Council should examine the question of the railway during the present session.

M. CACLAMANOS said that he had no objection to this proposal. He had simply wished to make a slight reserve, which he might possibly renew when the Council discussed the matter during the present session.

M. VANDERVELDE, Rapporteur, said that the Council would certainly have heard with the greatest satisfaction the declarations of adhesion which has just been made by the representatives of the countries which were neighbours of Bulgaria. It was reassuring to think that for a great work of humanity, such as the assistance to the Bulgarian refugees, no discordant voice had been raised among those who had sometimes had political difficulties with the Bulgarian Government. The Council, moreover, had found that its just desire to ensure a real and efficient control over the employment of the funds for the refugees had aroused no opposition from the Bulgarian Government. The contrary was the case.

He would add that the choice of M. Charron, whom he was about to propose as Commissioner, gave to all the double guarantee that the control would be efficient and that the humanitarian work would be successfully carried out.

The representative of Greece had made a reserve concerning a certain railway which some considered indispensable to the establishment of the refugees and the construction of which aroused in others a certain apprehension. As Rapporteur, he had simply stated in his report that the question of the railway would be adjourned and discussed at one of the later meetings of the Council session. For the moment the question was reserved in its entirety. Subject to these observations, he proposed the following resolution. [Document XIII].

The Rapporteur added that two years ago he had seen the miserable condition of the Bulgarian refugees and that one of the finest jewels that the League of Nations could put in its crown was this relief which it was able to give, thanks to the generous assistance it had received, and which would certainly have a beneficial effect in the maintenance of peace in the Balkans and in the realisation of work which had just been alluded to, namely, a new Locarno in the Balkans.

The resolution was adopted.

The PRESIDENT, in the name of the Council, addressed his very sincere thanks to the Chairman of the Financial Committee and to the Committee itself for their remarkable work. He also congratulated the four Governments concerned for having, after long and difficult discussions conducted in an intensely friendly spirit, succeeded in reaching an agreement which would certainly have a favourable effect on the general situation in the Balkans.

(M. Comnène, M. Yovanovitch and M. Pospisil withdrew.)

XIII.

RESOLUTION ADOPTED BY THE COUNCIL ON SEPTEMBER 7TH, 1926.

The Council :

(1) Notes and approves the Report of the Financial Committee dated July 23rd, 1926, and is glad to learn that the arrangements described in that report have been followed by the successful negotiation of an advance of £400,000 for the urgent needs in connection with the settlement of Bulgarian refugees ;

(2) Notes and approves the Report of the Financial Committee of September 6th, 1926, with reference to the conditions of issue and control of the main public loan for the settlement scheme approved by the Council in June ;

(3) Approves the Protocol for signature by the Bulgarian Government ;

(4) In particular, approves the system of control ; the detailed definition of the objects upon which the loan may be expended ; the appointment of a Commissioner ; and the procedure proposed by the Financial Committee and designed to enable the neighbour States, or any one of them, to give information or make observations to the Commissioner and, with or without prior consultation in a consultative Committee meeting outside Bulgaria, to secure that questions specially affecting their interests will be examined by the Council, including as members for this purpose the State or States in question, in accordance with the provisions of Article 4 of the Covenant ;

(5) Appoints M. René CHARRON as Commissioner, under the conditions for the discharge of the duties specified in the report, for two years from the expiration of his present temporary appointment, on October 31st, 1926.

(6) Expresses the hope that the loan may be successfully issued and that the scheme of settlement may have the effect of transforming the destitute and impoverished refugees, whom it is the purpose of the scheme to assist, into productive and prosperous Bulgarian citizens and so contribute at once to the economic development, the political stability of the country, and the general interests of peace.

XIV.

EXTRACT FROM THE MINUTES OF THE THIRD MEETING OF THE FORTY-SECOND SESSION OF THE COUNCIL, HELD AT GENEVA ON SEPTEMBER 20TH, 1926.

1802. — Loan for the Settlement of Bulgarian Refugees: Question of the Haskovo-Mastanly Railway.

M. Molloff, representative of Bulgaria, and M. Caclamanos, representative of Greece, came to the Council table.

M. DE BROUCKÈRE read the following report :

“ The Council will remember that the question of the construction of the Haskovo-Mastanly Railway with funds derived from the loan for the establishment of Bulgarian

refugees was, as the moment of the discussion of this question by the Council on September 7th, reserved for examination at one of the later meetings of the present session.

“As Rapporteur, I discussed this question with the interested parties. I am glad to be able to inform you that these negotiations have reached a point at which the Council will probably be able to take a decision to-day. If then the difficulties have been solved during the present meeting, I propose that the Commissioner (M. Charron) should receive instructions from the Council that, before approving the plans for the construction of the railway, and before liberating the funds required for that construction, he obtains the opinion of competent and disinterested experts in order to assure himself that no expenditure will be made on work which is not exclusively for economic purposes.

“I would now suggest that the Bulgarian representative, who has a declaration to make, should be asked to speak, and subsequently that the Greek representative should be asked to speak.”

M. MOLLOFF said :

“In the name of my Government I declare that we agree to the contents of the Report which has just been read and that consequently we consider that the League Commissioner will have every right to obtain information and, if necessary, take the measures required.

“With reference to the second part of the report, I am authorised to declare that my Government has no intention of extending the railway beyond Mastanly towards the Greek frontier.

“I would express my great gratitude to the Rapporteur, who, by his friendly and loyal assistance, has greatly helped us in reaching a solution.”

M. CACLAMANOS said :

“I note with satisfaction the declaration made by the representative of Bulgaria concerning the non-extension beyond Mastanly towards the Greek frontier of the railway to be constructed for the needs of the Bulgarian refugees. This declaration should dispel any apprehensions that might have been caused by the construction of the railway, which, being close to the frontier of a neighbouring country, might also have a military character.

“I hope I may feel that the Council appreciates the conciliatory spirit shown by the Greek Government, which is anxious to help the Council and to contribute by all the means in its power to the humanitarian work which, in the Council's opinion, will instigate in the Balkans a state of affairs giving ground for hope not only of an improvement in the relations between the Balkan States but a real reconciliation between those States.

“I would specially wish to express my gratitude to the Belgian representative for the great patience and complete impartiality with which he has directed the negotiations. I wish also to thank the permanent services of the League of Nations, which have shown, in giving us their assistance, all their habitual good will and competence.”

M. COMNÈNE expressed his satisfaction at the agreement, which would institute this humanitarian work to which Roumania had from the first moment given its adhesion.

The PRESIDENT was glad to find that the difficulties had now been removed. The Council could congratulate itself on the spirit of conciliation shown by the interested parties, thanks to which the work might be successfully carried out.

M. DE BROUCKÈRE, Rapporteur, proposed a resolution. (See Document XV).

The resolution was adopted.

M. Molloff and M. Caclamanos withdrew.

XV.

RESOLUTION ADOPTED BY THE COUNCIL ON SEPTEMBER 20TH, 1926.

The Council approves the report of the Belgian representative, takes note of the declarations of the Bulgarian and Greek representatives, and notes with satisfaction the successful result of the negotiations concerning the construction of the Haskovo-Mastanly railway.

XVI.

RESOLUTION ADOPTED BY THE SEVENTH ORDINARY SESSION OF THE ASSEMBLY AT ITS MEETING HELD ON SEPTEMBER 24TH, 1926.

The Assembly :

(1). Has learnt with great satisfaction that the negotiations of the last six months have resulted in the adoption by the Council of a scheme for the settlement of some 120,000 refugees in Bulgaria ;

(2) Observes with satisfaction that, by means of an advance of £400,000, this work has already been begun ;

(3) Expresses the hope that the total sum estimated for this work, namely, £2,250,000, may be successfully subscribed in the near future ;

(4) Desires to express its appreciation of the valuable work once more done by the Financial Committee, on whose advice the plan was adopted by the Council, and whose long and unique experience in such work of reconstruction has borne fruit in Austria, Hungary and Greece ;

(5) Expresses the belief that the execution of this plan will not only alleviate widespread suffering but will also benefit economic and social order within Bulgaria, and consolidate and improve the political relations of Bulgaria with neighbouring countries.

LEAGUE OF NATIONS

Geneva, September 16th, 1927.

**MEASURES FOR THE SETTLEMENT
OF BULGARIAN REFUGEES**

REPORT BY THE SECOND COMMITTEE TO THE ASSEMBLY.

Rapporteur : Major ELLIOT (British Empire).

During the seventh ordinary session of the Assembly, the Second Committee had before it the initial stages of the League scheme for the settlement of some 32,000 Bulgarian refugees. The general plan of work had been drawn up, the machinery to some extent organised, and the work had been started by means of a small advance pending the final negotiations for the loan necessary to put the scheme into full operation.

We can now consider the full year's work and note with gratification the progress achieved. In the first place, it is satisfactory to record the successful flotation of the Bulgarian Refugee Loan, London, New York, Italy, Switzerland and Holland subscribed for bonds bearing 7% interest and redeemable not later than 1967. The price of issue to the public was 92 per cent and a total sum of approximately two and a-quarter million pounds sterling was made available for the settlement of refugees.

The quarterly reports of the Commissioner of the League of Nations, M. Charron, show that the yield of the revenue assigned for the security of the loan, while not up to the estimates contained in the Bulgarian budget, have nevertheless been amply sufficient to cover several times over the sums required for the service of the loan. It is gratifying to note that there has been a progressive improvement in the yield of the assigned revenues and that yet further steps are being taken to accentuate this tendency.

As regards matters of organisation, the Bulgarian Government is to be congratulated on the success with which it has centralised all its refugee services under the able direction of M. Sarafoff, whose energetic co-operation has been a feature of the work of the last year. A wise step has been taken in securing the advice of Messrs. Price, Waterhouse and Co. as to the system of accounting adopted, which has thus been placed on thoroughly sound lines.

It will be recalled that an essential feature of the scheme, embodied in Article 8 of the Protocol of September 8th, 1926, was the provision by the Bulgarian Government of 132,000 hectares of suitable land free from any encumbrance. Legal difficulties in the acquisition by the State of unencumbered title to the land required have caused certain delays, but these have already been obviated to a considerable extent by a special law passed by the Bulgarian Government. Further delays have been caused by technical difficulties as to maps and surveys, but these are gradually disappearing owing to the excellent work of the Geographical Institute of Bulgaria, to which M. Charron pays a special tribute in his reports.

These difficulties in providing the land have necessarily made the progress of the work of building houses in which the refugees can be installed somewhat slow, but the fourth report of the League of Nations Commissioner shows that we may hope for a great intensification of activity in building houses in the near future. Considerable progress has been made in the distribution to the refugees of seeds, agricultural implements and cattle.

Other difficulties have been faced and appropriate measures taken to meet them. The original plans for the drainage of marshes have, upon close technical examination, been found to need revision, which has been undertaken. The League owes a very great debt of gratitude indeed to the distinguished Italian engineer Signor Fornari for his invaluable co-operation in this matter.

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Similarly with regard to malaria. The well-known Dutch scientist Professor Swellengrebel, in concert with the Health Section of the League, has rendered services of inestimable value, and, in accordance with his recommendations, a competent medical service has been set up and a suitable organisation started to undertake anti-malarial work.

Plans have been drawn up or are in course of preparation for as much work on roads and railways as is permitted by the amount of funds at present available. It is to be hoped that substantial progress will be made in this direction during the coming year.

It is particularly gratifying to record that, owing to the determination of all parties concerned, the problems which might have arisen out of the settlement of refugees in districts near the land frontiers of Bulgaria have in all cases been solved. A high tribute is to be paid to the spirit of co-operation in which the Bulgarian Government and the neighbour States have acted in this matter.

We can therefore record the successful inception of this scheme, and if in many directions unforeseen difficulties have arisen, we can look with satisfaction upon the courage and resolution with which they have been faced and the prospect of success in overcoming them. This has meant arduous work for all concerned, but we can confidently count on the energy and initiative of the Bulgarian Government and of the servants of the League, under the inspiring leadership of the Commissioner, M. Charron, whose skill and devotion have been beyond praise. We can rest assured that they will spare no effort to add still another to the achievements of reconstruction which the League regards with such justifiable pride.

I have the honour to propose to the Assembly the following resolution :

“ The Assembly :

“ (1) Welcomes with great satisfaction the successful flotation of the Bulgarian Refugee loan, providing funds for the carrying out of the scheme approved by the Council ;

“ (2) Takes note of the progress which has already been made in the work of making land and houses available for the occupation of the refugees ;

“ (3) Expresses the hope that, during the coming year, it will be possible to record the completely satisfactory progress of the work of settlement ;

“ (4) Desires to express its approbation of the courage and resolution displayed by the Bulgarian Government and the Commissioner of the League of Nations in carrying out the scheme. ”

[Communiqué au Conseil,
aux Membres de la Société
et aux Délégués à l'Assemblée.]

15 OCT 1927

A. 67, 1927, I

ERRATUM

SOCIÉTÉ DES NATIONS

Genève, le 20 septembre 1927.

CEUVRE D'ÉTABLISSEMENT DES RÉFUGIÉS BULGARES

RAPPORT DE LA DEUXIÈME COMMISSION A L'ASSEMBLÉE

Troisième ligne du premier paragraphe : au lieu de « 32.000 réfugiés bulgares »,
lire « 32.000 familles de réfugiés bulgares ».

LEAGUE OF NATIONS

MEASURES FOR THE SETTLEMENT OF BULGARIAN REFUGEES

REPORT BY THE SECOND COMMITTEE TO THE ASSEMBLY.

Second line of first paragraph : for « 32,000 Bulgarian refugees »,
read « 32,000 Bulgarian refugee families ».

LEAGUE OF NATIONS

Geneva, September 16th, 1927. *

WORK OF THE ECONOMIC COMMITTEE

REPORT AND DRAFT RESOLUTIONS SUBMITTED BY THE SECOND COMMITTEE TO THE ASSEMBLY

Rapporteur : M. GLIWIC (Poland).

The work accomplished in the domain of economics in the course of the last year by the League of Nations, the Council, the Economic organisation, under that eminent economist Sir Arthur Salter — a work of which the League of Nations has every right to be proud — was, as you know, Gentlemen, the preparation and groundwork of the International Economic Conference. Of this Conference, our distinguished colleague M. Loucheur will speak to you with that authority which attaches to all his pronouncements. My task is a more modest one. I shall only claim your attention for the necessarily restricted but none the less meritorious and concrete activities of the Economic Committee. Owing to the preparations for the International Economic Conference, this Committee has only held two sessions this year, one of which was devoted to the work entrusted to it by the Council and the other to the work devolving upon it in consequence of certain resolutions of the International Economic Conference referred to it by the Council.

* * *

1. *International Conference for the Abolition of Import and Export Prohibitions and Restrictions.* — This question, which was initiated by a resolution of the Assembly at its fifth ordinary session, has been the object of long and careful studies by the Economic Committee in consultation with Governments and interested circles. The International Economic Conference gave its unanimous approval to the draft convention prepared by the Economic Committee as the basis for discussion at an international conference.

By a decision of the Council the Conference on Prohibitions will open at Geneva on October 17th of this year. All States members of the League and the principal States non-Members have been invited by the Council to send representatives to this conference.

The coming conference, although it has been prepared before the International Economic Conference, may be regarded as the first attempt to give practical effect to the principles and recommendations of that Conference, and it may have a considerable influence upon the success of other measures which may be contemplated to put into operation other important recommendations of the Economic Conference, in particular those relating to tariffs.

For this reason, and in order to free international commerce from a barrier which it considers to be one of the chief obstacles to the freer movement of goods, the Second Committee cannot but express the wish that the coming conference will lead to the conclusion of a binding agreement signed and subsequently ratified by as many States as possible.

2. As mentioned above, the second session of the Committee was entirely devoted to the preparatory study of certain recommendations of the International Economic Conference referred to the Committee by the Council: viz., the recommendations with regard to tariffs and commercial treaties, to the unification of Customs nomenclature and to the treatment of foreign nationals and enterprises.

As regards *tariffs and commercial treaties*, the Committee is pursuing a preliminary study of the actual situation in the various countries so as to be able to judge at which moment and under what conditions further steps could be taken towards a common policy. The study undertaken by the Economic Committee refers in particular to the characteristic

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features of the tariffs of the various countries, the advantages and disadvantages of their Customs regime as well as of the form and application of the most-favoured-nation clause and so forth.

The first step towards the *unification of Customs nomenclature* appeared to the Committee to be the drawing-up of the general framework of a unified tariff to form the basis for further work. Contrary to the pessimistic anticipations held in many quarters, the small group of experts to whom the Committee entrusted the first task has already achieved very considerable progress. In October they will submit their unified framework along with proposals as to the best methods for elaborating the details, and we have every reason to hope that in the year 1928 great progress towards the unification of tariff nomenclature will have been made.

The question of the *treatment of foreign nationals and enterprises* is not new to the Committee. It will be remembered that in 1923 and 1925 the Committee agreed upon two series of principles with regard to the treatment of foreigners in fiscal and legal matters, and the treatment of foreigners admitted to exercise a trade, profession or other economic occupation, and that the adoption of these principles was recommended by the Council to all States Members of the League. The International Economic Conference has now recommended that an international conference be held with the object of settling the matter by means of an international agreement. The Second Committee is glad to state that the Economic Committee is already engaged in drawing up the preparatory documents for this Conference.

3. *The International Convention relating to the Simplification of Customs Formalities* signed at Geneva on November 3rd, 1923, has been ratified by seven more States since the last Assembly. This brings the number of ratifications or adhesions up to 27, i.e., nearly one-half of the States Members of the League. It is to be hoped that the other half will find it possible to adhere to the Convention in the near future. The first reports of the Governments on the application of the Convention, which have been communicated to the Secretary-General in accordance with Article 9, reveal (I quote the report of the Committee) "the striking progress which has been made under the influence of the Convention both as regards the clauses which have a binding character and those which are merely in the nature of recommendations". Moreover, the Committee has found that the provisions of the Convention are being increasingly used as a basis for the settlement of questions of a similar character in bilateral treaties.

In view of the encouraging reports of the Governments on the application of the provisions of the Convention, the Economic Committee has decided to take up the study of certain recommendations annexed to the Convention with a view to their practical application.

4. As regards the question of *false declarations in Customs matters*, arising out of a recommendation of the Geneva Conference of 1923 on Customs Formalities, the Committee, after considering the various proposals which have been put before the Committee either for an international convention or for bilateral agreements, decided, with the approval of the Council, to invite a few jurists and Customs experts to express their opinion on the juridical and technical aspects of the question. Owing to the urgent nature of the other questions now on hand, the proposed meeting of experts has not yet taken place, but the Committee understands that it is contemplated holding it at the earliest possible date.

5. *The Protocol of 1923 on Arbitration Clauses* has been ratified during the past year by two further States, thus bringing the number of ratifications up to 15. The small number of ratifications during the past year is no doubt due to the fact that an additional protocol for the enforcement of foreign arbitral awards has been prepared and already circulated to the Members of the League. The Assembly will be called upon at its present session to consider this draft, which is intended to supplement the 1923 Protocol. This question forms a separate item on our agenda and I therefore do not propose to dwell upon the matter here.

6. With regard to the question of the unification of *bills of exchange*, the Economic Committee is now directing its efforts towards an attempt to assimilate and harmonise in the first place the laws of the countries belonging to the continental group, a complete unification of all existing laws having been recognised as presenting for the time being insuperable obstacles. The Economic Committee is of the opinion that if only the continental laws relating to bills of exchange and cheques could be assimilated, great progress would be achieved, and it might then perhaps be easier to bring into closer harmony the continental and the Anglo-Saxon systems. With the approval of the Council, the Committee called together a meeting of experts, drawn from business circles, to point out the practical difficulties encountered by the business world as a result of the divergencies between the laws of the different countries and to single out those difficulties which appeared to be capable of solution by means of an international agreement. As a result of the proposals of these experts, the Committee came to the conclusion that further steps should be taken with a view to framing the necessary articles to serve as the basis of an international agreement. This task will be entrusted to a meeting of experts, mainly jurists, the holding of which has already been approved by the Council and the convening of which is contemplated for this autumn.

The Second Committee has been informed that if, as we have every reason to hope, the work of these experts rapidly achieves the desired result, it should be possible to consider the convening of an international conference, either at the end of 1928 or the beginning of the following year, with a view to reaching an agreement to bring about that assimilation of legislations of the continental type which is so greatly to be desired and to which I have just referred.

I considered it advisable to draw special attention to this circumstance in order that countries contemplating the reform of their laws relating to bills of exchange and cheques might if necessary bear it in mind.

7. In the course of its study into the question of *economic crises*, the Committee called together a number of experts in order to have their opinions as to the scientific and technical aspects of the establishment of indices and economic barometers. The report of these experts will be considered at the next meeting of the Joint Committee on Economic Crises representing the Economic and Financial Committees and the International Labour Office.

8. Following up the work done by the Economic Committee with the help of the International Institute of Statistics in the field of the *unification of economic statistics*, the Committee suggested to the Council that a conference should be convened in the near future and to which all Governments should be invited to send official statisticians. The object of this Conference would be to promote the adoption by the various States of uniform methods in the compilation of economic statistics. The Council agreed to this proposal in principle but decided to await concrete suggestions from the Economic Committee before fixing the programme and date of the Conference.

9. Reference should also be made to a recommendation of the Economic Committee approved by the Council in its session of December 1925 to the effect that it would be of great advantage if the League could publish a *Statistical Yearbook* in which were summarised in a single volume the very considerable quantity of statistics of great interest to Governments and business men, which were at present scattered through a number of different League publications. It was originally intended to issue the first edition of this volume during the course of 1926 but finally decided to incorporate it in the documentation of the Economic Conference. This volume has attracted a very considerable amount of attention and is, I venture to believe, likely in the near future to become one of the best-known of all the documents issued by the League of Nations.

10. The Committee entered upon the study of the *economic relations between different countries* — a question submitted to it by the Council — in relation to the problem of disarmament. The importance of this question will be generally realised.

11. Before concluding, I should like to say a few words on a subject, which although not mentioned in either of the two reports of the Economic Committee before us, requires some explanation — that is to say the question of the *Protection of foreign buyers against worthless goods*.

The Second Committee expressed the hope last year that every effort would be made to secure the publication before the present session of the Assembly of the documents collected by the Economic Section regarding the various means existing in different countries for protecting foreign buyers against worthless goods or goods the quality of which is unsatisfactory.

An uncorrected proof of this publication has been distributed to the Second Committee.

This pamphlet contains a quantity of information of importance for the business world, and it is to be hoped that the first attempt which has just been made will produce a satisfactory result by indicating more clearly the aim that has been pursued and its utility.

The Second Committee expresses the desire that an urgent appeal should be made to the various Governments requesting them to furnish to the Secretariat the information which it requires in order to complete its work, either by means of additional data in the case of those countries from whom information has already been obtained or by providing such information where it is still lacking.

The Committee is of opinion that it can trust the Secretariat as soon as possible to bring to a successful conclusion the first task which is incumbent upon it — that is to say to complete this provisional publication so that it may be communicated without delay to all Governments.

* * *

The Second Committee has the honour to submit to the Assembly the following draft resolutions :

“ The Assembly :

“ 1. Reiterating its conviction that the conclusion of an international convention for the abolition of import and export prohibitions and restrictions would greatly facilitate the recovery and future development of world trade, appeals to all Governments to send duly authorised representatives to the Conference which will take place in Geneva on October 17th and expresses the most earnest hope that no efforts will be spared to bring the work of the Conference to a successful issue ;

" 2. Notes with satisfaction that steps have already been taken by the Council to set in motion the preparatory work connected with the execution of certain urgent resolutions of the International Economic Conference, in particular those relating to tariffs and commercial treaties, to the unification of Customs nomenclature and to the treatment of foreign nationals and enterprises duly admitted to carry out their activity on the territory of a foreign State ;

" 3. Takes note of the ratifications of the International Convention relating to the Simplification of Customs Formalities and of the Protocol of 1923 on Arbitration Clauses during the past year, and expresses the hope that those States which have not yet found it possible to adhere to these two international Acts will do so at an early date ;

" 4. Notes with satisfaction that it is proposed to convene a conference in the near future with a view to achieving greater uniformity in economic statistics ;

" 5. Notes with approval that the recommendation that the Economic and Financial Section should issue a *Statistical Yearbook* has now borne fruit, and recommends that this valuable volume should become one of the annual publications of the League ;

" 6. Observes with satisfaction the progress which the Economic Committee has made in the study of the question of false declarations in Customs matters ; of the progressive assimilation of laws relating to bills of exchange and cheques and of economic barometers ; and hopes that no effort will be spared to bring this work to a successful issue ;

" 7. Notes with satisfaction the progress accomplished in the Economic Section's enquiries regarding the direct and indirect means placed at the disposal of foreign purchasers in the different countries for the purpose of satisfying themselves of the quality of the goods which they acquire in these countries ;

" Recommends that these enquiries should be pursued on the lines indicated in the provisional pamphlet communicated to the Second Committee and that the Governments should assist the Secretariat in order that a further publication, which should be as complete as possible, may be issued at an early date. "

Geneva, September 20th, 1927.

LEAGUE OF NATIONS.

WORK OF THE FINANCIAL COMMITTEE

REPORT BY THE SECOND COMMITTEE TO THE ASSEMBLY

Rapporteur : M. DJOURITCH (Kingdom of the Serbs, Croats and Slovenes).

As Rapporteur on the work of the Financial Committee, I will take this opportunity of giving a rapid review of the activities of this Committee since its inception.

The Financial Committee, which counts among the most highly qualified and active committees of the League of Nations, was originally created to perform a very modest task. In this connection the history of the Committee is of great interest.

The Financial Committee was formed subsequent to the Brussels International Financial Conference in 1920 with the main object of facilitating the employment of the ter Meulen credits ; the original ter Meulen scheme approved by the Brussels Conference was never put into practice. However, once started, the Financial Committee proved to be a peculiarly competent body ; new tasks were assigned to it each year and its activity has continually extended since that time.

The most obvious manifestation of the Financial Committee's activities is the series of loans to different countries issued, as the result of its labours, under the auspices of the League of Nations to Austria, Hungary, Greece, the Municipality of Danzig, Bulgaria, Estonia and, quite recently, the Free City of Danzig. The total of these loans amounts in round figures to seventy million pounds sterling, or approximately one milliard seven hundred million gold francs.

All these loans were issued without the least difficulty. The investing public has confidence in the loans issued under the auspices of the League of Nations because it knows that they are based on plans carefully studied by the impartial and highly qualified experts who form the Financial Committee. Furthermore, it is well known that this Committee follows systematically and assiduously financial conditions in the countries with which it is concerned.

In consequence, all the loans issued under the auspices of the League of Nations have benefited from a lower rate than if they had been contracted by the respective Governments without such patronage. But the value of the Financial Committee's work is not confined to the facility of contracting these loans. The plans of the League of Nations, and consequently those of the Financial Committee, are primarily directed to laying sound foundations on which the countries concerned can build the best economic structure permitted by circumstances. The loans hitherto issued have been a means of effecting the reconstruction of the financial position which was compromised in many countries in 1920 and the following years, during which the Financial Committee displayed its greatest activity. Before commencing this reconstruction, it was first essential to stabilise the currency and to effect budget equilibrium in these countries. In both these directions, the Financial Committee furnished classic examples which were later followed by numerous countries when they had recourse in their turn to the advice of the League of Nations and of the Financial Committee, and also by countries which undertook their financial reconstruction independently.

With regard to stabilisation of currency, the classic example is that of the Austrian crown, followed by Hungary, Germany and Poland, to name only those countries in which the depreciation assumed an extremely grave character.

In 1920, at the time of the Brussels Financial Conference, the general conviction was that, before stabilising the currency, it was necessary to balance the budget. This belief is not perhaps erroneous to-day, but the concrete examples quoted above reveal the fundamental necessity of having a general scheme providing a complete and simultaneous system for the stabilisation of the currency and the balancing of the budget. The Austrian example further emphasises that, in a country with a greatly depreciated currency, it is impossible to obtain budget equilibrium as long as the value of the currency continues to fluctuate, and, in consequence, impossible also to lay the foundations of an effective reform of the budget system.

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Consequently, it was necessary to stabilise first, and then to aim at a system of budget equilibrium which, becoming practicable in virtue of the stabilisation, in its turn made the latter permanent.

The corner-stone of currency stabilisation in all the countries which have benefited by the work of the Financial Committee was the creation of banks of issue independent of the Government. Independent banks of this kind were founded in Austria, Hungary, Danzig, and Estonia; in Bulgaria, Government influence over the National Bank was materially diminished, while, in the case of Greece, the Financial Committee has drawn up a set of statutes for a new bank of issue that may be regarded as a model of their kind.

The Financial Committee, side by side with its proposal for establishing these independent banks of issue, was responsible for a reform that has given the happiest results — the centralisation of the State revenues in the banks of issue. This reform was effected in Austria and in Hungary and, having led to the most satisfactory results, has been incorporated in detail in the new scheme for the reconstruction of Greek finances.

The second essential step in financial reconstruction is that of securing budget equilibrium. In this direction, the Financial Committee performed work of special importance in all the countries under study. The results obtained were extremely satisfactory. The Financial Committee is concerned not only to reduce expenses by advising reasonable and suitable economies, but also to propose reforms of a nature to increase receipts. When the currency has been stabilised, the effect of these measures is to afford the Treasury a sound basis for assessing taxation, since the calculations are based on stable revenue figures.

The Financial Committee also insisted upon effective control being exercised by the Finance Ministry over the other Ministerial Departments, an essential condition of budgetary equilibrium. One of the most suitable methods of exercising this control is the system of monthly budgets and monthly closed accounts. This system was applied for the first time in Austria on the initiative of the Commissioner-General, M. Zimmerman. It was subsequently applied in Hungary and Bulgaria, and is, it appears, followed at the present time in Poland and other countries.

Great importance was also attached to the regular publication of reports on the financial situation of the States in question. It is only by the publication of such information that public opinion both at home and abroad is able to follow and verify the management of the country's finances and a large number of Governments now publish monthly or quarterly reports on their financial situation.

The application of the Committee's methods to financial reform had been so successful from a practical standpoint that their main outlines were followed in the most important plans for financial reconstruction in Europe, their general features being reproduced to a large extent in the principles laid down for the financial reconstruction of Germany.

When plans of this kind are prepared by the Financial Committee and put into operation, their application is followed methodically and carefully by the Committee, and, as in all its other work, the Committee is careful to see that the essential part of the scheme, in this case, budgetary equilibrium, continues to be observed.

Let us now consider the work of the Financial Committee since the last Assembly. During the latter half of 1926, the Committee devoted itself specially to execution of the scheme for the settlement of Bulgarian refugees, of which the British representative has given a detailed report. There is therefore no need for me to revert to the matter, nor to give a further description of the remarkable work recently accomplished with a view to the financial reconstruction of Greece, of which the Italian representative has already spoken on this platform.

In 1927, the sessions of the Financial Committee provided two very characteristic examples worthy of special mention, for they constitute a fresh assertion of certain principles already applied in practice by the Committee. I refer, first of all, to the investigations and decisions relative to the financial situation in Danzig. The financial situation of the Free City was unsatisfactory and, before proceeding with reconstruction, energetic measures were necessary to bring about a reduction in expenditure. Moreover, it was essential that Poland should agree to allow the Free City of Danzig a larger share in the Customs receipts of the Polish Customs system, in which the territory of Danzig is included. At the same time, the Government of Danzig wished to institute a tobacco monopoly, for which the co-operation of Poland was indispensable, and to fulfil the obligations imposed by the Treaty of Peace upon the Free City. It needed all the authority of the Financial Committee and its ingenuity in finding compromises during the negotiations to achieve the solutions which made it possible to issue a loan last June. This loan provides funds for the liquidation of the floating debt, for the payment of the sums due under the Treaty of Peace and for credits for the building of houses. The loan programme also provides for a system of supervision, which is designed in the same manner as the previous systems to furnish a guarantee for the creditors, whilst ensuring that all necessary steps should be taken for the normal financial development of the country. As in the case of the Danzig municipal loan of 1925, supervision is exercised by a trustee, resident abroad, and is confined to the revenues assigned as security for the service of the loan and to the utilisation of its proceeds for the purposes mentioned in the programme.

The second example of the Financial Committee's work is provided by the study of the banking and currency situation in Estonia, which rendered possible its reform. Although the Estonian budget had been stabilised in 1922, the financial situation of the country was unsatisfactory. The bank of issue was in a dangerous situation on account of the large number of frozen credits with which it was burdened. The Financial Committee recommended

first of all the introduction of a currency law and the revision of the statutes of the bank of issue. The Protocol agreed upon with the Estonian representatives provided for the establishment of a gold exchange standard, laid down the principle that the bank should have the sole right of issuing notes, and relieved the latter of its long-term credits, which were to be transferred to a mortgage institute. A foreign loan of £1,350,000 would make it possible to liquidate the long-term credits gradually.

Besides this work of financial reconstruction restricted to certain countries only, the Committee also occupied itself with the study of certain general questions, in the first place with that of double taxation and tax evasion. In this connection it appointed a special committee composed of the high Treasury officials of different countries. This committee worked for several years and reached its final conclusions last April. The Committee of experts drew up four draft conventions for the prevention of double taxation and to establish judicial and administrative assistance between States in matters of taxation.

On the proposal of the Financial Committee, the Council decided to submit this report to all the Governments for consideration and to summon a general meeting of experts in 1928. The Council has decided further to publish in one volume all the existing conventions relative to double taxation.

The Financial Committee dealt also with the question of counterfeiting currency. It sent a questionnaire to all the banks of issue in order to obtain their opinions. On the basis of the replies received, it forwarded a report to the Council, which decided to appoint a special committee to study the question and prepare a draft convention. This committee hopes to finish its task very shortly.

Lastly, attention must be drawn to the extremely useful work which the Financial Committee has accomplished as regards the proposal submitted by Finland for financial assistance to States victims of aggression. It is true to say that the courageous and detailed report of the Financial Committee shows a practical way of mobilising the financial resources of the States Members of the League against a State guilty of aggression, and furnishes a striking demonstration of the solidarity of the League's attitude against such a State.

Finally, I propose to the Assembly on behalf of the Second Committee the following resolution :

“ The Assembly takes note of the activities of the Financial Committee and expresses its great satisfaction with the highly useful work accomplished by it. ”

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Geneva, September 21st, 1927.

LEAGUE OF NATIONS

GREEK LOAN

**REPORT SUBMITTED BY THE SECOND COMMITTEE
TO THE ASSEMBLY**

Rapporteur : M. Suvich (Italy).

On June 14th last the Greek Government forwarded to the Secretary-General of the League of Nations a letter asking the Council to approve in principle the conclusion of a loan for an effective sum of nine million pounds sterling and to authorise the Financial Committee to assist Greece in the preparation of a complete plan of currency and banking reform.

In this way the original idea of this loan, which was due to the necessity for completing the work of settling the refugees, changed its character and resulted in the larger conception of a complete and organic plan of financial reorganisation.

The work of settling the refugees, which had been undertaken under the auspices of the League of Nations and had already given valuable results, could indeed only be pursued with difficulty unless a scheme of financial reconstruction was first carried out.

The Financial Committee, at its session in March 1927, requested the Secretariat to collect the fullest possible information regarding the present financial position of the Greek Republic. These investigations were conducted on the spot by M. Avenol, Deputy Secretary-General, and a number of members of the League Secretariat, with most exceptional energy and ability; the Greek Government gave effective assistance in the work by placing at the disposal of these officials all the information and data which they required. The Council having acceded to the Greek Government's request, the Financial Committee was instructed, in a resolution dated June 17th, 1927, to continue to co-operate with the representatives of the Greek Government and the National Bank of Greece with a view to fixing the conditions under which the League of Nations might intervene.

The negotiations were continued and led to the framing of a draft Protocol, to which are annexed a draft Agreement between the Greek Government and the National Bank of Greece and draft Statutes of the new bank of issue; these documents form a vast programme, which embraces the various problems raised by the financial reconstruction of Greece.

The plan rests on three main bases which constitute, as it were, the pivots of the reconstruction contemplated: the constitution of an autonomous bank of issue, the achievement and maintenance of budgetary equilibrium, and the stabilisation of the currency.

Apart from these essential aims, the draft deals at the same time with the payment of budget arrears — an essential operation if stable budgetary equilibrium is to be achieved — and the completion of the work of settling the refugees, which will be one of its excellent results.

Taken as a whole, the draft has been planned with a breadth of view and an exactitude in matters of detail which does honour to the wisdom of the Financial Committee and the perspicacity of all who took part in the work.

The general lines of this programme follow the classical principles of sound financial policy and are laid down in such a way as to provide the country with a solid modern organisation.

The indispensable condition of achieving the results contemplated is, indeed, the issue of a loan which will furnish the funds required to carry out the important and difficult task proposed.

This loan, for an effective sum of nine million pounds sterling, will be divided into three equal blocks of three million pounds each. One block will be set apart for the completion of the work of settling the refugees, the second to pay off budget arrears, and the third to repay the debt owed by the Greek State to the National Bank, which will be passed to the account of the new bank of issue to provide the latter with the liquid funds required for its operation.

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The primary feature of the proposed reform is the establishment of a new bank of issue, upon which depends the possibility of the stabilisation of the currency.

It had first of all been proposed to convert the National Bank of Greece into an institution better suited to perform the functions of a bank of issue, but, in the course of negotiations, it was decided that it was preferable for that bank to continue to undertake the various operations not usually assigned to a central bank and to establish a new bank of issue.

The bank of issue — to be known as the "Bank of Greece" — will be incorporated as a joint-stock company with a capital of four hundred million drachmas.

The draft Agreement between the Greek Government and the National Bank of Greece specifies the conditions governing the transfer of the debt represented by the bank's notes in circulation to the new bank.

This Agreement also contains an arrangement concerning the transfer to the bank of issue of certain assets and liabilities of the National Bank of Greece.

From the time the Bank of Greece is established, the National Bank will take over the whole of the shares and may subsequently offer them for sale on the financial market at carefully regulated intervals in order to avoid any depreciation in the price of the shares.

The Committee's attention should be called to Article 4 of the Statutes of the new bank of issue, which reads as follows :

"The first duty of the bank is to take the necessary steps to ensure the stability of the gold value of its notes. For this purpose, it shall exercise control, within the limits of its Statutes, over currency and credit in Greece."

The following article defines the measures to ensure the convertibility of its notes into legal currency of foreign countries with a gold standard or into currency convertible into gold according to the laws of those countries.

As regards the cover of the notes issued by the bank, it is provided that this must represent not less than 40 per cent of the amount of the notes ; this cover must consist only of gold or foreign exchange directly or indirectly convertible into gold.

The draft Agreement and Statutes contain all provisions of a detailed character required by the constitution and operation of the new bank, as well as those governing its transactions, which are limited to loans, and discount operations for short periods ; it is further stipulated that the bank must publish a balance sheet three times a month and that all the other private banks must every month submit statements of their accounts to the Greek Government.

As a corollary to the establishment of the new central bank, an important reform will be introduced into the Greek administrative system. All receipts and payments must be passed through the Bank of Greece, which may employ the branches of the National Bank of Greece for this Treasury service.

To enable the Bank of Greece to commence operations, the Greek Government, as has been stated above, will pay over to it on its opening day a sum of three millions sterling from the yield of the loan ; simultaneously, a portion of the State's debt to the Bank of Greece, included in the assets transferred to that bank by the National Bank of Greece, will be cancelled.

The method of repayment by the Greek State of the balance of its debt to the National Bank, and subsequently to the Bank of Greece, is also provided for.

It will thus be possible to secure conditions in accordance with recognised principles for the efficient operation of a central bank of issue upon which heavy responsibilities rest, in particular that of guaranteeing the stability of the currency. These principles, which are enumerated by the Financial Committee, are as follows :

- (a) The independence of the bank ;
- (b) The sole right of note issue ;
- (c) The limitation of the bank's operations to loan and discount transactions of a short-term and self-liquidating character ;
- (d) The reduction of the State debt to the bank and the well-defined limitation of new advances to the State ;
- (e) The centralisation of the money transactions of the State and of State enterprises in the Bank of Greece ;
- (f) The provision of adequate and appropriate cover for a unified note issue.

We have already mentioned that another part of the loan, amounting to three millions sterling, will be employed for the repayment of the Treasury arrears, these arrears being repayable up to that sum out of the amount of the loan, and, as regards the balance, out of the resources available from the Greek State which are enumerated in an annex to the Protocol.

The part of the loan thus employed will be paid direct to the Bank of Greece, which will release the necessary sums against documents issued by the Greek Audit Office certifying that those sums actually correspond to the settlement of the above-mentioned debts.

In the draft agreement, the Greek Government undertakes definite obligations concerning the maintenance of budgetary equilibrium, the publication of accounts, the limitation of the amount of its short-term loans, etc.

The proposed securities for the new loan include the surplus of the revenues already assigned to the service of previous loans and at present under the supervision of the International Financial Commission.

A clause in the draft Protocol provides that the conditions of the loan, the issue price, the rate of interest and the expenses of issue, of negotiations and of delivery shall be at least as favourable to the Greek Government as those of the Refugee Loan of 1924. A person appointed by the Financial Committee shall be responsible for seeing that the contracts for the conclusion of the loan are in accordance with the provisions of the Protocol.

* * *

A few words must be added regarding the work of refugee settlement, for which the third part of the loan will be employed.

The quarterly reports of the Refugee Settlement Commission give an accurate and detailed survey of the development and progress of this work. In particular, the fourteenth report, that of last June, contains some very interesting information. There is every reason to be gratified with the results obtained, thanks to the activity of all those who have taken part in this task of the highest moral, social and humanitarian value. When it is considered what has been done and what remains to be done, one conclusion becomes evident: it is impossible to interrupt such a work.

The Financial Committee is of opinion that the sum of three million pounds sterling, added to the previous balance, will suffice to meet the cost of the most urgent settlement work which it is important to complete in the next two years.

The general plan for financial reconstruction and refugee settlement — of which I have in this report been able to give only a summary account but which can be seen in all its details in the documents to which I have referred — contains all the elements and provides every prospect of a successful result.

Greece, who in recent years has undergone a very remarkable economic development, has every interest in adapting her financial institutions to present conditions by means of appropriate reforms. It is in order to achieve this purpose that the Greek Government has applied to the League of Nations, not only for its support in contracting the loan but for its advice in working out a complete plan of banking and currency reorganisation.

The League of Nations has been able to place at the disposal of Greece the weight of its experience and all the ability of its technical services.

Thanks to the perfect organisation of these services, to the skill of the experts which they include, and to the experience which it has already acquired, the League is in a position to furnish very powerful support to the States which appeal to it.

In the case of Greece, since we are more than confident, we are certain of success — one cannot speak of an experiment but rather of a realisation, and in any event of a fact of the highest importance and of the greatest interest.

I have therefore the honour to propose to the Committee for submission to the Assembly the following draft resolution:

“ The Assembly :

“ Has learned with great interest of the successful result of the negotiations which have taken place with a view to the issue, under the auspices of the League of Nations, of a loan to enable the Greek Government to take measures of financial and monetary reorganisation, and to proceed with the settlement of the refugees ;

“ In particular, expresses its appreciation of the plan which has been drawn up for the creation of a new bank of issue and for the stabilisation of the Greek currency ;

“ Expresses its appreciation to all those who have collaborated in these investigations and especially to the Greek Government and to the Financial Committee ;

“ Further notes the progress made in the refugee settlement work and expresses the hope that this work will soon be successfully brought to a close ;

“ In conclusion, expresses the hope that the entire scheme which has now been elaborated will be fully successful. ”

Geneva, September 21st, 1927.

LEAGUE OF NATIONS

INTERNATIONAL ECONOMIC CONFERENCE
ECONOMIC ORGANISATION OF THE LEAGUE OF NATIONS

REPORT AND DRAFT RESOLUTIONS
SUBMITTED BY THE SECOND COMMITTEE TO THE ASSEMBLY.

Rapporteur : M. LOUCHEUR (France).

Two years have already passed since the Second Committee's Rapporteur on economic questions asked the Assembly to adopt a proposal by the French delegation asking for the constitution of the Preparatory Committee for the Economic Conference. Your unanimous approval of this suggestion was of good augury. In a few words you gave a general definition of the problem; you outlined the results which you hoped to achieve as regards the improvement of economic relations and the peace of the world.

It was in relation to the problem of security that, for the first time, our colleague M. Jouhaux reminded the League of Nations of its duty to restore peace in the economic relations of the peoples. When a more definite proposal was subsequently brought before the Assembly at its sixth ordinary session by the author of the present report, the delegates of all the nations assembled here immediately understood that, in a world still shaken by the Great War, weakened by numerous financial crises, and suffering from serious economic disturbance in the agricultural as well as in the industrial and commercial spheres, the League of Nations alone had the necessary authority to consider the various problems at issue as a whole, to define their causes and to recommend suitable remedies.

In conformity with your suggestions, the Council proceeded to a consultation on a wide basis; it had recourse to interests of all kinds, to various international bodies like the International Institute of Agriculture at Rome and the International Chamber of Commerce and to the national professional organisations; and it called upon the Secretariat of the League of Nations and the International Labour Office for a prolonged effort.

The result of these two years' work has been submitted to the Second Committee. M. Theunis, with that lucidity of exposition, that force and that conciseness of thought which we all know, has given it an historical retrospect of the Preparatory Committee and of the Conference itself; he has emphasised the value of the recommendations which it drew up.

Too much stress cannot be laid on the importance which should be attached to these recommendations. They have the twofold characteristic of undoubtedly representing the opinion of the best-qualified circles and of giving the League of Nations a unanimous opinion with all the authority of such an impressive combination of experts.

During the whole period of the Preparatory Committee's work, the members of the Committee themselves, assisted by the Secretariat and the International Labour Office, collected a series of documents, as complete as it was scientific, on all the problems to be dealt with. The Conference next impressed public opinion by the competence of the delegations composing it. Every country had sent to Geneva, in the capacity of delegates or experts, their most qualified industrial, commercial and agricultural representatives and their most tried authorities on labour, consumption, co-operation and economic relations in general.

It is unnecessary to expatiate longer on this subject; the value of the unanimity achieved was immediately appreciated throughout the world by all bodies interested in economic questions, and here at Geneva by the Council of the League of Nations. The Conference's recommendations were, indeed, at once submitted to the Council with a very favourable report by M. Stresemann. At its session last June, its members made official declarations indicative of that determination — which is happily becoming general among nations — to organise economic peace as an essential condition of a peaceful and prosperous existence for all countries, whether strong or weak.

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The Second Committee has just made a decisive step in this direction. It, too, has endorsed the Conference's proposals. To this unanimous opinion of the experts who met at Geneva in May, you are going to bring the powerful aid — the fruitful promise — of the support of your Governments. The resolutions which we have the honour to propose to the Assembly confirm the general will to work for the execution of the programme submitted to you by the Economic Conference. Its President, in his closing speech, quoted a characteristic sentence of the Commerce Committee :

“ In spite of the variety of the questions raised, the diversity of theories, and the legitimate national sentiments of all those who took part in the discussions, one important and extremely encouraging fact has emerged and, having emerged, has become increasingly manifest as the work has advanced. This fact is the unanimous desire of the members of the Conference to make sure that this Conference shall, in some way, mark the beginning of a new era, during which international commerce will successively overcome all obstacles in its path that unduly hamper it and resume that general upward movement which is at once a sign of the world's economic health and the necessary condition for the development of civilisation. ”

This unanimous desire of the Conference has in its turn animated the Second Committee and will assuredly animate the Assembly also.

You have, moreover, to give your opinion as to the method of organising the work which has still to be done. In this, too, you will follow the suggestions of the Economic Conference, which considered that the Economic Organisation of the League of Nations should be so adjusted as to perform with success the delicate and complicated work entrusted to it.

As regards the details of this readjustment, opinions differed, but unanimity was reached on the following points : necessity of reorganisation ; appreciation of the work done by the Economic Committee ; excellent results achieved in the preparation of the Conference thanks to the composition and balance of the Preparatory Committee.

It is from an examination of the Conference's results and of its main conclusions that we have drawn the main ideas which the Assembly will submit to the Council.

These resolutions refer to the three chief categories of economic activity — commerce, industry and agriculture. In perusing them, we find considerations suggested which must lead us to give effect to the Conference's wishes.

It seemed to us necessary in the first place to retain the Economic Committee with its present competence, while adapting it to the new conditions of economic life. The resolution which we submit to the Assembly gives all the necessary particulars in this respect.

The Conference, knowing the value of the results already obtained by the Economic Committee, expressly mentioned that Committee in its resolutions, thus proving the implicit confidence it felt in its work.

But the Conference also affirmed the necessity of the League of Nations and its Economic Organisation consulting, “ *so far as necessary, the competent bodies representing commerce, industry, agriculture and labour* ”. In chapters full of promise for the future, it repeatedly emphasises the wide range of expert advice on which the Council should be able to draw ; it should be able to obtain such advice at any moment from the Economic Organisation which it set up to assist in one of its most valuable tasks : that of promoting economic peace.

This need for forming a group of economic authorities was emphasised in the recommendations of the Conference relating to industrial problems ; the chapter on rationalisation, for instance, recommended that efforts should be made to obtain increased production, a higher output and improvement in the conditions of labour, and a reduction in prices “ *in industry, agriculture, trade and finance institutions, not merely in large undertakings but also in medium and small* ”.

The same reasoning applies to international industrial agreements, the development of which, in the opinion of the Conference, should be followed closely by the League of Nations, which should collect information on the matter and publish it from time to time. It also holds good for *industrial information*. All the members of the Assembly are aware of the valuable resolutions adopted by the Conference on this subject. They know that these resolutions will call for daily and uninterrupted work, for which the Conference has already drawn up a detailed programme, special mention being made of the information to be obtained both from the Economic Organisation of the League of Nations and from the International Labour Office, the former being requested to draw up reports, studies and statements which will require the highest qualifications on the part of its members.

It is hardly necessary to remind you that the resolutions relating to agriculture show a great desire for permanent collaboration with the representatives of agriculturists. The work of agricultural co-operative societies, the development of credit, and various other problems engaged the special attention of the Conference. In this respect it laid definite tasks on the League of Nations. It drew up a programme for the League which cannot be successfully carried out unless agricultural interests are represented as widely as possible in the Economic Organisation of the League of Nations. It is the unanimous recommendation of the Second Committee that the Council should give very special attention to this important question of the representation of agriculture.

The opinion of the Conference, based not only on the experience of each delegation but also on the results obtained by the Preparatory Committee and by itself, was, generally speaking, that economic problems as a whole could only be examined successfully in their

general environment, and considered in their relation to one another, whether they were in their essence industrial, commercial or agricultural.

Confidence in the Economic Committee of the League of Nations, a considerable extension of the problems which have been studied until now, complexity of the task to be undertaken, necessity of close collaboration between all those who have to carry it out — such are the conclusions which emerge from the work of the Economic Conference.

In view of these considerations, we propose to the Assembly the creation of a new organ comprising competent authorities on industry, commerce, agriculture, finance, transport, labour problems and questions relating to consumption. This consultative committee would send its reports direct to the Council, and, in order to ensure the necessary liaison, would communicate them immediately to the technical organisations concerned. It would meet on the request of the Council whenever necessary, and a least once a year.

We thought that the International Labour Office should be asked to nominate three workers as members of this Committee. We also expressed the hope that the International Institute of Agriculture and the International Chamber of Commerce would be asked to give their assistance.

Finally, without venturing to make any definite recommendations to the Council, we suggest that it would perhaps be well if the Advisory Committee could ask other organisations to join in its work, such as the new International Management Institute and the International Co-operative Alliance.

Some of you may perhaps be inclined to think that this organisation is somewhat complicated, but the proposals which I have the honour to submit to the Assembly in the name of the Second Committee are the result of an exhaustive discussion in which account has been taken of every side of the problem and of all the interests concerned. We have been guided solely by the desire to provide the League of Nations with the means of pursuing its essential task: the establishment of peace through better international economic co-operation.

* * *

The Second Committee has the honour to submit to the Assembly the following draft resolutions:

“ I. *International Economic Conference.*

“ The Assembly,

“ Takes note of the report of the Economic Conference held in May last, in accordance with the initiative taken by the Assembly at its sixth ordinary session;

“ Congratulates sincerely the President and the members of the Conference appointed by the Governments of fifty countries upon the fact that, comprising so many qualifications, and representing every variety of responsible opinion, they were able to agree unanimously upon recommendations at once definite in character and wide in range, whose adoption would effect a substantial improvement in the present economic policies of the world;

“ Notes with satisfaction that many Governments have already made declarations accepting the principles laid down by the Conference and stating their intention of co-operating in their application, while no declaration in the contrary sense has been made;

“ Believes, therefore, that there is every reason to hope for universal approval when the public opinion of all countries has been sufficiently instructed;

“ Recommends the resolutions of the Conference, as the Council did in June 1927, to the favourable consideration of all Governments, and trusts that those Governments which have not yet declared their support will shortly be able to do so;

“ Invites the Economic Organisation of the League of Nations to prepare as soon as possible a summary of the replies of the various Governments as to their attitude to the recommendations of the International Economic Conference, and to make known the action that the various Governments have taken or may take in pursuance of the recommendations of the Economic Conference;

“ Trusts that the economic policies of all countries may develop in accordance with the principles laid down by the Conference and desires that the Economic Organisation of the League should take these recommendations as the basis of its work;

“ Trusts, in particular, that the recommendations of the Conference relating to tariffs and commercial policy will be put into effect, not only by national action and bilateral agreements but also, whenever practicable, by collective conventions reached by means of international conferences of accredited representatives with the aim of gradually evolving among the trading nations of the world, and particularly among those of Europe, common lines of policy beneficial to all and not subject to the uncertainties of purely bilateral bargaining, careful attention being given to the special conditions existing at any moment and to the necessity of realising this policy by stages and without undue disturbance;

“ Expects the Council of the League of Nations and the Economic Organisation to devote their untiring efforts to the realisation of this urgent task and hopes that the Governments will give to it their cordial support and active collaboration.”

“ II. *Economic Organisation of the League of Nations.*

“ Whereas, in addition to the economic tasks hitherto undertaken by the League, much important and extensive work will result from the recommendations of the Economic Conference; and

“ Whereas it is essential that the different interests and organisations which collaborated in the preparation of the Conference should continue to give their support and advice in the work of securing effect to its recommendations; and

“ Whereas the Conference took the following resolution :

“ The Conference wishes in the first instance to express its high appreciation of the work of the Economic Committee and the Secretariat of the League.

“ The Conference is of opinion that the success of its work will depend upon the execution of the principles laid down.

“ With regard to the action to be taken on its recommendations, the Conference, while offering no suggestion as to a permanent organisation, cannot do better than draw the Council's attention to the well-balanced composition of the Preparatory Committee, which has yielded excellent results in the preparatory work of the Conference :

“ The Assembly considers :

“ (a) That the Economic Committee should continue to be, as at present, the organ through which the Council deals with economic affairs and that it should be constituted — under such rules as the Council may consider appropriate for its effective functioning — so as to be best suited for its principal work which, in the near future at least, will lie within the sphere of the economic relations between States and their economic policies so far as they have international aspects; it should consist of not more than fifteen members.

“ (b) That the Economic Committee should have the power to appoint temporary sub-committees of experts for preparatory work and, subject to Council approval and in consultation with the States in question, to name economic correspondents in countries which have no member on the Committee.

“ (c) That a ‘ Consultative Committee ’ the object of which is to follow the application of the Economic Conference recommendations should be constituted by the Council.

“ It might be composed of about thirty-five members, as was the Preparatory Committee, and the conditions of equilibrium attained in the latter between the various elements should be maintained as far as possible.

“ It should therefore include, among others, persons competent in industry, commerce, agriculture, finance, transport, labour questions, and questions relative to consumption.

“ The International Labour Office should be invited to submit the names of three labour members for this Committee.

“ The Council will doubtless also wish to secure for the Committee the co-operation of the International Institute of Agriculture and of the International Chamber of Commerce.

“ Five members chosen by the Economic Committee should take part in the work of the Consultative Committee with the same rights as the other members.

“ The Consultative Committee should submit its report directly to the Council of the League of Nations. At the same time, it would forward a copy to the Economic Committee and to the other technical organisations concerned.”

Geneva, September 23rd, 1927.

LEAGUE OF NATIONS

**OPENING OF A CONVENTION RELATING TO THE EXECUTION
OF FOREIGN ARBITRAL AWARDS**

**REPORT AND DRAFT RESOLUTION SUBMITTED BY THE
SECOND COMMITTEE TO THE ASSEMBLY**

Rapporteur: Dr. LEITMAIER (Austria).

In its report of last April to the Economic Committee, the Committee of Legal Experts explained the purpose of its work as follows:

"The Protocol on Arbitration Clauses which has been open for signature since September 24th, 1923, lays down, subject to certain specified conditions, that each of the contracting States shall recognise submissions to arbitration concluded between parties, subject respectively to the jurisdiction of different contracting States. It stipulates, in the first place, that the existence of a submission to arbitration precludes recourse to the Courts of either of the contracting States and, in the second place, that each contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of awards made in its own territory under such a submission.

"On the other hand, the Protocol of 1923 contains no provisions at all regarding the enforcement of awards made in foreign countries.

"This omission was noted in the report submitted by the Economic Committee to the Council of the League of Nations in September 1926.

"After having (1) recognised the validity of the submission to arbitration in private international relations, and (2) provided for the enforcement of the arbitral award in the State where it was made, a third aim should be pursued, namely, to ensure the international effect of such an award."

Such is the problem which the experts have endeavoured to solve by means of a draft Protocol which has been submitted, in accordance with a Council resolution, to all the Members of the League in order to give them an opportunity of submitting their observations.

At the time when it passed this resolution, the Council also decided to place on the Assembly's agenda the question of opening such a Protocol.

On this question being referred to it, the Second Committee appointed a Sub-Committee of Jurists and asked it to examine the observations submitted by the Governments and to settle the terms of a draft which would, as far as possible, take into account the various views expressed. This Sub-Committee, as well as the Second Committee, unanimously arrived at the conclusion that you should be recommended to open a Convention worded according to the text which is now before you.

Before explaining to you its mechanism and the reasons underlying its provisions, I should like to say a few words as to the importance which should be attached to the question. Recourse to arbitration for settling disputes arising out of contracts concluded between parties of different nationalities is becoming more and more frequent. This fact did not escape the International Economic Conference. The latter, as you are aware, unanimously adopted very specific recommendations on this point¹.

¹ Resolutions of the Committee of Commerce; 1. — Liberty of Trade; 3. — Legal provisions or regulations relating to international trade.

In taking the course which I propose, the Assembly will therefore only be continuing the work begun four years ago, whilst at the same time it will be carrying out the wish so clearly expressed by the Economic Conference.

I now come to what I may call the technical part of my report.

The Committee of Experts gave its draft the form of a Protocol open to the signature of States; this was the form already employed for the Protocol on Arbitration Clauses which was opened for signature at Geneva on September 24th, 1923.

The British Government pointed out that, in the form in which it stood, this draft might give rise to difficulties due to the peculiar constitution of the British Empire. It recommended the form of a convention enumerating in its preamble the heads of States participating therein and their plenipotentiaries. The Second Committee have adopted this suggestion.

The Convention will remain open for the signature of countries. They may give this signature at any time they choose.

At the request of the British delegation, and in consideration of the fact that the system laid down in the Convention would not always apply to all the territories of a given State, the Second Committee has had to modify the terms employed in various clauses of the draft. Thus, in the new draft, reference is made to the territories to which the Convention applies, to the country in which the award is made, etc.; these expressions are sufficiently elastic to cover the complex situations which may arise in the British Empire, in federal States, etc.

As regards the contents of the draft, the Second Committee had to consider the very important observations of the Netherlands Government that the Committee's draft differed materially from that adopted by the Conference on International Private Law held at The Hague in 1925. The scheme of The Hague, making it a condition that the arbitral award should have, in the country in which it was made, the same effect as a judgment, provides for it the same means of enforcement abroad as in the case of a judgment. By this system, the power over the award of the judge of the country where it is sought to enforce the award is reduced to a minimum. The draft of the Committee of Experts takes no account of whether the arbitral award has or has not the same force as a judgment in the country in which it was made; it regards the arbitral award itself as founded upon the submission to arbitration, which is a private agreement; hence it is led to admit a much wider power of control on the part of the Courts of the country in which the award is sought to be enforced. This divergence between the systems by no means implied a criticism of The Hague draft by the Committee of Experts. It is explained by the fact that the circumstances considered are different. The Hague draft begins by dealing with the recognition and enforcement of foreign judgments; this starting-point greatly facilitates the recognition and enforcement abroad of arbitral awards when they have the same force in the country in which they were made as judicial decisions. The Committee's draft must, on the other hand, be made to apply even between countries which grant each other no special facilities for the enforcement of their respective judgments.

It should be added that the Hague scheme is intended to serve as a model for bilateral treaties, whilst the present draft is intended for a collective agreement; and in a convention of this latter sort every possible precaution must be taken. This collective agreement, moreover, does not preclude the conclusion of bilateral treaties.

The fact remains that the Hague scheme tends to make the enforcement of arbitral awards easier than the present draft. The utility of the latter, one may almost say the necessity for it, is not affected on that account. It is an acknowledged fact, to which the Committee of Experts drew attention in its report¹, that the 1923 Protocol, for want of providing for the enforcement of arbitral awards abroad, sometimes leads to a denial of justice. This is an omission which must be supplied.

The Second Committee's study of the observations of the Netherlands Government confirmed it in the belief, expressed by the Committee of Experts, that only the recognition and enforcement of arbitral awards given in virtue of a submission to arbitration covered by the 1923 Protocol should be dealt with. It therefore did not adopt the Swedish Government's suggestion that the proposed agreement should be open to States which had not signed and ratified the 1923 Protocol. In its opinion, the proposed Convention should be regarded as complementary to the 1923 Protocol.

The preamble of Article I defines the arbitral awards to which the Convention will be applicable. According to this text it is necessary:

- (1) That the award should have been made in pursuance of a submission to arbitration covered by the 1923 Protocol;
- (2) That it should have been made in a territory of one of the contracting parties to which the new Convention applies;
- (3) That it should have been made between persons subject to the jurisdiction of a State or Member of the League of Nations which is a party to the new Convention.

In compliance with a request of the Danish Government, which pointed out that in certain countries the procedure was not completely governed by a "law", the Committee substituted in this preamble and in various provisions the words "in conformity with the law governing the arbitration procedure" for the words "in accordance with the law".

¹ Document A. 11. 1927. 11.

The Second Committee has thought it advisable to maintain the provision (Article 1, *litera a*) to the effect that the award must have been made "in pursuance of a submission to arbitration which is valid under the law applicable thereto." The German Government proposed a clause specifying what this law was. The Second Committee realised the importance of such a definition for the Court which was asked to enforce a foreign arbitral award. But it considered that no definition could be given in a simple formula and that it involved the most intricate problems of private international law. The exact determination of the law applicable to the submission to arbitration would rather be a matter for the Hague Conference on Private International Law than for this Committee. The latter therefore refrained from making any definition, so that the Court in each particular case will have to discover what this law is by applying the rules regarding the conflict of laws.

The Second Committee, on the other hand, added to the clause requiring that the award should have become final in the country in which it was made (Article 1, *litera d*). The Italian Government observed that it would be necessary to define the meaning of these words. The difficulty of doing so was due to the diversity of the laws regarding the means of redress. A general phrase based on the distinction between ordinary and extraordinary means of redress did not seem to take sufficient account of this diversity. The draft explains the final character of an award by saying that the award has not this character if it is open to "*opposition*", "*appel*" or "*pourvoi en cassation*". But as this formula is not suitable to awards made in countries which do not possess these means of redress with relation to arbitral awards, it was necessary to add, as regards all awards, that they would not be considered as final if any proceedings for the purpose of contesting the validity of the award, *e.g.*, an action for annulment, were pending.

Naturally the term "*pourvoi en cassation*" employed in the provision in question will include "*le recours en revision*" which obtains in certain of such systems of law.

The Second Committee held that, from the particular point of view from which it was dealing with the question, what must be considered was the final character of the award, and not its executory character in the country in which it was made. On this point it did not adopt the opposite view put forward in particular by the Estonian Government. The reasons which led the Committee of Experts not to require that the award should be executory in the country where it was made appeared to the Committee to be conclusive.

The Second Committee carefully examined the case in which an award does not cover all the matters submitted to the Arbitrator. It may happen in such a case that the award deals with the claim of one party without deciding on the counter-claim of the other party, and, if so, it would appear desirable that such an award, so long as it remains "partial", should not be enforced abroad, because the decision on the counter-claim may cancel the effect of the first decision. Again, the award may give a decision on a part only of the claim, because the arbitrator finds this part to be proved, whilst another part of the claim may be reserved on the ground that it calls for fuller consideration. In such a case it would appear desirable, inasmuch as this "partial" award has full validity *per se*, that it should be enforced immediately. The Committee considered that a satisfactory solution would be to give the authority of the country in which enforcement is sought the option of postponing recognition or enforcement, or of granting it subject to a guarantee. This authority may, of course, order a "partial" award to be enforced or not at its discretion. Further, if the submission to arbitration authorise the arbitral tribunal to make a partial award where this is in conformity with the law applicable to arbitration procedure, the enforcement of the award may naturally not be refused on the ground that it is "partial". Moreover, it appeared unnecessary to introduce a clause to cover the case in which the losing party has already satisfied the award and would be discharged therefrom — for example, by payment.

By the provision in the preamble to Article 2 of the draft Convention that "recognition and enforcement of the award shall be refused" in the cases covered by that article, all that is meant is that in such cases the authorities of the country where it is sought to enforce the award are not bound to secure recognition and enforcement. Under the terms of this text, recognition and enforcement are admissible even in these cases, if such recognition and enforcement are allowable under the law or treaties of the country concerned (Article 5).

Certain modifications have been made in the drafting of Article 3 for the sake of greater precision and to take account of the new provisions in Article 1 (*lit. d*). The Committee did not accept the British proposal to authorise the tribunal to grant a party time to "have the award remitted to the arbitrator". In the first place, it is unnecessary to indicate in the Convention the remedy open to the party, and, secondly, the remedy proposed is not to be found in the law of all countries.

With regard to the documents which have to be supplied, the Committee indicated by an addition to the preamble to Article 4 that the article in question was descriptive in character, and not exhaustive. It accepted a proposal by the German delegation to the effect that a translation of these documents may be demanded. Naturally, this requirement may be omitted by special agreements between Governments.

The Committee, however, rejected another proposal by the German Government for the production of an official document certifying that the award had become final. The Committee, whilst recognising the importance of this suggestion, shared the opinion of the Committee of Experts that a stipulation of this kind could not be inserted in a collective Convention.

The Swiss delegation suggested that the Convention should apply only to arbitral awards made after this Convention had come into force. Conflicting opinions were expressed on this point, and a middle course was adopted. This Convention will only apply to awards made after the coming into force of the 1923 Protocol. As the date of this entry into force will be different for different countries, account will have to be taken in each case of the date of the entry into force for the country concerned.

The "protocol" clauses (Articles 7 *et seq.*) have been slightly modified, partly on account of the difference of form between a convention and a protocol, and partly to take account of the observations of the British delegation regarding drafting formulas which are appropriate to the organisation of the British Empire.

At the request of the British delegation, it was also recognised that the Convention should not apply to the colonies, protectorates or territories under suzerainty or mandate of any of the High Contracting Parties unless they were specially mentioned, but it could be rendered applicable to them by a declaration to that effect (Article 10).

* * *

Having given the above explanations, I have the honour, for the reasons already given at the beginning of my report, to propose the following resolution:

"Whereas the World Economic Conference recommended the Economic Committee to endeavour to promote the extension in all countries of recourse to commercial arbitration;

"And whereas, in connection with that recommendation, the Conference was of opinion that the beneficial results of the Protocol of 1923 in regard to the recognition of arbitration clauses in private contracts and particularly in commercial contracts would not be fully realised until provision was made ensuring the enforcement of arbitral awards;

"And whereas the Economic Conference recommended the Council of the League of Nations to take steps to submit to all States for signature at an early date the text of an agreement providing for the execution of arbitral awards in commercial matters;

"The Assembly,

"Recognising the great importance which commercial circles attach to the settlement of this question;

"And having regard to the favourable report submitted to it by the Second Committee after considering the various observations submitted and the various amendments proposed, as a result of the communication of a first draft to the Members of the League;

"Decides to open the annexed Convention (document A.106.1927.II.Annex) immediately for signature by all the Members of the League and non-Member States which are already contracting parties to the above-mentioned Protocol of 1923;

"And invites the Council to take whatever measures it may deem expedient to draw the attention of all Members of the League and all non-Member States to the value of the above-mentioned Protocol and Convention and to the conditions under which they may become Contracting Parties to these agreements."

A. 106. 1927. II
Annexe.

**CONVENTION POUR L'EXÉCUTION DES SENTENCES
ARBITRALES ÉTRANGÈRES**

**CONVENTION ON THE EXECUTION OF FOREIGN
ARBITRAL AWARDS**

CONVENTION POUR L'EXÉCUTION DES SENTENCES ARBITRALES ÉTRANGÈRES

[Indication des Chefs d'Etat.]

Signataires du Protocole relatif aux clauses d'arbitrage ouvert à Genève depuis le 24 septembre 1923:

Résolus à conclure une convention en vue de compléter ce protocole,

Ont désigné pour leurs plénipotentiaires, savoir:

[Indication des plénipotentiaires]

Lesquels, après avoir communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

Article premier.

Dans les territoires relevant de l'une des Hautes Parties contractantes auxquels s'applique la présente convention, l'autorité d'une sentence arbitrale rendue à la suite d'un compromis ou d'une clause compromissoire visés au Protocole relatif aux clauses d'arbitrage, ouvert à Genève depuis le 24 septembre 1923, sera reconnue et l'exécution de cette sentence sera accordée, conformément aux règles de procédure suivies dans le territoire où la sentence est invoquée, lorsque cette sentence aura été rendue dans un territoire relevant de l'une des Hautes Parties contractantes auquel s'applique la présente convention et entre personnes soumises à la juridiction de l'une des Hautes Parties contractantes.

Pour obtenir cette reconnaissance ou cette exécution, il sera nécessaire, en outre:

a) que la sentence ait été rendue à la suite d'un compromis ou d'une clause compromissoire valables d'après la législation qui leur est applicable;

b) que, d'après la loi du pays où elle est invoquée, l'objet de la sentence soit susceptible d'être réglé par voie d'arbitrage;

c) que la sentence ait été prononcée par le tribunal arbitral prévu par le compromis ou la clause compromissoire, ou constitué conformément à l'accord des parties et aux règles de droit applicables à la procédure d'arbitrage;

d) que la sentence soit devenue définitive dans le pays où elle a été rendue, en ce sens qu'elle ne sera pas considérée comme telle si elle est susceptible d'opposition, d'appel ou de pourvoi en cassation (dans les pays où ces procédures existent) ou s'il est prouvé qu'une procédure tendant à contester la validité de la sentence est en cours;

e) que la reconnaissance ou l'exécution de la sentence ne soit pas contraire à l'ordre public ou aux principes du droit public du pays où elle est invoquée.

Article 2.

Même si les conditions prévues à l'article premier sont remplies, la reconnaissance et l'exécution de la sentence seront refusées si le juge constate:

a) que la sentence a été annulée dans le pays où elle a été rendue;

b) que la partie contre laquelle la sentence est invoquée n'a pas eu, en temps utile, connaissance de la procédure arbitrale, de manière à pouvoir faire valoir ses moyens ou, qu'étant incapable, elle n'y a pas été régulièrement représentée;

c) que la sentence ne porte pas sur le différend visé dans le compromis ou rentrant dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions qui dépassent les termes du compromis ou de la clause compromissoire.

Si la sentence n'a pas tranché toutes les questions soumises au tribunal arbitral, l'autorité compétente du pays où est demandée la reconnaissance ou l'exécution de cette sentence pourra, si elle le juge à propos, ajourner cette reconnaissance ou cette exécution ou la subordonner à une garantie que cette autorité déterminera.

Article 3.

Si la partie contre laquelle la sentence a été rendue établit qu'il existe, d'après les règles de droit applicables à la procédure d'arbitrage, une cause, autre que celles visées à l'article premier, *lit. a) et c)*, et à l'article 2, *lit. b) et c)*, qui lui permette de contester en justice la validité de la sentence, le juge pourra, s'il lui plaît, refuser la reconnaissance ou l'exécution, ou les suspendre en donnant à la partie un délai raisonnable pour faire prononcer la nullité par le tribunal compétent.

CONVENTION ON THE EXECUTION OF FOREIGN ARBITRAL AWARDS.

[Description of the Heads of States.]

signatories of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923;
Having resolved to conclude a Convention with the object of supplementing the said Protocol,
Have appointed as their Plenipotentiaries the following:

[Description of the Plenipotentiaries.]

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions:

Article 1.

In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called "a submission to arbitration") covered by the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary:

- (a) That the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;
- (b) That the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;
- (c) That the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;
- (d) That the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to *opposition*, *appel* or *pourvoi en cassation* (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;
- (e) That the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

Article 2.

Even if the conditions laid down in Article 1 hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied:

- (a) That the award has been annulled in the country in which it was made;
- (b) That the Party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;
- (c) That the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it think fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

Article 3.

If the party against whom the award has been made proves that, under the law governing the arbitration procedure, there is a ground, other than the grounds referred to in Article 1 (a) and (c), and Article 2 (b) and (c), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof giving such party a reasonable time within which to have the award annulled by the competent tribunal.

Article 4.

La partie qui invoque la sentence, ou qui en demande l'exécution, doit fournir notamment:

1^o L'original de la sentence ou une copie réunissant, d'après la législation du pays où elle a été rendue, les conditions requises pour son authenticité;

2^o Les pièces et renseignements de nature à établir que la sentence est devenue définitive, dans le sens déterminé à l'article premier, *lit. d*), dans le pays où elle a été rendue;

3^o Le cas échéant, les pièces et renseignements de nature à établir que les conditions prévues à l'article premier, alinéa 1 et alinéa 2, *lit. a*) et *c*), sont remplies.

Il peut être exigé de la sentence et des autres pièces mentionnées dans cet article une traduction faite dans la langue officielle du pays où la sentence est invoquée. Cette traduction doit être certifiée conforme par un agent diplomatique ou consulaire du pays auquel ressortit la partie qui invoque la sentence ou par un traducteur assermenté du pays où la sentence est invoquée.

Article 5.

Les dispositions des articles précédents ne privent aucune partie intéressée du droit de se prévaloir d'une sentence arbitrale, de la manière et dans la mesure admise par la législation ou les traités du pays où cette sentence est invoquée.

Article 6.

La présente convention ne s'applique qu'aux sentences arbitrales rendues après la mise en vigueur du Protocole relatif aux clauses d'arbitrage, ouvert à Genève depuis le 24 septembre 1923.

Article 7.

La présente convention, qui restera ouverte à la signature de tous les signataires du Protocole de 1923, relatif aux clauses d'arbitrage, sera ratifiée.

Elle ne pourra être ratifiée qu'au nom de ceux des Membres de la Société des Nations et des Etats non membres pour le compte desquels le Protocole de 1923 aura été ratifié.

Les ratifications seront déposées aussitôt que possible auprès du Secrétaire général de la Société des Nations, qui en notifiera le dépôt à tous les signataires.

Article 8.

La présente convention entrera en vigueur trois mois après qu'elle aura été ratifiée au nom de deux Hautes Parties contractantes. Ultérieurement, l'entrée en vigueur se fera, pour chaque Haute Partie contractante, trois mois après le dépôt de ses ratifications auprès du Secrétaire général de la Société des Nations.

Article 9.

La présente convention pourra être dénoncée au nom de tout Membre de la Société des Nations ou de tout Etat non membre. La dénonciation sera notifiée par écrit au Secrétaire général de la Société des Nations, qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Parties contractantes, en leur faisant savoir la date à laquelle il l'aura reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Haute Partie contractante qui l'aura notifiée et un an après que la notification en sera parvenue au Secrétaire général de la Société des Nations.

La dénonciation du Protocole relatif aux clauses d'arbitrage entraînera de plein droit la dénonciation de la présente convention.

Article 10.

L'effet de la présente convention ne s'étend pas de plein droit aux colonies, protectorats ou territoires placés sous la suzeraineté ou le mandat de l'une des Hautes Parties contractantes.

L'extension à l'un ou plusieurs de ces colonies, territoires ou protectorats auxquels le Protocole relatif aux clauses d'arbitrage, ouvert à Genève depuis le 24 septembre 1923, est applicable pourra à tout moment être effectuée par une déclaration adressée au Secrétaire général de la Société des Nations par une des Hautes Parties contractantes.

Cette déclaration produira effet trois mois après son dépôt.

Les Hautes Parties contractantes pourront à tout moment dénoncer la convention pour l'ensemble ou l'un quelconque des colonies, protectorats ou territoires visés ci-dessus. L'article 9 est applicable à cette dénonciation.

Article 11.

Une copie certifiée conforme de la présente convention sera transmise par le Secrétaire général de la Société des Nations à tout Membre de la Société des Nations et à tout Etat non membre, signataire de ladite convention.

Article 4.

The party relying upon an award or claiming its enforcement must supply, in particular:

- (1) The original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made;
- (2) Documentary or other evidence to prove that the award has become final, in the sense defined in Article 1 (d), in the country in which it was made;
- (3) When necessary, documentary or other evidence to prove that the conditions laid down in Article 1, paragraph 1 and paragraph 2 (a) and (c), have been fulfilled.

A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded. Such translation must be certified correct by a diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon.

Article 5.

The provisions of the above-Articles shall not deprive any interested party of the right of availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

Article 6.

The present Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923.

Article 7.

The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified.

It may be ratified only on behalf of those Members of the League of Nations and non-Member States on whose behalf the Protocol of 1923 shall have been ratified.

Ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who will notify such deposit to all the signatories.

Article 8.

The present Convention shall come into force three months after it shall have been ratified on behalf of two High Contracting Parties. Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the League of Nations.

Article 9.

The present Convention may be denounced on behalf of any Member of the League or non-Member State. Denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will immediately send a copy thereof, certified to be in conformity with the notification, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the League of Nations.

The denunciation of the Protocol on Arbitration clauses shall entail, *ipso facto*, the denunciation of the present Convention.

Article 10.

The present Convention does not apply to the Colonies, Protectorates or territories under suzerainty or mandate of any High Contracting Party unless they are specially mentioned.

The application of this Convention to one or more of such Colonies, Protectorates or territories to which the Protocol on Arbitration clauses, opened at Geneva on September 24th, 1923, applies, can be effected at any time by means of a declaration addressed to the Secretary-General of the League of Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the Colonies, Protectorates or territories referred to above. Article 9 hereof applies to such denunciation.

Article 11.

A certified copy of the present Convention shall be transmitted by the Secretary-General of the League of Nations to every Member of the League of Nations and to every non-Member State which signs the same.

En foi de quoi, les plénipotentiaires susnommés ont signé la présente convention.

FAIT à Genève, le
en un seul exemplaire, dont les textes anglais et français feront également foi, et qui restera déposé dans les Archives de la Société des Nations.

In faith whereof the above-named Plenipotentiaries have signed the present Convention.

DONE at Geneva, on the
in a single copy, of which the English and French texts are both authentic, and which will be kept in the Archives of the League of Nations.

[Communicated to the Council
and the Members of the League.]

C. 523. M. 181. 1927. II.

LEAGUE OF NATIONS

**MIXED COMMITTEE FOR THE SUPPRESSION
OF
COUNTERFEITING CURRENCY**

**REPORT
AND
DRAFT CONVENTION**

Geneva, October 1927.

Publications of the League of Nations

II. ECONOMIC AND FINANCIAL
1927. II. 70.

Publications of the League of Nations

II. ECONOMIC AND FINANCIAL
1927. II. 74.

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S. d. N. 1,500 (F.) 1.100 (A.) 11/27. Imp. J. de G.

Publications of the League of Nations
II. ECONOMIC AND FINANCIAL
1927. II. 74:

I.

**LETTER ADDRESSED BY THE CHAIRMAN OF THE MIXED COMMITTEE
FOR THE SUPPRESSION OF COUNTERFEITING CURRENCY TO THE
PRESIDENT OF THE COUNCIL OF THE LEAGUE OF NATIONS**

Geneva, October 13th, 1927.

By a resolution of December 9th, 1926, the Council decided to create a Mixed Committee to consider the subject of the counterfeiting of currency and to prepare the draft of an international convention.

In execution of this reference, the Mixed Committee for the Suppression of Counterfeiting Currency, which was created in pursuance of that resolution, has considered the problem submitted to it. The conclusions of the Committee are contained in the attached report, which also includes the draft convention which it has prepared.

On behalf of the Mixed Committee, I have the honour to submit these documents to the Council of the League of Nations, and I am happy to be able to say that they were approved unanimously by all the members who took part in the discussions.

The Committee is fully aware of the many difficulties which will have to be overcome, but it is convinced that the adoption and putting into force of the proposed convention by a large number of States would mark an important step forward in the campaign against counterfeiting currency.

As to the action to be taken, the Committee would suggest to the Council that its report and the draft Convention should be forwarded to all Governments with a request for their observations, and that, at a later but not too distant date, a general conference should be convened for the final adoption of a Convention by as many States as possible.

If, on the receipt of the replies from Governments, the Council thought it desirable, the Mixed Committee would be happy to examine any amendments to the draft suggested in these replies.

(Signed) Dr. Vilém POSPÍŠIL,
*Chairman of the Mixed Committee for the Suppression
of Counterfeiting Currency.*

II.

REPORT SUBMITTED TO THE COUNCIL OF THE LEAGUE OF NATIONS BY THE MIXED COMMITTEE FOR THE SUPPRESSION OF COUNTERFEITING CURRENCY

*Organisation and Terms of Reference
of the Mixed Committee.*

In its resolution of December 9th, 1926, the Council decided to set up a "Mixed Committee to consider the problem of counterfeiting currency and to prepare an international draft Convention on the subject". This Committee was to consist of specialists in international criminal law, representatives of the authorities responsible for prosecutions, delegates of banks of issue and a representative of the Financial Committee. The Council also decided what Governments and banks of issue were to be invited to nominate experts as members of this Committee.

In conformity with the Council's resolution, the Mixed Committee was constituted as follows :

Dr. Vilém POSPÍŠIL	Chairman of the Financial Committee, Governor of the National Bank of Czechoslovakia.
<i>Assistant :</i>	
Dr. Jaroslav KALLAB	Professor at the University of Brno, Expert in International Law.
M. COLLARD-HOSTINGUE	Inspector-General of the Banque de France.
Dr. Wilhelm VOOCKE	Member of the Board of Directors of the Reichsbank.
<i>Assistant :</i>	
Dr. Wolfgang METTGENBERG	Ministerial Counsellor at the Reich Ministry of Justice.
M. Chs. SCHNYDER DE WARTENSEE	Vice-Chairman of the Board of the Banque Nationale Suisse.
<i>Assistant :</i>	
M. SCHWAB	Secretary-General of the Banque Nationale Suisse, Head of the Disputed Claims Office.
M. Juan Carlos CRUZ	Chief Legal Adviser of the Argentine National Bank, Member of the Superior Council of the University of Buenos Ayres, Professor of Commercial Law in the Faculty of Law.
M. SERVAIS	Minister of State, Public Prosecutor to the Court of Appeal at Brussels.
<i>Deputy in case of absence :</i>	
M. CORNIL	Public Prosecutor, Professor of Penal Law at the University of Brussels.
Sir John Fischer WILLIAMS, K.C., C.B.E.	Legal Adviser to the Reparation Commission.
Comm. Ugo ALOISI	Councillor to the Court of Appeal at Rome.
M. Vespasien PELLA	Member of the Chamber of Deputies, Professor in the Faculty of Law at the University of Jassy and at the Academy of International Law at The Hague, Member of the Higher Legislative Council.

M. Johann SCHOBER	President of Police at Vienna, former Federal Chancellor.
<i>Deputy:</i>	
M. E. PFLÜGL	Minister Plenipotentiary.
<i>Assistant:</i>	
M. Hans ADLER	Assistant Counsellor to the International Criminal Police Commission, Editor of the <i>International Review of Characteristic Marks and Forgeries of Banknotes and other legally current Securities</i> .
Mr. W. H. MORAN	Chief of Secret Service, Treasury Department, Washington, D.C.
Baron VAN DER FELTZ	Doctor of Law, Public Prosecutor at the Court of Appeal at Amsterdam, Head of the Central Netherlands Organisation for the Suppression of Forgery.
<i>Assistant:</i>	
M. K. H. BROEKHOFF	Inspector-in-Chief of Police at Amsterdam, State Police Commissioner.

Proceedings of the Mixed Committee.

The Committee thus constituted held meetings at Geneva from June 23rd to 28th and from October 10th to 13th, 1927. It was unfortunately deprived, at its second session, of the assistance of M. Cruz and Mr. Moran, who were unable to travel to Geneva. The ground for its work had been well prepared by the enquiries addressed by the Financial Committee to the banks of the various countries, by the information supplied by the Government of the Netherlands and by the Government of Austria on the happy initiative taken by the International Criminal Police Congresses and the International Criminal Police Committee set up by these Congresses, by the information supplied by the Italian Government, by a very complete and striking report by Professor Pella, and finally by notes and drafts which were submitted to the Committee by some of its members — M. Pella, Comm. Aloisi, M. Schober, Baron van der Feltz, M. Schnyder de Wartensee, M. Cruz and Dr. Kallab.

Main ideas underlying the Mixed Committee's proposals.

The Mixed Committee was unanimous in its recognition of the importance, from an international point of view, of more effective measures for the suppression of counterfeiting currency.

Indeed, whether one considers the nature of the offence itself or of the interests which it injures, it will be seen that such counterfeiting endangers, not only the property rights of individuals, but also the monetary sovereignty of the State and those economic relations which depend intimately for their development on complete confidence in the security of the currency.

Moreover, the increasing intensity of economic relations between nations, involving as it does an expansion of international dealings in currency, causes the counterfeiting of currency to strike a blow not only at the public order of the State where the offence is committed, or at the credit of the State whose currency has been forged, but to undermine public confidence in the medium of exchange, as represented by the currency, thus hindering international economic co-operation.

Owing, therefore, to the nature of the interests which it injures, the counterfeiting of currency cannot be regarded as one of those offences whose mischievous effects on public order are confined to a given territory. It falls within the category of criminal acts the consequences of which are, or may be, detrimental to public order in several States, as well as to international relations.¹

¹ See M. Briand's letter to the Secretary-General of the League of Nations dated June 5th, 1926, *Official Journal*, page 95.

Another reason which renders necessary international co-operation for the repression of counterfeiting currency is the manner in which the offence is committed. The successive acts which go to make up the offence of counterfeiting are in fact often carried out in prolonged frequency on the territories of different States.

The more extensive use of banknotes, the facility with which the currency of one country can be changed in order countries, the difficulty for the public of testing the genuineness of foreign currency are circumstances which have encouraged criminals to greater boldness, and lead them to extend their sphere of action and to create organisations with ramifications in a number of States.

These gangs of forgers find accomplices in every country who are ready to assist them in obtaining the means of committing the offence and at the same time to enable them to escape prosecution and punishment.

It is impossible for the States to remain indifferent before this international combination of criminal forces, which is itself a result of the continuous transformation and internationalisation of modern social life; on the contrary, they must make the appropriate reply by improving the machinery for the punishment of crime by the closest international co-operation.

In view of its terms of reference, the Committee did not think it could make a full enquiry into the prevalence of the offence of counterfeiting currency. It merely requested the banks of issue throughout the world to furnish a few figures on this question. Though the replies received did not allow of the preparation of complete statistics, they were sufficient to confirm the Committee in its views as to the importance of international action.

A large number of banks of issue state that they have no precise knowledge of cases of counterfeiting reported in their respective countries, or of cases relating to their own notes discovered abroad; the very absence of this knowledge shows the need of national offices to collect and centralise information of this nature, and the necessity of establishing close relations between these offices and the banks of issue.

* * *

Extent to which the Mixed Committee proposes to unify national systems of law.

International co-operation should take the form, in the first place, of a unification of municipal law, so as to ensure that criminals shall nowhere escape punishment, but that repressive measures should everywhere be severe, and, so far as possible, certain in their operation; and, secondly, of a police organisation to ensure that detective measures shall be both swift and well co-ordinated, conditions which are essential to this efficacy.

The Mixed Committee realised that, in a task of such magnitude, it was necessary, particularly at the outset, to proceed with caution, and that it must content itself with proposing measures which were practicable at the moment and easy to realise, instead of seeking by theoretical methods to attain an ideal result.

In the draft Convention submitted to the Council, the Committee has sought to avoid any encroachment upon the fundamental principles of those national legal systems to the maintenance of which States are very properly attached. At the same time, the proposal contains the most effective rules for the prevention and punishment of offences relating to counterfeiting, and in paragraph 1 of Article 1 of the draft Convention the high contracting parties declare that they recognise these rules as such.

The uniform rules which the Mixed Committee proposes to introduce are in part of a legislative and in part of a purely administrative character.

Obligation assumed by States signing and acceding to the proposed Convention.

The signature of the Convention by any Government which becomes a party thereto involves an obligation to adopt the necessary measures for introducing these rules into its legislation and administration, except in so far as they may be already embodied therein, and when all the rules are so embodied, ratification by the Government will follow.

Such is the purport of the second sentence of Article 1 of the Convention, which reads as follows :

“They [the High Contracting Parties] agree to adopt the necessary measures for introducing these rules into their respective legal and administrative systems, except in so far as they may be already embodied therein.”

The Committee further recommends that, even before the ratification of the proposed Convention, all Governments should, as far as possible, take suitable administrative steps to bring their departmental organisation into agreement with the Convention.

* * *

Rejection of proposal to extend the Convention to forgeries other than the counterfeiting of currency. Forged cheques.

A note by Herr Schober shows clearly enough how desirable it might be to extend these rules, at any rate to the forging of cheques.

The Mixed Committee, however, did not see its way to adopt the proposal. The endeavours which have been made, so far without result, for the unification of laws regarding bills of exchange show how difficult such an attempt would be ; moreover, the forging of cheques has not quite the same mischievous effects on international economic relations as the forging of currency.

Meaning of the term “currency” employed in the Convention.

In the proposed Convention the word “currency” means both metallic and paper money, so that all notes, whether State notes or notes of legally authorised banks of issue, are included. This definition will be found in paragraph 1 of Article 1.

* * *

Offences which States are bound to punish under the Convention and to which the provisions of the Convention apply.

The second paragraph of Article 1 has been drafted with a view to penalising counterfeiting and the uttering of counterfeit currency in every shape and form :

“The criminal law should include and punish with adequate penalties any fraudulent making or altering of currency, whatever means are employed, any fraudulent uttering of currency, and the introduction into a country or the receiving or procuring of currency which has been fraudulently made or altered, with knowledge of its fraudulent character, with a view to uttering the same.”

It is of the first importance for the effective repression of counterfeiting that it should be punishable everywhere, no matter what means may have been employed. That is already the case in most legal systems ; it has, however, been pointed out that in some countries the making of a false note out of fragments of genuine notes is not an offence ; this ought not to be so.

Not only the forging and altering, but also the uttering of counterfeit currency are to be punishable offences, the word “uttering” being held to cover putting in circulation in any form, including the mere introduction, exportation or possession of counterfeit currency with a view to putting it in circulation, provided that the person introducing, exporting or in possession of such currency received or procured it knowingly and with the intention of putting it in circulation.

The following acts are also to be held to constitute the offence of counterfeiting : the making of coins, even if their standard and weight are identical with or superior to that of the genuine coins ; the diminution of the intrinsic value of genuine coins by altering their substance or

weight ; the alteration of coins, paper money or banknotes which are no longer current, with a view to and the result of giving them the appearance of money which is current ; any operation with a view to giving metal or paper currency or genuine banknotes the appearance of currency of a higher value by altering the marks or figures indicating the nominal value.

Fraudulent intent an element of the offence and proof thereof.

The text of the provision makes the fraudulent intention of the offender an element in the offence, and the burden of proof here or elsewhere will rest on the prosecution.

The suggestion that, as regards this fraudulent intent, the onus of proof should be shifted and replaced by a *præsumptio juris tantum*— in other words, that, in the absence of proof to the contrary, any falsification (making or altering) or uttering of counterfeit currency should be deemed to be fraudulent — has not been accepted, although, of course, any State is at liberty to include such a provision in its laws.

In point of fact, intent to defraud is in most instances easy to prove from the actual circumstances of the case (*dolus in ipsa re*), and the shifting of the onus of proof would be a serious and hardly admissible departure from a principle which is regarded in most legislative systems as inviolable and to which public opinion in many countries is deeply attached.

Latitude allowed to States to define the offences in question and fix the penalties therefor.

It is for the legislature of each country to classify these offences as may be thought best ; the important point is that all of them should be punishable. The Convention is very explicit on this point : "The criminal law should include and punish with adequate penalties."

Subject to the restriction mentioned in Paragraph V, which will be dealt with later, the legislatures of the various countries retain complete power as to the classification of offences and the fixing of the character and severity of penalties.

Colouring of coins. Making without fraudulent intent.

Colouring or the use of any other process to give metal currency the appearance of a higher value is a fraudulent act which is punishable under the laws of many countries. Though it is clearly desirable that this should be the case in all countries, the Mixed Committee did not consider that this offence should be assimilated to that of forging currency, since the genuine money continues to exist with its substance intact and unchanged.

The Financial Committee had given a favourable reception to the opinion, which all the banks consulted expressed, that the falsification of currency without fraudulent intent should be made punishable, but that the penalty imposed should be lighter.

In the Mixed Committee's opinion, a provision to this effect would undoubtedly be desirable if and in so far as the falsification is of a character to cause loss, and indeed such a provision already exists in a number of legal systems. But the Committee did not consider it absolutely essential for the suppression of the crime of counterfeiting, regarded as an international danger ; in the view of the Committee, the proposed international Convention should be confined to essential provisions of this character.

* * *

Every act to be punishable as a separate offence, particularly the acts of counterfeiting and uttering.

Paragraph III states :

"Each of the acts mentioned in Paragraph II should be considered as a separate and distinct offence, at any rate if the acts are committed in different countries".

"Each of the acts mentioned in Paragraph II" : This expression implies that each act of making, altering, uttering or being fraudulently in possession of currency, when committed in different countries, even by the same individual, should be capable of being dealt with in each country as a separate offence independent of the others.

In this way effect was given to the happy suggestion made to the Committee by M. Schober, who pointed out that "the making and uttering of counterfeit currency should be punishable in each State as a separate offence, even when the notes or coins have been counterfeited or altered in the territory of another State, or if their putting into circulation was begun in the territory of a State other than that in which the notes or coins were issued".

This provision does not, of course, prevent the law of a country, in a case where the making and uttering, or a number of acts of making and uttering, are being prosecuted simultaneously, from treating such acts as constituting a single offence.

* * *

Attempts, accessories.

The serious nature of the offence of counterfeiting and the danger it entails are sufficient to justify the provisions of Paragraph IV, penalising attempts — *i.e.*, outward acts showing a criminal intent and constituting the initial steps of the commission of the offence, and also complicity — *i.e.*, participation with the offender either as a principal or accessory in the commission of an offence.

* * *

Acts preparatory to offence. Instruments for the making of Counterfeit Currency.

A proposal was made that the criminal law should include acts merely preparatory — that is to say, all acts revealing a criminal intent before the stage of actual commission was reached. As regards these preparatory acts, however — without prejudice to any more comprehensive provisions which may exist in individual systems of law — the Mixed Committee has only retained as punishable offences — and that on account of their definite significance and their seriousness — the fact of being in possession of or manufacturing with fraudulent intent instruments or other articles intended for the counterfeiting of currency (Paragraph V).

* * *

The counterfeiting of currency of a foreign country to be punished in the same way as the counterfeiting of domestic currency.

In many legal systems the penalty for counterfeiting differs if the currency forged is national or foreign. Valuable information on this subject is provided by M. Pella's report. This mitigation of the penalty when the criminal has only forged a foreign currency would appear to be a survival of the tradition which looked upon forgery as a kind of treason, the right to coin money being a royal right. But the recognition that the suppression of counterfeiting is of international importance and that the crime causes international damage deprives this differentiation of any justification. The abolition of the distinction would, by the deterrent effect of the threat of severe punishment, be one of the most effective means of checking a crime which by its very nature knows no State frontiers.

For that reason, the draft contains the following provision, to which the Mixed Committee attaches particular importance :

"No distinction should be made in the scale of punishments for offences referred to in this Convention between acts relating to domestic currency on the one hand and to foreign currency on the other accorded to the offences referred to in this Convention, whether or not reciprocal treatment is accorded by law or by treaty". (Paragraph VI.)

"Whether or not reciprocal treatment is accorded by law or by treaty"; It is not so much on account of international solidarity as for their own protection that States make punishable the manufacture and uttering of false foreign currency; it would be indispensable to make such punishment conditional upon inter-State reciprocity.

* * *

How the counterfeit currency and instruments of manufacture are to be dealt with after the conviction of the offender.

"Counterfeit or altered currency and materials used for counterfeiting or altering or intended for that purpose as provided in Paragraph V should be confiscated. Such currency and material should, on application, be handed over after confiscation either to the Government or bank of issue whose currency is in question, with the exception of exhibits whose preservation as a matter of record is required by the law of the country where the prosecution took place and any specimens whose transmission to the Central Office, mentioned in Paragraph XII, may be deemed advisable. In any event, all such articles should be rendered incapable of use". (Paragraph VII.)

It is obviously important to the issuing institution injured by the falsification of its currency to obtain the counterfeit currency, and in particular the materials used for counterfeiting. This point is made by all the banks consulted.

Nevertheless, it is clear that, if a large quantity of false metal currency or notes which are all identical has been seized, it is not necessarily in the interests of the State or institution that it should have the whole consignment sent to it, provided that whatever is not sent is rendered unfit for use or destroyed. This, indeed, is prescribed in all systems of law.

Moreover, though it is important for the issuing institution injured by the falsification of its currency to obtain the counterfeit currency and material, this consideration must give place to the legitimate requirements of those systems of law which prescribe that exhibits should be preserved in the records of the Court; such exhibits have directly contributed to the decision and are valuable for its defence.

The Mixed Committee has been assured that this necessary restriction — which would, of course, be applied with moderation and good sense, — is not likely in practice to prejudice seriously the interests of the issuing authority, which, indeed, could readily obtain permission from the authorities concerned to have the exhibits sent to it for examination without its being necessary to send a representative abroad.

Recognition of a foreign "Civil Party".

The provisions of Paragraph VIII are obviously just and equitable and furnish an additional means of dealing with offences:

"In those countries which allow 'civil parties' to criminal proceedings, foreign 'civil parties', including the Government whose money has been counterfeited, should be entitled to all rights and powers allowed to inhabitants by the laws of the country where the case is tried."

* * *

Extradition. — Political offence.

Paragraph IX of Article 1 and Article 2 of the draft are closely related, both referring to the extradition of principal offenders or accomplices in offences covered by the Convention.

In the opinion of the Mixed Committee, the international unification of the rules for the extradition of persons accused or convicted is highly desirable with a view to ensuring really effective action in all criminal cases. But an attempt to effect such a general unification, covering all offences, would have been outside the Committee's province, and the Committee therefore did not think it opportune to attempt such a unification, even if confined to the offence of counterfeiting money. The rules for extradition in the different countries are based on traditional ideas, but, within the limits of their rules, it is possible and indeed necessary to lay down the principle that the counterfeiter of currency should not be allowed to find shelter and go unpunished in any civilised country, and that counterfeiting, taken by itself, should not be allowed, as regards extradition, the benefit of the privileges ordinarily applicable to political offences.

Political motive.

The text of the draft (Paragraph IX) does not definitely say, as was suggested, that counterfeiting can never be regarded as a political offence. It is more accurate. It states that a political motive, genuine or alleged, on the part of the offender is not enough to make an act of counterfeiting a political offence. It thus applies a generally accepted and reasonable

principle, namely, that a political offence is an act of which the sole or main result intended is an attempt on the political order of a State and nothing more. Counterfeiting currency, as a rule, is a direct attack upon rights and interests which are in no way political, and the mere existence of a political motive does not affect the actual result produced or, consequently, the character of the offence as an ordinary crime.

This is not to say that it is impossible to conceive circumstances where an act of counterfeiting, being closely connected with political action, might be accorded the benefit of the special rules which in most States apply to ordinary criminal offences when closely connected with political action. Such would be the case if, during a revolution, the insurgents, being temporarily in possession of power, assumed the right to coin money on behalf of the State and afterwards, when the legal Government had regained control, were prosecuted for thus issuing money.

* * *

Extradition crimes.

Article 2 of the draft Convention reads as follows :

"The offences referred to in this Convention are recognised as extradition crimes. Extradition will be granted in conformity with the internal law of the country applied to."

This is not one of the rules contained in Article 1 which the high contracting parties undertake to embody in their laws or regulations, but is an international undertaking which they assume on signing and ratifying the Convention and which involves the reciprocal obligation of granting the surrender of principal offenders or accomplices in cases of counterfeiting currency. This obligation is already in existence, and the manner of giving effect to it is prescribed in the internal legislation of the countries concerned and, in particular, of the country to which application is made. If, for example, a case of counterfeiting currency was found, subject to the provisions of Paragraph IX, to be a political offence, it would not be covered by Article 2. The law of the country to which application is made and the proceedings will be conducted in the manner and with the guarantees provided for in that law.

* * *

Counterfeiter or accessory who has taken refuge abroad, and who is not extradited.

Paragraphs X and XI of Article 1 constitute an indispensable application of the principle underlying the proposed Convention, *i.e.*, that the counterfeiting of currency should nowhere go unpunished. For this purpose it is necessary that, when a forger or his accomplice commits his crime in one country and takes refuge in another, he should either be prosecuted in the country where he has taken refuge or be surrendered by that country.

The latter remedy is applied in all cases by those States which allow their own nationals to be extradited, and therefore the obligation to prosecute should only apply to other States, and even those States will be under no such obligation if the surrender of the offender would have to be refused for a reason directly connected with the charge (*e.g.*, period of limitation).

When the criminal is a foreigner, then, under the draft Convention, the obligation to prosecute in the country in which he has sought refuge depends in the first place on the condition that the internal law of the country recognises the principle of prosecuting offences committed abroad; if the country does not recognise this principle, it will extradite. Further, the obligation to prosecute in the country where the criminal has taken refuge is subject, even in the case of States which recognise the principle of prosecution for offences committed abroad, to two conditions, *viz.*, that extradition has not been requested or cannot be granted for some reason which has no connection with the offence itself, and that a complaint is made by the injured party or official notice given by the foreign authority. From what we have already said, the first condition requires no special justification, and the second is the recognition of the fact that, in the case in question, the injured party and the State on the territory of which the offence was committed are in the best condition to judge of the advisability of prosecution.

Paragraphs X and XI are as follows :

“X. In countries where, as a general rule, the principle of the extradition of nationals is not recognised, nationals who have taken refuge in the territory of their own country after the commission abroad of any offence referred to in this Convention, or of any act rendering them liable as accessories to such an offence, should be punishable in the same manner as if the offence or act in question had been committed in their own territory, even in a case where the offender has acquired his nationality after the commission of the offence. This provision does not apply if, on the same facts, the extradition of a foreigner could not be granted on account of the nature of the offence or act in question.”

“XI. Foreigners who have committed abroad any offence referred to in this Convention, or any act rendering them liable as accessories to such an offence, and who are in the territory of a country whose internal legislation recognises as a general rule the principle of the prosecution of offences committed abroad, should be punishable in the same way as if the offence or act had been committed in the territory of that country.

“The obligation to take proceedings is subject to the following conditions :

“(1) That extradition has not been requested, or cannot be granted, for some reason which has no connection with the offence or act itself ;

“(2) That a complaint is made by the injured party or official notice given by the foreign authority.”

“These provisions do not prejudice the reservation contained in article 3”.

national central offices.

One of the surest means of suppressing the counterfeiting of currency lies in the co-ordination for a prosecution of the efforts of magistrates and police in different countries.

The value of this co-ordination has been shown by the results already obtained in this way by the International Criminal Police Commission, which has begun by contributing very largely to centralising intelligence work in a large number of countries.

Paragraphs XII, XIII and XIV of Article 1 are intended to promote this co-ordination, which already exists in practice, and which must be based on the co-ordination of the efforts of the police and magistrates of each country in its own territory. Co-ordination will be further developed by the extension of the institution already existing of a central office for police investigations in every country.

Each of these offices must do its work on the lines of its own national legal system. For example, there can be no question of altering the rules of procedure which, in each country, govern information and prosecutions, but it is possible, as experience has proved, to organise the relations of the various competent authorities in administrative matters in such a way as to ensure that their activities will be centralised in the hands of a single office.

The duties of this office would be as follows : to keep in close contact with the institutions responsible for the issue of paper money and metal currency (bank of issue and other institutions), with the other police authorities in the same country, and with the central offices of other countries ; to centralise in each country all information of a nature to facilitate the investigation, prevention and suppression of counterfeiting currency ; to forward — so far as expedient — to the central offices of the other countries a set of cancelled specimens of the bank and currency notes of its own country ; to notify regularly to the central offices in foreign countries — giving all necessary particulars — new domestic issues of bank or currency notes or of metallic currency and the withdrawal from circulation, whether as out of date or otherwise, of bank or currency notes and metallic currency, except in cases of purely local interest ; and, subject to the same limitations, to notify to the foreign central offices any discovery of forged notes or currency. Notification of the forgery or alteration of bank or currency notes will be accompanied by a technical description of the forgeries, to be provided solely by the institution whose notes have been forged ; if possible, a specimen forged note or a photographic representation will be transmitted. Each central office will also supply the other central offices with particulars of the investigations, prosecutions, arrests of, sentences on, and expulsions of currency forgers, the movements of forgers, and any details which may be of use, in

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particular their descriptions, finger-prints and photographs, and details of discoveries of counterfeiting, stating whether it has been possible to seize all the counterfeit currency put into circulation.

The paragraphs with which we are dealing in addition lay down two principles : (1) that the central offices in the various countries must correspond direct with each other ; and (2) that close contact should be maintained between the central office and the issuing institution in the same country.

Attention was drawn to the great importance — immediately on the detection of new cases of a foreign country's banknotes being forged — of notifying without delay the issuing institution affected ; the central office of the country whose currency was forged would, upon receipt of the communication from the central office of the country where the forgery was discovered, have to advise immediately its own issuing institution.

Similarly, in a case where, on the discovery of the uttering of counterfeit currency in a country, it appears that the traces of the criminal can easily be followed up in another country, the office of the former country should advise the office of the latter without delay. But, in certain cases, such a notification, if made even before the issuing institution or the Government concerned could be advised and consulted, would have its disadvantages if it immediately brought to the notice of the public the putting into circulation of counterfeit currency, when the institution or Government in question might have legitimate reasons for not disclosing the fact at once.

The draft Convention takes account of these various requirements by stipulating that, in urgent cases, a notification and a brief description by the police authorities of the counterfeit currency may be discreetly communicated to the central offices which are considered to be interested, without prejudice to the notification and technical description mentioned above.

* * *

It is obvious that the constitution and precise composition of the national central offices are a matter for the individual countries and that they cannot be regulated by a general Convention. The Committee desired, however, to recommend that it is desirable :

- (1) That such central offices should as far as possible be set up in colonies ;
- (2) That the different banks of issue should establish special offices to maintain contact with the central offices ;
- (3) That these offices should be able to count on the services of police officials with a special knowledge of questions of counterfeiting and that experts thoroughly acquainted with printing should be attached to these offices.

* * *

Central International Office.

When central offices have been constituted in the majority of countries, as they are already in a large number, the system of co-operation between the various police forces may doubtless be completed by the institution of a central international office acting as an organ for collecting information and for bringing the individual national offices into contact with each other.

The Mixed Committee considers that the time has not yet come to set up this international office, but it recognises in principle the desirability of its creation. Seeing, however, that for such an organisation the fundamental principles must first of all be set out in a Convention, the means by which the creation of a central international office could be systematically carried through are indicated in Paragraph XV of Article I. This paragraph is as follows :

"In order to ensure, improve and develop direct international co-operation in the prevention and punishment of counterfeiting currency, the representatives of the central offices of the High Contracting Parties should from time to time hold conferences with the participation of representatives of the banks of issue and of the central authorities concerned. The organisation and supervision of a central international information office may form the subject of one of these conferences."

The Mixed Committee recognises the signal services and merits of the International Office at Vienna, which was set up in 1923 by the International Congress of Police and directed by

the Chief Commissioner of Police at Vienna, under the guidance of the International Criminal Police Commission. In particular, this office took the initiative in founding a publication entitled *La sûreté publique internationale (International Police Review)*, to which is appended another publication called *Marques caractéristiques des billets de banque et autres valeurs authentiques et leurs falsification (Characteristic Marks and Forgeries of Banknotes and other legally current Securities)*, published by the Association of Austrian Banks and Bankers, under the auspices of the Commission and the supervision of the Austrian Government. The Committee has been assured that in this way every case of counterfeiting is brought immediately to its detected and with all necessary discretion to the notice of the administrations and banks concerned. Experience has shown the value of this publication in helping to prevent and punish counterfeiting.

Having regard to the foregoing, the Mixed Committee made the following recommendation:

"It is desirable that, pending the creation of an international bureau, as contemplated by Paragraph XV of Article 1, the work of the International Bureau at Vienna, which was fully appreciated by the Committee, should be continued, with the completest possible co-operation of the Governments; according to the information supplied to the Committee, the International Bureau, by centralising information as to counterfeiting currency, displays an activity which is directed to the task which might be allotted to the organisation contemplated in Paragraph XV."

Letters of request.

When, as often happens in cases of counterfeiting currency, an offence has been committed or begun, continued and completed in the territory of more than one State, the preparation of the case against the accused may involve the despatch and execution of letters of request from examining magistrates in one country to those in another.

In the view of the Mixed Committee, this question, like that of extradition, should be dealt with in an international Convention, which would unify the rules on the subject, but here again, the Committee, having regard to its terms of reference, limits its proposals to letters of request issued in the course of the proceedings contemplated in the proposed Convention.

The execution of letters of request, being an act of international courtesy, must in principle be authorised by the Government of the country in which the request is executed. The Government usually reserves the right to refuse the execution of letters of request in cases which cannot lead to extradition — as, for example, in the case of a political offence; hence letters of request are usually sent through the diplomatic channel — in other words, from one Government to another. As experience daily shows, however, this method is extremely slow, and it will easily be realised that such slowness hinders and sometimes jeopardises the result of the prosecution.

This method must therefore be abandoned, and such an abandonment should cause no difficulty, particularly as far as counterfeiting currency is concerned, if the Government of the country where the letters of request are executed retains sufficient power of supervision. In any event, in cases where the use of the diplomatic channel is retained, the procedure followed in regard to the document transmitted should be made as short as possible.

Paragraph XVI of Article 1 of the draft lays down the principle that the transmission of letters of request relating to offences falling under the Convention shall be effected preferably by direct communication between the judicial authorities, possibly through the central offices; the paragraph adds that, in order to ensure Government supervision in these cases, a copy of the letters of request shall always be sent at the same time to the superior authority of the country to which application is made.

If a country acceding to the Convention cannot see its way to accept this system, two other alternatives are open to it: (1) the transmission may be effected either by direct correspondence between the Ministers of Justice of the two countries or by direct transmission from the authority of the country making the request to the Minister of Justice of the country to which the request is made; (2) through the diplomatic or consular agent of the country making the request in the country to which the request is made, a copy of the letter of request being sent to the Government of the latter country.

This agent will send the letter of request direct to the competent judicial authority, or to the authority appointed by the Government of the country applied to, and will receive direct from the authority the documents notifying the execution of the letter of request.

The paragraph adds the following :

"Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the country to which the request is made may require a translation in its own language, certified correct by the authority making the request.

"Each Contracting Party shall notify to each of the other Contracting Parties the method or methods of transmission mentioned above which it will recognise for the letters of request of the latter Party. The language to be employed in the letters of request of that Party shall at the same time be determined.

"Until such notification is made by a High Contracting Party, its existing procedure in regard to letters of request shall remain in force.

"Execution of letters of request shall not be subject to payment of taxes or expenses of any nature whatever."

The purport of the last paragraph but one above is that, so long as a Government has not notified the method of transmission which it desires among those indicated, the existing procedure will be followed in the relations of the authorities of that Government with the authorities of the other countries.

The paragraph closes with a reservation which is so natural and legitimate that it might be thought self-evident and superfluous :

"Nothing in the present paragraph shall be construed as an undertaking on the part of the Contracting Parties to adopt in criminal matters any form or methods of proof contrary to their laws."

* * *

International recognition of previous convictions.

The manner in which offences connected with the counterfeiting of currency are committed frequently gives them an international character and renders it desirable, if they are to be adequately punished, that the Court should be able to take full account of the antecedents of the accused, even if he has hitherto only been convicted abroad.

The Mixed Committee adopted a recommendation on these lines, though it did not think that it could be embodied at present in an international Convention :

"The Committee regards with interest the introduction, and proposals for the introduction, into certain systems of law of the principle of putting a foreign conviction, upon conditions to be determined by domestic legislation, upon the same footing as a conviction by a Court of the country concerned from the point of view of dealing with habitual criminals so as to increase the sentences on, or take other subsidiary measures for the protection of society against, professional forgers."

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Article 2 of the draft was discussed on page 11 in connection with Paragraph IX of Article 1.

* * *

Reservation regarding the principle of the territorial character of criminal law.

Article 3 of the draft states that "the participation of a High Contracting Party in the present Convention shall not be interpreted as affecting that Party's attitude on the general question of the criminal jurisdiction of States as a question of international law".

This reservation applies to all the stipulations of the Convention, particularly to Paragraphs X and XI of Article 1, which imply or might seem to imply an exception to the principle of the territoriality of criminal law.

* * *

Provisions regarding the acceptance, coming into force and denunciation of the Convention. Jurisdiction of the International Court.

The other articles of the draft Convention contain the provisions usually found in international conventions. The text was taken from the most recent conventions concluded under the auspices of the League of Nations.

The most important of these clauses is Article 4, relating to disputes which may arise relating to the interpretation or application of the Convention.

This article provides that the Permanent Court of International Justice shall have jurisdiction in accordance with Article 36 of its Statute. If it is competent to deal with the question, the latter will be referred to it under Article 40 of its Statute by means of a submission to arbitration drawn up by the parties, should they agree on this point, and if not, by means of a request from one party only.

* * *

Measures for the prevention of counterfeiting.

Any account of the action taken against counterfeiting would be incomplete without some reference to the extension of preventive measures to increase the difficulty of forging banknotes.

These measures may be considered under two main heads.

In the first place, police methods and police work might be improved and international co-operation in regard to prosecution might be developed in such a way as to facilitate the detection of acts preparatory to counterfeiting. In this sphere also, the application of the principle of the centralisation of investigation and intelligence contained in the Convention will certainly produce appreciable results. The persons attending the periodical meetings referred to in Paragraph XV might give special consideration at every stage of their work to this aspect of the problem. It is, moreover, obvious that the strengthening of the criminal law as a result of the application of the principle that the counterfeiter should not be able to take refuge in any country and the legislative measures contemplated in the Convention will give excellent results.

At the same time, the problem has a definitely technical aspect. The more perfect the manufacture of banknotes from the point of view of the material and the processes employed, the more difficult the forgery of such notes becomes. The issuing institutions have been working in this direction for a long time past, but it is also certain that, by means of suitable international co-operation, this work might be intensified and made more effective. The machinery for co-operation which is provided for in the Convention and the Committee's recommendations is certainly adapted to serve as the basis for work of this nature. It would not appear to be impossible that, independently of this machinery, advantage might be taken in this direction also of the co-operation between central banks which is recommended for other purposes.

A number of concrete suggestions were submitted to the Mixed Committee, such as the use of a single kind of paper for the manufacture of notes and a uniform type of banknote. The Committee did not discuss these suggestions, as they did not come within its province and they are referred to here solely for purposes of record.

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III. DRAFT CONVENTION¹

[List of Heads of States.]

being desirous of ensuring the effectual prevention and punishment of counterfeiting currency, have appointed as their plenipotentiaries [list of plenipotentiaries]; who, having communicated their full powers found in good and due form, have agreed on the following provisions:

Article I.

Obligation of States signing or acceding to the proposed Convention to adopt following rules.

PARAGRAPH I.

Meaning of the term "currency".

The High Contracting Parties recognise the rules laid down in this article as the most effective means for ensuring the prevention and punishment of the offence of counterfeiting currency, the word "currency" being understood to mean paper money, including banknotes and metallic money, the circulation of which is legally authorised.

They agree to adopt the necessary measures for introducing these rules into their respective legal and administrative systems, except in so far as they may be already embodied therein.

Offences which States are bound to punish under the Convention and to which the provisions of the Convention apply.

PARAGRAPH II.

The criminal law should include and punish with adequate penalties any fraudulent making or altering of currency, whatever means are employed, any fraudulent uttering of currency, and the introduction into a country or the receiving or procuring of currency which has been fraudulently made or altered, with knowledge of its fraudulent character, with a view to uttering the same.

Each act to be punishable as a separate offence.

PARAGRAPH III.

Each of the acts mentioned in Paragraph I should be considered as a separate and distinct offence, at any rate if the acts are committed in different countries.

Attempts and accessories.

PARAGRAPH IV.

Attempts to commit these offences and any act which renders a person accessory thereto should be punishable.

Instruments for counterfeiting currency.

PARAGRAPH V.

Manufacturing, receiving, or procuring, with fraudulent intent, instruments or other articles intended for the counterfeiting or altering of currency should be punishable.

No distinction to be made between the punishment of counterfeiting foreign and counterfeiting domestic currency.

PARAGRAPH VI.

No distinction should be made in the scale of punishments for offences referred to in this Convention between acts relating to domestic currency on the one hand and to foreign currency on the other, whether or not reciprocal treatment is accorded by law or by treaty.

¹ The side-headings summarising the contents of the articles or paragraphs of the draft Convention are for convenience of reference only and do not form part of the text of the draft.

in the counterfeit currency and instruments of manufacture are to be dealt with after conviction.

PARAGRAPH VII.

Counterfeit or altered currency and materials used for counterfeiting or altering, or intended for that purpose as provided in Paragraph IV, should be confiscated. Such currency and materials should, on application, be handed over, after confiscation, either to the Government or bank of issue whose currency is in question, with the exception of exhibits whose preservation as a matter of record is required by the law of the country where the prosecution took place, and any specimens whose transmission to the Central Office, mentioned in Paragraph XI, may be deemed advisable. In any event, all such articles should be rendered incapable of use.

recognition of a foreign "civil party".

PARAGRAPH VIII.

In those countries which allow "civil parties" to criminal proceedings, foreign "civil parties", including the Government whose money has been counterfeited, should be entitled to all rights and powers allowed to inhabitants by the laws of the country where the case is tried.

political motive.

PARAGRAPH IX.

The political motive of an offender is not enough to make an offence coming under the present Convention a political offence.

criminal taking refuge abroad and not extradited.

PARAGRAPH X.

In countries where, as a general rule, the principle of the extradition of nationals is not recognised, nationals who have taken refuge in the territory of their own country after the commission abroad of any offence referred to in this Convention, or of any act rendering them liable as accessories to such an offence, should be punishable in the same manner as if the offence or act in question had been committed in their own territory, even in a case where the offender has acquired his nationality after the commission of the offence.

This provision does not apply if on the same facts the extradition of a foreigner could not be granted on account of the nature of the offence or act in question.

PARAGRAPH XI.

Foreigners who have committed abroad any offence referred to in this Convention, or any act rendering them liable as accessories to such an offence, and who are in the territory of a country whose internal legislation recognises as a general rule the principle of the prosecution of offences committed abroad, should be punishable in the same way as if the offence or act had been committed in the territory of that country.

The obligation to take proceedings is subject to the following conditions :

- (1) That extradition has not been requested, or cannot be granted, for some reason which has no connection with the offence or act itself ;
- (2) That a complaint is made by the injured party or official notice given by the foreign authority.

These provisions do not prejudice the reservation contained in Article 3.

national central offices.

PARAGRAPH XII.

In every country, within the framework of its own laws, investigations should be organised by a central police office.

This central office should be in close contact:

- (a) With the institutions issuing currency;
- (b) With the other police authorities within the country;
- (c) With the central offices of other countries.

This central office should, in each country, centralise all information of a nature to facilitate the investigation, prevention and punishment of counterfeiting currency.

PARAGRAPH XIII.

The central offices of the different countries should correspond directly with each other.

PARAGRAPH XIV.

Each central office should, so far as it considers expedient, forward to the central offices of the other countries a set of cancelled specimens of the genuine bank or currency notes of its own country.

It should, subject to the same limitation, regularly notify to the central offices in foreign countries, giving all necessary particulars:

- (a) New issues, made in its own country, of bank or currency notes, or of metallic currency;
- (b) The withdrawal from circulation, whether as out of date or otherwise, of bank or currency notes or metallic currency.

Except in cases of purely local interest, each central office should, so far as it thinks expedient, notify to the central offices in foreign countries:

- (1) Any discovery of forged notes or coin. Notification of the forgery of bank or currency notes shall be accompanied by a technical description of the forgeries, to be provided solely by the institution whose notes have been forged. If possible, a specimen forged note or a photographic reproduction should be transmitted. In urgent cases, a notification and a brief description made by the police authorities may be discreetly communicated to the central offices which are considered to be interested, without prejudice to the notification and technical description mentioned above;
- (2) Investigation and prosecutions in cases of counterfeiting and arrests, convictions and expulsions of counterfeiters, and also, where possible, their movements, together with any details which may be of use, and in particular their descriptions, finger-prints and photographs;
- (3) Details of discoveries of forgeries, stating whether it has been possible to seize all the counterfeit currency which a gang has put into circulation.

Central International Office.

PARAGRAPH XV.

In order to ensure, improve and develop direct international co-operation in the prevention and punishment of counterfeiting currency, the representatives of the central offices of the High Contracting Parties should from time to time hold conferences with the participation of representatives of the banks of issue and of the central authorities concerned. The organisation and supervision of a central international information office may form the subject of one of these conferences.

Letters of request.

PARAGRAPH XVI.

The transmission of letters of request relating to offences referred to in this Convention should be effected:

- (a) Preferably by direct communication between the judicial authorities, through the central offices where possible;
- (b) By direct correspondence between the Ministers of Justice of the two countries, or by direct communication from the authority of the country making the request to the Minister of Justice of the country to which the request is made;

(c) Through the diplomatic or consular representative of the country making the request in the country to which the request is made.

This representative shall send the letters of request direct to the competent judicial authority or to the authority appointed by the Government of the country to which the request is made, and shall receive direct from such authority the papers showing the execution of the letters of request.

In cases (a) and (c) a copy of the letters of request shall always be sent simultaneously to the superior authority of the country to which application is made.

Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the country to which the request is made may require a translation in its own language, certified correct by the authority making the request.

Each Contracting Party shall notify to each of the other Contracting Parties the method or methods of transmission mentioned above which it will recognise for the letters of request of the latter Party. The language to be employed in the letters of request of that Party shall at the same time be determined.

Until such notification is made by a High Contracting Party, its existing procedure in regard to letters of request shall remain in force.

Execution of letters of request shall not be subject to payment of taxes or expenses of any nature whatever.

Nothing in the present paragraph shall be construed as an undertaking on the part of the Contracting Parties to adopt in criminal matters any form or methods of proof contrary to their laws.

Article 2.

Extradition crimes.

The offences referred to in this Convention are recognised as extradition crimes. Extradition will be granted in conformity with the internal law of the country applied to.

Article 3.

Reservation regarding the principle of the territorial character of criminal law.

The participation of a High Contracting Party in the present Convention shall not be interpreted as affecting that Party's attitude on the general question of the criminal jurisdiction of States as a question of international law.

Article 4.

Settlement of disputes.

The High Contracting Parties agree that any disputes which might arise between them relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case any or all of the States Parties to such a dispute should not be Parties to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the Permanent Court of International Justice or to a Court of Arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other Court of Arbitration.

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Article 5.

Signature and ratification of the Convention.

The present Convention, of which the French and English texts are both authentic, shall bear to-day's date. Until the ... day of ... 19... it shall be open for signature on behalf of any Member of the League of Nations and on behalf of any non-Member State which was represented at the Conference of ... or to which a copy has been communicated for this purpose by the Council of the League of Nations.

It shall be ratified, and the instruments of ratification shall be transmitted to the Secretary-General of the League of Nations, who will notify their receipt to all the Members of the League and to the non-Member States aforesaid.

Article 6.

Accession to the Convention.

After the ... day of ... 19... the present Convention shall be open to accession on behalf of any Member of the League of Nations and any of the non-Member States mentioned in Article 5 on whose behalf it has not been signed.

The instruments of accession shall be transmitted to the Secretary-General of the League of Nations, who will notify their receipt to all the Members of the League and to the non-Member States mentioned in Article 5.

Article 7.

Provisions regarding Colonies.

Any High Contracting Party may, at the time of signature, ratification or accession, declare that, in accepting the present Convention, he does not assume any obligations in respect of all or any of his colonies, protectorates or territories under suzerainty or mandate; and the present Convention shall not apply to any territories named in such declaration.

Any High Contracting Party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the Convention shall apply to all or any of his territories which have been made the subject of a declaration under the preceding paragraph, and the Convention shall apply to all the territories named in such notice ninety days after its receipt by the Secretary-General of the League of Nations.

Any High Contracting Party may at any time denounce the Convention for all or any of the colonies, protectorates or territories referred to above. Article 10 shall apply to such denunciation.

Article 8.

Entry into force of the Convention.

The present Convention shall not come into force until five ratifications or accessions on behalf of Members of the League of Nations or non-Member States have been deposited. The date of its coming into force shall be the ninetieth day after the receipt by the Secretary-General of the League of Nations of the fifth ratification or accession.

Article 9.

Date of taking effect of subsequent ratifications or accessions.

After the coming into force of the Convention in accordance with Article 8, each subsequent ratification or accession shall take effect on the ninetieth day from the date of its receipt by the Secretary-General of the League of Nations.

Article 10.

Denunciation.

The present Convention may be denounced on behalf of any Member of the League of Nations or non-Member State by a notification in writing addressed to the Secretary-General of the League of Nations, who will inform all the Members of the League and the non-Member States referred to in Article 5. Such denunciation shall take effect one year after the date of its receipt by the Secretary-General of the League of Nations, and shall operate only in respect of the High Contracting Party on whose behalf it was notified.

Article 11.

Registration of the Convention.

The present Convention shall be registered by the Secretariat of the League of Nations on the date of its coming into force.

In faith whereof the above-mentioned plenipotentiaries have signed the present Convention :

[Follow the signatures]

Done at, the ... day of 19... in a single copy, which will remain deposited in the archives of the Secretariat of the League of Nations and of which certified copies will be transmitted to all the Members of the League and to the non-Member States mentioned in Article 5.

IV.

**RECOMMENDATIONS ADOPTED BY THE MIXED COMMITTEE
FOR THE SUPPRESSION OF COUNTERFEITING CURRENCY.**

I.

It is desirable that, even before the ratification of the proposed Convention, every Government should, as far as possible, take the administrative measures which are appropriate for the organisation of their national services so as to conform to the provisions of the Convention.

II.

It is desirable that central offices should be created, as provided in Paragraph XII of Article 1 of the Convention in colonies which are under the authority of the mother-country, in so far as such colonies possess their own independent organisations legally authorised for the issue of currency.

III.

It is desirable that the various banks of issue should create special offices with which the central offices should remain in close contact.

IV.

It is desirable that every central office should have at its disposal police officers who have specialised in the subject and also experts thoroughly acquainted with the art of printing, so as to give information on the method of manufacturing forged notes and the machinery relating thereto.

V.

It is desirable that, pending the creation of an international office, as contemplated by Paragraph XIV of Article 1, the work of the International Bureau at Vienna, which was fully appreciated by the Committee, should be continued, with the completest possible co-operation of the Governments; according to the information supplied to the Committee, the International Bureau, by centralising information as to counterfeiting currency, displays an activity which is directed to the task which might be allotted to the organisation contemplated in Paragraph XIV.

VI.

The Committee regards with interest the introduction, and proposals for the introduction, into certain systems of law of the principle of putting a foreign conviction, upon conditions to be determined by domestic legislation, upon the same footing as a conviction by a Court of the country concerned from the point of view of dealing with habitual criminals, so as to increase the sentences on, or take other subsidiary measures for the protection of society against, professional forgers.

VII.

The Committee considers that the international unification of the rules for the extradition of persons accused or convicted is desirable with a view to obtaining a really efficacious suppression of crime applicable to every class of offence.

VIII.

It is desirable that the despatch and the execution of letters of request should be regulated by an international convention so as to produce a uniform system of rules.

GENEVA, November 14th, 1927.

LEAGUE OF NATIONS.

GREEK STABILISATION AND REFUGEE LOAN

PROTOCOL AND ANNEXES

Approved by the Council of the League of Nations
and signed on behalf of the Hellenic Government on September 15th, 1927.

**WITH THE RELEVANT REPORTS
OF THE FINANCIAL COMMITTEE AND RESOLUTIONS
OF THE COUNCIL AND OF THE ASSEMBLY.**

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1.

PREFACE.

THE REFUGEE LOAN OF 1924.

It was in February 1923 that the problem of the settlement of Greek refugees was first brought before the League of Nations.

It will be remembered that, after the retreat of the Greek Army and the capture of Smyrna by Turkish troops, more than one million refugees¹, chiefly from Asia Minor, poured into Greece, which, single-handed and without the assistance of an external loan, would not have been in a position to face a problem of such magnitude.

At the request of the Greek Government and under the authority of the Council of the League, a settlement scheme involving the issue of such a loan was prepared by the Financial Committee and embodied in a Protocol signed at Geneva on behalf of Greece on September 29th, 1923, and amended in the same manner a year later (Document 2 A²).

It contemplated the issue of a loan not exceeding £10 million in net yield, the proceeds to be expended under the authority of an autonomous organisation, the Refugee Settlement Commission.

The functions and composition of the Settlement Commission were laid down in Statutes annexed to the Protocol (Document 2 B). It consists of four members; the Council of the League appoints two members, including the Chairman, who is a national of the United States; the two other members are appointed by the Greek Government with the approval of the Council. The function of the Commission is "to promote the establishment of refugees in productive work, either upon the land or otherwise in Greece". It is expressly stipulated that the funds of the Commission may not be spent on the relief of distress or for charitable purposes, as distinct from settlement in productive work. All assistance is given on terms involving ultimate repayment.

Four years' experience has proved the efficiency of the scheme. When, therefore, some years later the Bulgarian Government made an appeal to the League for assistance in connection with its refugee problem, a similar scheme was worked out for Bulgaria, the main differences between the Greek and the Bulgarian schemes being due to the smaller size of the problem in the latter country.

SOME STATISTICS ON THE WORK FOR THE REFUGEES.

This first settlement loan was successfully raised in December 1924. Issues were made in London, New York and Athens. In the meantime, work had been proceeding with the help of provisional advances, which were repaid out of the loan, *i.e.*, £1,500,000 advanced by the Bank of England, £500,000 by the National Bank of Greece, and £1 million by the Hellenic Government.

The net proceeds of this loan amounted to £9,970,000; and the following tables show how it has been expended.

	To December 31st, 1926 ³		To June 30th, 1927	
	£	%	£	%
Agricultural settlement	7,541,324	87.6	7,911,023	87.2
Urban settlement	973,082	11.3	1,051,174	11.6
Central administration	95,242	1.1	113,658	1.2
Total	8,609,648	100	9,075,855	100

The sum of £7,541,324 expended on the settlement of agricultural refugees was used for the settlement of 147,211 families, an average sum of £51 per family. At the rate of 300 drachmæ to the £, which was the average rate of conversion, these £7,541,324 yielded 2,262 million drachmæ, which were spent for the following purposes;

	Million Drachmæ	Per cent
Supplies (including advances in cash and in kind, seed, animals, implements, fertilisers)	989	43.7
Building	821	36.3
Public works	65	2.9
Various	36	1.6
General expenses (provinces)	172	7.6
Suspense	179	7.9
Total	2,262	100

¹ The number, including those who did not need public assistance, ultimately reached about 1½ million.
² For the other relevant documents, see League document C.524.1924.II.
³ For the expenditure up to December 31st, 1926, detailed statistics are available. See the Fourteenth Quarterly Report of the Greek Refugee Settlement Commission (League document C.281.1927.II).

The details of the expenditure on *urban settlement* (£973,082) is as follows:

	Million Drachmæ	Per cent
Building	266	91.3
Improvements (including drains, canalisation, etc.)	11	3.8
Upkeep of the quarters (removal of sewage, cleaning of streets, etc.)	12	4.2
Various	2	0.7
	<hr/>	
	291	100

= £973,082 (at 300 drachmæ to the £).

The total number of urban houses erected is 16,756, which gives an average of 22,087 drachmæ, or £73 12s. 6d. per house. These houses are inhabited by some 24,000 families.

Thus by the end of 1926 the back of the problem had been broken. It is impossible to give anything like exact figures of the number of refugees, urban and agricultural, who had by then been definitely settled, as no exact census could be made, the Statistical Services of the State having been temporarily suppressed for reasons of economy. But it is probable that the number of persons who had received assistance was considerably more than 700,000.

No mere figures, however, can measure the wider significance of the settlement work for both the political and economic future of the country. Greek Macedonia now has a more homogeneous population than has been known before in its recent history. The opportunities of employment offered to the swarms of destitute refugees who were pouring into Athens has greatly assisted the marked improvement in the internal political situation. And the establishment of the refugees in productive work has not only removed a social danger and an economic burden but has positively endowed the country with a new source of wealth and prosperity. This is indeed the most remarkable conclusion to be drawn from the experience of the last three years. The refugees have proved to be admirable material; almost everywhere they have made good whenever even the most slender assistance and encouragement could be given, and it is not too much to say that their final absorption into the social and economic life of the country will leave Greece far stronger and far more prosperous than she could have hoped to become if the influx of refugees had not taken place.

HISTORY OF THE NEW LOAN SCHEME.

In *March* 1927, the Refugee Settlement Commission informed the Financial Committee that the work of establishment could not be satisfactorily completed without an additional loan. At the time when the original scheme was drawn up, the settlement loan had been fixed at a net yield of £10 million partly in order that Greece might not exceed her borrowing capacity at that time, and partly with reference to the needs of the refugees who had then arrived in Greece. Since then, a considerable number of additional refugees have come into Greece and the Commission estimated that, together with the funds still at its disposal, a further amount estimated at the time at £5 million would be required in order to complete the work. In view of this situation, the Committee stated, in its report to the Council, that if the Greek Government were to make an application for such an additional loan, it would be absolutely indispensable that the Committee should have "complete information of a kind which would give it a clear picture" of the financial situation of Greece (see Document 3). This report was approved by the Council (Document 4).

The Committee also requested the Secretariat "to collect as complete information as possible" regarding the efforts of the Greek Government to secure budget equilibrium in conformity with Article 6 of the Protocol of September 1923.

In *April* 1927, on the occasion of a visit to the Balkans of M. Avenol, the Deputy Secretary-General of the League, the Greek Government requested him to collect such information as might be necessary to throw light on the financial and budgetary situation. The information in question was obtained in May 1927, under the direction of M. Avenol, by certain members of the Secretariat, to whom the Greek Government offered every facility.

On the basis of this information, the situation was examined by the Financial Committee during its *June session*. At the same time, the Greek Government addressed a request to the Council to approve in principle the issue of a new loan and to authorise the Financial Committee to give its assistance to Greece with a view to drawing up a complete plan of monetary and banking reorganisation (Document 5).

In its *June* report to the Council (Document 6), the Financial Committee states as its conclusion that a loan of £9 million would be required, of which £3 million would be available for refugees, £3 million for budget arrears and £3 million for strengthening the Bank of Issue.

With regard to the refugees, the Committee stated that, "while the sum of £5 million mentioned in the report of the Commission of May 25th is, in view of the considerable number of additional refugees who have come into Greece since the original scheme was drawn up, a reasonable estimate for the completion of the work of settling all the refugees, both agricultural and urban, under satisfactory conditions, such a sum is not essential for the urgent work of establishment which it is important to carry through in the next two years. The Committee considers, however, that for this purpose a sum of £3 million (in addition to what remains of the original loan) is necessary; and that without this sum the work of the Commission must cease before its task is completed."

As to the budget, the Committee stated the budget arrears amounted, on the information before it, to about £3 million, and the Committee added: "But the provisions for the current year appear to the Committee to have been made on a prudent and careful basis and to give a prospect of securing an equilibrium this year at a level not exceeding the capacity of Greece, provided that steps could be taken to liquidate the arrears of the past. Subject to the final consolidation of past debts, the Greek Government further contemplates a budget equilibrium in the next two years at a slightly lower figure. The Committee is impressed by the substantial improvement in the budget situation during the term of office of the present Finance Minister, M. Caphandaris, and expresses its congratulations to the Government on the important progress which this position represents."

The Greek Government and the National Bank further informed the Committee of their intention to stabilise the drachma on a gold-exchange basis. The Committee stated its opinion that, if the functions of the Bank were revised so as to bring them into closer conformity with modern principles of central banking, and if some £3 millions were devoted to the reduction of the Government debt to the Bank, the latter would be sufficiently strengthened for its enhanced responsibilities.

Subject to satisfactory measures being taken on the points raised in its report, the Financial Committee considered the definite equilibrium of the budget and the stabilisation of the currency practicable in conjunction with a loan of £9 million.

This report was approved by the Council of the League, which in principle agreed with the proposals of the Greek Government, and authorised the Financial Committee to continue its collaboration with the Government for the further elaboration of the scheme (Document 7).

The main problem in evolving a satisfactory scheme was the creation of a Bank of Issue which would fulfil the limited functions of a modern central bank. It required long and careful study. Drafts were prepared *during the summer* for the statutes of a new Bank of Issue and for an agreement between the Greek Government and the National Bank of Greece for the creation of such a new Bank.

The original idea of the Financial Committee had been that the existing Bank of Issue, the National Bank of Greece — which is a combination of a bank of issue and an ordinary commercial bank — should be reformed by winding up or transferring to other institutions all those parts of its activities which would not normally fall within the scope of a bank of issue. This idea is embodied in the Committee's June report. On closer examination of the problem, it was found, however, that it was necessary for the economic system of the country that the National Bank of Greece should continue its commercial work and that it would therefore be preferable to transfer to a new bank its privilege of note issue and those of its other activities which are usually carried on by a Central Bank. On this principle were based the draft statutes for the new Bank and the draft agreement between the Government and the National Bank for the creation of the new institution.

During *August*, these texts were studied by the authorities in Athens. At the *September meeting* in Geneva, they received their final shape. At this meeting, the scheme was embodied in a formal Protocol to be signed on behalf of Greece and defining the obligations of the Greek Government. This Protocol (Document 9) is thus the main document containing the legal basis of the scheme and the precise statement of its various features. To it are attached six Annexes, containing, *inter alia*, the Bank Statutes and the agreement between the Government and the National Bank.

These documents were submitted by the Financial Committee to the Council (Document 8); the Council approved them on September 15th (Document 10) and the Assembly of the League, on September 22nd, 1927, passed a resolution expressing the hope that the scheme would be entirely successful.

The Protocol was signed by the Greek Minister of Finance, M. Caphandaris, on September 15th, and was ratified by the Greek Parliament on November 25th, 1927.

It only now remained for the three Governments (the British, French and Italian) whose consent was required in order that the International Financial Commission should control the revenues assigned as security for the new loan to sign the Annex undertaking to give the necessary instructions. This Annex (p. 20) was signed on December 8th, and the Council on the following day, after receiving a report from the Financial Committee (Document 14), declared the way clear for the beginning of the loan negotiations (Document 15).

In the meantime, Greece has made an arrangement with the Government of the United States of America in connection with a settlement of a war debt, under which the latter Government will lend Greece a sum of \$12,167,073 or approximately £2½ million.

As this sum will be devoted to purposes which were included in the present scheme, it only remains to issue a loan giving a net yield of about £6½ million instead of £9 million.

SUMMARY OF THE SCHEME.

The *Protocol* lays down, first of all, the *conditions to which the new loan must conform* in order that it may be issued under the auspices of the League. Its net yield, for instance, may not exceed £9 million (see preceding paragraph as to effect of the American loan). The conditions of the loan as to issue price, rate of interest, etc., must be at least as favourable to the Greek Government as the Refugee Loan of 1924. The period of amortisation must not be less than thirty years. The Chairman of the Financial Committee is empowered to verify the fulfilment of these conditions.

The service of the loan is to be secured by all the revenues which are under the control of the International Financial Commission in so far as they are not pledged for the service of earlier loans. These revenues and the prior charges upon them are described in Annex II to the Protocol.

It is estimated that the surplus revenues which are available for the service of the new loan will during the present fiscal year amount to at least £5 million.

If during any six months the available surplus amounts to less than 150 per cent of what is required for the service of the loan during such period, the International Financial Commission shall require the Greek Government to assign other additional revenues sufficient to bring the yield again up to at least 150 per cent of the service of the loan.

The service of the loan will be assured by the International Financial Commission, which has been established in Athens since 1898. Since the war it has consisted of three members representatives of the Governments of France, Great Britain and Italy respectively. Annex I to the Protocol contains a *declaration* signed on behalf of those three Governments, to the effect that they will authorise their representatives on the Commission to discharge the duties contemplated in the present Protocol. A similar declaration was attached to the Protocol of 1923 (Document 2 C.).

The rest of the Protocol deals with the employment of the loan and with the reforms which the Greek Government undertakes to carry out with regard to the Bank of Issue, the currency and the administration of public finances.

In the first place, the Greek Government undertakes legally to *stabilise the national currency* in relation to gold as from the day on which the new Bank of Issue shall begin business. This Bank will be established and will begin business within six months after the issue of the loan. In order to put this bank on a strong footing, £3 million from the yield of the loan will be used by the Government to pay off part of the State debt which the new Bank will take over from the National Bank.

The exact manner in which the new Bank, entitled the "Bank of Greece", will be constituted is laid down in the draft *Agreement between the Government and the National Bank* (Annex III to the Protocol). The share capital of the new Bank, amounting to 400 million drachmæ will be taken over by the National Bank, which is obliged to offer it for public subscription at par in three issues, the first within two months after the opening of the new Bank and the second and third issues each with a year's interval. The Agreement defines in detail the assets and liabilities which the old Bank will transfer to the new. The arrangement is such that, when it commences business, the Bank of Greece will have a reserve in gold and gold exchange of not less than 50 per cent of the total of the note circulation and its other demand liabilities. (The statutes lay down that the reserve shall at least be 40 per cent.) The Agreement also provides for the gradual complete redemption of the State debt to the National Bank and the Bank of Greece after the first payment of £3 million from the new loan.

Annex IV to the Protocol contains the *Statutes for the Bank of Greece*. It is impossible to summarise them within the scope of this preface. In a sense they may be said to be the most modern of their kind and, as such, will form interesting material for students of central banking. They are in general based on the last statutes which had been elaborated under the auspices of the Financial Committee, namely, those for the Estonian Bank of Issue, which in turn were based on the Austrian and Hungarian statutes. Certain ideas inserted have been taken from other recent statutes, those of the Reichsbank, the Reserve Bank of South Africa, the Bulgarian National Bank and the proposed Indian statutes. Other provisions, such as, for instance, the careful definition of the gold reserve in Article 62, may be claimed to be improvements upon what existed up till now in this domain.

With regard to the *budget*, the Greek Government undertakes in the Protocol "to make, and to persist in making, every effort" to keep the budget during the next two financial years within the present limits "and to maintain thereafter a complete equilibrium between the current revenue and current expenses of the State". The latter are defined as "all expenditure except such capital outlay for revenue-producing purposes as may be provided for from other sources".

Three million pounds from the proceeds of the new loan, together with some other available resources, will be used by the Government for paying off the *budget arrears*. These are enumerated in Annex V to the Protocol. The £3 million will be paid by the issuing houses of the loan into a special account at the Bank of Issue and can be drawn upon only upon the production of certificates from the independent Central Audit Office of the Hellenic State that the payments in question are in respect of such arrears. Subsequently, the Audit Office will verify that the payments have been effected and will publish its findings.

The Greek Government further undertakes in the Protocol to create a *new system of public accounting* based on the principle of the unity of the State budget, of cash accounting supplemented by liability accounting and of the centralisation at the Bank of Greece of all the receipts and payments of the State and the State enterprises. Annex VI to the Protocol shows how this centralisation shall be carried out. The Government will also *publish* in future *monthly statements* showing the cash position of the Treasury, the receipts and expenditure on account of the budget, the position of Treasury liabilities and the position of the public debt.

The Greek Government also undertakes in the Protocol to issue no Treasury bills or create similar *floating debt* in excess of 800 million drachmæ (*i.e.*, less than one-tenth of the present budget). This clause corresponds to provisions in the statutes of the Bank of Greece, which is allowed to grant credits in current account to the Government up to a maximum of 400 million drachmæ and to discount Treasury bills endorsed by a third party up to a similar limit.

The Protocol finally lays down that £3 million shall be employed for the refugees by the Refugees Settlement Commission for the purposes described in the Protocol of 1923, or for such other purposes as the Council may approve on the proposal of the Commission.

CONCLUSION.

In comparing the present Greek scheme with loan schemes prepared by the League for other countries it will be observed that it has been possible, as in the case of the previous Greek loan, to make use of machinery already existing. The service of the loan and the control of the revenues assigned for that service are placed in the hands of the International Financial Commission in Athens, which for nearly thirty years has successfully fulfilled similar functions for other Greek loans.

With regard to the employment of the loan, it was obvious that the part of the yield which was to be used for the establishment of refugees should be employed through the intermediary of the Settlement Commission in accordance with its existing rights and duties. One-third of the proceeds, earmarked for the reduction of the State debt to the new Bank of Issue, only requires to be paid over by the issuing houses directly to the new Bank. The remaining third, which has to be used for paying off budget arrears, will be expended under the control of the independent Central Audit Office of the State in a manner similar to that which has been working successfully in the case of the Danzig Municipal Loan of 1925 and the Danzig Free City Loan of 1927.

There have been cases in the past where Governments in serious financial difficulties have appealed to the Council of the League and have recognised the necessity, and indeed the desirability, of accepting an external control of the budget by a Commissioner-General responsible to the Council. No such necessity has arisen in this case. The budget needs to be maintained in, rather than restored to, equilibrium. The *de facto*, and hitherto somewhat precarious, stability of the drachma needs to be made legal and safe. It is not a question of attaining currency stabilisation and budget equilibrium, but of strengthening the foundations on which they are based. The measures provided in the present scheme have been devised by the Financial Committee as appropriate and adequate for the purpose.

Arthur SALTER.

2 A.

PROTOCOL RELATING TO THE SETTLEMENT OF REFUGEES IN GREECE AND THE
CREATION FOR THIS PURPOSE OF A REFUGEE SETTLEMENT COMMISSION.

Text, including the modifications, signed at Geneva by M. Tsouderos on September 19th, 1924, to the original text signed at Geneva by M. Michalakopoulos on September 29th, 1923. The Hellenic Parliament ratified the original text on June 7th, 1924, and the additional Act on October 24th, 1924.

PROTOCOL.

I. — The Hellenic Government undertakes to establish a Refugee Settlement Commission, to possess the constitution, capacity and functions set out in the Organic Statutes which form an Annex to the present Protocol and are considered as being an integral part thereof. The ratification of this Protocol and of the Annex by Greece shall constitute an assurance that the Hellenic Government has taken the measures required by the internal law of the country to establish the Commission and to ensure to it during the period of its existence the prescribed capacity and powers. Particulars concerning these measures shall forthwith be communicated to the Council of the League, and no alterations shall be made without the consent of the Settlement Commission. Any alterations which may be made shall be immediately communicated to the Council.

II. — The Hellenic Government undertakes to assign to the Refugee Settlement Commission, to be held by it as its absolute property for the purposes contemplated by its Statutes, an amount of land of not less than 500,000 hectares approved by the Commission as suitable for the said purposes in regard to both its character and situation.

Nevertheless, the land shall continue to be subject to ordinary servitudes, whether servitudes in favour of adjacent land or servitudes of user, and to obligations arising out of rights acquired by metayer tenants and similar holders; furthermore, the settlement of the refugees on the land shall not preclude the settlement of metayer tenants. But it is understood that land used in this way shall not be included in the 500,000 hectares and that the settlement of metayer tenants shall not be at the expense of the Settlement Commission, which may, however, at the request of the Hellenic Government, co-operate with the latter for the purposes of such settlement.

III. — The Hellenic Government will secure that any advances which have been obtained by the National Bank of Greece, in connection with the Refugee Settlement Commission's foundation, for the purpose of the establishment of refugees in productive work in Greece, shall be forthwith placed at the disposal of the Commission.

IV. — The Hellenic Government will, as soon as possible, raise a loan or loans up to a net total not exceeding ten million sterling, and will arrange for the subscription by Greek banks or financial groups of a block equivalent to at least 25 per cent of such loan or loans.

The issuing houses shall place the whole proceeds of the loan or loans directly under the disposal of the Refugee Settlement Commission for the purposes specified in its Organic Statutes, and for the repayment, if necessary, of any advances.

V. — The service of the loans to be raised in pursuance of Article IV shall be assured in the first instance by the International Financial Commission established by the Law on the International Control of February 26th, 1898 (in accordance with the consent given by the Governments at present represented on that Commission by the Declaration annexed to this Protocol) out of certain public Greek revenues in accordance with the following provisions:

1. Such revenues and surplus revenues as may be agreed upon between prospective lenders and the Hellenic Government (for example, those indicated in the annexed schedule) shall be assigned to and placed under the control of the International Financial Commission, and shall be collected and paid to that Commission.

2. The revenues and surplus revenues above mentioned shall, so far as is considered necessary, be held and applied by the International Financial Commission for the purpose of meeting the service of loans raised in accordance with Article IV. The service of the loans shall also be a first charge upon the property and income of the Refugee Settlement Commission.

VI. — The Greek Government undertakes not to create any charges on its revenues by way of security for any loans not intended either for productive purposes or for carrying out its obligations under the Treaties of Peace. Should the case arise of a loan for one of these objects, then:

(a) The Greek Government may create a charge of inferior rank upon the revenues or surplus revenues assigned to the Refugees Loan in conformity with Article V, paragraph 2;

(b) As regards revenues other than those assigned to the Refugees Loan in conformity with Article V, paragraph 2, the Hellenic Government undertakes not to create charges thereon unless the International Financial Commission shall have recognised that the nature of the revenues on which it is proposed to create a charge is such as not to compromise the yield of the revenues assigned to the Refugees Loan.

The Greek Government further undertakes immediately to make and to persist in making every effort to secure as soon as possible a complete equilibrium between the ordinary receipts and the expenses of the State.

VII. — The Hellenic Government undertakes to exempt the Refugee Settlement Commission from all taxes and charges, whether general or local, in respect of all operations and property of the Commission and, in particular, of the lands assigned to it or any transactions affecting such lands; and to pay in respect of each financial year to the Commission (or to the International Financial Commission if the Refugee Settlement Commission is dissolved) the total sum at which the occupiers of land originally assigned to the Refugee Settlement Commission and still continuing to be its property (or, if the Refugee Settlement Commission is dissolved, held at the disposal of the International Financial Commission pursuant to arrangements made in connection with such dissolution) are assessed for taxation upon such lands for such year, until the loans raised in pursuance of Article IV are completely refunded.

VIII. — The reimbursement of advances made to refugees by the Refugee Settlement Commission shall have priority over taxation or any other claim.

IX. — The Hellenic Government, accepting the provisions contained in the Organic Statutes of the Refugee Settlement Commission under which the Council of the League of Nations may enquire into and exercise a supervision over the activities of the Commission, undertakes to facilitate any enquiries which the Council may direct, and to accept and give effect to the Council's decisions taken thereupon in so far as they require action by the Hellenic Government.

X. — Nothing in this Protocol or the Organic Statutes thereto annexed shall change in any way the obligations of the Hellenic Government under the Greek-Turkish Exchange of Populations Convention signed at Lausanne on January 30th, 1923, or under the Greco-Bulgarian Reciprocal Emigration Convention signed at Neuilly-sur-Seine on November 27th, 1919.

XI. — The obligations assumed by the Hellenic Government under this Protocol shall cease as soon as the Refugee Settlement Commission shall have been dissolved and the loans raised in accordance with Article IV of this Protocol have been repaid in full.

XII. — In the event of any difference as to the interpretation of this Protocol, the opinion of the Council of the League of Nations will be accepted.

XIII. — In the event of any difference between the French and English texts of this Protocol, the English shall be considered to be the authentic text.

XIV. — This Protocol shall be ratified and the ratification shall be deposited at the Secretariat of the League of Nations as soon as possible, and in any case not later than October 15th, 1923. It shall enter into force on the date of deposit of ratification.

Annexed Schedule.

The revenues specially referred to in Article V of the Protocol under the number 1 are the following:

- (1) The monopolies of New Greece, *i.e.*, salt, matches, playing-cards and cigarette paper;
- (2) The Customs receipts received at the Customs of Canea, Candia, Samos, Chios, Mitylene, Syra;
- (3) The tobacco duty in New Greece;
- (4) The stamp duty in New Greece;
- (5) The duty on alcohol in the whole of Greece;
- (6) Any surplus of the revenues already assigned to the International Financial Commission, subject always to existing charges on such surplus.

2 B.

ORGANIC STATUTES OF THE GREEK REFUGEE SETTLEMENT COMMISSION.

I. — There is established in Greece, domiciled at such place as it shall select after its constitution, a Refugee Settlement Commission invested with the capacity and powers and entrusted with the duties specified hereinafter.

II. — The Refugee Settlement Commission is established as a legal person competent to sue and be sued in its own name, to hold and alienate property of all kinds, and generally to perform any acts which can be performed by a corporation possessing full legal personality under the law of Greece.

III. — The Refugee Settlement Commission shall not be dependent upon any Greek executive or administrative authority, but shall be completely autonomous in the exercise of its functions.

IV. — The Refugee Settlement Commission shall be composed of four members. Two members shall be appointed by the Hellenic Government, with the approval of the Council of the League of Nations; one member shall be appointed by the Council of the League of Nations; the fourth member, who shall be the Chairman of the Commission, shall be a national of the United States of America and a person representative of relief organisations, and shall be appointed in such method as the Council of the League of Nations shall from time to time determine. The member appointed by the Council and the Chairman of the Commission shall enjoy diplomatic privileges and immunities in Greece.

V. — The members of the Refugee Settlement Commission appointed by the Hellenic Government may at any time be replaced by that Government with the consent of the Council of the League of Nations; the other two members may only be replaced by the Council of the League of Nations.

VI. — The salaries of the two members of the Refugee Settlement Commission appointed by the Hellenic Government shall be fixed by that Government; the salaries of the other two members shall be fixed by the Council of the League of Nations. The salaries of all members shall be payable out of the funds of the Commission, but the Hellenic Government shall refund to the Commission the amount of the two salaries fixed by it.

VII. — The first appointments of members of the Refugee Settlement Commission shall be made not later than September 30th, 1923. Thereafter, if any vacancy on the Commission is not filled by the competent authorities, the Council of the League of Nations shall be competent forthwith to appoint a person to act and to exercise the full powers of the member whom he succeeds until such time as the competent appointing authority shall itself make an appointment. The Commission shall enter upon its functions as soon as all four members have been appointed. In the event of temporary absence, the absent member shall designate a substitute who shall have the right to vote, failing which the Chairman or the member acting as Chairman shall designate such a substitute. In the event of the absence of the Chairman, the chair shall be taken by the member appointed by the Council of the League of Nations, who shall have the same voting rights as the Chairman. The presence of three members or their substitutes, including always the two members not appointed by the Hellenic Government or their duly appointed substitutes, shall be necessary to form a quorum and validate decisions of the Settlement Commission.

VIII. — The Commission shall take all its decisions by a majority vote of the members present at the meeting. In the event of the votes being equally divided, the Chairman shall have a second vote. Subject to any provisions in these statutes, the Settlement Commission shall establish its own Rules of Procedure.

IX. — The Chairman, or in his absence his substitute, will convene all meetings of the Settlement Commission, sign all documents and correspondence and be responsible for the execution of the decisions of the Settlement Commission.

X. — The Refugee Settlement Commission shall have power to appoint and dismiss such personnel, either Greek or (when necessary for special reasons) of foreign nationality, as it may require for the discharge of its functions. The work of the Commission will be carried on as far as possible with the assistance of Greek central and local administrative authorities and of private organisations.

XI. — The expenses of the Commission shall be payable out of the funds placed at its disposal or out of its income.

XII. — The functions of the Refugee Settlement Commission shall be, by means of the lands assigned to it, the funds placed at its disposal and its own income, to promote the establishment of refugees in productive work either upon the land or otherwise in Greece.

Nevertheless, the Refugee Settlement Commission may settle refugees on land of Turks subject to exchange which may be assigned to it as soon as it shall enter into actual possession of this land, and even before it has become the *de jure* owner thereof. As soon as it is free to dispose of this land and is in a position to transfer the rights of ownership, the Hellenic Government solemnly undertakes to give *de jure* ownership to the Settlement Commission.

The Settlement Commission may also proceed to settle refugees on land requisitioned, or in process of expropriation, before the formalities required by law have been fully complied with, provided that the Hellenic Government solemnly undertakes to place the Commission immediately in actual possession and to give it *de jure* ownership under the conditions laid down in Article II of the Protocol as soon as the formalities have been fully complied with.

The Settlement Commission is also authorised to settle refugees on land taken on lease by the Hellenic Government when the lease is a perpetual one and has been transferred to the Commission.

Lastly, in exceptional circumstances, the Commission may settle refugees on land of which it does not possess the ownership, but which is suitable for the settlement of refugees, and in respect of which the Commission considers that it has acquired sufficient rights to ensure a permanent settlement of the refugees and adequate security for the sums which it proposes to spend on this land.

XIII. — The Refugee Settlement Commission shall receive and hold in full ownership the lands which the Hellenic Government undertakes to transfer to it under the Protocol signed on behalf of Greece at Geneva on September 29th, 1923, and shall apply such lands for the purpose specified

in Article XII above. The lands shall primarily be applied to the settlement of refugees thereon, either as tenants or as owners, on the terms fixed by the Commission, but the Commission may, in its discretion, sell land held by it to persons not refugees, provided that any sums raised by the Commission from the sale of such land shall be paid into a special account and applied, by way of a sinking fund, to the redemption of the loan or loans referred to in Article XVI of these Statutes. The Commission shall sell land if such sale becomes necessary under the provisions of Article XVI.

Sales of land to persons not possessing Greek nationality shall require the consent of the Hellenic Government, except in the case contemplated by the last sentence of the preceding paragraph.

XIV. — The Refugee Settlement Commission shall receive and apply, for the purpose specified in Article XII above, any advances obtained by the National Bank of Greece for the purposes of establishment of refugees in productive work in Greece, and the proceeds of the loans which the Hellenic Government undertakes to raise and pay over to the Commission under the Protocol signed on behalf of Greece at Geneva on September 29th, 1923.

XV. — The income and funds of the Refugee Settlement Commission may not be expended on the relief of distress or for charitable purposes as distinct from the settlement in productive work of the persons assisted.

Nevertheless, when the Commission establishes settlements on a large scale, *e.g.*, when it creates suburbs or villages, it may make such disbursements of a general or social nature as may serve to promote the development of these settlements and improve the health conditions of the population.

All assistance given shall be given on terms involving ultimate repayment.

XVI. — In event of the revenues assigned by the Hellenic Government to the services of the loan in accordance with the Protocol signed at Geneva on September 29th, 1923, being insufficient, the International Financial Commission shall call upon the Settlement Commission to pay out of its income or other funds, or if necessary from the realisation of its property, such sums as may be necessary to meet any deficit on the service of the loan. Further, it shall at all times be the duty of the Settlement Commission to pay to the International Financial Commission for application to the service of the loan any sums which the Settlement Commission may find possible to contribute for this purpose out of its current income without prejudicing the effective performance of its functions. In the event of the International Financial Commission having in its possession sums exceeding the amounts necessary for the service of the loan the Financial Commission will refund these sums to the Hellenic Government.

XVII. — The Refugee Settlement Commission shall communicate every three months a report upon its operations to the Hellenic Government and to the Council of the League of Nations and shall simultaneously publish such report. The Council of the League of Nations, acting, if need be, by a majority vote, shall have the right to consider the reports of the Commission and to take such measures thereon as it may consider proper.

The Commission shall annually publish and forward to the Council of the League of Nations and to the Hellenic Government audited accounts of its income and expenditure.

XVIII. — The Council of the League of Nations, acting, if need be, by a majority vote, may at any time enquire, by such method as it determines, into the manner in which the Refugee Settlement Commission is discharging its functions, and the necessary cost of such enquiries shall be payable to the Secretary-General of the League by the Commission out of the funds at the disposal of the Commission or out of its current income.

XIX. — The Refugee Settlement Commission may be dissolved when, in the opinion of the Council of the League of Nations, acting if need be by a majority vote, its services are no longer required, subject to the establishment of arrangements approved by the representatives of the lenders to secure that the assets and income of the Settlement Commission are on its dissolution placed under the control and at the disposal of the International Financial Commission for the purpose of enabling the latter to meet the service of the loans (or to accelerate as far as possible the amortisation of the loans) raised by the Hellenic Government in accordance with the Protocol signed on its behalf at Geneva on September 29th, 1923, until such loans have been repaid in full.

XX. — After the dissolution of the Refugee Settlement Commission and the repayment in full of the loans mentioned in Article XIX above, the balance still remaining of all assets which have belonged to the Commission shall become the absolute property of the Hellenic State.

XXI. — In the event of any difference as to the interpretation of these Statutes, the opinion of the Council of the League of Nations will be accepted.

XXII. — In the event of any difference between the French and English texts of these Statutes, the English shall be considered to be the authentic text.

XXIII. — This Annex shall be ratified and the ratification shall be deposited at the Secretariat of the League of Nations at the same time as the ratification of the Protocol to which this Annex is attached.

2 C.

DECLARATIONS SIGNED ON BEHALF OF GREAT BRITAIN, FRANCE AND ITALY,
1923 AND 1924.

I. — The undersigned, representatives of the Governments of Great Britain, France and Italy, duly authorised by their respective Governments, hereby agree that the International Financial Commission referred to in the Protocol relating to the settlement of refugees in Greece and the creation for this purpose of a Refugee Settlement Commission, which has been approved by the Council of the League of Nations and executed on behalf of the Hellenic Government, shall discharge the duties which the said Protocol contemplates shall be performed by it; and they undertake on behalf of their respective Governments that the necessary instructions will be given by these Governments to their representatives upon the said International Financial Commission.

In witness whereof, the undersigned, duly authorised for this purpose, have signed the present declaration.

Done at Geneva on the twenty-ninth day of September, One thousand nine hundred and twenty-three, in a single copy, which shall be deposited with the Secretariat of the League of Nations and shall be registered by it without delay.

Rennell RODD (Great Britain).
DUPUY (France).
GARBASSO (Italy).

* * *

II. — The undersigned, representatives of the Governments of France, Great Britain and Italy, duly authorised by their respective Governments, hereby undertake that the necessary instructions shall be given by the said Governments to their delegates to the International Financial Commission at Athens to take into account, in discharging the duties contemplated by the Protocol relating to the settlement of refugees in Greece and by the Statute annexed thereto, the modifications made in these instruments by the additional Act of September 19th, 1924.

In witness whereof the undersigned, duly authorised for this purpose, have signed the present declaration.

Done at Geneva on the twenty-fifth day of September, One thousand nine hundred and twenty-four, in a single copy, which shall be deposited with the Secretariat of the League of Nations and shall be registered by it without delay.

BRIAND (France).
PARMOOR (Great Britain).
SALANDRA (Italy).

3.

REPORT OF THE FINANCIAL COMMITTEE, DATED MARCH 9TH, 1927.

The Committee examined the thirteenth report of the Greek Refugee Settlement Commission. In doing so they had the advantage of the presence of Mr. Eddy, President of the Commission, and also of Sir John Campbell, till recently Vice-President.

The Committee also considered information presented by M. Dendramis, Greek Chargé d'Affaires at Berne, and M. Mantzavinos, Director of the Ministry of Finance, with regard to the general budgetary and financial position of Greece in connection with the provisions of Article VI of the Protocol of September 1923, under which the Greek Government undertook "to make and to persist in making every effort to secure as soon as possible a complete equilibrium between the ordinary receipts and the expenses of the State".

The Committee would, in this connection, wish to be furnished will fuller information than is at present available, and has requested the Secretariat to collect as complete information as possible between the present date and the next meeting of the Committee and of the Council in June.

This information is desirable in any case in connection with the article of the Protocol, quoted above; but, in view of the statement of the Settlement Commission that the work of establishment cannot be satisfactorily completed without an additional loan, the Committee thinks it may be well to add — though no application for such an additional loan has been made by the Greek Government — that, if such an application should be made, it would be absolutely indispensable that the Committee should have complete information of a kind which will give it a clear picture of the whole situation.

4.

RESOLUTION ADOPTED BY THE COUNCIL, MARCH 10th, 1927.

The Council:

- (1) Has taken note of the thirteenth quarterly report of the Refugee Settlement Commission,
and
(2) Approves and adopts the report of the Financial Committee.

5.

LETTER FROM M. CAPHANDARIS, MINISTER OF FINANCE OF GREECE,
TO THE SECRETARY-GENERAL OF THE LEAGUE.

Geneva, June 14th, 1927.

The Greek Government is desirous of bringing to a conclusion the work of refugee settlement which was undertaken under the auspices of the League of Nations, whose assistance has had such fruitful and happy results, and is firmly resolved to reform the financial situation as soon as possible; it would be glad to obtain the assistance and support of the League of Nations in this task. It would be impossible to continue the refugee settlement work with any hope of rapid and successful completion without concluding a supplementary loan abroad, and thus make it possible to adopt a far-reaching plan of systematic reform.

Financial reform necessitates currency stabilisation, and also the settlement of budget deficits from previous years. Again, these two objects could not be obtained without the conclusion of an external loan of a sufficient amount.

It would be possible to meet this three-fold requirement by a single loan intended to finish the settlement work, stabilise the currency and liquidate the deficits.

The Financial Committee has at its disposal all the necessary information, which has been obtained on the spot through competent members of the General Secretariat of the League of Nations, and in the course of the discussions which have taken place at Geneva between the Committee and the members of the Greek delegation.

The Greek Government would be glad if the Council would approve in principle a loan amounting to an effective sum of nine million pounds sterling and authorise the Financial Committee to give its assistance to Greece with a view to drawing up a complete plan of monetary and banking reorganisation.

(Signed) G. CAPHANDARIS,

Finance Minister of the Greek Republic.

6.

REPORT OF THE FINANCIAL COMMITTEE, DATED JUNE 14th, 1927.

The Financial Committee has examined the Fourteenth Report of the Refugee Settlement Commission, with the advantage of the presence of Mr. Eddy and Sir John Hope Simpson, attended by M. Karamanos, the Director-General of the Colonisation in Macedonia.

In particular, the Committee considered the question of the additional sum necessary for the completion of the work of settlement.

The Committee came to the conclusion that, while the sum of £5 million mentioned in the report of the Commission of May 25th is, in view of the considerable number of additional refugees who have come into Greece since the original scheme was drawn up, a reasonable estimate for the completion of the work of settling all the refugees, both agricultural and urban, under satisfactory conditions, such a sum is not essential for the urgent work of establishment which it is important

to carry through in the next two years. The Committee considers, however, that for this purpose a sum of £3 million (in addition to what remains of the original loan) is necessary, and that without this sum the work of the Commission must cease before its task is completed.

The Committee considers that this problem must reach some solution in the course of this year, as the present finances of the Commission do not enable it to undertake any new work.

It is obvious that, as indicated in the Committee's last report, the possibilities of raising a new loan for this purpose under satisfactory conditions depend very largely indeed upon the general financial position in Greece—upon the prospects of the stability of the currency and the equilibrium of the budget.

The Committee is therefore glad to learn that the Greek Government has asked the Council of the League for its assistance in connection with a comprehensive scheme designed to secure financial stabilisation and reform as well as to meet the needs of the refugee work (see Document 5, page 14).

The Committee has had the advantage of detailed information upon the present banking and budget position collected by members of the Secretariat, the Greek Government providing all the necessary facilities in the course of a visit to Athens: The Committee also greatly appreciated the further information given to it in the course of its present discussions by representatives of the Greek Government, in particular by M. Caphandaris, the Minister of Finance, as to the programme prepared by the Government with a view to securing an assured equilibrium in the budget, and by M. Tsouderos, the Sub-Governor of the National Bank of Greece, as to the Bank.

The Committee has studied the proposals and estimates with regard to both receipts and expenditure in the light of the above information. The budgets of recent years have left deficits, and the arrears now due amount to about £3 million. But the provisions for the current year appear to the Committee to have been made on a prudent and careful basis and to give a prospect of securing an equilibrium this year at a level not exceeding the capacity of Greece, provided that steps could be taken to liquidate the arrears of the past. Subject to the final consolidation of past debts, the Greek Government further contemplates a budget equilibrium in the next two years at a slightly lower figure. The Committee is impressed by the substantial improvement in the budget situation during the term of office of the present Finance Minister, M. Caphandaris, and expresses its congratulations to the Government on the important progress which this position represents.

The Committee has learnt also with equal satisfaction the intentions of the Government and the National Bank to stabilise the drachma on a gold exchange basis. It has studied the monetary position, and considers that it is such as (in conjunction with the budget programme) to make the present a suitable time to proceed to this stabilisation.

A National Bank necessarily assumes a heavy responsibility in relation to the establishment and maintenance of monetary stability, and the Committee is glad to note that the necessity of revising the functions of the National Bank of Greece, so as to bring it into closer conformity with those of other Central Banks, is fully recognised.

The Committee confines itself to recalling in general terms the main principles which have been found valuable to secure the satisfactory operation of a Central Bank of Issue, on which the responsibility for maintaining a stable value of the currency falls. These include: (a) the independence of the Bank, (b) the sole right of note issue, (c) the limitation of the Bank's operations to loan and discount transactions of a short-term and self-liquidating character, (d) the reduction of the State debt to the Bank and the well-defined limitation of new advances to the State, (e) the centralisation of the money transactions of the State and of State enterprises in the National Bank, (f) the provision of adequate and appropriate cover for a unified note issue.

The Committee, on present information, is disposed to think that a provision of some £3 million would strengthen the Bank sufficiently for its enhanced responsibilities, this sum to be devoted to the reduction of the Government debt to the Bank.

Subject to satisfactory measures being taken on the points mentioned above and to the exchange of views which has taken place between the Committee and the representatives of the Government and the Bank, the Committee thinks that the definite equilibrium of the budget and stabilisation of the currency of Greece should be practicable in conjunction with a loan of some £9 million (effective), of which £3 million would be available for refugees, £3 million for budget arrears and £3 million for strengthening the Bank. If the Council, at the request of the Greek Government, so authorises it, the Committee would be glad to continue its collaboration with a view — after settlement of the outstanding points with regard to the banking and monetary reform — to the definite association of the League with the loan scheme described above, to be agreed in its full details at the next session in September.

7.

RESOLUTION ADOPTED BY THE COUNCIL ON JUNE 17TH, 1927.

The Council,

Takes note of the Fourteenth Quarterly Report of the Refugee Settlement Commission; Approves and adopts the report of the Financial Committee, and, on the conditions therein stated, agrees in principle with the proposals of the Greek Government; as requested, it authorises the Financial Committee to continue to collaborate with the Greek Government on the lines recommended in the Committee's report, with a view to the Council's being able to approve at its next session a detailed scheme permitting the issue of a comprehensive loan under the auspices of the League of Nations.

8.

REPORT OF FINANCIAL COMMITTEE, DATED SEPTEMBER 7TH, 1927.

GREEK STABILISATION AND REFUGEE LOAN.

The Financial Committee made a report to the Council in June as to the desirability of a combined loan scheme which would provide additional money for the settlement of the Greek Refugees, and would also enable Greece to secure a definite equilibrium of the budget and a stabilisation of her currency.

The Council, at the request of the Hellenic Government, authorised the Committee to continue its collaboration with the Government with a view to arranging a detailed scheme of the above description on the lines indicated in a report to be approved at the September session.

The Committee is glad to report that, in agreement with the Government, a scheme has been drawn up, and a Protocol has been prepared for signature embodying the details of the scheme (see Document 9, page 17).

The scheme may be briefly summarised as follows:

I.

The Government has undertaken to effect the legal stabilisation of the currency. For this purpose, a new Bank of Issue will be founded in which all receipts and payments of the State are to be centralised. Budget equilibrium is to be maintained, outstanding arrears being paid off in the manner explained below and a new system of public accounting being introduced.

II.

A loan is to be issued, yielding an effective sum equivalent to not more than nine millions sterling, secured upon certain surplus revenues under the control of the International Financial Commission.

In order to increase the liquidity of the Bank of Issue, £3 millions of the loan will be allocated to repaying a part of the State Debt.

£3 millions will be used for paying off outstanding arrears, this sum being sufficient, together with other available resources of the Hellenic Government, to extinguish all past arrears, so that a clear policy of budget equilibrium for the future may now be pursued.

£3 millions are allocated to the further settlement of the refugees. They will be paid over directly to the Refugee Settlement Commission, to be used by it under its existing powers and statutes.

III.

The Committee wishes to draw particular attention to the use of part of the loan for the reimbursement of State Debt. This part of the scheme is connected with the foundation of a new Bank of Issue, fulfilling the functions of a modern Central Bank, and with the stabilisation of the currency. It was originally contemplated by the Government and the Committee that the National Bank of Greece should be remodelled; but, on further examination, it has been found more convenient to detach from the existing National Bank its central banking functions and create a new Bank of Issue, the statutes of which have been drawn up in agreement with the representatives of the Hellenic Government and of the National Bank, and are annexed to the Protocol, as also a draft agreement between the Government and the National Bank. According to the arrangements made, the Bank will, at its opening, have a cover in gold and gold exchange of 50 per cent of its note circulation and other demand liabilities, the statutory minimum being 40 per cent.

The Statutes ensure the independence of the Bank and the maintenance of an adequate cover for the currency, and in general establish the new Bank in accordance with modern principles of central banking. All the receipts and payments of the State will be centralised at this Bank.

IV.

The Treasury liabilities which are to be reimbursed to the extent of £3 millions out of the loan, and, as regards the remainder, out of other available resources of the Hellenic Government,

are described in Annex V to the Protocol (page 40), and amount to 1,743.8 million drachmas. That part of the loan which is to be used for this purpose is to be paid over directly to the National Bank of Greece and, on its creation, to the new Central Bank, which will release monies on production of certificates from the Independent Central Audit Office that the amounts required are in respect of the liabilities described.

The Hellenic Government has undertaken to make every effort to maintain its budget during the next three years within the limit of about 9,000 million drachmas, taking into account, on the one hand, some new charges and on the other certain economies, and to reform its system of public accounts in such a way as to bring it into conformity with the principle of the unity of the budget and with the centralisation of all the receipts and payments of the State at the new Bank. The new system is to include cash accounting, supplemented by liability accounting and the monthly publication of statements showing the cash position of the Treasury, the receipts and expenditure on account of the budget, the position of Treasury liabilities and the position of the public debt. The principles on which the centralisation will be effected are further elaborated in a statement annexed to the Protocol. The Committee is convinced that this reform will be of advantage to Greece.

Short-term borrowing by the Government — whether in the form of advances or Treasury bills or other similar short-term obligations — is limited to a maximum of 800 million drachmas, which sum should be amply sufficient to cover temporary fluctuations of revenue from month to month. The Committee ventures to express the hope that the International Financial Commission (which has certain powers as to the issue of Treasury bills) will be prepared to agree to exercise its powers on the proposed basis.

The proposed securities for the new loan consist of the surplus of the revenues at present under the control of the International Financial Commission. Provision has been made whereby the International Financial Commission would continue to control the surplus revenues and apply them to the service of a new loan in the same manner as, in the past, the Commission has assured the service of the previous Refugee Loan. The consent of the three Governments represented on the International Financial Commission, namely the British, French and Italian Governments, is required for this purpose and a draft declaration for signature by the representatives of these Governments, which follows the text of a similar declaration made in connection with the 1924 refugee loan, has been appended to the Protocol in the form of an Annex.

The actual receipts from these revenues amounted in 1926 to 2,935 million drachmas. The receipts have increased considerably this year and amounted in the first half of the year to 1,808.5 million drachmas. The Hellenic Government estimates the receipts for the whole of this year at 3,617 million drachmas (or, after deducting the expenses of the Société de Régie, to 3,554 million drachmas). The service of loans having prior charges on these revenues, whether under or outside the control of the International Financial Commission, is stated at 1,327 million drachmas. Taking the estimate of 3,554 million drachmas as the receipts for this year, this would leave as security for the new loan a sum of 2,227 million drachmas — at the present rate of exchange about £6 millions, subject to certain contingent annual charges noted in a statement annexed to the Protocol (Annex II, page 21) which at the maximum would amount to 279 million drachmas — about £750,000.¹

Provision has been made for further revenues to be assigned for the service of the loan if the amount at present charged should at any time fall below 150 per cent of the service of the new loan.

The Committee recommends the Council to approve the present report and the terms of the Protocol and Annexes thereto, so that negotiations may be undertaken for the issue after the ratification of the Protocol of the loan.

9.

PROTOCOL SIGNED ON BEHALF OF THE HELLENIC GOVERNMENT
BY M. CAPHANDARIS, FINANCE MINISTER, IN GENEVA, SEPTEMBER 15th, 1927.

Whereas the Hellenic Government has requested the Council of the League of Nations to approve the issue by that Government, under the auspices of the League of Nations, of a loan the yield of which shall be applied for the purposes of stabilising the Greek currency, of liquidating budget arrears of the Hellenic State and continuing the work of the settlement of Greek refugees;

And whereas, by the declaration hereto annexed (Annex I, page 20), the Governments represented on the International Financial Commission established by the Hellenic Law of February 26th, 1898, have agreed to the performance by that body of the duties below assigned to it;

And whereas the Council has approved for this purpose the provisions of the present Protocol:

The undersigned, duly authorised for the purpose, accepts on behalf of Greece the following provisions:

Article I. — Issue of a Loan.

1. The Hellenic Government may issue a loan for the above-mentioned purposes yielding an effective sum equivalent to not more than nine millions sterling, which sum shall be integrally

¹ This sum does not include an amount of £500,000 payable in a single instalment in 1927 or 1928 in accordance with the Greco-Turkish Convention on Exchange of Populations.

made available as hereinafter provided. The expenses of issue, negotiations and delivery shall be added to the capital of the loan as fixed above.

2. The capital and interest of the loan mentioned in paragraph 1. above, shall be paid by the Hellenic Government free of all deduction in respect of taxes, dues or charges present and future for the benefit of the Hellenic State.

3. The terms on which the loan is issued shall include provisions as to the amounts which, at the intervals fixed by such terms, shall be set aside by the International Financial Commission for the service of the loan, including interest, amortisation and all charges, commissions or other payments to be met by the Hellenic Government in connection therewith.

4. The conditions of the loan as to issue price, rate of interest, expenses of issue, negotiation and delivery, shall be at least as favourable to the Hellenic Government as those of the Refugee Loan of 1924. The period of amortisation shall not be less than thirty years. The agreements for the conclusion of the loan shall conform to the dispositions of the present Protocol, and a person will be appointed by the Financial Committee to declare that the above conditions have been fulfilled. He shall also approve the terms of any reference to the League of Nations in the prospectus of the loan.

Article II. — Securities.

1. The Hellenic Government will furnish as securities for the loan the revenues at present under the control of the International Financial Commission established by the Law of February 26th, 1898, in so far as the yield of these revenues is not required for the service of the loans having a prior charge upon the said revenues at the date of signature of this Protocol and as indicated in Annex II to this Protocol (page 21).

2. The amounts required for the service of the loan shall be and remain a charge on the revenues mentioned in paragraph 1. above, ranking immediately after such prior charges upon the said revenues as may be in existence at the date of signature of this Protocol, and the Hellenic Government acknowledges that such revenues shall stand charged accordingly.

3. If it is ascertained that the yield during half of any financial year of the revenues mentioned in paragraph 1. above has not, after deduction of the amounts required for the service of the loans which constitute the prior charge thereon, amounted to 150 per cent of one-half of the annual sum required to meet the service of the loan, the International Financial Commission shall require that additional revenues or assets, to be selected by the Hellenic Government and sufficient to ensure the immediate restoration of the yield of those revenues to an amount satisfying the above condition, shall be assigned as security for the loan and be placed under its control; and the Hellenic Government hereby undertakes to comply within fourteen days with the demand of the International Financial Commission.

The Hellenic Government shall have the right of appeal to the Council of the League of Nations within fourteen days of the notification of the demand of the International Financial Commission on the ground that there is not the alleged deficiency in the yield of the revenues. Notwithstanding such appeal, the Hellenic Government shall comply with the demands of the International Financial Commission pending the decision of the Council.

If the International Financial Commission is of opinion that such additional revenues or assets as are selected by the Hellenic Government in accordance with the foregoing provisions are not sufficient, it may, not later than thirty days from the date on which it is informed of the selection made by the Hellenic Government, report the matter to the Council of the League of Nations, whose decision shall be final.

4. The service of the loan shall be assured by the International Financial Commission. Subject to the obligations resulting from prior charges thereon, the revenues above mentioned shall be held and applied by the International Financial Commission for the purpose of meeting the periodical service of the loan and of making up any past defaults, should they have occurred; and any balances shall be reimbursed to the Hellenic Government.

Article III. — Employment of the Loan.

The Hellenic Government undertakes that the yield of the loan shall be applied only for the purposes and in strict accordance with the procedure set out in Articles IV, V, VI and VII below.

Article IV. — Bank of Issue.

1. A new and independent Bank, to be called the Bank of Greece, shall be established in Greece as soon as possible and shall commence business not later than six months after the issue of the loan, in accordance with the draft Agreement between the Hellenic Government and the National Bank of Greece and the draft Statutes annexed hereto (Annexes III and IV, pages 24 and 27). The said Bank shall perform the functions assigned to it in the said agreement and statutes, and, in particular, it shall effect and maintain the stabilisation of the Greek currency in relation to gold and the centralisation at the Bank of all the receipts and payments of the State and of the State enterprises.

2. The Hellenic Government undertakes to take all necessary steps to effect the legal stabilisation of the Greek currency in relation to gold as from the day on which the Bank of Greece commences business.

3. For the purpose of stabilising the Greek currency, one-third of the yield of the loan (three millions sterling) shall be employed by the Hellenic Government in repaying part of the State debts which the Bank of Greece will take over from the National Bank of Greece.

Article V. — Budget.

1. The Hellenic Government undertakes to make, and to persist in making, every effort to keep the budget within the limit of about 9,000 million drachmas, until the end of the financial year 1929-30, and to maintain thereafter a complete equilibrium between the current revenue and current expenses of the State, current expenses being taken to mean all expenditure except such capital outlay for revenue-producing purposes as may be provided for from other sources.

2. The Hellenic Government undertakes to reimburse as soon as possible out of such part of the yield of the loan as is not allocated for other purposes under Articles IV above and VI below the liabilities enumerated in Annex V of this Protocol (page 40).

The Hellenic Government declares that the amount of its available resources, together with the said part of the loan, will suffice for the fulfilment of this undertaking.

3. The Hellenic Government shall, in accordance with Article VII below, request the issuing houses to pay the part of the loan mentioned in paragraph 2 above, directly to the National Bank of Greece for the account of the Hellenic Government until the date on which the Bank of Greece commences business and after that date to the Bank of Greece.

4. The National Bank of Greece and, after it has commenced business, the Bank of Greece will hold the sums to be used in accordance with paragraph 2 above for the Hellenic Government in a special account. On the date on which the Bank of Greece commences business, the National Bank of Greece shall transfer to the Bank of Greece any sums which it may hold on behalf of the Hellenic Government under the terms of the present article.

5. The Hellenic Government will use the sums to be used in accordance with paragraph 2 above for the payment of the liabilities described in Annex V (page 40), and the National Bank of Greece, or the Bank of Greece, as the case may be, shall not effect payments out of the account to be established in accordance with paragraph 4 above, except upon the receipt of due certificates from the independent Central Audit Office of the Hellenic State that the payments in question are in respect of the said liabilities.

6. If certain of the liabilities enumerated in Annex V shall have been reimbursed by the Treasury of the Hellenic State out of its own resources before the yield of the loan shall have become available, the Treasury may request the National Bank, or the Bank of Greece, as the case may be, to liberate the amounts thus reimbursed on receipt of due certificates from the independent Central Audit Office, in regard to each item, that the expenditure so incurred is in respect of the reimbursement of the liabilities enumerated in the aforesaid annex.

7. The Hellenic Government undertakes to transmit, during a period of three years after the date of the signature of this Protocol, to the Council of the League of Nations every three months a report on its budget situation, and in particular a statement showing by Ministries the amounts still payable in respect of the liabilities described in Annex V, and a detailed statement by the National Bank of Greece, or the Bank of Greece as the case may be, of the amounts paid out of the aforesaid account in respect of the said liabilities.

8. Within six months of the end of each financial year, the independent Central Audit Office will check the payments made in accordance with paragraph 2 above with the relevant documents, and will issue a public statement of the results of its examination, a copy of which shall be transmitted to the Council of the League of Nations.

9. The Hellenic Government undertakes to proceed to the creation of a new system of public accounting in conformity with the principle of the unity of the State budget, and of the centralisation at the Bank of Greece of all the receipts and payments of the State and of the State enterprises. The said system shall include, in particular, cash accounting, supplemented by liability accounting and the monthly publication of statements showing the cash position of the Treasury, the receipts and expenditure on account of the budget, the position of Treasury liabilities and the position of the public debt.

The centralisation of accounts at the Bank shall be carried out in accordance with the plan set out summarily in Annex VI (page 40) of the present Protocol.

Article VI. — Settlement of Refugees.

One-third of the yield of the loan (three million pounds sterling) shall be employed for the settlement of Greek refugees. The said sum shall be employed by the Refugee Settlement Commission in accordance with the provisions of the Protocol signed at Geneva on September 29th, 1923, and modified on September 19th, 1924, and of the Organic Statutes annexed thereto, and for the purposes described in the said Protocol and Statutes and for such other purposes connected with promoting the establishment of refugees in productive work as may from time to time, on the proposal of the Refugee Settlement Commission, be approved by the Council of the League of Nations.

Article VII. — Allocation of Loan Instalments.

1. The several instalments of the loan shall be allocated for the purposes specified in Articles IV, V and VI in the proportions resulting therefrom. The said proportions may be altered for any particular instalment by the Hellenic Government in agreement with the President of the Financial Committee, provided that the ultimate allocation of the total yield of the loan complies with the requirements of the said articles; and instructions shall be given by the Hellenic Government to the issuing houses to pay over the said instalments directly to the National Bank of Greece, or the Bank of Greece as the case may be, and to the Refugee Settlement Commission in the proportions so determined.

2. Any sums which have become available from the yield of the loan and have not been allocated in the manner provided under paragraph 1, shall be temporarily retained by the issuing houses on behalf of the Hellenic Government on such terms as may be agreed between the Hellenic Government and the said issuing houses.

Article VIII. — Issue of Treasury Bills.

The Hellenic Government undertakes not to seek short-term advances or to issue Treasury bills or other similar short term obligations in excess of eight hundred million drachmas.

Nothing in this article shall prejudice the existing rights of the International Financial Commission.

Article IX. — Protocol Article.

1. Any difference as to the interpretation of this Protocol shall be settled by the Council of the League of Nations.

2. All decisions to be taken by the Council under the terms of this Protocol shall be taken by a majority vote.

3. This Protocol, of which the French and English texts are both authentic, shall be ratified by Greece and the ratification shall be deposited at the Secretariat of the League of Nations as soon as possible and, in any case, not later than three months from the date of its approval by the Council of the League of Nations.

In faith whereof the undersigned, duly authorised for the purpose, has signed the present Protocol.

DONE at Geneva on the fifteenth day of September, nineteen hundred and twenty-seven in a single copy, which shall be deposited with the Secretariat of the League of Nations and be registered by it without delay.

(Signed) G. CAPHANDARIS.

Annex 1.

DECLARATION ON BEHALF OF FRANCE, GREAT BRITAIN AND ITALY.

The undersigned, representatives of the Governments of France, Great Britain and Italy, duly authorised by their respective Governments, hereby agree that the International Financial Commission referred to in the Protocol relating to the issue of a loan by Greece for the purposes of stabilising the Greek currency, liquidating budget arrears of the Hellenic State and continuing the work of the settlement of Greek refugees, which has been approved by the Council of the League of Nations and executed on behalf of the Hellenic Government, shall discharge the duties which the said Protocol contemplates shall be performed by it; and they undertake on behalf of their respective Governments that the necessary instructions will be given by these Governments to their representatives upon the said International Financial Commission.

In witness whereof, the undersigned, duly authorised for this purpose, have signed the present Declaration.

DONE at Geneva on the eighth day of December, one thousand nine hundred and twenty-seven, in a single copy, which shall be deposited with the Secretariat of the League of Nations and shall be registered by it without delay.

(Signed) Aristide BRIAND,
Austen CHAMBERLAIN,
Vittorio SCIALOJA.

Annex II.

TABLE A. — LIST OF REVENUES CONTROLLED BY THE INTERNATIONAL FINANCIAL COMMISSION.

1. Receipts from the Old Revenues assigned to Loans controlled by the International Financial Commission.

Figures for the Year 1926 and Estimates for 1927.

	1926	First six months of 1927	Whole year 1927 Estimates
A. Monopolies in Old Greece:			
Salt	42,778,402	22,903,343	45,806,686
Oil	109,329,312	55,438,168	110,876,336
Matches	50,222,177	25,485,829	50,971,658
Playing-cards	8,943,620	4,255,777	8,511,554
Cigarette paper	16,782,075	8,703,643	17,407,286
Naxos Emeri	24,099,788	10,649,524	21,299,048
Total	252,155,374	127,436,284	254,872,568
B. Old Customs Offices:			
Piræus	566,730,556	353,058,233	706,116,466
Laurium	810,460	354,624	709,248
Patras	67,289,395	47,030,947	94,061,894
Volo	49,682,976	32,889,580	65,779,160
Corfu	17,552,244	10,272,261	20,544,522
Salonica	302,765,962	214,418,195	428,836,390
Kavala	30,280,051	20,266,585	40,533,170
Total	1,035,111,644	678,290,425	1,356,580,850
C. Tobacco in Old Greece	856,037,085	498,596,950	997,193,900
D. Stamp duty in Old Greece	204,543,800	65,516,518	131,033,036
Total	1,060,580,885	564,113,468	1,128,226,936
General Total.	2,347,847,903	1,369,840,177	2,739,680,354

2. Receipts from the New Revenues assigned to the Refugee Loan.

Figures for the Year 1926, and Estimates for 1927.

	1926	First six months of 1927	Whole year 1927 Estimates
A. Monopolies in the New Provinces:			
1. Salt	36,149,831	16,889,011	33,778,022
2. Matches	30,309,285	15,919,613	31,839,226
3. Playing-cards	2,999,614	1,439,484	2,878,968
4. Cigarette paper	4,123,532	2,165,445	4,330,890
Total	73,582,262	36,413,553	72,827,106
B. New Customs Offices:			
1. Canea	11,315,924	6,524,292	13,048,584
2. Candia	17,061,856	9,117,400	18,234,800
3. Samos	3,858,960	2,786,173	5,572,346
4. Chios	13,466,102	8,539,678	17,079,356
5. Mitylene	18,600,487	10,895,397	21,790,794
6. Syra	7,935,043	5,793,419	11,586,838
Total	72,238,372	43,656,359	87,312,718
C. Tobacco in the New Provinces	183,161,036	141,927,182	283,854,364
D. Stamp duty in the New Provinces	97,909,910	42,792,950	85,585,900
E. Alcohol throughout Greece	223,193,597	173,906,836	347,813,672
Total	504,264,453	358,626,968	717,253,936
General Total.	650,085,087	438,696,880	877,393,760

TABLE B. — LIST OF PRIOR AND CONTINGENT CHARGES ON REVENUE
ENUMERATED UNDER TABLE A.

I. Loans under the Control of the International Financial Commission.

Name of Loan	Nominal amount on July 31st, 1927	Annual Service	Remarks
A 1833. Guaranteed by the three Powers Gold Frs.	41,346,011	£12,000 and F. Frs. 600,000	Maximum service, subject to diminution according to decision which may be arrived at concerning the conversion of surplus values.
B. Old debts in gold:			
5% 1881 Gold Frs.	75,733,500	£181,068.30	
5% 1884	65,903,500	£157,695.21	
4% 1887 Monopolies	101,921,000	£194,276.01	
4% 1889 Rente	113,395,500	£216,929.03	
5% 1890 Piræus-Larissa	43,282,000	£103,688.18	
5% 1893 Funding	7,011,000	£ 16,866.96	
		£870,523.69	
C. New debts in gold:				Subject to the issue of un-issued portion 164,926,000 annual service £345,000.
2½% 1898 (Guaranteed) Gold Frs.	78,750,000	£217,124.28	
4% 1902 Greek Railway	54,282,000	£ 89,841.95	
5% 1914 (500 millions)	308,200,000	£702,067.87	
		£1,009,034.10	
D. Debt in paper drachmas:			
1885 Patriotic Drs.	1,266,250	Drs. 45,360	
5% 1898 (consolidated)	71,570,000	3,901,981	
5% 1900 (Pyrgos-Meligala)	10,555,000	611,794	
		4,559,135	
E. Compulsory Issue of Bank Notes	40,000,000	—	Annual service not yet determined; will not exceed 150,000,000 drs.
F. Service of Salonica-Constantinople Railway Bonds in F. Frs.	140,825,000	F. Frs. 4,997,112	
G. Refugee Loan 7% 1924 Gold Frs.	299,910,000	£750,582.42 \$827,987.62	
H. Participation in Turkish Debt.	—	—	
I. Ulen Water Loan 8% 1925. Gold Frs.	40,500,000	\$1,002,500*	

* Maximum future annual service subject to diminution by collection of water receipts and special taxes expected ultimately to cover entire service.

2. *Loans not under the Control of the International Financial Commission.*

Name of Loan		Nominal amount on July 31st, 1927	Annual Service	Remarks
A. Debts in Gold:				
5% 1907 Def. Nat.	Gold frs.	14,416,000	£48,347.53	
4% 1910		95,069,000	184,474.58	
			<u>£232,822.11</u>	
B. Debts in drachmas:				
	<i>Drs</i>		<i>Drs.</i>	
6% 1917 (100 mil.)		63,058,700	8,079,910	
6% 1918 (75 mil.)		34,420,800	5,336,651	
5% 1920 (300 mil.)		287,898,000	20,426,508	
			<u>33,843,069</u>	
C. Debt in dollars:				
5% Canadian	Gold frs.	36,900,000	\$566,875	

TABLE C. — STATEMENTS OF SURPLUS REVENUES AVAILABLE FOR THE NEW LOAN.

A. Service of Loans under the Control of the I.F.C.:				
(1) In Sterling:				
Loan 1833.		12,000		
Old debt in gold		870,524		
New debt in gold		1,009,034		
Refugee loan.		750,582		
		<u>£2,642,140</u>	× 375 = drs.	990,802,500
(2) In dollars:				
Refugee loan		827,987		
Ulen water loan		1,002,500		
		<u>\$1,830,487</u>	× 77 = drs.	140,947,499
(3) In paper francs:				
Loan 1833.		600,000		
Bonds Salonica-Constantinople		4,997,112		
	Paper frs.	5,597,112	× 3 = drs.	16,791,335
(4) Debt in paper drachmas drs. 4,559,135				
(5) Expenses of the I.F.C. sterling £25,400 × 375 = drs. 9,525,000				
				<u>1,162,625,470</u>
B. Service of Loans not under the Control of the I.F.C.				
(1) In sterling. £232,822 × 375 = drs. 87,308,250				
(2) In dollars \$566,875 × 77 = drs. 43,649,375				
(3) In paper drachmas 33,843,069				
			<u>Total</u>	<u>1,327,426,164</u>
(1) Gross receipts from the old Revenues assigned to the Loans controlled by the I.F.C. Estimates for the year 1927 2,739,680,354				
(2) Gross receipts from the new revenues assigned to the Refugee Loan 7% 1924. Estimates for the year 1927 877,393,760				
			<u>3,617,074,114</u>	
Charges and expenses of the Société de Régie 62,306,787				
			<u>Net Receipts</u>	<u>3,554,767,327</u>
Surplus available for new Loan* 2,227,341,163				

* Subject to the contingencies noted in the margin of Table B and the payment out of the revenues controlled by the International Financial Commission of £500,000 payable in a *single instalment* in 1927 or 1928 in accordance with the Greco-Turkish Convention on Exchange in Population.

Annex III.

DRAFT¹ AGREEMENT BETWEEN THE HELLENIC GOVERNMENT
AND THE NATIONAL BANK OF GREECE.

Article 1.

In accordance with the Statutes annexed hereto a limited liability company is established under the title of "The Bank of Greece". To the Bank thus constituted is granted the exclusive right of issuing bank notes throughout the territory of the State, as laid down in the said Statutes. The date upon which the Bank shall commence business shall be fixed by a decree and shall be a date not later than six months from that on which the loan referred to in Article I of the Protocol signed at Geneva on September . . . , 1927, has been issued to the public. As from the date on which the Bank of Greece commences business, the National Bank of Greece renounces the right to issue bank notes. The National Bank will, however, continue thereafter to carry out all other operations contemplated by its Statutes or by laws and conventions that may now or in future be in force, provided that these operations are not of a nature which should properly be undertaken by a Central Bank of Issue.

Article 2.

The share capital of the Bank of Greece, as defined in Article 8 of its Statutes, is subscribed in full at par by the National Bank of Greece, and shall be paid for on the day of the commencement of business by the Bank of Greece as follows:

The whole of the capital shall be paid for by the transfer from the National Bank of Greece to the Bank of Greece of such bills and advances and other liquid assets as the latter is entitled to hold in conformity with its Statutes, and as may be agreed upon between the two Banks.

The whole of the capital of the Bank of Greece so taken over by the National Bank of Greece shall be offered at par by the latter for public subscription (with allowance, if necessary, for accrued interest at 8 per cent) in the following manner:

One-third shall be so offered not later than two months from the date on which the Bank of Greece commences business;

One-third not later than twelve months from the date on which such first issue to the public has been made;

One-third not later than twelve months from the date on which the second issue to the public has been made.

On the occasion of each public issue a preferential right of subscription to one-half of such issue shall be reserved to the shareholders of the National Bank of Greece in proportion to the number of shares held in the capital of that Bank, provided that any part of the capital of the Bank of Greece reserved to the shareholders of the National Bank of Greece and not so taken up by them shall be added to the other half of the current issue offered to public subscription.

The commission allowed to the National Bank of Greece for their services in connection with these issues shall be at the rate of not more than one-half of 1 per cent.

Such amount of the capital of the Bank of Greece as shall not have been offered for public subscription or which, notwithstanding such offer, has not been taken up and therefore remains in the possession of the National Bank of Greece shall be a single holding inscribed in the name of that Bank and represented by one certificate.

Until the third public issue referred to above has been made the National Bank of Greece shall not sell or otherwise dispose of any part of the capital of the Bank of Greece by private treaty.

After the three public issues in question have been made—that is to say after the whole of the capital has been offered to the public—any part of the capital which remains uncovered by public subscription shall be sold by the National Bank of Greece on demand at a price not above par, allowance being made for accrued interest, and with a commission of not more than one-half of 1 per cent.

Article 3.

On the date of the commencement of business by the Bank of Greece, the National Bank of Greece shall transfer to the Bank of Greece the following assets and liabilities:

Assets.

(a) Gold or foreign gold exchange of a value of £ 700,000.

(b) The gold and gold bonds of the Greek State described in the balance-sheet of the National Bank of Greece as cover for notes issued in conformity with Laws 656 of 1915 and 2547 of 1920, after deduction from the bonds forming part of this cover of bonds to the value of £700,000.

(c) The cover of the note issue of the National Bank of Greece issued in conformity with the Decree Law of April 23rd, 1923. This cover shall be transferred in the form of assets of the kind eligible for inclusion in the Reserve of the Bank of Greece, as provided in Article 62 of its Statutes.

(d) The silver deposited by the State as cover for the issue of subsidiary coinage.

(e) The gold deposited by the State in conformity with the Decree Law of May 11th, 1923.

¹ This Agreement was signed by the representatives of the Hellenic Government and the National Bank on October 27th, 1927, and adopted by a Decree-Law of November 10th, 1927, the text of which is given below (Document 13).

(f) The following State Debts:

1. Loans in respect of the forced circulation and provisional loans made under laws Β Φ Ι Θ, 2547, 2577, 2855 and Decree Laws of December 10th, 1922, March 3rd, 1923, April 22nd, 1924, and August 5th, 1925 (after deducting the proportion of the Reserves constituted by Law 2577 that belong to the State and the value of the gold belonging to the State in accordance with Decree Law of May 11th, 1923).
2. Loans arising out of law Γ Χ Μ Β 1910 after deducting: (a) the difference on exchange dealings realised at the time when the Greek currency was at par with the United States dollar; (b) the amounts recovered from German and Austrian Banks under the Treaties of Versailles and Trianon and from a Hungarian Bank in accordance with a private agreement, in part payment of pre-war deposits with such Banks.
3. The loan issued in accordance with the Decree Law of March 3rd, 1923, viz., 16,436,000 gold drachmas.
4. Such other State loans or floating debt the transfer of which to the Bank of Greece may be agreed upon between the two Banks.

Liabilities.

- (a) The bank notes of the National Bank of Greece in circulation.
- (b) The deposits of the State and of State undertakings.
- (c) The balances held for the service of State loans.
- (d) Funds paid into Court.
- (e) State deposits covering the issue of subsidiary coinage.
- (f) The deposits of the International Financial Commission.
- (g) The deposits of Greek Banks in so far as may be agreed by the depositors concerned. The National Bank shall use its best endeavours to obtain the consent of these depositors.

It is however provided that the total amount of the liabilities to be transferred to the Bank of Greece (including any credit balance that may be established in favour of the National Bank of Greece) shall be such that on the commencement of the Bank of Greece's business, its Reserve, as defined in Article 62 of its Statutes, shall be not less than 50 per cent of the notes in circulation and other demand liabilities then transferred.

The amounts taken over of the assets and liabilities mentioned above shall be those respectively outstanding in the books of the National Bank of Greece at the close of business on the day preceding that on which the Bank of Greece commences business.

The gold and silver will be taken over at a price in drachmas based on the average of the average daily prices of exportable gold and silver in the London market during the month preceding the date of commencement of business by the Bank of Greece, converted into Greek currency at the stabilisation rate.

The bonds of the Hellenic State shall be taken over at the average of the average "settlement" prices of Greek bonds on the London Stock Exchange during the three months ending September 30th, 1927, converted into Greek currency at the stabilisation rate.

The foreign exchange shall be taken over at the stabilisation rates.

The Bank of Greece shall realise as soon as practicable the silver and bonds contained in the above-mentioned assets and acquire with the proceeds thereof assets of the kind eligible for inclusion in its Reserve as defined in Article 62 of its Statutes.

Article 4.

The State will pay to the Bank of Greece, on the day on which it commences business, in foreign gold exchange, eligible for inclusion in the Reserve as defined in Article 62 of the Bank's Statutes, the equivalent of £3 millions from the proceeds of the loan issued in conformity with the Protocol signed by the Hellenic Government at Geneva on September . . . , 1927, and a corresponding amount of the debt from the State to the Bank of Greece shall be cancelled simultaneously.

Article 5.

The State shall apply the under-mentioned funds annually towards the extinction of the remainder of its debts to the Bank of Greece and the National Bank of Greece as they shall exist after the repayment referred to in Article 4 has been made:

- (a) During each of the first two years after the commencement of business by the Bank of Greece a sum of 200 million drachmas and thereafter 300 million drachmas.
- (b) All seigniorage profits of the State derived from the issue of subsidiary coinage.
- (c) All duties and taxes payable by the National Bank of Greece to the State and an amount equal to the State's participation in the profits of the Bank of Greece, less the sum required for payment of the interest on the Unified Six Per Cent Loan 1924 of the Hellenic State.

The total sum available from the sources described in (a), (b), (c) above, shall be divided between the two Banks in the proportion of two-thirds to the Bank of Greece and one-third to the National Bank of Greece.

After the debt of the State to the Bank of Greece has been reduced to the sum of 800 million drachmas, the State shall then apply to the amortisation of the remaining debt due to that Bank the whole of the State's participation in the profits of the Bank of Greece without making any such deduction as is provided for in (c) above, plus all seigniorage profits; and shall pay for the amortisation of the debt to the National Bank of Greece then due and outstanding, until that debt is extinguished, the sum of 100 million drachmas per annum.

For the purpose of the payments contemplated in this article the National Bank of Greece may retain the duties and taxes due by them to the State, and the Bank of Greece may retain the whole of the State's participation in the profits of the Bank of Greece.

Article 6.

That part of the net annual profits of the National Bank of Greece due to the addition to its gross profits of the dividends derived by it as shareholder of the Bank of Greece shall be free of all taxes.

Article 7.

The National Bank of Greece undertakes to maintain daily a minimum balance with the Bank of Greece equal to 7 per cent of the aggregate sight deposits payable in drachmas (including the sight deposits of the Savings Bank Department) held at its offices in Athens, the Piræus, and all centres where the Bank of Greece shall have established branches.

Article 8.

The National Bank of Greece undertakes to furnish to the Minister of Finance, not later than ten days after the close of the month to which it relates, a monthly statement of its accounts, in a form to be agreed upon with the Hellenic Government, and the Government undertakes to impose the same obligation to furnish similar statements upon all the other private Banks carrying on business in Greek territory. The Government shall thereupon supply the Bank of Greece with copies of all such statements and shall publish in the *Official Gazette* a summary of the statements showing the figures of each Bank.

Article 9.

On the date on which the Bank of Greece commences business all existing restrictions upon the purchase or sale of foreign exchange are abolished.

Article 10.

The present Agreement and the Statutes of the Bank of Greece annexed hereto shall come into force when they have been confirmed by a Decree Law and when a general meeting of the National Bank of Greece has approved this Agreement. No alteration in this Agreement shall be made without the consent of a general meeting of the Bank of Greece.

Article 11.

The gold content of the drachma shall be established by a decree which shall be promulgated on the day on which the Bank of Greece commences business.

The decisions fixing the maximum amount of subsidiary coinage which may at any time be in circulation, the method of its issue, and the amount for which such coins shall be legal tender shall be taken by the Government in accord with the National Bank of Greece until the Bank of Greece has commenced business and thereafter in accord with the Bank of Greece; provided that no such decisions shall be in contravention of the provisions of the Statutes of the Bank of Greece annexed hereto.

Article 12.

In case of any dispute arising between the Government, the National Bank of Greece and the Bank of Greece, or any two of them, as to the interpretation to be placed on any part of this Agreement, the question at issue shall be referred to a Commission of Arbitration, composed of one representative named by each party to the dispute and a Chairman co-opted by such representatives. Failing agreement upon the choice of a Chairman he shall be the President of the Cour de Cassation.

The Commission shall decide by a majority vote. In case of an equality of votes the Chairman shall have a second or casting vote. The Commission's decision shall be accepted as final.

Annex IV.

DRAFT¹ STATUTES OF THE BANK OF GREECE.

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PART I. — GENERAL.

Article 1.

A limited liability Company is hereby established, under the title of "The Bank of Greece", having its registered Office in Athens, and governed by these Statutes.

The duration of the Bank shall extend to December 31st, 1970, but may be prolonged by a decision of a General Meeting of its shareholders confirmed by a Decree.

Article 2.

The Bank of Greece shall have the sole right of issuing bank notes within the whole territory of the Hellenic State. The exclusive privilege of note issue shall extend until December 31st, 1960, and remain in force thereafter unless withdrawn by Law, provided that such withdrawal shall not take effect before the expiration of three years from the passing of such an Act; but the privilege may be revoked at any time if the Bank fails to ensure that the gold value of its notes remains stable, as laid down in Article 4.

Article 3.

During the period of the privilege granted to the Bank, the Hellenic Government binds itself not to issue or re-issue money of any type whatever other than subsidiary coins of denominations not higher than 10 drachmas and these only to the Bank and at its request and in accordance with the Law.

Article 4.

The first duty of the Bank shall be to ensure that the gold value of its notes remains stable. To this end it shall exercise control within the limits of its Statutes over currency and credit in Greece.

Article 5.

To ensure the convertibility of its notes:

1. The Bank, on the requisition of any person who makes a demand or offer to that effect at the Head Office of the Bank at Athens, shall be bound to sell to, or to purchase from, such person in exchange for legal-tender currency of Greece, at the rates defined in Sections 2 and 3 of this Article, respectively, the legal-tender currency of such foreign gold-standard country, or countries, as is by law and in practice convertible into exportable gold and such as may be notified in the *Official Gazette*, for immediate delivery in such foreign country or countries.

Provided that no person shall be entitled to demand or offer an amount of foreign currency of less value than 10,000 drachmas of legal-tender money of Greece.

¹ These Statutes were adopted by Decree-Law on November 10th, 1927, the text of which appears below (Document 13).

2. For the purpose of determining the rate applicable to the *sale* of foreign currency under this Article, the amount in drachmas which represents 1,000 grammes of fine gold in accordance with the stabilisation rate shall be deemed to be equivalent to such sum in that foreign currency as is required to purchase 1,000 grammes of fine gold in that foreign country, at the rate at which the principal currency authority of that country is bound by law to sell gold in exchange for the currency, after deduction from such sum of an amount to be fixed by the Bank representing the normal cost per 1,000 grammes of transferring gold bullion in bulk from Athens to that foreign country, including interest and insurance on its value during transit.

3. For the purpose of determining the rate applicable to the *purchase* of foreign currency under this Article, the amount in drachmas which represents 1,000 grammes of fine gold in accordance with the stabilisation rate shall be deemed to be equivalent to such sum in that foreign currency as is realised by the sale of 1,000 grammes of fine gold in that foreign country at the rate at which the principal currency authority is bound by law to purchase gold in exchange for currency, after addition to such sum of an amount to be fixed by the Bank representing the normal cost per 1,000 grammes of transferring gold bullion in bulk from that foreign country to Athens, including interest and insurance on its value during transit.

4. On the date on which the provisions of this Law become operative, the Bank shall notify in the *Official Gazette* at least one foreign gold-standard country for the purposes set forth in Section 1 of this Article. The Bank shall similarly notify any additions or changes of the foreign gold-standard countries to which Section 1 of this Article is to apply. The Bank shall also from time to time determine the equivalent rates in accordance with the provisions of Sections 2 and 3, and shall notify in the *Official Gazette* the rates so determined.

Article 6.

The Head Office of the Bank shall be at Athens.

The Bank is empowered to establish branches or agencies or appoint agents anywhere in Greece, and may open agencies or appoint agents abroad in one or more of the notified gold-standard countries referred to in Article 5 (4).

Article 7.

The present Statutes may be amended by a resolution of a General Meeting of the shareholders confirmed by law.

PART II. — CAPITAL AND RESERVES.

Article 8.

The share capital of the Bank is 400 million drachmas, divided into 80,000 shares of 5,000 drachmas each, which shall be fully paid up. The National Bank of Greece takes over the whole of the share capital as provided in Article 2 of the Agreement between the Government and the National Bank of Greece to which these Statutes are annexed.

The shares of the Bank are nominative. The transfer of shares shall be made by the inscription thereof in a special book, and a new certificate of ownership shall be issued on the occasion of each transfer.

The transfer shall be signed by the transferor or his attorney and the Governor of the Bank.

Every shareholder, wherever his residence may be, shall recognise Athens as his domicile for the purposes of his relations as shareholder with the Bank of Greece, and is subject to the Greek laws and to the jurisdiction of the Athens Courts of Law. The ownership of a share certificate implies *ipso facto* the acceptance of the provisions of the Bank's Statutes and the decisions taken in accordance therewith by the authorities of the Bank.

Shareholders are liable to the extent of the nominal amount of their holding only and possess *vis-à-vis* the Bank only such rights as are expressly granted to them by the Statutes. Shareholders of the Bank and their creditors have in particular no right to apply for the sequestration or seizure of the books or assets of the Bank.

The State and State undertakings shall not directly or indirectly hold shares of the Bank amounting in the aggregate of such holdings to more than one-tenth of the nominal issued capital.

Article 9.

The capital of the Bank may be increased by the Board of Directors, subject to the approval of the Government. Every such increase shall be fully paid up and the price at which such further shares shall be issued and the manner of issue shall be fixed by the Board of Directors with the like sanction.

Article 10.

The General Reserve Fund (and Special Reserve Funds if any) shall be built up out of the annual net profits as provided for in Article 71. Appropriations to the General Reserve Fund may be suspended whenever it amounts to or exceeds the paid-up capital of the Bank.

PART III. — GENERAL MEETINGS OF SHAREHOLDERS.

Article 11.

The General Meeting of the shareholders as constituted by the provisions of these Statutes is the supreme authority of the Bank and represents the whole body of the shareholders. Its decisions are binding upon all shareholders, including those absent from or disqualified from attending a meeting, or dissentient from the decisions taken thereat.

Article 12.

General Meetings shall be held as follows:

- (a) A General Meeting shall be held regularly once in every year not later than the month of April.
- (b) Extraordinary general meetings shall be held as often as may be required.

General meetings and extraordinary general meetings shall be convened by the Board of Directors. Upon the request in writing of duly qualified shareholders representing at least one-quarter of the share capital, the Board shall call an extraordinary general meeting which shall take place within thirty days from the receipt of such request. Every such demand shall be accompanied by the motions which are to be submitted to the meeting and by a statement of arguments in support of them.

The notice calling a General Meeting, specifying place, date, time and agenda, shall be displayed in a prominent position in the Offices of the Bank and shall be published in the *Official Gazette* and in such newspapers as the Board of Directors may decide. Not less than twenty-one days' notice shall be given of any General Meeting.

In the case of the Annual General Meeting, copies of the annual report shall be obtainable by shareholders at all the Offices of the Bank.

Article 13.

Every shareholder who has been inscribed as such in the books of the Bank for not less than three months and who owns at least five shares shall be entitled to speak and vote at any General Meeting. Five shares shall confer upon their holder the right of one vote, subject to the proviso that no one shareholder is entitled to more than fifty votes in his own name. As proxy for other shareholders, he may have the right to cast further votes not exceeding fifty. In case of a joint holding, only one shareholder will be permitted to attend the general meetings of shareholders.

Article 14.

The following persons shall not be entitled to exercise the rights of shareholders at General Meetings, individually or by proxy:

- (a) Persons not being Greek subjects;
- (b) Bankrupts, during the period of the limitation of their rights;
- (c) Persons who have not fulfilled their obligations towards the Bank, or whose bills in the hands of the Bank have been protested and are unpaid;
- (d) Persons whose civil or political rights or privileges have been curtailed or withdrawn as a result of conviction for a criminal offence, so long as such curtailment or withdrawal remains in force.

Article 15.

No official or employee of the Bank may represent a shareholder at a General Meeting, except in his capacity as a relative up to the fourth degree inclusive or as a legally appointed trustee or administrator.

Article 16.

Every shareholder is entitled to transfer his right of voting at a General Meeting to some other shareholder by proxy, subject to the limitation of voting power mentioned in Article 13 and to the provisions of Articles 14 and 15.

Article 17.

The Board of Directors shall prescribe the form in which the right of voting shall be given. The proxies must be lodged with the Board of Management not less than seven days before the Meeting.

Article 18.

At General Meetings the chair shall be taken by a shareholder chosen by the meeting. In case of an equality of votes, the Chairman shall have a second or casting vote.

Article 19.

The Annual General Meeting shall alone be competent to deal with the following matters:

- (a) Approval of the annual report;
- (b) Approval of the balance sheet upon the report of the Auditors;
- (c) Appropriations to reserve and other special funds; the declarations of dividends, and other disposal of profits;
- (d) The election or removal of members of the Board of Directors and of Auditors, and the fixing of their fees and travelling expenses;
- (e) The discharge from all personal responsibility of members of the Board of Directors and of Auditors. The voting on this question shall not be by secret ballot and each shareholder present shall be called upon separately for his vote;
- (f) Proposals to amend these Statutes, except increase of capital (Article 9); such proposals to be submitted to Parliament through the Government;
- (g) Motions on other matters proposed to the meeting by the Board of Directors or shareholders.

Subject to the provisions of these Statutes, the General Meeting will decide upon its own method of procedure.

PART IV. — ADMINISTRATION.

I. *Board of Directors.*

Article 20.

The general conduct of the affairs of the Bank shall be entrusted to a Board of Directors responsible to the General Meeting. The Board shall be entitled to take all decisions and exercise all powers within the limits of the Statutes which are not specially reserved to the General Meeting.

Article 21.

The Board shall consist of the Governor, the Deputy Governor and nine Directors. At least three of the Directors shall be well versed and actively engaged in industrial or commercial matters, and three shall have experience in agricultural affairs.

The Governor and Deputy Governor shall be elected as provided in Article 29.

The Directors shall be elected by the General Meeting for three years. The First Board of Directors of the Bank shall be appointed by the Government in agreement with the National Bank of Greece and shall retire at the Annual General Meeting in 1929. Of the directors chosen at that Annual General Meeting, three shall serve until the General Meeting in 1930, three until the General Meeting in 1931 and three until the General Meeting in 1932. The decision as to which directors shall retire in one, two or three years respectively shall be taken by lot.

Directors shall be eligible for re-election.

Article 22.

All shareholders of the Bank shall be eligible as Directors with the following exceptions:

- (1) Members of the Government or officials of the Government or of State Institutions and Undertakings;
- (2) Members of Parliament;
- (3) Directors, officers or employees of other Banks;
- (4) Any person whose status comes within the definitions of Article 14.

No two or more persons who are associated together in a business or connected with each other by relationship up to the third degree inclusive may at one and the same time be Governors and/or Directors of the Bank.

In the event of a vacancy occurring among the Directors in the course of the year between two Annual General Meetings, the Board shall appoint a substitute Director to hold office until the next Annual General Meeting.

The Governor, Deputy Governor and Directors shall, on taking up office, take oath strictly and faithfully to observe the provisions of these Statutes, to promote the welfare of the Bank in all respects, to devote themselves honourably and assiduously to the administration of the Bank's business, and to observe secrecy with regard to the Bank's transactions. The Governor and Deputy Governor shall take oath before the President of the Republic and the Directors before the Governor at a meeting of the Board of Directors.

Article 23.

During his term of office, every Director must hold registered in his name not less than twenty-five shares of the Bank.

Article 24.

If the Governor, Deputy Governor or any Director be guilty of a breach of these Statutes, divulge secrets regarding the Bank's affairs, or abuse his position for private or business purposes, a General Meeting of shareholders shall have the right to remove him from office.

Article 25.

The membership of Directors shall be honorary. Their fees and travelling expenses connected with the exercise of their duties as Directors shall be sanctioned by a General Meeting of shareholders.

Article 26.

The Governor or, in his absence, the Deputy Governor shall summon meetings of the Board of Directors as often as may be required, but not less frequently than once a month, and shall take the chair at these meetings. A quorum shall be constituted when not less than six members are present. Decisions shall be adopted by a simple majority of the votes of the members present. In the case of an equality of votes, the Chairman shall have a second or casting vote.

The Minutes of the Directors' meetings shall contain the names of those present and a record of any decisions taken.

The Minutes shall be signed by the Chairman of the meeting and a member of the Board.

Article 27.

The following matters shall be reserved to the decision of the Board of Directors:

- (a) Rates of discount and interest;
- (b) General conditions and dimensions of the classes of business authorised in Article 55;
- (c) Eligibility of applicants for accommodation by way of discounts or advances and the sanctioning of the credit limits proposed by the Governor for such accommodation;
- (d) The sanctioning of renewal bills, the renewal of advances for fixed periods and the periodical review (not less than once every three months) of all credits, discounts and advances;
- (e) The discount of bills in the circumstances referred to in Article 43;
- (f) The appointment or dismissal of managers, on the proposal of the Governor, and the general internal organisation of the Bank;
- (g) The appointment of the members of the Discount Committees at the Head Office and at the branches, and the fixing of their travelling expenses;
- (h) The issuing of regulations for a clearing-house conducted in the Bank (Article 55 (15));
- (i) Questions connected with the acquisition of immovable property required for the business of the Bank and the temporary acquisition and sale of similar property under Article 58;
- (k) Writing-down of the Bank's assets;
- (l) The appointment of foreign correspondents and the fixing of the maximum amounts of the funds which may be held by them for account of the Bank as well as the limit of credit facilities by way of discounts or loans to be granted to them;
- (m) Questions concerning the design, text, material, denominations and supply of bank notes, their withdrawal and cancellation, and the terms under which mutilated notes may be paid; the design, text and denominations shall, however, be fixed in agreement with the Minister of Finance;
- (n) Questions regarding the liquidation of bankrupt enterprises and of debts due to the Bank;
- (o) The opening or closing of branches and agencies of the Bank;
- (p) The agenda for General Meetings;
- (q) The signatures binding upon the Bank;
- (r) The approval of the annual report and balance sheet to be submitted to the Annual General Meeting.

Subject to the provisions of these Statutes, the Board of Directors will decide upon its own method of procedure and may form itself into Committees to consider or decide upon such matters as may be entrusted to them by the Board.

2. Executive Committee.

Article 28.

If, in affairs reserved to the decision of the Board of Directors, a decision becomes urgent, such decision may be taken by an Executive Committee consisting of the Governor, the Deputy Governor and two other members of the Board. The meetings of this Committee will be called by the Governor or, in his absence, the Deputy Governor, and a quorum shall be constituted when not less than three members are present, provided that if only three members are present the decisions of the Committee must be unanimous. All decisions taken shall be recorded in Minutes and be submitted to the Board of Directors for confirmation at its next session.

3. *The Governors.*

Article 29.

The Governor and Deputy Governor shall be elected by the General Meeting for a period of five years, shall devote their whole time to the affairs of the Bank, and shall receive such salary and allowances respectively as may be determined by the Board of Directors, provided that the Governors shall not be remunerated by any form of a commission (*tantième*), or share in profits reckoned on the earnings of the Bank. The election of the Governor must receive the approval of the Government. The first Governor and Deputy Governor of the Bank shall be appointed irrevocably for five years by the Government in agreement with the National Bank of Greece. Both the Governor and the Deputy Governor shall be eligible for re-election.

Article 30.

The Governor or, in his absence, the Deputy Governor shall take the chair at meetings of the Board of Directors and Board of Management. Should both Governors be unable to be present, the chair at meetings of the Board of Directors shall be taken by a member of the Board selected for the purpose by the Board and, at meetings of the Board of Management, by the General Manager.

Article 31.

The Governor shall, on behalf of the Board of Directors, be in permanent control of the administration of the Bank's assets and general business, taking decisions in all cases not specially reserved to the Board or governed by regulations which they have issued.

Article 32.

The Governor may delegate any of his functions to the Deputy Governor, who in any case shall take the place of the Governor during the latter's absence for any reason.

Article 33.

The clerical Staff of the Bank, with the exception of the Managers, shall be appointed and may be dismissed by the Governor on the proposal of the Board of Management.

Article 34.

During their term of office, the Governor and Deputy Governor must each hold registered in his name not less than fifty shares of the Bank.

Article 35.

The Governor and Deputy Governor shall not engage in any business for their own account. No bills or notes signed by them shall be accepted for discount or as guarantee for an advance granted by the Bank.

4. *Board of Management.*

Article 36.

A Board of Management shall be formed to ensure that uniformity of policy and procedure may be secured throughout the various Departments of the Bank. It shall consist of the Governor, Deputy Governor, General Manager, and the managers. The Board shall meet at least once a week.

Article 37.

The Board of Management shall make a detailed report every month to the Board of Directors regarding the business and the position of the Bank, in particular as regards discounts and advances, and shall submit its opinion on all matters referred to it by the Board of Directors.

PART V. — STAFF OF THE BANK.

Article 38.

The clerical staff of the Bank, with the exception of the managers, shall be appointed and may be dismissed by the Governor on the proposal of the Board of Management.

The Bank's managers and employees shall be pledged to secrecy with regard to all transactions and business of the Bank.

The managers and employees of the Bank shall receive their salaries, pensions, or any other remuneration on terms laid down by the Board of Directors, provided that the managers and employees shall not be remunerated by any form of a commission (*tantième*) or share in profits reckoned on the earnings of the Bank.

Article 39.

Neither the managers nor any other officials or employees of the Bank shall be allowed to engage in business for their own account. No bills or notes signed by them shall be accepted for discount or as guarantee for an advance granted by the Bank.

PART VI. — DISCOUNT COMMITTEES.

Article 40.

Discount Committees shall be created for the purpose of scrutinising all bills presented for discount or as security for advances. A written declaration shall be made by each member of a Committee on appointment that he will carry out his duties with strict impartiality. No member of a Discount Committee shall express an opinion or give a vote upon bills with which he is in any way connected, and while such bills are under scrutiny he shall leave the meeting.

The proceedings of the Committees shall be confidential.

Decisions upon the acceptance or rejection of bills shall be adopted by a simple majority of votes, the Chairman having a second or casting vote in cases of equality of votes.

Article 41.

Discount Committees shall be appointed by the Board of Directors for the Head Office and for branches which are authorised to carry on independent discount operations and shall consist of such number of persons as the Board may decide. The members of these Committees shall be familiar with the commercial, industrial and agricultural conditions of the areas with which they are concerned.

A quorum shall be constituted as decided by the Board of Directors.

Members of Discount Committees shall be appointed for two years and shall not be eligible for immediate reappointment. On the first occasion when appointments are made to any such Committee, one-half of the members shall be chosen by lot to retire after the expiration of one year.

Membership of the Committees shall be honorary. Members' expenses incurred in the exercise of their duties shall be sanctioned by the Board of Directors.

Relatives, up to the third degree inclusive, partners or agents of members of the Board of Directors shall not be eligible for appointment to a Discount Committee; nor any person who comes within the definitions of Article 14.

Article 42.

The Chairman of the Discount Committee at the Head Office shall be the manager in charge of the relevant department or, in his absence, some other member of the Board of Management. At the branches, the branch manager shall take the chair at meetings of the Discount Committee.

Article 43.

The Bank shall not be bound to discount bills accepted as suitable by the Discount Committee. Any such decision reversing that of a Discount Committee shall be taken by the Board of Management.

Bills rejected by the Discount Committee may none the less be discounted provided that on each such occasion the bills be approved by a three-quarters majority vote of a meeting of the Board of Directors.

PART VII. — AUDITORS.

Article 44.

The first General Meeting and subsequently the Annual General Meeting shall elect three qualified persons and two substitutes as Auditors to examine and report upon the balance sheet of the Bank to be presented at the next Annual General Meeting, and shall fix their fees. No Director or other officer of the Bank shall be eligible during his continuance in office.

The Auditors are entitled to obtain any explanation or information they may require from the Governors or managers and to examine the Bank's books and documents. The Auditors shall make a report to the shareholders upon the annual balance sheet and accounts, and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet.

containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and, in case they have called for any explanation or information from the Governors or managers, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read at the Annual General Meeting.

Auditors may, at the expense of the Bank, employ accountants or other persons to assist them in investigating the accounts of the Bank.

Apart from the giving of information to the General Meeting, Auditors and their assistants shall preserve strict secrecy in regard to the affairs of the Bank.

PART VIII. — RELATIONS WITH THE STATE.

Article 45.

The Government shall entrust the Bank with all their money, remittance, exchange and banking transactions in Greece and elsewhere, and, in particular, all banking accounts and balances of the State, including the accounts of State undertakings, shall be kept at the Bank.

No interest shall be paid by the Bank on such accounts, except that the Bank may pay on funds held abroad interest at a rate lower by not less than one per cent per annum than the average rate earned by the Bank on such funds.

The Bank shall receive and disburse State monies and keep accounts thereof in accordance with instructions from the competent State authorities and without remuneration for such services. The responsibility of the Bank in regard to these funds shall be limited to the exact execution of the instructions received by them.

The Bank shall be entrusted with the issue and management of all internal State debt, upon such terms and conditions as may be agreed upon.

Article 46.

The Bank shall not grant accommodation to the State, or State undertakings, directly or indirectly by way of discounts, loans, advances or overdrafts otherwise than is provided in Article 55 (11). Neither shall the Bank guarantee Treasury bills or other obligations of the State or State undertakings.

Article 47.

The Minister of Finance may nominate a Government Commissioner who shall have the right to attend all General Meetings, and meetings of the Board of Directors, but not to vote. The salary of the Government Commissioner shall be paid by the State.

The Commissioner shall have the right to protest against any decision of the General Meeting or Board of Directors which he considers to be contrary to these Statutes or other Laws of the State. Any such protest, if concurred in by the Minister of Finance within two days, shall have the force of a suspensive veto until the question in dispute has been decided by a Commission of three persons, to be named within seven days on a request to that effect being made either by the Bank or the Government Commissioner, and to report within seven days of nomination. The Commission shall be composed of one nominee of the Government, one nominee of the Board of Directors and a Chairman who shall be chosen by the Government and the Bank jointly or who, failing an agreement between these parties, shall be the President of the Cour de Cassation.

Article 48.

Neither at the Head Office nor at the branches of the Bank shall any representative of the Government have access to the books of the Bank except that, for the purpose of the preceding Article, the Government Commissioner may require the Management of the Bank to furnish him with whatever evidence may be necessary to enable him to form his opinions. The Government Commissioner shall observe strict secrecy in regard to the affairs of the Bank.

Article 49.

Any question in dispute between the Government and the Bank other than those leading to a suspensive veto of the Government Commissioner, shall also be settled by arbitration in the same manner as is laid down in Article 47.

Article 50.

The Bank shall not be subjected to any special regulations of the Government or of its subordinate authorities during the period of its sole privilege of note issue with the exception of those provided for in these Statutes.

PART IX. — ACCOUNTS AND STATEMENTS.

Article 51.

The financial year of the Bank shall begin on January 1st and end on December 31st. At the end of the financial year, the accounts of the Bank shall be submitted for audit to the auditors elected by the Annual General Meeting, as provided in Article 44.

Article 52.

The Bank shall draw up a Return of its assets and liabilities as on the 7th, 15th, 23rd and last day of each month, and publish it not later than a week after these dates, in the form set out in the Annex to these Statutes.

Article 53.

The Bank shall also publish annually, not later than one month before the date of the Annual General Meeting, its balance sheet and profit and loss account as at December 31st of the preceding year.

Article 54.

The Bank shall publish its returns, balance sheet, profit and loss account and other notifications in the *Official Gazette* and in such newspapers as the Board of Directors may decide. A copy of all statements of accounts and notifications and of the annual report shall be sent to the Minister of Finance.

PART X. — BUSINESS OF THE BANK.

Article 55.

The business of the Bank shall be restricted to the following operations. The Bank may:

1. Make and issue bank notes.
2. Issue demand drafts and bank post bills made payable at the Bank's Head Office or branches. No such drafts or bills drawn by the Bank on itself shall be made payable to Bearer,
3. Buy and sell gold coin or bullion.
4. Accept money on current or deposit account.
5. Discount, purchase or sell inland bills of exchange and promissory notes arising out of *bona-fide* commercial transactions bearing not less than two good signatures and maturing within three months.

The Bank may also discount coupons, maturing within three months, of Bonds issued or guaranteed by the Hellenic Government.

The Bank may further discount, purchase or sell *bona-fide* inland agricultural bills and notes bearing not less than two good signatures and maturing within nine months, provided that this category of bills and notes does not exceed 25 per cent of the total amount of the Bank's portfolio of inland bills and notes acquired under this Section. It is further provided that, within the first three years of the Bank's existence, the rate at which such inland agricultural bills and notes shall be discounted may be a rate not more than 1 per cent below the Bank's official minimum rate of discount for all other classes of bills, but this provision shall cease to be operative on the first occasion on which such official minimum rate shall be reduced to 7 per cent.

6. Discount, purchase and sell Treasury bills of the Hellenic State maturing within three months which are endorsed by some bank, person or firm whose name has been approved by the Board of Directors. The total amount of Treasury bills acquired in accordance with this provision, or accepted as collateral in accordance with Section 10 (c) below may not together at any time exceed 400 million drachmas. The aggregate of such discounts, collateral security, and advances to the State made under authority of Section 11 below shall not exceed one-tenth of the total estimated receipts of the Ordinary Budget for the current financial year as voted by Parliament.

7. Undertake the issue and management of the State Debt and loans of other public bodies, and operations for the State as provided for in Article 45.

8. Buy and sell, at home and abroad, foreign currencies stabilised on gold, telegraphic transfers, cheques, bills of exchange (including Treasury bills) and drafts drawn in or on any place in a country whose currency is stabilised on gold, and maturing within three months, and may keep balances with Banks in such currencies:

9. Act as agent for or correspondent of any other Bank in Greece or abroad.
10. Grant advances for fixed periods not exceeding six months against the following securities:

(a) Gold coin and bullion.

(b) Bonds of or guaranteed by the Hellenic Government and other Greek bonds and shares quoted on the Stock Exchange of Athens; and foreign Government bonds quoted on the Stock Exchange of any principal financial centre, the capital and interest of which are payable in the currency of a country stabilised on gold. Provided that no advance shall exceed 80 per cent of the market value of any such bonds and 70 per cent of any shares pledged and that the bonds and shares eligible for hypothecation shall be chosen by a three-quarters majority vote of a meeting of the Board of Directors.

(c) Treasury bills of the Hellenic Government within the limitations specified in Section (6) of this Article.

(d) Inland bills of exchange and promissory notes arising out of *bona-fide* commercial transactions bearing not less than two good signatures and maturing within three months, and foreign bills of the character referred to in section 8 of this Article.

(e) *Bona-fide* inland agricultural bills and notes bearing not less than two good signatures and maturing within nine months provided the amount advanced on them does not exceed 25 per cent of the total advances. In case of advances made to a Co-operative Association, one good signature may be accepted in respect of the bills referred to in this and the preceding sub-section.

(f) Warehouse warrants in respect of staple commodities duly insured bearing at least one good signature, provided that no advance shall exceed 80 per cent of the current value of the commodities in question.

The rate of interest charged on all advances except any made under section II below shall be not less than 1 per cent above the Bank's current official discount rate for three-months bills.

11. Make temporary advances in drachmas to the Government for expenditure authorised in the annual State Budget, provided that the whole of the advances outstanding at any one time shall not exceed 400 million drachmas, and that all advances shall be repaid not later than at the end of the quarter following the close of the fiscal year in respect of which such advances were made, and subject to the provisions of the last sentence of section 6 above. The rate of interest to be charged on these advances shall be agreed upon between the Bank and the Government.

12. Accept the custody and management of monies, securities and other articles of value.

13. Undertake on behalf of third parties the purchase and sale, collection and payment of securities, currencies and credit instruments at home and abroad and the purchase or sale of gold and silver.

14. Invest an amount not exceeding the paid-up capital and reserve funds of the Bank in bonds of the Hellenic Government or other bonds quoted on the Stock Exchange of Athens or other important financial centres, the capital and interest of which shall be payable in the currency of a country which is stabilised on gold and provided that the securities are selected by a three-quarters majority vote of a meeting of the Board of Directors. Nothing in this Section, however, shall be held to preclude the Bank of Greece from taking over from the National Bank of Greece at the date when the Bank of Greece commences operations and from holding among its assets State Debt as defined in Article 3 of the Agreement between the Government and the National Bank to which the present Statutes are annexed.

15. Promote the establishment of a Clearing-house and give facilities for the conduct of its business in premises belonging to the Bank.

16. Do all such things as may be incidental to the transaction of the Bank's legitimate business, as defined in these Statutes.

Article 56.

The Bank may not:

1. Issue notes of a denomination less than 20 drachmas.
2. Engage in trade, or otherwise have a direct interest in any commercial, industrial or other undertaking.
3. Become the possessor of immovable property except so far as is necessary for its own business and with the exception provided for in Article 58.
4. Purchase its own shares or the shares of any other Bank or of any company.
5. Pay interest on money placed on deposit or current account with the Bank except that interest may be paid to the Hellenic Government on foreign balances as provided for in Article 45, and that interest at the rate of not more than 1 per cent per annum may be paid on the deposit or current accounts of other Banks.
6. Allow the renewal of maturing bills of exchange purchased or discounted by or pledged to the Bank save in exceptional circumstances and after a resolution passed by the Board of Directors (Article 27 (d)), in which case one renewal may be permitted for a period not exceeding three months.
7. Directly or indirectly make advances to the Government except as provided in Article 55 (11).
8. Grant overdrafts or unsecured advances, or advances secured otherwise than as laid down in Article 55 (10).
9. Draw or accept bills payable otherwise than on demand.
10. Discount or accept from any one party (unless from the Government under Article 55 (11) as security, without a special resolution adopted by a three-quarters majority vote of a meeting of the Board of Directors, bills exceeding one tenth of the paid-up capital of the Bank, taking into consideration the liabilities of the party to the Bank as a bill acceptor, drawer or endorser, but excluding advances made under Article 55 (10).

Article 57.

If the value of a pledged security decreases, the debtor must provide additional security of a suitable kind or repay the loan to the extent required to maintain the provisions of Article 55 (10). If he fails to comply with such requirements or if the loan is not repaid when due, the Bank shall take immediate steps to recover the debt due to it and may sell the whole or part of the security which it holds to satisfy its claims for capital, interest, fees and costs, if any, placing the balance remaining, if any, to the credit of the debtor.

Should the amount realised by the sale of the security not suffice to satisfy the claims of the Bank, the latter may take action against the debtor.

The Bank shall be under no obligation to sell any security and, if it does not do so, its claims for capital, interest, fees and costs shall remain unimpaired.

In case of the insolvency of a borrower, the claims of the Bank to any securities deposited against advances shall rank before the claims of any other creditor until the repayment of the principal sum due to the Bank together with interest, fees and costs shall have been effected.

Article 58.

If, after an advance has been granted, the value of the security held against it diminishes or the debt is regarded for this or other reasons as a doubtful one, the Bank may accept as additional security, if necessary, a mortgage on the immovable property of the debtor or any other security approved by the Board of Directors.

In the case of failure to repay a debt due to the Bank, any immovable property coming into the possession of the Bank under this Article shall be realised as speedily as possible by auction or private sale. No such property may be retained by the Bank for its own purposes unless required for carrying on the business of the Bank.

Article 59.

The Bank may refuse to grant an application for the opening of a current or deposit account, or may close an account already opened, without giving any reason for so doing.

Article 60.

The Bank shall at all times make public the minimum rate at which it is prepared to discount bills.

PART XI. — COVER FOR NOTES AND OTHER DEMAND LIABILITIES.

Article 61.

The Bank shall maintain a Reserve of not less than 40 per cent of the amount of its notes in circulation and other demand liabilities. By bank notes in circulation are to be understood all bank notes issued to the public and not returned to the offices of the Bank.

Article 62.

The term "Reserve" in the preceding Article shall include only:

(a) Gold coin and bullion in the unrestricted ownership of the Bank, and either in the custody of the Bank or deposited in another Central Bank, or in any Mint, or in transit;

(b) Net foreign gold exchange in the unrestricted ownership of the Bank, provided that it be either:

(i) On a country the currency of which by law and in practice is convertible on demand at a fixed price into exportable gold, or

(ii) On a country the currency of which by law and in practice is convertible on demand at a fixed price into foreign exchange as defined in (i).

For the purposes of this Article, and subject always to the preceding paragraph (b), the term "net foreign gold exchange" shall be taken to mean:

(1) Balances standing to the credit of the Bank at the Central Bank of a foreign country;

(2) Bills of exchange payable in a foreign currency maturing within three months and bearing at least two good signatures;

(3) Treasury bills, Treasury certificates of indebtedness or similar obligations of a foreign Government maturing within three months;

less any liabilities in foreign exchange.

In calculating the amount of the Reserve, should it be found that the liabilities in foreign exchange exceed the assets enumerated in the paragraphs numbered (1), (2) and (3) of this Article, the excess shall be deducted from the other assets of the Reserve.

Temporary Provision. — During the first five years of the existence of the Bank of Greece, the Bank may hold in its Reserve the gold bonds of the Hellenic State referred to in Article 3 ("Assets (b)") of the Agreement to which these Statutes are annexed.

Article 63.

At the request of the Bank, the Government may suspend the operation of Article 61 subject to the payment by the Bank to the Government of a tax.

Suspension may be granted for a period of not more than thirty days in the first instance and may be renewed for further periods not exceeding fifteen days at a time. The tax shall be levied on the amount by which the note circulation and other demand liabilities of the Bank exceed the maximum sum which would be admissible under Article 61.

The tax shall be calculated on the daily amount of the excess at the following rates:

1½ per cent per annum above the published minimum current discount rate of the Bank for three-months bills if the Reserve, while less than 40 per cent, is not less than 35 per cent.

2 per cent per annum above such minimum current discount rate if the Reserve, while less than 35 per cent, is not less than 30 per cent.

3 per cent above such minimum current discount rate if the Reserve is less than 30 per cent.

Article 64.

Before applying to the Government for the suspension of Article 61, the Board of Directors shall raise the Bank's rate for discounts by not less than one per cent per annum.

PART XII. — NOTE ISSUE.

Article 65.

The Bank shall issue bank notes in Greece under the provisions of Articles 2, 4 and 5. It may, for a period of five years from the date on which these Statutes come into force, issue bank notes of the National Bank of Greece supplied to it by that Bank and overprinted with the name of the Bank of Greece. The provisions of these Statutes applicable to bank notes shall, unless a contrary intention appears, apply to all bank notes of the National Bank of Greece in circulation when the Bank of Greece commences business or issued by the Bank of Greece as provided above.

On and from the date upon which the Bank of Greece commences business, the National Bank of Greece shall cease to issue to the public any bank notes or any other kind of paper money.

Article 66.

The bank notes issued by the Bank of Greece shall be legal tender throughout the Hellenic State; that is to say that, subject to the provisions of Article 68, they shall be accepted at their face value by the State, by all corporations and individuals in the discharge of debt.

Article 67.

Before any new form of bank notes is issued, the Bank must publish a description of them in the *Official Gazette*.

Article 68.

In the event of the calling in of any series of notes, the Board of Directors shall determine and publicly announce the period within which the said notes should be presented for exchange. After the expiration of the period in question, the notes recalled shall cease to be legal tender except at the Bank of Greece.

Ten years after the expiration of the latest date publicly announced for the calling in of a series of notes, the Bank may deduct from the note circulation account the amount of the notes of the series then outstanding and unpaid, and the notes shall no longer be considered as in circulation. Any such note subsequently presented for payment shall, however, be paid by the Bank.

Article 69.

The Bank shall exchange its notes at its Head Office and branches for notes of other denominations or subsidiary coins in such quantities as may, in the opinion of the Bank, be required for circulation.

Article 70.

The Bank shall retain any forged or altered notes presented, giving a receipt in return.

PART XIII. — APPROPRIATION OF PROFITS.

Article 71.

After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds, and such other contingencies as are usually provided for by bankers, and after payment out of the net annual profits of the bank of a cumulative dividend at the rate of 8 per cent per annum on the capital, one-half of the surplus shall be allocated to the General

Reserve Fund, until such Reserve Fund is equal to the capital, and the remaining one-half shall be paid to the Government. After the Reserve Fund has become equal to the capital, one-quarter of the surplus, or 4 per cent on the capital, whichever is less, shall be paid to the shareholders, and the balance shall be paid to the Government.

PART XIV. — SPECIAL RIGHTS OF THE BANK.

Article 72.

The provisions of the laws regarding joint-stock companies and Banks shall not be applicable to the Bank of Greece in so far as they may be in conflict with this Act.

Article 73.

The Bank shall be exempt from all taxes or duties levied by the State: in particular, from the payment of any tax or duty on its note issue other than the tax to be imposed in certain contingencies as provided in Article 63.

PART XV. — WINDING-UP OF THE BANK.

Article 74.

In the event of the withdrawal of the note-issuing privilege (Article 2), the Bank shall be wound up, the assets and liabilities being valued by three experts. One of these shall be appointed by the Government, one by the Board of Directors, while the third shall be a person mutually agreed upon by the Government and the Board of Directors, or, failing such agreement, appointed by the President of the Cour de Cassation. The State shall assume unimpaired the full liability previously attaching to the Bank towards its active and pensioned staff in respect of all their rights.

After having ascertained, as described above, the value of the assets and liabilities of the Bank, the nominal value of the shares shall be in the first place paid out to the shareholders, and any net excess in value shall be divided in the proportion of one-half to the Government and one-half to the shareholders.

Appendix. — BANK OF GREECE. — WEEKLY RETURN.

<i>Assets.</i>	<i>Liabilities.</i>
1. Gold coin and bullion.	11. Capital paid up.
2. Foreign gold exchange (Article 62 of Statutes).	12. Reserve Funds:
3. Other foreign exchange.	(a) General Reserve Fund.
4. Subsidiary Greek coins.	(b) Special Reserve Funds.
5. Inland bills and notes:	13. Bank notes in circulation.
(a) Commercial bills and notes	14. Other sight liabilities in drachmas:
(b) Treasury bills.	I. Current and deposit accounts:
6. Advances:	(a) Government accounts.
I. Repayable in drachmas:	(b) Bankers' accounts.
(a) Government.	(c) Other accounts.
(b) Others.	2. Bank post bills and demand drafts.
2. Repayable in foreign exchange.	15. Deposits in drachmas at notice:
7. State debt.	(a) Government accounts.
8. Investments.	(b) Bankers' accounts.
9. Bank buildings and equipment.	(c) Other accounts.
10. Other assets.	16. Foreign exchange liabilities:
	(a) Foreign gold exchange (Article 62 of Statutes).
	(b) Other foreign exchange.
	17. Other liabilities.

Proportion of Gold and Net Foreign Gold Exchange to Sight Liabilities.

Gold		
Net foreign gold exchange		
(No. 2 less No. 16)		
Reserve (as laid down in Article 62 of Statutes)	_____	Total (a)
Notes.		
Other sight liabilities in drachmas	_____	Total (b)
Proportion of Total (a) to Total (b) =	_____	%

Annex V

DETAILS OF THE TREASURY ARREARS TO BE PAID OFF OUT OF THE YIELD OF THE LOAN AND OUT OF THE AVAILABLE RESOURCES OF THE HELLENIC GOVERNMENT ¹.

I. Arrears left from 1925-26 and previous financial years:	<i>Drachmas</i>	<i>Drachmas</i>
Total arrears to be paid (estimate)	598,286,208.78	
Total arrears to be collected (estimate)	30,000,000.—	
Balance to be paid		568,286,208.78
2. Arrears left from the financial year 1926-27:		
Total arrears to be paid (estimate)	595,367,713.—	
Total arrears to be collected (estimate)	59,848,800.—	
Balance to be paid		535,518,913.—
3. Value of property belonging to foreigners, and expropriated for the settlement of refugees.		150,000,000.—
4. Compensation to owners of vessels requisitioned during the war		80,000,000.—
5. Sundry payments made by the Treasury, the settlement of which will necessitate the issue of drafts chargeable to the budget:		
(a) Transport service		129,000,000.—
(b) Sundries		171,000,000.—
6. Debt to the Refugee Settlement Commission.		57,000,000.—
7. Debt to the Refugee Settlement Commission in respect of tithe for the year 1926-27		53,000,000.—
Total		<u>1,743,805,121.78</u>

The payments mentioned under Nos. 3, 4, 5, 6 and 7 will be met out of the yield of the loan; the arrears, the payment of which is mentioned under Nos. 1 and 2, will be met out of the balance of the loan which is available after the former payments have been made, and out of the sum of 606 millions which is, according to the Greek Government's statement, the available surplus of the Treasury on the financial year 1926-27 and previous years and on the revenues collected since April 1st, 1927.

Annex VI.

SUMMARY PLAN FOR CENTRALISATION OF ACCOUNTS AT THE BANK OF GREECE.

The Hellenic Government considers that the centralising of receipts and expenditure at the Bank of Greece could be brought about in the following manner:

1. The Bank of Greece, as soon as it is created, would be responsible for all collections of money and all payments on behalf of the budget and State enterprises. The public cashiers would continue to perform all administrative acts relating to such collections and payments and would continue to be responsible for them to the Audit Office.

This first step would result in the transfer to the Bank of Greece of the funds now held by the public cashiers, and would thus concentrate all the resources of State in the Bank.

2. As regards the operations contemplated in the first paragraph of this Sub-Appendix, the branches of the National Bank of Greece will act as agents for the Bank of Greece. Nevertheless, at points where the distance of any branch of the Bank of Greece, or of the National Bank of Greece, makes it impossible to carry out the operations contemplated in paragraph 1 above, the public cashiers will remain responsible for the operations of a State Pay Office.

The Hellenic Government will make every effort to apply the general measures described above as widely as possible. Moreover, the Hellenic Government will examine the desirability of transferring, after a certain interval, all or part of the functions of the public cashiers to the local agents of the Bank.

3. After this first reform, the various Treasury accounts not relating to the budget operations would by gradual stages be transferred to the Bank of Greece; the most important of these being the accounts of the Deposits Fund, the accounts of special funds and the accounts of communal deposits.

This second step could be completed in two years at the most after the creation of the Bank of Greece. It would leave only the budget accounts in the Treasury's balance sheet and would make it possible to publish a monthly statement showing the stages and the nature of these transactions.

¹ The arrears mentioned under Nos. 1, 3, 4, 5, 6 and 7 above are arrears existing on April 1st, 1927, those mentioned under No. 2 above are arrears existing on August 1st, 1927.

10.

RESOLUTIONS ADOPTED BY THE COUNCIL ON SEPTEMBER 15TH, 1927.

The Council:

Takes note of the fifteenth quarterly report of the Greek Refugee Settlement Commission;
Approves and adopts the report of the Financial Committee;
Approves the Protocol submitted to the Greek Government for signature, together with its annexes;
Approves in particular the scheme drawn up to enable Greece to continue the settlement of the refugees, to balance finally its budget and to stabilise its currency;
Expresses the hope that the issue of the loan will be crowned with success and will allow the Greek Government to bring to a satisfactory conclusion the work it has undertaken in co-operation with the League of Nations.

11.

RESOLUTIONS ADOPTED BY THE ASSEMBLY ON SEPTEMBER 22ND, 1927.

The Assembly:

Has learned with great interest of the successful result of the negotiations which have taken place with a view to the issue, under the auspices of the League of Nations, of a loan to enable the Greek Government to take measures of financial and monetary reorganisation, and to proceed with the settlement of the refugees;
In particular, expresses its appreciation of the plan which has been drawn up for the creation of a new bank of issue and for the stabilisation of the Greek currency;
Expresses its appreciation to all those who have collaborated in these investigations, and especially to the Greek Government and to the Financial Committee;
Approves the progress made in the refugee settlement work and expresses the hope that this work will soon be successfully brought to a close;
In conclusion, expresses the hope that the entire scheme which has now been elaborated will be fully successful.

[Translation.]

12.

DECREE-LAW¹, VOTED BY THE GREEK GOVERNMENT, RATIFYING
THE PROTOCOL SIGNED AT GENEVA ON SEPTEMBER 15TH, 1927.

I.

DECREE-LAW ON THE RATIFICATION OF THE PROTOCOL SIGNED AT GENEVA ON SEPTEMBER 15TH, 1927, AND APPROVING THE CONCLUSION OF A LOAN OF NINE MILLION POUNDS STERLING.

Greek Republic.

In virtue of Article 77 of the Constitution, the special authorisation granted by the Chamber on September 1st, 1927, and the opinion to the same effect, dated October 28th, 1927, of the special Parliamentary Committee, we have, on the proposal of our Council of Ministers, decided and hereby decree as follows:

Article. — The Protocol signed at Geneva in English and French original texts on September 15th, 1927, by the Minister of Finance on behalf of the Greek Government, the clauses of which have been approved by the Council of the League of Nations and which relates to the approval by the League of Nations of the issue under its auspices of a loan yielding an effective sum equivalent to nine million pounds sterling, to be applied for the purposes of stabilising the Greek currency, liquidating budget arrears and continuing the work of the settlement of refugees, is hereby ratified.

This Protocol, which consists of nine articles and six annexes, is as follows in the original text and in the Greek translation:

(Here follows the text of the Protocol²)

All the documents required for the application of the present Decree shall be exempt from all stamp duties.

The present Decree-Law, which shall be submitted for ratification by the Chamber as soon as it reassembles, shall enter into force immediately it is published in the *Official Journal*.

Athens, November 10th, 1927.

*The President of the Republic.
The Council of Ministers.*

¹ Adopted by the Greek Parliament, November 25th, 1927.

² See page 17.

DECREE-LAW¹, VOTED BY THE GREEK GOVERNMENT, RATIFYING
THE AGREEMENT OF OCTOBER 27TH, 1927, WITH REGARD TO THE
CREATION OF THE NEW "BANK OF GREECE".

DECREE-LAW ON THE RATIFICATION OF THE AGREEMENT OF OCTOBER 27TH, 1927, CONCERNING
THE RENUNCIATION BY THE NATIONAL BANK OF GREECE OF THE PRIVILEGE OF ISSUING BANK-
NOTES AND THE CREATION OF A NEW BANK UNDER THE TITLE OF "BANK OF GREECE", AND
THE STATUTES OF THE "BANK OF GREECE" ANNEXED TO THE AGREEMENT.

Greek Republic.

In virtue of Article 77 of the Constitution, the special authorisation of the Chamber dated September 1st, 1927, and the opinion to the same effect, dated October 28th, 1927, of the special Parliamentary Committee, we have, on the proposal of our Council of Ministers, decided and hereby decree as follows:

Article 1. — The following are hereby ratified:

(a) The Agreement², dated October 27th, 1927, between the Greek Government and the National Bank of Greece on the renunciation by the National Bank of Greece of the privilege of issuing bank-notes and the creation of a new bank under the title "Bank of Greece", consisting of twelve articles;

(b) The Statutes³ of the Bank of Greece, annexed to the said Agreement and consisting of seventy-four articles and one annex.

The Agreement and the Statutes are published at the end of the present Decree-Law and their provisions have the force of law.

Article 2. — The Bank of Greece, which acquires a legal personality as soon as the present Decree-Law is promulgated and without further formality, shall possess the exclusive right to issue bank-notes within Greek territory in accordance with the provisions of its Statutes.

Article 3. — The monetary unit in Greece shall be the drachma. Its gold content shall be established by a Decree given once for all on the proposal of the Council of Ministers and promulgated on the day on which the Bank of Greece commences business.

Article 4. — Bank-notes of a denomination of 20 drachmas and over, issued by the Bank of Greece or in circulation in accordance with Article 65 of its Statutes, shall be legal tender as laid down in Article 66 of the said Statutes. As an exceptional measure, the notes of the National Bank of Greece of a denomination of less than twenty drachmas, belonging to the bank-notes in circulation transferred to the Bank of Greece by the National Bank of Greece in virtue of Article 4 ("Liabilities" (a)) of the Agreement concluded between the National Bank and the Greek Government, shall continue to be legal tender until the State issues coins of ten and five drachmas in accordance with the provisions below. As soon as the State shall have put into circulation coins of this kind, the Bank of Greece shall be required to withdraw from circulation notes of a denomination of less than twenty drachmas and to replace them by notes of a denomination above twenty drachmas. The provisions of Article 68 of the Statutes of the Bank of Greece shall be applicable in this case also.

Article 5. — In order to maintain the gold value of the drachma, which shall be established in the manner laid down in Article 3 of the present Decree-Law, the Bank of Greece shall be required to exchange its bank-notes for foreign currency in conformity with the provisions of Article 5 of its Statutes.

Article 6. — The Treasury may strike and put into circulation through the Bank of Greece and at the Bank's request coins of a denomination which may not exceed ten drachmas. The composition, weight, size, remedy and standard of the coin shall be determined by a Decree to be issued on the proposal of the Minister of Finance.

Article 7. — The nominal value of the coins of ten and five drachmas to be issued may not exceed 100 drachmas per head of the population according to the figures for the population given by the last census; the nominal value of the other coins may not exceed twenty drachmas per head of the population.

Article 8. — Coins which in the Bank's opinion are worn to the point of no longer being recognisable as Greek coins shall not be accepted by the Bank or its branches. Coins accepted by the Bank but unfit for circulation by reason of being defaced or damaged shall not again be put into circulation, but shall be restored by the Bank to the Treasury in exchange for their face value.

Article 9. — Whenever coins of any category have to be withdrawn from circulation on the order of the Minister of Finance, the public shall be granted a time-limit of at least a year in which to exchange them. During this period such coins shall be exchanged at all offices of the Bank of Greece, and for a further period of five years after the expiry of the first period the head office of the Bank of Greece shall alone be entitled to accept and exchange coins of this kind. When this second period has elapsed, the coins shall no longer be accepted either by the Bank or by the State.

¹ Adopted by the Greek Parliament, November 25th, 1927.

² See page 24 for the text of the Agreement.

³ See page 27 for the text of the Statutes.

Article 10. — Coins debased by filing, breaking or rubbing, or the weight of which shall have been reduced by chemical process or other methods, shall no longer be legal tender for purposes of payment or exchange. The Bank of Greece shall refund their full face value provided they have not lost 5 per cent of their weight and unless it is proved that the person presenting them has debased them with fraudulent intent.

Article 11. — Coins of ten and five drachmas shall be legal tender for sums not exceeding 200 drachmas, coins of two and one drachmas for sums not exceeding fifty drachmas, and coins of smaller denomination for sums not exceeding ten drachmas.

The limits fixed above for the use of coins as legal tender shall not apply to coins presented to the Bank of Greece and its branches, which shall be obliged to accept on deposit or current account every kind of coin of the Greek Government for any sum whatever (subject to the restrictions in Articles 8 and 10).

The Bank of Greece shall have the right to return to the Treasury coins up to any quantity, and the Treasury shall be obliged to repay to the Bank the face value of coins thus returned.

Article 12. — Coins which have ceased to be legal tender in accordance with Article 10 of the present Decree may not be restored to circulation by the Bank of Greece. The Treasury shall be obliged to accept these coins from the Bank at their face value.

Article 13. — Any bank carrying on business in Greece shall be required to submit to the Minister of Finance within ten days after the end of each month a monthly statement of its accounts in a form to be determined by Decree. The Minister of Finance shall forward to the Bank of Greece a copy of these statements and shall publish in the *Official Journal* a summary giving the figures in respect of each bank.

Article 14. — The provisions of Article 6 of the Agreement ratified by the present Decree shall apply to any other bank or limited liability company.

Article 15. — The transfer to the Bank of Greece of the assets and liabilities of the National Bank of Greece, as laid down in Article 3 of the ratified Agreement, shall be effected by private agreement between the two banks without further formality.

Article 16. — The Agreement ratified by the present Decree between the Government and the National Bank of Greece, the Statutes of the Bank of Greece, the agreement mentioned in the preceding article regarding the transfer of assets and liabilities, and any other agreement or instrument necessitated by the application of the Agreement, shall be exempt from all stamp duties.

Article 17. — The present Decree-Law, which shall be submitted for ratification by the Chamber as soon as it reassembles, shall come into force immediately it is published in the *Official Journal*.

Athens, November 10th, 1927.

The President of the Republic.

The Council of Ministers.

14.

REPORT OF THE FINANCIAL COMMITTEE, DATED DECEMBER 7TH, 1927.

I. Refugee Settlement.

The Financial Committee, after considering the Sixteenth Quarterly Report of the Settlement Commission, supplemented by oral explanations from Mr. EDDY, its President, has no special comments to make. It recommends the Council to adopt the report.

II. Greek Stabilisation Loan.

The Protocol approved by the Council at its last session, and signed on behalf of the Hellenic Government on September 15th, 1927, as also the Convention between the Hellenic Government and the National Bank regarding the creation of a new Bank of Issue, together with the Statutes of the new Bank, have been ratified by the Hellenic Parliament in the form approved and have been duly promulgated.

The Committee has learnt that certain difficulties which might have prevented the service of the proposed loan from being effected through the International Financial Commission at Athens have now been removed. It understands that it now only remains for the Annex to the Protocol to be signed, which provides that the representatives on the International Financial Commission of the Governments concerned shall undertake this service. All prior conditions will then have been satisfied and the Hellenic Government will be in a position to begin negotiations for the issue of the loan.

15.

RESOLUTION ADOPTED BY THE COUNCIL ON DECEMBER 9TH, 1927.

The Council:

- (1) Notes and adopts the Report of the Financial Committee;
- (2) Notes and adopts the Sixteenth Quarterly Report of the Refugee Settlement Commission;
- (3) Notes with great satisfaction that the way is now clear for putting into execution the scheme approved by the Council at its last session and for the beginning of negotiations for the issue of the loan contemplated in that scheme, which the Council hopes may meet with complete success.

[Communiqué aux Membres de
la Société des Nations et aux
Etats non membres représentés
à la Conférence.]

17 DEC 1927

C.559.M.201.1927.II. ()
(C.I.A.P.19 (1), 1927.)

SOCIÉTÉ DES NATIONS

**CONFÉRENCE INTERNATIONALE
POUR L'ABOLITION DES PROHIBITIONS
ET RESTRICTIONS A L'IMPORTATION
ET A L'EXPORTATION**

(17 octobre au 8 novembre 1927)

1. CONVENTION INTERNATIONALE POUR L'ABOLITION DES PROHIBITIONS ET RESTRICTIONS A L'IMPORTATION ET A L'EXPORTATION.
2. PROTOCOLE DE LA CONVENTION INTERNATIONALE.
3. ACTE FINAL DE LA CONFÉRENCE.
DÉCLARATION ANNEXÉE.

LEAGUE OF NATIONS

**INTERNATIONAL CONFERENCE
FOR THE ABOLITION OF IMPORT
AND EXPORT PROHIBITIONS
AND RESTRICTIONS**

(October 17th - November 8th, 1927)

1. INTERNATIONAL CONVENTION FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS.
2. PROTOCOL TO THE INTERNATIONAL CONVENTION.
3. FINAL ACT OF THE CONFERENCE.
ANNEXED DECLARATION.

CONVENTION



CONVENTION

.....

Vu la résolution de l'Assemblée de la Société des Nations en date du 25 septembre 1924;

S'inspirant des conclusions de la Conférence économique internationale, tenue à Genève en mai 1927, et reconnaissant avec celle-ci que les prohibitions d'importation et d'exportation, les régimes arbitraires et les discriminations déguisées qu'elles suscitent ont eu des résultats déplorable, sans que les inconvénients graves de ces mesures aient eu pour contre-partie les avantages financiers ou les bienfaits sociaux qu'en espéraient les Etats qui les avaient prises;

Persuadés qu'il importe au rétablissement et au développement futur du commerce mondial que les gouvernements renoncent à une politique nuisible aussi bien à leur intérêt particulier qu'à l'intérêt général;

Convaincus que le retour à la liberté effective du commerce international est une des conditions essentielles de la prospérité mondiale;

Considérant que la meilleure manière d'atteindre le but ainsi défini est de recourir à une action parallèle et concertée sous la forme d'une convention internationale,

Ont désigné pour leurs plénipotentiaires, savoir:

.....

.....

Having regard to the resolution of the Assembly of the League of Nations dated September 25th, 1924;

Being guided by the conclusions of the International Economic Conference held at Geneva in May 1927, and agreeing with the latter that import and export prohibitions, and the arbitrary practices and disguised discriminations to which they give rise, have had deplorable results, without the grave drawbacks of these measures being counterbalanced by the financial advantages or social benefits which were anticipated by the countries which had recourse to them;

Being persuaded that it is important for the recovery and future development of world trade that Governments should abandon a policy which is equally injurious to their own and to the general interest;

Being convinced that a return to the effective liberty of international commerce is one of the primary conditions of world prosperity; and

Considering that this object may best be achieved by resort to simultaneous and concerted action in the form of an international convention;

Have appointed their plenipotentiaries, namely:

.....

Lesquels, après avoir communiqué leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes:

Article premier.

Les dispositions de la présente Convention s'appliquent aux prohibitions et aux restrictions à l'importation dans les territoires des Hautes Parties contractantes, des marchandises — produits naturels ou fabriqués — des territoires de l'une quelconque des autres Hautes Parties contractantes et aux prohibitions et aux restrictions à l'exportation de produits des territoires desdites Parties vers les territoires de l'une quelconque des autres Hautes Parties contractantes.

Article 2.

Sous réserve des exceptions prévues aux articles suivants, les Hautes Parties contractantes s'engagent à supprimer, dans un délai de six mois à dater de la mise en vigueur de la présente Convention en ce qui concerne les territoires respectifs de chacune d'elles, toutes prohibitions ou restrictions à l'importation ou à l'exportation, et à ne pas établir par la suite des prohibitions ou restrictions de ce genre. Durant ce délai, chacune des Hautes Parties contractantes adoptera toutes les mesures propres à réduire au minimum les prohibitions et restrictions existantes et s'abstiendra d'instituer des prohibitions ou restrictions nouvelles.

Les Hautes Parties contractantes s'engagent, en outre, à prendre les mesures nécessaires pour que les dispositions de la présente Convention soient rigoureusement observées par toutes les autorités — centrales ou locales — et pour qu'aucune réglementation contrevenant à ces dispositions ne puisse être édictée.

Article 3.

Si les Hautes Parties contractantes, en application de leur législation, soumettent l'importation ou l'exportation de marchandises à certaines règles concernant le mode, la forme ou le lieu d'importation ou d'exportation, l'apposition de marques, ou à d'autres formalités ou conditions, Elles s'engagent à n'en pas faire un moyen de prohibition déguisée ni de restriction arbitraire.

Article 4.

Les catégories suivantes de prohibitions et de restrictions ne sont pas interdites par la présente Convention, à la condition, toutefois, qu'elles ne soient pas appliquées de manière à constituer un moyen de discrimination arbitraire entre les pays étrangers où existent les mêmes conditions, ni de manière à constituer une restriction déguisée des échanges internationaux:

- 1^o Prohibitions ou restrictions relatives à la sécurité publique;
- 2^o Prohibitions ou restrictions édictées pour des raisons morales ou humanitaires;
- 3^o Prohibitions ou restrictions concernant le trafic des armes, des munitions et des matériels de guerre, ou, dans des circonstances exceptionnelles, de tous autres approvisionnements de guerre;
- 4^o Prohibitions ou restrictions édictées en vue de protéger la santé publique ou d'assurer la protection des animaux ou des plantes contre les maladies, les insectes et les parasites nuisibles;
- 5^o Prohibitions ou restrictions à l'exportation ayant pour but la protection du patrimoine national artistique, historique ou archéologique;
- 6^o Prohibitions ou restrictions applicables à l'or, à l'argent, aux espèces, au papier-monnaie et aux titres;
- 7^o Prohibitions ou restrictions ayant pour but d'étendre aux produits étrangers le régime établi à l'intérieur du pays, en ce qui concerne la production, le commerce, le transport et la consommation des produits nationaux similaires;
- 8^o Prohibitions ou restrictions appliquées à des produits qui font ou feront, à l'intérieur du pays, en ce qui concerne la production ou le commerce, l'objet de monopoles d'Etat ou de monopoles exercés sous le contrôle de l'Etat.

Article 5.

Rien, dans la présente Convention, ne portera atteinte au droit de toute Haute Partie contractante de prendre des mesures de prohibition ou de restriction à l'importation ou à l'exportation pour sauvegarder, dans des circonstances extraordinaires et anormales, les intérêts vitaux du pays. Si des mesures de cette nature sont prises, elles devront être appliquées de telle manière qu'il n'en résulte aucune discrimination arbitraire au détriment de toute autre Haute Partie contractante. Leur durée devra être limitée à la durée des motifs ou des circonstances qui les ont fait naître.

who, having communicated their full powers, found in good and due form, have agreed to the following provisions:

Article 1.

The provisions of the present Convention shall apply to prohibitions and restrictions imposed on the importation into the territories of any High Contracting Party of goods the produce or manufacture of the territories of any other High Contracting Party, and to prohibitions and restrictions imposed on the exportation of goods from the territories of any High Contracting Party to the territories of any other High Contracting Party.

Article 2.

Subject to the exceptions provided for in the following articles, the High Contracting Parties undertake to abolish within a period of six months from the date of the coming into force of the present Convention, in so far as the respective territories of each of them are concerned, all import and export prohibitions or restrictions, and not thereafter to impose any such prohibitions or restrictions. During this period each of the High Contracting Parties will adopt all appropriate measures in order to reduce existing prohibitions and restrictions to a minimum and will refrain from imposing any new prohibitions or restrictions.

Further, the High Contracting Parties undertake to adopt the necessary measures to ensure that the provisions of the present Convention are strictly observed by all authorities, central or local, and that no regulation is issued in contravention thereof.

Article 3.

Should the High Contracting Parties, in pursuance of their legislation, subject the importation or exportation of goods to certain regulations in respect of the manner, form or place of importation or exportation, or the imposition of marks, or to other formalities or conditions, they undertake that such regulations shall not be made a means of disguised prohibition or arbitrary restriction.

Article 4.

The following classes of prohibitions and restrictions are not prohibited by the present Convention, on condition, however, that they are not applied in such a manner as to constitute a means of arbitrary discrimination between foreign countries where the same conditions prevail, or a disguised restriction on international trade:

1. Prohibitions or restrictions relating to public security.
2. Prohibitions or restrictions imposed on moral or humanitarian grounds.
3. Prohibitions or restrictions regarding traffic in arms, ammunition and implements of war, or, in exceptional circumstances, all other military supplies.
4. Prohibitions or restrictions imposed for the protection of public health or for the protection of animals or plants against disease, insects and harmful parasites.
5. Export prohibitions or restrictions issued for the protection of national treasures of artistic, historic or archaeological value.
6. Prohibitions or restrictions applicable to gold, silver, coins, currency notes, banknotes or securities.
7. Prohibitions or restrictions designed to extend to foreign products the regime established within the country in respect of the production of, trade in, and transport and consumption of native products of the same kind.
8. Prohibitions or restrictions applied to products which, as regards production or trade, are or may in future be subject within the country to State monopoly or to monopolies exercised under State control.

Article 5.

Nothing in this Convention shall affect the right of any High Contracting Party to adopt measures prohibiting or restricting importation or exportation for the purpose of protecting, in extraordinary and abnormal circumstances, the vital interests of the country.

Should measures of this character be adopted, they shall be applied in such a manner as not to lead to any arbitrary discrimination against any other High Contracting Party. Their duration shall be restricted to that of the causes or circumstances from which they arise.

Article 6.

1. Les Hautes Parties contractantes reconnaissant qu'il existe, pour certaines d'entre elles, des situations de fait ou de droit d'où résulte pour ces dernières l'impossibilité de prendre immédiatement, en ce qui concerne certains produits déterminés, les engagements souscrits aux articles précédents, ont jugé équitable d'autoriser ces Hautes Parties contractantes à faire la réserve de certaines exceptions de caractère temporaire, auxquelles celles-ci s'obligent de mettre un terme dès que les circonstances qui les motivent auront pris fin.

2. D'autre part, les Hautes Parties contractantes, reconnaissant que l'abolition de certaines prohibitions ou restrictions appliquées par certaines d'entre Elles à l'importation ou à l'exportation présenterait pour ces dernières de graves difficultés et que, par ailleurs, ces prohibitions ou restrictions ne comportent pas de répercussions dommageables pour le commerce des autres pays, ont jugé également équitable d'autoriser ces Hautes Parties contractantes à faire la réserve de ces exceptions.

3. L'Annexe à la présente Convention mentionne les exceptions, rentrant dans le cadre des deux paragraphes précédents, qui ont été consenties, à la date de ce jour, au profit des Hautes Parties contractantes qui sont nommément désignées dans cette Annexe et qui ont signé la Convention dès cette date.

4. Les demandes de dérogations que les Hautes Parties contractantes croiraient devoir présenter postérieurement à cette date seront soumises à la procédure indiquée au Protocole de la présente Convention.

Article 7.

Si l'une des Hautes Parties contractantes est amenée à prendre une mesure de prohibition ou de restriction contre des produits d'un pays étranger quelconque, que la présente Convention lui soit ou non applicable, Elle devra l'instituer de telle manière que cette mesure porte le moins possible préjudice au commerce des autres Hautes Parties contractantes.

Article 8.

Si un différend surgit entre deux ou plusieurs Hautes Parties contractantes au sujet de l'interprétation ou de l'application des dispositions de la présente Convention, à l'exception des articles 4, 5 et 6 ainsi que des dispositions du Protocole relatives auxdits articles et si ce différend ne peut être réglé, soit directement entre les parties, soit par la voie de tout autre moyen qu'elles emploieraient pour arriver à une entente, les parties au différend pourront, si elles sont toutes d'accord, avant de recourir à toute autre procédure arbitrale ou judiciaire, soumettre le différend, en vue d'un règlement amiable, à tout organisme technique qui pourra être désigné, soit par le Conseil de la Société des Nations, soit par les parties intéressées. Cet organisme formulera un avis consultatif, après avoir entendu les parties et les avoir, au besoin, réunies.

L'avis consultatif formulé par ledit organisme ne liera pas les parties au différend, à moins qu'il ne soit accepté par chacune d'elles, et les parties pourront, si elles sont toutes d'accord, soit après avoir recouru à la procédure ci-dessus mentionnée, soit pour la remplacer, recourir à toute autre procédure arbitrale ou judiciaire de leur choix, y compris l'instance devant la Cour permanente de Justice internationale, pour toutes matières qui sont de la compétence de la Cour, aux termes de son Statut.

Si un différend quelconque d'ordre juridique surgit au sujet de l'interprétation ou de l'application des dispositions de la présente Convention — à l'exception des dispositions des articles 4, 5 et 6 ainsi que des dispositions du Protocole relative audit article — les parties devront, à la requête de l'une d'elles, soumettre l'objet du litige à la décision de la Cour permanente de Justice internationale, ou d'un tribunal arbitral de leur choix, qu'elles aient ou non préalablement recouru à la procédure prévue à l'alinéa premier.

En cas de contestation sur le point de savoir si un différend est d'ordre juridique ou non, cette question sera soumise à la décision de la Cour permanente de Justice internationale ou du tribunal arbitral choisi par les parties.

La procédure ouverte devant l'organisme visé à l'alinéa premier ci-dessus ou l'avis formulé par lui n'entraînera en aucun cas la suspension de la mesure qui fait l'objet du litige; il en sera de même dans le cas d'une instance devant la Cour permanente de Justice internationale — à moins que celle-ci n'en décide autrement aux termes de l'article 41 de son Statut — ou devant le tribunal arbitral choisi par les parties.

Rien dans la présente Convention ne pourra être interprété comme portant atteinte aux droits et obligations résultant pour les Hautes Parties contractantes, soit de leurs engagements relatifs à la juridiction de la Cour permanente de Justice internationale, soit de leurs conventions bilatérales concernant la conciliation et l'arbitrage.

Article 9.

Chacune des Hautes Parties contractantes pourra, soit lors de la ratification de la présente Convention, soit ultérieurement, déclarer qu'elle s'engage à étendre, vis-à-vis de toute autre Haute Partie contractante acceptant la même obligation, l'application des dispositions de l'alinéa 3 de l'article 8 ci-dessus à tout différend pouvant surgir au sujet de l'interprétation ou de l'application

Article 6.

1. The High Contracting Parties, recognising that there exist in the case of certain of them situations of fact or of law which prevent the latter from immediately undertaking, as regards certain specified products, the engagements entered into under the previous articles, have deemed it equitable to authorise these High Contracting Parties to make a reservation in regard to certain temporary exceptions, which the latter undertake to withdraw as soon as the circumstances from which they arise cease to exist.

2. Moreover, the High Contracting Parties, recognising that the abolition of certain import or export prohibitions or restrictions applied by some of them would involve the latter in grave difficulties, and that, moreover, these prohibitions or restrictions do not prejudicially affect the trade of other countries, have also deemed it equitable to authorise these High Contracting Parties to make a reservation in regard to these exceptions.

3. The Annex to the present Convention sets forth the exceptions coming within the provisions of the two preceding paragraphs, which have been agreed to on this day's date in favour of the High Contracting Parties who are mentioned by name in the Annex and who have signed the Convention on that date.

4. Exceptions which the High Contracting Parties may desire to claim subsequently to that date shall be dealt with in accordance with the procedure laid down in the Protocol to the present Convention.

Article 7.

Should one of the High Contracting Parties be obliged to adopt any measure of prohibition or restriction against products of any foreign country, whether the Convention be applicable to that country or not, he shall frame the measure in such a way as to cause the least possible injury to the trade of the other High Contracting Parties.

Article 8.

If a dispute arises between two or more High Contracting Parties as to the interpretation or application of the provisions of the present Convention — with the exception of Articles 4, 5 and 6, and of the provisions of the Protocol relating to these articles — and if such dispute cannot be settled either directly between the parties or by the employment of any other means of reaching agreement, the parties to the dispute may, provided they all so agree, before resorting to any arbitral or judicial procedure, submit the dispute with a view to an amicable settlement to such technical body as the Council of the League of Nations or the parties concerned may appoint. This body will give an advisory opinion after hearing the parties and, if necessary, effecting a meeting between them.

The advisory opinion given by the said body will not be binding upon the parties to the dispute unless it is accepted by all of them, and the parties, if they all so agree, may either after resort to such procedure, or in lieu thereof, have recourse to any arbitral or judicial procedure which they may select, including reference to the Permanent Court of International Justice as regards any matters which are within the competence of that Court under its Statute.

If a dispute of a legal nature arises as to the interpretation or application of the provisions of the present Convention — with the exception of Articles 4, 5 and 6, and of the provisions of the Protocol relating to these articles — the parties shall, at the request of any of them, refer the matter to the decision of the Permanent Court of International Justice or of an arbitral tribunal selected by them, whether or not there has previously been recourse to the procedure laid down in the first paragraph.

In the event of any difference of opinion as to whether a dispute is of a legal nature or not, the question shall be referred for decision to the Permanent Court of International Justice or to the arbitral tribunal selected by the parties.

The procedure before the body referred to in the first paragraph above or the opinion given by it will in no case involve the suspension of the measures to which the dispute refers; the same will apply in the event of proceedings being taken before the Permanent Court of International Justice — unless the Court decides otherwise under Article 41 of its Statute — or before the arbitral tribunal selected by the parties.

Nothing in the present Convention shall be construed as prejudicing the rights and obligations derived by the High Contracting Parties from the engagements into which they have entered with reference to the jurisdiction of the Permanent Court of International Justice, or from any bilateral conciliation or arbitration conventions between them.

Article 9.

Any High Contracting Party may, either upon ratifying the present Convention or thereafter, declare that he undertakes, in regard to any other High Contracting Party accepting the same obligation, to extend the application of the provisions of paragraph 3 of Article 8 to any dispute which may arise in connection with the interpretation or application of the provisions

des dispositions de la présente Convention, y compris, en tout ou en partie, les articles 4, 5 et 6, que le différend soit ou non d'ordre juridique.

Les Hautes Parties contractantes qui ne prendraient pas, pour les articles 4, 5 et 6 ou pour certaines parties de ces articles, ainsi que pour les dispositions y relatives du Protocole, l'engagement prévu à l'alinéa précédent, pourront rendre applicables entre Elles pour ces matières les dispositions des alinéas 1 et 2 de l'article 8,

Article 10.

Chacune des Hautes Parties contractantes peut déclarer, au moment de la signature, de la ratification ou de l'adhésion, que, par son acceptation de la présente Convention, Elle n'entend assumer aucune obligation en ce qui concerne l'ensemble ou toute partie de ses colonies, protectorats ou territoires placés sous sa suzeraineté ou mandat; dans ce cas, la présente Convention ne sera pas applicable aux territoires faisant l'objet de pareille déclaration.

Chacune des Hautes Parties contractantes pourra dans la suite notifier au Secrétaire général de la Société des Nations qu'elle entend rendre la présente Convention applicable à l'ensemble ou à toute partie de ses territoires ayant fait l'objet de la déclaration prévue à l'alinéa précédent. Dans ce cas, la Convention s'appliquera aux territoires visés dans la notification quatre-vingt-dix jours après la réception de cette notification par le Secrétaire général de la Société des Nations.

De même, chacune des Hautes Parties contractantes peut à tout moment déclarer qu'elle entend voir cesser l'application de la présente Convention à l'ensemble ou à toute partie de ses colonies, protectorats ou territoires placés sous sa suzeraineté ou mandat; dans ce cas, la Convention cessera d'être applicable aux territoires faisant l'objet de pareille déclaration un an après la réception de cette déclaration par le Secrétaire général de la Société des Nations.

Article 11.

Rien, dans la présente Convention, ne porte atteinte aux droits et obligations découlant, pour les Hautes Parties contractantes, des conventions internationales en vigueur auxquelles elles sont parties.

La présente Convention ne déroge pas aux stipulations des accords bilatéraux, en vigueur à la date de ce jour entre les Hautes Parties contractantes, qui établissent, en matière de prohibitions ou de restrictions à l'importation ou à l'exportation, un régime plus libéral que celui qui est établi par les dispositions de la présente Convention.

Article 12.

La présente Convention ne porte en rien atteinte aux droits et obligations résultant du Pacte de la Société des Nations.

Article 13.

Les Hautes Parties contractantes se communiqueront, par l'intermédiaire du Secrétaire général de la Société des Nations, dans les douze mois qui suivront la mise en vigueur de la présente Convention dans leurs territoires, un rapport sur les mesures prises pour assurer l'exécution des dispositions de la Convention.

Article 14.

La présente Convention, dont les textes français et anglais feront également foi, portera la date de ce jour.

Elle pourra être signée jusqu'au 1^{er} janvier 1929, au nom de tout Membre de la Société des Nations ou de tout Etat non membre représenté à la Conférence qui a établi cette Convention ou de tout Etat à qui le Conseil de la Société des Nations aura, à cet effet, communiqué un exemplaire de la présente Convention.

Les Membres de la Société des Nations et les Etats non membres, au nom desquels la Convention aura été signée avant le 1^{er} février 1928, seront admis au bénéfice de la procédure prévue au paragraphe 4 de l'article 6.

Article 15.

La présente Convention sera ratifiée.

Les instruments de ratification seront déposés auprès du Secrétaire général de la Société des Nations, qui en notifiera la réception à tous les Membres de la Société ainsi qu'aux Etats non membres visés à l'article précédent.

Article 16.

A partir du 1^{er} janvier 1929, tout Membre de la Société des Nations et tout Etat visé à l'article 14 pourra adhérer à la présente Convention.

Cette adhésion s'effectuera par une notification faite au Secrétaire général de la Société des Nations pour être déposée dans les archives du Secrétariat. Le Secrétaire général notifiera ce dépôt immédiatement à tous les Etats signataires ou adhérents de la présente Convention.

of the present Convention, including all or part of Articles 4, 5 and 6, and whether or not the dispute is of a legal nature.

Any High Contracting Parties who do not give the undertaking referred to in paragraph 1 as regards Articles 4, 5, and 6, or certain parts of these Articles, and as regards the provisions of the Protocol relating thereto, may make the provisions of paragraphs 1 and 2 of Article 8 applicable to these matters as between themselves.

Article 10.

Any High Contracting Party may at the time of signature, ratification or accession declare that, in accepting the present Convention, he does not assume any obligations in respect of all or any of his colonies, protectorates or territories under suzerainty or mandate; and the present Convention shall not apply to any territories named in such declaration.

Any High Contracting Party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the Convention shall apply to all or any of his territories which have been made the subject of a declaration under the preceding paragraph, and the Convention shall apply to all the territories named in such notice ninety days after its receipt by the Secretary-General of the League of Nations.

Any High Contracting Party may at any time declare that he desires that the present Convention shall cease to apply to all or any of his colonies, protectorates or territories under suzerainty or mandate, and the Convention shall cease to apply to the territories named in such declaration one year after its receipt by the Secretary-General of the League of Nations.

Article 11.

Nothing in the present Convention shall prejudice the rights and obligations which the High Contracting Parties may derive from international Conventions in force to which they are parties.

The present Convention shall not prejudice the provisions of any bilateral agreements in force at the present date between the High Contracting Parties which establish, in regard to import and export prohibitions or restrictions, a more liberal régime than that established by the provisions of the present Convention.

Article 12.

The present Convention shall not in any way affect rights and obligations arising from the Covenant of the League of Nations.

Article 13.

The High Contracting Parties shall, within twelve months after the coming into force of the present Convention in their territories, communicate to one another through the Secretary-General of the League of Nations a report on the steps taken to give effect to the provisions of the Convention.

Article 14.

The present Convention, of which the French and English texts are both authentic, shall bear this day's date.

It shall be open for signature until January 1st, 1929, on behalf of any Member of the League of Nations or of any non-Member State represented at the Conference which drew up this Convention or to which the Council of the League of Nations shall, for this purpose, have communicated a copy of the present Convention.

Members of the League of Nations and non-Member States on whose behalf the Convention has been signed prior to February 1st, 1928, may avail themselves of the procedure referred to in Article 6, paragraph 4.

Article 15.

The present Convention shall be ratified.

The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify the receipt thereof to all Members of the League and to the non-Member States referred to in the previous article.

Article 16.

On and after January 1st, 1929, any Member of the League of Nations or any State referred to in Article 14 may accede to the present Convention.

This accession shall be effected by a notification made to the Secretary-General of the League of Nations, to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to all who have signed or acceded to the Convention.

Article 17.

La présente Convention sera mise en vigueur dans les conditions et à la date qui seront fixées par la réunion prévue ci-après.

Entre le 15 juin et le 15 juillet 1928, le Secrétaire général de la Société des Nations convoquera les représentants dûment accrédités des Membres de la Société des Nations et des Etats non membres, au nom desquels la Convention aura été signée à la date du 15 juin 1928, à une réunion, au cours de laquelle ils auront à déterminer :

a) Les réserves qui, communiquées aux Hautes Parties contractantes en conformité du paragraphe 4 de l'article 6, pourront, avec l'assentiment de ces dernières, être faites au moment de la ratification ;

b) Les conditions requises pour la mise en vigueur de la Convention et notamment le nombre, et, s'il y a lieu, la mention des Membres de la Société et des Etats non membres, qu'ils soient signataires ou non, dont la ratification ou l'adhésion devra préalablement avoir été acquise ;

c) Le délai extrême pour le dépôt des ratifications et la date à laquelle la mise en vigueur devra intervenir, si les conditions requises au paragraphe précédent sont réalisées.

Si, à l'expiration de ce délai, les ratifications auxquelles sera subordonnée la mise en vigueur de la Convention n'étaient pas acquises, le Secrétaire général de la Société des Nations consultera les Membres de la Société des Nations et les Etats non membres, au nom desquels la Convention aura été ratifiée, sur le point de savoir s'ils désirent néanmoins la mettre en vigueur.

Article 18.

La présente Convention pourra être dénoncée, par une notification écrite adressée au Secrétaire général de la Société des Nations, au nom de tout Membre de la Société des Nations ou de tout Etat non membre, après l'expiration d'un délai de cinq ans, comptés à partir de la date à laquelle la Convention sera entrée en vigueur.

Cette dénonciation produira ses effets douze mois après la date à laquelle elle aura été reçue par le Secrétaire général de la Société des Nations et n'aura d'effet qu'en ce qui concerne le Membre de la Société des Nations ou l'Etat non membre au nom duquel elle aura été faite.

Toutefois, la Convention pourra être dénoncée au nom de tout Membre de la Société des Nations ou de tout Etat non membre après l'expiration de la troisième année, à compter de la date de la présente Convention, si, après ce délai, l'une quelconque des dérogations consenties en vertu du paragraphe 1 de l'article 6 subsiste. Cette dénonciation produira ses effets six mois après la date à laquelle elle aura été reçue par le Secrétaire général et n'aura d'effet qu'en ce qui concerne le Membre de la Société des Nations ou l'Etat non membre au nom duquel elle aura été faite.

En outre, la Convention pourra être dénoncée au nom de tout Membre de la Société des Nations ou de tout Etat non membre après l'expiration de la cinquième année, à compter de la date de la présente Convention, si, après ce délai ce Membre de la Société des Nations ou de cet Etat non membre estime que l'une quelconque des dérogations consenties par les Hautes Parties contractantes au cours de la réunion prévue à l'article 17 a altéré les effets de la présente Convention.

Cette dénonciation produira ses effets six mois après la date à laquelle elle aura été reçue par le Secrétaire général et n'aura d'effet qu'en ce qui concerne le Membre de la Société des Nations ou l'Etat non membre au nom duquel elle aura été faite.

Toute dénonciation intervenue en conformité des dispositions ci-dessus sera communiquée immédiatement par le Secrétaire général de la Société des Nations à toutes les autres Hautes Parties contractantes.

Si, à la suite de dénonciations, les conditions auxquelles les Hautes Parties contractantes auront, au cours de la réunion prévue à l'article 17, subordonné la mise en vigueur de la Convention, cessaient d'être remplies, chacune des Hautes Parties contractantes pourra demander au Secrétaire général de la Société des Nations la convocation d'une Conférence en vue d'examiner la situation résultant de ce fait. A défaut d'un accord pour le maintien de la Convention, chacune des Hautes Parties contractantes sera libérée de ses obligations à la date à laquelle la dénonciation qui a provoqué la convocation de cette Conférence produira ses effets.

Article 19.

Si avant l'expiration du délai de cinq ans mentionné au premier alinéa de l'article 18, des communications étaient adressées au Secrétaire général de la Société des Nations au nom d'un

Article 17.

The present Convention shall come into force under the conditions and on the date to be determined at the meeting provided for hereinafter.

Between June 15th and July 15th, 1928, the Secretary-General of the League of Nations shall invite the duly accredited representatives of the Members of the League of Nations and of non-Member States on whose behalf the Convention shall have been signed on or before June 15th, 1928, to attend a meeting at which they shall determine:

(a) The reservations which, having been communicated to the High Contracting Parties in accordance with Article 6, paragraph 4, may, with their consent, be made at the time of ratification;

(b) The conditions required for the coming into force of the Convention and, in particular, the number and, if necessary, the names of the Members of the League and of non-Member States, whether they are signatories or not, whose ratification or accession must first be secured;

(c) The last date on which the ratifications may be deposited and the date on which the Convention shall come into force if the conditions required under the preceding paragraph are fulfilled.

If, on the expiration of this period, the ratifications upon which the coming into force of the Convention will be conditional have not been secured, the Secretary-General of the League of Nations shall consult the Members of the League of Nations and non-Member States on whose behalf the Convention has been ratified and ascertain whether they desire nevertheless to bring it into force.

Article 18.

The present Convention may be denounced by a notification in writing addressed to the Secretary-General of the League of Nations on behalf of any Member of the League of Nations or of any non-Member State after the expiration of a period of five years reckoned from the date on which the Convention shall have entered into force.

Such denunciation shall take effect twelve months after the date on which it is received by the Secretary-General of the League of Nations, and shall operate only in respect of the Member of the League of Nations or the non-Member State on whose behalf it is made.

Nevertheless, the Convention may be denounced on behalf of any Member of the League of Nations or any non-Member State after the expiration of the third year from the date of the present Convention, if, after that period, any one of the exceptions allowed in virtue of Article 6, paragraph 1, still exists. This denunciation shall take effect six months after the date on which it is received by the Secretary-General, and shall operate only in respect of the Member of the League of Nations or the non-Member State on whose behalf it is made.

Furthermore, the Convention may be denounced on behalf of any Member of the League of Nations or of any non-Member State after the expiration of the fifth year from the date of the present Convention, if, after that period, such Member of the League of Nations or non-Member State considers that any one of the exceptions allowed by the High Contracting Parties at the meeting provided for in Article 17 has impaired the effects of the present Convention.

This denunciation shall take effect six months after the date on which it is received by the Secretary-General, and shall operate only in respect of the Member of the League of Nations or the non-Member State on whose behalf it is made.

Any denunciation made in accordance with the foregoing provisions shall be notified immediately by the Secretary-General of the League of Nations to all the other High Contracting Parties.

If, as a result of denunciations, the conditions for the coming into force of the Convention which the High Contracting Parties may lay down at the meeting provided for in Article 17 should no longer be fulfilled, any High Contracting Party may request the Secretary-General of the League of Nations to summon a Conference to consider the situation created thereby. Failing agreement to maintain the Convention, each of the High Contracting Parties shall be discharged from his obligations from the date on which the denunciation which led to the summoning of this Conference shall take effect.

Article 19.

If, before the expiration of the period of five years mentioned in paragraph 1 of Article 18, notifications should be addressed to the Secretary-General of the League of Nations on behalf

tiers des Membres de la Société des Nations et des Etats non membres parties à la présente Convention, pour l'informer de leur désir de voir reviser la Convention, tous les Membres de la Société des Nations et tous les Etats non membres, parties à la présente Convention, s'engagent à prendre part à toute consultation qui pourrait avoir lieu dans ce but.

Au cas où la revision aurait lieu avant l'expiration de la cinquième année à compter de la date de la mise en vigueur de la présente Convention, tout Membre de la Société des Nations ou tout Etat non membre, qui n'accepterait pas d'être partie à la Convention révisée, aura le droit de dénoncer la présente Convention, nonobstant le délai de cinq ans prévu à l'alinéa 4 de l'article 18. Cette dénonciation produira ses effets à la date à laquelle le régime institué par la Convention révisée entrera en vigueur.

Au cas où la revision aurait lieu au cours de la cinquième année à compter de la date de la mise en vigueur de la présente Convention, le délai de dénonciation prévu à l'alinéa 1 de l'article 18 sera prorogé d'un an.

Annexe de l'article 6.

Par application du paragraphe 3 de l'article 6 et de la Section IV, *littéra d*), du Protocole, chacune des exceptions maintenues au profit des pays mentionnés ci-après n'est admise, aux termes de la présente Convention, que si le pays intéressé y appose sa signature* à la date de ce jour et si, à la même date, la prohibition ou restriction dont il réclame le maintien est encore en vigueur.

I.

Exceptions consenties en conformité du paragraphe 1.

<i>Allemagne</i>	HOUILLE, COKE, TOURBE, LIGNITE, BRIQUETTES FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES	à l'importation et à l'exportation à l'exportation
<i>Autriche</i>	FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES	à l'exportation
<i>Belgique</i>	FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES.	à l'exportation
<i>Grande-Bretagne</i>	COLORANTS ORGANIQUES DE SYNTHÈSE ET COULEURS ET MATIÈRES COLORANTES QUI LES CONTIENNENT AINSI QUE PRODUITS ORGANIQUES INTERMÉDIAIRES EMPLOYÉS POUR LA FABRICATION DE CES COLORANTS, COULEURS ET MATIÈRES COLORANTES	à l'importation
<i>France</i>	FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES	à l'exportation
<i>Hongrie</i>	FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES	à l'exportation
<i>Italie</i>	FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES	à l'exportation

* Parmi les pays mentionnés à cette annexe, ceux qui suivent ont signé la Convention le 8 novembre 1927: Allemagne, Autriche, Belgique, Grande-Bretagne, etc., Egypte, France, Hongrie, Italie, Japon, Luxembourg, Roumanie et Tchécoslovaquie.

of one-third of the Members of the League of Nations and of non-Member States to which the present Convention applies, informing him that they desire the Convention to be revised, all the Members of the League of Nations and all non-Member States to which the Convention applies agree to take part in any consultation which may be held for this purpose.

If the revision has taken place before the end of the fifth year from the date of the coming into force of the present Convention, any Member of the League of Nations or non-Member State who has not accepted the revised Convention shall have the right to denounce the present Convention, without regard to the period of five years provided for in paragraph 4 of Article 18. Such denunciation shall take effect on the date on which the revised Convention comes into force.

If the revision has taken place in the course of the fifth year from the date of the coming into force of the present Convention, the period of denunciation referred to in paragraph 1 of Article 18 will be prolonged by one year.

Annex to Article 6.

In accordance with Article 6, paragraph 3, and with Section IV (d) of the Protocol, each of the exceptions maintained in favour of the countries mentioned below is only admitted under the terms of the present Convention if the country concerned appends its signature* thereto on this day's date, and if, on that same date, the prohibition or restriction which it seeks to maintain is still in force.

I.

Exceptions agreed to under Paragraph 1.

<i>Germany</i>	COAL, COKE, PEAT, LIGNITE, BRIQUETTES SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	import and export export
<i>Austria</i>	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export
<i>Belgium</i>	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export
<i>Great Britain</i>	SYNTHETIC ORGANIC DYESTUFFS AND COLOURS OR COLOURING MATTER CONTAINING THEM, AS WELL AS ORGANIC INTERMEDIATE PRO- DUCTS USED IN THE MANUFACTURE OF SUCH DYESTUFFS, COLOURS AND COLOURING MATTER	import
<i>France</i>	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export
<i>Hungary</i>	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export
<i>Italy</i>	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export

* Among the countries referred to in this Annex, the following signed the Convention on November 8th, 1927: Germany, Austria, Belgium, Great Britain, etc., Egypt, France, Hungary, Italy, Japan, Luxemburg, Roumania and Czechoslovakia.

<i>Japon</i>	COLORANTS ORGANIQUES DE SYNTHÈSE ET COULEURS ET MATIÈRES COLORANTES QUI LES CONTIENNENT AINSI QUE PRODUITS ORGANIQUES INTERMÉDIAIRES EMPLOYÉS POUR LA FABRICATION DE CES COLORANTS, COULEURS ET MATIÈRES COLORANTES RIZ	à l'importation à l'importation et à l'exportation
<i>Luxembourg</i>	FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES	à l'exportation
<i>Roumanie</i>	FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES MACHINES USAGÉES POUR INSTALLATIONS INDUSTRIELLES	à l'exportation à l'importation
<i>Tchécoslovaquie</i>	HOUILLE, COKE, TOURBE, LIGNITE, BRIQUETTES FERRAILLES ET DÉCHETS DES AUTRES MÉTAUX ET ALLIAGES	à l'importation et à l'exportation à l'exportation

II.

Exceptions consenties en conformité du paragraphe 2.

<i>Egypte</i>	BÉTAIL (EXPORTATION SOUMISE A LA DÉLIVRANCE D'UN PERMIS) (ŒUFS (PENDANT CERTAINS MOIS DE L'ANNÉE) ENGRAIS ORGANIQUES, Y COMPRIS FIENTE DE PIGEONS, DÉCHETS D'ABATTOIRS ET SANG DESSÉCHÉ	à l'exportation à l'exportation à l'exportation
<i>Etats-Unis d'Amérique</i>	GAZ HÉLIUM	à l'exportation
<i>Italie</i>	MINÉRAIS DE FER BLÉ	à l'exportation à l'exportation
<i>Roumanie</i>	MINÉRAIS DE FER, DE CUIVRE ET DE MANGANÈSE PÉTROLE BRUT	à l'exportation à l'exportation

<i>Japan</i>	SYNTHETIC ORGANIC DYESTUFFS AND COLOURS OR COLOURING MATTER CONTAINING THEM, AS WELL AS ORGANIC INTERMEDIATE PRODUCTS USED IN THE MANUFACTURE OF SUCH DYESTUFFS, COLOURS AND COLOURING MATTER	import
	RICE	import and export
<i>Luxemburg</i>	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export
<i>Roumania</i>	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export
	USED MACHINERY FOR INDUSTRIAL INSTALLATIONS	import
<i>Czechoslovakia</i>	COAL, COKE, PEAT, LIGNITE, BRIQUETTES	import and export
	SCRAP IRON AND SCRAP OF OTHER METALS AND ALLOYS	export

II.

Exceptions agreed to under Paragraph 2.

<i>Egypt</i>	LIVE-STOCK (EXPORTATION SUBJECT TO LICENCE)	export
	EGGS, DURING CERTAIN MONTHS OF THE YEAR	export
	ORGANIC FERTILISERS, INCLUDING PIGEON-MANURE, SLAUGHTERHOUSE OFFAL AND DRIED BLOOD	export
<i>United States of America</i>	HELIUM GAS	export
<i>Italy</i>	IRON ORES	export
	CORN	export
<i>Roumania</i>	ORES OF IRON, COPPER AND MANGANESE	export
	CRUDE OIL	export

EN FOI DE QUOI, les plénipotentiaires ont signé la présente Convention.

FAIT à Genève, le huit novembre mil neuf cent vingt-sept, en simple expédition qui sera déposée dans les archives du Secrétariat de la Société des Nations; copie conforme en sera transmise à tous les Membres de la Société des Nations et à tous les Etats non membres représentés à la Conférence.

IN FAITH WHEREOF the delegates have signed the present Convention.

DONE at Geneva, the eighth day of November, one thousand nine hundred and twenty-seven, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations, and of which authenticated copies shall be delivered to all Members of the League of Nations and non-Member States represented at the Conference.

ALLEMAGNE

Dr. TRENDELENBURG
8-XI-27

GERMANY

AUTRICHE

E. PFLÜGL
8-XI-27

AUSTRIA

BELGIQUE

BELGIUM

J. BRUNET.
8-XI-27

GRANDE-BRETAGNE
ET IRLANDE DU NORD

GREAT BRITAIN
AND NORTHERN IRELAND

ainsi que toutes parties de l'Empire britannique, non membres séparés de la Société des Nations.

and those Parts of the British Empire which are not separate Members of the League of Nations.

I declare that my signature does not include any of His Britannic Majesty's Colonies, Protectorates or territories under suzerainty or mandate ¹

S. CHAPMAN
8-XI-27

Traduction du Secrétariat de la Société des Nations :

¹ Je déclare que ma signature ne couvre pas les colonies, protectorats ou territoires placés sous la suzeraineté ou le mandat de Sa Majesté britannique.

BULGARIE

BULGARIA

Prof. Georges DANAILOW
8-XI-27

DANEMARK

Avec réserve pour le Groenland.¹

DENMARK

J. CLAN,
8-XI-27

EGYPTE

Sadik HENEIN
8-XI-27

EGYPT

FINLANDE

FINLAND

Rafael ERICH
8-XI-27

FRANCE

FRANCE

Au moment de signer la présente Convention, la France déclare que par son acceptation, elle n'entend assumer aucune obligation en ce qui concerne l'ensemble de ses colonies, protectorats et territoires placés sous sa suzeraineté ou mandat ¹

D. SERRUYS
8-XI-27

Translation by the Secretariat of the League of Nations:

¹ On signing the present Convention, France declares that by its acceptance it does not intend to assume any obligation in regard to any of its Colonies, Protectorates and territories under its suzerainty or mandate.

HONGRIE

HUNGARY

BARANYAI Zoltán
8-XI-27

ITALIE

ITALY

A. DI NOLA
8-XI-27

JAPON

JAPAN

En signant la Convention internationale pour l'abolition des prohibitions et restrictions à l'importation et à l'exportation, nous, soussignés, déclarons que les dispositions de l'article 8 de la présente convention ne portent pas atteinte à l'action faite par le pouvoir judiciaire du Japon en appliquant les lois et décrets japonais.¹

Ito

J. TSUSHIMA

8-XI-27

Translation by the Secretariat of the League of Nations:

¹ In signing the International Convention for the Abolition of Import and Export Prohibitions and Restrictions we, the undersigned, declare that the provisions of Article 8 of the present Convention are in no way derogatory to the acts of the Japanese judicial authorities in the application of Japanese laws and decrees.

LUXEMBOURG

Albert CALMES
8-XI-27

LUXEMBURG

PAYS-BAS

THE NETHERLANDS

DE GRAAFF F. M. WIBAUT
8-XI-27

ROUMANIE

ROUMANIA

D. J. GHEORGHIU

César POPESCU

Sous réserve de la ratification du Gouvernement et du Parlement
roumain¹

8-XI-27

SIAM

SIAM

CHAROON
8-XI-27

SUISSE

SWITZERLAND

W. STUCKI
8-XI-27

TCHÉCOSLOVAQUIE

CZECHOSLOVAKIA

Dr. IBL
8-XI-27

Copie certifiée conforme.
Pour le Secrétaire général:

Directeur de la Section juridique.

Certified true copy.
For the Secretary-General:

Director of the Legal Section.

PROCOLE

—

PROCOL

PROTOCOLE DE LA CONVENTION

Au moment de procéder à la signature de la Convention pour l'abolition des prohibitions et restrictions à l'importation et à l'exportation, conclue à la date de ce jour, les soussignés dûment autorisés sont convenus des dispositions suivantes, destinées à assurer l'application de cette Convention:

Section I.

ad Article 1.

a) Les mots « territoires des Hautes Parties contractantes » employés dans la Convention ne désignent que les territoires auxquels elle est rendue applicable;

b) Dans le cas où le territoire douanier d'une des Hautes Parties contractantes comprend des territoires qui ne sont pas placés sous sa souveraineté, ces territoires seront également considérés comme « territoires » aux termes de la Convention;

c) Etant donné qu'il existe à l'intérieur ou sur les frontières mêmes de l'Inde des zones ou enclaves d'une étendue et d'une population très faibles par rapport à celles de son territoire, et qui forment des parties détachées ou des établissements appartenant à d'autres Etats métropoles et que, d'autre part, il est impossible, pour des raisons administratives, d'appliquer les dispositions de la Convention auxdites zones ou enclaves, il est convenu que ces dispositions ne s'y appliqueront pas.

Toutefois l'Inde appliquera, à l'égard des zones ou enclaves en question, un régime qui respectera les principes de la Convention et facilitera, dans la mesure du possible, les importations et les exportations, et elle s'interdit de les soumettre à toute nouvelle mesure de prohibition ou de restriction qui ne serait pas autorisée par la Convention, sauf dans le cas où il n'y aurait pas d'autre moyen d'assurer la perception des droits de douane et d'accise.

Section II.

ad article 2.

En ce qui concerne l'application de l'article 2, l'engagement souscrit par le Canada ne lie que le Gouvernement fédéral, sans engager les gouvernements des provinces, auxquels la constitution canadienne donne le pouvoir d'interdire ou de restreindre sur leur territoire l'importation et l'exportation de certains produits.

Section III.

ad Article 4.

a) ad N° 4.

La protection des animaux et des plantes contre les maladies vise également les mesures prises afin de les préserver contre la dégénérescence ou l'extinction, et les mesures appliquées aux semences, plantes, parasites et animaux nuisibles.

b) ad N° 7.

Les Hautes Parties contractantes, bien que s'étant abstenues de viser les mesures relatives aux produits dits « standards » et aux définitions de produits, déclarent que ce paragraphe doit

PROTOCOL TO THE CONVENTION

At the moment of signing the Convention of to-day's date for the Abolition of Import and Export Prohibitions and Restrictions, the undersigned, duly authorised, have agreed on the following provisions, which are intended to ensure the application of the Convention:

Section I.

ad Article 1.

(a) The words "territories of the High Contracting Parties" employed in the Convention refers only to territories to which it is made applicable.

(b) Should the Customs territory of any High Contracting Party include territories which are not placed under his sovereignty, these territories are also to be regarded as "territories" within the meaning of the Convention.

(c) In view of the fact that within or immediately adjacent to the territory of India there are areas or enclaves, small in extent and population in comparison with such territory, and that these areas or enclaves form detached portions or settlements of other parent States, and that it is impracticable for administrative reasons to apply to them the provisions of the Convention, it is agreed that these provisions shall not apply to them.

India, however, will apply as regards the areas or enclaves in question a regime which will respect the principles of the Convention and facilitate imports and exports as far as practicable, and will refrain from imposing in regard to them any new measures of prohibition or restriction which would not be authorised by the provisions of the Convention, unless there should be no other means of ensuring the collection of customs and excise duties.

Section II.

ad Article 2.

As regards the application of Article 2, the obligation accepted by Canada binds only the Federal Government and not the Provincial Governments, which, under the Constitution, possess the power of prohibiting or restricting the importation and exportation of certain products into or from their territories.

Section III.

ad Article 4.

(a) ad No. 4.

The protection of animals and plants against disease also refers to measures taken to preserve them from degeneration or extinction and to measures taken against harmful seeds, plants, parasites and animals.

(b) ad No. 7.

The High Contracting Parties, although they have refrained from making any reference to measures relating to "standard" products and definitions of products, declare that this paragraph

être interprété comme ne faisant pas obstacle à la pratique de certains pays de subordonner l'exportation de leurs produits à certaines conditions de qualité, en vue de sauvegarder, d'une part, le bon renom de ces produits et de donner, d'autre part, une garantie à l'acheteur étranger. Elles déclarent au contraire qu'Elles interprètent le paragraphe en question comme interdisant le recours à tout système de classification ou de définition des produits, employé comme un moyen détourné de restreindre l'importation des produits étrangers ou de la soumettre à un régime d'injuste discrimination.

c) ad N° 7.

Les Hautes Parties contractantes déclarent que les prohibitions et restrictions dont le seul but est soit d'éviter que certaines marchandises importées puissent être soustraites aux droits de douane qui leur sont applicables, soit d'empêcher, dans des cas exceptionnels, l'importation de certaines marchandises d'où résulterait une réduction des revenus fiscaux provenant de droits auxquels sont soumises d'autres marchandises, ne pourront être établies ou maintenues qu'à défaut de tout autre moyen efficace d'assurer lesdits revenus fiscaux.

d) ad N° 7.

Les Hautes Parties contractantes déclarent que si, du fait de la constitution de certains Etats et des méthodes différentes qu'ils mettent en œuvre pour leur contrôle intérieur, une assimilation complète ne pouvait être établie entre le régime des produits nationaux et celui des produits importés, ce traitement différentiel ne saurait avoir pour objet ou pour résultat de créer une injuste discrimination au détriment de ces derniers.

e) ad N° 8.

Les Hautes Parties contractantes déclarent qu'elles n'ont en vue que des monopoles dont chacun ne vise qu'un ou plusieurs produits déterminés.

Section IV.

ad Article 6.

a) ad N° 1.

Les Hautes Parties contractantes qui ont fait les réserves prévues au paragraphe 1 de l'article 6, déclarent qu'elles ne considèrent pas leur adhésion à la disposition de l'alinéa 3 de l'article 18 comme un engagement de leur part que les circonstances qui les ont obligées à formuler ces réserves auront pris fin dans un délai de trois ans, mais comme la faculté consentie à toute Partie contractante de reprendre sa liberté au cas où, les susdites circonstances n'étant pas modifiées dans le délai indiqué, celle-ci jugerait son économie préjudiciée par le maintien d'une quelconque des prohibitions ou restrictions qui font l'objet des susdites réserves.

b) ad N° 2.

En admettant les dérogations prévues au paragraphe 2 de l'article 6, les Hautes Parties contractantes n'ont pas entendu en consacrer d'une manière définitive l'existence, mais seulement marquer que la nécessité de les abolir ne se fait pas sentir aussi impérieusement, étant donné le rôle peu important qu'elles jouent au point de vue des échanges internationaux.

c) ad N° 2.

Les Hautes Parties contractantes déclarent qu'en acceptant pour la Roumanie, et en considération de sa situation exceptionnelle de fait et de droit, la réserve du pétrole brut en conformité du paragraphe 2 de l'article 6, Elles n'ont nullement donné leur adhésion à des mesures de prohibition et de restriction de ce produit, qu'elles considèrent comme très important pour le marché international. Les Hautes Parties contractantes expriment leur confiance que la Roumanie elle-même, dès que les circonstances le lui permettront, abolira cette prohibition, en se conformant à l'esprit du paragraphe b) ci-dessus, et qu'elle tiendra compte, en attendant, des intérêts des pays voisins contractants.

La Délégation roumaine s'associe complètement à cette déclaration.

must be interpreted as in no way interfering with the practice followed by certain countries of subjecting the exportation of their products to certain conditions as to quality with the object of preserving the reputation of those products and at the same time of offering a guarantee to the foreign purchaser. They declare, on the other hand, that they interpret the paragraph in question as prohibiting recourse to any system of classifying or defining products which is employed as an indirect means of restricting the importation of foreign products or of subjecting importation to a regime of unfair discrimination.

(c) ad No. 7.

The High Contracting Parties declare that prohibitions or restrictions the sole object of which is either to prevent imported goods from escaping the payment of the customs duties applicable thereto, or in exceptional cases to prevent the importation of certain goods which would reduce the revenue from the duties imposed on certain other goods, may only be established or maintained, if no other effective means exist of securing the said revenue.

(d) ad No. 7.

The High Contracting Parties declare that if, on account of the constitution of certain States and the different methods of internal control which they employ, it should prove impossible to secure complete similarity of treatment between native and imported products, any such difference in treatment must not have the object or effect of establishing an unfair discrimination against the latter.

(e) ad No. 8.

The High Contracting Parties declare that they have solely in view monopolies each of which applies only to one or more specific articles.

Section IV.

ad Article 6.

(a) ad No. 1.

The High Contracting Parties who have made the reservations referred to in paragraph 1 of Article 6 declare that they do not regard their acceptance of the provisions of Article 18, paragraph 3, as an undertaking on their part that the circumstances which compelled them to make these reservations will have ceased to exist at the end of three years, but as entitling any High Contracting Party to resume his freedom of action if, in the event of these circumstances not having changed within the said period, he considered that his economic conditions were detrimentally affected by the maintenance of any of the prohibitions or restrictions to which the aforesaid reservations refer.

(b) ad No. 2.

By allowing the exceptions referred to in Article 6, paragraph 2, the High Contracting Parties have not intended to give perpetual recognition to their existence, but merely to indicate that the necessity of abolishing these exceptions is not so imperative, in view of their slight importance in international trade.

(c) ad No. 2.

The High Contracting Parties declare that, by accepting in the case of Roumania, in consideration of her exceptional situation of fact and of law, the reservation concerning crude oil in accordance with Article 6, paragraph 2, they have not in any way agreed to measures of prohibition or restriction for this product, which they regard as being of very great importance for the world market. The High Contracting Parties feel confident that, as soon as circumstances allow her to do so, Roumania herself, acting in the spirit of the preceding paragraph (b) above, will abolish this prohibition, and, in the meantime, that she will take into account the interests of the neighbouring contracting countries.

The Roumanian Delegation fully associates itself with this declaration.

d) ad N° 4.

i. *Portée de la disposition.*

Pour l'application du paragraphe 4, il est entendu que toute demande de dérogations qui pourra être présentée après la date de la présente Convention, ne saurait porter que sur des prohibitions ou restrictions en vigueur à cette même date.

ii. *Procédure.*

1. Chacune des Hautes Parties contractantes pourra faire connaître, par une communication adressée au Secrétaire général de la Société des Nations, les prohibitions ou restrictions qu'Elle désire pouvoir maintenir en vertu des paragraphes 1 et 2 de l'article 6. Cette communication devra parvenir au Secrétaire général avant le 1^{er} février 1928. Elle indiquera, le cas échéant, les conditions auxquelles la Haute Partie contractante intéressée serait disposée à renoncer à ces prohibitions ou restrictions.

2. Le Secrétaire général de la Société des Nations portera, aussitôt que possible après la date du 1^{er} février 1928, à la connaissance des Hautes Parties contractantes l'ensemble des demandes qu'il aura reçues par application du paragraphe précédent.

3. Toute Haute Partie contractante qui désirerait présenter des observations au sujet des demandes ainsi communiquées, pourra les faire parvenir jusqu'au 1^{er} mai 1928 au Secrétaire général de la Société des Nations. Celui-ci donnera connaissance aux Hautes Parties contractantes, aussitôt que possible après cette date, de l'ensemble des observations reçues.

4. Les demandes et observations formulées par les Hautes Parties contractantes seront examinées au cours de la réunion prévue à l'article 17 de la Convention.

Section V.

ad Article 7.

L'expression « commerce des Hautes Parties contractantes » désigne le commerce de ceux de leurs territoires auxquels la Convention s'applique.

Section VI.

Les prohibitions ou restrictions appliquées aux articles fabriqués dans les prisons ne sont pas visées par la Convention.

Section VII.

Dans le cas où des prohibitions ou restrictions seraient appliquées dans les limites établies par la Convention, les Hautes Parties contractantes se conformeront strictement, en ce qui concerne les licences, aux dispositions suivantes :

a) Les conditions à remplir et les formalités à accomplir à l'effet d'obtenir des licences seront immédiatement portées, dans la forme la plus claire et la plus précise, à la connaissance du public;

b) Le mode de délivrance de ces titres sera aussi simple et aussi stable que possible;

c) L'examen des demandes et la remise des licences aux intéressés seront effectuées avec la plus grande célérité;

d) Le système de délivrance des licences sera établi de manière à prévenir le trafic de ces titres. A cet effet, les licences, lorsqu'elles seront accordées à des personnes, devront porter le nom du bénéficiaire et ne devront pas pouvoir être utilisées par une autre personne.

En ce qui concerne la répartition des contingents, les Hautes Parties contractantes, sans statuer sur la méthode à adopter, estiment qu'une répartition équitable de ces contingents est une des conditions essentielles de l'équitable traitement du commerce international.

(d) ad No. 4.

(i) *Scope of the Provision.*

As regards paragraph 4, it is understood that any claims for exceptions which may be put forward after the date of the present Convention shall refer only to prohibitions or restrictions in force on that same date.

(ii) *Procedure.*

1. Any High Contracting Party may make known by a communication addressed to the Secretary-General of the League of Nations any prohibitions or restrictions which he desires to be able to maintain in virtue of paragraphs 1 and 2 of Article 6. Such communication must reach the Secretary-General before February 1st, 1928. It shall state the conditions, if any, on which the High Contracting Party in question would be prepared to abandon such prohibitions or restrictions.

2. As soon as possible after February 1st, 1928, the Secretary-General of the League of Nations shall notify the High Contracting Parties of all applications which he has received under the preceding paragraph.

3. Any High Contracting Party wishing to make observations on any applications so communicated may forward such observations to the Secretary-General of the League of Nations not later than May 1st, 1928. As soon as possible after that date, the Secretary-General will inform the High Contracting Parties of all observations received.

4. Any applications and observations made by the High Contracting Parties shall be examined at the meeting provided for in Article 17 of the Convention.

Section V.

ad Article 7.

The expression "trade of the High Contracting Parties" signifies the trade of their territories to which the Convention applies.

Section VI.

Prohibitions or restrictions applying to prison made goods are not within the scope of the Convention.

Section VII.

Should any prohibitions or restrictions be imposed within the limits laid down by the Convention, the High Contracting Parties shall strictly adhere to the following provisions as regards licences:

(a) The conditions to be fulfilled and the formalities to be observed in order to obtain licences shall be brought immediately in the clearest and most definite form to the notice of the public;

(b) The method of issue of the certificates of licences shall be as simple and stable as possible;

(c) The examination of applications and the issue of licences to the applicants shall be carried out with the least possible delay;

(d) The system of issuing licences shall be such as to prevent the traffic in licences. With this object, licences, when issued to individuals, shall state the name of the holder and shall not be capable of being used by any other person.

As regards the allocation of quotas, the High Contracting Parties, without pronouncing upon the method to be adopted, consider that an equitable allocation of such quotas is one of the essential conditions for the equitable treatment of international trade.

EN FOI DE QUOI les plénipotentiaires ont signé le présent Protocole.

FAIT à Genève, le huit novembre mil neuf cent vingt-sept, en simple expédition qui sera déposée dans les archives du Secrétariat de la Société des Nations; copie conforme en sera transmise à tous les Membres de la Société des Nations et à tous les Etats non membres représentés à la Conférence.

IN FAITH WHEREOF the Plenipotentiaries have signed the present Protocol.

DONE at Geneva the eighth day of November, one thousand nine hundred and twenty-seven, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations, and of which authenticated copies shall be delivered to all Members of the League of Nations and non-Member States represented at the Conference

ALLEMAGNE

Dr. TRENDELENBURG

GERMANY

AUTRICHE

E. PFLÜGL

AUSTRIA

BELGIQUE

J. BRUNET

BELGIUM

GRANDE-BRETAGNE
ET IRLANDE DU NORD,

GREAT BRITAIN
AND NORTHERN IRELAND,

ainsi que toutes parties de l'Empire britannique, non membres séparés de la Société des Nations.

and those Parts of the British Empire which are not separate Members of the League of Nations.

I declare that my signature does not include any of His Britannic Majesty's Colonies, Protectorates or territories under suzerainty or mandate¹

S. CHAPMAN

¹ *Traduction du Secrétariat de la Société des Nations:*

Je déclare que ma signature ne couvre pas les colonies, protectorats ou territoires placés sous la suzeraineté ou le mandat de Sa Majesté britannique.

BULGARIE

Prof. Georges DANAILOW

BULGARIA

DANEMARK

DENMARK

Avec réserve pour le Groenland ¹

J. CLAN,

EGYPTE

EGYPT

Sadik HENEIN

Translation by the Secretariat of the League of Nations;

¹ Subject to reservation as regards Greenland.

FINLANDE

FINLAND

Rafael ERICH

FRANCE

FRANCE

Sous les réserves formulées au moment de signer la Convention ¹

D. SERRUYS

Translation by the Secretariat of the League of Nations :

¹ Subject to the reservations made on signing the Convention.

HONGRIE

HUNGARY

BARANYAI Zoltán

ITALIE

ITALY

A. DI NOLA

JAPON

JAPAN

Sous les réserves formulées au moment de signer la Convention ¹

Ito

J. TSUSHIMA

LUXEMBOURG

LUXEMBURG

Albert CALMES

Translation by the Secretariat of the League of Nations:

¹ Subject to the reservations made on signing the Convention.

PAYS-BAS

THE NETHERLANDS

DE GRAAFF

F. M. WIBAUT

ROUMANIE

ROUMANIA

D. J. GHEORGHIU

César POPESCU

Sous la réserve de la ratification du Gouvernement et du Parlement roumains.¹

Translation by the Secretariat of the League of Nations.

¹ Subject to ratification by the Roumanian Government and Parliament.

SIAM

SIAM

CHAROON

SUISSE

SWITZERLAND

W. STUCKI

TCHÉCOSLOVAQUIE

CZECHOSLOVAKIA

D^r IBL

Copie certifiée conforme.

Pour le Secrétaire général:

Directeur de la Section juridique.

Certified true copy.

For the Secretary-General:

Director of the Legal Section.

ACTE FINAL

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FINAL ACT

ACTE FINAL

A la suite d'une résolution de l'Assemblée de la Société des Nations, adoptée le 25 septembre 1924, le Conseil invitait le Comité économique de la Société à entreprendre les travaux préparatoires en vue de la conclusion d'une entente internationale ayant pour objet l'abolition des prohibitions et restrictions à l'importation et à l'exportation.

Au cours des années 1925 et 1926, le Comité économique s'est livré à une étude approfondie de ce problème en organisant deux vastes enquêtes successives, l'une auprès des Gouvernements et l'autre auprès des organisations commerciales et industrielles de tous les pays jouant un rôle important dans le domaine des échanges internationaux.

Les résultats de cette minutieuse préparation ont été consignés dans le document contenant l'avant-projet d'accord international, sur la base duquel ont eu lieu les délibérations de la présente Conférence.

La Conférence, convoquée en exécution des résolutions du Conseil en date des 11 mars et 14 juin 1927, s'est réunie le 17 octobre 1927 au Palais des Nations à Genève. Ses délibérations ont abouti à l'établissement de la Convention internationale pour l'abolition des prohibitions et restrictions à l'importation et à l'exportation qui porte la date de ce jour.

Le Conseil de la Société des Nations a nommé aux fonctions de Président de la Conférence:

M. H. COLIJN, ancien premier ministre des Pays-Bas.

Les travaux du secrétariat étaient confiés aux membres suivants de la Section économique et financière du Secrétariat de la Société des Nations: MM. STOPPANI, STENCEK, SMETS, assistés du Dr P. BARANDON, membre de la section juridique.

* * *

Les Membres de la Société, dont la liste suit, ont pris part aux travaux de la Conférence et ont, à cet effet, désigné des délégations composées des membres indiqués ci-dessous:

ALLEMAGNE.

Délégués:

Le docteur ERNST TRENDELENBURG,
Secrétaire d'Etat au Ministère de l'Economie nationale.
Adolf REINSHAGEN,
Conseiller ministériel au Ministère de l'Economie nationale.
M. ASCHMANN,
Consul général à Genève.

Délégués adjoints:

Le docteur KAHLER,
Conseiller au Ministère de l'Intérieur.
M. Eugen LÖHR,
Conseiller au Ministère de l'Agriculture.

AUSTRALIE.

Délégué:

Le major général sir GRANVILLE DE LAUNE RYRIE, K.C.M.G., C.B.
Haut Commissaire pour l'Australie à Londres.

Experts:

Mr. C. A. B. CAMPION.

Secrétaire:

Major O.C.W. FUHRMAN, O.B.E.

FINAL ACT

Following a Resolution of the Assembly of the League of Nations, adopted on September 25th, 1924, the Council invited the Economic Committee of the League to undertake the preparatory work for the conclusion of an international agreement having as its object the abolition of import and export prohibitions and restrictions.

During the years 1925 and 1926, the Economic Committee undertook a thorough investigation of this matter by instituting two extensive enquiries, approaching first the Governments and then the commercial and industrial organisations of all countries which play an important part in the field of international trade.

The results of this careful preparatory work are recorded in the document which contains the Preliminary Draft International Agreement, on the basis of which the discussions of the present Conference took place.

The Conference, convoked in accordance with the Resolutions of the Council dated March 11th and June 14th, 1927, met on October 17th, 1927, at the Palais des Nations, Geneva.

Its discussions resulted in the framing of the International Convention for the Abolition of Import and Export Prohibitions and Restrictions which bears to-day's date.

The Council of the League of Nations appointed as President of the Conference:

M. H. COLIJN, formerly Prime Minister of the Netherlands.

The secretarial work was entrusted to the following members of the Economic and Financial Section of the Secretariat of the League of Nations: MM. STOPPANI, STENCEK, SMETS, assisted by Dr. BARANDON, member of the Legal Section.

* * *

The Members of the League whose names are to be found in the list below took part in the work of the Conference, and appointed for this purpose delegations composed of the members named hereunder:

GERMANY.

Delegates:

Dr. Ernst TRENDELENBURG,
Secretary of State to the Ministry of National Economy.
M. Adolf REINSHAGEN,
Ministerial Counsellor in the Ministry of National Economy.
M. ASCHMANN,
Consul-General at Geneva.

Substitutes:

Dr. KAHLER,
Counsellor in the Ministry of the Interior.
M. Eugen LÖHR,
Counsellor in the Ministry of Agriculture.

AUSTRALIA.

Delegate:

Major-General Sir Granville DE LAUNE RYRIE, K.C.M.G., C.B.,
High Commissioner for Australia in London.

Expert:

Mr. C. A. B. CAMPION,

Secretary:

Major O. C. W. FUHRMAN, O.B.E.

AUTRICHE.

Délégués:

- Le docteur Richard SCHÜLLER,
Chef de Section à la Chancellerie fédérale (Département des Affaires étrangères).
Le docteur Charles MÖRTH,
Chef de Section au Ministère fédéral du Commerce et des Communications.
Le docteur J. Paul INAMA-STERNEGG,
Conseiller ministériel au Ministère fédéral du Commerce et des Communications.
Le docteur Frédéric DISTLER,
Conseiller ministériel au Ministère fédéral des Finances.
M. Rodolphe RÖSSLER,
Conseiller ministériel au Ministère fédéral de l'Agriculture et des Forêts.

BELGIQUE.

Délégués:

- M. J. BRUNET,
Envoyé extraordinaire et Ministre plénipotentiaire.
M. F. VAN LANGENHOVE,
Chef du Cabinet et Directeur général du Commerce extérieur au Ministère des Affaires étrangères.

GRANDE-BRETAGNE ET IRLANDE DU NORD

AINSI QUE TOUTES PARTIES DE L'EMPIRE BRITANNIQUE, NON MEMBRES SÉPARÉS
DE LA SOCIÉTÉ DES NATIONS.

Délégué:

- Sir Sydney CHAPMAN, K.C.B., C.B.E.,
Conseiller économique du Gouvernement de Sa Majesté Britannique.

Délégué adjoint et Conseiller douanier:

- Mr. H. V. READE, C.B.
Secrétaire adjoint des douanes et accises.

Délégués adjoints et conseillers commerciaux:

- Mr. Gilbert C. VYLE,
de l'Association des Chambres de Commerce britanniques.
L'Honorable F. Vernon WILEY, C.M.G., C.B.E., M.V.O.

Secrétaire:

- Mr. F. A. GRIFFITHS, M.C.

BULGARIE.

Délégué:

- M. Georges DANAÏLOW,
Professeur à l'Université de Sofia, Député au Parlement.

CANADA.

Délégué:

- Le docteur W.A. RIDDELL, M.A., Ph.D.
« Advisory Officer » du Dominion du Canada auprès de la Société des Nations.

CHILI.

Délégué:

- M. Francisco WALKER-LINARES,
Professeur à l'Université de Santiago du Chili.

AUSTRIA.

Delegates:

- Dr. Richard SCHÜLLER,
Head of Section in the Federal Chancellery.
Dr. Charles MÖRTH,
Head of Section in the Federal Ministry of Commerce and Communications.
Dr. J. Paul INAMA-STERNEGG,
Ministerial Counsellor in the Federal Ministry of Commerce and Communications.
Dr. Frédéric DISTLER,
Ministerial Counsellor in the Federal Ministry of Finance.
M. Rodolphe RÖSSLER,
Ministerial Counsellor in the Federal Ministry of Agriculture and Forestry.

BELGIUM.

Delegates:

- M. J. BRUNET,
Envoy Extraordinary and Minister Plenipotentiary.
M. F. VAN LANGENHOVE,
Chef du Cabinet and General Director for Foreign Commerce in the Ministry of Foreign Affairs.

GREAT BRITAIN AND NORTHERN IRELAND

AND THOSE PARTS OF THE BRITISH EMPIRE WHICH ARE NOT SEPARATE MEMBERS
OF THE LEAGUE OF NATIONS.

Delegate:

- Sir Sydney CHAPMAN, K.C.B., C.B.E.,
Economic Adviser to His Majesty's Government.

Deputy Delegate and Customs Adviser:

- Mr. H. V. READE, C.B.,
Assistant Secretary of His Majesty's Customs and Excise.

Deputy Delegates and Commercial Advisers:

- Mr. Gilbert C. VYLE,
of the Association of British Chambers of Commerce.
The Honourable F. Vernon WILLEY, C.M.G., C.B.E., M.V.O.

Secretary:

- Mr. F. A. GRIFFITHS, M.C.

BULGARIA.

Delegate:

- M. Georges DANAÏLOW,
Professor at the University of Sofia, M.P.

CANADA.

Delegate:

- Mr. W. A. RIDDELL, M.A., Ph.D.,
Dominion of Canada Advisory Officer accredited to the League of Nations.

CHILE.

Delegate:

- M. Francisco WALKER-LINARES,
Professor at the University of Santiago de Chile.

CHINE.

Délégué:

M. CHI-YUNG-HSIAO,
Chargé d'Affaires de Chine à Berne.

COLOMBIE

Délégué:

Le docteur EFRAIN GAITAN HURTADO,
Ancien Directeur de la Section diplomatique du Ministère des Affaires étrangères à
Bogota.

CUBA.

Délégués:

M. G. DE BLANCK,
Envoyé extraordinaire et Ministre plénipotentiaire, Délégué permanent auprès de
la Société des Nations.
D^r Carlos ARMENTEROS,
Ministre de Cuba à Berne.

DANEMARK.

Délégué:

M. J. CLAN,
Envoyé extraordinaire et Ministre plénipotentiaire, Président de la Commission
danoise pour la conclusion des traités de commerce.

Secrétaire:

M. G. C. JORGENSEN,
Premier secrétaire de la Commission danoise pour la conclusion des traités de
commerce.

ÉTHIOPIE.

Délégué:

Son Excellence le comte LAGARDE, duc d'ENTOTTO,
Ministre plénipotentiaire, Représentant diplomatique de l'Empire d'Éthiopie
accrédité auprès de la Société des Nations.

FINLANDE.

Délégué:

M. Rafael Waldemar ERICH,
Envoyé extraordinaire et Ministre plénipotentiaire à Berne, Délégué permanent
auprès de la Société des Nations.

Experts:

M. K. R. SAVOLAHTI,
Consul général, Chef de Section au Ministère des Affaires étrangères.
M. Axel SOLITANDER,
Ancien Consul général, « General Manager of the Central Association of Finnish
Wood-working Industrie ».

CHINA.

Delegate:

M. CHI-YUNG-HSIAO,
Chargé d'Affaires of China at Berne.

COLOMBIA.

Delegate:

Dr. EFRAIN GAITAN HURTADO,
Former Director of the Diplomatic Section in the Ministry of Foreign Affairs at
Bogota.

CUBA.

Delegates:

M. G. DE BLANCK,
Envoy Extraordinary and Minister Plenipotentiary, Permanent Delegate accredited
to the League of Nations.

Dr. Carlos ARMENTEROS,
Minister of Cuba at Berne.

DENMARK.

Delegate:

M. J. CLAN,
Envoy Extraordinary and Minister Plenipotentiary, Chairman of the Danish
Commission for the Conclusion of Commercial Treaties.

Secretary:

M. G. C. JORGENSEN,
First Secretary of the Danish Commission for the Conclusion of Commercial Treaties.

ABYSSINIA.

Delegate:

His Excellency Count LAGARDE, Duc d'ENTOTTO,
Minister Plenipotentiary, Diplomatic Representative of the Ethiopian Empire
accredited to the League of Nations.

FINLAND.

Delegate:

M. Rafael Waldemar ERICH,
Envoy Extraordinary and Minister Plenipotentiary at Berne, Permanent Delegate
accredited to the League of Nations.

Experts:

M. K. R. SAVOLAHTI,
Consul-General, Head of Section in the Ministry of Foreign Affairs.

M. Axel SOLITANDER,
Former Consul-General, General Manager of the Central Association of Finnish
Wood-working Industry.

FRANCE.

Délégués :

- M. Daniel SERRUYS,
Directeur des Accords commerciaux au Ministère du Commerce, Président de la
Délégation.
M. Roger FIGHIERA,
Directeur des Affaires commerciales et industrielles au Ministère du Commerce.

Délégué adjoint :

- M. Ernest LECUYER,
Administrateur des Douanes au Ministère des Finances.

Experts :

- M. Etienne FOUGÈRE,
Président de la Fédération de la soie et Président de l'Association d'expansion,
économique.
M. Michel AUGÉ-LARIBÉ,
Secrétaire général de la Confédération nationale des Associations agricoles.
M. DUCHON,
Secrétaire général du Syndicat de la mécanique.
M. Jacques LACOUR-GAYET,
Agrégé de l'Université, Conseiller du Commerce extérieur.

Secrétaire :

- M. Henry GUEYRAUD,
Secrétaire d'ambassade.

GRÈCE.

Délégué :

- M. Vassili DENDRAMIS,
Chargé d'Affaires de Grèce, Délégué permanent auprès de la Société des Nations

HONGRIE.

Délégué :

- M. Alfred DE NICKL,
Conseiller de Légation au Ministère des Affaires étrangères.

Experts :

- Le docteur Izsó FERENCZI,
Conseiller au Ministère du Commerce.
M. Tibor PECHY,
Conseiller au Ministère d'Agriculture.
M. Charles STAUB,
Secrétaire au Ministère des Finances.

INDE.

Délégué :

- Sir Basanta KUMAR MULICK,
Juge de la Haute Cour de Patna.

Expert :

- Mr. H.A.F. LINDSAY, C.I.E., C.B.E.,
Commissaire du Commerce de l'Inde à Londres.

ÉTAT LIBRE D'IRLANDE.

Délégués :

- M. Michael MACWHITE,
Représentant auprès de la Société des Nations.
M. T.A. BARRINGTON,
Directeur adjoint de la Section du Commerce technique du Département de l'Indus-
trie et du Commerce, Dublin.

FRANCE.

Delegates:

M. Daniel SERRUYS,
Director of Commercial Agreements in the Ministry of Commerce, Chairman of the
Delegation.

M. Roger FIGHIERA,
Director of Commercial and Industrial Affairs in the Ministry of Commerce.

Substitute:

M. Ernest LECUYER,
"Administrateur des Douanes" in the Ministry of Finance.

Experts:

M. Etienne FOUÈRE,
Chairman of the Silk Federation and Chairman of the Association for Economic
Expansion.

M. Michel AUGÉ-LARIBÉ,
Secretary-General of the National Confederation of Agricultural Associations.

M. DUCHON,
Secretary-General of the Union of Mechanical Engineers.

M. Jacques LACOUR-GAYET,
"Agrége de l'Université", Counsellor of Foreign Commerce.

Secretary:

M. Henry GUEYRAUD,
Secretary of Embassy.

GREECE.

Delegate:

M. Vassili DENDRAMIS,
Chargé d'Affaires of Greece, Permanent Delegate accredited to the League of Nations.

HUNGARY.

Delegate:

M. Alfred DE NICKL,
Counsellor of Legation in the Ministry of Foreign Affairs.

Experts:

Dr. Izso FERENCZI,
Counsellor at the Ministry of Commerce.

M. Tibor PECHY,
Counsellor in the Ministry of Agriculture.

M. Charles STAUB,
Secretary in the Ministry of Finance.

INDIA.

Delegate:

Sir BASANTA KUMAR MULLICK,
Judge, High Court of Patna.

Expert:

Mr. H. A. F. LINDSAY, C.I.E., C.B.E.,
Indian Trade Commissioner in London.

IRISH FREE STATE,

Delegates:

Mr. Michael MACWHITE,
Representative accredited to the League of Nations.

Mr. T. A. BARRINGTON,
Assistant Director of Commerce and Technical Branch of the Department of Industry
and Commerce, Dublin.

ITALIE.

Délégués :

L'Honorable Fulvio SUVICH,
Sous-Secrétaire d'Etat au Ministère des Finances, Député au Parlement.
M. Angelo DI NOLA,
Directeur général du Commerce et de la Politique économique.
M. Pasquale TROISE,
Directeur général des Douanes et des Impôts indirects.

Experts :

L'Honorable Gino OLIVETTI,
Député au Parlement, Secrétaire général de la Confédération générale fasciste de l'Industrie italienne.
L'Honorable Ferruccio LANTINI,
Député au Parlement, Président de la Confédération générale fasciste du Commerce.
M. Antonio MAROZZI,
Directeur général de la Confédération nationale fasciste des agriculteurs.

Conseiller technique :

M. Erasmo CARVALE,
Inspecteur supérieur au Ministère de l'Economie nationale.

Secrétaire :

M. Guido BORGA,
Vice-Consul.

JAPON.

Délégués :

M. Nobubumi ITO,
Conseiller d'ambassade, Directeur adjoint du Bureau impérial du Japon à la Société des Nations.
M. Juichi TSUSHIMA,
Commissaire financier du Gouvernement du Japon à Londres, à Paris et à New-York.

Experts :

M. T. HORIUCHI,
Secrétaire de l'Ambassade du Japon près Sa Majesté Britannique.
M. S. YAMAJI,
Secrétaire du Ministère des Finances.

Secrétaire :

M. S. KADOWAKI,
Attaché d'ambassade.

LETTONIE.

Délégué :

M. Charles DUZMANS,
Représentant auprès de la Société des Nations.

LUXEMBOURG.

Délégués :

M. Albert CALMES,
Membre du Conseil supérieur de l'Union économique belgo-luxembourgeoise.
M. Léon LAVAL,
Vice-Président de la Chambre de Commerce luxembourgeoise.

PAYS-BAS.

Délégués :

Le docteur Folkert Evert POSTHUMA,
Ancien Ministre de l'Agriculture, de l'Industrie et du Commerce.
M. F. M. WIBAUT,
Membre du Sénat des Pays-Bas.
M. DE GRAAFF,
Ancien Ministre des Colonies.

ITALY.

Delegates:

The Honourable Fulvio SUVICH,
Under-Secretary of State in the Ministry of Finance, M.P.
M. Angelo DI NOLA,
Director-General of Commerce and of Economic Policy.
M. Pasquale TROISE,
Director-General of Customs and Indirect Taxation.

Experts:

The Honourable Gino OLIVETTI,
Member of Parliament, Secretary-General of the General Fascist Confederation of
Italian Industry.
The Honourable Ferruccio LANTINI,
Member of Parliament, Chairman of the General Fascist Confederation of Italian
Commerce.
M. Antonio MAROZZI,
Director-General of the National Fascist Confederation of Agriculture.

Technical Adviser:

M. Erasmo CARVALE,
Head Inspector in the Ministry of National Economy.

Secretary:

M. Guido BORGA,
Vice-Consul.

JAPAN.

Delegates:

M. Nobubumi ITO,
Counsellor of Embassy, Substitute Director of the Imperial Japanese League of
Nations Office.
M. Juichi TSUSHIMA,
Financial Commissioner of the Japanese Government in London, Paris and New
York.

Experts:

M. T. HORIUCHI,
Secretary of the Japanese Embassy to His Britannic Majesty.
M. S. YAMAJI,
Secretary in the Ministry of Finance.

Secretary:

M. S. KADOWAKI,
Attaché of Embassy.

LATVIA.

Delegate:

M. Charles DUZMANS,
Representative accredited to the League of Nations.

LUXEMBURG.

Delegate:

M. Albert CALMES,
Member of the Superior Council of the Economic Union of Belgium and Luxembourg.
M. Léon LAVAL,
Vice-President of the Luxemburg Chamber of Commerce.

THE NETHERLANDS.

Delegates:

Dr. Folkert Evert POSTHUMA,
Former Minister of Agriculture, Industry and Commerce.
M. F. M. WIBAUT,
Member of the Netherland Senate.
M. DE GRAAFF,
Former Minister of the Colonies.

POLOGNE.

Délégué :

M. François DOLEZAL,
Sous-Secrétaire d'Etat au Ministère du Commerce

Membres de la Délégation :

M. René SYGIETYSKI,
Chef de Section au Ministère de l'Industrie et du Commerce.
M. M. SOKOLOWSKI,
Conseiller commercial à la Légation de Pologne près le Président du Reich
allemand.
M. Léonard KRAWULSKI,
Conseiller au Ministère de l'Agriculture.
M. Tadeusz GWIAZDOWSKI,
Conseiller de légation à la Délégation permanente auprès de la Société des Nations.
M. Jerzy NOWAK,
Conseiller ministériel au Ministère des Finances.
M. Adam BENIS,
Secrétaire de légation au Ministère des Affaires étrangères.

PORTUGAL

Délégué :

M. Francisco DE CALHEIROS E MENEZES,
Premier Secrétaire de légation, Chef de la Chancellerie portugaise auprès de la
Société des Nations.

ROUMANIE.

Délégués :

M. Alexandre ZEUCEANU,
Ministre plénipotentiaire, Délégué à la Commission des Réparations.
M. Démètre GEORGHIU,
Directeur de la Banque Nationale de la Roumanie, ancien Secrétaire général du
Ministère des Finances, ancien Directeur général des Douanes.
M. César POPESCU,
Directeur général de l'Industrie au Ministère de l'Industrie et du Commerce.

ROYAUME DES SERBES, CROATES ET SLOVÈNES.

Délégué :

M. Constantin FOTITCH,
Délégué permanent auprès de la Société des Nations.

Délégués adjoints :

M. Georges CURCIN,
Secrétaire général des Corporations industrielles.
M. Milan LAZAREVIĆ,
Inspecteur au Ministère du Commerce et de l'Industrie.

SIAM,

Délégué :

Son Altesse le prince CHAROON,
Envoyé extraordinaire et Ministre plénipotentiaire près le Président de la République
française.

POLAND.

Delegate:

M. François DOLEZAL,
Under-Secretary of State in the Ministry of Commerce.

Members of the Delegation:

M. René SYGIETYSKI,
Head of Section in the Ministry of Industry and Commerce.
M. M. SOKOLOWSKI,
Commercial Adviser to the Polish Legation to the President of the German Reich,
M. Léonard KRAWULSKI,
Counsellor in the Ministry of Agriculture.
M. Tadeusz GWIAZDOWSKI,
Counsellor of Legation at the Permanent Delegation accredited to the League of Nations.
M. Jerzy NOWAK,
Ministerial Counsellor in the Ministry of Finance.
M. Adam BENIS,
Secretary of Legation in the Ministry of Foreign Affairs.

PORTUGAL.

Delegate:

M. FRANCISCO DE CALHEIROS E MENEZES,
First Secretary of Legation, Chief of the Portuguese Office accredited to the League of Nations.

ROUMANIA.

Delegates:

M. Alexandre ZEUCEANU,
Minister Plenipotentiary, Delegate to the Reparations Commission.
M. Démètre GHEORGHIU,
Director of the Roumanian National Bank, Former Secretary-General of the Ministry of Finance, Former Director-General of Customs.
M. César POPESCU,
Director-General of Industry in the Ministry of Industry and Commerce.

KINGDOM OF THE SERBS, CROATS AND SLOVENES.

Delegate:

M. Constantin FOTITCH,
Permanent Delegate accredited to the League of Nations.

Substitutes:

M. Georges CURCIN,
Secretary-General of Industrial Corporations.
M. Milan LAZAREVIĆ,
Inspector in the Ministry of Commerce and Industry.

SIAM.

Delegate:

His Highness Prince CHAROON,
Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic.

SUÈDE.

Délégué :

M. MODIG (Eintar),
Sous-Secrétaire d'Etat au Ministère du Commerce.

Délégué adjoint :

M. HENNINGS (Einar),
Envoyé extraordinaire et Ministre plénipotentiaire près du Conseil Fédéral suisse.

SUISSE.

Délégué :

M. Walter STUCKI,
Directeur de la Division du Commerce au Département fédéral de l'Economie publique.

Secrétaire :

M. Henry DE TORRENTÉ,
Secrétaire de la Division fédérale du Commerce.

TCHÉCOSLOVAQUIE.

Délégué :

Le docteur Vincent IBL,
Conseiller de légation au Ministère des Affaires étrangères.

Experts :

Le docteur Adolf OTTIS,
Conseiller au Ministère du Commerce,
Le docteur Bohumir HANOSEK,
Conseiller au Ministère de l'Agriculture.
Le docteur A. SCHÖNBACH,
Conseiller ministériel au Ministère des Finances.

Secrétaire :

Le docteur Ladislav RADIMSKY,
Secrétaire au Ministère des Affaires étrangères.

En outre, les pays suivants qui ne font pas partie de la Société des Nations ont accepté, sur l'invitation du Conseil, de participer à la Conférence et ont, à cet effet, désigné les délégations composées des membres indiqués ci-dessous :

ÉGYPTE.

Délégués :

SADIK HENEIN Pacha,
Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté le Roi d'Italie;
Président de la Délégation.
ABDEL RAZAK ABOUL KHEIR bey,
Inspecteur en chef de l'Administration des Douanes.
ABDUL RAHMAN FIKRY bey,
Premier Secrétaire de la Légation près Sa Majesté Britannique.
M. AHMED NEGUIB,
Secrétaire financier adjoint au Ministère des Finances.

ÉTATS-UNIS D'AMÉRIQUE.

Délégué :

Mr. Hugh R. WILSON,
Envoyé extraordinaire et Ministre plénipotentiaire près le Conseil Fédéral suisse

SWEDEN.

Delegate:

M. MODIG (Einar)
Under-Secretary of State in the Ministry of Commerce.

Substitute:

M. HENNINGS (Einar),
Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

SWITZERLAND.

M. Walter STUCKI,
Head of the Commerce Division in the Federal Department of Public Economy.

Secretary:

M. Henry DE TORRENTÉ,
Secretary of the Federal Division of Commerce.

CZECHOSLOVAKIA.

Delegate:

Dr. Vincent IBL,
Counsellor of Legation in the Ministry of Foreign Affairs.

Experts:

Dr. Adolf OTTIS,
Counsellor in the Ministry of Commerce.
Dr. Bohumir HANOSEK,
Counsellor in the Ministry of Agriculture.
Dr. A. SCHÖNBACH,
Ministerial Counsellor in the Ministry of Finance.

Secretary:

Dr. Ladislav RADIMSKY,
Secretary in the Ministry of Foreign Affairs.

In addition, the following countries not Members of the League of Nations accepted the invitation of the Council to participate in the Conference, and for this purpose appointed the Delegations whose members are set out below:

EGYPT.

Delegates:

SADIK HENEIN Pacha,
Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of
Italy, Chairman of the Delegation.
ABDEL RAZAK ABOUL KHEIR Bey,
Chief Inspector of the Customs Administration.
ABDUL RAHMAN FIKRY Bey,
First Secretary of the Legation to His Britannic Majesty.
M. AHMED NEGUIB,
Assistant Financial Secretary in the Ministry of Finance.

UNITED STATES OF AMERICA.

Delegate:

Mr. Hugh R. WILSON,
Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

Experts :

- Mr. H. LAWRENCE GROVES,
Attaché commercial à la Légation des Etats-Unis d'Amérique à Vienne.
Mr. Charles E. LYON,
Attaché commercial à la Légation des Etats-Unis d'Amérique, Berne.
Mr. Percy W. BIDWELL,
Représentant de la Commission des tarifs.
Mr. Harry F. WORLEY,
Représentant du Trésorier des Etats-Unis d'Amérique, Attaché douanier.

Secrétaire de la Délégation :

- Mr. S. PINKNEY TUCK,
Consul à Genève.

TURQUIE.

Délégué :

- Mehmed KEMAL bēy,
Consul à Genève.

LA CHAMBRE DE COMMERCE INTERNATIONALE, invitée par le Conseil à prendre part à la Conférence à titre consultatif, a désigné à cet effet la délégation suivante:

- Le docteur Georges ROCHÉ,
Président de la Délégation, Administrateur-délégué des Etablissements Poulenc Frères, Président du Syndicat des industries chimiques spéciales.
Mr. Washington Irving BULLARD,
Banquier et fabricant de matières textiles, ancien Vice-Président Doyen de la Chambre de Commerce de Boston; Vice-Président de la Conférence internationale des cotons; Trésorier de l'Association nationale des fabricants de coton (E. U. A.).
Le docteur Alfred GEORG,
Ancien président de la Chambre de Commerce de Genève, ancien Conseiller national.
Le docteur Ernest VON SIMSON,
Secrétaire d'Etat (S. D.); Président de la Commission politique-commerciale de l'Association de l'industrie allemande.

Assistés de :

- Mr. Basil MILES
Commissaire administratif pour l'Amérique auprès de la Chambre de Commerce internationale.
Le docteur Gerhard RIEDBERG,
Commissaire administratif pour l'Allemagne auprès de la Chambre de Commerce internationale.
Mr. Willard HILL,
Secrétaire adjoint de la Chambre de Commerce internationale.
Le docteur Jean DUCHENOIS,
Secrétaire général adjoint du Comité national français de la Chambre de Commerce internationale.

Experts:

- Mr. H. Lawrence GROVES,
Commercial Attaché to the United States of America Legation at Vienna.
Mr. Charles E. LYON,
Commercial Attaché to the United States of America Legation at Berne.
Mr. Percy W. BIDWELL,
Representative of the Tariff Commission.
Mr. Harry F. WORLEY,
United States of America Treasury Representative, Customs Attaché.

Secretary to the Delegation:

- Mr. S. Pinkney TUCK,
Consul at Geneva.

TURKEY.

Delegate:

- M. Mehmed KEMAL Bey,
Consul at Geneva.

THE INTERNATIONAL CHAMBER OF COMMERCE, having been invited by the Council to participate in the Conference in a consultative capacity, appointed the following Delegation for the purpose:

- Dr. Georges ROCHÉ,
Chairman of the Delegation, Managing Director of the "Etablissements Poulenc Frères", President of the Union of Special Chemical Industries.
Mr. Washington Irving BULLARD,
Banker and Textile Manufacturer, Former Senior Vice-President of the Boston Chamber of Commerce, Vice-President of the International Cotton Conference, Treasurer of the National Association of Cotton Manufacturers (U.S.A.).
Dr. Alfred GEORG,
Former Chairman of the Genevese Chamber of Commerce, Former National Counsellor.
Dr. Ernest von SIMSON,
Secretary of State (z. D.), Chairman of the Commercial Political Commission of the Association of the German Industry.

Assisted by:

- Mr. Basil MILES,
American Administrative Commissioner to the International Chamber of Commerce.
Dr. Gerhard RIEBERG,
German Administrative Commissioner to the International Chamber of Commerce.
Mr. Willard HILL,
Assistant Secretary of the International Chamber of Commerce.
Dr. Jean DUCHENOIS,
Assistant Secretary-General to the French National Committee of the International Chamber of Commerce.
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La Conférence a tenu quatorze séances, du 17 octobre au 8 novembre; elle a également nommé un certain nombre de Commissions qui ont tenu de fréquentes réunions.

La Conférence a élaboré et adopté la Convention internationale pour l'abolition des prohibitions et des restrictions à l'importation et à l'exportation en date de ce jour, ainsi que le Protocole y annexé.

La Conférence a également fait les déclarations suivantes:

1. La Conférence, approuvant les résolutions de la Conférence économique internationale, tenue à Genève en mai 1927, relatives à la lutte contre les maladies des plantes et des animaux par le moyen d'accords internationaux;

Considérant que certains de ces accords, et notamment la Convention de Berne de 1881 contre le phylloxéra, ont abouti à une action heureusement concertée et dont les résultats ont été favorables;

Considérant que les mesures contre les épizooties et épiphyties ne doivent avoir en vue que la préservation des animaux et des plantes ou de la santé publique menacée par la consommation de viandes ou de végétaux nocifs, et ne doivent être en aucun cas instituées ou appliquées comme un moyen de restreindre ou différencier le commerce des pays exportateurs de produits de l'élevage ou de l'agriculture;

Considérant qu'il y a lieu de ne prendre que des mesures d'une efficacité éprouvée et d'en proportionner la rigueur aux menaces de contagion qui sont à redouter;

Recommande au Conseil de la Société des Nations d'entreprendre, par les moyens qui lui apparaîtront les plus expédients et dans le plus bref délai possible, les études, consultations et enquêtes nécessaires en vue de la réunion d'une ou plusieurs conférences de techniciens spécialisés dans toute question relative à la lutte contre la maladie des animaux et des plantes, qui seront chargés de proposer aux gouvernements une action concertée, efficace contre les maux qu'ils veulent également combattre, et respectueuse à la fois des droits souverains des Etats et des intérêts du commerce international.

La Conférence n'ignore pas que des efforts ont été faits par certains pays pour aboutir au résultat désiré par la voie d'accords bilatéraux; elle recommande aux organismes que le Conseil chargera de l'étude ci-dessus définie, d'en examiner les dispositions et d'en observer les effets.

2. Se référant au paragraphe 6 de l'article 4, la Conférence approuve les résolutions de la Conférence économique internationale, tenue à Genève en mai 1927, en ce qui concerne la liberté nécessaire de se procurer les devises destinées au paiement des marchandises.

3. Pour éviter qu'une réserve puisse être présentée, au titre de l'article 6 de la Convention, pour certaines prohibitions, relatives notamment aux peaux et aux os, qui existent actuellement dans un grand nombre de pays, la Conférence recommande:

a) Que les pays où ces prohibitions sont appliquées se concertent immédiatement pour reconnaître s'ils ne pourraient pas renoncer simultanément à toute réserve en cette matière;

b) Que, si ce résultat ne pouvait être obtenu, les travaux préparatoires soient entrepris pour que la question puisse, lors de la réunion prévue à l'article 17, recevoir la solution la plus favorable.

4. La Conférence recommande que la réunion prévue à l'article 17 de la Convention prenne en considération, non seulement l'importance commerciale des pays en question, mais aussi leur répartition géographique et la nécessité éventuelle de la participation simultanée de certains d'entre eux.

5. La Conférence déclare que la Convention n'affecte, ni le système tarifaire, ni les méthodes contractuelles des pays participants, ni les pratiques destinées à en assurer l'application, mais elle exprime la ferme conviction que la suppression des prohibitions et restrictions ne saurait motiver l'institution de droits d'exportation ou d'importation exagérés ou d'entraves de toute autre nature qui se substitueraient à celles que la Convention de ce jour a pour but de faire disparaître.

Elle déclare que le retour à la liberté du commerce, pour un produit déterminé, entraîne pour les pays producteurs et pour les pays consommateurs, des obligations corrélatives qui doivent se traduire par un régime équitable à la fois en matière de droits d'exportation et de droits d'importation et plus particulièrement dans le cas où ces derniers sont applicables à des produits fabriqués au moyen d'une matière première pour laquelle la Convention impose le rétablissement de la libre exportation.

The Conference held fourteen meetings, from October 17th to November 8th; it also appointed a number of Committees, which held frequent meetings.

The Conference framed and adopted the International Convention for the Abolition of Import and Export Prohibitions and Restrictions of to-day's date, and the Protocol annexed thereto.

The Conference also made the following declarations:

1. The Conference,

Approving the resolutions of the International Economic Conference held at Geneva in May 1927, relative to measures for the prevention of diseases of plants and animals by means of international agreements;

Considering that certain of these agreements, in particular the Berne Convention of 1881 against phylloxera, have led to successful joint action with favourable results;

Considering that measures against epizooties and epiphyties should have in view only the protection of animals and plants or of the public health endangered by the consumption of harmful meat or plants, and should in no case be imposed or enforced as a means of hampering or discriminating against the trade of countries exporting products of the stockbreeding industry or agriculture; and

Considering that it is desirable to adopt only measures of proved efficacy and to make their severity proportionate to the risks of infection anticipated:

Recommends the Council of the League of Nations to undertake with as little delay as possible and in the manner which appears to it most expedient, the necessary investigations, consultations and enquiries with a view to summoning a conference or conferences of experts, with special knowledge of all questions relating to the prevention of diseases of animals and plants, which should be invited to propose to the various Governments joint action that would be effective against the evils that all these Governments desire to combat, and at the same time would have due regard to the sovereign rights of States and the interests of international trade.

The Conference is aware that efforts have been made by certain countries to arrive at the desired results by means of bilateral agreements; it recommends that the bodies to which the Council entrusts the investigations described above should examine the provisions of such agreements and observe their effects.

2. With reference to paragraph 6 of Article 4 the Conference declares that it approves the resolutions of the International Economic Conference held at Geneva in May 1927 relating to necessary freedom to procure foreign exchange for payment for imported goods.

3. In order to prevent the submission of any reservation under Article 6 of the Convention in the case of certain prohibitions, concerning in particular skins, hides and bones, which are at present in force in a large number of countries, the Conference recommends:

(a) That the countries in which these prohibitions are applied should immediately confer together with a view to ascertaining whether they could not simultaneously renounce all reservations in this connection;

(b) That, if this result cannot be attained, preparatory work should be undertaken in order that the question may be settled in the most satisfactory manner at the meeting provided for in Article 17.

4. The Conference recommends that the meeting provided for in Article 17 of the Convention should take into account not only the commercial importance of the countries in question but also their geographical distribution, and the possible necessity of the simultaneous participation of certain of their number.

5. The Conference declares that the Convention affects neither the tariff systems nor the treaty-making methods of the participating countries, nor the measures taken to ensure the application thereof, but it expresses the firm conviction that the abolition of prohibitions and restrictions should not warrant the establishment of excessive export or import duties or hindrances of any other kind which would replace those that it is the aim of the Convention to remove.

It declares that a return to freedom of trade in the case of a particular product entails on producing and consuming countries correlative obligations, which should take the form of an equitable regime in regard both to export and import duties, especially in cases where the latter are applicable to articles manufactured from the raw material for which free exportation is to be re-established under the Convention.

EN FOI DE QUOI, les délégués ont signé le présent Acte.

FAIT à Genève, le huit novembre mil neuf cent vingt-sept, en simple expédition qui sera déposée dans les archives du Secrétariat de la Société des Nations; copie conforme en sera transmise à tous les Membres de la Société des Nations et à tous les Etats non membres représentés à la Conférence, ainsi qu'à la Chambre de Commerce internationale.

IN FAITH WHEREOF the delegates have signed the present Act.

DONE at Geneva the eighth day of November, one thousand nine hundred and twenty-seven, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations, and of which authenticated copies shall be delivered to all Members of the League of Nations and non-Member States represented at the Conference and also to the International Chamber of Commerce.

Président :

H. COLIJN

President :

Secrétaires :

P. STOPPANI
D^r P. BARANDON

C. SMETS
V. Z. STENČEK

Secretaries :

ALLEMAGNE

D^r TRENDELENBURG

GERMANY

BELGIQUE

J. BRUNET

BELGIUM

GRANDE-BRETAGNE
ET IRLANDE DU NORD,

ainsi que toutes parties de l'Empire britannique, non membres séparés de la Société des Nations.

GREAT BRITAIN
AND NORTHERN IRELAND

and those Parts of the British Empire which are not separate Members of the League of Nations.

S. J. CHAPMAN
F. A. GRIFFITHS

BULGARIE

BULGARIA

Prof. Georges DANAILOW

DANEMARK

DENMARK

J. CLAN.

FINLANDE

FINLAND

Rafael ERICH

FRANCE

FRANCE

D. SERRUYS

HONGRIE

HUNGARY

BARANYAI Zoltán

ITALIE

ITALY

A. DI NOLA

JAPON

JAPAN

Ito

J. TSUSHIMA

LETTONIE

LATVIA

Charles DUZMANS

LUXEMBOURG

LUXEMBURG

Albert CALMES

PAYS-BAS

THE NETHERLANDS

DE GRAAFF

F. M. WIBAUT

PORTUGAL

PORTUGAL

F. DE CALHEIROS E MENEZES

ROUMANIE

ROUMANIA

D. J. GHEORGHIU
César POPESCU

ROYAUME DES SERBES,
CROATES ET SLOVÈNES

KINGDOM OF THE SERBS,
CROATS AND SLOVENES

Const. FOTITCH

SIAM

SIAM

CHAROON

SUISSE

SWITZERLAND

W. STUCKI

TCHÉCOSLOVAQUIE

CZECHOSLOVAKIA

D^r IBL

ÉGYPTE

EGYPT

Sadik HENEIN

Chambre de Commerce internationale.

International Chamber of Commerce.

Le Président de la Délégation:

Georges ROCHÉ

Willard HILL

Alf. GEORG

Copie certifiée conforme.

Certified true copy.

Pour le Secrétaire général:

For the Secretary-General:

Directeur de la Section juridique.

Director of the Legal Section.

DÉCLARATION ANNEXE.

ANNEXED DECLARATION.

Les délégations de la France, de la Grèce, de la Hongrie, de l'Italie, du Portugal, de l'Etat serbe-croate-slovène, et de la Suisse, à la Conférence internationale pour l'abolition des prohibitions et restrictions à l'importation et à l'exportation tiennent à marquer que s'étant abstenues, avec le souci de ne point faire obstacle au succès de la Conférence et ne point susciter entre les Etats participants une controverse de principe destinée à demeurer sans issue, elles ont néanmoins la ferme conviction que la prohibition des produits viticoles ne peut se justifier par les dispositions de l'article 4, paragraphe 4, de la Convention.

The delegations of France, Greece, Hungary, Italy, Portugal, the Kingdom of the Serbs, Croats and Slovenes and Switzerland, present at the International Conference for the Abolition of Import and Export Prohibitions and Restrictions, desire to place it on record that, though they have abstained, in the desire not to place any obstacle in the way of the success of the Conference and not to raise between the participating States a controversy on a question of principle which could lead to no definite conclusion, they are nevertheless fully convinced that the prohibition of viticultural products cannot be justified on the ground of the provisions of Article 4, No. 4, of the Convention.

Genève, le 8 novembre 1927.

FRANCE

D. SERRUYS

FRANCE

GRÈCE

Vassili DENDRAMIS

GREECE

HONGRIE

BARANYAI Zoltán

HUNGARY

ITALIE

A. DI NOLA

ITALY

PORTUGAL

F. DE CALHEIROS E MENEZES

PORTUGAL

ROYAUME DES SERBES,
CROATES ET SLOVÈNES

Const. FOTITCH

KINGDOM OF THE SERBS,
CROATS AND SLOVENES

SUISSE

W. STUCKI

SWITZERLAND

Copie certifiée conforme.

Pour le Secrétaire général:

Certified true copy.

For the Secretary-General:

Directeur de la Section juridique.

Director of the Legal Section.

*For French Text
See No. L. 95.22*

Geneva, December 29th, 1927.

LEAGUE OF NATIONS

ECONOMIC COMMITTEE

REPORT TO THE COUNCIL ON THE TWENTY-THIRD SESSION

Held at Geneva from December 15th to 21st, 1927.

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The following members of the Committee were present:

M. D. SERRUYS (Chairman);	M. G. JAHN;
Dr. E. TRENDELENBURG (Vice-Chairman);	Mr. H. A. F. LINDSAY;
M. J. BRUNET;	Prof. E. NECULCEA;
Sir Sydney CHAPMAN;	M. A. DI NOLA;
M. F. DOLEZAL;	Dr. R. SCHÜLLER;
M. J. DVOŘÁČEK;	Dr. W. STUCKI.
M. N. ITO;	

The following were also present during part of the session:

Dr. A. PIRELLI, President of the International Chamber of Commerce.	
M. R. FIGHIERA, Chairman of the Sub-Committee of Experts for the Unification of Customs Nomenclature.	
M. J. CLAN (Denmark)	} as experts on the question of export prohibitions on hides and bones.
M. DE NICKL (Hungary)	
M. POSTHUMA (Netherlands)	

I. ELECTION OF THE CHAIRMAN.

In accordance with the Council Resolution of September 28th, 1927, the Economic Committee was called upon to elect a Chairman for one year.

On account of the many and varied duties which fall to the Chairman, and with the object of still more effectively securing continuity in its work, the Committee thought it advisable to appoint at the same time a Vice-Chairman, who, it was understood, would take over the Chairman's duties the following year.

The Committee elected M. Serruys Chairman and Dr. Trendelenburg Vice-Chairman.

2. APPOINTMENT OF FIVE MEMBERS OF THE CONSULTATIVE COMMITTEE.

In pursuance of the Council and Assembly Resolutions, and bearing in mind the Council's wish that in the composition of the Consultative Committee as a whole the balance of nationalities and interests established therein by the Council should be maintained, the Committee appointed the following members to serve on the Consultative Committee: Sir Sydney CHAPMAN, M. JAHN, M. SCHÜLLER, M. SERRUYS, DR. TRENDELENBURG.

3. COMMERCIAL POLICY.

Now that the Resolutions adopted after full consideration and drafted in vigorous terms by the International Economic Conference last spring have received the almost unanimous approval of the Governments and the cordial assent of the Eighth Assembly, and now that in execution of those Resolutions the Council has reconstituted in a new form the economic organisation of the League of Nations, whose task it will be to carry on the work of the Conference, the Economic Committee feels that its main work must be to carry out the commercial policy advocated by the Conference.

In the Committee's view the outstanding result of the great meeting of May last is the new orientation of commercial policy towards a liberal and equitable régime of trade. True, the Committee did not feel that it could neglect preparation for further discussions on industrial and agricultural questions; but at the same time it determined to concentrate all its efforts at the outset on bringing about, as promptly and on as large a scale as possible, the reforms in commercial policy which the Conference has held up as the goal of common international effort.

These reforms were contemplated by the Conference in three different aspects, those to be effected by the autonomous action of Governments, those to be effected by bilateral conventions between States, and those to be effected by the concerted and simultaneous action of States under the auspices of the League. It would be unfair not to recognise that the autonomous action of Governments has been to some extent influenced by the decisions of the Conference of May 1927. Certain States, which had drawn up tariffs that might have hampered international trade to the point of dislocation, have abated or moderated those tariffs, either on their own initiative or by bilateral conventions of which a particularly striking, though not the only, example is the Franco-German Treaty of Commerce. Some countries have even, as the outcome of the Economic Conference, postponed the contemplated recasting of their tariffs. Even before the Diplomatic Conference for the abolition of trade prohibitions and restrictions, several Governments had of their own free will withdrawn prohibitions that had been in force since the war.

Important and encouraging as they are, however, these demonstrations would not in themselves suffice to convince the world of the need for a new policy of co-ordinated action. Moreover, the Economic Committee does not see how it could influence the autonomous action of Governments except by repeated affirmation of a liberal policy of which it feels itself to be the chosen advocate.

On the other hand, as regards governmental action in the form of bilateral and multilateral agreements, the Committee considered that its investigations and proposals should be aimed at diverting such action definitely into the channel indicated by the Conference.

There is one fact which the world does not seem to have fully realised — that for many years past bilateral agreements have been powerless to arrest the progress of protectionism. In certain cases, indeed, the treaty-making methods that have been employed since the war have seemed to encourage this tendency; the exaggerated margin between autonomous tariffs and the tariffs which States contemplate introducing as the ultimate outcome of their negotiations, the deliberately restrictive rates in the minimum tariffs established by certain countries, have produced pernicious results in this respect, and the more so because the general tariffs were put into operation before any negotiations whatever had taken place and their severity was sometimes further aggravated by *de facto* or *de jure* discriminations.

The Committee realised the urgent necessity of reserving this tendency and looking upon commercial agreements not as a method of imposing excessive duties but as a means of preventing any increase in them, or, better still, securing their reduction by treaty.

The Committee accordingly decided to attempt to devise treaty-making methods by which a general reduction of tariffs could gradually be effected and their stability ensured, and which would encourage the conclusion of bilateral conventions affording the contracting States equal commercial opportunities and establishing their trade on a footing that would make it impossible to dig pitfalls for other countries.

The Committee has conducted this technical investigation in the conviction that the adoption of the solutions to which it will lead may very greatly improve the position of international trade and become a determining factor in the pacification of international commercial relations. At the same time, the Committee feels strongly that these technical results cannot produce their full effect unless the Governments realise their true significance and endeavour to avoid jeopardising their efficacy in advance.

The Committee therefore desires to point out that, until an international understanding has been reached in regard to treaty-making methods (which it is to be hoped will occur in the near future) the first essential, that Governments should, both in concluding their agreements and in drawing up their tariffs, be guided by the principles expressed in the resolutions of the International Economic Conference and in the proposals of the Economic Committee for reaching such an understanding.

* * *

With this intention the Committee, in compliance with a particularly explicit recommendation of the Conference, has undertaken to codify most-favoured-nation treatment, which should be either the central principle or the normal outcome of every commercial negotiation. Within a few months the Committee will be ready to furnish particulars, which might serve as a basis for international engagements, with regard to its mechanism, its scope, and its bearing on multilateral conventions. The Committee has also included in its programme the examination of those general, special and geographical exceptions of which the introduction seems desirable on account of established international practice or the peculiar circumstances of certain States.

The Committee is convinced that well-considered action in the matter of commercial conventions based on the most-favoured-nation clause must speedily bring about the re-establishment of regular currents of trade, which will no longer have to contend with a policy of protectionism and isolation.

* * *

Confident that the forces brought into operation by the bilateral action of contracting States must lead — at all events if directed into the channels described above — to one of the main objectives of the Economic Conference, the Committee does not wish to delay its work on the reduction of tariffs by multilateral agreements, and it realises that collective tariff reductions introduced by such agreements raise a number of questions, some of considerable difficulty. The legal question of the influence of multilateral agreements on bilateral conventions, which arises in all matters of economic policy, here takes a particularly acute form.

None the less, the Committee does not see its way to await the further development of extremely difficult and complicated investigations before considering how far it would be possible to bring into operation at once that collective action to which States could resort in order to bring about a simultaneous and concerted reduction of such tariff barriers as may seem excessive.

Certain countries feel that the efforts made by the recent Conference for the abolition of prohibitions and restrictions to re-establish freedom of trade demand that States benefiting by the return to a liberal régime in regard to raw materials or semi-manufactured goods should take corresponding action to reduce their duties on the finished product.

In this and in certain other no less interesting aspects, it seems already possible to study the problem of collective tariff reduction.

For all questions of commercial policy, as defined and allotted for study in the Annex to this Report, the Committee has appointed rapporteurs, whose work will lead at the next session to decisions, or at all events, partial decisions, of which the Council will doubtless be anxious to inform the Consultative Committee without delay.

4. UNIFICATION OF CUSTOMS NOMENCLATURE.

When the International Economic Conference drew up a general programme for commercial policy, it fully realised that, in order to carry out this programme, certain technical conditions were essential, and first and foremost it placed the unification of customs nomenclature as being necessary alike for the establishment of any concerted tariff policy and for that of a uniform system of bilateral agreements.

In order to ensure these preliminary conditions the Economic Committee, at its extraordinary session in July 1927, decided to convene at once a small committee of experts, especially qualified in virtue of their knowledge of, and practical experience in, customs questions; it requested them to draw up the framework for a general nomenclature, to include the various classes and main subdivisions of both agricultural and industrial products.

This Committee of Experts, which was presided over by M. FIGHIERA (France) and consisted of MM. FAFL (Czechoslovakia), FLACH (Germany), MAGNETTE (Belgium), and PACI (Italy), showed very remarkable activity. It was able to submit to the Economic Committee at its present session, not only the general framework requested but also a detailed and systematic classification of all the groups of commodities to be included in it.

This classification was accompanied by an explanatory and interpretative commentary, so that it may already be regarded as embodying the principal features of any common nomenclature:

(a) The customs nomenclature is simple and corresponds with the usual industrial and commercial classifications.

(b) The groups established in the nomenclature are the same as those generally employed for statistical reports of exports and imports.

(c) The customs terminology is in accordance with the terms usually employed by technicians and in actual practice.

Without being able to decide at present on the intrinsic value of the work of which it fully appreciates the range and technical excellence, the Committee decided that each of its members should collect in his own country such information and advice as might make it possible at the next session to form a true estimate; it decided further, that the Secretariat should forward the nomenclature framed by the experts to the persons and bodies qualified to express an opinion on it or able to supply useful data for the purposes of the more detailed nomenclature which will now have to be established.

The Committee desired, when deciding upon these studies and consultations, to emphasize its view that questions connected with customs clearance regulations should be dealt with on a common basis, in order to avoid the application of divergent rules and to prevent the frustration of the measures taken in the interests of a general classification.

The Committee hopes at its next session to be able to discuss the opinions collected on the classification scheme already established and on the customs clearance rules, which it is essential to apply on common lines if this classification is to bring about the results expected of it.

In addition to this preparatory work the Committee has asked the experts, while the consultations which it recommends are preceeding, to establish, for certain specially important categories in their framework, a detailed nomenclature which might be useful at all events for the model-nomenclature method, and, in the case of certain categories, supply the common nomenclature in its final form, as it will ultimately be employed for all classes of goods.

5. TREATMENT OF FOREIGN NATIONALS AND COMPANIES.

The International Economic Conference affirmed in most emphatic terms its view that freedom of trade would remain a dead letter if trading or other business in foreign States was hampered by restrictions placed on the activities or the establishment abroad of the nationals or companies of other States.

The Conference took up the suggestions formulated by the International Chamber of Commerce which had appointed a special Committee to study a model agreement in regard to establishment; the Conference recommended that this agreement should take the form not of bilateral conventions but of an international undertaking to be submitted for adoption to a diplomatic conference.

In conformity with this resolution of the Conference, the Economic Committee appointed M. Serruys, one of its members, working in conjunction with M. Riedl, the author of the draft put forward by the International Chamber of Commerce, to establish a draft international convention; this the two Rapporteurs presented to the Committee at the present session.

Although not touching on the very delicate question of the admission of foreign nationals and companies, a question hitherto not dealt with at international consultations, the authors of the draft have not restricted the scope of the convention to conditions for the establishment of foreign nationals or companies already admitted into a State.

They have supplemented the previous draft by introducing guarantees in regard to trade for the nationals of Contracting States not established in a foreign territory but desirous of carrying on business or investing capital in that territory, whether directly, through agents, or by correspondence.

In pursuance of this idea, in addition to the usual civil and judicial guarantees, the right of carrying on industrial, commercial or professional activities, the right to own real estate or movable property, and fiscal guarantees (as regards both ordinary taxation and extraordinary charges), they have introduced guarantees concerning the commercial activities of non-established nationals and a list of certain rights which should be conferred on nationals of the Contracting States, whether established or not.

The Committee at its present session accepted the framework and principles of the draft submitted to it, while reserving the right to discuss the individual articles at its next meeting.

If it then succeeds in establishing a text with the relevant explanatory documents, it proposes to ask the Council's permission to submit it for examination to the Governments, as a first step towards the convening of a diplomatic conference and, if possible, the establishment of an international instrument.

6. EXECUTION OF THE COUNCIL MANDATE REGARDING THE CONVENTION FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS.

The Council instructed the Economic Committee to examine two questions brought up at the International Conference for the Abolition of Import and Export Prohibitions and Restrictions, and thus help to ensure the success of the final Conference which, under the terms of the Convention signed on November 8th, 1927, is to meet in July next.

(a) The first of these questions concerned the putting forward of proposals as to the most practical means of inducing States which at present enforce *export prohibitions in regard to skins, hides and bones*, to abolish these prohibitions, so that when the Conference meets next July there will be no need for these States to make the reservations which they are allowed to submit under Article 6 of the Convention.

The Economic Committee discussed the problem in the light of the conversations held by its members in their individual countries, with the persons and bodies concerned, and the opinions of experts in countries concerned in the question but not represented on the Committee. It came to the conclusion that the majority of the countries, and particularly those whose accession to the principle is most important, are prepared to abolish export prohibitions on bones and on raw skins and hides.

It realised, however, that even if this prohibition were abolished by general agreement, two questions connected with it would have to be dealt with, the first concerning the export duties which certain countries already impose or which other countries might substitute after abolishing the prohibition, and the second relating to the claim of certain States that the liberty of commerce in regard to the above-mentioned raw materials and the tariff system for products made from those materials shall be interdependent.

The Committee accordingly devoted its chief attention to the general theoretical principles necessary to ensure the most liberal solution possible in connection with the suppression of prohibitions in regard to skins, hides and bones; it recognised further, that such a settlement could not be effected simply by the decision of an organ like the Committee, which was not composed of Government representatives, but that they would require the authority of a meeting which it proposes to convene in March next: the Governments of the countries concerned would send representatives duly authorised if not to conclude a final agreement, at all events to prepare a general solution which might be submitted for ratification to the Conference to be held in July.

(b) The second question, referred to the Economic Committee on the occasion of the conclusion of the Convention of November 8th was the organisation of an enquiry into the best means of reconciling the interests of countries desirous of taking preventive measures against *diseases of animals and plants* and the interests of countries exporting those products. In this matter, the International Economic Conference had recommended international agreements, though the terms of the resolution, it is true, do not make it clear whether they were to take the form of bilateral agreements or international unions.

At the Conference for the Abolition of Prohibitions and Restrictions, a similar recommendation, was embodied in the Final Act, this view having been maintained with particular insistence by the agricultural countries whose exports are hampered by sanitary restrictions. The Economic Committee, in response to the Council's invitation, expressed the opinion that, before contemplating international action, it would be expedient to determine the possibilities and to establish a framework.

For the moment, it considers that it would be both prudent and practical to appoint a small body of experts to prepare the ground, these experts being chosen in about equal proportions from countries in favour of such agreements and countries which have hitherto opposed them.

According to the results of this preliminary enquiry, the Committee will decide whether it is desirable to submit the question to a larger body of experts, whose powers and duties it would fix at a later date.

7. STATISTICS.

The Committee considered that the international statistical work should, as regards its scope and the methods adopted, be brought more into line with the general economic work undertaken by the League of Nations.

(a) Conference of Official Statisticians.

At its meeting in March last, the Council approved "in principle the Economic Committee's proposal to convene a Conference of official statisticians some time in 1928 with a view to the adoption of uniform methods for the establishment of economic statistics". In putting forward this proposal at that time the Economic Committee added that it would desire later to make concrete proposals concerning the agenda of this Conference. It has now further discussed the subject and suggests that the broad lines of the programme should be as follows:

(a) The scope of economic statistics, *i.e.*, the field of economic activity which it is desirable that national statistics should normally cover;

(b) The methods to be applied by governments in the compilation of industrial and commercial statistics, in order to achieve comparability.

The Committee hopes that by including the scope of economic statistics in the programme, the Conference may pass useful resolutions of a general character approving the work which is in progress, and give a mandate and impulse to other work not yet undertaken. On the question of the methods to be applied in the compilation of commercial and industrial statistics, a series of resolutions has already been adopted by the Preparatory Statistical Committee, which was set up some years ago, and the resolutions of the Conference will be confined to the problems on which the necessary preliminary work has thus already been executed.

The Economic Committee has thought it desirable to request certain experts to collaborate with it in drafting the White Book of the Conference. It has therefore appointed a sub-committee of four of its own members, namely, Sir Sydney CHAPMAN, M. JAHN, M. NECULCEA and Dr. TRENDELENBURG, to collaborate with these other experts. In selecting these the Committee has thought it desirable to choose certain outstanding personalities, members of important international organisations concerned with statistics and the heads of certain national statistical bureaux. The names of these experts are as follows:

Mr. PRIBRAM, International Labour Office;
M. OLIVETTI, International Chamber of Commerce;
M. DORA, International Institute of Agriculture;
Mr. METHORST, International Statistical Institute;
Mr. FLUX, Board of Trade, London;
M. HUBER, Statistical Bureau of France, Paris;
Dr. WAGEMANN, Central Statistical Bureau, Berlin.

It has been decided that the Committee so composed shall meet in March 1928, and shall submit its draft of a White Book to the Economic Committee at its next meeting.

As it is to be anticipated that the distribution of the White Book will not be possible before the end of March 1928, it is suggested that the Conference should be convened in November 1928.

(b) *Industrial Statistics.*

The Economic Committee has discussed at its present session the following resolution of the World Economic Conference:

“ The economic organisation of the League of Nations should take all suitable measures so that Governments, in collaboration with the chief industries, should arrive at international agreements with reference to the definition of the terms, the methods employed, and the scope of the statistics.”

In this connection it has received a letter from M. Pirelli, the President of the International Chamber of Commerce, offering to collaborate in the execution of the work involved. It is obviously desirable that this work should be carried on in close connection with that on tariff nomenclature, and M. Pirelli made the following suggestion:

“ As soon as the International Chamber of Commerce has information as to which classes of industries the Committee of Experts for the Unification of Customs Nomenclature proposes to examine first, the International Chamber of Commerce will appoint committees to consider all questions relevant to these industries. In order to establish closer contact with the Secretariat of the League of Nations, the latter will appoint one or several officials to sit on these committees as assessors. They will thus be able to provide the committees with any documentary information the Secretariat may possess and assist them in bringing their plans and methods into line with the work of the League Economic Organisation.”

M. Pirelli attended a meeting of the Economic Committee and explained in further detail the form of organisation contemplated. The Economic Committee itself very warmly welcomed this spontaneous offer of collaboration from the International Chamber of Commerce.

It considers that, within the limits of the above-mentioned resolution and so far as the offer in question falls within the scope of its general programme of statistical work, the Committee should avail itself of every practical advantage which this offer may present. In determining the form the suggested co-operation should take, the Committee will seek the advice of the Committee of Experts which it proposes to appoint.

It further considers that it would be desirable to arrange if possible for a member of the Tariff Nomenclature Committee to be on each of the special industrial committees dealing with the questions of industrial nomenclature and classification.

(c) *Preparatory Committee on Statistical Methodology.*

In view of the fact that the Conference of Official Statisticians will, in discussing the scope of economic statistics, no doubt indicate what are the classes of statistics concerning which it is desirable that studies on methodology should be pursued, and that the programme of work on statistical matters for the coming year is already very heavy, the Economic Committee suggests that it is not desirable to convene the Preparatory Committee on Statistical Methodology until after the Conference has taken place.

8. ASSIMILATION OF LEGISLATION ON BILLS OF EXCHANGE AND CHEQUES.

The Committee was anxious in the first place to ascertain from a Committee of Experts consisting of men who were familiar with current business practice what genuine difficulties hampering commercial transactions the differences between the various laws on bills of exchange and cheques involve.

Having thus defined the situation in its practical aspects, it instructed the Committee, which on this occasion consisted exclusively of jurists, to prepare texts which might serve as a basis for international agreements designed to eliminate these difficulties. They were to confine themselves to an attempt at assimilating the legislations of the so-called continental system, without, however, entirely losing sight of the desirability of a nearer approach to similarity with the Anglo-Saxon system.

This second Committee¹ has just begun its work and has provisionally adopted a number of resolutions on the subject of bills of exchange. With the assent of the Economic Committee, it proposes to devote one or several further sessions to the consideration of questions relating to cheques and to the preparation in greater detail of the texts dealing with both subjects.

The Committee expressed approval of the line taken by the experts in that they contemplated the setting-up of certain fundamental principles which should be applied to a revision of the laws of the various countries rather than to the preparation of a uniform regulation, which would contain a large number of clauses and which it would be very difficult for the various Parliaments to accept as it stood. At the same time, bearing in mind that differences giving rise to conflicts of law will almost inevitably continue to exist in certain respects between the various legislations — even if only legislations of the continental type are considered — the experts are endeavouring to frame uniform rules for the solution of such conflicts, which rules would in due course be submitted to the Governments for possible acceptance.

Both the experts and the Economic Committee are of opinion that the work in progress justifies the belief that an international conference, for which this work constitutes an adequate preparation, can be convened in the near future with some prospects of success.

9. PROTECTION OF SCIENTIFIC PROPERTY.

The Committee on Intellectual Co-operation, in which this matter was raised, in particular by a draft convention prepared by Senator Ruffini, asked the Committee for its opinion on the economic aspects of the question.

M. Serruys, who had been requested to follow the work of the Committee on this subject as representative of the Economic Committee, attended a meeting of experts, which was called by the Institute for Intellectual Co-operation and at which a draft international convention was drawn up.

M. Serruys communicated these proposals in their broad outlines to the Economic Committee, which instructed him to prepare a report for its next session, with the assistance of Dr. Trendelenburg and Sir Sydney Chapman.

10. PROPOSAL FOR THE CREATION OF AN INTERNATIONAL MINING INSTITUTE.

The Committee was requested by the Committee on Intellectual Co-operation to consider the proposal for the creation of such an institute, which had been submitted to it by Professor Krahnmann.

After considering the report submitted by M. Neculcea, the Committee felt that, before a final decision was taken, the members of the Committee should have further consultations with the experts in their own countries.

Meanwhile, M. Serruys will remain in touch with the members of the Committee on Intellectual Co-operation who have been especially appointed by that body to consider the Committee's conclusions.

11. EXPLOITATION OF THE PRODUCTS OF THE SEA.

The Committee for the Codification of International Law, which had been instructed to ascertain what problems appear to be ripe for international action, considered the question "whether it is possible to establish by way of international agreement rules regarding the exploitation of the products of the sea", meaning thereby the protection of deep-sea fauna against the danger of extermination caused by uneconomic exploitation.

The eighth Assembly, holding that this was primarily an economic problem, instructed the Committee to consider, in collaboration with the International Council at Copenhagen in particular, whether, "and in what terms, for what species and in what areas international protection of marine fauna could be established".

The Committee appointed four of its members to undertake, with the help of the Secretariat and in contact with the above-mentioned Council — if necessary also with the assistance of certain experts — any preliminary research work which may enable the Committee to read a decision, at its next session, as to the practical action which should follow.

¹ Consisting of M. PERCEROU (France) (Chairman), M. H. VON FLOTOW (Germany), M. HERMANN-OTAVSKY (Czechoslovakia), M. X. JANNÉ (Belgium), M. SULKOWSKI (Poland), M. M. VISCHER (Switzerland), M. A. WEILLER (Italy) and M. E. VIVOT (Argentine).

Annex.

COMMERCIAL POLICY.

DIVISION OF WORK.

I. *Treaty-making Methods.*

A.

In order to prevent any further increase of tariffs and gradually to effect their general reduction;
In order as far as possible to provide a system which will furnish two States concluding a treaty with the commercial facilities suited to their respective production;

In order as far as possible to ensure the advantages of equal treatment for all States concluding treaties with the same country;

Without, however, ignoring the disparity between the economic conditions of different countries, the different degree of protection which those conditions may demand and the fiscal or economic principles upon which tariffs are based;

What are the best treaty-making methods, and within what limits can they be employed?

B.

Do these methods presuppose a single tariff system which would be applied by all countries, or are they compatible with different tariff systems?

If they presuppose a single tariff system, how should this system be devised?

If they appear compatible with different tariff systems, how should the latter be adapted to the methods employed?

C.

What safeguards will have to be provided for the stability of tariffs and for ensuring equality in the conditions under which they are applied in case we adopt the treaty-making methods and tariff system proposed, more especially in case — as would seem to be necessary — States conclude their commercial treaties for periods of long duration?

II. *Equality of Treatment. Most-favoured-nation Clause.*

A.

Is the most-favoured-nation clause — the introduction and scope of which must be made general — to be regarded as a guarantee to be inserted as a matter of principle, and as a preliminary condition of every commercial treaty, whatever may be the system proposed by the Contracting Parties; or is it to be regarded as one of the tangible results of negotiations which will as far as possible have given satisfaction to both parties, either through an actual lowering of their tariffs or through conventional reductions being granted by one or both Parties?

B.

According to the doctrine accepted with regard to A, what form is to be given to the clause:

Negative or positive;

Conditional or unconditional; general or restricted;

Final or subject to periodical adaptations so as to maintain equivalence between the systems?

C.

In what other matters affecting the exchange of commodities, in addition to tariffs, is the guarantee of the most-favoured-nation treatment required?

D.

According to the doctrine accepted in regard to A, what is the best method to prevent:

(a) The clause from resulting in an increase of tariff;

(b) The application of the clause being neutralised by a preferential tariff in favour of a third State, or by the unforeseen penalisation of the products of the contracting party imposed for fiscal, monetary or economic reasons;

(c) The clause from losing its efficacy in the course of successive negotiations through tariff specialisation or other means of discrimination?

E.

What are the nature and scope of any exceptions to most-favoured-nation treatment whether general, special or arising out of geographical conditions — which may be allowed in certain cases ?

F.

What rights does the clause, as embodied in bi-lateral conventions, confer upon States which are parties to multilateral agreements; and what are the obligations of the latter in relation to States which, although not parties to multilateral agreements, have obtained most-favoured-nation treatment under bilateral conventions ?

III. *International Action regarding Tariffs.*

A.

Is this action necessarily associated with preliminary action in regard to Customs nomenclature or treaty-making methods ?

B.

How far can concerted action by States be encouraged by private agreements concerning production or trade ?

C.

What forms might multilateral tariff agreements take; and what would be the consequences of the adoption of each of these forms ?

D.

What would be the position of States participating in these agreements in relation to non-participating States ?

E.

What general preliminary work and investigations could the Economic Committee usefully undertake at the present stage in order to pave the way for agreements of this kind ?

Geneva, September 18th, 1925.

LEAGUE OF NATIONS.

THE WORK OF THE HEALTH ORGANISATION.

REPORT OF THE SECOND COMMITTEE TO THE ASSEMBLY.

Rapporteur: M. O. VELGHE (Belgium).

In its resolution of September 20th, 1924, the Fifth Assembly said :

“ The Assembly approves the work of the Service of Epidemiological Intelligence and Public Health Statistics and the results obtained from the carrying out of the system of interchanges of public health personnel. The Assembly notes with pleasure the results obtained through the efforts of the Health Committee in connection with the standardisation of sera and biological products. It considers that the most valuable results may be anticipated from the enquiry which has been undertaken into mortality from cancer, and that the work of the Malaria Commission is calculated to furnish valuable assistance to the administrations most vitally concerned. The Assembly is gratified to note that the Health Committee has responded to the requests of several Governments, placing at their disposal investigators and technical advisers on matters of public health. It approves the establishment of a Bureau of Epidemiological Intelligence in the Far East. ”

Encouraged by this approval, the Health Organisation was in a position to continue its activities in the various fields referred to above. The Health Committee's report to the Sixth Assembly gives a detailed analysis of the work accomplished since last year. We need, therefore, only describe the stage which has been reached in the various investigations and the results which have been achieved.

1. The Epidemiological Intelligence Service, the great value of which is appreciated by health administrations, has continued to publish its monthly report, eighty-one numbers having already appeared. It also published, last June, its second annual report, which supplements the monthly bulletin. In view of the necessity of accelerating the transmission of information regarding certain diseases, the Governments of several countries on the Mediterranean and the Black Sea decided to notify Geneva by telegraph, at their own expense, of the appearance of plague or cholera cases in any of their ports. This represents a considerable step forward; for, if all prophylaxis is based upon the notification of the outbreak of contagious diseases, the speed and efficacy of such prophylaxis varies directly with the promptitude of the notification.

Further, the proposed Epidemiological Intelligence Bureau in the Far East has been set up at Singapore and has been at work since March 1st last, thanks to the generosity of the International Health Board of the Rockefeller Foundation. The Bureau is now in communication with forty-six of the principal ports in Asia, Australia and East Africa. In co-ordinates the information received and transmits it weekly by wireless to the interested health services in the Far East, and also to the Health Section, which in turn transmits it to the health administrations of the Members of the League.

In view of the valuable services rendered by the Singapore Bureau since its recent foundation, the French delegation has proposed the following resolution :

“ The Second Committee, having in mind the gravity and the prevalence of endemic and epidemic diseases in West Africa and the international danger arising therefrom, recommends that the Assembly instructs the Health Committee of the League of Nations to study the possibility of establishing a sanitary and epidemiological bureau on the West Coast of Africa. ”

This office would be, in their opinion, of great service not only to the African countries but also to the regions with which they are in contact, especially South America. The establishment of the Singapore Bureau and the appointment, in connection with the Bureau, of a Commission of delegates of the Far Eastern health administrations and representatives of

the Health Organisation are evidence of the special importance which the Health Committee attaches to the improvement of the health situation in Far Eastern countries, and constitute an assurance that the Committee will endeavour to extend its work in that part of the world.

2. With the object of ensuring that official morbidity and mortality statistics may be drawn up on a comparable basis, the Health Organisation has undertaken the publication of reports on the organisation and work of the various health administrations and health statistical departments, and is also investigating statistical problems of international importance.

In the same field of work, the Health Committee has appointed a Committee of experts to agree upon a standard definition of still-birth, in order that it may be possible to judge of the efficacy of the measures taken to reduce infant mortality. This Committee has concluded its work and the Health Committee's report has, by the Council's instructions, been forwarded to the Governments.

Another body of experts has been appointed to study the tabulation of causes of death.

3. As regards the standardisation of biological products, the investigations are so advanced that another international conference was recently held at Geneva.

A special Committee was appointed to consider the standardisation of processes used for the titration of tuberculin which is employed in the diagnosis and treatment of tuberculosis.

Since the last Assembly, six Governments have sent in their replies regarding the sero-diagnosis of syphilis. It appears from these replies that the system of notation which is advocated for use in indicating the results of the sero-reaction has been officially adopted in several of these countries, and that the other suggestions which were made as to the method to be followed in carrying out the test have been, or are being, to some extent put into practice.

The investigations in connection with sera in respect of which standardisation is possible in the present state of knowledge are so far advanced that there is some prospect of resolutions being adopted next year, which will be submitted to the Governments for ratification.

4. The enquiries undertaken by the Cancer Commission have confirmed the supposition that there is a considerable difference between England, Italy and the Netherlands as regards mortality from cancer of the breast and uterus. The investigations which have been set on foot with a view to discovering factors which will explain this difference are now in progress and have already led to some interesting conclusions.

5. The Malaria Commission has published a most interesting and fully-documented report. The results obtained in Palestine, in the course of a recent tour of investigation, have led the majority of the members to conclude that, valuable though the quinine treatment is, the most effective weapon against the disease consists in improvement works for the destruction of larvæ and mosquitoes, where such works are possible. The experience acquired by the Commission continues to merit the attention of the administrations concerned. At the invitation of the Spanish Government, the Commission has lately visited certain malarial regions in Spain. One of its members has visited the health administration of the Kingdom of the Serbs, Croats and Slovenes, at the request of the Government of that country. The French Government has asked the Commission to conduct an investigation in Corsica, and a similar request has lately been received from the Turkish Government.

As existing supplies of quinine are not wholly adequate, the Commission has decided to arrange for clinical tests using cinchonine, a secondary alkaloid of cinchona, and the total alkaloids of cinchona, so that their action may be compared with that of quinine. The Commission hopes to have reached a decision on this point by next year, after which it will be able to approach the question of the world's quinine supply, as requested by the health administration of the Kingdom of the Serbs, Croats and Slovenes.

6. There are also other matters in connection with which Governments have appealed to the Health Organisation of the League of Nations. Thus, at the request of Persia, a delegate of the Health Section proceeded to that country to study the possibilities for organising measures against epidemics.

The Union of Socialist Soviet Republics has also recently solicited the co-operation of the Health Organisation in investigating the causes of the persistence of endemic plague in certain parts of Eastern Siberia bordering upon Manchuria.

7. On the suggestion of the Health Committee, transmitted, in accordance with a decision of the Council, to all Governments having possessions in Central Africa, a Conference met in London last May to consider the campaign against sleeping-sickness and tuberculosis in those regions. This Conference made various recommendations, especially with regard to the contact to be established between the officials posted on either side of a frontier and with regard to the introduction of sanitary passports for natives crossing from one country into another.

The Conference, moreover, recommended that an international commission should be asked to proceed to East Africa to study, along certain definite lines, a series of problems relating to the epidemiology of sleeping-sickness. This problem is of considerable interest but the cost involved would necessitate the creation of a common fund to which the Governments interested would have to contribute, and for the establishment of which the financial assistance of the League of Nations is also suggested.

8. Interchanges of public health officials, organised in part by means of funds placed for this purpose at the disposal of the Health Organisation by the International Health

Board of the Rockefeller Foundation, took place this year in Great Britain, Belgium and the Kingdom of the Serbs, Croats and Slovenes. Sixty-five officials belonging to thirty-six different countries participated. In addition, three interchanges of specialists took place, one of which was organised, in conjunction with the International Labour Office, for medical inspectors of labour.

An interchange was arranged exclusively for the health officers of Latin-American countries, while another is being organised for the sanitary officials of Eastern countries.

As it is difficult for public health officials of the British Dominions to take part in these collective tours, health experts from Australia and from New Zealand have been charged with individual study missions in Europe. Similarly, a Canadian tuberculosis expert has had the opportunity of investigating thoroughly the methods in use in different European countries for combating tuberculosis.

The interchanges of officials are intended to develop the scientific and technical knowledge of those who take part, to give them an insight into the institutions and organisations of the countries they visit, and to enable them to appreciate the efficiency of the methods in use for combating disease and for improving the hygienic conditions of the population. The relations which result from the interchange of health experts of the various countries serve to promote mutual understanding, a desire for collaboration and a spirit of emulation which cannot fail to be of value, both to those who take part in the interchanges and to the sanitary administrations to which they belong.

Convinced of the great utility of these interchanges, the Cuban delegation proposed the following resolution :

“ The Second Committee requests the Health Committee to consider the possibility of organising during the coming year an interchange of technical personnel in charge of institutes of public health and tropical medicine in the countries of Latin America. ”

9. In the resolution referred to at the beginning of the present report, the Fifth Assembly asked the Health Committee to institute an enquiry into the value of the measures taken against tuberculosis in different countries.

In carrying out this decision, the Health Committee, considering that it was not competent to investigate problems of a clinical and therapeutic nature, decided, as a preliminary measure, to prepare a report dealing with the decline of mortality from tuberculosis in the various countries from a statistical point of view.

This report having demonstrated that there was a real decline in certain countries and having brought to light the probable reasons, a Committee was formed to continue the work, and to study the effect of industrial labour, of housing and food supplies generally, and of milk consumption in particular, upon the prevalence of tuberculosis.

The Commission decided, moreover, to undertake a statistical enquiry into the cost of the different measures applied against tuberculosis.

We appreciate the methodical character of the proposed investigations, and we realise the important part they will play in improving our armament against tuberculosis. Let us therefore hope that they will shortly be productive of satisfactory results.

10. Last year, the Assembly asked the Council “ to suggest to the Health Committee the desirability of communicating to the Permanent Committee of the Paris Office international d'Hygiène publique the report setting out the questions with which the Health Committee proposes to deal at such a date as to permit the Permanent Committee to make, before the next Assembly, any observations to the Health Committee which appear to it desirable. ”

In compliance with this request, the Health Committee decided, at its meeting on April 24th last, that its annual report should deal with the year up to December 31st, and should be based upon the resolutions adopted by the Health Committee at its sessions held during the year. The report will be published and distributed as soon as possible at the beginning of each year, and will be included in the agenda of the following session of the Committee.

In this way, both the members of the Health Committee of the League of Nations and the members of the Committee of the Office international d'Hygiène publique will be in a position to submit their observations in the course of the session which these two Committees hold each spring.

We may add that, last April, the Committee of the Office international d'Hygiène publique expressed its entire approval of the report which the Health Committee had communicated to it regarding the work carried out since its third session.

As a fairly long period elapses between the date at which this report ends and the opening of the annual session of the Assembly, the Committee further decided that, in accordance with the rule laid down for the technical organisations of the League, a second report, dealing with events up to June 30th, should be prepared by the Medical Director of the Health Section and approved by the Bureau of the Health Committee. This was done this year, and the Bureau further decided to communicate the report to all the members of the Committee, with the request that they should submit such observations as they might think fit.

This second report was transmitted to the various Governments by the Secretary-General at the end of July. An Eastern delegation has expressed the hope that in future it may receive the report in time to submit it to its health authorities before leaving for Geneva. The Committee and the Health Section will doubtless do what it can to meet this delegation's wishes.

11. Owing to lack of funds, the Health Organisation was unable to comply with the request addressed to it by the Fifth Assembly "to take into consideration in due course the study of the problem of physical education and to investigate the means for its general extension on rational principles". Let us hope that it will be placed in a position this year to undertake this work and that it will also be able to give effect to the resolution quoted above regarding the establishment of a Health and Epidemiological Bureau on the West Coast of Africa.

As regards the various subjects mentioned in the following resolutions, the Second Committee proposes to refer them to the Health Committee for study, provided that no expenditure additional to the estimates already submitted is involved.

I. Proposal of the Italian Delegation.

"In view of the present widespread prevalence of trachoma, which serious disease is one of the most frequent causes of blindness, the Second Committee of the Sixth Assembly recommends:

"That the Health Committee, with the approval of the Council, undertake an enquiry into the prevalence of trachoma in various countries and into the measures that have been adopted for its prevention. Having obtained this information, the Health Committee should be in a position to formulate recommendations and eventually to advise as to the most suitable and effective measures to be applied for the prevention of this disease."

II. Proposal of the Czechoslovak Delegation.

"1. In the interest of the economic, practical and efficient organisation of public health services, including national health insurance, the Second Committee requests the Health Organisation to undertake a comparative study of these aspects of health administration in various countries.

"2. In view of the great interest attached to the collection of morbidity statistics, with special regard to the prevention of disease, the Second Committee requests that the Health Committee, among its other work, should include the study of a uniform international method of collecting information regarding diseases treated in hospitals.

"3. The Second Committee recommends that the Health Committee should insert on its agenda a study of the conditions in which it would be possible to unify national pharmacopœias in so far as prescriptions relating to the compounding of drugs are concerned."

III. Proposal of the Paraguayan Delegation.

"The Second Committee, appreciating the value of the studies undertaken by the Health Organisation to secure the comparability of health statistics, recommends that an expert medical statistician be sent to a certain number of countries, notably in Latin America, to study, in collaboration with the competent authorities of those countries, the sanitary statistical methodology employed therein, with the object of making comparable the health statistics of a still larger number of countries."

IV. Proposal of the Venezuelan Delegation.

"The Second Committee, desirous of strengthening the ties which should bind the Health Organisation of the League of Nations to national public health administrations, recommends to each Government the establishment of a special bureau within its health organisation, whose function it would be to ensure collaboration between the head of this administration and the Health Organisation of the League of Nations. It is desirable that the personnel of such special bureaux should already have collaborated with the Health Organisation of the League of Nations."

V. Proposal of the Delegation of the Kingdom of the Serbs, Croats and Slovenes.

"The Second Committee requests the Health Committee to study from an international point of view the measures that might be recommended to Governments, in the interest of public health, for the control of the manufacture and distribution of food supplies."

12. According to the Health Committee's report, the budget estimates for 1926 represent the absolute minimum of its requirements and amount to less than was asked for by the Committee for 1925.

The Second Committee notes that, according to the same report, if the estimates prepared by the Health Committee are approved, the budget of the Health Organisation might be stabilised at the amount requested for the financial year 1926 as long as the general budget of the League of Nations remains within its present limits and the Assembly or the Council does not entrust to the Health Committee any new tasks.

13. Last year, the Assembly was pleased to recognise that the work accomplished by the Health Organisation had been kept within the limits of the mission entrusted to the League of Nations under Article 23, paragraph 6, of the Covenant, and was likely to promote valuable co-operation in health matters.

The Second Committee would also emphasise the fact — mentioned by the Health Committee in its report — that the greater part of the work of the Health Organisation has been done not so much upon its own initiative as at the request of Governments, of national public health authorities, of the Council or of the Assembly.

14. As the investigations of the Health Organisation are given a wide publicity, they are of value to the local and central health authorities in all countries. Even when the Health Organisation, at the request of any Government, sends a mission to a country to investigate its health conditions and discover the best remedies, it does not render service to the public health authorities of that country alone, for all nations are jointly and separately responsible in health matters; all benefit by the experience of others, just as all are menaced by unsatisfactory health conditions of any one of them or by the inadequacy of its sanitary equipment.

The League of Nations fully realised this when it established the Health Organisation and approved the methods of work of the Health Committee. By forming permanent or temporary commissions, as the case might be; by appointing the most highly qualified experts in the various countries to be members of these commissions; by the research work entrusted to these experts; by the missions sent to make studies on the spot, in order that they might ascertain the actual state of affairs and might judge of special circumstances of the extent of the evil from which populations are suffering and of the remedies best suited to local conditions, the Health Organisation is in a position to make prompt and useful suggestions to the public health authorities which seek its advice.

15. In order to show its appreciation of the work done by the Health Organisation, the Second Committee decided to submit to the Assembly the following resolution, which was proposed by the Venezuelan delegation and seconded by the delegations of Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Paraguay, Poland, Roumania, the Kingdom of the Serbs, Croats and Slovenes and Switzerland.

In proposing the following resolution, the Second Committee emphasises that its adoption does not involve any additional expenditure :

“ The Assembly has examined the report presented by the Health Committee on the activities of the Health Organisation and considers that the work accomplished since the last Assembly has been carried out in accordance with the recommendations of former Assemblies and in conformity with the decisions of the Council.

“ The Assembly notes with satisfaction that this work, thanks to the research and investigations undertaken for the solution of the problems examined, will be of the greatest value to the public health services of different countries.

“ The Assembly is glad to note that the Governments are more and more disposed to collaborate with the Health Organisation in matters concerning the prevention of communicable diseases and the improvement of health conditions of the people.

“ The Assembly requests the Council to refer to the Health Committee and to the Economic Committee for their consideration the proposal submitted by the delegation of the Kingdom of the Serbs, Croats and Slovenes, and to the Health Committee the proposals of the delegations of Cuba, Czechoslovakia, France, Italy, Paraguay and Venezuela, on the assumption that these proposals will not involve any expenditure supplementary to the estimates already submitted for 1926.”

Geneva, September 15th, 1926.

LEAGUE OF NATIONS

REPORT ON THE WORK OF THE HEALTH ORGANISATION

presented to the Assembly by the Second Committee.

(Rapporteur: M. Benjamin FERNANDEZ Y MEDINA (Delegate of Uruguay).)

The report of the Health Organisation of the League and that of the Secretary-General have furnished us with a detailed account of the action taken by the Health Committee in pursuance of the recommendations of the Assembly with regard to the various proposals made last year. We have had one more opportunity of realising the efficiency of the Organisation's work and the progress which has been made in this particular field of League activity, which is undoubtedly among the most interesting and the most generally appreciated by the public.

Attention must first be drawn to the universality of the Health Organisation's work: the Health Committee has succeeded during the last twelve months in establishing very close relations with the Health Administrations of the Far East. We are under an obligation, in the first instance, to the Japanese Government for all that it has done to facilitate the detailed study of its excellent health administration by a group of health officers appointed by the Health Administrations of Far Eastern countries, some of whom were the chiefs of those services. A wealth of information, a series of very careful investigations, together with the personal contact established with the Health Administrations of British India, the Philippines, New Zealand, Australia, Siam, French Indo-China, China, the Soviet Republic, the Far East and the Dutch Indies, will render possible a valuable system of collaboration in the solution of common problems.

Our colleague His Highness the Maharaja of Kapurthala has already laid stress in the Assembly on the rôle which the League can play in Asia in its struggle against plague, cholera and other diseases.

Our Health Committee has succeeded in establishing a permanent system of collaboration with its Japanese colleagues, whose work deserves wider recognition, through the intermediary of a Co-ordination Committee, which draws up monographs every year based upon the research work carried out in Japan. These monographs, which are included in our series of publications, will enable the doctors of the West to become acquainted with the progress of every description achieved in Japan. This admirable system of collaboration is further strengthened by the organisation of an exchange of Japanese and Western health experts and public health officials, to whom our Health Organisation has given an opportunity of investigating certain problems of special importance to the Administrations concerned. This investigation will be carried out both in Japan and in the countries of the West, and will last for a period of nine months.

His Highness the Maharaja of Kapurthala also laid emphasis, in addressing the Assembly, upon the rôle played by the Epidemiological Intelligence Bureau of Singapore, in whose work all the countries of the Far East co-operate. This first institution of the League of Nations in the Far East serves both to satisfy the immediate needs of the Administrations of the Far East, with which it co-operates in the struggle against epidemic diseases, and also to meet the requirements of the Health Administrations of all countries, whether Members of the League or not, which are thus enabled for the first time to obtain direct information with regard to epidemics arising in the East. Last year at this period, 50 ports were in telegraphic communication with the Singapore Bureau; this number has recently increased and now amounts to 108.

The Second Committee was accordingly unanimous in accepting the Japanese delegation's proposal¹, which was strongly supported by the proposal of the delegation of India, that an appropriation should be made in the League Budget for the expenses of the Bureau. The Committee fully realised the high importance of the work of the Bureau as the first League institution in the Far East, and the value of its activities not merely to the Health Departments of the countries in that part of the world but to all the States Members of the League.

The Advisory Committee of our Singapore Bureau is presided over by the head of the Health Administration of British India, while the Vice-Chairmen represent the Health Administrations

¹ This proposal has now been passed to the Fourth Committee.

of French Indo-China, Japan, the Dutch Indies, Siam and China. It enables the Health Committee — which has accepted the task with the consent of the Council — to initiate and co-ordinate investigations and research work bearing upon vaccination against cholera, the endemic centres of this terrible disease, and the measures to be taken to prevent the risk of the outbreak of an epidemic of pulmonary plague in Manchuria. It has also drawn our attention to the desirability of the League's taking an interest in social hygiene problems in the countries of the Far East. The annual report gives full details of this work, which is singularly deserving of encouragement and peculiarly consonant with the ideas and policy of the League of Nations.

The success of the Singapore Bureau has been definitely established and already one can foresee the possibility of setting up other regional bureaux on the same lines, in order to facilitate the collection and distribution of epidemiological and general health intelligence.

No less successful results have been achieved in another part of the East, in Persia, thanks to the enquiry which was undertaken two years ago by the Health Committee, and to the subsequent steps which were taken.

It is not, however, only in the East that efforts have been made to encourage further collaboration between Health Services. An interchange was arranged among medical officers in the Colonial Services of Senegal, Gambia, Portuguese and French Guinea, the Ivory Coast, Togoland, the Gold Coast, Nigeria, Dahomey, Sierra Leone and South Africa, who visited the various colonies during several weeks in groups in order to investigate in the most detailed manner the working of the medical and public health services.

This journey threw important new light on many subjects; the mutual exchange of theory and experience gained under particularly arduous conditions will make it possible to apply in other countries the definite results obtained in most of the colonies which were visited. The direct benefit will accrue to the native inhabitants themselves. It should in particular be noted that what appears to have been most valuable to those taking part in the interchange is the examination of the results obtained by the schools for native male nurses and doctors, and by the treatment in hospitals, according to the common practice, of the sick of the native population.

On the occasion of this interchange, efforts were made to obtain the views of the sanitary and medical administrations of the colonies as to the desirability of establishing an epidemiological intelligence bureau in Western Africa in pursuance of the recommendation expressed by the last ordinary session of the Assembly.

This question is still under consideration by the Health Committee, which has decided to carry out an experiment at Algiers and proposes to put forward definite recommendations at its October Session.

In Africa again the Health Organisation is engaged, through the intermediary of an international commission composed of Belgian, British, French, German and Portuguese experts, in investigating a series of practical and theoretical problems with regard to the distribution and prevention of sleeping-sickness in Equatorial Africa. You are all aware of the great economic and general importance of this research, and you will all be ready to say that you are following with keen sympathy the often dangerous work of these scientists in the tropical bush.

It is highly desirable that the Health Organisation should show similar activity in Latin America. We may recall with satisfaction the efforts which have been made to enable health officers of Latin America to take part in the various investigations and interchanges. There is also a new step to be recorded: a Brazilian specialist has been given the opportunity of investigating in Japan, for a period of nine months, the parasitic diseases prevalent among Japanese emigrants to Brazil. The Japanese Government and the Health Committee are to be congratulated upon the proof which they have given of the practical application of the system of interchanges and individual fellowships.

The number of experts of Latin-American countries who take part in the work of the technical commissions of the Health Organisation is increasing year by year. We trust that specialists in child-welfare questions and the campaign against infant mortality will soon be attached to the group of experts which the Health Committee, in accordance with the recommendation presented by the Netherlands delegation to the last ordinary session of the Assembly, has appointed for the study of this problem of prime importance to all countries.

Infant mortality, important though it is, is only one of many problems which together make up the question of child welfare. The Committee therefore displayed the keenest interest in the proposal made by M. Veverka, delegate of Czechoslovakia, who is asking the Council to request the Committee to embody in its programme the study of physical training including school hygiene, and to consider whether there are any special problems in connection with which it would be useful to undertake a comparative investigation and to co-ordinate the researches and enquiries carried out in different countries.

As long ago as 1924, Dr. Caballero, delegate of Paraguay, drew the attention of the Assembly to the question of physical training, and succeeded in having a recommendation made to the Health Committee that it should consider the desirability of investigating this question. The proposals of the Cuban and Paraguayan delegations bear witness to the interest which the Latin-American countries evidently take in all such questions. It will undoubtedly be a useful step to hold a meeting in Latin America of experts representing these countries, who will, the Committee hopes, take part in the work of the body of experts appointed by the Health Committee to make an exhaustive study of the question. The Assembly will doubtless be delighted to see this idea carried out.

The Second Committee, in adopting the various resolutions proposed, does so with the intention of leaving to the Health Committee freedom to study the possibility and advisability of giving effect to the same, it being understood that such investigations will entail no expenditure beyond what is provided for in normal budgetary credits.

RESOLUTION.

" The Assembly:

" Having taken note of the reports dealing with the work of the Health Organisation (documents A. 6, 1926., A. 6 (a), 1926 and A. 17, 1926.), notes with satisfaction the growth and increasing usefulness of that work with its tendency to universality;

" Expresses its gratification at the work undertaken and the results obtained by the Health Committee and its organs as well as by the various experts entrusted with special missions, and wishes to express its sympathetic interest with the scientists of the International Commission on Sleeping-Sickness who are conducting their sometimes dangerous enquiry in Equatorial Africa.

" The Assembly notes with satisfaction the close collaboration established with the sanitary and medical authorities of Japan as a result of the interchange and the conferences held in that country; and with the sanitary administrations of other Far-Eastern countries, through the intermediary of the Advisory Council of the Epidemiological Intelligence Bureau of the League at Singapore;

" Notes in particular the plan of research work and special enquiries into health problems of the Far East in which the administrations of British India, China, the Dutch Indies, French Indo-China, Japan, the Philippine Islands and Siam have promised their assistance;

" And requests the Council to refer the resolutions proposed by the Cuban¹, Czechoslovak² and Uruguayan³ delegations to the Health Committee for consideration."

¹ "The Second Committee, in conformity with the resolutions of the Fifth and Sixth Ordinary Sessions of the Assembly on the subject of infant mortality and the protection of children, requests the Council to ask the Health Committee to consider to what extent it could, at a suitable time, enlarge its scheme of international enquiry to include other problems of eugenics."

² "The Second Committee, considering the importance of physical culture as a means for preventing disease and in view of the interest which numerous countries take in that question, asks the Council to instruct the Health Committee to consider the inclusion in the programme of its work of the international investigation of physical culture, including scholastic hygiene, and to decide what special problems may necessitate a comparative study and a co-ordination of national research work and national enquiries."

³ "The Second Committee, having taken note that the International Economic Conference's plan of enquiry is to include an examination of the problems of nutrition (document A. 24, 1926, II), points out the interest which would attach to the supplementing of this enquiry by a study of the problem from the standpoint of race improvement. This study should take into account the work of the Health Organisation regarding infant mortality, as well as the reports by the Japanese Institute of Research into Nutrition Problems comprised in the publications of the Health Committee."

Geneva, February 4th, 1927.

LEAGUE OF NATIONS

ANNUAL REPORT

OF THE

HEALTH ORGANISATION

for 1926

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FOREWORD

The present report covering the work of the Health Organisation of the League of Nations for 1926 is the second of a series called for by resolution of the Health Committee in April 1925 to provide a more concise and connected account of its work than was possible in the various reports prepared for the Assembly and the Council of the League of Nations. In the first report of this series (C.H. 442) reference was made to the early history of the Health Organisation and the beginning, course and development of the various enquiries and investigations carried on until the end of 1925. The present report is concerned with the year 1926 alone; for information relating to earlier years the reader is referred to the first annual report and to other publications of the Health Organisation.

Chapter I.

SESSIONS OF THE HEALTH COMMITTEE IN 1926.

1. During 1926, three sessions of the Health Committee were held, two at Geneva (sixth session, April 26th to May 1st, and eighth session, October 13th to 19th) and one at Paris (seventh session, June 19th and 20th). The work of the various commissions of the Health Committee will be described later in this report.

The Council and the Assembly of the League have considered and approved the work of the Health Organisation on several occasions during the year.

In submitting to the Council the resolutions adopted by the Committee during its sixth session, Viscount Ishii (the Japanese member of the Council), Rapporteur for Health, directed special attention to the work of the Health Organisation in Far-Eastern countries, illustrated by the interchange of public health officers in Japan in 1925, the proposal to publish certain scientific reports, hitherto available only in the Japanese language, in French and English, and the Eastern Bureau at Singapore. Mention was made of the progress of the Sleeping-Sickness Commission at Entebbe (Uganda) and the various interchanges of public health personnel. The Council approved the resolutions of the Health Committee, together with the observations contained in Viscount Ishii's report (document C. 304. 1926. III).

2. The seventh session of the Health Committee considered the proposal of the French delegation to the sixth ordinary session of the Assembly regarding the creation of an Epidemiological Intelligence Bureau for West Africa, and Article 7 of the new International Sanitary Convention (Paris 1926), which authorised the Office international d'hygiène publique to negotiate the necessary agreements with the Health Committee of the League of Nations in order that the latter's Epidemiological Service and Eastern Bureau might be utilised for the purposes of the Convention.

The Health Committee decided to undertake the experiment of attempting to collect and distribute epidemiological intelligence from African countries, at Algiers, while awaiting the views of the Governments concerned in regard to the proposal. With regard to the negotiations with the Office international d'hygiène publique, the Committee adopted a preliminary draft agreement which had been prepared by the President and Bureau of the Health Committee in consultation with the President and Bureau of the Office international. The terms of this draft agreement will be found in Chapter II of this report. The Council of the League approved the resolutions adopted by the Health Committee at its seventh session on these two subjects.

3. In September the work of the Health Organisation was approved by the seventh ordinary session of the Assembly of the League of Nations, three reports being presented covering the period between the sixth and seventh ordinary sessions of the Assembly (documents A. 6. (a) 1926, A. 6. 1926 and A. 17. 1926). The Rapporteur for Health in the Second Committee, M. Benjamin FERNANDEZ Y MEDINA (delegate of Uruguay), presented a report, which was adopted by the Assembly.

Particular attention was drawn to the universality of the Health Organisation's work, and the fact that the period covered by the report had witnessed the establishment of close relations with Health Administrations of the Far East. In commenting upon the increasing scope of the Eastern Bureau at Singapore, the Rapporteur mentioned the proposal of the Japanese delegation that a credit from the League's budget should be set aside for that Bureau. This proposal was passed to the Fourth Committee and later adopted by the Assembly. Mention was made of the work in Persia, and the interchange of medical officers in West Africa. Particular attention was directed to the relations already established by the Health Organisation with the Public Health Authorities of Latin-American countries, and the desirability of still further cultivation of this field. Finally, a resolution was presented to the Assembly and later approved, noting with satisfaction the growth and increasing usefulness of the Health Organisation, expressing gratification for the work undertaken and the results achieved by the Health Committee and its commissions and experts, and denoting its sympathetic interest for the scientists of the International Commission on Sleeping-Sickness in Africa. Approval was given to the plan of special enquiries into health problems of the Far East and the co-ordination of medical research in that area. The Assembly asked the Council to refer to the Health Committee the resolutions proposed by the Cuban, Czechoslovak and Uruguayan delegations (document A. 63. 1926. III and A. 112. 1926. III) described later in this report.

On the proposal of the Fourth Committee, the Assembly approved the budget of the Health Organisation for 1927.

4. The eighth session of the Health Committee was the last to be held by the members of the first Permanent Committee whose terms of office expired on December 31st, 1926. For this reason Viscount ISHII, in his report to the December session of the Council (document C. 626. 1926. III), gave a general review of its work during the three years of its tenure of office, and asked the Council to adopt a resolution instructing the Secretary-General to forward to all the members an expression of gratitude for the work which had been done.

In his report, Viscount Ishii referred to the action of the Health Committee with regard to the various proposals referred to it by the seventh ordinary session of the Assembly. [Particulars concerning these will be found in Chapter V of this report.] Viscount Ishii reminded the Council of its approval of the work of the Health Committee on many occasions and attributed the success of this work to the competency of its members and of the experts it had consulted, to its attempts to develop the work of the Health Organisation in countries Members of the League as well as to establish

technical relations with the Health Administrations of States still outside the League. Only those problems which merited international consideration had been selected for study from the large number of suggestions put forward.

5. The work of the various Commissions was reviewed by the Rapporteur, who reminded the Council that the Malaria Commission had completed its European enquiry, and the hope was expressed that its work might be extended to those Oriental countries which are specially affected by malaria. The Permanent Standards Commission had succeeded in establishing standards for the therapeutic sera most in use and for a considerable number of drugs which can only be tested by biological methods, as a result of enquiries conducted by the medical research institutes of almost all the countries of the world. Appreciable progress had been made by the Cancer and Smallpox Commissions in the solution of problems presented by the British, Italian, Netherlands and Swiss Health Administrations. In commenting on the work of the Sleeping-Sickness Commission in Equatorial Africa, Viscount Ishii asked the Council to approve the extension of its enquiries for a period of six months beyond the twelve months originally proposed by the London Conference (see Chapter III). Particular attention was drawn to the enquiries undertaken by the Conference of Health Experts with regard to the protection of children (Chapter II) which were being conducted in Austria, Great Britain, France, Germany, Italy, the Netherlands, Norway and the United States of America; Latin-American experts were assisting in this work and a conference on this subject would be held in the capital of one of the Latin-American countries next year. A systematic comparison of the results obtained should enable conclusions of technical value to be drawn. The hope was expressed that these enquiries will in due course be extended to Far-Eastern countries through the Eastern Bureau at Singapore.

6. This Bureau, constituting a centre of epidemiological intelligence for a large number of Health Administrations responsible for vast territories, also acted as a centre for the co-ordination of epidemiological and public health enquiries undertaken at the instance of the Health Services of Far-Eastern countries. The Advisory Council of the Eastern Bureau on which the interested Administrations are represented (and which acts in an advisory capacity towards the Bureau) is a special commission of the Health Committee, to which the reports of its annual session are submitted (Chapter II).

The report on the work of the eighth and last session of the present Health Committee was approved by the Council.

APPOINTMENT OF MEMBERS OF THE NEW HEALTH COMMITTEE.

7. In accordance with the provisions of the Constitution of the Health Organisation, the Standing Health Committee consists of the President of the Committee of the Office international d'hygiène publique and fifteen other members. Nine of these members are appointed individually for three years by the Committee of the Office international d'hygiène publique in such a way that each State which is a permanent Member of the Council of the League of Nations is represented on the Standing Health Committee.

Accordingly, the Committee of the Office international, during its session of October 1926, selected the following members:

Sir George BUCHANAN, Senior Medical Officer of the Ministry of Health, London;

Dr. H. CARRIÈRE, Director of the Swiss Federal Health Service, Berne;

Surgeon-General H. S. CUMMING, Chief of the United States Public Health Service, Washington;

Dr. C. HAMEL, President of the Reichsgesundheitsamt, Berlin;

Dr. N. M. Josephus JITTA, President of the Health Council of the Netherlands, The Hague;

Professor Ricardo JORGE, Director-General of Public Health, Lisbon;

Dr. A. LUTRARIO, late Director-General of the Public Health Administration at the Ministry of the Interior, Rome;

Dr. M. TSURUMI, representing the Sanitary Services of Japan, late Director of the Health Service of the South Manchurian Railway Company;

Dr. L. RAYNAUD, Inspector-General of the Health Services of Algeria, Algiers.

M. O. VELGHE, Secretary-General of the Ministry of the Interior and of Health, Brussels, is vice-president of the Health Committee by virtue of his position as President of the Committee of the Office.

8. The remaining six members are appointed, also for a period of three years, by the Council of the League of Nations after consultation with the Standing Health Committee. During its eighth session, the Health Committee adopted the following resolution:

“ The Health Committee:

“ In view of the stipulation contained in the agreement with the Office international d'hygiène publique which governs the Health Organisation of the League of Nations, and

“ In view of the convenience there would be in making proposals to the Council of the League of Nations at an early date regarding the nomination of members to be appointed by the Council;

“ Decides to authorise the Bureau to make the necessary proposals regarding the nomination of members to the Health Committee to be selected by the Council of the League of Nations.”

Accordingly, the Bureau, after consultation with the members of the Health Committee appointed by the Office international d'hygiène publique in October 1926, submitted to the Council of the League the six following names, which were accepted:

Dr. Araoz ALFARO, President of the National Health Department, Argentine, Buenos Aires;

Professor Léon BERNARD, Professor of Hygiene at the Faculty of Medicine of the University of Paris;

Dr. Carlos CHAGAS, Director of the Oswaldo Cruz Institute of Rio de Janeiro, Director-General of the Health Service of Brazil;

Dr. Witold CHODZKO, late Minister of Health for Poland, Director of the School of Public Health, Warsaw;
 Dr. John Drummond GRAHAM, Lieut.-Colonel of the Indian Medical Service, Public Health Commissioner with the Government of India;
 Dr. Th. MADSEN, Director of the National Institute of Serotherapy of Copenhagen.

9. The constitution of the Health Organisation further provides that the Standing Health Committee may be supplemented by the addition of not more than four public health experts as assessors; these assessors are appointed by the Council of the League of Nations on the nomination of the Standing Health Committee and will be considered as fully effective members.

The four remaining members will therefore be nominated by the Standing Health Committee during its first session in 1927.

10. BUDGET OF THE HEALTH ORGANISATION.

	Estimates			Actual Expenditure 1925
	1927	1926	1925	
Swiss Francs				
I. SECRETARIAT:				
1. Salaries of the Health Section	324,865	289,915	264,514	249,037
<i>Deduct:</i> Reductions in salaries due to lower cost of living 6,969				
2. Salaries of temporary staff, chargeable to Rockefeller Foundation Grants I, II, and III	178,555	161,333	200,364	132,458
<i>Deduct:</i> Reductions in salaries due to lower cost of living 3,706				
Indemnities	—	—	—	26,635
3. Travelling and removal expenses	50,000	55,000	40,000	45,571
4. General printing and documentation	2,000	3,500	6,000	1,297
5. Cables, telegrams and telephones	8,885	10,000	10,000	8,848
6. Miscellaneous petty expenses and unforeseen contingencies	2,000	2,500	5,000	930
II. EPIDEMIOLOGICAL AND PUBLIC HEALTH INTELLIGENCE.				
1. Special reports and enquiries	117,250	17,250	17,250	17,192
<i>Expenses chargeable to Rockefeller Grant II</i>	90,769	91,772	52,754	108,366
2. Publications	50,000	60,000	60,000	69,542
3. Sanitary notifications, contribution to the Singapore Office and epidemiological enquiries	75,000	60,000	65,000	55,000
4. <i>Collective and individual studies of public health statistics, Expenses chargeable to Rockefeller Grant III</i>	82,215	82,965	82,922	78,045
III. HEALTH COMMITTEE, TECHNICAL SUB-COMMITTEES AND CONFERENCES.				
1. Sessions of Health Committee and Technical Sub-Committees:				
(a) Daily allowances and travelling expenses, etc.	75,000	90,000	50,000	58,521
(b) Printing and publication for the Committees	31,700			
Special Investigations (this includes expenses of technical sub-committees appointed by the Health Committee)	—	150,000	142,000	133,414
2. Conferences and technical missions	100,000	100,000	—	—
IV. INTERCHANGE OF PUBLIC HEALTH PERSONNEL.				
1. Expenses in connection with a system of liaison between the various national public health services	150,000	150,000	150,000	147,624
2. <i>Collective, specialised and individual interchanges, Expenses chargeable to Rockefeller Grant I</i>	186,622	331,656	461,251	411,652
Total Expenditure of the International Health Organisation	1,534,861	1,655,891	1,607,055	1,544,132
<i>Summary of Appropriations in Aid.</i>				
Rockefeller Foundation Grants	538,161	667,726	512,302	730,521
I. For Interchanges of Public Health Personnel: \$50,000 =	259,130	388,695	233,411	459,445
II. For Epidemiological Intelligence Service: \$32,840 =	170,196	170,196	170,111	167,970
III. For Study of Demographic and Public Health Statistics: \$21,000 =	108,835	108,835	108,780	103,106

Chapter II.

EPIDEMIOLOGICAL INTELLIGENCE AND PUBLIC HEALTH STATISTICS.

11. A full description of the sources from which official information is received in regard to the prevalence of notifiable diseases will be found in the *Monthly Epidemiological Reports* and the various reports of the Medical Director to the Health Committee (see document C. H. 501). During 1926, the following countries have been added to the list of those whose official returns appear in the regular epidemiological publications:

Albania	Costa Rica	Anglo-Egyptian Sudan
Chile	Luxemburg	Transjordan.
China	Peru	

In 1926, the National Epidemic Prevention Bureau of Peking began to transmit current information in regard to the various provinces of China. The data were not numerically exact but furnished a fairly accurate idea of the movement and prevalence of the most important epidemic diseases. Every month the Bureau sends return postcards to leading practitioners of Western medicine and to all hospitals in China, and the replies are compiled and monthly reports issued. This action of the National Epidemic Prevention Bureau was taken on the suggestion of the Eastern Bureau at Singapore, and the diseases selected were those which concerned that Bureau.

12. In view of the fact that the reports from the various Health Administrations received at Geneva related to different periods and so were difficult to analyse and compare, and because the weekly period is the most stable and useful in the year for reporting purposes, the Health Committee, at its session in October 1926, recommended that the attention of Health Administrations now furnishing information for periods other than a week should be directed to this fact.

On November 11th, a letter was sent to Health Administrations explaining that, while some countries send their reports weekly, others send them every ten days, others twice a month and others once a month only. In this letter, Administrations which have adopted a different period were asked whether it would be possible for them to send weekly returns of infectious diseases and thereby make it possible to compare the returns from all countries.

The Administrations were also asked whether it would be possible for them to send to the Health Section statements on unusual outbreaks and the occurrence of diseases presenting special interest from an epidemiological or administrative point of view, such as influenza, epidemic encephalitis, poliomyelitis, typhoid fever, dysentery, smallpox, plague and cholera.

13. The following replies were received during 1926:

Belgium:	The weekly period of reporting as suggested was adopted on November 21st, 1926; information in regard to unusual outbreaks and diseases presenting special interest will be submitted.
France:	On account of material difficulties, it is impossible at the moment to submit weekly returns; on the other hand, the special information asked for in regard to unusual outbreaks and diseases presenting special interest will be submitted.
Hungary:	Arrangements have been made to extract and submit weekly the necessary returns.
Norway:	Not possible to furnish weekly reports under the existing system of reporting, but the possibility of changing the present regulations is being studied.
Roumania:	The weekly period of reporting will be adopted in January 1927.
Saar Territory:	The weekly period has been adopted for the required reports.
Sweden:	No immediate change in the system of reporting is possible on account of technical difficulties.

14. The epidemiological intelligence received by the Health Section is published in three periodicals:

A. *The Weekly Record*. Publication of this report was begun on April 1st, 1926. It consists of four pages and is designed to acquaint Health Administrations with the movement and prevalence of plague, cholera, yellow fever, typhus fever, smallpox and any other epidemic disease prevalent at the moment. The data are printed without explanatory material. The *Record* consists of two parts:

1. The regular weekly report cabled in code from the Eastern Bureau at Singapore, which gives the number of cases and deaths from plague, cholera and smallpox, and the plague-infected rats found in the 122 ports served by the Bureau. To this is added the names of the ports which have remained free from these infections during the week as well as those from which no report has been received.

2. Information regarding plague, cholera, yellow fever, typhus and smallpox extracted from official reports received at Geneva during the week ending Thursday, the day before issue.

Forty numbers of the *Weekly Record* were published and distributed in 1926 to Public Health Administrations and to addresses indicated by these Administrations.

B. The *Monthly Epidemiological Report* has been issued regularly throughout 1926 in the same form as during the previous year. Special attention has been given to the development of current statistical information concerning mortality from epidemic diseases and other important causes of death in large cities. The special value of such data depends on the fact that they can be made available much earlier than mortality statistics relating to whole countries. They furnish therefore a valuable although admittedly incomplete indication of the trend of epidemic diseases in the various countries.

Reports for 700 cities in round numbers are now published in the monthly bulletin, which also contains current statistics of natality and infant mortality in large cities. Meteorological returns from selected stations are also published in the monthly bulletin.

C. The Annual Report on the Prevalence of Infectious Diseases. The report for 1925, issued in July 1926, is somewhat wider in scope than the two previous volumes and contains, in addition to data for all diseases which are notifiable in the countries from which returns are received, statistics of births, deaths, infant mortality and deaths from selected causes in large cities. Meteorological returns are also included for a number of towns. Practically all Health Administrations verified the statistics for 1925 before publication, revised tables having been received from 58 countries as compared with 42 and 24 respectively in the two previous years. The tables referring to the causes of death in the various cities were verified in part by the municipal statistical services and in part by the Health Administrations of the respective countries.

The general review in the beginning of the volume describing the movement and prevalence of the various epidemic diseases is a more detailed survey than had been possible in the two earlier reports. A considerable amount of information in regard to the world prevalence of leprosy is included in this volume, as well as a short survey of the trend of tuberculosis and of infant mortality.

THE EASTERN BUREAU AT SINGAPORE.

15. During 1926 the work of the Eastern Bureau of the Health Organisation continued to expand. The Advisory Council met in Singapore from January 4th to 6th, the following members of the Council attending:

Australia	Dr. John ELKINGTON.
British India	Lieut.-Colonel J. D. GRAHAM.
British North Borneo.	Dr. P. A. DINGLE.
China	Dr. Wu LIEN-TEH.
Federated Malay States	Dr. A. R. WELLINGTON.
French Indo-China	Dr. L'HERMINIER.
Hong-Kong	Dr. J. B. ADDISON.
Japan	Dr. Genzo KATO.
Netherlands East Indies	Dr. J. J. VAN LONKHUIJZEN.
Siam	Dr. M. CARTHEW.
Straits Settlements	Dr. the Hon. A. L. HOOPS.
Philippine Islands	Dr. H. F. SMITH (as an observer).

The Directors of the Health Section and Eastern Bureau were also present. Lieut.-Colonel J. D. GRAHAM was elected Chairman of the Advisory Council and the following Vice-Chairmen were appointed: DOCTORS L'HERMINIER, VAN LONKHUIJZEN, CARTHEW, KATO and WU LIEN-TEH. Resolutions were adopted approving the Director's report for 1925 and recording appreciation of his services. The budget of the Bureau for 1926 was approved and submitted to the Health Committee.

16. It was decided to secure expert advice in regard to the best methods of ensuring regularity and accuracy in the reception of the weekly wireless bulletins and to supplement these by cables only at the express desire of the interested administrations. Health Administrations were invited to assist in the solution of difficulties inherent in picking up the Bureau's broadcasts by furnishing certain relevant information.

The Advisory Council considered that the work of the Health Organisation should include the promotion of studies and investigations into the great problems of public health in the East, particularly malaria, oral vaccination against acute intestinal infections, epidemic foci of cholera, the rat-flea fauna in different countries, the endemic centres of plague and the problem of tuberculosis. It recommended that special expert committees be set up to study these problems and to prepare a programme, and that the technical secretariat be provided by the Health Organisation of the League. Two Sub-Committees of the Advisory Council deliberated on the AA Code and the more effective utilisation of wireless respectively.

17. The following are the budget estimates for 1926 and 1927:

Estimates for 1926
(Expressed in Straits Settlements dollars at 57 per cent of gold dollars)

	\$
Staff, salaries and allowances	31,261
Cables and postage	25,000
Office stationery	500
Printing	5,000
Rent, electricity and telephone	3,750
Periodicals	500
AA Cable Code (2nd Edition) 750 copies	600
Medical attendance to staff	200
Audit fee	300
Miscellaneous	1,000
Passage Fund	1,000
Carried forward	69,111

	\$
Capital	
Brought forward	69,111
Office equipment (including "Roneo" duplicator)	400
Books of reference	250
	<hr/>
Total Budget in Straits Settlements currency	69,771
" " " gold dollars	39,763.77
	<hr/>
Budget Estimates for 1927 (Straits Settlements Currency)	
Staff ¹ salaries and allowances	47,876
Cables and postage	19,000
Printing, stationery and equipment ¹	7,200
Rent, electricity and telephone	3,220
Miscellaneous ¹	3,000
	<hr/>
Total in Straits Settlements currency	79,800
" " " gold dollars	45,486

Progress of the Work of the Eastern Bureau in 1926.

18. The functions of the Eastern Bureau were described in detail in the last Annual Report. During 1926, particular attention was devoted to the reception and dissemination of weekly telegraphic epidemiological intelligence and of information in regard to the movement of infected ships. At the beginning of the year, 66 ports located in practically every part of the area were in weekly telegraphic liaison with the Bureau. At the end of October, the number of such ports had increased to 135, which is approaching the number originally thought to represent the total which might be served by the Bureau. The principal missing links in the chain of communication are ports in China, but the activity of the Bureau was responsible for the collection of epidemiological intelligence from the interior of China by the National Epidemic Prevention Bureau. The information received from all these ports is summarised and broadcast in the AA Code through the generosity of the Administrations controlling the powerful wireless stations at Saigon, Malabar, Bombay, Sandakan, Madras, Calcutta, Karachi and Shanghai.

19. In accordance with the wish of the Advisory Council, the possibilities of the wireless reception of the weekly broadcast bulletin were explored, and a number of Health Administrations added to the list of those receiving the bulletin.

The Health Administrations of the following countries and ports added to this list in 1926 include Noumea (New Caledonia), Hong-Kong, India and Ceylon, Shanghai and Australia, Fiji, Manila, Djibouti and Rabaul (New Britain Archipelago); Japan, the Netherlands East Indies and British North Borneo were added to this list late in the previous year, so that all these Administrations are able to dispense with the weekly cable, thus reducing appreciably the cost of transmitting this information. Arrangements are also being made for the dissemination of the broadcast bulletin by post from local information centres in order to reduce expense. Thus the Conseil Sanitaire at Alexandria post a copy of the message to the Sudan; other local information centres are being established in the Madagascar region, the Persian Gulf and North China.

20. Telegraphic information in regard to the movements of infected ships was received on twenty-eight occasions during the year, and information on this subject was transmitted to ten different sanitary administrations for their necessary action. This information related to smallpox, cholera and sprue, and was received during every month of the year for which data are available (January-October). Full particulars will be found in the report of the Director of the Eastern Bureau to the second session of the Advisory Council.

In addition to the weekly broadcast, the Bureau was asked for and supplied special information on seventeen occasions during the first ten months of 1926, such information relating mainly to the incidence of cholera.

21. As explained in the Annual Report for 1925, the wireless bulletin is supplemented by a Weekly Fasciculus posted regularly to all Health Administrations in the area, 42 numbers being issued during the first ten months of the year. The distribution increased from 200 in January to 350 in June and 375 in October.

The first half-yearly bulletin was issued late in 1926. It contains a summary of the incidence of plague, cholera and smallpox in the countries and ports of the Far East, statistics of notifiable diseases in seven countries of Africa and about 20 countries and administrations of Asia, Australia and New Zealand. It also contains tables of mortality relating to 57 of the larger maritime towns, as well as information on the movements of infected ships, quarantine notifications and available statistics on the movements of immigrants in the Far East.

22. The statistical work of the Bureau grew steadily in 1926, regular returns from most of the important Far-Eastern Health Administrations being received and classified. An attempt has also been made with some success to collect data for the years immediately preceding the establishment of the Bureau in order to have records of sufficient length to justify conclusions in regard to the movement and prevalence of morbidity and mortality.

A number of Health Administrations have sent expressions of appreciation to the Bureau in regard to the value of its work and the utility of the broadcast messages in the prevention of

¹ Salaries include an item for a full-time director in place of a part-time director in 1925, and another item for a deputy-director not included in 1926. Under "Equipment" is included a duplicator, and the term "Miscellaneous" includes medical attendance to staff, audit fees and passage fund. This estimate will be considered by the Advisory Council in January 1927 and later submitted to the Health Committee.

disease. Among these may be mentioned the Health Administrations of the Union of South Africa, Kenya, Bagdad, Italian and British Somaliland, Mauritius and Seychelles.

23. The third session of the Advisory Council, to be held in January 1927, will be attended by delegates from a number of Health Administrations not represented last year, including Chosen, Formosa, New Zealand, Portugal and Ceylon. It will have to consider and advise the Health Committee with regard to the technical suggestions put forward by the Committee of the Office international d'hygiène publique concerning the duties which may be entrusted to the Eastern Bureau in carrying out the provisions of the new Convention in the Far East (see International Sanitary Convention, this chapter).

24. There remains to mention only the revised AA Code prepared and published in English and French during the year. The new code was prepared to meet the progress of the work of the Eastern Bureau and to provide for its future development, so that a large number of additional phrases have been added and, by means of annexes, the possibility of still further expansion has been provided. In the list of ports and places the new edition comprises 1,021 symbols as compared with 626 in the first edition. By rearrangement of the symbols, an economy was effected in the transmission of messages so that, as the number of liaison ports increased, the cable cost per port decreased from 6.94 in January 1926 to 2.31 in October 1926 (Straits Settlements dollars).

25. Arrangements have been made to give effect to the resolutions of the Advisory Council in regard to enquiries and investigations of particular interest to public health and medical authorities in the Far East, Professor Shiga having already started his investigation on the value of oral vaccination.

INTERNATIONAL STANDARDISATION OF MORBIDITY AND MORTALITY STATISTICS.

26. During 1926, 22 replies¹ were received in regard to the proposals put forward by the Committee on Still-births, which were forwarded to Governments on the order of the Council of the League. The majority of these replies stated that the Governments concerned were in agreement with the definitions proposed and offered no further comment.

The Governments of Australia, Brazil and the Union of South Africa stated that they were prepared to introduce such new legislation as the adoption of the definitions would require if other Governments did the same. The British Government, however, was unable to consider the adoption of the definitions proposed, owing to numerous difficulties in connection with existing legislation for the protection of infant life to which such a change would give rise. The Brazilian and Venezuelan Governments recommended that the Health Organisation should undertake the preparation of an International List of Causes of Still-births, the latter Government also proposing that the Health Organisation should establish a standard form for the registration of such still-births.

REVISION OF THE INTERNATIONAL LIST OF CAUSES OF DEATH.

27. Mention was made in the Annual Report for 1925 of the receipt of proposals in regard to the forthcoming revision of the International List of Causes of Death from a committee of the American Public Health Association. The Health Committee decided in 1925 to include this subject in its programme of work, and a letter was addressed to the various Health Administrations by the Secretary-General inviting their views.

28. Replies have been received from 14 Governments and the Conference of Scandinavian countries as follows:

The Government of the Union of South Africa makes certain suggestions as to the modifications of a few titles which would make the list more suitable for local conditions. Other minor modifications which have already been introduced, to allow for conditions prevailing in South Africa, are described.

The Governments of Argentina and Cuba have promised to forward their observations when the responsible departments of their administrations have completed their examination of the question.

The Government of Belgium promises to collaborate with the Health Committee in the revision of the International List along the lines laid down in the resolution.

The Government of Czechoslovakia states that its Ministry of Health and State Statistical Institute are carrying out a detailed study of the question, the results of which will be forwarded to the Health Organisation in due time. The abridged list used at present in Czechoslovakia, differing in certain respects from the international short list, has 58 headings; the differences are fully described.

The Government of Finland will forward its observations after the responsible departments have had an opportunity to study the list.

The Government of Great Britain expresses its desire to co-operate in the necessary preparatory work in pursuance of the terms of the resolution. The General Register Office, in consultation with the British Ministry of Health, has already reviewed its experience, and provisional suggestions for revision will soon be transmitted. Request is made for the suggestions or amendments put forward by other countries.

The Government of Italy states that the International List prepared at the Conference of 1920 has been used in Italy since January 1st, 1924. As soon as a sufficient amount of practical experience has been acquired, suggestions for revision will be prepared and transmitted.

¹ Argentina, Australia, Brazil, Bulgaria, Czechoslovakia, Denmark, France, Great Britain, Greece, Guatemala, Honduras, Hungary, India, Japan, Latvia, Netherlands, Nicaragua, Norway, Poland, Siam, South Africa, Venezuela.

The Government of Japan explains that some additions to the list have been made in Japan to meet local requirements. The opinion is expressed that an international understanding is desirable, first with regard to the inclusions under the different heads and, secondly, with regard to the primary tabulation of joint causes of death.

The Government of Latvia states that the question is being considered.

The Government of the Netherlands states that the International List has been in use since 1920, but that it cannot decide to adopt the list officially because of some differences in the text of the copy received and the official text of the conference.

The Government of New Zealand explains that the International List is used in its country, in conjunction with the American Manual of Joint Causes, and that neither the Health Department nor the Government Statistician have any suggestions to make regarding the revision.

The Government of Roumania makes certain detailed proposals regarding the age classification to be used in tabulating deaths and states its willingness to accept such proposals for revision as may finally be approved and adopted by the Health Committee.

The Government of Switzerland advocates the collaboration of the International Institute of Statistics with the Health Committee in the preparatory work of revision and states that the International List is still on trial. Observations will be made early in 1927 when the tabulation of data for 1921-25 has been completed.

The four Scandinavian countries formulated their views at a Conference held at Copenhagen in December 1926 and transmitted them officially to the Health Organisation.

29. During the October 1926 session, the Health Committee adopted the following resolution:

"The Health Committee,

"Having considered the report of the Medical Director on the List of Causes of Death, the correspondence on this subject with the International Institute of Statistics and the observations made during the discussions in the Committee,

"Decides:

"A. To entrust to a committee of experts the study of the documents transmitted to the Health Section by the Governments which comply with its request and of the preparatory work incident to the revision of the nomenclature now in use;

"B. To keep the International Institute of Statistics in touch with the work of the committee of experts and, when the moment appears opportune, to convoke a preparatory conference of the committee of experts and a delegation from the Institute, in order to secure agreement on the questions which will be submitted to the future international conference."

30. Accordingly, a number of administrative statistical experts were invited to sit on this Committee, which will meet on March 14th, 1927:

Chairman: Professor E. WESTERGAARD.
Members: Professor Haven EMERSON,
Professor C. GINI,
M. Michel HUBER,
Doctor E. ROESSLE,
Mr. S. P. VIVIAN.

EPIDEMIOLOGICAL AND STATISTICAL PUBLICATIONS.

31. In another chapter will be found a list of the publications of the Health Organisation during 1926. More detailed consideration must be given here to the special publications of epidemiological and statistical interest.

Handbooks of Vital Statistics.

Handbooks of vital statistics prepared on the same plan as those mentioned in the Annual Report for 1925 were issued for the following countries:

Portugal — by Dr. Major GREENWOOD and Major EDGE.

The Scandinavian and Baltic Countries — by Professor WESTERGAARD.

The handbook on vital statistics in

Czechoslovakia

was in the press as the year ended and manuscripts on official vital statistics had been received and prepared for the press from the following countries:

France Hungary Italy

Progress was made in the preparation of a handbook for the

United States of America

which is expected to be published in 1927. The series of handbooks on the important countries should thus be nearly completed by the end of the coming year, and valuable statistical information formerly available to a restricted number of specialists will be placed within the reach of every public health officer.

Public Health Surveys.

Three volumes of the series describing the public health organisation and administration of various countries were published in 1926, on

Australia — by Drs. J. H. L. CUMPTON and Frank McCALLUM.

The French Colonies — by Dr. S. ABBATUCCI.

Bulgaria — by Dr. IVAN GOLOSMANOFF.

The *International Health Year-Book for 1925* was issued in December 1926. It contains information in regard to public health progress in twenty-one countries, and has 625 pages of text, as compared to 486 pages in the Year-Book for 1924. In addition, the 1925 volume includes reports on the progress of the various inter-Governmental and private international health organisations. 32. Three special volumes on epidemiological and statistical subjects were also issued in 1926. These were: the "Third Report on Acute Meningitis in Prussia" by Professor E. SELIGMANN, an "Analytical Summary of Professor ROSENFELD'S Report on the Statistics of Tuberculosis", and "A Treatise on Pneumonic Plague" by Dr. WU LIEN-TEH, Director and Chief Medical Officer, Manchurian Plague Prevention Service, etc. (document C.H. 474, 466 pages, illustrated).

This volume contains chapters on the history of pneumonic plague from ancient times to and including a detailed description of the present pandemic, a survey of plague in wild rodents and its spread to man, the epidemiology of pneumonic plague, its pathology, clinical features, infectivity and immunity, therapy and personal prophylaxis, general prophylaxis and control of epidemics and an exhaustive bibliography and list of authors' names to whom reference is made. In an appendix there are notes on methods of disinfection. The author does not believe that the methods available at the present moment for the prevention and suppression of pneumonic plague guarantee its speedy disappearance. On the other hand, he considers that the present higher incidence may be more apparent than real, resulting from more accurate diagnosis. In his opinion, more timely and universal application of preventive measures may in the future prevent the occurrence of widespread epidemics such as that of 1910-11. He thinks, however, that outbreaks of pneumonic plague will occur from time to time as long as its roots in the form of epizootics and bubonic plague continue to prevail.

THE INTERNATIONAL SANITARY CONVENTION, 1926.

33. In view of the importance of the epidemiological information collected and transmitted by the Health Organisation at Geneva and its Eastern Bureau at Singapore, the International Sanitary Conference held at Paris in May and June 1926 inserted the following article in the New Convention (the authentic text is French; the following is the translation used in Health Committee documents):

Article 7: "In order to facilitate the accomplishment of the task which has been entrusted to it by the present Convention, the Office international d'hygiène publique, by reason of the utility of the information now being supplied by the Epidemiological Intelligence Service of the League of Nations, including its Eastern Bureau at Singapore, and other similar bureaux, as well as by the Pan-American Sanitary Bureau, is authorised to negotiate the necessary agreements with the Health Committee of the League of Nations, as well as with the Pan-American Sanitary Bureau and other similar organisations.

"It is understood that the arrangements reached by such agreements shall in no wise contravene the stipulations of the Rome Convention of December 9th, 1907, and shall not result in the substitution of any other health body for the Office international d'hygiène publique."

34. The following draft-agreement was drawn up by the Presidents and Bureaux of the Health Committee and of the Office international, and adopted by the Health Committee during the session in June 1926:

"The Health Committee, having considered the terms of the preliminary draft submitted by the Bureaux of the Office international d'hygiène publique and the Health Committee of the League, approves the following text, which is the outcome of its deliberations:

"The Permanent Committee of the Office international d'hygiène publique and the Health Committee of the League have agreed on the following procedure, which they consider to be the most effective to ensure the centralisation and distribution of information concerning epidemic diseases and sanitary measures which are contemplated by the Paris International Sanitary Convention of 1926:

"(1) The notifications provided for in Article 1, and intended for the Office international d'hygiène publique may be transmitted by Governments through one of the League of Nations' regional bureaux.

"These bureaux shall at once communicate such notifications, by telegram or wireless, to the Office international d'hygiène publique as well as to all the health administrations with which they are in direct relations.

"The notifications thus received shall be communicated forthwith by the Office international d'hygiène publique to the diplomatic agencies in Paris.

"(2) The immediate communication to principal health authorities provided for under Article 3 of the Convention shall be effected in the name and on behalf of the Office international d'hygiène publique by the Epidemiological Intelligence Service of the League of Nations. All notifications forwarded to the Office international d'hygiène publique, either directly or through the other regional bureaux, shall be communicated immediately to the Service.

"The immediate communication of these notifications to principal health authorities shall be effected by this Service in the name of the Office international d'hygiène publique by telegram or wireless, as frequently as may be necessary.

"(3) The communications provided for in Articles 2, 3, 4, 6, 9, 12, 14, 16, 28 and 49 of the Convention, received directly by the regional bureaux of the League of Nations, shall be forwarded immediately to the Office international d'hygiène publique, as well as to all the Health Administrations in direct relationship with those bureaux.

"(4) The first page of the *Weekly Summary* and of the periodical publications of the Epidemiological Intelligence Service of the League of Nations will give, in the name of the Office international d'hygiène publique, the official bulletin of notifications and of intelligence, as provided for under Articles 2, 4, 6, 9, 12, 14, 16, 28 and 49 of the Convention and as communicated beforehand by the Office."

35. This draft agreement was considered by the Permanent Committee of the Office international d'hygiène publique at its October 1926 session, and a decision in regard to it was postponed to a subsequent session. The International Sanitary Convention will not come into effect until ratifications have been deposited by a sufficient number of Governments, so that the Sanitary Convention of 1912 is still in force.

36. With a view to obtaining the opinion of the Advisory Council of the Eastern Bureau at Singapore, the Permanent Committee of the Office international d'hygiène publique requested its Director to communicate to the Medical Director of the Health Organisation of the League of Nations the following suggestions relating to the duties which might be entrusted to the Eastern Bureau. These duties would consist in carrying out, as regards the countries which come within its sphere of action, in accordance with the rules to be drawn up by the Committee of the Office international d'hygiène publique, and under the responsibility of that Office, certain of the obligations which have been laid upon the Office by the International Sanitary Convention of 1926, subject to the provisions of the last paragraph of Article 7:

37. I. To determine which, for Convention purposes, shall be the countries included within the sphere of action of the Singapore Bureau.

II. Apart from the obligations imposed on the Office under Article 5 of the Convention, and which do not concern the present suggestions, the Office is to be responsible for receiving and transmitting information concerning:

1. The first recognised case of plague, cholera and yellow fever, as well as the existence of an epidemic of smallpox or of typhus (Articles 1 and 3).

2. The place where the disease has appeared, the date, the number of cases and deaths, the extent of the local area or areas affected, (plague) rat-plague, (cholera) germ-carriers, (yellow fever) the relative prevalence (index) of *Aedes Egypti*, and the measures taken (Articles 2 and 3).

3. The course of the epidemics and the precautions adopted to prevent the spread and exportation of the infection (Article 4).

4. Rat plague (Article 6).

5. The cessation of danger from infection (Article 12).

6. The measures prescribed with regard to arrivals from infected territories (Article 16).

7. The sanitary services of ports (Articles 14 and 50);

8. The conditions governing measures of deratisation (Article 28).

9. Regional agreements (Articles 9 and 57).

The fulfilment of these obligations seems to require:

A. The despatch of telegraphic communications to the principal health authorities of the countries concerned (Articles 1 and 3, Article 6 (3)) and of special communications (Articles 12 and 16).

B. The collection and despatch of information in the form of a weekly publication (Articles 4, 6, 12).

C. The collection of documents necessary to the publication of a special annual report (Articles 14, 28, 50-9, 57, 151).

A. Special consideration should be given to the following points:

(1) Source of information.

(2) Authorities to receive this information.

(3) Nature of communications.

(1) By the terms of the Convention, the information required by Articles 1 and 2 shall, for each country, relate not only to the ports but also to the whole territory.

(2) It does not appear necessary to require the Singapore Bureau to communicate immediately by telegram to the Office at Paris the information received under Articles 1, 2 and 6. Regular communications to the Office shall take the form of a weekly telegram.

In order to reduce to absolute necessities the number of long-distance telegrams, it would seem advisable for the Governments of each of the countries concerned to indicate:

(a) Which, if any, are the principal health authorities to whom direct communications should be sent under the terms of Article 3;

(b) In regard to what areas should immediate telegraphic communications to these public health authorities be sent.

(3) The communications prescribed in Articles 3 and 6 are intended solely for the principal health authorities and are therefore to be of a confidential nature. It appears, however, that their confidential nature will be sufficiently safeguarded if they are transmitted in code by wireless.

Although there does not seem to be any objection to the publication of this information in the *Weekly Bulletin* of the Singapore Bureau, the Bureau should be asked whether it would arrange, if necessary, to publish a bulletin of a confidential character.

The special communications prescribed in Article 16 should, at least in certain cases, be of a strictly confidential nature, and be limited to Governments. The terms of the Convention do not necessarily imply that these communications should be transmitted by telegram.

B. The information received by the Bureau should be published on a fixed day of each week in a form to be determined by the Committee of the Office.

The contents of the bulletin in the above-mentioned form shall be communicated weekly by telegram to the Office before its publication.

C. One single official annual report should be published by the Office. The Singapore Bureau should be invited to collect the documents prepared according to a scheme which shall be drawn up by the Office international d'hygiène publique.

38. During the same session of the Office international, it was unanimously agreed that the Singapore Bureau should be entrusted, as regards the area which it serves, with the duties imposed on the Office by the Convention, with the exception of those arising out of Article 5.

It was also agreed unanimously that, while the Office international was responsible for the centralisation of intelligence received from Singapore, from Washington and directly at Paris, as well as for the preparation of a weekly statement, this statement should be published on the first page of the *Weekly Record* issued by the Health Organisation of the League of Nations in the name of the Office international and signed by its director.

39. In his report to the Council on the work of the eighth session of the Health Committee, Viscount ISHII (Japanese member), Rapporteur for Health, commented on the action taken by the Office international d'hygiène publique as follows:

* The Health Committee will request its Advisory Council at Singapore to examine the technical suggestions submitted by the Permanent Committee of the Office international d'hygiène publique on the work which might be entrusted to the Singapore Bureau, namely, that it should, for the countries within its sphere of action, carry out, in accordance with the rules established by the Committee of the Office international d'hygiène publique and under its responsibility, some of the duties entrusted to the Office international by the International Sanitary Convention of 1926, subject to the provisions of the last paragraph of Article 7, which lays down that the relations which may be established with other international organisations will not have the result of substituting any other sanitary body for the Office international.

"No official proposal has so far been submitted by the Office international d'hygiène publique; all that is intended for the present is to institute a preliminary technical enquiry into the possibility of utilising our Epidemiological Intelligence Service for the applications of certain provisions of the Convention.

"This exchange of expert opinions is valuable from every point of view. The desirability of such discussions is recognised in Article 7 of the Convention; and we might ask the Health Committee to consider, at its next session, the suggestions of the Singapore Advisory Council, and submit to us a report on this subject." (Document C.626.1926.III.)

40. On the approval of this report by the Council, the suggestions put forward by the Committee of the Office international d'hygiène publique were forwarded to the Chairman of the Advisory Council at Singapore, and will be considered by that body during its January session. The report by the Advisory Council on that subject will be considered by the Health Committee during its February session and recommendations transmitted to the Council.

The outstanding difference between the intelligence which the Bureau is now receiving and that which it would be called upon to collect under the Convention is twofold; first, the present information is voluntary in character, whereas information required by the Convention would be obligatory; secondly, as a rule the present information refers to ports, while the data under the Convention would refer to countries as a whole.

Chapter III.

WORK OF THE COMMISSIONS.

THE MALARIA COMMISSION.

41. It will be recalled that the Malaria Commission made a general report (document C.H. 273) on the observations and experiences of its 1924 study tours in the Kingdom of the Serbs, Croats and Slovenes, Greece, Roumania, Bulgaria and the Union of Socialist Soviet Republics. It was thought desirable to complete its studies by visits to Mediterranean countries where malaria prevailed. The first study tour undertaken to give effect to this resolution was to include Egypt, Palestine and Syria and took place in May 1925 (document C.H./Malaria/52). Details of the tragic interruption of this study will be found in the Annual Report for 1925. The second of this series of studies took place in Spain in August and September 1925 (document C.H./Malaria/58). The final study was made in Sicily from September 28th to October 8th, 1926, Dr. LUTRARIO acting as Chairman. The following members and experts participated:

Professors NOCHT (Germany), OTTOLENGHI (Italy), MARCHOUX (France), SCHILLING (Germany), SWELLENGREBEL (Netherlands), Colonel S. P. JAMES (England), Doctors LABRANCA (Italy), SFARCIC (Kingdom of the Serbs, Croats and Slovenes), MOUTOUSSIS (Greece) and ANIGSTEIN (Poland). The Commission was accompanied throughout by Inspector-General CRISAFULLI, of the Italian Public Health Service, who supervised the programme of the studies.

42. The programme included visits to the most important anti-malarial organisations and stations, etc., and addresses were delivered by a number of distinguished Italian malariologists. Professor MARCHOUX, who acted as Rapporteur for the Commission during the tour, prepared a provisional report on its results (document C.H./Malaria/60).

A general report giving a summary of the views of the Commission on their European study tours is now in course of preparation.

Individual Studies.

43. In response to an invitation addressed to the Commission by the Director of Public Health in the Health Ministry of the Kingdom of the Serbs, Croats and Slovenes, Professor Nocht visited that country in the spring of 1926 and took account of the progress made in the prevention of malaria since the study tour of the Commission in 1925. His observations were presented to the Commission in the form of a report (document C.H./Malaria/63).

Studies of the Alkaloids of Cinchona.

44. The studies instituted by the Commission in Spain, Italy, Roumania and the Kingdom of the Serbs, Croats and Slovenes on this subject had led to the tentative opinion that cinchonine was inferior to quinine as a therapeutic agent, and that "quinetum" composed of a number of alkaloids (quinine 15%, cinchonidine 35%, cinchonine 25%, quinidine 5%, quinoidine 20%) appears to have a sterilising effect on the malaria plasmodium about equivalent to that of quinine itself. In regard to quinidine, opinion is still divided. The Commission decided to complete the studies on this subject in 1927 by investigations of hydroquinine derivatives and of cuprine.

Collective Researches.

45. The following researches were made during 1926:

The importance of river deltas from the point of view of endemic malaria, with particular reference to the factors affecting the anopheles favourably or adversely. Professor PITTALUGA carried on certain investigations on the delta of the Ebro in the spring and summer of 1926 which enabled him to draw conclusions to the effect that small domestic mammals attract the anopheles to a much greater extent than do birds, domestic or wild, and that whitewashing the walls of buildings with lime reduces the number of anopheles to an appreciable extent (document C.H./Malaria/67). Similar studies on the delta of the Pô have been initiated by Professor OTTOLENGHI. Under the direction of Professor CANTACUZENE, Professor ZOTTA began a study of the factors influencing the prevalence of malaria on the delta of the Danube (document C.H./Malaria/59).

46. Another series of studies, on the value of major "bonifications" (sanitary works) was begun towards the end of 1925. These are being carried out at Ferrara under the direction of Professor OTTOLENGHI. Three study areas have been selected — one still wholly malarious, a second completely improved from the point of view of malaria prevention, and a third in which major "bonification" was carried out without making any appreciable change in the prevalence of malaria.

47. In Holland, Professor SWELLENGREBEL is studying the influence of "polders" (low marshlands reclaimed from the sea) on anophelism during (a) the period of reclamation and (b) when

reclamation is completed (document C.H./Malaria/65). His provisional conclusion is that the drainage of inundated lands does not diminish anophelism, but may tend indeed to increase it on account of the reduction of salinity.

Laboratory Studies.

48. Important laboratory studies have been undertaken and, in some instances, brought to a successful conclusion by various members of the Malaria Commission. Colonel JAMES, in his report on the "Intentional Provocation of Malaria in the Treatment of Certain Nervous Diseases" (document C.H./Malaria/57) has demonstrated the conditions necessary to the infection of the anopheles and the transfer of the infection to man. He showed that few anopheles are capable of transmitting malaria, but that infected mosquitoes preserve their power to infect for long periods and may even survive the rigours of a severe winter. The hibernation of such mosquitoes explains the infection of human beings in the spring.

Other laboratory studies were carried on in the Hamburg Institute of Tropical Medicine under the direction of Professor NOCHT. These related to the distribution of sporozoites in the infected mosquito and the biology of the microgametocytes in the circulating blood. (Document C.H. 470.)

Professors CANTACUZENE and ZOTTA studied the resistance of anopheles larva in frozen lakes. In the same way as Professor SWELLENGREBEL in Holland, they also studied the relation between the infecting power of the anopheles and the salinity of their breeding places. (Document C.H. 470.)

Malaria Continuation Courses.

49. In the course of its studies in Eastern and Central Europe, the Malaria Commission found that certain countries which were desirous of carrying on a systematic anti-malarial campaign were hindered by the lack of a sufficient number of physicians with special training in the epidemiology of malaria and in the application of larva control measures. The Commission was of the opinion that any measure which would facilitate the formation of a corps of trained malariologists in the interested countries would be of particular value.

Accordingly, the Health Committee decided to organise general courses in malariology for physicians desiring to specialise in this subject, and later to join the technical staffs of their sanitary administrations. It was decided to divide the courses into two stages; first a theoretical and laboratory course lasting a month in a suitable institute, and then a practical or field stage in a district where the campaign against malaria was being carried on vigorously.

50. For the theoretical and laboratory courses the Health Committee was able to secure the assistance of Dr. A. BALFOUR, Director of the London School of Hygiene and Tropical Medicine, Professor BRUMPT, Director of the Laboratory of Parasitology, Faculty of Medicine, University of Paris, and of Professor B. NOCHT, Director of the Hamburg Institute for Tropical Diseases; the theoretical courses were organised in their respective institutes during May and June 1926. The curricula included courses in hæmatology, protozoology, entomology, clinical features and prophylaxis, and a large amount of demonstration material was available for teaching purposes in each school.

51. The practical stage was spent in malarial regions, each participant having the opportunity of studying in two such regions under the direction of a competent malariologist, the daily work of an anti-malaria station including the application of measures for the control of larva and drainage works. These practical courses, lasting altogether two months, were held in Corsica, Sardinia, Italy, the Kingdom of the Serbs, Croats and Slovenes and Spain.

52. The courses were made possible by the co-operation of the International Health Board of the Rockefeller Foundation, which awarded scholarships to a number of these medical officers. The Health Organisation of the League of Nations was likewise able to offer a few scholarships. The courses were attended by 49 physicians from twenty different countries. In compliance with the request of a number of Health Administrations, and in view of a resolution of the Health Committee, the courses will be repeated in 1927.

In addition to the scholarships offered to a number of Health Administrations for these courses, arrangements were made for a number of malariologists to study measures for the control of malaria in other countries (see Interchanges).

PERMANENT STANDARDS COMMISSION.

53. The work of the Permanent Standards Commission includes, as mentioned in the Annual Report for 1925:

1. The standardisation of sera and tuberculin;
2. The biological standardisation of certain drugs;
3. The standardisation of certain tests for syphilis.

1. The Standardisation of Sera and Tuberculin.

54. The Permanent Standards Commission and its Sub-Committees concerned with anti-tetanus and anti-dysenteric sera met in Geneva, October 11th to 13th, 1926, to consider the results of the work carried on in various national laboratories with a view to the standardisation of these sera. On the proposal of the Conference of Laboratories which have participated since 1922 in the

studies carried on to establish an international unit of anti-tetanic serum, a new international unit was agreed upon, this unit to be determined with a standard serum in such a way that its relation to the American unit is exactly two international to one American unit,

55. This resolution was the consequence of the proposals made to the Second International Serological Conference of 1922 by Professors LOUIS MARTIN and W. KOLLE, and of the investigations carried out in the several laboratories since that date. It was decided that the different institutes represented at the Conference will establish a standard conforming to the definition of the new international unit, and that, in order to ensure that the sera used as a standard by the different States have identical titre, samples will be sent to the State Serum Institute of Denmark periodically in order that comparative studies may be made. The Institute of Experimental Therapy at Frankfurt, after having prepared a standard serum, will continue to furnish this serum to all Institutes which make the request. This problem has thus been solved, and anti-tetanus sera from all important institutes may soon be expected to be labelled in units of comparable strength.

56. With regard to anti-dysenteric serum, the Commission decided to continue the experiments already undertaken, realising that the method of assay proposed by the Danish State Serum Institute on the basis of the work carried out by the Committee for Investigation of Anti-Dysenteric Serum under the presidency of Professor SMIGÅ, constituted a real advance over former methods. It was decided to continue the trials, using the serum of the Copenhagen Institute as a standard. A definite technique for all the Institutes participating in this study was adopted by the Conference and will be employed during 1927. If all the results are in agreement, it will be possible to adopt a definitive international unit, in terms of the standard serum of Copenhagen. Only then will it be possible to make a clinical investigation of the therapeutic potency of sera of different origins.

57. The Commission did not find itself in a position to take decisions in regard to anti-meningococcal and anti-pneumococcal sera, since no new fact had come to light since the 1922 Conference, when it was decided that none of the methods then in use could be recognised by all the experts as being certain enough to be utilised for the purpose of establishing an exact measure of the anti-body content or of the therapeutic value, but the Commission laid down that the identification of anti-meningococcal sera may be carried out by the determination of their content of specific antibodies by the methods of complement-fixation or agglutination.

58. With respect to the diagnosis, treatment and immunisation of scarlet fever by the new specific methods, the Commission decided to entrust the study of this subject to the American, British and Polish Institutes represented, which, in collaboration with the Copenhagen Institute, will present a report at a subsequent session.

With regard to tuberculin, the Commission decided to initiate a comparison between the existing standards for human and bovine tuberculin.

59. Note was taken of a report received from Professor A. CALMÉTTE and Doctor DE POTTER on the "Standardisation of Tuberculins" (document C.H. 429). This included a summary of the information received in answer to questionnaires sent to the laboratories in different countries engaged in the preparation of tuberculins for veterinary use, and a description of the comparative studies carried on with regard to the methods which in the present state of our knowledge may be employed in the titration of tuberculin. The conclusions of the authors may be summarised as follows:

(1) The complement-fixation test does not permit the toxicity of tuberculins to be measured. It leads to many errors:

(a) The culture media (except in the case of certain synthetic media such as that of Sauton) possess certain more or less marked and extremely variable antigenic properties;

(b) Certain paratubercle bacilli may produce substances whose antigenic power *in vitro* is comparable to that of raw tuberculin, but whose paratuberculins are without toxicity for tuberculous animals.

(2) The flocculation test may be applied to the majority of tuberculins, but only when a standard precipitating serum is available. Such a standard serum having a sufficiently high precipitating titre is very difficult to obtain. On the other hand, this reaction does not have a specific character and does not imply in any way the neutralisation of the tuberculin by the anti-serum.

(3) The original method of Robert Koch (modified by Otto and other workers) to measure *in vivo* the toxicity of tuberculins by determining the dose which is fatal to a tuberculous guinea-pig in twenty-four hours, gives approximate results in regard to one of the properties of tuberculin (toxicity for tuberculous animals). No light is thrown on the antigenic power. This method requires the sacrifice of a large number of guinea-pigs for comparative titrations of one tuberculin with a standard tuberculin which must be available. On this account this method is very costly and not very practical.

(4) Skin-reactions of tuberculous persons in parallel series allow of comparative evaluation of the diagnostic value of various tuberculins or the effect of various dilutions of the one tuberculin on the same or on several patients. But the results lack precision because only a part of the tuberculin introduced into the scarifications is absorbed. In addition, multiple incisions are required to which patients object, and there is a possibility that the tests may be harmful. This method can only be employed in exceptional circumstances.

(5) Intradermic inoculation, practised in parallel series on the same previously sensitised animal (guinea-pig or tuberculous cattle) yields much more satisfactory results. It allows the measurement on the same subject of the activity (toxicity and antigenic power) of several tuberculins compared to one used as a standard. It is certainly specific, as neither paratuberculins, mallein, nor glycerinated broth produce reactions comparable to those resulting from tuberculin, and it is harmless to healthy subjects. Only a few animals are required and the risk of error arising from the unequal sensitisation of these is reduced to a minimum by the use of one animal for a number of tuberculins. This test gives results which are more precise, easier to interpret and more rapidly obtained than the others.

Nevertheless, it must be noted that this test does not permit of the determination of the absolute value of a tuberculin (toxicity and antigenic power) in respect of different species of animals submitted to the test, so that a tuberculin tested with a tuberculous guinea-pig may have a toxic activity or an antigenic power which differs when employed in cattle and in man. Hence the necessity for controlling each tuberculin on tuberculous subjects belonging to the species for which the particular tuberculin is intended.

The preceding facts and observations make it necessary to conclude that, in view of our present ignorance of the nature of the active substances which enter into the composition of tuberculins, it is certainly premature to propose the adoption of international rules for measuring the activity of these products. It is necessary that their titration

should be made the subject of experimental studies. Nevertheless, recommendations may be made usefully to the various laboratories which prepare tuberculins commercially, to select intradermic reactions in series in comparison with a standard tuberculin on the same sensitised animal as the best means of control.

2. *The Biological Standardisation of Certain Drugs.*

60. No conference on this subject took place in 1926, but a considerable amount of work was carried on in various laboratories, and the Chairman of this Sub-Commission made a brief statement of progress to the Permanent Standards Commission in October.

The insulin standard, previously adopted, was distributed widely to the appropriate authorities, and a unit of insulin has now everywhere the same meaning.

Little difficulty had been experienced with pituitary extract, for trials had shown that different makers in different laboratories and countries could produce samples of indistinguishable activity by following the same routine.

The work undertaken with regard to digitalis had shown that the biological methods in use gave a true and practical measure of the potency of these preparations. The preparation of the standard digitalis is completed and it is being packed for distribution.

A report was received showing that the same methods could be applied to strophanthus preparations, using *g. strophanthin* as a standard.

Standards for neo-salvarsan and sulpharsenol had been prepared and samples would be distributed for international trial and report to several countries.

The scheme for comparing a series of cod-liver oils for their content of Vitamin A by the animal and colour-reaction tests was nearing completion. A series of samples of cod-liver oils are being tested by four independent biological experts.

3. *The Standardisation of Certain Tests for Syphilis.*

61. No formal action was taken with regard to these tests in 1926, but research has been continued in the various laboratories which have been entrusted with this investigation.

COMMISSION OF EXPERTS ON SLEEPING-SICKNESS.

62. In the Annual Report of the Health Organisation for 1925 appears a description of the organisation of this Commission, the programme of work and its despatch to Entebbe on Lake Victoria in Uganda. During the whole of 1926, this Commission continued its work along the lines laid down by the London Conference. Towards the end of the year, it appeared that the Commission would be unable to complete its work by the end of 1926, and that an extension of six months was necessary to enable it to complete its programme of work. The Health Committee, during its October 1926 session, decided to recommend such an extension and to communicate its decision to the Governments concerned, together with a request for further financial contributions. On the approval of the Council, the interested Governments were approached, and three have already signified their intention to make further contributions. The contribution of the British Government is conditional upon proportionate contributions from the other Governments concerned and the understanding that the work of the Commission will not be prolonged further. The Belgian Government has also decided to make a further contribution. The French Government held the view that the investigation should be prolonged.

63. An interim report was received from the Chairman of the Commission, which gave a detailed description of the progress of the work.

In this report (document C. H. 305), the four main questions referred to the Commission by the International Conference held in London in May 1925 were summarised as follows:

1. The existence of human immunity against trypanosomiasis, the nature of such immunity and the factors which determine it.
2. The function of wild and domestic animals as reservoirs for the virus.
3. Relations between *Trypanosoma gambiense* and *Trypanosoma rhodesiense*.
4. The testing of the blood in the alimentary canal of the tsetse fly by the precipitation reaction.

The study of human immunity to trypanosomes has been undertaken by epidemiological investigation of a most extended nature in infected territories. This study has been entrusted to Doctor VAN HOOF (the Belgian member) and Doctor KLEINE (the German member), the first working in Bydama and Musoma, the second in Kavirondo and Sevaliki. These epidemiological enquiries include a search for other than human hosts of the virus. Strains of trypanosomes sent in from the field are subjected to careful morphological study in the laboratory of Entebbe. The enquiry in regard to the precipitation test has met with some difficulties but is still being pursued. The laboratory studies, including careful morphological studies of human trypanosomes with especial reference to resistant and transmissible forms of the parasite, and attempts to infect baboons after reducing their resistance by chemical and biological agents, have been entrusted to Doctor LAVIER (the French member of the Commission); Doctor PRATES (the Portuguese member) is engaged in preparing precipitation sera, and Doctor DUKE (the Chairman), with the assistance of Doctor PRATES, is carrying on transmission experiments and studying human immunity; his work also includes a study of the effect of Bayer 205 on tsetse trypanosomes.

OPIUM COMMISSION.

64. No session of the Opium Commission was held during the year. It will be recalled that the Health Committee, in accordance with the procedure laid down in Article 10 of the Opium

Convention of 1925, asked the Office international d'hygiène publique for advice in regard to the habit-forming qualities of eucodal and dicodide, with a view to recommending their inclusion in the Convention. The Office international d'hygiène publique, acting on the advice of an expert committee appointed by it, reported that there is sufficient evidence to show that the abuse of these two preparations may lead to a drug habit, and that they should thus be brought within the scope of the Opium Convention and be subjected to the same provisions as the other narcotics with which the Convention is concerned.

65. Replies have been received from 23 Governments¹ in regard to Article 8 of the Convention, which provides for the withdrawal from the Convention of preparations found to be non-habit-forming. Thirteen of these Governments sent in lists of preparations which in their opinion should be withdrawn from the provisions of the Convention, while the remainder made no recommendations.

CANCER COMMISSION.

66. During 1926 the Cancer Commission and its Sub-Committee of Experts held two sessions (Paris, May 26th to 29th, and Geneva, October 11th to 14th, 1926). The work of the Commission was summed up in the progress report of its Chairman to the Health Committee during its eighth session in October 1926, of which the following is a summary (document C. 610. M. 238. 1926. III).

67. The principal matters which have been under consideration by the Cancer Commission and its Sub-Committee are as follows:

(1) Comparative enquiries as to the incidence and prevention of mortality from cancer of the breast and uterus in England, Holland and Italy, the primary investigation entrusted to the Commission. The principal results of these enquiries have already appeared in printed reports (document C.H. 333, Volumes I and II). There is nothing to add to the demographic investigation relating to all three countries as well as to Switzerland and the other countries included.

As to the clinical enquiry, we have had a summary of the work done to date in England on the subject of uterine cancer, work designed to establish a measure of the present position of treatment, operative and radiological, which can prevent mortality from cancer of this organ in its different forms. This is a most important estimation. If, in present knowledge, good midwifery in the first place and, in the next, appropriate treatment of early cancer when it appears are the most effective means of reducing suffering and death from cancer, then we have a very definite need of some estimate of the present position of both these measures, so as to have a basis for comparison in future years when these things are better done than they are now. Nothing is more important, with a disease which causes such great mortality, than to know what is being effected with the means already at our disposal for reducing it.

In the second place, we have had additional and most valuable contributions from the Dutch and from the Italian groups. The additional clinical and pathological results will be summarised in appendices to the Commission's report (to be published in 1927). They include an account of the preliminary analysis of a mass of information secured as a result of the questionnaire in Italy—data which are necessary to the Commission in order to fulfil its original task, and which will be ready soon for more complete study and comparison with the Dutch and English data.

(2) Enquiries based on the question of racial predisposition to cancer have been undertaken for the Commission by Professor NICEFORO (Italy) and Professor PITARD (Switzerland) in consultation with the Statistical Sub-Committee. Their object was to compare cancer mortality in certain countries of Europe with anthropological differences. The results of this work are now in print (document C.H. 492).

(3) The reliability and significance of statistical data of mortality in relation to cancer has been receiving much attention on different sides. The Cancer Commission and the Statistical Sub-Committee have given much attention to studies on this subject furnished by Dr. CARRIÈRE, Dr. GREENWOOD, Professor METHORST and the Health Section. Moreover, reports on certain national enquiries and statistics have been received and collated by the Secretariat. The careful consideration which has been given to this mass of data has enabled a selection to be made of certain reports and memoranda on statistical questions which are being prepared for publication.

68. Nothing is easier than to assert that there are so many uncertainties in statistics of cancer mortality that all investigations based on them are futile. Nothing is easier, again, than to accept a mass of cancer statistics at their face value and to draw facile conclusions which suit one or another preconceived theory of the causes of cancer. The task of our experts has been to examine impartially the probable extent and significance of the errors which arise from different circumstances. It is new work and, again I venture to say, work which will be invaluable not only for present purposes but for reference in the future when the progress made has to be judged by comparison with previous years.

69. With the completion of the supplementary data, the circulation of the Commission's report on the meetings just concluded, and the issue of the two or three reports we propose should be printed, the Commission will have reached, in the early months of next year, for example, something like an end to the work which it considers can profitably be done under the programme to which it has been working hitherto. We had hopes at the beginning that the problem of the differences between the three countries in the matter of the mortality from cancer of the breast and uterus would have proved capable of solution. In one sense it might have been satisfactory to have produced a demonstration that these differences were a mere caprice of death certification, or represented demographical differences, or differences which resulted from better clinical diagnosis and earlier operative treatment in one country as compared to another. If no such explanations are forthcoming, the faithful pursuit of our programme has had its compensations. In pursuing it we have not merely established a series of negatives, useful and necessary as they are. The positive achievements have been considerable. I have only to mention the establishment of the facts, on a wide basis of observation in all three countries, regarding the amount of mortality from cancer of the breast which can be prevented; the determination of the mean natural duration of life from untreated cancer, and the stimulus given by our enquiry to national cancer investigations in several countries.

¹ Argentine, Austria, Bulgaria, Canada, Cuba, Czechoslovakia, Ecuador, Estonia, Finland, Germany, Great Britain, Hungary, India, Irish Free State, Japan, Latvia, Peru, Poland, Roumania, South Africa, Sudan, Uruguay, United States of America.

70. The Commission, when appointed, was authorised to undertake further enquiries into the epidemiology of cancer as circumstances permitted. We are of opinion that, on the completion of our programme, it will be right and necessary that, with the aid of the expert workers to whom we owe so much, the Commission should give full consideration to the possibilities of a well-defined programme of work in new directions—a programme, it will be understood, which fulfils the requirements of our original programme by the fact that it will relate to work which only an international body of authority such as the Health Organisation of the League could get undertaken. In proposing that a further programme should be carefully considered and submitted to the judgment of the Health Committee, we have particularly in mind the fact that the existence of notable and persistent local or regional differences in cancer mortality is an important fact which we have found to be almost a general and universal phenomenon, for which no explanation limited to the causes of any one form of cancer can be adequate. If the Committee agrees, therefore, we would propose to concentrate our attention on the completion of the work still in hand during the next few months, and thereafter to submit to you material on which to decide upon the next step to be taken.

71. The progress report of the Cancer Commission was approved by the Health Committee during its eighth session in October 1926.

The report on the possible relation of cancer to race based on a study of anthropological and medical statistics of certain European countries to which reference is made above (document C.H. 492) was published late in 1926. The authors, Professors Alfredo NICEFORO, of Italy, and Eugene PITTARD, of Switzerland, sum up their conclusions as follows:

"After having collected and examined the demographic documents concerning mortality due to cancer and the anthropo-statistical documents concerning race distribution in certain European countries, it occurred to us that it might be possible to consider the factor of 'race' in the etiology of cancer.

"Unfortunately, in the great majority of countries, the demographical documentation at our disposal is not as accurate as might be desired for our purpose. This inaccuracy is due partly to the fact that in several countries deaths are registered at the place where they occur and not at the place of usual residence of the deceased, and partly, indeed primarily, to the fact that, as the diagnosis of cancer is particularly difficult, it is more than possible that in any given territory a certain proportion of the deaths due to cancer may have been omitted under the heading to which they rightly belong¹. Anthropological documentation is, with few exceptions, far from satisfactory. It is very incomplete almost everywhere and does not even exist in certain districts, while for countries which do possess such documentation the data are sometimes given simply as arithmetical averages and not in a series, or in the form of tables with two or three variables—that is, in too general a form to admit of detailed study.

"The Rapporteurs have endeavoured to obtain from this inadequate material such results as it was possible to derive from it.

* * *

"Subject to the above reservations, the positive results ensuing at first sight from our researches would appear to indicate that the Mediterranean 'race' (*Homo mediterraneus*) is less subject to cancer than the Alpine 'race' (*Homo alpinus*) or the blond dolichocephalous 'race' (*Homo nordicus* or *europeus*).

"The place which these two last 'races' should each occupy in any scale of mortality due to cancer still appears uncertain. In some countries where both are found, the blond dolichocephalous type appears to be more subject to cancer—sometimes much more subject—than representatives of the 'alpinus' type, this being very marked in France, for example, whereas in other countries the facts present themselves under a different aspect. The dinaric race appears perhaps to be less affected than the brachycephalous Alpine 'race'. Districts inhabited almost entirely by the brachycephalous type belonging probably to the Alpine 'race' (and by the Alpine and dinaric 'races' together)—such as Bavaria and certain parts of Austria—have very high rates of mortality from cancer. Districts almost entirely peopled by dolicho-blonds (for example, Sweden) also have very high rates of mortality from this cause. We would ask the reader to remember, however, that we are working of necessity on gross data which often leave the actual facts in obscurity.

"The few facts which, despite the inadequacy of our researches, we have succeeded in establishing have convinced us that a work such as the present one should be carried on more exhaustively not only by means of more accurate medical statistics but also by extending our enquiry to certain special anthropological groups (Negroes, American Indians, Japanese, representatives of the dinaric 'race', Jews, etc.).

"These studies should be supplemented by the analytical results of blood groupings.

"On the other hand, even if one were prepared to admit in certain cases the influence of environment and constitution—which might also be quoted as explanatory factors in the geographical distribution of cancer—it would by no means preclude that of the racial factor, in view of the complexity of the facts under consideration.

* * *

"As a result of the investigations referred to, we would submit the following recommendations:

"1. It is desirable that statistics of causes of death should be improved by making increasing use of the services of physicians for certifying death. The figures which we should thus obtain would tend to be more accurate. The more one tries to work up on scientific lines the material supplied by official statistics, the more apparent it becomes that these statistics are in many cases open to doubt: sufficient reliance cannot yet be placed on them.

"2. It is essential that countries which are not yet sufficiently acquainted with their own anthropological characteristics should actively pursue the necessary researches in order to obtain such a knowledge, since, without it, studies of the kind which we have undertaken, and other studies as well, must prove extremely difficult and in many cases impracticable.

"3. Convinced of the value of blood analyses, from the point of view both of a more accurate knowledge of the human races and of the relations between the 'internal medium' (body fluids) and diseases, we recommend that

¹ On the other hand, still owing to the difficulties of diagnosis, it is obvious that a certain proportion of the deaths included under the heading of cancer are not due to this disease.

such analyses should be carried out with reference not only to the nationality of the subjects under consideration but also of their race—that is, noting, in the case of each individual, the physical and descriptive features characteristic of the race in question.”

TUBERCULOSIS COMMISSION.

72. No session of the Tuberculosis Commission was held during 1926, but the enquiries in Scandinavia referred to in the last Annual Report were continued and a final report is expected in 1927. Professor CALMETTE presented a valuable report on “Tuberculin”, the standardisation of which is being dealt with by the Permanent Standards Commission (document C. H. 429). (See Permanent Standards Commission.) Doctor TSURUMI, the Chairman of the Commission, presented a report on “Tuberculosis Mortality” according to occupation in Japan (document C. H. 461). Doctor Major GREENWOOD submitted a report on overcrowding and work in factories in relation to tuberculosis mortality (document C. H. 456).

COMMISSION ON PUBLIC HEALTH TRAINING.

73. The Commission on Public Health Training met at Warsaw in April 1926 on the occasion of the opening of the State School of Hygiene. It was decided that the Health Section should collect the fullest possible information on the programme of work of schools of hygiene and of special hygiene courses, and that meetings should be arranged between the directors of schools of hygiene in order that they might exchange views and that all should be able to benefit by individual experience (document C. H. 471).

SMALLPOX AND VACCINATION COMMISSION.

74. The Health Committee, during its session in October 1925, decided to constitute a special Commission for the study of questions relating to vaccination and the epidemiology of smallpox. This Commission met at The Hague from January 4th to 7th, 1926, and examined a programme of work drawn up by its Chairman, Professor Ricardo JORGE. Experts from France, Germany, Great Britain, the Netherlands and Switzerland were in attendance.

The Commission decided:

I. To ask the Health Section to address letters to all Health Administrations calling their attention to cases in which encephalitis was observed to follow vaccination and asking them to submit any information they might have on this subject. Accordingly a circular letter of this type was sent to all Health Administrations (M.L.I.1926.III) and the replies summarised in a note by the Health Section (document C.H. 503). During 1926 replies were received from the Health Administrations of Albania, Australia, Bulgaria, Canada, Costa Rica, Czechoslovakia, Great Britain, Greece, Luxemburg, New Zealand, Panama, Peru, Poland, Siam and Venezuela. In only one case was any information submitted relating to the occurrence of cases of encephalitis following vaccination. The majority of Administrations stated that no such cases had been observed; others declared that the subject would be studied. In one case (Great Britain) a Commission has been set up to study this question.

II. To make a study of the methods employed in Government-owned or -controlled institutes in the preparation, examination, distribution and employment of vaccine lymph. A questionnaire on this subject was accordingly prepared and copies sent to all Health Administrations. From the replies received from the Administrations of countries listed below, it was found that the methods employed by the different institutes in the vaccination of animals, preparation, collection and distribution of lymph are in general uniform. A detailed report on these methods, as well as on potency and bacteriological tests, is in course of preparation.

III. Finally, it was decided to undertake a comparative investigation of the different laboratory methods in use to estimate the potency of vaccine lymph. The methods to be compared in the various institutes of England, France, Germany and Switzerland are those of Calmette and Guérin, Güns, Groth and Sobernheim. A comprehensive report on the comparative tests already carried out will be issued shortly. During its October session the Health Committee approved the proposal of this Commission to meet in Berlin in January to examine the whole question in the light of the information collected and the reports received and to draw up a general covering report.

1 Australia.
Bulgaria
Canada
Czechoslovakia

Estonia
Great Britain
Hungary
Irish Free State

Japan
Luxemburg
Siam.

Chapter IV.

INTERCHANGES OF PUBLIC HEALTH PERSONNEL.

75. Six collective study tours were organised during 1926.

- (1) Study tour of municipal health officers in Great Britain.
- (2) Study tour of health officers particularly interested in rural problems, in Denmark.
- (3) Study tour of colonial medical officers in West Africa.
- (4) Collective interchange of sanitary engineers in Great Britain.
- (5) "New-type" interchange in Western Europe.
- (6) Interchange of Baltic and North Sea Port Health Officers.

(1) COLLECTIVE STUDY TOUR OF MUNICIPAL HEALTH OFFICERS IN GREAT BRITAIN.

76. This interchange began on February 22nd in London and terminated with a final conference at Geneva on April 1st. Fifteen health officers in the Health Services of cities with populations exceeding 100,000 from as many different countries participated¹. The participants were not specialists in the sense that they had charge of particular divisions of city health departments; all were interested in general municipal health practice. The programme of the interchange began with a series of conferences at the British Ministry of Health, and continued with visits by small groups to the health divisions of Greater London. A warm welcome was provided for the participants by all the health authorities visited. The completeness of the programme was evident during the final conference at Geneva, where reports of unusual technical interest were presented by all the participants.

(2) STUDY TOUR IN DENMARK OF HEALTH OFFICERS PARTICULARLY INTERESTED IN RURAL PROBLEMS.

This study tour began on May 27th in Copenhagen and was ended by a final Conference in Geneva on July 3rd. Fifteen health officers from 14 different countries² took part in this tour. The participants visited in group several rural districts of Denmark, in order to get acquainted with local problems of rural sanitation and of the solutions given to them. The visit was made under the guidance of a delegate³ of the National Health Council. This delegate accompanied the participants to Geneva and was thus enabled, at the final Conference, to give them all additional information and explanations on the organisations they had seen.

The particular points of interest of this study tour were the sanitation of milk production and handling, the organisation against tuberculosis, and the State hospital service.

(3) INTERCHANGE IN WEST AFRICA.

77. The interchange in West Africa was intended for colonial medical officers, and included 13 participants from eight administrations³.

The tour began on March 10th at Dakar, where a study was made of the Central Sanitary Administration of French West Africa. Difficulties of transport necessitated the almost constant division of the participants into two or three groups. One group went to Bamako in the Sudan and returned by way of Konakry in French Guinea, where it was joined by the second and third groups travelling from Dakar by Portuguese Guinea and British Gambia. There followed visits to the French colonies and mandated territories on the coast of Africa; the Ivory Coast, Togoland and Dahomey. During their stay in these colonies the participants were enabled to study in detail the organisation of the anti-epidemic campaign. The tour was continued to Nigeria, where British sanitary organisation and methods were examined. There the participants again formed two groups, one remaining for a time in Nigeria, the other passing via the Gold Coast to Sekondee. The two groups were reunited at Freetown for the final conference, where an exchange of views took place and consideration was given to the proposal to establish an epidemiological bureau in West Africa.

78. The advantages resulting from this interchange in promoting collaboration between the health administrations of the different countries and colonies are illustrated by the following examples:

1. The Government of Nigeria sent an official request to the Government of the Union of South Africa asking that the senior assistant health officer of the latter Government be allowed to direct the anti-plague campaign at Lagos for a period of six weeks on behalf of the Government of Nigeria.

2. The medical inspector of French West Africa, in the name of his Government, invited the director of the medical and sanitary services of Sierra Leone to accompany him on his forthcoming tour of inspection of the Upper Niger district. The Government of Sierra Leone accorded such permission and expressed its appreciation to the Government of French West Africa.

3. The participant from the Union of South Africa declared that the report he had prepared on the school of medicine for natives at Dakar would be used as a basis for the establishment of a similar school in South Africa.

¹ Austria, Brazil, Canada, France, Germany, Greece, Hungary, Italy, Japan, Panama, Poland, Roumania, Kingdom of the Serbs, Croats and Slovenes, Union of Socialist Soviet Republics, United States of America.

² Bulgaria, Cuba, Czechoslovakia, Estonia, Germany, Great Britain, Hungary, Latvia, Norway, the Kingdom of the Serbs, Croats and Slovenes, Sweden, the United States, the U. S. S. R.

³ French, Belgian, Portuguese and Spanish Colonies, South Africa, Gold Coast, Nigeria and Sierra Leone.

4. The Portuguese participant from Angola proposed that the French Government be requested to permit native students from colonies of other countries to carry on their medical studies at Dakar, and that colonies which could not establish such a school within five years be invited to send selected native students to the Dakar school.

5. The French and Portuguese members of the group agreed that no native, sailor or emigrant should be permitted to leave the Port of Lagos before he had been vaccinated against plague.

(4) INTERCHANGE OF SANITARY ENGINEERS ¹.

79. The interchange of sanitary engineers in Great Britain, which began on June 20th and terminated on July 20th, was the first interchange of this type to be organised by the Health Organisation.

As usual, a description of the proposed interchange was distributed months in advance to the various Health Administrations, and so numerous were the nominations of candidates that many could not be accepted, the British authorities wisely deciding to limit the participants to such a number as experience had shown could be easily handled.

The first five days were spent in London, where the participants were the guests of the Jubilee Congress of the Royal Sanitary Institute. Committees of this Institute, under the leadership of a member of the staff of the British Ministry of Health, arranged a programme of study which included the sanitary organisation of ports, the construction of contagious-disease hospitals, hospital planning, city planning, water-supply and sewage-disposal facilities, etc. Following the stage in London the participants were divided into groups of five which visited Birmingham, Glasgow, Liverpool and Sheffield. During the visits to these cities, opportunity was afforded the participants to study the engineering aspects of rural sanitation in outlying districts. The interchange ended with a final conference in London, where reports were presented by all the participants. It is proposed to have a general covering report prepared and published, summarising the individual reports presented at the final conference. So successful was this interchange that another is planned for 1928 providing sufficient credits are available.

(5) "NEW-TYPE" INTERCHANGE IN EUROPE.

80. This interchange was organised for the purpose of increasing the utility of the collective study tours to Health Administrations.

The Health Administrations of Belgium, Holland and France appointed medical officers engaged on a particular subject included in the general work of a public health officer. The participants numbered ten. The subjects selected by the Administrations concerned were: prevention of tuberculosis, prevention of venereal diseases, disinfection, child welfare, and health insurance in relation to preventive medicine. After a preliminary period of six days devoted by the participants to studies in towns lying between their homes and the place of assembly, the first group meeting was held at the Amsterdam Health Department. The whole group then proceeded to The Hague for a conference with the President of the Netherlands Public Health Council. Here the group again divided, the members journeying separately by stages to Brussels, where they were reunited at the City Health Department. This process of individual study and weekly assembly for a collective exchange of views went on until the final conference at Geneva, the participants proceeding to Paris from Brussels, and from Paris to Lyons. Leaving Lyons, the group journeyed to Berne, where the Swiss Federal Public Health Services were studied, and visits were made to various child-welfare and anti-tuberculosis institutions. At the final conference in Geneva the advantages of this new type of interchange were apparent in the discussions which were limited to thorough consideration of a few subjects. This interchange began on July 10th and ended on August 26th.

(6) INTERCHANGE OF PORT HEALTH OFFICERS IN THE BALTIC AND NORTH SEA AREAS ².

81. This interchange began at Riga on September 10th and ended at Geneva on October 13th.

The participants numbered seventeen and the study tour was directed by Doctor Josephus N. M. JITTA, President of the Netherlands Public Health Council and Member of the Health Committee of the League. Doctor STADE, Chief of the Health Services of Danzig, acted as technical secretary and made a preliminary journey to a number of ports to effect the necessary arrangements.

Port health practice, disinfection, facilities for handling immigrants, deratisation of ships, water-supply of ships and all other related questions were studied in the ports of Riga, Libau, Danzig, Stettin, Copenhagen, Hamburg, Bremen, Rotterdam, Amsterdam, Antwerp, Southampton, London and Liverpool. During the final three-day conference at Geneva, each participant read a report on one of the ports visited, and general discussion followed.

INDIVIDUAL MISSIONS.

82. In accordance with its usual custom the Health Organisation offered individual missions to a number of Health Administrations on the request of the latter to allow special opportunities of study to members of their staffs. These individual missions are arranged with a view to the special needs of the public health services and the ability of the candidates to profit from their

¹ Sanitary engineers from the following countries participated:

Argentina Republic	Germany	Roumania
Austria	Hungary	Sweden
Belgium	Italy	Union of Socialist Soviet Republics
Denmark	Norway	United States of America
Finland	Netherlands	Uruguay
France	Poland	

² Medical officers from the following ports participated:

Antwerp	Danzig	Liverpool	Southampton
Amsterdam	Hamburg	London	Stettin
Bremen	Havre	Riga	
Copenhagen	Liepaja (Libau)	Rotterdam	

studies. The programme is carefully prepared beforehand in consultation with the public health authorities who put forward the candidates as well as those of the countries to be visited. In all cases the candidate is required to present a report to his own Administration and to the Health Organisation on the results of his studies.

83. During 1926, 18 public health and medical officers were enabled to study special subjects in countries other than their own under the conditions mentioned above¹.

A protozoologist of the Central Institute of Hygiene at Belgrade went to Japan to spend nine months studying the Japanese experience in parasitology at the Imperial Institute for Infectious Diseases, Tokio.

The Director of the State Institute of Epidemiology at Zagreb studied the methods and practices employed in the Schools of Tropical Medicine and Hygiene at London, Liverpool, Breslau and Dusseldorf.

A health inspector in the public health services of Serajevo examined the State and local systems of public health administration in Denmark with particular reference to methods suitable for application in rural districts.

A member of the staff of the Central Health Administration of the Kingdom of the Serbs, Croats and Slovenes studied child and maternity welfare work, school hygiene, school lunches and other phases of these subjects in England for a period of three months.

The Assistant Director of the Commonwealth County Health Laboratories of Australia visited the public health laboratories and institutes in Vienna, Berlin, Paris and London to take account of the methods employed and the new developments in these laboratories.

The Director of the Commonwealth Serum Laboratories and the Scientific Work of the County Laboratories of the Commonwealth Health Service studied, in the public laboratories of Rome, Genoa, Berne, Milan, Murano and Vienna, the manufacture of sera and vaccines, electrometric determination of the PH. of solutions, treatment of typhoid fever by typhoid bacteriophage, microscopic apparatus and glass-making.

A Spanish health officer studied, in France, Belgium and Switzerland, child and maternity welfare, public-health nursing, the campaign against tuberculosis, venereal-disease control, health insurance, and control of drug addiction.

Another Spanish medical officer visited England on an individual mission, paying particular attention to the methods of public health instruction.

In pursuance of the plan for an interchange between Japanese and Western public health and medical institutes, an English biochemist specially interested in the study of foods was sent to the Japanese Government Nutrition Institute to study, with its Director, Professor SAIKI, the progress of Japanese science on this subject. Professor Saiki will come to Europe in 1927 to give a series of lectures in Western universities on the relation of foods to health, with special reference to Japanese experience.

A Japanese biochemist from the Government Nutrition Institute came to Europe to study the new methods employed and results attained in the chemical and biological examination of foods. He is now carrying on special work in the laboratory of Professor MELLANBY at the University of Sheffield.

Three other Japanese medical officers came to Europe on the nomination of their Health Administrations to study the following subjects for a period of nine months in various centres: health insurance, prevention of venereal diseases and vaccination by the mouth. The system of health insurance is now being organised in Japan, hence the importance of the study of this subject by Japanese health officials in European centres where a considerable amount of experience has been acquired. Oral vaccination is being made the subject of tests in Japan, as this method is easy to apply to the population should it be proved to be of value in inducing immunity. The method was first used in Europe.

A parasitologist from the Oswaldo Cruz Institute in Brazil was sent to Japan to study the methods employed in Japanese institutes, and arrangements were made for a Japanese parasitologist to study the same subject in Brazil, beginning in 1927. The utility of this exchange is apparent in view of the considerable immigration between the two countries and the possibility of importing parasitic diseases.

A professor from the Laboratory of Zoology and Comparative Anatomy at Neuchâtel visited Berlin, Hamburg, London, Liverpool and Paris to study at the institutes in those cities concerned with tropical diseases, the collections of parasites and helminths.

A public health officer from the Hygienic Laboratory at Washington was afforded the opportunity of studying, in France, Germany, Switzerland, Denmark and England, the various new preparations for the treatment of tuberculosis, the laboratory researches on the permeability of cells with reference to the tubercle bacillus, and Calmette's method of protecting infants born of tuberculous parents with his BCG vaccine.

The Director of the Social Hygiene Dispensary of Abruzzi studied, in Holland, Belgium and France, school hygiene, the control of venereal diseases and the campaign against tuberculosis.

The Chief Health Inspector of the Belgian Health Administration at Bovigny, who is in charge of the bacteriological laboratory for the province of Luxemburg, studied, in France, vaccination against diphtheria, the differentiation of intestinal bacteria, and the organisation of a laboratory for immunisation against measles.

PROGRAMME OF INTERCHANGES FOR 1927.

84. Collective interchanges of medical officers of health will be held in Great Britain beginning on February 21st, 1927, and in Germany from September 25th, 1927. In Great Britain the groups into which it is customary to divide the participants for practical study will be reduced in size to two, so that there will be greater opportunity for first-hand study and less interruption to the routine of the local health officer.

85. A new type of interchange will be held in January, February and March, beginning with a theoretical course of six weeks at the Institute of Hygiene, Faculty of Medicine, University of Paris, for medical officers of health who understand French, and ending with a practical stage of

¹ These individual missions were held by public health and medical officers from Australia, Belgium, Brazil, Great Britain, Italy, Japan, Kingdom of the Serbs, Croats and Slovenes, Spain, Switzerland, United States of America.

six weeks in a number of countries, where the participants will be divided into small groups. The Health Organisation has offered a number of scholarships to Health Administrations on condition that the latter send an equal number of candidates at their expense. The total number of participants will be limited to thirty. In addition to the staff of the Institute of Hygiene, a number of distinguished medical officers and public health and laboratory workers have been invited to deliver lectures on special subjects.

If credits are available, a small interchange on health insurance or physical education may be organised in 1927. In addition to these collective study tours, several of the individual missions mentioned above begin in 1926 and will be continued and terminated in 1927.

The possibility of an interchange in British India is being studied.

Chapter V.

MEASURES TAKEN TO GIVE EFFECT TO ASSEMBLY RESOLUTIONS.

I. PROPOSALS OF DELEGATIONS TO THE ASSEMBLY PRIOR TO 1926.

86. The proposal of the Government of the Netherlands to the Sixth Ordinary Session of the Assembly related to infant protection and mortality. It was referred to the Advisory Commission for the Protection and Welfare of Children and Young People and to the Health Committee.

The Health Committee asked the Health Section to collaborate with the Social Section in the collection and classification of legislation relating to questions dealing with the protection of infants, and authorised the Medical Director to invite a limited number of experts to suggest the lines which the Health Organisation could most usefully follow in making the international enquiries necessary to give effect to the resolution adopted by the sixth ordinary session of the Assembly,

87. Accordingly the following experts on infant welfare were invited to attend a conference at Geneva on September 27th, 28th and 29th, 1926:

Dame Janet CAMPBELL	.....	Great Britain
Dr. Taliaferro CLARK	.....	United States of America
Professor A. COLLETT	.....	Norway
Professor R. DEBRÉ	.....	France
Professor C. GINI	.....	Italy
Professor E. GORTER	.....	Netherlands
Professor C. PIRQUET	.....	Austria
Professor F. ROTT	.....	Germany

A number of documents collected by the Health Section, and some memoranda prepared by these experts, were circulated to the members for preliminary study. The following agenda was adopted:

1. Possibilities of a comparative enquiry into infant mortality in different regions of Europe (or other parts of the world) with high and low infant mortality rates — with special reference to the underlying causes, such as social and hygienic conditions, housing, nutrition and child-welfare activity.
2. Possibilities of an enquiry into the incidence of rickets, anæmia, tetany and scurvy in children up to two years of age in different countries, with special regard to the nutrition problem.
3. Unification of the registration of infant deaths.
4. The possibility of facilitating climatic treatment for children of foreign countries. Measures required in the interest of the country which receives them.
5. Instruction in infant welfare of medical students and other persons concerned.
6. The value of preventive immunisation against infectious diseases of children (diphtheria, scarlet fever, measles, chickenpox, whooping-cough and tuberculosis).

88. After detailed study and discussion the Conference made the following recommendations to the Health Committee:

(1) In view of the value of the results obtained by the use of active immunisation against diphtheria in certain countries, and the fact that such immunisation had been practised on a large scale, it was decided to recommend that a report on this subject should be secured and that a study be made of the procedure adopted in those countries where a large amount of work had been carried on.

(2) The Conference recommended a similar study in the case of immunisation against measles and scarlet fever. In the case of whooping-cough, it was thought that the President of the Health Committee might describe the work in Denmark to the Health Committee. The Conference did not consider the moment opportune to recommend a study of immunisation against chickenpox or tuberculosis.

(3) The Conference asked its members to prepare reports on their own countries with regard to the instruction in child hygiene given to medical students, midwives and public-health nurses.

(4) In regard to the unification of registration of infant deaths, the Conference recommended that a further effort be made to secure the universal adoption of the definition of "dead birth" as already recommended by the Health Committee to the various Governments. The proposals made by Professors ROTT and GINI on this subject were commended to the attention of the Health Committee and its statistical commissions.

(5) The Conference decided to recommend to the Health Committee that comparative enquiries into infant mortality should be undertaken, such enquiries to include two urban and two rural areas in each country represented at the Conference, one of these areas in each case having high and the other low infant mortality rates but other conditions being fairly comparable. After the selection of the areas and a preliminary enquiry of three months, the Conference decided to hold another session to lay down the lines along which the full enquiry of twelve months' duration should proceed. General conditions were suggested for the conduct of the preliminary enquiry.

(6) In regard to rickets, tetany and scurvy, the Conference did not recommend a special international investigation but suggested that the Health Organisation might establish liaison between certain important investigations now being carried on in different countries with regard to the prevention of rickets and into certain problems of nutrition.

(7) In regard to climatic treatment for children of foreign countries, the Conference placed itself at the disposal of the Health Committee for advice in case appeal was made to it by a Health Administration.

(8) Finally, the Conference emphasised the importance of the problems of infant mortality and immunisation and suggested that the Health Committee might reserve some of the credits at its disposal for individual missions, study tours and any studies it might be necessary to undertake to give effect to the resolutions of the Conference (document C.H.501 (r)).

89. The report of the Conference was presented to and approved by the Health Committee during its eighth session. In pursuance thereof a number of experts were asked to prepare reports on questions of specific immunisation, and the preliminary enquiries were begun in the countries represented at the Conference. Provisional reports on these enquiries have been received and circulated and a second session of the Conference of Health Experts in Child Welfare is planned for January 17th, 1927, to prepare detailed plans for the twelve months' comparative enquiry into infant mortality in various countries.

90. The suggestion of the Committee of Experts to concentrate on questions of specific immunisation against diphtheria, scarlet fever and measles, and on the enquiries on infant mortality in a number of countries, was approved by the Health Committee. Accordingly the experts began at once the preliminary enquiries upon which the definite plan of enquiry will be based. Reports have been received and distributed as follows:

Questionnaire prepared by Doctors ROTT and ROESLE.	(document C.H./P.E./27)
Observations by Doctor ROTT on the Enquiries into Infant Mortality	(" " " 23)
Preliminary Study of the Causes of Infant Mortality in Holland — by Professor GORTER (" " " 22)	
Observations of Professor DEBRÉ in regard to the Preliminary Enquiries	(" " " 21)
Statement by Professor COLLET on Infant Mortality in Norway.	(" " " 20)
Observations of Professor GINI on the Infant Mortality Enquiry	(" " " 19)
Statement by Dame Janet CAMPBELL on the Enquiry in England	(" " " 18)

The districts in the different countries have been selected, and when the experts have agreed on the definite plan, the current enquiries will begin at once.

Three health experts in child welfare have been nominated by the Health Administrations of Latin-American countries to carry on similar enquiries in their countries:

- Professor ARAOZ ALFARO, President of the National Council of Hygiene, Buenos Aires, Argentine.
- Professor FERNANDEZ FIGUEIRA, Rio de Janeiro, Brazil.
- Doctor LOUIS MORQUIO, Montevideo, Uruguay.

It is proposed to convene these and other Latin-American experts to be nominated later at Montevideo during 1927 for a discussion of the results obtained.

91. The proposal of the Czechoslovak delegation to the sixth ordinary session of the Assembly for the study of health insurance and public health administration was described in the previous Annual Report.

During 1926 the enquiries in the five cities Budapest, Cologne, Prague, Vienna and Warsaw were practically completed and the study was extended to Copenhagen. Conferences in the progress of these studies, in which the health officers entrusted with this work by the chiefs of their Administrations participated, were held in Prague in March, Geneva in September and in Copenhagen in November. A report on the preventive activities of health insurance organisations in England is being prepared by a member of the staff of the British Ministry of Health, who also participated in the Copenhagen Conference. The report on the public health aspects of health insurance in Germany is expected early in 1927. A member of the staff of the Japanese Health Administration is studying this subject in Europe under the auspices of the Health Organisation. In this enquiry the Health Organisation is collaborating with the Insurance Services of the International Labour Office by means of a small mixed committee of the two secretariats.

92. The proposal of the French delegation to the sixth ordinary session of the Assembly in regard to the establishment of an epidemiological bureau in West Africa was given further consideration by the Health Committee during its seventh and eighth sessions.

During the seventh session a report was received containing the views of the participants in the West African interchange. As a result it was decided to collect and transmit African epidemiological information from Algiers on an experimental basis while awaiting the views of the Governments concerned. Doctor RAYNAUD, the Inspector-General of the Algerian Health Services and a member of the Health Committee, was entrusted with this work. During the October session of the Health Committee, Doctor Raynaud presented a report summarising the results of his first attempts, and the Committee decided to await the completion of the experiment and the views of the Governments concerned before reaching a final decision. Doctor Raynaud will explore the possibility of transmitting epidemiological intelligence concerning the territories of Northern, Western and Central Africa in order to ascertain how far a centralisation of this intelligence, never before attempted, may be practicable. It is necessary to estimate the possibilities and difficulties of telegraphic transmission by cable and by wireless, factors to which special attention must be paid in reaching a final decision regarding the creation of the Bureau. The special epidemiological problems of which account is being taken include the spread of yellow fever towards the East and on the West Coast, the spread of relapsing fever and meningitis towards the west, the problem of plague on the West Coast, the special problems of Central Africa, sleeping-sickness in particular, and the spread of epidemic diseases from the centre towards the south. Further information on this subject may be secured from Doctor Raynaud's report to the October session of the Health Committee (document C.H. 510 (r)).

93. The proposal of the delegation of the Kingdom of the Serbs, Croats and Slovenes to the sixth ordinary session of the Assembly in regard to the control of manufacture and distribution of food supplies in the interests of international public health, and the studies of measures to be recommended to Governments on this subject, was made the subject of a short report to the Health Committee during its sixth session (document C. 252. M. 96. 1926. III, Annex 89).

The Health Section has begun an enquiry on sanitary measures for the control of food, as provided in national legislation or by international organisations, with special regard to import and export. In this work the Health Section is collaborating with the Financial and Economic Section of the League, which is preparing a comprehensive memorandum on the protection of foreign buyers and consumers against worthless or fraudulent goods.

94. The proposal of the Italian delegation to the sixth ordinary session of the Assembly in regard to an enquiry into the prevalence and prevention of trachoma in various countries was entrusted to Doctors LUTRARIO and JITTA, members of the Health Committee, who submitted progress reports in 1926 (documents C. H. 459 and C. H. 506).

A large amount of material (documents C.H. 447 and C.H. 448) was also collected by the Health Section and published in its regular epidemiological reports. Various Health Administrations¹ furnished valuable information which was embodied in a report (document C.H. 449) to the sixth session of the Health Committee.

PROPOSALS OF DELEGATIONS TO THE ASSEMBLY IN 1926.

95. *The Cuban Proposal.*

"The Second Committee, in conformity with the resolutions adopted by the Assembly at its fifth and sixth ordinary sessions on the subject of infant mortality and the protection of children, requests the Council to ask the Health Committee to consider to what extent it could, at a suitable time, enlarge its scheme of international enquiry to include other problems of eugenics." (Document A. 112. 1926. III.)

The Health Committee considered this proposal during its eighth session and, while recognising the importance of the problem, decided that the moment was not opportune to examine the problem of eugenics as suggested by the Cuban delegation.

96. *The Czechoslovak Proposal.*

"The Second Committee, considering the importance of physical culture as a means for preventing disease and in view of the interest which numerous countries take in that question, asks the Council to instruct the Health Committee to consider the inclusion in the programme of its work of the international investigation of physical culture, including school hygiene, and to decide what special problems may necessitate a comparative study and a co-ordination of national research work and national enquiries." (Document A. 112. 1926. III.)

During its October session the Health Committee decided to request the Medical Director to prepare a technical report, after consultation with the health authorities of Czechoslovakia and with experts in physical education, such reports to be made the basis for a detailed examination of the whole subject at a subsequent session.

97. *The Uruguayan Proposal.*

"The Second Committee, having taken note that the International Economic Conference's plan of enquiry is to include an examination of the problems of nutrition (document A. 24. 1926. II) points out the interest which would attach to the supplementing of this enquiry by a study of the problem from the standpoint of race improvement. This study should take into account the work of the Health Organisation regarding infant mortality, as well as the reports by the Japanese Institute of Research into Nutrition Problems comprised in the publications of the Health Committee." (Document A. 112. 1926. III.)

The Health Committee, during its eighth session, recorded its recognition of the extent and importance of this proposed enquiry into the problem of nutrition. It therefore decided to study the subject in detail at one of its subsequent sessions.

¹ Austria, Bulgaria, Czechoslovakia, Estonia, France, Hungary, Japan, Prussia.

Chapter VI.

SPECIAL ENQUIRIES, MISCELLANEOUS, PUBLICATIONS.

INTERNATIONAL CONFERENCE ON RABIES.

98. In view of the general interest in anti-rabies treatment and the many requests addressed to the President of the Health Committee by the directors of Anti-rabies Institutes for the calling of an international conference, the Health Committee, after consultation with the authorities of the Pasteur Institute in Paris, decided on this step during its session of April 1926.

The Health Committee gratefully accepted the invitation to hold the Conference at the Pasteur Institute in Paris. The Conference will be held in April 1927. As a preliminary step, a questionnaire dealing with all phases of vaccination against rabies was prepared by the Pasteur Institute, published by the Health Organisation in English, French, Spanish and German, and distributed to all the important Anti-rabies Institutes in the world. Invitations have been issued to the directors of these Institutes through their Health Administrations to attend the Conference in Paris. Many of the questionnaires have been returned fully filled in, and a number of Health Administrations have signified their intention of sending the directors of their Anti-rabies Institutes to the Conference. The next Annual Report will contain a full account of the Conference and its results.

LEPROSY.

99. During its session of October 1925, the Health Committee decided that an investigation should be conducted into certain statistical and epidemiological features of the problems of leprosy.

The investigation was entrusted to Professor CHAGAS, who presented a report to the Committee in April 1926. The Health Committee requested Professor Chagas to continue his study in collaboration with experts appointed for this purpose in agreement with the Bureau of the Health Committee. The following experts have been nominated: Professor MARCHOUX (France), Doctor McCoy (United States of America), Professor E. RABELLO (Brazil), Professor SHIGA (Japan). It is expected that experts from Holland, India and South Africa will be added to this list. Sir Leonard ROGERS (Great Britain) has also promised to assist.

LEISHMANIOSIS.

100. On the suggestion of Professor PITTALUGA, who explained the special problem of leishmaniosis in Spain and other countries of the Mediterranean Basin, the Health Committee, in April 1925, decided to entrust the study of this subject to Professor PITTALUGA and Doctor RAYNAUD.

The progress reports presented by these members to the October session caused the Committee to decide to continue and complete the studies. Two reports were presented in April 1926 (documents C.H. 467 and C.252.M.96.1926.III). The enquiry includes, on the one hand, statistical research in Spain, the south of France, Italy, Portugal and North Africa, and on the other a topographical study of the foci of leishmaniosis in relation to the presence of dogs and phlebotomi. In this investigation certain experts belonging to the interested countries, particularly Doctor NICOLLE, of Tunis, and Doctor SERGENT, of Algiers, have promised their collaboration.

LIAISON WITH PUBLIC HEALTH AND MEDICAL AUTHORITIES IN JAPAN.

101. During its April 1926 session, the Health Committee decided on the following measures of collaboration with the Public Health and Medical Authorities of Japan, in order that advances in public health and medical subjects might be exchanged between Japanese and European workers:

1. That four individual fellowships be given to Western public health and medical research workers who would study at Japanese institutions for a period of nine months. As already mentioned under "Individual Missions", three of these workers are already pursuing their studies in Japan.
2. That four Japanese public health and research workers should study, in the West, problems of special importance to Japan. Accordingly, four Japanese public health and research workers came to Europe in 1926 and are now pursuing their studies in various institutes.
3. That monographs based on recent original Japanese research work on problems of international importance be published by the Health Committee. Volumes on cholera and nutrition from Japanese sources were published in 1926.

4. That corresponding members be invited to take part in the work of the several commissions and committees of the Health Organisation, as follows:

- Public Health Instruction — Dr. MIYAJIMA, Kitasato Institute.
- Cancer — Dr. NAGAYO, Imperial Institute of Infectious Diseases.
- Sleeping-sickness — Dr. TAKOUCHI, Health Institute of the Imperial University of Tokio.
- Leprosy — Dr. SHIRAGA, Medical School of the Imperial University of Chosen.
- Malaria — Dr. KOZUMI, Kitasato Institute.
- Smallpox — Dr. KŪ, Imperial Institute of Infectious Diseases.
- Vital Statistics — M. GOTO, Imperial Statistics Bureau.

5. That a Japanese professor be invited to lecture at two or three centres in the West on Japanese experience in public health problems. Professor T. SAIKI, of the State Nutrition Institute, will come to Europe early in 1927 and will begin his lectures in connection with the International Course at Paris in January 1927.

COLLABORATION WITH THE HEALTH ADMINISTRATIONS OF LATIN-AMERICAN COUNTRIES.

102. In 1925 the Paraguayan delegation to the sixth ordinary session of the Assembly proposed that an expert medical statistician be sent to a number of Latin-American countries to collaborate with the competent authorities of those countries in a study of the statistical methods employed with the object of achieving uniformity of medical statistics.

The Health Committee decided to await proposals from the Health Administrations of those countries. A communication on this subject from the Director-General of the National Health Department of the Argentine was received in 1926 and negotiations are pending.

In approving the findings and suggestions of the Health Experts on Child Welfare, it was decided to invite experts from South American countries to participate in the studies on infant mortality proposed by the Conference and to convene these experts in a Latin-American country to examine and present a report on the results of their studies. (See "Expert Committee on Child Welfare".)

PUBLICATIONS.

103. The following is a list of the more important publications of the Health Organisation during 1926:

1. *Service of Epidemiological Intelligence and Public Health Statistics:*

- (a) *Weekly Bulletin* (bilingual). Nos. 1-40.
- (b) *Monthly Epidemiological Report* (bilingual). Nos. 1-12. R. E. 86-97 incl.
- (c) *Annual Epidemiological Intelligence Report* (French and English). No. 10. E. I. 10.
- (d) *Singapore Bureau*.

C.H. 419. *Resumé of Annual Report for 1925 and of the Minutes of the meeting of the Advisory Council held at Singapore from January 4th-6th, 1926* (French).

C.H. 419 (a). *The resolutions passed by the Advisory Council of the Singapore Bureau during its first session, January 4th-6th, 1926* (English).

(e) *Statistical Handbooks.*

C.H. 348. *The Official Vital Statistics of the Republic of Austria* (French and English).

C.H. 445. *The Official Vital Statistics of the Republic of Portugal* (French and English).

C.H. 428. *The Official Vital Statistics of the Scandinavian Countries* (French and English).

(f) *Special Statistical Studies.*

C.H. 405. *Cerebro-spinal Meningitis in Prussia in 1923 and 1924*— by Professor E. SELIGMANN (French or English)

C.H. 284 (1). *Resumé of the Report on Tuberculosis Statistics*— by Dr. Siegfried ROSENFELD (French or English)

2. *Special Studies and Investigations.*

(a) *Malaria Commission.*

C.H./Malaria/58 (1). *Report on the Study Tour of the Malaria Commission in Spain* (August 13th to September 7th, 1925) (French).

C.H./Malaria/57 (1). *Report on the First Results of Laboratory Work on Malaria in England*— by Colonel S. P. JAMES, M.D., assisted by P. G. SHUTE (French or English).

C.H./Malaria/56. *Programme of Malaria Study arranged by the Health Organisation of the League of Nations, May, June, July, 1926.* (English, French, German).

(b) *Public Health Training Commission.*

- C.H. 474. Organisation and Administration of the Health Institute of Poland and of its School of Hygiene. (French or English).
C.H. 474. A Treatise on Pneumonic Plague — by Dr. WU LIEN TEH (English).
C.H. 523. Progress of the Science of Nutrition — by Professor Tadasu SAIKI (English).
C.H. 515. Studies of Cholera in Japan — by Doctors Rokuro TAKANO, Itouya OHTSUHO, Zenzuro INOUYE (French or English).

(c) *Cancer Commission.*

- C.H. 492. Considerations regarding the Possible Relationship of Cancer to Race, based on a Study of Anthropological and Medical Statistics of Certain European Countries — by Professors NICEFORO and PITTARD (French).

3. *Standardisation.*

- C.H. 398. The Biological Standardisation of Insulin, including Reports on the Preparation of the International Standard and the Definition of the Unit (English).
C.H. 483. On the Titration of Dysentery Serum. Researches of the Bucharest Serological Institute (French).

4. *Organisation of Public Health Services in Various Countries.*

- C.H. 404. Public Health Services in Australia — by Dr. J. H. L. CUMSTON and Dr. Frank McCALLUM (French or English).
C.H. 407. Public Health Services in the French Colonies — by Dr. S. ABBATUCCI (French or English).
C.H. 489. Public Health Services in Bulgaria — by Dr. Ivan GOLOSMANOFF (French or English).
C.H. 477. Reports on Public Health Progress in 1925 (French or English).

The International Health Year-Book.

5. *Interchanges of Public Health Personnel.*

(a) *Interchange Handbooks.*

- C.H./E.P.S./49 (a). Supplement to document C.H./E.P.S./49. Health Organisation in Denmark: Forty-five Lectures given in Denmark to Health Officers of Twenty-one Countries on the Occasion of the Interchange of Health Personnel prepared by the Health Organisation of the League of Nations, June-July 1924 (French or English).
C.H./E.P.S./77. Health Organisation in the Kingdom of Belgium: Lectures given in Belgium to Health Officers of Twelve Countries on the Occasion of the Interchange of Health Personnel prepared by the Health Organisation of the League of Nations, May-June 1925 (French).
C.H. 343. Belgian Sanitary Code. August 1926 (French).
C.H./E.P.S./103. A Collective Study Tour organised by the Health Committee of the League of Nations in the Ports of the Basin of the Mediterranean, November 10th to December 24th, 1925 — by Dr. Lucien RAYNAUD (French).
C.H./E.P.S./100 (1). Programme of the Study Tour of Sanitary Engineers in Great Britain, June-July 1926 (English).

6. *Minutes of Sessions of Health Committee, Reports and Constitutional Questions.*

- C.252.M.96.1926.III. Sixth Session of the Health Committee, Geneva, April 26th - May 1st, 1926 (French or English).
C.268 (1).1926.III. (C.H. 472). Report on the Work of the Sixth Session of the Health Committee, Geneva, April 26th - May 1st, 1926 (bilingual).
C.H. 442. Annual Report of the Health Organisation for 1925 (French, English or German).
A.22.1926.III. (C.H. 494 (1)). Report on the Work of the Seventh Session of the Health Committee, Paris, June 19th and 20th, 1926 (French or English).
C.440.M.170.1926.III. Minutes of the Seventh Session of the Health Committee, Paris, June 19th and 20th (French or English).
C.585.1926.III. (C.H. 518). Report on the Work of the Eighth Session of the Health Committee, Geneva, October 13th-19th, 1926 (bilingual).

LEAGUE OF NATIONS

Geneva, September 16th, 1927.

**Results of the Mission carried out in Certain
Latin-American Countries by the President of the Health Committee.**

**REPORT PRESENTED TO THE ASSEMBLY
BY THE SECOND COMMITTEE.**

Rapporteur : Professor Luis CALVO MacKENNA (Chile).

Although a recent development, the participation of the League of Nations in the public health activities of South America already promises to be fruitful. Preventive medicine, by its very nature, embraces the entire human race and recognises no nationalities or frontiers; and the work of the Health Organisation, as approved by the Assembly, is of fundamental importance. Countries which geographically are far distant from the seat of the League of Nations realise this more than others, and recognise in this high tribunal the most generous of collaborators and the most competent of advisers.

The problems of infant mortality were the main object of the journey to Latin America of the President of the Health Committee, Professor T. Madsen, and of the Medical Director, Dr. Rajchman. They were to attend the meeting of the International Group of Experts in Child Welfare held at Montevideo last June to study the medico-social causes of infant mortality in Latin-American countries. Moreover, their powers of observation gave them deep insight into general health conditions. Suggestions were submitted, and several plans of real continental importance were proposed. The League of Nations, in agreement with the Governments concerned, may be able to transform these plans into great realities. A reference to these plans will be made later.

1. The campaign against infant mortality is of special importance to Latin-American countries. If one considers the great area of certain of these countries and their sparse population, the importance of the loss in human capital caused by high infant mortality rates will be appreciated. How much greater the prosperity of these nations might be if the population increased more rapidly and thus facilitated the growth of its industries, agriculture and commerce.

On this continent, as elsewhere, it was primarily private enterprise which created numerous organisations for child welfare. These organisations have steadily become more efficient, and to-day they are trying to fill the role of public health and social institutions. Nevertheless, in spite of the modernisation of their programmes of work, they are still too widely scattered and their activities lack support and cohesion.

Moreover, they were not all designed for the handling of large problems: they have been engaged in dealing with immediate dangers of obvious urgency. These considerations, together with other similar ones, explain the enthusiasm with which the Latin-American experts responded to the invitation of the League of Nations and attended the Conference at Montevideo.

Delegates of Argentine, Brazil, Bolivia, Chile, Paraguay and Uruguay were thus enabled to make a detailed study of their national problems relating to child welfare, and, approving the procedure accepted by their European colleagues, they adopted plans for investigations which are to be carried out in 1928. The purpose of this study will be to determine with the greatest possible exactitude the main medical and social causes, both of still-births and of infant mortality. As in the case of the investigations in Europe, it was considered necessary to carry out these investigations in both urban and rural areas, comprising localities with high and low mortality rates in both groups. It is thus hoped to arrive at conclusions on which it will be possible to base, as rapidly and widely as possible, effective prophylactic measures against infant diseases.

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In order to obtain results that can be compared as between the different countries, it is obvious that uniformity of method is essential. It was therefore decided to propose that the member of the Health Section of the Secretariat of the League of Nations who is responsible for co-ordinating the investigations in Europe should undertake a similar work in the Latin-American countries.

It was also decided to convene the Latin-American experts during the first half of the year 1928 for an exchange of views on the results that will by then have been obtained and on the possibility of improving the method of enquiry.

It is interesting to recall in this connection that the Montevideo meeting was the first conference held by the League of Nations in a Latin-American country, and it is gratifying to note that the inauguration of the work of this Conference was made the occasion of an official ceremony in the presence of His Excellency the President of the Republic and presided over by the Minister of Industry. These circumstances show the importance which the Government of Uruguay attributed to this Conference.

2. Thanks to the initiative of the Health Committee of the League of Nations, the lot of the Latin-American child will certainly be much improved when each country has determined, with a view to remedying them, the main social-medical causes of infant mortality in its urban centres and rural districts. But the practical application of these measures and their success are directly dependent on the quality and the degree of training of the staff which will be entrusted with their execution and supervision. Mindful no doubt of such considerations as these, Professor Araoz Alfaro, member of the League Health Committee, has suggested, with the support of the Argentine Government, the establishment at Buenos Ayres, under the auspices of the League of Nations, of an international health centre for infant welfare. It would provide training facilities for a staff capable of dealing in an efficient fashion with child welfare in Latin-American countries.

This school would also co-ordinate the work of the various magnificent institutions which have been established in the Argentine capital by the State and the municipality with the work of private organisations and of the very remarkable Welfare Society. It would be placed under the presidency of the Argentine member of the Health Committee, who could submit to the Health Committee an annual report dealing with the activity of the school during the past year and the programme of studies for the coming year. But since education is only one stage in developing the practical work to be done, the Argentine Federal Health Authorities desire at the same time to establish dispensaries and welfare centres in those provinces where infant mortality remains relatively high and which receive immigrants from overseas. For this purpose the Federal Authorities are counting on the support of the provincial governments and municipalities.

It would also be possible to profit by the so-called system of interchanges of public health personnel, which is well known to the Assembly and the usefulness of which has been described in remarkable fashion by the honourable delegate from British India, to give the Argentine undertaking an international character. If scholarships could be granted to Latin-American doctors of countries other than the Argentine to enable them to follow the course of higher education which would be given at the centre in question, and also to pass a period of training in the treatment and prevention stations, and if experts from other countries could be invited by the Health Committee to give courses of lectures or to study there, a real centre for international technical collaboration might be established.

Perhaps one day some other Latin-American country may offer to create a centre complementary to that proposed by the Argentine authorities, for it is important that the public health experts who deal with infant welfare should be effectively supported not only by visiting nurses but also by social workers. If in the future a social welfare school could be of service in a Latin-American capital, and if this could be in Chile, the delegation of this country would be very pleased to ensure, by means of the school established at Santiago, fruitful collaboration with the Health Committee of the League.

3. The work of the Health Committee could be still further turned to advantage by the Latin-American countries if the League of Nations could take under its auspices the higher education in health, which was organised two years ago at Rio de Janeiro, and so endow it with the same international character as the courses organised this year by the Health Committee in Paris and London. This school could be based on the magnificent Research Institute founded by Oswaldo Cruz at Rio de Janeiro and directed with so much scientific ability by Professor Carlos Chagas, member of the Health Committee of the League of Nations.

The training of public health experts and of a health staff is essential to the economic development of Latin-American countries. Public health is not only the technical application of modern experience in preventive medicine: it is also the improvement of the conditions of economic life. Public health officers are pioneers who ensure the exploitation of wealth and enable people to enjoy the natural resources with which they are richly endowed.

The Assembly will thus readily understand the capital importance of giving this national army of "scouts" an adequate technical training — a training which can only be provided by institutions of recognised technical standing. Numerous public health specialists from Latin America have already profited by the interchange system of the League, and approximately 42 of them, belonging to fifteen different countries, holding League of Nations scholarships, have been able to study in North America and in various European countries.

The Brazilian proposal would enable other Latin-American countries to benefit by the excellent training given by the Oswaldo Cruz Institute and the experience it has already

acquired. It will probably not be possible for the Health Committee to invite many lecturers to assist in the instruction given there, as it has been able to do in the case of the health courses in Paris and London, but one or two foreign technical experts might be appointed to co-operate for a few months in Rio with the Latin-American staff, and here again, as in the case of the Argentine centre, scholarships might enable Latin-American doctors to derive a large amount of benefit from these courses.

4. The Assembly will also be interested to learn that Professor Carlos Chagas and Dr. Clementino Fraga, Director of the Brazilian Federal Public Health Service, have suggested that an International Leprosy Research Centre should be established under the auspices of the League.

The problem of leprosy has engaged the attention of the Health Committee for some years, and the efforts made in Northern-European countries to combat this disease have been crowned with remarkable success. The road which several Eastern and many Latin-American countries have still to travel is an arduous one. The task obviously devolves upon the national authorities, but investigations into the causes of the spread of the disease demand the assistance of all and real co-operation between scientists of all countries. This task affords an excellent opportunity for defining international action and the extent of national effort. If the Health Organisation is able to obtain the co-operation of the great scientists of other countries in the research work already undertaken in Latin-American countries, it will have made a real contribution to the solution of one of the most difficult problems which the health administrations of the countries are called upon to solve.

It is necessary to add that a Brazilian philanthropist — Dr. Guillermo Guinle — is prepared to contribute a sum of 50,000 Swiss francs a year towards the creation of a leprosy research centre. Moreover, it should not be forgotten that the Federal Government of Brazil would take a deep interest in the new development of public health under the auspices of the League of Nations.

5. The comparative researches into the sero-diagnosis of syphilis in Europe, initiated by the Health Committee, and the practical results already obtained, might be extended to Latin-American countries. The Institute of Hygiene of the State of São Paulo is willing to make this possible and has already earmarked in its budget a sum sufficient to provide the salary for one year of a serologist to be appointed by the Health Committee of the League of Nations. As soon as these investigations have been begun in Brazil, they might be extended to other Latin-American countries; a step forward would thus be taken in the campaign against this social scourge.

6. Thanks to the League's mission, co-operation between the sanitary administration of Uruguay and the Mixed Commission of the Health Committee now studying health insurance in Europe has been assured. The National Council of the Uruguayan Ministry, in agreement with the Ministry of Industry, has decided to accept this co-operation in principle. The President of the National Council of Hygiene of Uruguay is prepared to visit Europe in order to follow more closely the work of the Mixed Commission and to introduce into his country all the necessary elements for the working of the new system of health insurance.

7. The Mission of the Health Committee arrived in Latin America accompanied by Professor Saiki, Director of the Imperial Institute for Research on Nutrition in Japan. Professor Saiki was the first of those who participated in the exchange of professors organised by the League of Nations to visit Latin America. The important science of nutrition, which Professor Saiki has made his own — a science which deals with the problem of nutrition in its physiological, hygienic and economic aspects — was the subject of numerous remarkable lectures given by him in various cities of the Argentine, Brazil, Chile and Uruguay. The Chilean Government and the health authorities of that country, recognising the practical and social importance of the science of nutrition, have arranged to engage for the period of two years a Japanese expert from the Imperial Institute of Tokyo, of which Professor Saiki is the head, for the purpose of organising similar services in the Central Health Department in Chile.

* * *

The Assembly will doubtless agree that the most interesting examples given of practical co-operation of the League of Nations with Latin-American countries call for technical investigation into the possibilities of realisation. The investigation of those various schemes should be entrusted to the Health Committee, and the Assembly will perhaps agree to request the Council to place the matter in the hands of the Health Committee as soon as possible.

After arranging for the technical investigation, it is still necessary to consider the general question as to whether the various possibilities of co-operation which have been examined represent a suitable method for extending the technical work of the League of Nations in Latin-American countries. The essential problem for these countries is their development, for which healthy population and measures to safeguard the life of every new-born child are essential. The Assembly has thus an opportunity of giving clear proof of the desire of the League of Nations to co-operate in this work of fundamental importance, by facilitating the realisation of the schemes just placed before it.

It is sometimes said that the influence of the League of Nations is in inverse ratio to the distance which separates the States from Geneva. Thanks to the various suggestions brought back by the Mission of the Health Committee in Latin America, the Assembly now

has an opportunity to create a living image of the League of Nations in the very heart of Latin-American countries and to establish tangible and definite bonds with the League and its Health Committee.

* * *

In conclusion, I have the honour, on behalf of the Second Committee, to propose the following resolution :

“ The Assembly :

“ (1) Having taken note of the report of the President of the Health Committee on the possibilities of technical co-operation with public health and medical authorities in Latin-American countries, and also of the report on the work of the Conference of Health Experts on Infant Welfare held at Montevideo :

“ (2) Notes with satisfaction that the activities of the Health Organisation of the League of Nations have extended to several countries of Latin America and that fruitful co-operation may be anticipated as the result of the Health Committee's mission ;

“ (3) Welcomes the practical suggestions for continued co-operation which have been made by the health authorities and experts of Argentine, Brazil and Uruguay ;

“ (4) Considers that the realisation of these suggestions would result in creating links between the League's health work and activities of national health administrations in these countries, and would represent a good method of developing the work of the League's technical organisations in Latin America ;

“ (5) Requests the Council, after having obtained the Health Committee's advice on these different suggestions for co-operation with Latin-American countries to consider how they may be put into practice. ”

LEAGUE OF NATIONS.

Geneva, September 16th, 1927.

WORK OF THE HEALTH ORGANISATION

**REPORT PRESENTED TO THE ASSEMBLY
BY THE SECOND COMMITTEE**

Rapporteur : Sir Ramaswami AYYAR (India).

The reports presented to this Assembly concerning the work of the Health Organisation of the League furnish a record of progress that is gratifying. It is not necessary to attempt any description of the routine work of that Organisation. The scope and objects of this work have been fully described in reports to this and to previous Assemblies. Attention should, however, be directed to a few aspects of the work of special interest at the present time.

Since the last Assembly a new Health Committee has been appointed. A welcome innovation has been the appointment of expert assessors, who take part in the work of the Committee in an advisory capacity. The appointment of assessors from countries as far distant from Geneva as Australia and Japan is further evidence of the tendency towards universality of the work of the Health Organisation, which received favourable comment during our meetings last year.

The past year has seen a still further development of the Bureau of Epidemiological Intelligence at Singapore. The work of this Bureau has now become of administrative interest and importance, not only to countries in the East, where the benefits are obvious, but also to all the many other countries having commercial relations with the East. Weekly telegraphic reports concerning the health conditions in no less than 137 ports of Asia, Australasia and the East Coast of Africa are despatched to the Bureau, and this information is broadcast throughout this area from an increased number of wireless telegraph stations. Movements of epidemic disease can thus be watched and studied and measures taken in advance to repel invasion of infection.

The permanence of the Singapore Bureau, it is submitted, should be assured by the League, whose authorities should ensure its adequate financing. Especially worthy of remembrance is the circumstance that the activities of this Organisation form the chief visible link between Eastern countries and the League Organisation. That those countries — some of whom, like India, are large contributors to the general budget — appreciate this aspect of the League's work is evident from their close co-operation with its labours. Thus, for instance, India is represented on the Health Committee, to the mutual advantage, it is hoped, of India and of the Health Organisation itself. The Government of India, which welcomes his appointment, has not only sent Colonel Graham, its representative, to attend the meeting in January, but is also co-operating by broadcasting the Bureau's weekly epidemiological reports.

The weekly distribution of the Singapore and other current epidemiological information of importance from the wireless station at Nauen in Germany is a still more recent development which proved of very great assistance to administrations in Europe and elsewhere during the influenza epidemic of the early months of this year. During the course of that outbreak all European Health Administrations furnished the Health Organisation with weekly telegraphic summaries of the progress of the epidemic, which information was broadcast twice a week from the Nauen station. The demonstration thus afforded of the capabilities of our Health Organisation to supply prompt and reliable information in the event of the appearance of serious epidemic disease has occasioned much favourable comment.

It is gratifying to know that a way has been found of utilising the efficient epidemiological intelligence work of the Health Organisation, including that of the Singapore Bureau, in discharging the obligations imposed on the Office international d'Hygiène publique and on signatory Governments by the International Sanitary Convention of 1926.

Reference should also be made to the further agreement concluded between the Permanent Committee of the Office international d'Hygiène publique and the Health Committee, with the object of securing still closer co-ordination of the work of these two bodies.

Publications de la Société des Nations

III. HEALTH
1927. III. 10.

The recent termination of the work of the International Sleeping-Sickness Commission deserves more than passing notice. It is another striking example of the widespread nature of the Health Organisation's activities. The Commission has produced a report of very considerable scientific interest and importance and has been able to put forward suggestions for international co-operation, by the Administrations interested, in the control of this disease, whose prevention is of vital public health and economic importance to large territories in Africa.

This Assembly has heard much during previous years regarding the so-called interchanges of public health officers — a system whereby health officers of many countries have been able to profit by the experience of other countries in handling health problems that are important to all. The interchange, or study tour, that is to begin in Germany during the course of the present month has features of special interest, and will be attended by as many as thirty officers holding important positions in the health administrations of almost as many countries.

Following the example of the interchange held in Japan in 1925, one is being arranged in India with the active assistance of the central and local Governments, and great results are anticipated therefrom. It is hoped that the President of the Health Committee and the Director of the Health Section will be able to join the party so as to produce the best results both from the point of view of the League and of the localities concerned. It may not be out of place to emphasise that these interchanges furnish a conspicuous example of international co-operation and emphasise and carry into practice the ideals of universality embodied in the Covenant of the League. By this means and by the dissemination of intelligence as to epidemics and research into epidemics, the administrations and the peoples of distant countries are brought into close touch with the central Organisation of the League, and the mutual benefit derivable from the contacts thus established cannot be over-estimated.

An interesting development growing out of this system of study tours has been the organisation of international health courses. These courses last about seven weeks. They consist of lectures, discussions and practical demonstrations at which the working of public health and sanitary institutions and sanitary engineering plants are thoroughly explained. The subjects dealt with cover a large range, special prominence being given to public health problems of present-day importance and to recent development of public health science and research. These courses afford an opportunity to health officers belonging to many administrations of hearing the views of prominent experts regarding such matters. The first of such courses was held in Paris in the early months of this year, and a second course will be held in London in November and December. In Paris all the lectures were delivered in French; in London the course will be held in English.

The Malaria Commission has recently published a general report, which illustrates the value of this Commission's work to the many countries in which malaria is so prevalent a cause of ill-health. The Commission has made extensive tours throughout all countries in Europe in which malaria presents problems of public health importance, and in Syria and Palestine. Two members of the Commission have recently paid a visit to the United States of America. The opportunity afforded by these tours for discussion between the prominent experts forming the Commission and the malaria experts of the countries visited concerning problems of great local importance have been of the utmost value. The Health Committee continues to receive requests for advice concerning malaria problems, and through its Malaria Commission it has recently been able to render signal service to Bulgaria. The Government of India hopes that it may be possible for this Commission to visit India during the latter half of 1928 and it is confident that, if this invitation is accepted, every effort will be made by the various local Governments in India to make the visit interesting and helpful. Reference should also be made to the malaria courses that have been organised by the Health Organisation at the Faculty of Medicine, Paris, the London School of Hygiene and Tropical Medicine, and at the Institute of Maritime and Tropical Medicine, Hamburg. A laboratory course of some four weeks' duration at one or the other of these institutes is followed by two months' work in certain malaria districts of Italy, Spain and the Kingdom of the Serbs, Croats and Slovenes during which participants have an opportunity of seeing and taking part in anti-malaria work there being carried out. The expenses incurred by attendance at these malaria courses for a necessarily limited number of medical officers engaged in malaria work in Government employ in different countries is a charge against the Health Organisation budget, and an increasing number of applications received for attendance at these courses is evidence of their great utility.

Another excellent example of the manner in which a League technical organisation can secure collaboration in dealing with scientific problems is afforded by the International Rabies Conference, which was held in Paris in April last and wherein my country participated through two experts with practical experience of the subject: Hydrophobia, though nowhere an important cause of mortality in comparison with that occasioned by epidemic disease, is nevertheless in certain countries a problem of great practical importance. Since Pasteur discovered the preventive treatment that bears his name, institutes for the treatment of persons bitten by rabid animals have sprung up all over the world. In the course of time, modifications have been introduced into the treatment as instituted by Pasteur, so that at the present time very divergent methods are employed. The Conference arranged by the Health Organisation afforded the first opportunity there has been for directors of institutes from all parts of the world to meet and compare experiences of the results obtained with the various modifications of the original Pasteur method that are in use in their laboratories. The technical discussions that took place were of the greatest possible value,

and the report of the Conference will be an authoritative statement regarding many difficult scientific problems and tend towards increased efficiency.

Reference should also be made to two important activities of the Health Organisation which originated in resolutions of the Assembly — enquiries into infant mortality and health insurance respectively.

Several aspects of the study of health insurance are of interest to the International Labour Office, and consequently the Expert Commission which is entrusted with this study consists of twelve members, half of which were nominated by the Governing Body of the International Labour Office and half by the Health Committee. This Commission, at its first meeting in Geneva in April last, decided on a programme of enquiry into certain aspects of public health and social insurance, from the point of view of preventive medicine, in certain selected countries. The personnel charged with each of these enquiries is representative of both the public health and the social aspects of insurance. In view of the great interest with which questions of health insurance are being considered in many countries at the present time, the results of this study will be looked forward to with special interest.

The infant welfare enquiry is likewise in the hands of an Expert Commission nominated by the Health Committee, the members of which have been selected in view of their special competence in this branch of public health work. The enquiry that is now being carried out, on exactly comparable lines, in seven European countries (in areas with high and low infant mortality rates respectively, and in urban and rural districts) into the immediate and contributing causes of all infant deaths occurring in such areas is being extended to certain Latin-American countries on exactly comparable lines. The results of this investigation can hardly fail to contribute to a saving of life and to the betterment of the physical condition of generations yet to come.

The Second Committee also considered the recommendations adopted by the International Pacific Health Conference held in Melbourne in December 1926 relating to the study of important problems presented by prevailing health conditions in that part of the world, and the possibility of the League Health Organisation's being able to render assistance in their elucidation, in accordance with the request made by the Government of the Commonwealth of Australia.

* * *

In conclusion, I have the honour, on behalf of the Second Committee, to propose the following resolution :

“ The Assembly :

“ Having taken note of the reports (documents A. 9. 1927. IIIa and A. 13 & A. 13 (a) (Extract No. 1) dealing with the work of the Health Organisation of the League during the past year, expresses its gratification at the continued development of its international activities ;

“ Notes with satisfaction the growth and increasing usefulness of the work of the Epidemiological Intelligence Bureau at Singapore, due in large measure to the sympathetic co-operation of all Eastern Administrations, in whose interest it was primarily created ;

“ Notes with satisfaction the terms of the Agreement concluded between the League of Nations and the Permanent Committee of the Office international d'Hygiène publique, whereby the services of the Singapore Bureau will be made available in the discharge, on behalf of the Office, of certain of the obligations imposed by the International Sanitary Convention of Paris 1926 and also the further agreement recently concluded with the object of further increasing the mutual co-operation in other directions between the Health Organisation and the Office international d'Hygiène publique ;

“ Expresses its appreciation of the work accomplished by the Malaria Commission, the Sleeping-Sickness Commission, and the International Rabies Conference, and of the progress made in the investigations now being carried out with regard to infant mortality and health insurance.

“ Further, the Assembly, noting the recommendations which have been made by the International Pacific Health Conference held in Melbourne in December 1926 in relation to the work which might be undertaken by the Health Organisation for the study of health problems in the Pacific area, expresses its hope that the possibilities of action in this sense will receive full and early consideration by the Health Committee ;

“ The Assembly records its unqualified approval and appreciation of the services rendered to international public health by the Health Committee and its expert Commissions ”.

[Communiqué aux Membres
du Conseil.]

C. 51. 1927. III.
[C. H. 556.]

SOCIÉTÉ DES NATIONS

ORGANISATION D'HYGIÈNE

Rapport sur les Travaux de la Neuvième Session

DU

COMITÉ D'HYGIÈNE

tenue à Genève du 14 au 18 février 1927.

LEAGUE OF NATIONS

HEALTH ORGANISATION

Report on the Work of the Ninth Session

OF THE

HEALTH COMMITTEE

Held at Geneva from February 14th to 18th, 1927.

A. CONSTITUTION DU COMITÉ ET DES COMMISSIONS.

I.

Conformément aux dispositions de sa constitution, le Comité d'hygiène décide de désigner comme assesseurs quatre experts en matière d'hygiène publique et de présenter leurs noms au Conseil de la Société des Nations, aux fins de nomination. Il adopte, en conséquence, la résolution suivante:

« Le Comité d'hygiène désigne comme assesseurs les experts en matière d'hygiène publique dont les noms suivent, noms qu'il soumet au Conseil de la Société des Nations, aux fins de nomination comme membres du Comité d'hygiène:

« Le Dr Jean CANTACUZÈNE, professeur de bactériologie et directeur de l'Institut de médecine expérimentale de Bucarest (Roumanie);

« Le Dr Bernhard NOCHT, recteur et professeur de l'Université et directeur de l'Institut de médecine tropicale de Hambourg (Allemagne);

« Le Dr Donato OTTOLENGHI, professeur d'hygiène à l'Université de Bologne (Italie);

« Le Dr Gustavo PITTALUGA, professeur de parasitologie à l'Université de Madrid (Espagne). »

« Le Comité décide, en outre, de prier le Conseil de la Société des Nations de l'autoriser à inviter des experts assesseurs à participer aux délibérations du Comité avec voix consultative et désigne pour remplir ce mandat:

« La Doctoresse Alice HAMILTON, professeur d'Hygiène industrielle à l'Université de Harvard, Cambridge (Etats-Unis);

« Le professeur C. E.-A. WINSLOW, président de l'Association américaine de l'Hygiène publique, professeur de biologie et de bactériologie à la « Yale University » New-Haven (Etats-Unis);

« Le Dr J. H. L. CUMPTON, directeur général de l'Hygiène publique du Commonwealth d'Australie, Melbourne (Australie).

« Le Comité a appris avec satisfaction que son membre japonais lui proposera sous peu le nom du quatrième expert assesseur. »

II.

Conformément aux termes de l'article 10 de son Règlement intérieur (Annexe I), et après avoir étudié la constitution de ses diverses commissions et conférences d'experts:

« Le Comité d'hygiène décide:

« De maintenir la Commission du paludisme et la Commission permanente de standardisation, telles qu'elles sont actuellement constituées;

« De remettre sa décision au sujet de la Commission du cancer, étant donné l'absence de son président.

« Demande aux présidents des Commissions de l'enseignement de l'hygiène, de la variole et de la vaccination, de l'opium, de la tuberculose, de l'Extrême-Orient et de la Commission mixte du charbon, de faire fonction de rapporteurs sur ces divers sujets auprès du Comité d'hygiène;

« De maintenir, telles qu'elles sont actuellement constituées, les Commissions d'experts sur la protection de l'enfance, la maladie du sommeil et la tuberculose en Afrique équatoriale et également la Commission des statisticiens;

« De constituer une Commission d'experts en matière d'assurance-maladie aux conditions indiquées à la résolution suivante. »

III.

Le Comité d'hygiène, après examen de la note du directeur médical relative aux plans d'étude de l'assurance-maladie dans ses relations avec l'administration de l'hygiène publique, étude faite en exécution de la proposition de la délégation tchécoslovaque à la sixième session ordinaire de l'Assemblée, adopte la résolution suivante:

« Le Comité d'hygiène:

« 1. Décide de constituer une Commission d'experts pour déterminer les méthodes les plus efficaces pour établir une collaboration entre les organisations d'assurance-maladie et les

A. CONSTITUTION OF THE COMMITTEE AND OF ITS COMMISSIONS.

I.

In conformity with the provisions of its constitution, the Health Committee decided to nominate four public health experts as assessors and to submit these nominations to the Council of the League; accordingly, the following resolution was adopted:

"The Health Committee nominates the following public health experts as assessors and submits these nominations to the Council of the League of Nations for appointment as members of the Health Committee:

"Dr. Jean CANTACUZENE, Professor of Bacteriology and Director of the Institute of Experimental Medicine at Bucarest (Roumania).

"Dr. Bernhard NOCHT, Rector and Professor of the University and Director of the Institute of Tropical Hygiene and Medicine at Hamburg (Germany);

"Dr. Donato OTTOLENGHI, Professor of Hygiene at the University of Bologna (Italy);

"Dr. Gustavo PITTALUGA, Professor of Parasitology at the University of Madrid (Spain).

"The Committee decides to request the Council of the League of Nations to authorise it to invite expert assessors to take part in the work of the Committee in an advisory capacity, and proposes the following names:

"Dr. Alice HAMILTON, Professor of Industrial Hygiene at Harvard University, Cambridge (United States of America);

"Professor C. E. A. WINSLOW, President of the American Association of Public Health and Professor of Biology and Bacteriology at Yale University, New Haven (United States of America);

"Dr. J. H. L. CUMPTON, Director-General of the Commonwealth Department of Health, Melbourne (Australia).

"The Committee notes with satisfaction that its Japanese member will propose shortly the name of a fourth expert assessor."

II.

In accordance with the provisions of Article 10 of its Rules of Procedure (Annex 1), and after having considered the constitution of its commissions and conferences of experts:

The Health Committee decides:

To continue the Malaria and Permanent Standards Commissions as at present constituted;

To postpone action in regard to the Cancer Commission in the absence of its Chairman;

To ask the Chairmen of the Public Health Instruction, Smallpox and Vaccination, Opium, Tuberculosis, Far Eastern and Anthrax Mixed Commissions to act as Rapporteurs on these subjects in the Health Committee;

To continue the expert commissions as now constituted, namely, the Expert Commission on Child Welfare, the Expert Commission on Sleeping-Sickness and Tuberculosis in Equatorial Africa, and the Commission of Statisticians;

To constitute an expert commission on health insurance under the conditions described in the following resolution.

III.

The Health Committee considered a note of the Medical Director in regard to the plans for the study of health insurance and public health administration initiated by the proposal of the Czechoslovak delegation to the sixth ordinary session of the Assembly, and the following resolution was adopted:

"The Health Committee:

"(1) Decides to set up a Commission of Experts to consider the most effective methods of collaboration between health insurance organisations and the public health services, half

services d'hygiène publique; la moitié des membres de cette commission devra représenter ces services; l'autre moitié, les organisations d'assurance-maladie.

« 2. Estime que les membres de la Commission représentant les services d'hygiène publique devraient être choisis par l'Organisation d'hygiène qui est l'agent normal de collaboration entre ces services, et invite son bureau à les désigner. Les membres de la Commission représentant les organisations d'assurance-maladie devraient être choisis par le Conseil d'administration du Bureau international du Travail qui représente ces organisations.

« 3. Décide que le travail de la Commission s'appliquera à l'étude des possibilités de collaboration entre les services d'hygiène publique et les services des organisations d'assurance.

« 4. Propose que la Commission d'experts soit constituée et réunie aussi prochainement que possible;

« 5. Estime désirable que la Commission d'experts ne prenne pas de décisions définitives avant la fin de la Conférence internationale du Travail qui doit avoir lieu à Genève en mai et juin 1927, la question de l'assurance-maladie devant être abordée à cette conférence.

« 6. Propose l'établissement, pour cette Commission d'experts, d'un secrétariat mixte composé de membres de la Section d'hygiène du Secrétariat de la Société des Nations et de membres du Service de l'assurance sociale du Bureau international du Travail. Ce secrétariat serait présidé d'une part par le Directeur médical de l'Organisation d'hygiène, d'autre part, par le chef de la Division des recherches du Bureau international du Travail. »

IV.

Le Comité d'hygiène, après étude des méthodes susceptibles d'être adoptées pour la coordination de ses travaux avec ceux du Comité de l'Office international d'hygiène publique, décide de proposer au Comité permanent de cet Office l'adoption des dispositions suivantes :

I a). Toutes les questions relatives à l'application de la Convention internationale sanitaire du 21 juin 1926 relèvent exclusivement du Comité de l'Office international, sous réserve des accords qu'il aura pu conclure en vertu de l'article 7 de la Convention.

I b). Toutes les questions qui sont soumises au Comité d'hygiène de la Société des Nations, sur l'initiative de ses membres, de la Société des Nations ou d'un gouvernement, relèvent du Comité d'hygiène.

II. Sous réserve de ce qui est dit ci-dessus, l'ordre du jour de chaque comité sera établi, par son président, après consultation avec le président de l'autre comité.

III. Le droit d'initiative pour la position des questions à inscrire à l'ordre du jour appartient au même titre à chacun des membres des deux comités.

Toute question évoquée dans un comité par un de ses membres devra faire l'objet, au sein de ce comité, d'une discussion préalable, en vue d'une prise en considération.

Les questions prises en considération par le Comité permanent de l'Office international d'hygiène publique et dont l'examen nécessite des études préalables d'ordre technique seront renvoyées, à cet effet, au Comité d'hygiène de la Société des Nations.

Le Comité d'hygiène de la Société des Nations, après toutes études ou enquêtes qu'il aura jugées nécessaires, fera établir un rapport technique comportant des conclusions.

Après qu'il se sera prononcé, le rapport et les conclusions seront transmis au Comité de l'Office international, à savoir, s'il s'agit des questions posées par le Comité d'hygiène de la Société des Nations, toutes les fois que ces conclusions peuvent se traduire par des mesures administratives à recommander aux gouvernements; s'il s'agit des questions posées par le Comité de l'Office international, dans tous les cas.

Les membres du Comité de l'Office international recevront communication de ces documents, assez longtemps avant la session au cours de laquelle ils devront en délibérer, pour qu'il leur soit loisible de procéder, chacun dans son pays, à toute information ou consultation d'experts ou d'autorités sanitaires qu'ils pourront juger utiles et de prendre, le cas échéant, les instructions de leur gouvernement.

Pour les questions évoquées par le Comité de l'Office, les décisions arrêtées par lui seront portées à la connaissance des gouvernements par les soins de l'Office. Pour les questions évoquées directement devant le Comité d'hygiène, le Comité de l'Office transmettra son avis au Comité d'hygiène, auquel il appartiendra de prendre la décision et de la porter à la connaissance des gouvernements par les organes de la Société des Nations.

IV. Le Comité de l'Office international agissant comme Conseil consultatif de l'Organisation d'hygiène de la Société des Nations, en conformité des accords antérieurs, continuera à recevoir communication des travaux du Comité d'hygiène de la Société des Nations.

Il donnera de même communication de ses propres travaux au Comité d'hygiène de la Société des Nations.

of the members of such commission to represent the public health services, the remaining half to represent health insurance organisations;

"(2) Considers that the members of the Commission representing the public health services should be selected by the Health Organisation, which is the normal agency of collaboration between such services, and invites its Bureau to make these nominations. The members of the Commission representing health insurance organisations should be selected by the Governing Body of the International Labour Office, which acts on their behalf;

"(3) Decides that the scope of work of the Commission shall relate to a study of the possibilities of collaboration between the public health services and the services of the health insurance organisations;

"(4) Proposes that the Commission of Experts shall be constituted and convened at as early a date as possible;

"(5) Suggests that the Commission of Experts should take no definite decisions before the conclusion of the International Labour Conference to be held in Geneva during May and June 1927, as the subject of health insurance will be considered by that Conference;

"(6) Proposes a joint secretariat for the Commission of Experts composed of members of the Health Section of the Secretariat of the League of Nations and members of the Social Insurance Services of the International Labour Office, headed on the one hand by the Medical Director of the Health Organisation and on the other by the Chief of the Division of Research of the International Labour Office."

IV.

The Health Committee, having considered the methods which might be adopted to coordinate its work and that of the Committee of the Office international d'hygiène publique, decides to propose to the Permanent Committee of the Office the adoption of the following methods:

I. (a) All questions relating to the application of the International Sanitary Convention of June 21st, 1926, are within the sole competence of the Office international d'hygiène publique, subject to such agreements as it may conclude in virtue of Article 7 of the Convention.

(b) All questions submitted to the Health Committee of the League of Nations by its members, by the League of Nations or by a Government are within the competence of the Health Committee.

II. Subject to the exceptions above indicated, the agenda of each session of either of the Committees shall be settled by its President after consultation with the President of the other Committee.

III. The right to place questions on the agenda of either Committee belongs equally to the members of both Committees.

Any question raised in either of the Committees by one of its members shall be the subject of a preliminary discussion by that Committee before it is taken up for study.

Questions taken up by the Permanent Committee of the Office international d'hygiène publique which require preliminary technical study shall be submitted for such study to the Health Committee of the League of Nations.

After such studies and investigations as it may deem necessary, the Health Committee of the League of Nations shall have prepared a technical report embodying conclusions.

After taking a decision, the Health Committee will transmit the report and conclusions to the Committee of the Office international d'hygiène publique, namely, when the original question was raised in the Health Committee in such cases as the conclusions require administrative measures to be recommended to Governments, and in every case when the original question was raised in the Committee of the Office international.

The members of the Committee of the Office international shall receive these documents sufficiently in advance of the session at which they will be discussed to enable each member to secure from his own country any information or any consultation with experts or public health authorities which may be deemed necessary, or to obtain, if need be, instructions from his Government.

With regard to questions raised in the Committee of the Office, decisions reached by this Committee shall be communicated to Governments by the Office. With regard to questions raised directly before the Health Committee, the Committee of the Office will communicate its advice to the Health Committee, which will take the necessary decisions and communicate such decisions to Governments through the organs of the League of Nations.

IV. The Committee of the Office international, acting as Advisory Council of the Health Organisation of the League of Nations and in conformity with previous agreements, shall continue to be informed of the work of the Health Committee of the League of Nations.

Similarly, the Committee of the Office shall communicate information with regard to its own work to the Health Committee of the League of Nations.

B. PRÉVISIONS BUDGÉTAIRES POUR L'EXERCICE 1928.

V.

1. Le Comité d'hygiène approuve les prévisions budgétaires pour 1928 telles qu'elles ont été établies par la Commission du budget. Leur montant s'élève à 1,003,485 francs pour 1928 contre 996,700 francs pour 1927.

2. Le Comité d'hygiène, prenant note des crédits importants nécessités par le travail de liaison et en particulier pour les échanges en Amérique latine et en Extrême-Orient et considérant le fait que le budget de l'Organisation d'hygiène est entièrement absorbé par ses travaux actuels, Considérant, d'autre part, que certains crédits ont été réservés par l'Assemblée en vue de la collaboration de la Société des Nations avec l'Amérique latine,

Décide d'attirer l'attention de l'Assemblée sur la nécessité d'allouer à l'Organisation d'hygiène des crédits supplémentaires, si l'Assemblée désire confier à l'Organisation d'hygiène de nouvelles tâches en Amérique latine et en Extrême-Orient.

3. Le Comité d'hygiène, considérant l'activité croissante de l'Organisation d'hygiène, les obligations nouvelles qu'elle doit assumer et le surcroît de travail qui en résulte pour le personnel de la Section d'hygiène, considérant que ce personnel n'a pas été augmenté en nombre dans les mêmes proportions, adopte la résolution suivante:

« Le Comité d'hygiène, prenant en considération l'extension continue du champ d'activité de l'Organisation d'hygiène et les efforts croissants que lui imposent les demandes de l'Assemblée et des gouvernements pour les enquêtes, l'organisation de conférences et l'établissement de documentations, attire l'attention du Conseil sur le fait que le personnel de la Section d'hygiène n'a pas été augmenté en nombre en proportion du développement du travail entrepris et de l'importance de ce travail. »

4. Prenant note de la résolution, adoptée par l'Assemblée au cours de sa septième session ordinaire, relative aux fortes dépenses entraînées par la publication des procès-verbaux des réunions des commissions consultatives et conférences organisées par la Société des Nations, et l'utilité qu'il y aurait à rechercher s'il ne serait pas préférable de remplacer la publication des discussions de ces commissions consultatives et conférences par celle de rapports détaillés résumant aussi exactement que possible leurs travaux, le Comité d'hygiène adopte la résolution suivante:

« Le Comité d'hygiène

« Considère que les procès-verbaux de ses commissions et conférences d'experts ne devraient pas être publiés;

« Estime que les procès-verbaux de ses propres sessions fournissent la seule version autorisée des vues de ses membres sur les questions qui lui sont soumises par l'Assemblée et les diverses administrations sanitaires;

« Décide de restreindre la publication des procès-verbaux de l'Organisation d'hygiène à ceux de ses propres sessions. »

C. SERVICE DES RENSEIGNEMENTS ÉPIDÉMIOLOGIQUES.

VI.

Le Comité d'hygiène, ayant pris connaissance des renseignements recueillis sur la diffusion et la mortalité de la grippe dans les divers pays et de la méthode utilisée pour transmettre ces renseignements aux Administrations sanitaires, adopte la résolution suivante:

« Le Comité d'hygiène

« Constate avec satisfaction les mesures prises pour recueillir des diverses administrations sanitaires des renseignements sur la grippe. Ces administrations ont répondu généreusement à toutes les demandes qui leur ont été adressées;

« Considère que le premier essai d'émission radiotélégraphique de ces renseignements a prouvé l'utilité de cette méthode;

« Exprime ses remerciements à la « Transocean Wireless Company » pour la générosité dont elle a fait preuve en transmettant, par la station de Nauen, les communications de l'Organisation d'hygiène relatives à la grippe;

« Demande au directeur médical de se procurer auprès des diverses administrations sanitaires tous les renseignements qu'elles possèdent au sujet de la diffusion, du mouvement, de la mortalité et de la prophylaxie de l'épidémie actuelle de grippe, et de lui présenter un rapport pour une prochaine session. »

B. BUDGET ESTIMATES FOR 1928.

V.

1. The Health Committee approves the budget estimates for 1928 as established by the Budget Commission. The total amounts to 1,003,485 francs for 1928, as compared to 996,700 francs for 1927.

2. The Health Committee, considering the large credits necessary for liaison purposes, and particularly for interchanges in Latin-America and the Far East, and the fact that the budget of the Health Organisation is fully pledged for its present activities; and

Noting that certain credits have been set aside by the Assembly for purposes of collaboration of the League of Nations with Latin-America:

Decides to draw the attention of the Assembly to the necessity of allocating additional credits to the Health Organisation should the Assembly entrust to the Health Organisation new activities in Latin-America and the Far East.

3. The Health Committee, taking note of the increasing activity of the Health Organisation, which results in additional responsibilities and growing pressure upon the staff of the Health Section, whose numbers have not been increased to a corresponding extent, adopts the following resolution:

"The Health Committee, having regard to the continued expansion of the work of the Health Organisation and the increasing demands made upon it at the instance of the Assembly and the Governments for enquiries, the organisation of conferences and the collection of information, invites the attention of the Council to the fact that the staff of the Health Section has not been increased commensurately with the expansion in the volume and the importance of the work undertaken."

4. Taking note of the resolution adopted by the Assembly during its seventh ordinary session in regard to the heavy expense entailed by the publication of the Minutes of the Advisory Committees and Conferences convened by the League, and the desirability of considering whether the publication of the discussions of such Advisory Committees and Conferences would not frequently be better effected by means of a detailed report giving as exactly as possible an account of their work, the Health Committee adopted the following resolution:

"The Health Committee:

"Is of the opinion that the Minutes of its commissions and conferences of experts need not be published;

"Considers that the Minutes of its own sessions furnish the only authoritative account of the views of its members on questions submitted to the Committee by the Assembly and the various Health Administrations; and

"Decides to restrict the publication of Minutes of the Health Organisation to those of its own sessions."

C. SERVICE OF EPIDEMIOLOGICAL INTELLIGENCE.

VI.

The Health Committee, having taken account of the information collected on the prevalence of and mortality from influenza in various countries, and of the methods used to transmit such information to the Health Administrations, adopted the following resolution:

"The Health Committee:

"Welcomes the action taken in regard to the collection of information on influenza from the various Health Administrations which have responded generously to all requests;

"Considers that the first broadcasting of such information by wireless has demonstrated the utility of this method;

"Expresses its appreciation of the generosity of the Transocean Wireless Company in transmitting the Health Organisation's messages on influenza through the Nauen Station;

"Requests the Medical Director to secure from the various Health Administrations all available information in regard to the prevalence, movement, mortality and prophylaxis of the present outbreak of influenza to be embodied in a report to be presented at a subsequent session."

VII.

Le Comité d'hygiène, ayant appris avec satisfaction que le *Bulletin hebdomadaire* de son Bureau d'Orient à Singapour est disséminé toutes les semaines par la station du T.S.F. à Nauen, adopte la résolution suivante:

« Le Comité d'hygiène désire exprimer sa reconnaissance aux autorités compétentes du Gouvernement allemand pour la générosité avec laquelle elles ont accepté de transmettre par radio le bulletin hebdomadaire épidémiologique par la station gouvernementale de Nauen. »

VIII.

Le Comité d'hygiène, après avoir étudié l'avant-projet d'accord basé sur l'article 7 de la Convention sanitaire internationale de Paris 1926, préparé par les bureaux de l'Office international d'hygiène publique et du Comité d'hygiène de la Société des Nations, approuve en ce qui le concerne cet avant-projet dans la forme suivante:

« Le Comité permanent de l'Office international d'hygiène publique et le Comité d'hygiène de la Société des Nations se sont entendus sur les moyens suivants qui leur semblent être les plus efficaces pour faciliter l'accomplissement de la mission confiée à l'Office par la Convention sanitaire internationale de Paris 1926 :

« 1. Les gouvernements pourront effectuer les notifications prévues par la Convention et destinées à l'Office international d'hygiène publique, par l'intermédiaire d'un des bureaux régionaux de la Société des Nations.

« 2. Les communications prévues par les articles 1, 2, 3, 4, 6, 9, 12, 14, 16, 28, 50 et 57 de la Convention et faites directement aux bureaux régionaux de la Société des Nations, seront immédiatement, par ces mêmes bureaux, transmises à l'Office international d'hygiène publique. Elles seront en même temps communiquées directement par ces mêmes bureaux à toutes les administrations sanitaires avec lesquelles ils sont en rapport.

« 3. Le *Relevé hebdomadaire* du Service des renseignements épidémiologiques de la Société des Nations et ses bulletins périodiques publieront, au nom de l'Office international d'hygiène publique, en première page, le Bulletin officiel des notifications, ainsi que des renseignements prévus par les articles 1, 2, 3, 4, 6, 9, 12, 14, 16, 28, 50 et 57 de la Convention et antérieurement communiqués par l'Office international d'hygiène publique. »

D. LE BUREAU D'ORIENT DE L'ORGANISATION D'HYGIÈNE.

IX.

Le Comité d'hygiène, ayant examiné le rapport de la deuxième session du Comité consultatif du Bureau d'Orient, tenue à Singapour du 6 au 10 janvier 1927, et les résolutions et les annexes, prend les décisions suivantes:

I. *Etude des suggestions transmises par le Comité permanent de l'Office international d'hygiène publique relatives à la tâche qui pourrait être confiée au Bureau de Singapour, de remplir, pour les pays placés dans son rayon d'action, d'après les règles fixées par le Comité de l'Office et sous sa responsabilité, certaines des attributions qui ont été imparties à l'Office par la Convention sanitaire internationale de 1926, sous réserve des dispositions du dernier alinéa de l'article 7.*

a) Que le Bureau de Singapour pourrait être chargé, conformément aux suggestions du Comité de l'Office international d'hygiène publique, des attributions confiées à cet office, par les articles 1, 2, 3, 6, 9, 12, 14, 16, 21, 28, 50 et 57 de la Convention, étant entendu que son rôle se limitera à la réception, à la centralisation et à la dissémination des renseignements ainsi reçus, dont le caractère est défini dans la note jointe (Annexe 2).

b) D'adresser une lettre à tous les gouvernements participant au Bureau de Singapour pour leur demander s'ils acceptent de transmettre les notifications et renseignements prévus par les articles ci-dessus mentionnés par l'intermédiaire du Bureau de Singapour.

Le Comité est heureux d'apprendre que, dans le cas où les gouvernements représentés à la Conférence sanitaire du Pacifique tenue à Melbourne, en décembre 1926, décideraient de constituer un sous-centre de renseignements épidémiologiques pour la zone australe-pacifique; le centre de Melbourne verrait un avantage à établir des relations suivies avec le Bureau de

VII.

The Health Committee, noting with satisfaction that the *Weekly Bulletin* of its Eastern Bureau at Singapore is broadcasted every week by the wireless station at Nauen, adopted the following resolution:

"The Health Committee desires to express its appreciation to the competent authorities of the German Government for their generosity in agreeing to broadcast the *Weekly Epidemiological Bulletin* through the Government station at Nauen."

VIII.

The Health Committee, after examining the provisional draft agreement based on Article 7 of the International Sanitary Convention of Paris, 1926, and prepared by the Bureaux of the Office international d'hygiène publique and of the Health Committee of the League of Nations, approves, as far as the Health Committee is concerned, this provisional draft agreement in the following form:

"The Permanent Committee of the Office international d'hygiène publique and the Health Committee of the League of Nations are agreed on the following means which seem to them the best adapted to facilitate the accomplishment of the task entrusted to the Office by the International Sanitary Convention of Paris, 1926:

"(1) The Governments may effect the notifications provided for by the Convention and intended for the Office international d'hygiène publique by means of one of the regional bureaux of the League of Nations.

"(2) The communications provided for in Articles 1, 2, 3, 4, 6, 9, 12, 14, 16, 28, 50 and 57 of the Convention which are transmitted directly to the regional bureaux of the League of Nations shall be sent immediately by these bureaux to the Office international d'hygiène publique. These communications shall be transmitted simultaneously by these bureaux direct to all the public health administrations with which they have relations.

"(3) The *Weekly Records* and the periodical bulletins of the Service of Epidemiological Intelligence of the League of Nations will publish on the first page, in the name of the Office international d'hygiène publique, the Official Bulletin of notifications and the information provided for in Articles 1, 2, 3, 4, 6, 9, 12, 14, 16, 28, 50 and 57 of the Convention, previously communicated by the Office international d'hygiène publique."

D. EASTERN BUREAU OF THE HEALTH ORGANISATION.

IX.

The Health Committee, having examined the Report on the Work of the Second Session of the Advisory Council of the Eastern Bureau held at Singapore from January 6th to 10th, 1927, including the resolutions and annexes, adopts the following resolutions:

"I. Study of the suggestions transmitted by the Permanent Committee of the Office international d'hygiène publique with regard to the work which might be entrusted to the Singapore Bureau in order that it might fulfil, for the countries within its area and according to the rules laid down by the Committee of the Office and under the responsibility of the Office, certain of the duties which were entrusted to the Office by the International Sanitary Convention of 1926 with the reservations contained in the provisions of the last paragraph of Article 7.

"(a) That the Singapore Bureau, in conformity with the suggestions of the Office international d'hygiène publique, may be charged with the duties entrusted to the Office by Articles 1, 2, 3, 6, 9, 12, 14, 16, 21, 28, 50 and 57 of the Convention, it being understood that the duty of the Bureau will be limited to the reception, centralisation and dissemination of the information received, the nature of which is described in the annexed memorandum (Annex 2);

"(b) That letters shall be addressed to all Governments participating in the work of the Singapore Bureau asking them if they are willing to transmit the notifications and information described in the above-mentioned articles by means of the Singapore Bureau;

"The Committee learns with satisfaction that, in the event of the Governments represented at the Sanitary Conference of the Pacific Islands held at Melbourne in December 1926, deciding to constitute an epidemiological intelligence sub-centre for the Austra-Pacific zone, the Melbourne centre would appreciate the advantages of establishing close relations with the

Singapour et à communiquer, par l'intermédiaire de ce Bureau, tous renseignements et notifications qu'il aurait pu recevoir concernant l'application de la Convention.

En effet, selon l'avis du Comité, il y aurait tout avantage à suivre cette procédure qui, tout en permettant le développement d'un service de renseignements épidémiologiques pour des besoins régionaux, se servirait du mécanisme du Bureau d'Orient de l'Organisation d'hygiène de la Société des Nations.

II. *Activité courante du Bureau.*

De donner son approbation aux résolutions du Comité consultatif relatives à la dissémination des renseignements épidémiologiques à tous les ports, à la transmission radiotélégraphique de ces renseignements, et, notamment, à la diffusion radiotélégraphique d'un résumé en clair du *Bulletin hebdomadaire*, ainsi qu'à la coordination de recherches en Asie sur les problèmes d'hygiène publique présentant un intérêt international.

III. *Constitution d'un Comité d'experts devant s'occuper de recherches relatives à la peste.*

D'admettre l'avis du Comité consultatif que la coordination des recherches dont il est parlé plus haut ne peut que profiter grandement de l'existence de Comités d'experts et il approuve la proposition relative à la constitution d'un nouveau Comité d'experts, qui aurait à s'occuper de recherches relatives à la peste. Il accepte la proposition relative à la nomination des experts recommandés par le Comité consultatif et il se propose de compléter la composition de ce comité par l'adjonction d'autres techniciens et de réunir tous les membres, à une date à convenir, avec le président du Comité consultatif, la constitution de ce Comité d'experts étant réglée par l'article 10 du Règlement intérieur du Comité d'hygiène (Annexe 1).

IV. *Prévisions budgétaires du Bureau pour 1927 et 1928.*

Les prévisions budgétaires du Bureau pour 1927 et 1928 sont approuvées, y compris le nouveau poste de 2.000 Straits dollars pour les frais de déplacements qui figureront sous le titre général: « frais de voyage, de déplacements pour la coordination des recherches et de déménagement » et moyennant modification du poste de traitement du directeur qui est porté à un total de 18.000 Straits dollars par an.

Le Comité désire attirer l'attention du Comité consultatif sur la nécessité qu'il y a à établir, pour tous les fonctionnaires au-dessous du grade de directeur-adjoint, une échelle de traitements prévoyant un maximum qui ne devrait pas être dépassé.

Le Comité décide d'exprimer sa satisfaction aux administrations sanitaires qui ont jusqu'à présent fait connaître leur intention de verser des contributions aux budgets de 1927 et 1928 et notamment à celles des pays suivants:

Ceylan,	Hong-Kong,
Chine,	Indochine française,
Etablissements des Détroits,	Japon,
Fédération des Etats Malais,	

Le Comité ne pourrait recommander le prélèvement sur le Budget actuel de l'Organisation d'hygiène de la Société des Nations d'aucun crédit additionnel pour le fonctionnement du Bureau d'Orient et il décide de recommander au Conseil que tout crédit supplémentaire soit ajouté aux chiffres pour l'exercice 1928, qui sont proposés sous la responsabilité exclusive du Comité d'hygiène.

V. *Constitution du Comité consultatif.*

Le Comité consultatif ayant demandé l'avis du Comité d'hygiène quant à sa constitution, ce dernier constate que la constitution du Comité consultatif doit être conforme à l'article 10 du Règlement intérieur du Comité d'hygiène qui détermine la constitution et le fonctionnement de ses commissions techniques.

Le Comité est d'avis que toutes les administrations sanitaires autonomes du rayon d'activité actuel du Bureau d'Orient peuvent se faire représenter par un ou plusieurs délégués aux réunions périodiques ayant pour objet de discuter l'activité du Bureau de Singapour, mais que le Comité consultatif du Bureau d'Orient devrait être constitué par des représentants des pays suivants:

Australie,	Indes néerlandaises,
Chine,	Indochine,
Etablissements des Détroits ou	Japon,
toute autre colonie britannique,	Siam.
Inde,	

Le Comité considère que les dépenses occasionnées par les réunions de ce Comité consultatif devraient être imputables au budget de l'Organisation d'hygiène à raison d'un délégué par pays. Il se propose d'obtenir l'avis du président et des membres du Comité consultatif sur cette proposition, ainsi qu'un projet de règlement intérieur avant de présenter une recommandation définitive à ce sujet au Conseil de la Société des Nations.

Singapore Bureau and would communicate through that Bureau all the notifications and information with which the Convention is concerned which the centre may receive. Indeed, in the opinion of the Committee, there would be every advantage in following this procedure, which, while providing for the development of a service of epidemiological intelligence for local needs, would make use of the machinery of the Eastern Bureau of the Health Organisation of the League of Nations.

“ II. *Routine Work of the Bureau.*

“ The Committee approves the resolutions of the Advisory Council regarding the dissemination of epidemiological intelligence to all the ports, the broadcasting of such intelligence, and particularly the wireless transmission of a summary of the *Weekly Bulletin* in clear, as well as the co-ordination of research in Asia on the problems of public health which have an international bearing.

“ III. *Constitution of a Committee of Experts to consider Research on Plague.*

“ The Health Committee accepts the suggestion of the Advisory Council that the co-ordination of research mentioned above will derive considerable advantage from the setting up of expert committees, and it approves the proposal for the constitution of a new Committee of Experts which will undertake the study of research on plague. The Committee accepts the proposal with regard to the nomination of experts put forward by the Advisory Council, proposes to complete the composition of the Committee by the addition of other experts, and decides to convene the members at a convenient date to be arranged with the President of the Advisory Council, the constitution of this Committee of Experts being determined by Article 10 of the Rules of Procedure of the Health Committee (Annex 1).

“ IV. *Budget Estimates of the Bureau for 1927 and 1928.*

“ The budget estimates of the Bureau for 1927 and 1928 are approved, including the new item of 2,000 Straits dollars to cover expenses of travelling under the general heading ‘ Travelling expenses, expenses for the co-ordination of research and removal expenses ’ and with the modification of the item for the Director’s salary, which is increased to a total of 18,000 Straits dollars a year.

“ The Committee desires to draw the attention of the Advisory Council to the necessity of establishing a scale of salaries for all employees under the grade of deputy director with maximum rates which should not be exceeded.

“ The Committee wishes to express its satisfaction to the public health administrations which have made known their intention to contribute to the budgets of 1927 and 1928 and especially to the following countries:

Ceylon,	French Indo-China,
China,	Japan,
Federated Malay States,	Straits Settlements.
Hong-Kong,	

“ The Committee could in no case recommend the setting aside from the present budget of the Health Organisation of the League of Nations of an additional credit for the operation of the Eastern Bureau, and decides to recommend to the Council that any necessary supplementary credits should be added to the budget for 1928, which has been fixed on the sole responsibility of the Health Committee.

“ V. *Constitution of the Advisory Council.*

“ The Advisory Council having asked the Health Committee for advice in regard to its constitution, the Health Committee declares that the constitution of the Advisory Council should conform to the provisions of Article 10 of the Rules of Procedure of the Health Committee, which determines the constitution and the procedure of its technical commissions.

The Committee is of the opinion that all the autonomous public health administrations in the present area of the Eastern Bureau’s activity should be represented by one or more delegates at periodical conferences called to discuss the work of the Singapore Bureau, but that the Advisory Council of the Eastern Bureau should be constituted of representatives of the following countries:

Australia,	Dutch East Indies,
China,	French Indo-China,
Straits Settlements	Japan,
or other British Colony,	Siam.
India,	

“ The Committee considers that the expenses occasioned by the sessions of this Advisory Council should be paid from the budget of the Health Organisation on the basis of one delegate from each country, and suggests that the advice of the President and the members of the Advisory Council should be secured on this point and on its draft Rules of Procedure before presenting a definite recommendation on this subject to the Council of the League of Nations.”

E. ECHANGES DE PERSONNEL SANITAIRE.

X.

Le Comité d'hygiène, après avoir reçu communication de la lettre de l' « India Office », qui exprime les vues du Gouvernement central et des gouvernements locaux de l'Inde au sujet de l'échange proposé de personnel sanitaire aux Indes, adopte la résolution suivante:

« Le Comité d'hygiène,

« Est heureux d'apprendre que le Gouvernement central et les gouvernements locaux de l'Inde ont bien voulu accepter l'organisation de l'échange proposé de personnel sanitaire aux Indes,

« Remercie les gouvernements intéressés d'avoir proposé de faire les arrangements nécessaires pour le voyage et de couvrir les frais des transports aux Indes, autres que par voie de chemin de fer;

« Charge le directeur médical de procéder à l'organisation de cet échange. »

XI.

Le Comité d'hygiène, prenant acte de la déclaration de ses membres allemands au sujet des arrangements adoptés par les autorités compétentes du Reich et des Etats allemands en vue de l'organisation, en septembre 1927, d'un échange de personnel sanitaire en Allemagne, adopte la résolution suivante:

« Le Comité d'hygiène exprime ses remerciements aux autorités compétentes du Reich et des Etats allemands de l'activité qu'elles ont déployée pour l'organisation d'un échange de personnel sanitaire en Allemagne en septembre 1927. »

F. OPIUM.

XII.

Le Comité d'hygiène, après avoir examiné les réponses à la lettre-circulaire (document C.L.115.1925.III) du 6 novembre 1925, envoyée aux divers gouvernements, pour leur demander de fournir au Comité d'hygiène une liste des préparations contenant des stupéfiants qui, à leur avis, ne devraient pas tomber sous le coup de l'article 8 de la Convention internationale de l'opium de 1925, adopte la résolution suivante:

« Le Comité d'hygiène, conformément aux dispositions de l'article 8 de la Convention internationale de l'opium de 1925, décide de transmettre au Comité permanent de l'Office international d'hygiène publique, en vue d'obtenir son avis et rapport, les listes des préparations contenant des stupéfiants qui, de l'avis des gouvernements des pays indiqués ci-dessous, ne devraient pas être soumis aux termes de la Convention de l'opium de 1925:

Allemagne,	Hongrie,	Roumanie,
Argentine,	Inde,	Soudan,
Autriche,	Lettonie,	Suède,
Bulgarie,	Pologne,	Union de l'Afrique du Sud.»
Grande-Bretagne,		

G. NOTE DU DIRECTEUR MÉDICAL.

XIII.

Le Comité d'hygiène adopte le rapport du directeur médical sur les travaux accomplis depuis la huitième session (octobre 1926-février 1927),

E. INTERCHANGE OF PUBLIC HEALTH OFFICERS.

X.

The Health Committee, having considered the letter from the India Office, containing the views of the Government of India and of the Local Governments of India with regard to the proposed interchange of public health officers in India, adopted the following resolution:

" The Health Committee:

" Appreciates the action of the Government of India and of the Local Governments of India in welcoming the proposed interchange of public health officers in India;

" Thanks the Governments concerned for proposing to make the necessary arrangements for the tour and to meet the cost of transport in India, other than rail, of the participants;

" Requests the Medical Director to proceed with the organisation of the interchange."

XI.

The Health Committee, having noted the declaration of its German members with regard to the arrangements being made by the competent authorities of the German Federal and State Governments for an interchange of public health officers in Germany beginning in September 1927, adopted the following resolution:

" The Health Committee expresses to the competent authorities of the German Federal and State Governments its appreciation of the interest they have taken in the organisation of an interchange of public health personnel in Germany beginning in September 1927."

F. OPIUM,

XII.

The Health Committee, having examined the replies to the circular letter (document C.L.115, 1925.III) forwarded on November 6th, 1925, to the various Governments, asking them to furnish the Health Committee with a list of preparations containing narcotics to which, in their opinion, in conformity with Article 8 of the International Opium Convention of 1925, the provisions of the Convention should not be applicable, adopted the following resolution:

" The Health Committee, in conformity with the procedure laid down in Article 8 of the International Opium Convention of 1925, decides to transmit to the Permanent Committee of the Office international d'hygiène publique, for advice and report, the lists of preparations containing narcotics to which, in the opinion of the Governments of the countries cited below, the provisions of the Opium Convention of 1925 should not be applicable:

Argentine	Hungary	Roumania
Austria	India	Sudan
Bulgaria	Latvia	Sweden
Germany	Poland	Union of South Africa."
Great Britain		

G. NOTE OF THE MEDICAL DIRECTOR.

XIII.

The Health Committee adopts the note of the Medical Director on the work accomplished since the eighth session (October 1926-February 1927).

Annexe 1.

ARTICLE 10 DU RÈGLEMENT INTÉRIEUR DU COMITÉ D'HYGIÈNE.

Le Comité, et, en cas d'urgence, dans l'intervalle des sessions, son président, peut constituer, en vue de l'examen d'un groupe de questions connexes ou en vue de l'examen d'une question déterminée: 1^o des sous-commissions pour la durée d'une session; 2^o des commissions qui devront se réunir dans l'intervalle des sessions; 3^o des commissions constituées exclusivement par des experts.

Dans les deux premiers cas, ces commissions peuvent comprendre des experts. Les experts sont désignés soit par le Comité, soit par son président, en cas de demande urgente d'une commission dans l'intervalle des sessions.

Avis de la nomination d'une commission par le président est donné immédiatement à tous les membres du Comité.

La décision du Comité ou du président, qui constitue une sous-commission ou une commission, définit ses attributions et sa composition.

Les rapports et propositions des sous-commissions et des commissions sont portés le plus vite possible à la connaissance des membres du Comité et soumis à la session du Comité lors de sa prochaine session ou, en cas d'urgence, au président du Comité d'hygiène.

Les présidents des commissions les convoquent par les soins du Secrétaire général de la Société des Nations.

Annexe 2.

NOTE SUR LE CARACTÈRE DES INFORMATIONS A TRANSMETTRE PAR L'OFFICE INTERNATIONAL D'HYGIÈNE PUBLIQUE OU PAR LE BUREAU DE SINGAPOUR,

par le Directeur de l'Office international d'hygiène publique.

Le texte de la Convention ne spécifie rien en ce qui concerne le caractère (confidentiel ou non) des communications que l'Office international d'hygiène publique et éventuellement, par conséquent, le Bureau de Singapour agissant en son nom, doivent faire aux gouvernements et aux autorités supérieures d'hygiène.

Mais il résulte certainement de l'esprit qui a inspiré les débats de la Conférence de Paris que, en principe, ces communications doivent garder un caractère autant que possible confidentiel, c'est-à-dire être réservées à leurs destinataires de droit, gouvernements et autorités sanitaires, et n'être pas systématiquement répandues dans la presse et dans le grand public.

On peut invoquer à l'appui de cette opinion que l'obligation imposée par la Convention de 1912 aux gouvernements de publier les mesures qu'ils prennent vis-à-vis des provenances d'un pays contaminé a disparu du texte actuel qui prévoit seulement une communication aux gouvernements et l'obligation de tenir ces informations à la disposition des représentants diplomatiques ou consulaires.

Mais en l'absence de toute spécification contraire de la Convention, rien ne paraît s'opposer à ce que certains pays, ceux d'Extrême-Orient par exemple, adoptent d'un commun accord pour leurs communications réciproques une autre méthode plus en rapport avec leurs convenances ou avec leurs habitudes. Rien n'interdit non plus à un gouvernement de rendre publiques les communications qu'il est seulement obligé de faire aux autres gouvernements et à l'Office international.

Le Comité consultatif du Bureau de Singapour a exprimé la crainte que le fait d'agir pour le compte et sous la responsabilité de l'Office international fasse obstacle à ce qu'il continue de publier dans son *Bulletin* nombre d'informations prévues par la Convention qui, à l'heure présente, sont données par les administrations sanitaires des pays d'Extrême-Orient sans aucune réserve et le plus souvent sous la forme d'une insertion dans un journal officiel ou dans la grande presse. Cette crainte ne paraît pas fondée. Il est possible, en effet, que la pratique des administrations sanitaires qui, jusqu'à présent est régie par le texte de la Convention de 1912, prévoyant, en certains cas tout au moins, la publication, se modifie dans l'avenir quand sera en vigueur la Convention de 1926. Mais, même s'il n'en était pas ainsi, si certaines administrations sanitaires persistaient dans la pratique de publier les informations qu'ils doivent seulement à l'Office international, l'Office et le Bureau de Singapour, agissant en son nom, ne seraient plus tenus à aucune réserve vis-à-vis de ces informations, déjà publiques.

Annex 1.

ARTICLE 10 OF THE RULES OF PROCEDURE OF THE HEALTH COMMITTEE.

The Committee, or, in cases of urgency arising in the intervals between sessions, the President may appoint, for the purpose of considering a series of cognate questions, or a single specified question: (1) sub-committees holding office for the duration of a single session; (2) committees to meet in the intervals between sessions; (3) committees composed exclusively of experts.

In the first two cases the committees may include experts.

The experts shall be appointed either by the Health Committee or, in the event of an urgent request being made by a committee (" commission ") in the interval between the sessions of the Health Committee, by the President.

If a committee is appointed by the President, notice shall immediately be given to all the members of the Health Committee.

The decision of the Health Committee or of the President, whereby a sub-committee or committee is appointed, shall define its powers and composition.

The reports and proposals of sub-committees and committees shall be brought as speedily as possible to the notice of the members of the Health Committee and shall be submitted for decision to the latter at its next session, or, in urgent cases, to the President.

Committees shall be convened by their Chairmen through the intermediary of the Secretary-General of the League of Nations.

Annex 2.

NOTE ON THE NATURE OF THE INFORMATION TO BE TRANSMITTED BY THE OFFICE INTERNATIONAL D'HYGIENE PUBLIQUE OR BY THE SINGAPORE BUREAU.

By the Director of the Office internationale d'hygiène publique.

The text of the Convention contains no specific provision in regard to the character (whether confidential or not) of the communications which the Office internationale d'hygiène publique and therefore eventually the Singapore Bureau, acting on its behalf, is required to make to Governments and to higher health authorities.

But it certainly follows from the spirit which inspired the discussion of the Paris Convention that, in principle, these communications should preserve as far as possible a confidential character: that is to say, they should be reserved for those who have a right to receive them, whether Governments or public health authorities, and should not be systematically published in the Press or otherwise made generally known.

In support of this view, it may be pointed out that the obligation imposed on Governments by the Convention of 1912 to *publish* the measures which they take with regard to arrivals coming from an infected country has disappeared from the present text, which contemplates only a communication to Governments and an obligation to hold this information at the disposal of diplomatic or consular representatives.

But, in the absence of any contrary provision in the Convention, there would seem to be nothing to prevent certain countries, those of the Far East for example, adopting by general agreement another method for their communications with one another more in accord with their needs or their habits. Equally there is nothing to prevent a Government from publishing communications which it is only required to make to other Governments and the Office internationale.

The Advisory Council of the Singapore Bureau has expressed some apprehension that the fact of acting on behalf of the Office internationale may prevent its continuing to publish in its *Bulletin* information provided for under the Convention which at the moment is furnished by the Health Administrations of the Far-Eastern countries without any reserve and most frequently in the form of an announcement in an official journal or in the public Press. This apprehension does not seem to be well founded. It is indeed possible that the practice of health administrations which up to the present has been determined by the text of the Convention of 1912, foreseeing at least in certain cases the possibility of publication, may be modified in future when the Convention of 1926 has come into operation. But even if this were not so, if certain health administrations persisted in the practice of publishing information which they are under obligation to give only to the Office internationale, the Office and the Singapore Bureau, acting on its behalf, would no longer be bound to maintain any reserve in regard to such information already made public.

Geneva, September 23rd, 1925.

LEAGUE OF NATIONS.

Protection of Women and Children in the Near East.

REPORT OF THE FIFTH COMMITTEE TO THE SIXTH ASSEMBLY.

Rapporteur: The DUCHESS OF ATHOLL (British Empire).

The Fifth Committee had before it the report of the Commission for the Protection of Women and Children in the Near East. Part I of this report deals with the work in Aleppo; Part II with the work in Constantinople at the League of Nations "Neutral House".

Summarising briefly the circumstances in which this work was undertaken: In 1920 the League of Nations resolved to set up a Commission of Enquiry to make all possible investigations with a view to restoring to their former social position the destitute women and children in the Near East who had been separated from their families during the preceding years. The Commission of Enquiry, which soon became an executive commission, was presided over by Dr. Kennedy, who was helped in his work at Constantinople by Miss Cushman and at Aleppo by Miss Jeppe. Dr. Kennedy, with the help of his assistants, established his headquarters at the "Neutral House" which already existed at Constantinople, and, with the assistance of the Allied and Turkish authorities and in agreement with the representatives of all the countries concerned, began his admirable work first of finding women and children illegally detained and then of making provision for their future. With equal energy and courage, Miss Jeppe founded a home at Aleppo in Syria, on behalf of which she obtained not only the ready co-operation of the French authorities but a large amount of charitable assistance in the work of restoring to their families a considerable number of women, boys and girls.

Last year, in a report submitted to you, Mlle Forchhammer, delegate for Denmark, invited the Assembly to express its thanks to the Governments concerned for the support they had given to the Commission and its members, requesting them to continue to give this support. The Assembly unanimously agreed to do so and decided that the sum of 75,000 francs should be allocated for the work of the Commission during 1925.

The report (A. 32) now before you cover the period since the last Assembly. As regards Part I of this report, I think I cannot do better than quote from the report made to the Council on September 5th by the British delegate, Mr. Chamberlain, who said:

"We are told in the report that the Commission in Aleppo has always had in view two ends: to rescue women and children and to educate the rescued and give them a proper start in the new life. We are also told that the Commission is careful never to undertake more than can be carried out to the end. These statements prove to my mind that the Commission in Aleppo is working on a sound basis and with a view not only to the present but to the future of the unfortunate people with whom it is concerned. The League of Nations has not in the past contributed great financial assistance to the work of the Commission, much of the funds having been made available by donations from voluntary organisations, but there is little doubt that the fact that the Commission operates under the protection of the League of Nations has done much to assure the success of its mission. We are told that the region around Deir-el-Zor is now practically clean, but Miss Jeppe lays stress on the fact that much is waiting to be done in the region around Ras-el-Ain, where, in the year 1916, many thousands of young girls and boys are said to have been sold. She believes that about 2,000 could still be found and assisted. To do all that is necessary to rescue these unfortunate people, together with the refugees who wander in from the surrounding country, would, according to Miss Jeppe's estimate, require a sum of approximately £10,000 from the League of Nations, and much would also depend on the support given by the French authorities; but stress is laid on the fact that they have given friendship and help in the past and I think we may feel sure that this will be forthcoming in the future."

At the end of her report, Miss Jeppe alludes to the possibility of considering the settlement in villages of the Armenian refugees, numbering at least 30,000 people, who are at present assembled in the camp at Aleppo, and she indicated that the matter would entail a large financial outlay and carefully planned administration.

The President of the Council, M. Painlevé, assured the Council that the French Government would always give its aid and patronage to such work as that accomplished by the Commission at Aleppo and in particular by Miss Jeppe. It should, however, he said, be clearly understood that in a mandated territory the mandatory Power alone could assume control over all the work being carried out throughout the territory; in particular, that Power must

be careful to ensure that persons pursuing work of the kind under review, however well intentioned, should not exceed their mission and encroach upon the administrative and economic domain. It was obvious that this was in the interests of good administration, so that there should be no contradiction between the work of private individuals and that carried on by the Government of the mandatory Power. Such a scheme of colonisation as that foreshadowed in the report was a matter which was solely within the competence of the mandatory Power.

The Fifth Committee fully recognised the justice of the views expressed by the French representative to the Council of the League and is confident that, true to the spirit of their traditions, the French authorities will continue to give Miss Jeppe their full support.

As regards Constantinople, Dr. Kennedy's mission reports that nearly 3,000 children and adults have received aid in some manner through the "Neutral House". The sums which the League of Nations was able to place at its disposal were very moderate, but they were supplemented by additional resources amounting to some \$14,000 placed at its disposal by philanthropic institutes. In addition, the British "Save the Children" Fund had sent through this Commission food and money to a total value of £700. The report concludes with the following words: "If the League could give the same appropriation for one more year supporting the work under its present scope we feel that a great need may be met and much good could be accomplished through the expenditure of a small amount of League funds".

The Fifth Committee understands that a letter has recently been received from Dr. Kennedy intimating that he would no longer be able to continue the supervision of the work in Constantinople but that it has since been suggested that it might be possible for him to continue in his present capacity a little longer.

The Committee realised that, although a single Commission was originally constituted, it has in fact for some considerable time been operating as two distinct and independent branches, and it considers it would be well that this fact should receive formal recognition.

With regard to the question of funds, the Committee suggests that, in order to show its desire to see the work of Miss Jeppe's mission carried on, the Assembly should approve the distribution of the sum of 75,000 francs recommended by the Fourth Committee in the following manner: 45,000 francs for the work of Miss Jeppe and 30,000 francs for the work in Constantinople.

I have therefore the honour, on behalf of the Fifth Committee, to submit for the approval of the Sixth Assembly the following resolutions:

" 1. The Assembly approves the reports submitted by Dr. Kennedy and Miss Karen Jeppe. It expresses its high appreciation of the work they and their assistants have accomplished.

" 2. Whereas the Commission for the Protection of Women and Children in the Near East set up in fulfilment of the resolutions adopted by the First and Second Assemblies is in practice composed of two distinct missions in Constantinople and in Syria respectively, the Assembly decides that these missions shall be divided and that separate credits shall be voted to Dr. Kennedy for the 'Neutral House' at Constantinople and to Miss Jeppe for the protection of women and children in Syria.

" 3. The Assembly decides that the 'Neutral House' of the League of Nations at Constantinople shall continue for another year. Should Dr. Kennedy be unable to continue his present appointment, it invites the Council to take all the necessary measures for the continuation of this work.

" 4. The Assembly decides that, under the supreme control of the Power which holds a mandate in Syria under the League of Nations, Miss Jeppe will continue for another year her work for the protection of women and children. It requests the mandatory Power to continue to give its aid and patronage to Miss Jeppe.

" 5. The Assembly decides that the sum of 45,000 francs shall be allocated for the work of Miss Jeppe and the sum of 30,000 francs for the work of Dr. Kennedy during 1926.

" A report on their work will be submitted by them to the Seventh Assembly."

Genève, le 18 septembre 1926.

SOCIÉTÉ DES NATIONS

TRAITE DES FEMMES ET DES ENFANTS

Rapport de la cinquième Commission à l'Assemblée.

La cinquième Commission a examiné le rapport sur les travaux de la cinquième session du Comité de la traite des femmes et des enfants et a adopté à l'unanimité la résolution suivante :

« La cinquième Commission approuve le rapport du Comité de la traite des femmes et des enfants, ainsi que les résolutions qui y sont contenues. »

La cinquième Commission a pris acte du fait que le Conseil, au cours de sa session de juin, avait déjà invité le Secrétaire général à prendre les mesures nécessaires concernant les résolutions contenues dans le rapport du Comité de la traite des femmes et des enfants.

La cinquième Commission a constaté avec satisfaction la collaboration cordiale qui existe dans de nombreux pays entre les autorités compétentes et les organisations privées qui s'occupent de la répression de la traite des femmes et des enfants. Elle exprime l'espoir que les gouvernements feront parvenir leurs rapports annuels régulièrement et sans retard, afin de permettre au Comité de la traite des femmes et des enfants de remplir la tâche délicate qui lui est confiée.

Parmi les questions traitées dans le rapport du Comité, les problèmes complexes relatifs à l'expulsion des prostituées étrangères ont fait l'objet d'un débat intéressant. La cinquième Commission exprime l'espoir que les gouvernements communiqueront au Comité de la traite des femmes et des enfants les renseignements demandés, pour lui permettre de poursuivre l'étude de cette question. Elle exprime le même espoir en ce qui concerne la question des maisons de tolérance, le Comité de la traite des femmes et des enfants se proposant, en effet, d'adresser un rapport au Conseil à ce sujet, conformément à la résolution IV du Conseil, en date du 11 juin 1924.

Divers délégués ont fait ressortir l'utilité de l'emploi des femmes dans la police. La cinquième Commission attire l'attention sur l'importance de la coopération des institutions charitables qui s'occupent de questions sociales, avec la police dans toutes les affaires concernant la prostitution et les questions connexes.

La cinquième Commission estime que le Comité de la traite des femmes et des enfants devrait continuer à étudier le problème de la protection des femmes et des enfants au cours de leurs migrations.

Elle exprime le désir que le Comité poursuive également son étude de l'alcoolisme dans ses rapports avec la traite des femmes et des enfants.

La cinquième Commission constate avec satisfaction que le Comité de la traite des femmes et des enfants s'est saisi de la question de la répression du trafic des publications obscènes et que le Conseil a chargé le Secrétariat d'obtenir les rapports périodiques prévus à l'alinéa 9 de l'Acte final de la Conférence internationale de 1923 pour la répression de la circulation et du trafic des publications obscènes.

Plusieurs membres de la Commission ont exprimé l'avis que le champ d'activité du Comité de la traite des femmes et des enfants devrait être étendu de façon à comprendre l'ensemble du problème de la prostitution.

Ils ont, en outre, souligné l'importance de l'aspect mental et hygiénique de la question et ont exprimé le désir de voir traiter le problème en tenant dûment compte, d'une part, des points de vue nationaux au sujet des différences dans le caractère sexuel des populations intéressées et, d'autre part, des conditions matérielles.

Le délégué de Cuba a présenté un projet de résolution relatif à une enquête poursuivie avec l'aide des sociétés nationales scientifiques et humanitaires au sujet des divers aspects de la prostitution et de ses causes. Cette proposition a été examinée par un Sous-Comité, qui a conclu qu'avant d'élaborer une résolution, il conviendrait d'attendre le rapport du Comité d'experts institué par une résolution du Conseil en date du 19 avril 1923. La cinquième Commission approuve les conclusions du Sous-Comité et exprime l'espoir que le rapport du Comité d'experts sera établi sur une base très large et pourra éclairer les divers aspects du problème de la prostitution.

La cinquième Commission a l'honneur de soumettre à la septième Assemblée la résolution ci-dessous :

« L'Assemblée approuve le rapport du Comité de la traite des femmes et des enfants, ainsi que les résolutions qui y sont contenues. »

Publications de la Société des Nations

IV. QUESTIONS SOCIALES

1926. IV. 9.

Geneva, September 18th, 1926.

LEAGUE OF NATIONS.

TRAFFIC IN WOMEN AND CHILDREN

Report of the Fifth Committee to the Assembly

The Fifth Committee has considered the report on the work of the Fifth Session of the Committee on Traffic in Women and Children and has passed unanimously the following resolution :

“ The Fifth Committee approves the report of the Traffic in Women and Children Committee and the resolutions contained in that report. ”

The Fifth Committee took note of the fact that the Council, during its June meeting, had already instructed the Secretary-General to take the necessary action in connection with the resolutions contained in the report of the Traffic in Women and Children Committee.

The Fifth Committee has noted with satisfaction the friendly co-operation which exists between the authorities in many countries and the private organisations for the suppression of the traffic in women and children. It expresses the hope that the Governments will furnish their annual reports regularly and without delay, in order to put the Traffic in Women and Children Committee in a position to fulfil the delicate task entrusted to it.

Amongst the questions dealt with in the report of the Committee, the complex problems connected with the expulsion of foreign prostitutes were the subject of an interesting discussion. The Fifth Committee expresses the hope that the Governments will furnish the Traffic in Women and Children Committee with the information asked for in order to enable it to pursue its study of this question. It expresses the same hope with regard to the question of licensed houses, in view of the fact that the Traffic in Women and Children Committee proposes to make a report to the Council on this subject in accordance with resolution IV of the Council of June 11th, 1924.

Various delegates pointed out the usefulness of the employment of women in police forces. The Fifth Committee draws attention to the importance of co-operation of social benevolent institutions with the police in all matters dealing with prostitution and all questions relating to it.

The Fifth Committee is of opinion that the Traffic in Women and Children Committee should continue to examine the problem of the protection of migrant women and children.

It expresses the desire that the Committee should also proceed with its study of alcoholism in relation to the traffic in women and children.

The Fifth Committee is glad to find that the question of the suppression of obscene publications has been taken up by the Traffic in Women and Children Committee and that the Council has instructed the Secretariat to obtain the periodical reports recommended in paragraph 9 of the Final Act of the International Conference of 1923 for the Suppression of the Circulation of and Traffic in Obscene Publications.

Several members were of the opinion that the field of activity of the Traffic in Women and Children Committee should be enlarged so as to cover the whole problem of prostitution in its entirety.

They further pointed out the importance of the mental and hygienic side of the question, and expressed the desire to see the problem treated with due consideration to national points of view regarding the differences in the sexual character of the peoples involved as well as the material factors.

The delegate for Cuba presented a draft resolution relating to an investigation, with the help of scientific and humanitarian national societies, on the various aspects of prostitution and the causes leading to it. This proposal was examined by a Sub-Committee, which came to the conclusion that, before framing a resolution, it would be advisable to have in hand the report of the Committee of Experts, appointed by a resolution of the Council of April 19th, 1923. The Fifth Committee approves of the conclusion of the Sub-Committee and expresses the hope that the report of the Committee of Experts will be presented on a broad basis, so as to throw light on the various aspects of the question of prostitution.

The Fifth Committee has the honour to submit the following resolution to the Seventh Assembly :

“ The Assembly approves the report of the Traffic in Women and Children Committee and the resolutions contained in that report. ”

Geneva, September 20th, 1926.

LEAGUE OF NATIONS

CHILD WELFARE

Report of the Fifth Committee to the Assembly.

The Fifth Committee of this Assembly has considered the report on the work of the second session of the Child Welfare Committee of the Advisory Commission for the Protection and Welfare of Children and Young People¹, and I have great pleasure in stating that it has reached a unanimous decision.

It has briefly reviewed the history of international child welfare work under the League of Nations, giving special attention to the resolutions of the Fifth and Sixth Ordinary Sessions of the Assembly, and to those of the Fortieth and Forty-first Sessions of the Council dealing with this subject.

The Fifth Committee is of one mind as regards the important place that child welfare work should occupy in the social and humanitarian work of the League. At the same time, it appreciates the fact that practical considerations must sometimes limit the scope of international co-operation in this field.

The Committee desires to express its thanks for the work done by the Child Welfare Committee, and endorses its resolutions on infant welfare, the age of marriage and consent, family allowances and child labour. It agrees, in the circumstances, with the proposal of the Council to collaborate with the International Prison Commission in the study of Juvenile Courts; but expresses its opinion that such a study could most suitably be carried out by the Child Welfare Committee itself.

It considers it most desirable that the Child Welfare Committee should continue its enquiry into the effect of the cinema on children, and should make public its findings. It also agrees with the proposal of one of its members that the Child Welfare Committee's resolution on this subject (Resolution IX, section 1) would be strengthened by the inclusion of psychological experts on official boards for the censorship of films.

The Committee recognises the importance of recreation in the life of children and approves the proposal of the Child Welfare Committee to keep the question of recreation on its general programme; but is of opinion that the study of the question should be confined to the comparative study of those aspects of the subject on which "the comparison of methods and experiences of different countries . . . and international co-operation" may be likely to assist the Governments in dealing with them.

The Committee has considered the resolutions of the Child Welfare Committee dealing with the evil effects of alcohol on the young; but, in view of the fact that a resolution on alcoholism is before the Assembly, recommends that the consideration of the Child Welfare Committee's resolution be postponed for the present.

The Committee also recommends that the study of biological education should be postponed for the present.

The Committee agrees in general with the resolutions adopted by the Council on June 9th and September 2nd on this subject.²

At the request of the honourable delegate of India, the Committee draws attention to the caution expressed by the representatives of India in the Assembly and in the Fifth Committee, with regard to the necessity of proceeding with care in making investigations into conditions in countries which differ widely in types of civilisation.

The Fifth Committee proposes to the Assembly the adoption of the following draft resolutions:

" The Assembly:

" 1. Takes note of the report presented by the Child Welfare Committee and desires to express its thanks for the work done by the Committee;

¹ Document A. 19. 1926. IV. (C. 224. M. 80. 1926. IV.). (C.P.E. 82 (1)).

² Documents A. 37. 1926. IV (C. 332 (1). 1926. IV) and A. 40. 1926. IV.

" 2. Approves the proposals contained in Resolutions III, V, and VIII for pursuing the enquiries into the protection of infant life, the age of consent and of marriage and the subject of family allowances;

" 3. Approves Resolution XIV of the Child Welfare Committee subject to the conclusions it contains being confirmed by subsequent investigations into the general problem of alcoholism.

" 4. Expresses its concurrence with Resolution VI relating to child labour;

" 5. Considers that the enquiry into children's courts can most suitably be undertaken by the Child Welfare Committee, but in the circumstances agrees with the course proposed to be taken by the Council in regard to Resolution XIII;

" 6. Expresses the wish that the Committee should actively pursue the enquiry into the effect of the cinema on children with a view to the presentation of a report for the information of the Governments;

" 7. (i) Recognises the importance of recreation in the life of children and young persons as expressed in Resolution XI, but, as doubts have been expressed how far the subject is one which is suitable for action by the League of Nations, the Assembly, in view of the sanction of the study of this subject given last year by the Council and Assembly, approves its continued study by the Advisory Committee, and considers that it should be confined, as indicated in the resolution of the Fifth Ordinary Session of the Assembly, to the comparative study of those aspects of the subject on which ' the comparison of the methods and experiences of different countries . . . and international co-operation ' may be likely to assist the Governments in dealing with them.

" (ii) Recommends that the subject of biological education as to which similar doubts have been expressed should be postponed for the present.

" 8. Agrees generally with the resolutions adopted by the Council on June 9th and September 2nd, 1926."

Geneva, September 24th, 1926.

LEAGUE OF NATIONS.

Protection of Women and Children in the Near East.

Report of the Fifth Committee to the Assembly.

Rapporteur: Dame Edith LYTTLTON (British Empire).

The Fifth Committee has before it the report of the Commission for the Protection of Women and Children in the Near East.

This Commission is divided into two sections: the Rescue Work, carried on under the Aleppo Branch, and directed by Miss Jeppe; and the Constantinople Branch, where the League of Nations House is situated, under the direction of Miss Carris E. Mills. Last year it was arranged that Miss Jeppe should continue her most successful work but in close collaboration with the authorities of the mandatory Power, France; she is responsible for all this work to the French officials and received also the authority of the High Commissioner, M. de Jouvenel, to continue her excellent work of colonisation in her personal capacity.

The close co-operation with the officials of the mandatory Power has been a real success. Miss Jeppe reports that the French officials, particularly those in Aleppo and the military officers in the district of Deir-el-Zor, have all given her much help and have shown a most sympathetic understanding of her task.

The Aleppo Branch has received increased subscriptions from outside, which have enabled it to make the fullest use of this co-operation on the spot. The Lord Mayor of London's Fund, amounting to £2,802, the contribution of societies both in England and in Germany, and various small contributions, have brought the total to £4,650. This sum, added to the 45,000 francs granted by the League of Nations, has made it possible also to support the necessary stations connected with the rescue of women and children and to meet their pressing needs.

Three hundred people have been thus rescued in the past year — 93 women, mostly quite young, 82 children and 125 bigger boys. The Commission has been very successful in finding the relations of those rescued. Out of three hundred, 228 have been restored to their families, and, for those who have come in quite recently, there is still hope that the same success may be attained. Miss Jeppe is convinced that the only way of dealing with the boys is to settle them in villages, and this has already been done on a considerable scale. The Armenian villages founded two years ago have been an undeniable success. The mandatory Power is now responsible for them; Miss Jeppe, however, considers that they are of vital importance for her rescue work. When these little colonies are more developed and consolidated, they will to a certain degree be able to replace the stations and the reception house, when the latter cease to exist.

Miss Jeppe is convinced that there still remain a certain number to be rescued. Many women have been captured and kept by the Kurdish tribes, but last winter a considerable number of Kurds fled over the frontier and settled in Syria, probably, however, only temporarily. The opportunity of rescuing some of the unhappy victims, who had been sending messages imploring help for many years, has occurred, and, of course, it was eagerly seized. Miss Jeppe considers that this chance of rescuing the victims of the Kurdish tribes would alone justify the prolongation of the work for another year. She believes that after a year almost all that can be done by the Commission, acting through her, will have been accomplished. Many women have become resigned to their lot. Some are now even happy. The fate of women is rarely a clear-cut issue — motherhood is a trap in which many a soul, however ardent for freedom and for the practices of its own faith, gets caught.

The Fifth Committee had the privilege of hearing Miss Jeppe herself, who gave a most interesting account of her work. The Fifth Committee had originally decided to propose to the Assembly to vote a credit of 45,000 gold francs for Miss Jeppe's mission. The Fourth Committee has, however, decided that it cannot recommend the continuation of the grant to Miss Jeppe, and the Fifth Committee has accepted the decision of the Fourth Committee in

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view of the fact that Miss Jeppe will endeavour to obtain the necessary money from private sources in order to enable her to carry out her work under the League of Nations under the same conditions as formerly.

The house in Constantinople has harboured many destitute women and children and no praise is too high for the work accomplished by Dr. Kennedy and Miss Carris E. Mills, who continue it in the League of Nations House.

They received a grant of 30,000 francs last year, which, in addition to other funds, helped them to carry on the work.

Miss Mills came to Geneva and was seen by a sub-committee of the Fifth Committee.

She reports that, besides the work she has done in harbouring destitute women and children, she has employed the fund entrusted to her by the League in maintaining the League of Nations House, and in exactly the same work as Miss Jeppe is doing, only in a different district. Miss Mills also considers that this part of her work will be concluded in 1927 and that there remain, on a rough calculation, at least two hundred women and girls who need her help. Under these circumstances the Fifth Committee recommended that Miss Mills be given a reduced grant but this the Fourth Committee has not considered desirable.

The Fifth Committee wishes to express its thanks to Miss Mills for her excellent work, and, if she continues to carry on the work herself, it recommends to the Assembly to offer her the loan of the equipment of the Neutral House for another year.

The Fifth Committee recommends the adoption of the following resolutions :

“ The Assembly :

“ (1) Desires to express its admiration for the work Miss Jeppe has performed and its gratitude for the devoted way she has carried it out ;

“ (2) Approves Miss Jeppe's report and expresses its satisfaction with the results obtained during the course of the past year ;

“ (3) Decides that the mission for the rescue of women and children, which has been entrusted to Miss Jeppe by the League of Nations, shall be prolonged for one year more under the conditions fixed by the last ordinary session of the Assembly, that is to say, under the high authority of the Power which holds a mandate in Syria under the League of Nations.

“ (4) Seeing that the work of Armenian colonisation and any other work undertaken by Miss Jeppe personally in connection with the mission for the rescue of women and children entrusted to her by the League of Nations fall within the class of work entrusted by the mandatory Power to a central organ representing the Refugee Service at the International Labour Office and the direction of the International Red Cross Committee, in the general interest, invites Miss Jeppe to come to an understanding as regards the general direction of those works mentioned under heading 3, with the liaison organisation established by the mandatory Power ;

“ (5) Seeing that Miss Jeppe is of opinion that her task will be discharged during the coming year, requests her to submit to the next ordinary session of the Assembly a final report on all the results of her mission ;

“ (6) Thanks Miss Mills for her devoted and excellent work and regrets that it has not been found possible to continue the grant from the League of Nations for another year. ”

Geneva, September 25th, 1926.

LEAGUE OF NATIONS

ARMENIAN AND RUSSIAN REFUGEE PROBLEMS

Report of the Fifth Committee to the Assembly

presented by the GERMAN DELEGATE.

The Fifth Committee of the Assembly has carefully considered the reports on Armenian and Russian refugee problems submitted by the High Commissioner for Refugees and by the International Labour Office, and has recommended unanimously the adoption by the Assembly of the resolutions at the foot of this report.

The Assembly is too well acquainted with the general aspects of the Armenian and Russian refugee problems, which have occupied the attention of successive Assemblies, for it to be necessary to dilate on their origins, their gravity, or their economic and social repercussion on the large numbers of countries concerned.

On looking back at the beginning of those problems and at the existing situation as disclosed in the reports submitted by the High Commissioner and by the International Labour Office, the Fifth Committee considered that the Assembly was entitled to a feeling of legitimate satisfaction at the commendable foresight it displayed in recognising their international importance in their early stages, and of having made the happy choice of a combination of the co-ordinated efforts of Dr. Nansen and of the International Labour Office for their progressive solution. It is because new and important technical means have been placed at the service of the ideal of human solidarity that several thousands of destitute and unemployed refugees owe their present comparatively tolerable situation, achieved at a relatively negligible expenditure per head. Had the refugees been left to fend for themselves, the results would have been disastrous to the majority of them, and very embarrassing to the countries where they were concentrated in the largest numbers. It is only necessary to compare the unhappy situation of other "Staatenlosen" who do not enjoy the protection of the High Commissioner and that of the refugees to appreciate the far-reaching value of this international action.

The statistics furnished in the report of the International Labour Office indicate the existence of no fewer than one million Armenian and Russian refugees in 26 different countries. As definite records had not been received from certain countries, where large numbers of refugees are known to exist, it would therefore be probably safe to estimate the total number of Armenian and Russian refugees at not less than 1,500,000. Of this number, 190,000 are reported to be unemployed, but this figure again does not include the statistics for the countries referred to, so that the total number of unemployed refugees may be reckoned at not less than 250,000.

That the political, economic and social difficulties inherent to problems of this magnitude have so far been either avoided or solved in their infancy without their having led to political crises must be considered a tribute to the efficacy of the co-operation established between the High Commissioner and the International Labour Office.

The methods adopted to achieve that satisfactory state of affairs merit the attention of the Assembly, in order that it may be in a position to endorse the recommendations made by the Fifth Committee to fortify them.

In accordance with the request of the Sixth Assembly, the High Commissioner, in May last, convened an inter-Governmental Conference for the purpose of improving the refugee passport systems, and of raising a revolving fund of not less than £100,000 to assist the migration of refugees. From the comprehensive information made available as a result of that Conference, it appears that the International Passport Arrangement has been adopted by 46 and 34 Governments in respect of Russian and Armenian refugees respectively, and is therefore probably the most widely applied

international technical arrangement existing. Practical experience, however, indicated that the refugees in some countries were not receiving the benefits from the passport systems contemplated at the time when the International Arrangement was framed. The Conference therefore drew up a supplementary Arrangement, on May 12th, 1926, which was designed:

- (a) To regularise the identity certificate systems for Armenian and Russian refugees;
- (b) To determine more accurately the number and situation of Armenian and Russian refugees in the various countries;
- (c) To create a revolving fund to provide for the cost of transport and settlement of refugees by the introduction of a yearly tax of 5 gold francs on self-supporting refugees.

That Arrangement was signed by the representatives of 22 countries, and has already been ratified or adopted by the British, Bulgarian, Danish, Esthonian, Finnish, French, Greek, Indian, Luxemburg, Polish, Swedish and Swiss Governments with certain reservations.

The urgent necessity of complying with the High Commissioner's appeal for the early and general ratification of that arrangement is only too apparent from a perusal of the reports to the Assembly, but the Fifth Committee considered it necessary to emphasise certain important points falling under the above three headings:

(a) Serious discriminations are made by certain countries against the bearers of refugee identity certificates, as compared with the holders of national passports. This constitutes a serious hardship to refugees desiring to travel for professional, health, or domestic reasons, and renders exceedingly difficult the work of placing the refugees undertaken by the International Labour Office. A special appeal should be made to the various Governments in this connection to apply the identity certificate systems as generously as possible in order to ensure the refugees the freedom of movement necessary to enable them to travel in search of employment or for health or family reasons.

(b) The International Labour Office experiences considerable difficulty in obtaining accurate statistics regarding the number of unemployed refugees according to their occupations. The general application of the identity certificate systems would contribute considerably to the removal of that difficulty.

(c) The report of the High Commissioner and that of the International Labour Office lays stress on the fact that the maximum value cannot be secured from their services until the revolving fund recommended by the Sixth Ordinary Session of the Assembly and planned by the Inter-Governmental Conference materialises. The arguments in favour of that fund appear to be incontestable; on the one hand it is shown that eight governments alone expended annually no less than 20 million gold francs on their refugee problems, or 335 francs per head of the refugees concerned, whereas the cost to the League, in the shape of administrative liquidation expenditure, is no more than 20 francs per head, expenditure from the revolving fund being reimbursed by the refugee benefiting therefrom.

The reports demonstrate conclusively that the policy and methods pursued by the High Commissioner and by the International Labour Office have won the approval, not only of the emigration countries offering hospitality to the refugees but also of the immigration countries desirous of taking advantage of the International Labour Office for the recruitment of selected labour. Nothing is lacking but the funds indispensable for transport and settlement expenses and the Fifth Committee decided that, not only should a strong resolution be submitted to the Assembly on this point, but that its individual members should exert every possible effort with their respective Governments to enlist their benevolent co-operation for the creation of the Fund. This is not only necessary for the normal development of refugee overseas emigration, but also in view of the precarious situation of the large number of Armenian refugees in Syria, for whose settlement the co-operation of the High Commissioner and the International Labour Office is sought.

The Fifth Committee proposes the adoption of the following resolutions by the Assembly;

" The Assembly,

" Having carefully examined the report of the High Commissioner and of the International Labour Office on the refugee questions;

" Approves that report;

" Expresses its high appreciation of the important work which they have accomplished for the refugees;

" Expresses the opinion that this work should be prosecuted to a satisfactory conclusion in the interests both of the refugees themselves and of political, economic and social order;

" Having regard to the precarious position of thousands of Armenian refugees in the Near East;

" Invites the Governing Body of the International Labour Office and the High Commissioner for Refugees to consider the possibility of making an effective response to the appeals for their co-operation in the permanent settlement of these refugees and of co-ordinating the activities of private organisations working for the refugees;

“ Urges the Governments of the States Members to further the settlement of unemployed Russian and Armenian refugees by giving notice as soon as possible of their ratification of the Arrangement drawn up by the Inter-Governmental Conference on May 12th, 1926, particularly as regards contributions to the working capital fund (“ revolving fund ”) and the issue of visas to refugees on the recommendation of the High Commissioner and of the International Labour Office; and

“ Invites the Governing Body of the International Labour Office to appoint a co-trustee to be responsible jointly with Dr. Nansen for the administration of the fund in question;

“ Considering the necessity of maintaining a delegation of the Refugee Service in Berlin in view of the large number of refugees in Germany;

“ Takes note of the possibility of a contribution of one-half the cost being made by the German Government;

“ Urges the Assembly to increase the Refugee Budget by 18,750 francs in order that the important delegation of the Refugee Service may be maintained in Berlin.¹”

¹ This item of the Budget has received the approval of the Fourth Committee.

Geneva, September 25th, 1926.

LEAGUE OF NATIONS

SETTLEMENT OF ARMENIAN REFUGEES

Report of the Fifth Committee to the Assembly.

Rapporteur: Dr. BREITSCHIED (Germany).

The Assembly will have studied the documents which have been circulated regarding this question, namely, the report of the Armenian Refugee Settlement Commission, the report of the Financial Committee to the Council, and the resolution taken by the Council on September 16th, 1926.

The situation disclosed appears to be the following: Definite plans for an irrigation and settlement scheme have been drawn up after a careful enquiry, and a reliable estimate has been made of the expenditure involved—about one and a-half million pounds sterling. No further enquiry into this aspect of the problem is necessary, and the scheme is likely to be self-supporting if the initial sum required to finance it can be obtained.

It does not appear probable that the sum required can be provided by means of an ordinary public loan. In any case the Council, on the advice of the Financial Committee, is not able to declare that it could associate itself with the issue of such a loan to the extent and in the form for which precedents exist in the case of Austria, Hungary, Greece and Bulgaria.

At the same time, the Council has stated that, subject to certain conditions, and if requested to do so by the parties interested, it would be willing to appoint persons to supervise the due expenditure of the money in the manner proposed in the plan.

The Settlement Commission has put forward an alternative to the flotation of a public loan. It has suggested that private organisations and individuals may be willing to put up money in the form of a loan or gift for this scheme, and the Committee thinks that the Assembly would wish to do what is in its power to facilitate all efforts which may be made to obtain it in this way, the more so as the Council has declared itself ready, if the money is forthcoming, and subject to the conditions contained in the report of the Financial Committee, to supervise its expenditure.

In order to carry out the work which is obviously necessary if such a sum is to be obtained, it may, the Committee suggests, be necessary to create a small committee composed of representatives of those organisations most likely to interest themselves in the project. A careful enquiry should be made in order to determine the organisations most suitable for this purpose.

It is not necessary to elaborate here the reasons why the League of Nations should continue to take an active part in promoting this scheme. At every session of the Assembly since the inception of the League, resolutions have been passed expressing sympathy with the object of the scheme, namely the creation of a national home for Armenia, and these resolutions have been reinforced by the declarations made in many quarters by responsible statesmen belonging to many States Members of the League.

The Committee has the honour to propose the following draft resolution for the Assembly. It will be observed that the fourth paragraph of this resolution involves an inscription in the Budget for next year. After a joint Sub-Committee meeting between the Fourth and Fifth Committees, this paragraph was approved on behalf of the Fifth Committee and voted later by a majority of a meeting of the Fourth Committee.

“The Assembly:

“ (1) Takes note of and adopts the report of the Armenian Refugee Settlement Commission, and expresses its appreciation of the valuable work done by this Commission in the elaboration of a workable scheme, found after careful enquiry to be technically sound, which it is estimated will result in the settlement of a least 25,000 Armenians in their national home.

“ (2) Takes note of the resolution of the Council of September 16th, 1926, stating that, if the money to finance the initial outlay required by the scheme is forthcoming, the Council would, subject to certain conditions, and if requested to do so by the parties interested, be willing to appoint a person or persons to supervise the due expenditure of that money for the objects specified in the scheme;

“ (3) Requests the Council to consider the possibility, after due enquiry, of setting up a small committee, under the chairmanship of a member appointed by the Council and consisting partly of representatives of private organisations interested in the promotion of this scheme, to investigate the possibility of obtaining the sum required, and of using it for the purposes of the plan in the Republic of Armenia;

“ (4) Decides that a sum of 15,000 francs be allowed, subject to the conditions already set forth, in order to provide for the printing and distribution of literature regarding the proposed financial operation and to permit Dr. Nansen — or his representative — to lay his proposals before possible contributors in Europe or America.”

LEAGUE OF NATIONS

Geneva, September 13th, 1927.

**PROTECTION OF WOMEN AND CHILDREN
IN THE NEAR EAST**

REPORT OF THE FIFTH COMMITTEE TO THE ASSEMBLY.

It will be remembered that the Assembly, at its seventh ordinary session, decided that the mission for the rescue of women and children entrusted to Miss Jeppe by the League of Nations should be prolonged for one year more under the conditions fixed by the Assembly at its sixth ordinary session, — that is to say, under the high authority of the Power which holds a mandate in Syria under the League of Nations. Considering that Miss Jeppe was of opinion that her task could be discharged during 1927, the Assembly requested her to submit to the eighth ordinary session of the Assembly a final report on the results of her mission.

In conformity with this decision, Miss Jeppe has presented the report which you have before you containing a review of all her work. She reminds the Assembly that the Commission was originally constituted as a commission of enquiry and that the actual rescue work began in March 1922. During the following five years, 1,400 people have entered the Commission's Reception House. In addition, about 200 persons have been rescued with the help of their relatives whom they had reached before arriving at the Reception House.

In order to achieve this end, about 20,000 Turkish gold pounds have been used, or a little over 18,000 pounds sterling, which gives an average cost of £11 5s. per head, including cost of administration, maintenance of the rescue home, board, clothing, medical care and education, and the settling on the land of some of the older boys.

It is reported that 75 per cent of the rescued have succeeded in getting into touch with their relatives, and 400 have become self-supporting, as they have been taught a trade or found suitable work.

With regard to last year's work, Miss Jeppe reports that the mission has received much sympathy and encouragement and has therefore made good progress. The French Government has been supporting the Commission wholeheartedly and no difficulty or resistance has been made by any particular element of the population. The funds placed at her disposal for this work from various sources amounted to over £6,000. The result has been that the number of rescued has exceeded that of former years. Three hundred and twenty-five persons have been rescued, the largest number in any past year being 300.

In reviewing the work of Miss Jeppe, we can only repeat the words spoken by Dame Edith Lyttelton at the seventeenth plenary meeting of last year's Assembly; "the bravery, courage and resource that she has shown are worthy of the highest praise". We are proud to have been associated with her in her good work. Although Miss Jeppe is severing her official connection with the League of Nations, as she feels that her work of rescue is completed, she is, it is understood, continuing in a private capacity her efforts to restore these unfortunate people to a normal life. She considers that, until this task is completed, she will have to remain responsible for at least 400 people.

It is therefore to be hoped that the generous financial support which has been given by voluntary organisations will continue till the work has been brought to a satisfactory conclusion. The Committee considers that she should be allowed to retain the furniture and equipment of which she is at present making use, until her work for the rescued is definitely at an end.

The Fifth Committee proposes the following resolution to the Assembly :

"The Assembly approves Miss Jeppe's report and expresses its thanks and appreciation for the unselfish and admirable work which she has done for the protection of women and children in the Near East.

"The Assembly hopes that the generous financial support given to Miss Jeppe by voluntary organisations in the past will continue in order that she may be enabled to restore to a normal life those who have been rescued."

SOCIÉTÉ DES NATIONS

Genève, le 13 septembre 1927.

**PROTECTION DES FEMMES ET DES ENFANTS
DANS LE PROCHE-ORIENT**

RAPPORT DE LA CINQUIÈME COMMISSION A L'ASSEMBLÉE

L'Assemblée, au cours de sa septième session ordinaire, a décidé de prolonger pour un an la mission confiée à Miss Jeppe par la Société des Nations pour la protection des femmes et des enfants dans le Proche-Orient, aux conditions fixées par l'Assemblée, dans sa sixième session ordinaire, c'est-à-dire sous la haute autorité de la Puissance qui détient en Syrie un mandat de la Société des Nations. Miss Jeppe ayant exprimé l'opinion qu'elle pourrait terminer sa mission au cours de 1927, l'Assemblée la pria de lui soumettre, lors de sa huitième session ordinaire, un rapport définitif sur les résultats de cette mission.

Conformément à cette décision, Miss Jeppe a présenté le rapport dont vous êtes saisis. Ce rapport passe en revue l'ensemble de la tâche qu'elle a accomplie. Miss Jeppe rappelle à l'Assemblée que la Commission fut, à l'origine, instituée sous forme d'une commission d'enquête et que l'œuvre de sauvetage commença en mars 1922. Au cours des cinq années suivantes, 1.400 personnes ont passé par le foyer de la Commission; en outre, environ 200 sauvetages ont été effectués en collaboration avec les parents des personnes intéressées, ces personnes ayant retrouvé leurs parents avant d'arriver au foyer.

Dans cette œuvre, on a dépensé environ 20.000 livres turques-or, soit un peu plus de 18.000 livres sterling, c'est-à-dire une moyenne de £11 5s. par tête, y compris les frais d'administration et d'entretien du foyer, la nourriture, l'habillement, les soins médicaux, l'instruction et l'établissement sur la terre de quelques-uns des jeunes gens les plus âgés.

Le rapport signale que 75% des personnes ainsi sauvées ont réussi à retrouver leur famille et 400 ont été mises en mesure de se suffire à elles-mêmes, soit après avoir appris un métier, soit après avoir trouvé un travail pour lequel elles étaient aptes.

En ce qui concerne la tâche accomplie au cours de la dernière année, Miss Jeppe signale que l'œuvre de la mission a toujours rencontré beaucoup de sympathies et d'encouragements qui ont permis à la mission de s'acquitter de sa tâche avec succès. Le Gouvernement français a prêté à la Commission son appui le plus entier et aucun élément particulier de la population n'a soulevé de difficulté ou opposé de résistance. Les fonds mis à la disposition de Miss Jeppe et provenant de sources diverses se sont élevés à plus de 6.000 livres sterling. En conséquence, le nombre de personnes sauvées a dépassé celui des années précédentes et a atteint le chiffre de 325, alors que le chiffre le plus élevé des années antérieures n'avait jamais dépassé 300.

On ne peut, à propos de l'œuvre accomplie par Miss Jeppe, que répéter les paroles de Dame Edith Lyttelton, lors de la dix-septième séance plénière de l'Assemblée de l'année dernière: «...L'audace, le courage et l'habileté dont elle a fait preuve sont dignes des plus grands éloges...» Nous sommes fiers d'avoir participé à son œuvre. Quoiqu'il en soit, Miss Jeppe cesse d'avoir des rapports officiels avec la Société des Nations, car elle estime que son œuvre de sauvetage est achevée, elle va, selon des informations reçues, poursuivre, à titre privé, ses efforts en vue de ramener ces infortunés à une vie normale. A son avis, elle aura encore à s'occuper d'au moins 400 personnes avant de pouvoir considérer cette œuvre comme entièrement achevée.

Il y a lieu, par conséquent, d'espérer que les organisations bénévoles qui lui ont accordé une aide financière généreuse pour cette tâche continueront à lui prêter leur appui jusqu'à ce qu'elle ait mené son entreprise à bonne fin.

La Commission estime qu'il convient de lui permettre de conserver le mobilier et les installations qu'elle utilise actuellement jusqu'à ce que son œuvre de sauvetage soit définitivement achevée.

La cinquième Commission soumet à l'Assemblée la résolution suivante:

« L'Assemblée approuve le rapport de Miss Jeppe et lui exprime ses remerciements et son appréciation pour l'œuvre désintéressée et remarquable qu'elle a accomplie pour la protection des femmes et des enfants dans le Proche-Orient.

« Elle espère que les organisations bénévoles qui ont accordé par le passé à Miss Jeppe une aide financière généreuse continueront à lui prêter leur appui afin qu'elle puisse ramener à une vie normale les personnes qu'elle a sauvées. »

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Geneva, September 13th, 1927.

CHILD WELFARE

REPORT OF THE FIFTH COMMITTEE TO THE ASSEMBLY.

The Assembly has no doubt examined the report on the third session of the Child Welfare Committee of the Advisory Commission for the Protection and Welfare of Children and Young People, and will certainly wish to express its gratitude to the Committee for the work it is doing and has already done.

In conformity with the recommendation made by the Council of the League of Nations at its session in June 1926, the Child Welfare Committee endeavoured to make a judicious choice of the questions to be placed on its agenda, in order to concentrate its attention on the problems whose study and solution are of practical value to Governments. With this in view, it formed an Agenda Sub-Committee which has already provisionally settled the agenda for the next session.

In pursuance of the recommendation made by the Assembly at its seventh ordinary session, the Committee decided to pursue the enquiry on the effects produced on children by the cinematograph and to study the position of the illegitimate child in the various countries. The Council, during its session in June 1927, instructed the Secretary-General to send to the Governments the questionnaire drawn up by the Committee with a view to obtaining information bearing on these two enquiries. The questionnaire dealing with illegitimate children was sent on the understanding that the Governments should only give information if they thought fit. The attention of the Child Welfare Committee is directed to the importance, from a physiological and mental point of view, of the enquiry undertaken concerning the cinema.

The Child Welfare Committee has recorded its gratitude for the efforts of the Health Committee to improve and standardise the statistics of still-births and infant mortality, and has decided to leave the study of the medical aspects of the question to the Health Committee, at the same time requesting it to forward to the Child Welfare Committee all documents dealing with the social aspects of the problems which concern child welfare.

After a detailed study of the very full information collected with regard to the age of consent and of marriage, the Advisory Commission, sitting as a plenary meeting of its two Committees, expressed its conviction that the fixing of too early an age as the age of consent is likely to encourage the traffic in women and children, and to lead to the corruption of young persons. It requested the Council of the League of Nations to draw the attention of the Governments to the imperative necessity of taking this factor into account in order to ensure the effective protection of children and young people. The Commission decided to postpone to its next session the question of the legal age of marriage, and its possible relation to the age of consent. The Council requested the Secretary-General to submit to the various Governments for consideration the Commission's resolution dealing with the age of consent.

The Committee decided to pursue, jointly with the International Labour Office, the enquiry into the effects of family allowances on the welfare of children.

The Child Welfare Committee requested the Secretariat to await the results of the enquiry now being conducted by the International Prison Commission with regard to Juvenile Courts, and to submit a report at the next session.

The Assembly, at its seventh ordinary session, had recommended that the examination of the question of mental and physical recreation should be left on the Child Welfare Committee's programme. In conformity with this recommendation, the Committee appointed rapporteurs, who will submit a report in the course of the next session on the methods adopted in the various countries and on the results already obtained. The International Labour Office has been requested to communicate to the Secretariat the information in its possession on the utilisation of workers' spare time in its relation to child welfare.

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Furthermore, the Committee decided to retain the question of blind children on its agenda and the members and assessors of the Committee agreed to collect information in their respective countries on this subject.

Finally, the Committee examined the information received by the Legal Sub-Committee in answer to the questionnaire on the two draft international conventions, relating respectively to the repatriation and relief of minors, and to the execution of judgments relating to the enforcement of the obligation to provide for the maintenance of minors when those responsible for them reside abroad. It requested the Legal Sub-Committee to continue its work on certain lines which it indicated.

It should be recognised that the work of the Child Welfare Committee is considerable and that great efforts have been made to bring it into line with the recommendations of the Assembly and of the Council.

The Fifth Committee concludes therefore by asking the Assembly to grant its support to the work of the Child Welfare Committee and to adopt the following resolution :

“ The Assembly notes the report submitted by the Child Welfare Committee, expresses its appreciation of the work it is doing and requests it to continue on the lines indicated in the report on its third session. ”

Geneva, September 17th, 1927.

LEAGUE OF NATIONS

TRAFFIC IN WOMEN AND CHILDREN

REPORT OF THE FIFTH COMMITTEE TO THE ASSEMBLY

Rapporteur: M. PORTELA (Cuba).

The Traffic in Women and Children Committee held its sixth session at Geneva from April 25th to 30th, 1927, and was presided over by His Excellency M. Regnault, delegate for France.

The greater part of the session was devoted to the consideration of the Report of the Special Body of Experts. The Council had forwarded to the members of the Traffic in Women and Children Committee Part I of this Report in order that it might consider what action it could recommend as a result of the information submitted by the experts. The suggested remedies in Part I of the Report were very fully discussed. The Committee particularly recommended that severe measures should be taken by the various Governments regarding foreign procurers and *souleneurs*.

Further, in order to check the traffic, the Council was requested to invite the various Governments to supervise conditions under which girls under 18 years of age are allowed to go abroad with contracts of employment, and, in particular, to insist on the strict enforcement of emigration laws and regulations. Special attention was devoted to the question of contracts for artistes in music-halls and other similar establishments. It was recommended that an enquiry should be undertaken by the Secretariat with the assistance of the International Labour Office regarding the methods adopted in the different countries for the material and moral protection of artistes travelling abroad under contract in music-halls, etc.

The Committee considered the observations of the experts on the effects of the low wages paid to women in certain employments, and recognised that the low wages paid to women in certain branches of employment is a factor which cannot be disregarded in considering the problem of prostitution in its relation to the traffic. The Committee suggested that the Secretariat should examine the question of women's wages with the International Labour Office, and consider whether any aspect of the question should be explored, reporting to the Committee at its next session.

The more general measures to which the Committee continues to attach the greatest importance are the adhesion of Governments to the International Conventions and Agreement for the Suppression of Traffic in Women and Children and direct administrative co-operation between the central authorities of the different States on all matters connected with the traffic.

The question of the influence of obscene publications was also discussed at some length. A resolution was adopted drawing the attention of the Council to the fact that a large number of States which have signed the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications have not ratified their signatures and that many States Members of the League have taken no steps towards becoming parties to the Convention. The Council was asked to invite the Governments of those States to take the necessary steps in order to secure their co-operation in this important matter.

The Committee, being convinced that the fixing of too early an age as the age of consent is likely to encourage traffic in women and children, requested the Council to draw the attention of the Governments to the imperative need of fixing the age of consent sufficiently high to ensure the effective protection of children and young people.

As regards the legal age of marriage, the Commission thought it important that the age of marriage should reach a rational standard. It decided to postpone further consideration of this question until its next session.

The Secretariat was instructed to continue to collect information on the question of the expulsion of foreign prostitutes. The Secretariat was further requested to make a summary of laws in its possession dealing with the punishment of persons who live wholly or partly on the immoral

earnings of women, and to present it to the Committee at its next meeting. The information already obtained by the Secretariat on the question of the employment of women police should be completed. The Committee noted with satisfaction the increasing number of women employed in the police forces of various countries.

With regard to the control of prostitution and licensed houses, the Traffic in Women and Children Committee took note of the observations contained in the Experts' Report. In view of the fact that Part II of the Report has not yet been published and that certain members of the Committee require additional information, it was decided to postpone further discussion until the next session. Considerations of the same kind led the Committee to adopt a similar decision regarding the question of extending the experts' investigation to countries which have not yet come within the scope of their enquiries. The Committee found that it could not express an opinion on this matter until it had thoroughly examined Part II of the Report. It took note of the desire expressed by the voluntary organisations for an early publication of Part II of the Experts' Report.

The report of the Committee to the Council was considered by the Council on June 16th, 1927.

The Rapporteur, Sir Austen Chamberlain, thought that women's wages seemed to be a large economic question and to lie outside the scope of the Committee's work, and the Council approved this point of view.

The Secretary-General was instructed to take the necessary action arising from the report, subject to the observations formulated by the Rapporteur.

The report of the Traffic in Women and Children Committee gave rise to a very full and interesting discussion in the Fifth Committee, which centred on the question of licensed houses and the question of measures in force with regard to *souteneurs* and procurers. A number of delegates emphasised the importance of the employment of women in the police. Several delegates made interesting statements concerning the situation in their own countries, and urged the importance of employing women police to patrol public places.

Certain delegates expressed a wish that the age of consent should, in no case, be lower than the age of marriage.

The German delegate on the Committee informed her colleagues that a new law, which provides for severe penalties, was to come into force on October 1st, abolishing licensed houses in Germany within the limits of its power. The delegate of Hungary also mentioned the fact that the system of the licensed house had recently been abolished in that country. Several delegates gave it as their opinion that the abolition of licensed houses in their countries had been fully justified.

The delegate of Cuba stated that licensed brothels had long been abolished in Cuba, and that very stringent laws, regulations and police measures were enforced for the protection of young female emigrants and the prosecution of their habitual exploiters.

The delegate of France stated that his country was also moving towards the abolition of the system of licensed houses, but that it must be given time. He pointed out that the suppression of regulated prostitution could only be effected by attacking not only the licensed-house system but all the different factors involved, also that this was the policy adopted by France.

The delegates of Roumania, Japan and Hungary stated the opinions prevailing in their own countries with regard to this most difficult question.

The Committee was unanimous in recommending that the strictest possible measures should be taken against *souteneurs* and procurers. The British delegate laid stress on the desirability of adequate punishments being provided for in regard to sexual assaults on children, and also for persons who for the sake of financial gain stimulate the graver forms of vice.

A special tribute was paid by the Committee to the excellent work of the Special Body of Experts on the traffic in women and children.

The Fifth Committee has the honour to submit to the eighth ordinary session of the Assembly the following resolution.

"The Assembly takes note of the report of the Traffic in Women and Children Committee, thanks the Committee for the good work it has accomplished and expresses the hope that this work will be continued along the same lines.

"The Assembly learns with the greatest interest that the Traffic in Women and Children Committee is examining carefully, in connection with Part I of the Experts' Report, the problem of the relationship which exists between the licensed house and the traffic in women; it requests the Traffic in Women and Children Committee to examine as soon as possible the question of the desirability of recommending to all Governments the abolition of the system of the licensed house.

"The Assembly further desires to express its warmest approval of the able and courageous work of the Special Body of Experts, and earnestly recommends Part I of the Report and especially its conclusions to the study of the Governments of all States Members and non-Members of the League of Nations."

Geneva, September 21st, 1927.

LEAGUE OF NATIONS

Measures in Favour of Armenian and Russian Refugees

REPORT OF THE FIFTH COMMITTEE TO THE ASSEMBLY

Rapporteur: Major ELLIOT (British Empire).

There are several League activities closely connected with refugee problems, and it may be of use to state at the outset, for the information of delegates attending for the first time, that the present subject has no connection with the Greek or the Bulgarian Refugee Settlement schemes. The problems of Russian and Armenian refugees have occupied the attention of successive Assemblies for some years. They have been dealt with jointly by the High Commissioner for Refugees (Dr. Nansen) and by the International Labour Office with great vigour, and both are greatly to be congratulated on the very useful results which have attended their efforts. In the original stages, a very serious problem was presented by the influx of large numbers of disorganised and destitute refugees into countries where the machinery of government was in process either of reconstruction or of creation. This aspect of the problem has now entirely passed away, and the greatest praise is due to the energy and self-sacrifice of the Refugee Service, whose patient and unremitting work over a long period has, with the help of the League and the help of the Governments concerned, reduced the whole question to one of comparatively small dimensions. It is an especial pleasure to me to offer, in the name of the Fifth Committee, our homage to the great personality of Dr. Nansen, whose vision and guidance throughout have been such an inspiration.

The problems were attacked as follows:

1. The anomalous status of the refugees was dealt with by the issue of identity certificates, to overcome passport difficulties, etc. These certificates have proved, as can be well imagined, of the utmost use to the refugees, who have gratefully recognised their value.
2. The destitution and unemployment were dealt with by the transfer of the refugees to countries, largely in Europe but also overseas, where opportunities for employment presented themselves. In this manner, approximately 200,000 were placed in a position to support themselves.
3. Land settlement schemes were drawn up to deal with a proportion of the remaining refugees.

The High Commissioner for Refugees further convened an Inter-Governmental Conference in May 1926 for the purpose of improving the passport system and of raising a revolving fund of not less than £100,000 to assist the migration of refugees.

The International Passport Arrangement existing when this Conference met had at that date been adopted by forty-six and thirty-four Governments for Russian and Armenian refugees respectively.

The Conference of May 1926, however, finding that refugees in some countries were not receiving the benefits from the passport system contemplated by the original International Arrangement, drew up a Supplementary Arrangement to improve passport facilities. It also arranged to increase the revolving fund by means of the issue of stamps constituting a special yearly tax of 5 gold francs on the renewal of the Nansen certificates, usually charged only to self-supporting refugees. Last year, in its survey, the Fifth Committee reported to the Assembly that the statistics supplied by the International Labour Office indicated the existence of not less than 1,000,000 Armenian and Russian refugees in twenty-six different countries. As the records for some countries had not been received, the Committee considered the total might be safely estimated at 1,500,000.

Of these, 100,000 were reported unemployed, but here again the complete statistics were lacking, and the total number of unemployed was estimated at 250,000. There are therefore 1,250,000 placed, and the problem now before us is the problem of the last 20 per cent. Progress has been as follows.

Fifty Governments in the case of the Russian passport and thirty-six in the case of the Armenian passport have now adopted and recognised in principle the original Passport Arrangement.

Sixteen Governments have notified their formal adhesion to the Supplementary Arrangement drawn up by the Inter-Governmental Conference of 1926. The report before you shows that a

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sum of approximately 150,000 Swiss francs has already been received for the revolving fund from the issue of these stamps.

The report of the Director of the International Labour Office (see Part II of document A.48) notes that there are at present 10,000 unemployed Russian refugees in Shanghai, while the position of trade in that city at the present time affords no prospect of an early reduction of their numbers. The majority of these Russians are resident in the French Concession. Through the courtesy of the French Government, the International Labour Office has been able to arrange for the issue of Nansen passports through the French Consul in Shanghai.

In Turkey, some 4,000 Russian refugees came under a Decree of the Turkish Government, promulgated this spring, which required them either to obtain Turkish nationality or to leave Turkey before August 1st, 1927. The Chief of the International Labour Office Refugee Service proceeded to Angora to deal with this emergency, and was able to secure a suspension of the application of the Decree by the Turkish Minister for Foreign Affairs.

LEGAL STATUS OF REFUGEES.

Another matter should be taken note of by the Assembly as affecting the interests of all categories of refugees now under discussion, whether Russian or Armenian, self-supporting or destitute, urban or agricultural.

The Advisory Committee, in September 1926, resolved that:

“The different practical questions concerning Russian and Armenian refugees cannot find a satisfactory solution as long as the legal situation of these refugees is not regulated by the League of Nations.”

The Advisory Committee went on to suggest the formation of a technical Commission of Russian and Armenian experts to act as advisers.

A summary of the conclusions of this technical Commission is to be found in the High Commissioner's report. It recommends the adoption of a variety of measures to ensure legal rights in respect of property, marriage contracts and other matters, and urges that an Inter-Governmental Conference should be summoned before the end of 1927, at which the technical Commission might discuss with representatives of the interested Governments how best to carry out these measures.

LAND SETTLEMENT AND UNEMPLOYMENT SCHEMES.

During the past year these problems have received special attention at the hands of two different bodies. The schemes considered fall under two separate aspects, namely, the settlement of the Armenian refugees at present still remaining in Asia (mandated territories), numbering 90,000, and settlement overseas.

For the convenience of the Assembly, these proposals will be separately summarised.

SETTLEMENT OF ARMENIAN REFUGEES IN SYRIA.

This problem has been considered by a Joint Armenian Sub-Committee of the Advisory Committee attached to the High Commission for Refugees.

The Joint Sub-Committee was set up in accordance with resolutions of the seventh ordinary session of the Assembly and of the Advisory Committee. Its Chairman is Dr. Nansen. Its Vice-Chairman is M. Albert Thomas, and its members include representatives of phil-Armenian societies in various countries. The Joint Sub-Committee works in close co-operation with the mandatory Power for Syria. It held its first meeting in November 1926.

At the request of the Joint Sub-Committee, Mr. T. F. Johnson (Assistant High Commissioner for Refugees and Chief of the Refugee Service of the International Labour Office) went to Syria in December 1926. He reported that, out of the total of 90,000 Armenian refugees there, 40,000 were in camps and needing assistance, 12,000 of them in a most precarious situation, and the other 28,000 in casual employment only.

The High Commissioner reports that, since the beginning of 1927, considerable progress has been made to improve this state of things.

Land has been acquired and plans of houses approved to accommodate 2,500 urban refugees and urban refugees. Measures have been taken to acquire land to settle some 3,500 agricultural and urban refugees. This second scheme is estimated to cost some £30,000 and is being carried through on funds already in the possession of the Joint Sub-Committee. The process is inevitably slow owing to difficulties of obtaining a clear title to land, etc., which will be familiar to those with experience of Near-Eastern land purchase. However, twenty families have already been settled between Tyre and Sidon, and land has been acquired for five hundred more, who are now in process of settlement.

It was estimated that the sums expended would be repaid by the urban refugees in five yearly instalments, and within a period of seven or ten years by the agricultural settlers. The High Commissioner estimates, however, from evidences of energy and enterprise shown by the

first settled groups of agriculturists, that the latter period will be much shortened. The repayments will be devoted to the settlement of further groups. The following contributions have so far been made to the revolving fund for this settlement work:

	French Francs	£ Sterling	Swiss Francs
Lebanon Government	3,000,000	approx. 25,000	
High Commissioner for Refugees		3,000	
British United Armenian Committee		5,000	
Union Arménienne de Bienfaisance		500	
Anonymous		1,000	
Grant from Nansen Stamp Fund		1,000	
			(approx. 25,000)
<hr/>			
Total (approximately)		35,500	

The High Commissioner adds that it is hoped, by means of combined efforts in Europe and America, to raise within the next few months the sum of £120,000 required for settlement of the most indigent refugees in Syria.

OVERSEAS SETTLEMENT OF REFUGEES.

Proposals were received by the International Labour Office from five States, all in South America (namely, Argentine, Bolivia, Brazil, Paraguay and Peru), to receive refugee immigrants, for land settlement, to the number of 30,000, in return for an advance of some £20 per head from the revolving fund.

Absence of funds to take advantage of these offers was the motive that prompted the High Commissioner to carry out a suggestion made by the Inter-Governmental Conference of 1926, namely, that interested Governments should be invited to make special advances to the revolving fund for overseas settlement.

A second Inter-Governmental Conference was accordingly convened and met in Geneva on June 15th and 16th, 1927. M. Veverka (Czechoslovakia) was in the Chair.

The Conference (1) approved in principle of overseas settlement for Russian and Armenian refugees.

2. It further expressed the wish that Governments which have not yet ratified the Supplementary Arrangement of 1926 should do so.

3. A third representative of the Conference requested "such Governments as are disposed to facilitate the migration to overseas countries of refugees on their territories to inform the High Commissioner as soon as possible, and in any case before the eighth ordinary session of the Assembly of the League", of the number of refugees whose settlement they would be prepared to finance, and the number of unemployed refugees, according to their occupations, on their territories desirous of emigrating.

4. The Conference requested the Council of the League of Nations to afford all possible facilities for the transfer of Armenian refugees to Soviet Armenia.

5. The Conference requested the High Commissioner to communicate these resolutions to the Council and the Assembly for their consideration.

It will be seen from the report of the Conference that the German Government has already promised a first contribution of 100,000 R.Mks. to the revolving fund, and that the Czechoslovak, Polish and Serb-Croat-Slovene delegates to the Conference intimated the willingness in principle of their Governments to participate in this scheme either by means of advances, financial guarantees or the issue of the Nansen stamps on their territories.

The report concludes:

"It is hoped that the Governments at present expending large sums for the maintenance of these refugees will find it possible to adopt one of the means recommended by the Inter-Governmental Conference for advancing the necessary [emigration] expenses.

"There is every reason to believe that, by the application of the recommendations of the Conference, the interested Governments will be enabled to eliminate from their budgets in a comparatively short space of time the heavy annual expenditure of £2,000,000 at present incurred by them for the maintenance of unemployed refugees without involving themselves in any absolute capital expenditure."

It will, of course, be understood that the schemes here described cover only a proportion of the refugees and, consequently, of the liability.

It will be seen that the essence of the whole matter is to be found in the third resolution of the Conference of 1927, namely, that the Governments interested should supply the High Commissioner as soon as possible with detailed proposals as to the number of refugees whose settlement they would be prepared to finance, etc. Time is all-important, as the problem tends irrevocably to become, in some cases, more difficult to solve. Moreover, the opportunities now open for settlement will not remain open indefinitely.

The devoted efforts of the High Commissioner and his staff have now resulted in the formulation of definite plans for the settlement of a substantial proportion of these unfortunate people,

The execution of these plans depends on the co-operation of the various Governments concerned. Unless that co-operation is undertaken forthwith, it would seem not only unreasonable but unjust to expect from the Refugee Service that it should continue to assume responsibility for the liquidation of this problem¹.

The Fifth Committee has the honour to submit the following resolution to the eighth ordinary session of the Assembly:

" The Assembly:

" Having carefully examined the reports of the High Commissioner and of the International Labour Office on the refugee questions;

" Recognises the progress that has been made towards the solution of a problem that at one time constituted a very serious danger;

" Expresses its high appreciation of the important work that has been accomplished on behalf of the refugees;

" Invites the High Commissioner to convene a small conference, on the lines indicated in his report, to formulate proposals for submission to the Council in regard to the legal status of refugees. This should be preceded by a full and careful examination of the juridical situation of the refugees in the different countries, the necessary information to be communicated to the respective Governments beforehand;

" Congratulates those responsible for the measures already taken and contemplated for the permanent settlement of Armenian refugees in the Near East;

" Expresses the hope that, as a result of the efforts described by the High Commissioner in his report, the necessary funds will be secured for the execution of this work and that, with the continued co-operation of the mandatory Power, this aspect of the problem may be successfully liquidated;

" Approves the provisions in the budget for the Refugee Service in addition to the supplementary credit of 7,500 Swiss francs for the services for establishing Armenian refugees in Syria. "

" Further, the Assembly:

" Notes with interest the offers of employment now available for refugees in overseas countries;

" Recognises that the execution of these schemes requires the immediate establishment of an adequate revolving fund;

" Urges the Governments concerned to inform the High Commissioner as soon as possible what measures they are prepared to take for financing the settlement of refugees from their territories;

" Requests the Council to invite the Governing Body of the International Labour Office, in examining the budget of the Refugee Service for 1929, to consider whether adequate funds for settlement have been thus provided. "

Annex.

EXTENSION TO OTHER ANALOGOUS CATEGORIES OF REFUGEES.

On page 6 of his report, the High Commissioner refers to the case of analogous refugees and summarises the proceedings of the Assembly and the Council. He states that he has, in conformity with a resolution of the Council of December 10th, 1926, submitted a memorandum on the subject. The memorandum forms Annex 5 of his report.

It defines the term " analogous categories ", and enumerates these, as far as known, under various heads, pages 13-14².

¹ It should be noted that, since the discussion and adoption of this report by the Fifth Committee, the Council, at its meeting on September 15th, had before it the proposals of the Conference of 1927 with regard to overseas settlement. The Council passed no resolution but approved a report, as follows:

" The Council has taken note of the memorandum of the High Commissioner for Refugees relating to the recommendations of the Inter-Governmental Conference, which examined certain proposals for the settlement of refugees in overseas countries. The Council has also taken note of the Minutes of that Conference.

" As, upon the motion of the Norwegian Government, the questions involved are also included in the Supplementary Agenda of the Assembly, the Council will doubtless prefer to await the discussions in the Assembly before taking any resolution on this subject."

² This question had not been considered by the Council when the present report was adopted. The Council, however, considered the question on September 15th and adopted the following resolution:

" The Council:

" Requests the High Commissioner for Refugees to take the necessary steps to institute an enquiry into the applications submitted to him by Syrian, Assyro-Chaldean, Montenegrin and Turkish refugees mentioned and

" Decides to postpone to its December session consideration of the action which might be taken on appeals from the other classes of persons mentioned in the annex to the High Commissioner's report, to enable Governments to submit any observations or information on this subject which they may consider desirable."

Genève, le 16 septembre 1925.

SOCIÉTÉ DES NATIONS

Proposition de la Délégation des Pays Bas concernant les réponses formulées par le Comité spécial de juristes prévu par la résolution du Conseil du 28 septembre 1923.

RAPPORT PRÉSENTÉ À L'ASSEMBLÉE PAR LA PREMIÈRE COMMISSION.

(Rapporteur: M. Limburg.)

La proposition du Gouvernement des Pays-Bas sur le sujet ci-dessus a été présentée à la première Commission sous la forme du projet de résolution suivant:

"L'Assemblée prie le Conseil d'inviter les gouvernements des Etats membres qui trouveraient dans le rapport du Comité spécial de juristes visé par la résolution du Conseil du 28 septembre 1923 des points douteux à élucider, ou qui auraient d'autres observations à faire sur ce rapport, de les faire parvenir au Secrétariat de la Société des Nations avant le 1er février 1926, aux fins d'un examen éventuel par une commission à nommer par le Conseil."

La première Commission approuve ce projet et recommande son adoption par l'Assemblée.

LEAGUE OF NATIONS.

Proposal by the Netherlands Delegation concerning the Replies of the Special Committee of Jurists appointed under the Council's Resolution of September 28th, 1923.

REPORT TO THE ASSEMBLY BY THE FIRST COMMITTEE.

(Rapporteur: M. Limburg.)

The proposal of the Netherlands Government on the above subject has been presented to the First Committee in the form of the following draft resolution:

"The Assembly requests the Council to invite the Governments of States Members of the League which find in the report of the Special Committee of Jurists appointed under the Resolution of the Council of September 28th, 1923, doubtful points which require elucidation, or which may have other comments to make on this report, to forward their observations to the Secretariat of the League of Nations before February 1st, 1926, with a view to a possible examination of the matter by a committee to be appointed by the Council".

The First Committee approves this draft and recommends that it should be adopted by the Assembly.

Geneva, September 23rd, 1925.

LEAGUE OF NATIONS.

The Pacific Settlement of International Disputes.

**REPORT PRESENTED BY THE FIRST COMMITTEE TO THE SIXTH
ASSEMBLY.**

Rapporteur : M. Henri ROLIN (Belgium).

The First Committee has approved the following report of its Second Sub-Committee and proposes the conclusions of this report for adoption by the Assembly.

REPORT OF THE SUB-COMMITTEE.

Your Second Sub-Committee was instructed by the plenary Committee to examine the draft resolutions submitted to the Assembly by the Spanish¹ and Swedish Delegations² and the proposal made in the Committee itself by His Excellency M. Adatci, the delegate of Japan.

The Sub-Committee has itself taken cognisance of a proposal of the delegate of Belgium which was connected with the same train of ideas.

These various proposals are inspired by similar considerations. At the moment when the declarations of certain Governments have shown that an early entry into force of the Protocol for the Pacific Settlement on International Disputes is not to be expected, several delegations have been anxious to affirm the fidelity and unanimity with which the Members of the League remain attached to the triple object underlying that draft treaty, namely arbitration, security and disarmament, and to indicate methods or measures by which an approach might be made to this object, pending the achievement of a general settlement which many consider indispensable.

The first proposal submitted, and the more general proposal, is that of the Spanish delegation. It does not contain a mere affirmation of principle. Emphasising the desirability of the conclusion of treaties of mutual security conceived in the spirit of the Covenant and in harmony with the principles of the Protocol, this proposal indicates the possibility of extending such a system to the whole world and asks that the Council of the League of Nations shall report to the Seventh Assembly on the progress in general security brought about by such agreements. Finally, a last paragraph deals with disarmament.

Your Sub-Committee has agreed with the Sub-Committee of the Third Committee that the examination of the part of the Spanish proposal which deals with disarmament shall be left entirely to the latter body. The rest of the proposal has been unanimously approved with the two following amendments.

In the first place, your Sub-Committee felt it should slightly modify the drafting of paragraph 3 of the proposed resolution. The conception that war of aggression is an international crime has unfortunately not yet passed completely into the domain of positive law. Your Sub-Committee felt that it was giving expression to the unanimous feeling of the delegations in declaring that effort should be made to cause this conception to become a real legal principle clearly formulated and enforced by sanctions.

¹ A. 53 (1), 1925, IX.

² A. 47, 1925.

In the second place, your Sub-Committee has felt it desirable to indicate that arbitration conventions, no less than security treaties, deserve to be considered with favour by the League of Nations, if they are in conformity with the principles of the Covenant and of the Protocol. Accordingly the Sub-Committee recommends the adoption of the Spanish proposal in the following form :

Draft Resolution.

" The Assembly,

" Taking note of the declarations submitted to the Council and the Assembly of the League of Nations in respect of the Protocol for the Pacific Settlement of International Disputes and of the fact that the said Protocol has not up to the present received the ratifications necessary for putting it into operation immediately ;

" Convinced that the most urgent need of the present time is the re-establishment of mutual confidence between nations ;

" Declaring afresh that a war of aggression should be regarded as an international crime :

" Regards favourably the effort made by certain nations to attain those objects by concluding arbitration conventions and treaties of mutual security conceived in the spirit of the Covenant of the League of Nations and in harmony with the principles of the Protocol (arbitration, security, disarmament) ;

" Records the fact that such agreements need not be restricted to a limited area but may be applied to the whole world ;

" Recommends that, after these conventions and treaties have been deposited with the League of Nations, the Council should examine them in order to report to the Seventh Assembly on the progress in general security brought about by such agreements ;

" Undertakes again to work for the establishment of peace by the sure method of arbitration, security and disarmament ; . . . * * * * *

[*Last paragraph as drafted by the Third Committee.*]

The proposal of the Swedish Delegation requesting the Council to submit to examination by a Committee of Experts the provisions concerning compulsory arbitration contained in the Protocol recommended by the Fifth Assembly is more particularly concerned with the idea of arbitration,

As M. Uden pointed out at the Assembly and M. Lofgren in the Committee, the intention was to emphasise without in any way modifying the position of the problem of security and disarmament, that development of the principle of compulsory arbitration was desirable in itself and realisable in abstraction from other questions.

Your Sub-Committee respects the intentions which inspired the Swedish proposal but it felt that this proposal might lead to misunderstanding. It was important to avoid anything which seemed necessarily to imply re-opening discussion upon an isolated part of the Protocol, and on the other hand it appeared unwise to decide in advance that the best way of encouraging the development of compulsory arbitration was to draw up and submit for acceptance by the various nations a general and uniform system of procedure. It is impossible, moreover, to ignore the fact that a very large number of conventions for arbitration or judicial settlement have in recent years been concluded between various Members of the League of Nations, and it seemed indispensable that it should be possible to study these conventions as a whole without prejudging the conclusions to which such study might lead. For these reasons the Sub-Committee, with the full agreement of the Swedish delegation, felt that the essential aim of the Swedish proposal would be better attained by the acceptance of the more general proposal which His Excellency M. Adatci, delegate of Japan, had submitted.

The latter proposal deals not merely with compulsory arbitration, properly so called, but also with conciliation, the importance of which has been frequently recognised by earlier Assemblies, whether as a preliminary to arbitration or to judicial settlement or as a subsidiary means of settling disputes which were not submitted to any jurisdiction.

The Japanese proposal aims at obtaining from the Council, with a view to the next Assembly, a study, not theoretical merely but above all practical, of the whole problem of pacific settlement of international disputes, so that, taking account of the statements made by various States during the Assembly's present session and of any agreements concluded in the interval, the Seventh Assembly may have before it a report as to the progress which can be made in this vast subject.

The Japanese proposal was adopted in the following form :

Draft Resolution.

" The Assembly,

" In view of the importance of making a thorough study of the views which have been expressed in the Assembly and the Council on the subject of pacific settlement of international disputes ;

" Convinced that such study will contribute to the development of a system of pacific settlement of international disputes ;

" Requests the Council to submit to careful examination the proposals, declarations and suggestions made at the Assembly and the Council with a view to pacific settlement of international disputes, and to report to the Seventh Assembly upon the progress which can be made in this matter. "

The Belgian proposal also belongs to the domain of compulsory arbitration.

At a moment when compulsory arbitration in the most general sense has been accepted in a large number of particular conventions, the Belgian delegation thought it desirable to promote this development by calling the attention of States to the advantages from the point of view of their security which may be attained by concluding such conventions, in consequence of the guarantees afforded by the Covenant.

The Covenant itself, in Article 21, clearly indicates that arbitration conventions have their proper place in the working of the League of Nations, for it states that nothing in the Covenant shall be deemed to affect their validity.

Your Sub-Committee has unanimously considered that, at a moment when the League of Nations was obliged to put into force a general convention absolutely prohibiting aggressive war, there were real advantages in emphasizing the fact that Members of the League might endeavour to attain this result by way of arbitration conventions, and that such agreements were placed in strict law under the general guarantees of the Covenant.

The above were the reasons for which the Belgian draft resolution was adopted in the following form :

Draft Resolution.

“ The Sixth Assembly,

“ Reserving the question whether it is at present desirable to embody in a new general Convention the provisions concerning compulsory arbitration contained in the Protocol for the Pacific Settlement of International Disputes ;

“ Recalling the guarantees provided in the Covenant of the League of Nations ;

“ Calls the attention of States Members of the League to the desirability, from the point of view of their security, of concluding particular conventions for arbitration or for the judicial settlement of disputes.”

* * *

Finally, as regards the proposal made by the delegation of Uruguay¹ on the subject of the Statute of the Permanent Court of International Justice, it appears, from the declarations made by the delegate of Uruguay at the last meeting of the First Committee, that, in view of the opinions which have been expressed, his delegation does not desire that its proposal should be discussed at the present moment. The delegation reserves the right to renew the proposal at a suitable moment. The Assembly will doubtless in these circumstances consider it unnecessary to engage in an examination of the subject. In these conditions it is obvious that the Uruguayan proposal will not be included among the proposals, declarations and suggestions referred to in the draft resolution adopted on the initiative of the Japanese delegation. The same is true of the Danish proposal², which has been adjourned to a subsequent Assembly.

¹ A. 59, 1925.

² See Document A. 100, 1925 (Resolution adopted by the Assembly on September 22nd, 1925).

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

QUESTIONNAIRE No. 1

adopted by the Committee at its Second Session, held in January 1926.

NATIONALITY.

The Committee has the following terms of reference¹:

- (1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;
- (2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and
- (3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

The Committee has decided to include in its list the following subject:

- (1) Whether there are problems arising out of the conflict of laws regarding nationality the solution of which by way of conventions could be envisaged without encountering political obstacles;
- (2) If so, what these problems are and what solution should be given to them.

On this subject the Committee has the honour to communicate to the Governments a report presented to it by a Sub-Committee, consisting of M. RUNDSTEIN as Rapporteur, M. SCHÜCKING and M. DE MAGALHAES. The report comprises a statement presented by M. Rundstein and approved by M. de Magalhaes (including a preliminary draft of a Convention), a supplementary note by M. Rundstein, observations by M. Schücking and a reply by M. Rundstein, and, finally, the text of the preliminary draft of a Convention as amended by M. Rundstein in consequence of the discussions which took place in the Committee of Experts.

The nature of the general question and of the particular questions involved therein appears from the report and from the conclusions attached to the report in the shape of the amended preliminary draft of a Convention². The Committee is of opinion that Articles 1 to 5 and 7 to 13 of this amended draft indicate the questions to be resolved for the purpose of dealing with the subject by international agreement. All these questions are subordinate to the larger question set out above. On the other hand, the Committee does not feel that the question raised in Article 6 of the amended draft is among those which can be regarded as at present capable of being treated by way of international regulation.

It is understood that, in submitting the present subject to the Governments, the Committee does not pronounce either for or against the solutions suggested for various particular problems. At the present stage of its work it is not for the Committee to put forward conclusions of this kind. Its sole, or at least its principal, task for the present consists in drawing attention to various questions of international law the regulation of which by international agreement would seem to be desirable and realisable.

In doing this, the Committee should doubtless not confine itself to generalities but should put forward the proposed questions with sufficient detail to facilitate the decision as to the desirability and possibility of their solution. The necessary details will be found in the final conclusions of M. Rundstein's report — *i. e.*, in the amended text of the preliminary draft of a Convention — excluding always Article 6 of this draft².

In order to be able to continue its work without delay, the Committee will be glad to be put in possession of the replies of the Governments before October 15th, 1926.

The Sub-Committee's report is annexed.

Geneva, January 29th, 1926.

(Signed) HJ. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See Assembly Resolution of September 22nd, 1924.

² See page 20.

Annex.

REPORT OF THE SUB-COMMITTEE.

M. RUNDSTEIN, *Rapporteur*.

M. de MAGALHAES and M. SCHÜCKING.

- (1) *Whether there are problems arising out of the conflict of laws regarding nationality the solution of which by way of conventions could be envisaged without encountering political obstacles;*
- (2) *If so, what these problems are and what solution should be given to them.*

I. REPORT SUBMITTED BY M. RUNDSTEIN AND APPROVED
BY M. DE MAGALHAES

[*Translation.*]

(C. P. D. I. 20.)

At its first meeting, held at Geneva, the Committee of Experts for the Progressive Codification of International Law invited the Sub-Committee, of which I had the honour to be appointed Rapporteur, to enquire:

- (1) Whether there are problems arising out of the conflict of laws regarding nationality the solution of which by way of conventions could be envisaged without encountering political obstacles;
- (2) If so, what these problems are and what solution should be given to them.

In the list of subjects for enquiry — drawn up and adopted by the Committee of Experts — the possibility of regulating conflict of laws regarding nationality is set down as a problem the solution of which depends on that of another question: namely, whether there are not political obstacles which the solution of such conflicts must necessarily encounter. The reply to be given to this question presupposes the investigation referred to in paragraph (2) above.

There can be no doubt that nationality questions must be regarded as problems which are exclusively subject to the internal legislation of individual States. It is, indeed, the sphere in which the principles of sovereignty find their most definite application; in the present state of international law, questions of nationality are, *in principle*, included among matters expressly reserved for the exclusive jurisdiction of the individual States (see Advisory Opinion of the Permanent Court of International Justice, dated February 7th, 1923: *Collection of Advisory Opinions*, Series B, No. 4). There is no rule of international law, whether customary or written, which might be regarded as constituting any restriction of, or exception to, the jurisdiction referred to above.

This omission is not surprising in view of the nature of the problems connected with the regulation of nationality and the gravity of the general considerations and political interests affecting the whole problem. It cannot even be said that the simple and elementary principle that "each individual must have a definite nationality" is a generally recognised rule of international law, since the lack of any nationality (*Heimlosigkeit*) has become very frequent and constitutes a serious problem in international life, arising as it does out of conflicts of laws which are often complicated and sometimes inextricable.

But, while maintaining the thesis that questions of nationality belong, *in principle*, to the exclusive jurisdiction of individual States, it is admitted that this thesis is neither inflexible nor self-evident. Questions of nationality are often regulated by international conventions, which proves that the supposed exclusivity of jurisdiction may be abrogated at the will of individual States. We have here a limitation of the principle based on a free decision taken by the parties concerned. Such a limitation is met with in cases where the necessity of regulating nationality questions arises out of changes in the territorial status of countries (treaties of peace, treaties concerning territorial cessions not arising out of a war); it is met with also in cases where the effects of double nationality arising out of the main principles of *jus sanguinis* and of *jus soli* render a solution essential, since they engender situations which are likely to threaten the good relations between States. Since such conflicts are becoming more and more frequent as a consequence of emigration and re-emigration, the regulation of nationality questions must be undertaken in order to prevent diplomatic disputes and to remove doubts and uncertainties in the personal relations of the citizens of the various countries. There exist even plurilateral treaties which contain stipulations applicable to several States and thus establish a juridical basis for rules which may perhaps in the future come to be generally recognised as customary law (*cf.* Convention of Rio de Janeiro of August 13th, 1906, ratified by the United States on January 28th, 1913, "establishing the status of naturalised citizens who again take up their residence in the country of their origin"). But the fact that it is possible to solve problems of nationality by means of international agreements does not imply that such a solution can be regarded as *jus necessarium*, that is to say that the necessity of solving these problems arises out of imperative provisions of modern international law. Even if the exclusive jurisdiction of individual States which international law recognises in the matter is regarded as a relative conception, dependent upon the development of international relations, it may be asserted that, for the present, those relations have not developed to such an extent as to justify the view that restrictions on sovereignty exist in the matter and that its exercise

is controlled by international rules. Individual States *may* therefore regulate nationality problems by means of agreements; if they do so, their exclusive jurisdiction will be restricted in a manner and to an extent dependent upon the provisions of the agreements. But in the present state of international law, it would be premature to say that problems of this nature *must necessarily* be regulated by means of conventions.

The political interests of the various States are too divergent to justify the assertion that an *opinio necessitatis* exists which will create and impose rules for settling all conflicts arising out of the diversity of laws. Still more must unification of legislation, the creation of a single world law in this field, be considered a chimerical undertaking. It is doubtful even whether any purpose would be served by recommending a few general principles to be applied by Governments, either in drawing up their internal laws or in concluding diplomatic conventions (*cf. Year-Book of the Institute of International Law*, Volume V, Oxford Session, pages 56 and 57; Volume XIV, Cambridge Session, pages 66 to 76 and 194 to 200; Volume XV, Venice Session, pages 233 to 271). Even supposing that those principles were adopted in drawing up internal laws or bilateral conventions, conflicts of laws would still inevitably be produced by the divergences which would arise in the interpretation of the uniform laws and by the restricted application of the bilateral conventions.

Taking into account the political nature of the problem and the interests of the individual States, our enquiry must be as to whether there are not problems connected with conflicts between different nationality laws which might be settled by international regulations applicable to all States. Recent developments in international relations and certain tendencies apparent in the method of settlement of certain conflicts of nationality show that, in practice, a few conceptions have been evolved which are recognised by almost all States and might serve as a basis for future legislation to be enacted in the form of a general convention. It is true that this *jus nasciturum* hardly affects the principal questions; it applies, rather, to secondary problems; for it is obvious that the principal problems involved in such conflicts are not ripe for immediate solution and that the work of codification must proceed slowly, by stages, beginning with the lesser and working up to the more important problems. Wherever there is any sign, however insignificant, of a general agreement on any principle, it is desirable that such agreement should be given a concrete form.

Indications of such agreement as is referred to are to be noted and given definite shape. But, apart from the customary law which is in process of evolution, certain tendencies are becoming apparent — insignificant perhaps, but symptomatic — in connection with questions capable of being solved without encountering political obstacles. In this case we are not dealing with customary law in process of formation, but rather with ideas the development of which should be encouraged as useful for the solution of difficult situations arising out of conflicts between the various national laws. In this connection the work of codification will be creative, while at the same time remaining practical and appropriate to the existing conditions of international life.

For this reason a distinction should be drawn between the two classes of question.

In the *first* class of question, the work of codification will consist in recording the common view which is gradually being formed as to certain secondary problems of conflict of nationality law.

In the *second* class of question, the work will consist in solving certain kinds of conflict for which a uniform solution is already being sought in practice.

It is obvious that, when a problem has a political as well as a legal aspect and the former must prevail over the latter, no action can be taken. It is therefore impossible to effect a uniform regulation of all problems arising out of conflicts of nationality; the work can only be achieved by a process of selection and elimination. No solution can be hoped for where there is the slightest suspicion that the problem is of a political nature.

I.

International law has in practice established for the solution of two categories of conflict of nationality law rules which are almost universally recognised and adopted. These rules may be considered suitable for embodiment in a plurilateral convention.

A. — In cases in which a conflict of nationality arises out of divergencies in laws based respectively on the principles of *jus soli* and of *jus sanguinis*, the law which must be applied, to the exclusion of the other, must depend upon the domicile or mere place of residence of the person whose nationality is in dispute between the two States. That is to say, if a territorial authority claims that its *jus soli* must prevail over the *jus sanguinis* of the other State, the latter cannot claim recognition of its jurisdiction within the territorial limits of the State which applies the criterion of birth. Such jurisdiction is excluded in matters of personal status and in matters of real property: for example, the case of the estates of deceased persons who, according to the laws of their country of origin (*ex jure sanguinis*), are subject to the laws of that country, and, according to the laws of the country of their birth (*ex jure soli*), are subject to the laws of the latter. Any other view would be tantamount to an indefensible infringement of the principle of the independence of States. Therefore it is generally recognised that, in cases of double nationality, the diplomatic protection of the State of which a person is a national in virtue of *jus soli* may not be exercised on behalf of that person on the territory of another State which claims him as its national in virtue of *jus sanguinis*; and, *vice versa*, the diplomatic protection of the country of origin (*ex jure sanguinis*) may not be exercised on the territory of the country of birth of any person whose nationality is there governed by the principle of *jus soli*. Such a recognition of independent divergent solutions for conflicts of laws comes into operation in every case in which there is some bond between the person concerned and the territory in question (such as domicile or residence, situation of a person's estate).

This principle, established by the practice of the chancelleries and of diplomacy, is recognised by implication in Article 7 of the Treaty concluded between Spain and the Argentine Republic on September 21st, 1865 (see CALVO, Volume II, page 36; ZEBALLOS, Volume II, pages 49-51 and page 192). It is further implicit in the conventions which provide for the regulation of conflicts arising out of double nationality, for when they recognise restrictions on the sovereignty of the States concerned in regard to nationality questions and, for example, make the principle of *jus soli* applicable only in the third generation, such conventions *ipso facto* assert the principle that the territorial law is alone applicable in all cases where an exemption is not specially provided for. This principle of respect for territorial authority is explicitly laid down in the Swiss Law of June 25th, 1903, on the naturalisation of foreigners and the renunciation of Swiss nationality. Article 6 of this law reads as follows:

"A person who, in addition to Swiss nationality, possesses that of a foreign State, is not entitled to claim as against that State, so long as he is resident therein, the rights and protection pertaining to the status of Swiss citizen."

It would undoubtedly be useful definitely to lay down this principle, which in practice has often been applied by England and America (see WEISS — Treatise, Volume I, pages 295 and 296). The draft of an international convention on diplomatic protection submitted by the American Institute of International Law to the Director of the Pan-American Union on March 3rd, 1925, embodies this principle of non-intervention in the following provision (Article 7):

"A diplomatic claim is not admissible when the individual in whose behalf it is presented is at the same time considered a national by the law of the country to which the claim is made, in virtue of circumstances other than those of mere residence in the territory (see Codification of American International Law, Washington, 1925, Pan-American Union, Draft No. 16, page 56)."

This provision applies to all the typical conflicts between *jus soli* and *jus sanguinis*, with the exception of cases where nationality is imposed by the mere fact of residence, which, however, cannot be regarded as conferring a title to nationality; domicile in connection with the principal establishment of a person might justify the presumption that such a person intended to become a national of the country which he had selected as his place of habitual residence; but such a presumption does not exist in cases of mere temporary residence.

B. — Although the provision referred to is based on the principle that each State has the incontestable right fully to apply its nationality law on its own territory, mention must be made of exceptions based on other principles, and particularly on that of *ex-territoriality*.

It would be necessary to provide that the territorial law of nationality shall not apply to children born in a territory where their fathers enjoy privileges and immunities arising out of *ex-territoriality*, or where they exercise public duties on behalf of a foreign Government (consuls belonging to the regular consular service, officials on a foreign mission, delegates, members of international commissions, etc.).

This principle is embodied in the draft of the Institute of International Law (Article 3, paragraph 3, *Year-Book*, XV). It should be definitely recognised that the children of diplomatic agents and consuls regularly accredited to a foreign Power shall always be regarded as born in the country of their father.

In this case the principle of *jus soli* is set aside both as regards the law of the territory in which the agent exercises his official duties and as regards the law of the country of which he is a national. The personal law of the agent himself is therefore always applicable both in relation to the foreign country and to the agent's own country, even if the latter recognises exclusively the principle of *jus soli* without any reservations in favour of *jus sanguinis*.

This "universality" of personal status is recognised by English law (see DICEY-KEITH — *A Digest of the Law of England with Reference to the Conflict of Laws*, 1922, page 171; case of a child born of a foreign diplomatic agent on British soil; page 181; case of a child born of a British diplomatic agent on foreign soil. See also the provision of the British Nationality and Status of Aliens Act, 1914-1922, Sect. I, 1.6. IV: "his father was at the time of that person's birth in the service of the Crown").

An explicit reservation abrogating the *jus soli* in the case of the descendants of diplomatic agents is made in the laws of the Argentine, Brazil, Bolivia, Chile and Guatemala. The new Belgian Law on Nationality of May 15th, 1922, assimilates to residence in Belgium residence in a foreign country so long as the father of a minor entitled to option exercises an official function there on behalf of the Belgian Government (Article 8, paragraph 4). Further, the Franco-Belgian Convention of 1891 lays down that the children of diplomatic agents or consuls belonging to the regular consular service shall keep the nationality of their parents unless they lay claim to the benefit of the law of the country in which they were born.

In practice, the French Chancellery recognises without any restriction the principle set forth above, and extends it to the children of all foreigners obliged to reside in France for official reasons even if the father does not enjoy diplomatic privileges and immunities (see VALÉRY — *Manuel de Droit international privé*, 1914, pages 77 and 78). Although no formal text exists (for various draft proposals, see PILLET-NIBOYET — *Manuel de Droit international privé*, 1924, pages 79 and 80), it is nevertheless admitted that *jus soli* must not be applied to the children of persons who enjoy exemption from the territorial law. Such exemption would seem applicable to the children of sovereigns and regular diplomatic agents (holding permanent appointments), extraordinary agents (accredited for special missions — for instance, as representatives of their Governments at

international conferences or congresses) and special agents (members of delimitation commissions, commissions of investigation or mixed commissions, agents attending international courts, etc.), including the judges of permanent international courts or of a court set up to settle any special dispute. The same principle should *a fortiori* be applied to the children of agents or officials belonging to international organisations or appointed by such organisations.

Even if the father does not enjoy diplomatic immunities and privileges, it would be fair to apply the principle of ex-territoriality to the children of consuls who are members of a regular consular service, of consular officials and, generally speaking, to the children of all foreign officials who do not possess diplomatic status, if they have taken up their temporary residence in a country enforcing *jus soli* in order to carry out an official mission recognised and permitted by the Government of that country. This rule regarding the children of foreign public officials is not based on recognised rules of international law; the subject would therefore require to be dealt with expressly.

The above principle could not in any case be applied if the parent entitled to privileges was a national of the country in which he exercised his official functions.

If, however, he belongs to the State which has invested him with diplomatic, consular or, in general, official duties, or if he belongs to a third State, his personal status must prevail over any different provisions of the territorial law.

II.

The problems of the *second* category are those for which national law and international practice furnish solutions capable of reducing or even eliminating conflicts. In this field the customary law has not yet reached the stage of final development and only main outlines are distinguishable; in some cases, however, it may be claimed that there is a recognition of general principles, although the uniformity of the rules applied is not a fact of which the law is explicitly conscious. International codification may here serve to develop ideas which are still only embryonic.

The changes lately introduced in laws as to the nationality of married women, increasing, as they do, the possibility of conflicts, necessitate measures to reduce to the minimum cases of double nationality or of lack of any nationality. Since the new principles naturally tend to become more general, the practical requirements of life necessitate finding some way of preventing conflict.

The enumeration of problems given below follows the usual order and deals with questions relating to:

- A. — Acquisition;
- B. — Change, loss and resumption of nationality.

A. — 1. In regard to acquisition of nationality, it is to be observed in the first place that there are situations in which national law, even though it fully recognises the principle of *jus sanguinis*, sets it aside exceptionally in order to apply *jus soli*, so as to avoid the unfortunate consequences arising out of the lack of nationality of foundlings or of children of unknown parents. If the principle of *jus sanguinis* were strictly applied, (1) foundlings, (2) the children of legally unknown parents (that is to say, whose filiation is not established), (3) children born of parents who are known but whose nationality is unknown or cannot be determined, would possess no nationality whatsoever. The law of some countries solves the problem by applying the principle of *jus soli* to *foundlings* only (paragraph 4, sub-paragraph 2, of the German Law on Nationality of July 22nd, 1913; paragraph 1, sub-paragraph 2, of the Norwegian Law of August 8th, 1924, and of the Swedish Law of May 23rd, 1924, concerning nationality). It would seem more rational to apply this rule to all cases of children born of parents who are unknown or whose nationality is unknown. The Treaties concluded, after the World War, between the Principal Allied and Associated Powers and Greece, Poland, Czechoslovakia and the Kingdom of the Serbs, Croats and Slovenes recognise the fact of having been born on the territory of the States mentioned as entitling any person so born to the nationality of those countries if they cannot claim another nationality by birth. A recommendation formerly adopted by the Institute of International Law (*Year-Book*, Volume V, page 57, paragraph 1) has thus been adopted in modern practice.

The adoption of the rule referred to does not, of course, imply that proof to the contrary justifying the application of *jus sanguinis*, would not be admitted. The application of *jus soli* must be regarded as a presumption *juris tantum*. But, until proof to the contrary has been brought, the nationality of children of this category is definitely established (see Convention concluded on June 7th, 1920, between Austria and Czechoslovakia concerning nationality and the protection of minorities, Article 5). The admission of proof to the contrary might, of course, give rise to conflicts if the law of the country where the child was born or found does not admit of the application of the principle of *jus sanguinis*. The rule regarding proof to the contrary could therefore only be applied in countries whose laws recognise the principle of *jus sanguinis*, either purely and simply or in conjunction with the principle of *jus soli*. Countries which adhere to the principle of *jus soli* without any modification or exception would not be inclined to admit proof eliminating the presumption.

I am of opinion that the principle referred to above, applicable to exceptional cases but eliminating the difficulties arising out of lack of nationality, might be recognised as offering a fair solution. In practice such cases would be so rare that such a solution would not be likely to encounter political obstacles. The general principle might be formulated as follows:

“A child born of parents who are unknown or whose nationality cannot be ascertained acquires the nationality of the State in which it was born or found when it cannot claim another nationality in right of birth, proof of such other nationality being admissible under the law in force at the place where it was found or born.”

I think that the above rule might be regarded as universal and as suitable therefore for codification, for on this point the views of the various legislations are unanimous. Thus customary law which is in process of formation might be replaced by a fixed and definite rule. However, it is a moot point whether the formula contained in the Treaties concluded between the Principal Allied and Associated Powers and Greece, Poland, Czechoslovakia and the Kingdom of the Serbs, Croats and Slovenes would not be preferable ("All persons born in . . . territory who are not born nationals of another State shall *ipso facto* become . . . nationals"). (See also Article 2, paragraph 2, and Article 5 of the Polish Law on Nationality of April 9th, 1920.) The formula covers all cases where the nationality of the parents is known but where, according to the law of the parents' country, the child, if it is born on foreign territory, does not *ipso facto* acquire their nationality (cf. Article 1, No. 2, paragraph 1, of the Italian Law on Nationality of June 13th, 1912).

2. In all the other cases of acquisition of nationality *modo originario*, it is doubtful whether uniform rules for the solution of conflicts could be established without encountering political obstacles making the introduction of international instead of national rules impossible. It is true that the legal practice of some countries and some international conventions have devised preventive measures to avoid difficulties arising out of double nationality. One might, for example, put forward the principle of allowing an option for the nationality which would arise from the application of *jus soli*, excluding its operation where it was contrary to the law of the nation of origin (see the system adopted in the Italian Nationality Law of June 13th, 1912, Article 7 — Renunciation of the nationality of origin). Or one might recognise a rule permitting repudiation of a nationality acquired by birth in a territory whose law gave persons born there the nationality of the place of birth. In the former event, a law other than that in force in the territory applying the *jus soli*, would be recognised and treated as binding; the law of the territory would thus give way before the principle of *jus sanguinis*, but the effect of the latter would be merely suspensive. In the second event, however, it is the territorial law which would be applied subject to recognition of a resolutive operation of *jus sanguinis* by way of repudiation of the nationality acquired by the fact of birth (cf. the Treaty of Amity and Commerce between Belgium and Bolivia of April 18th, 1912, Article 5, paragraph 3). Neither the principle of option nor that of repudiation can be recognised as based on generally accepted rules of international law (see, however, the international treaties quoted by ZEBALLOS, 55-58, and the Treaty between Spain and Portugal of April 21st, 1866). Further, though these principles are recognised by the law of certain countries, it is doubtful whether countries which base their law in these matters wholly on the principle of *jus sanguinis* would agree to exceptions, seeing the incertitude in which their nationals would be placed in regard to their allegiance *pendente conditione*.

On the other hand, countries which have the system of *jus soli* without any exceptions would not be inclined to recognise any limitation of their sovereignty, even such limitation as would be involved in the repudiation of a nationality already acquired. Although there exist agreements between States which have based their legislation on totally different or even contrary principles (Conventions between American Republics recognising exclusively the principle of *jus soli* and some European States which have adopted the opposite system of *jus sanguinis*; ZEBALLOS, Volume II, pages 55 *et seq.*), the system is far from being universal or generally accepted. Further, it is doubtful whether a satisfactory solution could be reached by adopting the principle that nationality acquired *juris sanguinis* is retained only by the second generation and is lost by the third, a right of option, however, being preserved (cf. the British Nationality and Status of Aliens Act, 1914 to 1922, Section I, 1, v, V). The principle mentioned, which is advocated by the Institute of International Law (*Year-Book*, Volume XV, page 271, Article 3 of Resolution) and embodied in a few conventions (Treaty between Germany and Guatemala of September 20th, 1857, Article 10, paragraph 4; Convention on Nationality concluded between Italy and Nicaragua on September 20th, 1917), is far from being generally recognised.

It would certainly be an advantage if the above rules could be generally recognised; it would help to eliminate the difficulties and complications arising out of double nationality, which represents an absolutely abnormal phase in international life and which, according to M. Orlando's apt observation, "creates contradictions the adjustment of which might baffle the most subtle legal brain". But although the difficulties and drawbacks involved in multiple nationality are obvious, it would be premature to say that in present circumstances it would be possible to conclude an international convention with a view to avoiding the unfortunate consequences of such conflicts. The adoption of the principle of option combined with the possibility of repudiation (Recommendations of M. FAUCHILLE, Treatise, Volume I, 1, page 845, Nos. 3 and 4) and the recognition of *jus sanguinis* limited to a certain number of generations (Recommendation of the Institute of International Law) would certainly encounter political obstacles. I do not mean to say that a rule based on these principles would be absolutely impossible, but experience of international practice shows that the object in view would be more easily achieved by means of bilateral conventions which often pronounce for the application of the right of option as an efficient measure to avoid the disadvantages of multiple nationality. It must, however, not be forgotten — as was observed by M. Fusinato and Mr. Westlake during the discussions of the Institute of International Law (*Year-Book*, Volume XV, page 237) — that any proposal put forward with the object of avoiding conflicts of law must end in the drawing-up of a uniform law on nationality. The tendencies governing international practice at the present time, however, would make such a solution impossible. Only a few isolated questions can be taken up with any hope of a solution commanding general approbation.

3. Granting the existence of double nationality which cannot be eliminated by establishing a precise and conclusive general rule, and the dangerous uncertainty involved in certain legal situations, might not a solution be found at least for the following cases? In the event of a dispute as to the nationality of a person of double nationality arising in a State of which he was not a

subject, which of the two nationalities should prevail over the other and be recognised as valid for the purpose of the issues in question? We have observed that, in virtue of the principle of the sovereignty and independence of States, the legal position of a person whose nationality is in dispute between two States is settled, as against the other claimant State, by the fact of his being domiciled or residing in one of the two States. The theory put forward by Bluntschli that preference must be given to the State in which the person concerned has his domicile (see International Law Codified, Article 374) — which was recognised in the Venezuelan arbitral awards of 1903 and 1905, as well as in the Canavaro case settled by the Permanent Court of Arbitration at The Hague in 1912 — is not satisfactory, especially where it is a question of conflicts between States which are directly interested in the determination of the nationality of a person whose allegiance is claimed by the two States on equally valid grounds (see also Swiss Consular Regulations of September 16th, 1919, Article 49). On the other hand, in cases in which a third State must decide upon the validity of one of two nationalities, the principle of alternative nationality might be adopted, making the decision dependent upon one only of the two factors determining nationality, namely, that of domicile in one of the two countries, or — in the case of a person who is domiciled in neither of the two countries of which he is a national — the last domicile. We must stress the fact that such a solution, admitting the principle of alternative nationality, could only be applied in relation to third States and cannot be maintained in relation to the two States which claim the allegiance of the person in question; for these States the problem of double nationality hardly exists and the national of a State, even if domiciled on its territory, may not base any claims on that nationality as against another State which claims his allegiance in virtue of its laws. In each of any two States of which a person is a national, his allegiance will always be determined by the laws locally in force. This principle applies in general to all matters relating to his personal status. As Fiore has justly remarked, "it would seem evident that conflicts of laws arising between two States out of the double nationality of one of their subjects must be settled in accordance with the laws of the country in which the person who gives rise to the conflict resides, or of the country in which the disputed property is situated". But outside these two States the principle of domicile would play the principal part.

I consider that the principle adopted in the Japanese Civil Code (Article 8) might, with certain modifications, be recognised as a rule offering a solution for cases of double nationality. Article 8, paragraph 2, of the Japanese Civil Code reads as follows:

"Any person who at the same time possesses a foreign nationality shall be subject to the laws of the Empire, and any person possessing a double foreign nationality shall be subject to the laws of the country of which he has most recently acquired the nationality."

The second part of this provision should be amended, for if the most recent acquisition of nationality is taken as the criterion, no solution is provided for conflicts arising out of the acquisition of nationality by origin. It would therefore be preferable to recognise as valid the nationality indicated by possession of domicile in one of the countries of which the person is a national, and if he is domiciled in neither of the two countries, the nationality corresponding to his last place of domicile.

B. — 1. Before broaching the problems connected with change, loss and resumption of nationality, it should be pointed out that the political obstacles which stand in the way of the solution of these problems would be very difficult to overcome. If we consider in the first place questions relating to naturalisation, it is obvious that each State must be free to enact whatever rules it may think fit concerning the conditions and consequences of the acquisition of its nationality by naturalisation. These rules will not always take into account the provisions of the law to which the person applying for the new nationality is subject and to which he remains subject even after naturalisation. Naturalisation is an act of sovereignty, and any limitation of the powers of a State in such a matter is not to be thought of. There are cases in which a person acquires a new nationality by means of naturalisation without being released from his original nationality by the State of which he was a national, and it also may happen that a person may renounce his nationality in order to acquire another (this is a condition which is often prescribed by the laws of a country of which it is desired to acquire the nationality), but that subsequently the application for naturalisation is definitely refused.

The first case constitutes a typical example of double nationality; the second case is an example of loss of all nationality.

To avoid such difficulties, the recommendations of the Institute of International Law might be adopted (Volume XV — Resolutions adopted at the meeting of September 29th, 1896, Articles 5 and 6); but it is very doubtful whether such solutions would be generally acceptable, seeing that the political interests of a State may require complete liberty of action in matters of naturalisation and may forbid the restriction of its authority implied by making its decisions, in certain circumstances, contingent upon those of another State. The latter State might refuse to release a given person from its allegiance, even if it did not recognise the principle of perpetual and inalienable allegiance. Moreover, the laws of certain countries do not consider that the voluntary acquisition of foreign nationality *ipso facto* involves the loss of the original nationality.

One might ask whether the principle that States should in future grant naturalisation, or even resumption of their nationality, to nationals of another State only if the latter have been explicitly released from all allegiance to that State could not be embodied in a general convention.

This could more easily be achieved by means of bilateral conventions which can take into account the special relations existing between two countries (for instance, the Austro-Serbian Convention of June 16th, 1883, stipulating that the subjects of one of the contracting parties may not acquire the status of citizen in the territory of the other party without previously obtaining permission from the authorities of their own country to renounce their original nationality; see

also the agreement between France and Monaco of October 7th, 1919, and the conventions concluded between Czechoslovakia and Austria, June 7th, 1920, Article 16, and Germany, October 31st, 1922, Article 13).

Nevertheless, there is reason to think that an international agreement might be reached on the point if the recommendations regarding naturalisation were drawn up so as to make their application optional, for instance:

- (1) Naturalisation may be granted only on condition that the applicant proves that his country of origin has released him from its allegiance;
- (2) But if the country of origin adheres to the principle of perpetual and inalienable allegiance, such proof may be dispensed with; and
- (3) Naturalisation may be granted if the applicant can prove that the refusal of the required authorisation was not based on just and reasonable grounds; the fact that the applicant has not fulfilled the requirements of his country in the matter of compulsory military service must always be regarded as a valid ground for refusal;
- (4) Acquisition of nationality by naturalisation shall not entitle the State which has granted naturalisation to extend diplomatic protection to the naturalised person as against the State of which he was formerly a national if naturalisation was obtained by reason of the fact that the grounds on which authority to apply for naturalisation was refused were not just or reasonable, or if the country of origin adheres to the principle of perpetual and inalienable allegiance.

It would, on the other hand, be desirable to lay down the rule that release from allegiance owing to naturalisation in a foreign country involves the loss of the original nationality only on the express condition that naturalisation is actually obtained. The application for denationalisation should take effect at the moment at which the new nationality is effectively acquired. The recommendation of the Institute of International Law (Article 6) would not cover all cases which might arise, for it only provides for the case of a person who has fulfilled all the requirements for obtaining naturalisation in another country. If these conditions have been fulfilled, loss of the original nationality may result. But cases might occur in which the conditions for the acquisition of a new nationality have been fulfilled and the request for naturalisation is nevertheless subsequently refused on account of circumstances arising after the applicant has been released from his original allegiance. If, according to the legislation of the original country, it is the actual naturalisation which produces the loss of the original nationality, the danger of loss of all nationality does not really exist. But if the laws of a country provide for the loss of the original nationality in case of naturalisation in a foreign country which insists upon the condition of formal release from the original nationality, such release, once it has been granted, may be the cause of loss of all nationality if the application for naturalisation is subsequently refused in spite of the fact that the required conditions have been fulfilled or the necessary permission from the original State obtained. For this reason it would be desirable that the principle should be laid down that release from allegiance should only take effect when the process of naturalisation has been definitely concluded. Certificates authorising application for another nationality need not necessarily involve loss of the original nationality. I may quote a very reasonable measure embodied in Polish legislation, which provides for the loss of Polish nationality in the event of naturalisation in a foreign country, but lays down restrictions in regard to persons liable to compulsory military service. In the case of such persons a certificate of release is required, but this release only becomes effective if a new nationality has actually been acquired, and becomes null and void two years after it has been granted; after the expiration of this time-limit, which, if necessary, may be prolonged, the release becomes inoperative, and Polish nationality is retained (see Decree of March 21st, 1925, promulgating administrative regulations for the execution of the Law of May 23rd, 1924, on compulsory military service, *Legal Gazette*, 1925, No. 37, pos. 252, paragraphs 534 and 535). This principle should be applied in all cases where the laws of a State require that, before naturalisation in a foreign country, formal authorisation must be obtained, even if the applicants are not liable to compulsory military service. The above rule ("naturalisation shall depend upon the production of proof that the country of the applicant has released him from its allegiance") is therefore to be taken as implying that the release from nationality only comes into operation at the moment when naturalisation has been granted and has actually taken effect.

2. In modern law there is one particular case of change of nationality which might be called a *necessary change*, although it could not properly be called involuntary, namely, change of nationality *by marriage*.

No conflict could arise here if marriage always and everywhere involved loss of the former nationality and the acquisition of a new nationality. But seeing that the law on these matters is based on different systems in different countries and that there is at the present time a very marked tendency to grant married women the right to choose their own nationality, irrespective of the fact of marriage, it is obvious that conflicts must arise which were formerly unknown. The current of modern opinion has had an influence on nationality laws, and the principle that a married woman should have the right to keep or to acquire as she thinks fit (even for children who are in her charge) the nationality she prefers, irrespective of the nationality of her husband, is fully recognised as a unilateral or bilateral rule. That is to say, it is unilaterally laid down that a woman who is a national of the country does not, when marrying a foreigner, lose her original nationality unless she so desires, but the case of the marriage of a foreign woman with a national of the country is not settled in the same sense; or else the general bilateral rule is laid down that marriage does not involve the denationalisation of the woman, without making any distinction between the case of a woman who is a national marrying a foreigner and that of a foreign woman marrying a national of the country.

Apart from legislations which do not contain any provisions regarding change of nationality through marriage, or which make a change of nationality contingent upon certain special conditions (for instance: domicile, reciprocity), we must distinguish between the two main systems I have described above. As an interesting example, we may quote the provision adopted in Soviet legislation which—in cases of marriage between persons belonging to different nationalities, one of the parties being Russian—makes no distinction between the sexes and lays down the general principle that marriage does not affect nationality but allows a change of nationality to be effected upon a special request submitted by the bride or bridegroom (Article 103 of the Code regarding Civil Status, the Laws of Marriage, Family and Guardianship). The Soviet Law of Nationality of 1924 (Article 5) provides in such a case for simplified naturalisation.

The most recent laws show a marked tendency to abandon the old principle that marriage *ipso facto* involves loss of nationality for the woman (Law of the United States of September 23rd, 1922; Belgian Law of May 15th, 1922, Article 18, requiring a formal declaration; Roumanian Law of February 23rd, 1924, Article 38, providing for the possibility of retaining the original nationality by a provision inserted in the marriage contract or, failing such, in virtue of a special declaration made in proper form before or at the time of marriage). In these circumstances it is not surprising that there is a considerable increase in conflicts of this nature. These would, however, be solved if the uniform principle were established that a woman retains her nationality upon marriage (or in the case of the naturalisation of the husband) unless she explicitly declares that she desires to acquire the nationality of her husband. A provisional draft international convention on the nationality of married women, taking into account modern tendencies in such matters, has been drawn up by the International Woman's Suffrage Alliance (see also the discussions of the *International Law Association* and the able report by Mr. Ernest J. SCHUSTER on "The Effect of Marriage on Nationality": Report of the 32nd Conference, 1924, pages 9-25).

We cannot here analyse in detail all the provisions of this draft, which endeavours to solve the many difficulties arising out of differences of nationality between husband and wife caused either by marriage or by naturalisation. But, although the establishment of a world law on this subject, or the adoption as a basis for internal laws of the general principles embodied in the draft, is very desirable, it cannot be affirmed that the moment for such measures has come. The obstacles in the way of such a solution would seem to be very great, for it is not likely that the States of the Continent of Europe would be inclined to accept, without any limitation, the principle that the marriage of a foreign woman with a national does not involve the loss of her original nationality. Even countries which recognise the right of a woman who is a national and who marries a foreigner to refuse to acquire the foreign nationality of her husband (unilateral system) might seriously object to the reciprocal application of this principle.

I am of opinion, therefore, that the introduction of the general principles laid down in the above-mentioned draft convention concerning the nationality of married women would now be premature, and can only be contemplated as a later stage in the work of codification. In the work of progressive codification the greatest caution is required, in order not to compromise the possibilities of a general international regulation to which internal laws would be subordinated. For this reason an attempt must be made to prevent or to remove the most acute and harmful conflicts while taking into account the political obstacles which might make even the most modest work of codification impossible. In view of the impossibility—which I suppose to be only temporary—of settling all conflicts regarding the nationality of married women, I am of opinion that, in present circumstances, only *three problems* can form the subject of international regulation.

A.

The laws of many countries provide that the marriage with a foreigner of a woman who is a national always involves the loss of the original nationality of the woman, even if the laws of the country to which the husband is subject do not consider that marriage gives the wife *ipso facto* the right to acquire the nationality of her husband. To meet such cases the following rule is necessary: "a woman who marries a foreigner of any given nationality loses her original nationality only if she acquires by marriage the nationality of her husband in virtue of the laws of his country". The adoption of this principle, which is recognised even by the legislation of countries which do not have the rule of denationalisation of a woman through marriage with a foreigner (such as Belgium, Bulgaria, China, Costa Rica, France, Italy, Japan, Mexico, Poland, Portugal, Roumania, San Salvador, Switzerland, the Free City of Danzig) would be an effective means of eliminating the risk of loss of all nationality owing to the differences in the various legislative systems. Such a solution might form a compromise between these systems and smooth the way for a future agreement and a more complete regulation of these questions, while it would meet the views of those who claim that married women should possess independence in matters of nationality. I would therefore propose the following rule:

"A married woman shall lose her nationality only if at the time of her marriage, or during the marriage, she is considered by the law of the country of which her husband is a national as having acquired the latter's nationality."

This rule would meet the case of naturalisation of the husband after marriage, when such naturalisation did not involve a change of nationality for the wife, and, in accordance with the law to which the wife was subject before marriage, she is considered to have lost her original nationality although she has not acquired that of her husband. In such cases, the naturalisation of the husband, if it does not affect the wife, will leave the original nationality of the wife unaffected and the hardships inherent in lack of all nationality will be prevented. The rule should be applied in all cases where naturalisation according to the law applicable does not affect the nationality

of the wife and where the laws to which the husband and wife were subject before the naturalisation lay down that the naturalisation of the husband *ipso facto* involves the naturalisation of the wife (see the Chinese Law on Nationality of December 13th, 1914, Articles 10 and 15). Since the proposed rule would eliminate disputes arising out of lack of nationality, the question might be considered whether it should not be formulated as a general principle covering also cases of the acquisition of nationality through marriage. In cases of conflict between legislations of the bilateral and those of the unilateral type, or with laws of the traditional type (considering marriage as *ipso facto* involving a change in the nationality of the woman), there does not appear to be any means of preventing conflicts arising out of double nationality. The laws of the United States (Cable Act of 1922) do not admit that the marriage of an American woman with a foreigner can involve the loss of her original nationality unless she formally renounces it ("unless she makes a formal renunciation of her citizenship"). An American woman who acquires the nationality of her husband in virtue of the laws of his country does not thereby lose her original nationality. She therefore acquires a double nationality. In order to prevent such conflicts, the proposal has been made to introduce a positive clause modelled upon the provisions of legislations which make loss of nationality dependent on the existence of corresponding provisions in the law to which the foreign husband is subject. Although the negative clause has already been introduced into several legislations, the positive form does not yet exist. Such a clause is discussed in the monograph written by Dr. Gustav Schwartz on the problems of nationality during and after the World War (*Das Recht der Staatsangehörigkeit in Deutschland und im Ausland seit 1914*). He describes it as a "reinsurance" clause (page 202, "Rückversicherungsklausel"). A woman is only to acquire the nationality of her husband if the law to which she was subject before marriage recognises the loss of her original nationality through the fact of marriage. Once it has been decided that the principle of individual nationality shall prevail over the principle that the family constitutes a unit, and this principle has been clearly formulated in negative clauses, it is obvious that a corresponding extension of the existing clause becomes a necessity. Therefore, by a process of generalisation, the following rule might be formulated:

"In the case of a woman marrying a foreigner, acquisition by her of her husband's nationality and loss of her original nationality shall be conditional respectively upon her being treated by the law of the State to which she belongs as having lost her original nationality and upon her being treated by the law of the State of her husband as having acquired his nationality, whether at the moment of marriage or during the marriage."

(As regards the effect of this rule on possible conflicts of laws, see the observations made below regarding the legitimation of illegitimate children.)

Incidentally, it should be observed that any rule which provides for a difference of nationality between husband and wife must necessarily affect questions of private international law, since it abrogates the unity of the matrimonial status. This problem requires careful examination, seeing that the complications which differences in the respective status of the husband and the wife may create require a clear and definite solution. It is not for us to decide here which of the systems proposed for the solution of the conflicts of private law is the most appropriate. (Cf. the system adopted in Argentine and Brazilian legislation making a distinction between the political and civil effects of nationality; see ZEBALLOS, Volume IV, pages 759, 733, 1051 and 1056; the system of ZITELMAAN, *Internationales Privatrecht*, Volume II, page 507, providing that the effects of marriage depend for husband and wife upon their individual personal status and, in particular, that the husband cannot exercise any rights in respect of his wife other than those he would possess under the law of his wife's country, pages 749 and 750; the system adopted in the French draft on the reform of Article 3 of the Civil Code concerning the effects of marriage on the personal relations between a husband and wife who are of different nationality (*Revue*, LAPRADELLE, 1924, Volume XIX, page 312). The draft submitted by the International Woman's Suffrage Alliance makes the applicable status dependent upon the decision of the husband and wife, and does not therefore provide any positive solution for cases where husband and wife have not explicitly settled the question. I venture to draw attention to this extremely thorny problem, which is of capital importance.

B.

A uniform solution is also required for cases of resumption of nationality by women whose marriage has been dissolved, since it is possible that a resumption of nationality provided for by the law of the woman's original country might not be recognised as involving the loss of her acquired nationality under the law to which she is subject by reason of her marriage. Problems connected with the resumption of nationality by minors or persons who, having obtained naturalisation in a foreign country, subsequently renounce it and resume their original nationality upon again taking up their residence in their country of origin are, on account of political obstacles, not suitable for international regulation; but the situation is different where widows and divorced women are concerned. In this connection the introduction of a rule that resumption of the original nationality on the dissolution of marriage always *ipso facto* involves the loss of the nationality acquired by marriage would be useful and practicable, and would not encounter political opposition. It is true that the conception of "dissolution of marriage" depends on the provisions of the law on this subject to which the husband and wife are subject. A unilateral regulation of this problem (loss of the nationality acquired by marriage with a national in case of resumption of the original nationality) is embodied in the Roumanian Law regarding nationality of February 23rd, 1924 (Article 40), and is also included in the French bill on nationality passed by the Senate in 1922.

C.

Furthermore, the question should be considered whether the proposal contained in the draft of the International Woman's Suffrage Alliance (Clause II — Protection of women without nationality) could not be adopted in cases in which a woman loses all nationality through marriage in consequence of the latter involving the loss of her original nationality without *ipso facto* entitling her to the nationality of her husband. It would be highly desirable that the position of married women to whom the diplomatic and consular protection of the country of which their husbands are nationals is denied should be improved.

The following rule might therefore be suggested:

"A woman who does not, through marriage, *ipso facto* acquire the nationality of her husband and who, under the law of her country of origin, is considered to have lost her original nationality through marriage, shall nevertheless have the right to a passport and to the diplomatic and consular protection of the State of which her husband is a national."

This rule has already been adopted in consular practice by the Argentine Republic (ZEBALLOS, Volume IV, pages 1055 and 1056).

3. A rule common to many legislations is that the legitimation of a child by a foreigner may, under certain conditions, involve the loss of the minor's nationality. The conflicts to which we have drawn attention when discussing changes of nationality through marriage arise, therefore, in connection with the legitimation of children by foreigners. In such cases a child may be regarded by the law of his country of origin as having lost his nationality, while the law to which the person legitimating or recognising the child is subject may provide that the change in civil status does not affect the nationality of the illegitimate child; consequently, such a child may possess no nationality at all.

In order to remedy this state of affairs, there might be adopted in international law a principle which is already recognised in Belgian law (Law of May 15th, 1922, Article 3), by the Free City of Danzig (Law of May 30th, 1922, paragraph 13) and by legal practice in Switzerland (see SAUSER-HALL, *La Nationalité en droit suisse* 1921, pages 39 and 40), namely, that the legitimated child only loses its nationality in virtue of the change in its civil status if the national law of the father confers upon the child the father's own nationality (it is obvious that if the father possesses no nationality the original nationality of the child is not affected).

The following rule might therefore be suggested:

"An illegitimate child shall lose its nationality by reason of legitimation only if at the time of the change in its civil status it is considered by the law of the State of which its father is a national as having acquired the latter's nationality."

It has to be considered whether a parallel rule for the case of acquisition of nationality would be accepted. Such rule would apply to the cases in which a national legislation regards legitimation as a title to the acquisition of the father's nationality. A foreign illegitimate child would only acquire the nationality of its father if the law of the State to which the child belonged before legitimation regards legitimation by a foreigner as a special ground of loss of nationality. Such a rule appears reasonable for the purpose of avoiding the effects of double nationality. Including, then, this second principle, the above rule on loss of nationality might be given a general form, viz.:

"In the case of an illegitimate child of a foreign father, acquisition of the father's nationality and loss of the child's original nationality are conditional respectively on the child's being treated by the law of the State to which it belongs as having lost its original nationality and on the child's being treated by the law of its father's State as having acquired his nationality at the moment of the change in the child's civil status."

This rule might be applied *mutatis mutandis* in cases of recognition of illegitimate children.

It should be pointed out that the above provision is not intended to determine by way of a uniform regulation the effects of legitimation (or recognition) on nationality. It is not intended to create a positive rule, that is to say the contracting States would not be bound to admit that the legitimation of a foreign child by a national involves the acquisition of the State's nationality or, *vice versa*, that legitimation may involve loss of the nationality where a national is legitimated by a foreigner. In view of the divergencies between the laws of various countries on this subject, it is not likely that there is sufficient unanimity of view to permit of the adoption of a uniform rule. The provision suggested merely represents a rule intended to prevent conflicts without affecting the exclusive competence of the legislations concerned. Each State would be free to decide whether it would or would not recognise an effect of legitimation on nationality; but, assuming the recognition of such effect, the scope of the application of any positive rule would depend on the corresponding provisions of the law of the other State if the latter also recognises the effect of the change in the civil status of the legitimated child.

There are therefore three classes of cases which might be taken into consideration:

(1) The legislation of State A provides that legitimation does not affect the nationality of the child, whereas the legislation of State B recognises the consequences of such a change and acknowledges acquisition of the new and the loss of the original nationality. In cases of conflict between these two legislations, our rule, if applied, would produce the following results: a child of nationality B legitimated by a person possessing nationality A will not acquire nationality A (according to the law of A) and will not be considered by the law of country B as having lost its nationality of origin (in accordance with the proposed rule); a child of nationality A legitimated by a person possessing nationality B will not lose its nationality A (according to the law of A) and will not be

considered by the law of B to have acquired a new nationality (according to the rule proposed). It would therefore only be the law of State B which would be affected by the international rule and whose internal rules would be set aside. The provisions of the law of A would remain unaffected.

(2) If State A and State B possess rules as to the effects of legitimation, and if they both provide that legitimation has a positive as well as a negative effect (acquisition and loss of nationality), no conflict will arise; but conflicts are inevitable if the effects of change of nationality vary according to special conditions differing in each country (for instance, State A recognises the effects of legitimation whatever the age of the legitimated child, whereas State B makes the effects of legitimation depend upon whether the child is a minor or not emancipated (*cf.* also the prohibition of legitimation of children born in adultery). The proposed rule would eliminate the difficulties and dangers of double nationality or lack of nationality.

(3) The legislation of State A recognises the positive effects of legitimation (acquisition of nationality) while eliminating its negative effects (legitimation of a child of nationality B by a national of State A involves the acquisition of nationality A but the legitimation of a child which is a national of State A by a foreigner belonging to State B does not involve the loss of the original nationality of the child belonging to State A). The laws of State B, however, recognise simultaneously the positive and negative effects, that is to say, child A legitimated by a national of State B would be considered as having acquired nationality B, but the laws of State A regard it as not having lost its original nationality. The application of the proposed rule would eliminate the possibility of conflict; since the child would not lose its nationality A, it could not acquire nationality B.

* * *

In the foregoing observations I have drawn attention to certain matters which, in present circumstances, would appear to be ripe for codification by means of plurilateral conventions. If this means of reducing conflicts of laws in matters of nationality is adopted, attempts at codification might produce satisfactory results. But, since it is essential to proceed cautiously, a beginning must be made with the less complicated problems which are not likely to arouse the opposition of the States concerned. The results achieved in such a limited field will perhaps appear a little meagre and insignificant, for they will not touch upon the substance of the conflicts in question and will mainly offer solutions for minor difficulties. All beginnings, however, are difficult and it may be hoped that, by thus obviating conflicts of a secondary order, it will ultimately become possible to undertake work on a wider basis with a view to the settlement, without too much friction, of the main problems. Such a codification by stages would be preferable to vaster and more ambitious schemes for the solution of all possible conflicts. The result of attempting too much might be to put in question the very possibility of codification.

The questions which we have indicated as suitable for international regulation would form only a small part of any treaty which might be concluded in the future with a view to obviating conflicts of laws on nationality. Among others, there are some questions of form relative to proof of nationality which are of great practical importance in international relations and urgently require solution in order to improve the position—often a very precarious one—of persons required to furnish certificates constituting official and absolute proof of nationality. The system of registration, which is provided for by the laws of several countries (Belgium and Italy; and *cf.* the idea of a *casier civil* proposed in France), might be generalised by an international agreement; although it would not remove all difficulties, it would to some extent mitigate them. There could be no doubt of the practical importance of such a reform, which would have to be introduced into the internal law of each State. The Grotius Society has very rightly recommended and drafted rules regarding compulsory registration, maintaining that by this means the uncertainties at present obtaining in international relations would necessarily disappear (see *Transactions of the Grotius Society*, Volume IV, Report of the Committee on Nationality and Registration, page 52: "Registration only fixes nationality with regard to the State which introduces it. Were all States to adopt it, there would be a foundation for an international solution of all difficulties which exist at the present moment, for, with regard to no one would there any longer exist any uncertainty and universal recognition of each other's registers would amount to international agreement and practical uniformity"). This system has been adopted by English law (British Nationality and Status of Aliens Act, 1914-1922, Section I, *r.b.* V)

A draft convention between the Austro-Hungarian Succession States signed at Rome on April 6th, 1922, provides for the establishment of nationality by means of a certificate issued by the competent authorities, at the same time acknowledging the importance of the general principle that the rules governing acquisition or loss of nationality must depend on the law of each State. Article 2 of the draft reads as follows:

"As between the High Contracting Parties, nationality shall be proved by a certificate issued by the authority competent under the law of the State concerned and countersigned by the authority to which the said authority is responsible. This certificate shall state on what legal basis the claim to the nationality which the certificate is intended to prove rests. Each of the High Contracting Parties shall, however, be entitled, whenever it considers it necessary, to require that the contents of the certificate shall be confirmed by the central authority of the State."

If, finally, satisfactory results are to be obtained by international regulation, it would be necessary to introduce in any convention concluded for this purpose a general clause providing for judicial settlement or compulsory arbitration of disputes between the contracting parties on the questions of nationality which the convention is to settle. The compulsory arbitration clause is becoming more and more frequently adopted in conventions dealing with conflicts of nationality.

It is included in the conventions concluded between Austria and Czechoslovakia on June 7th, 1920 (Articles 21 to 30); between Germany and Czechoslovakia on October 31st, 1922 (Articles 14 and 22); between Germany and Denmark on August 10th, 1922 (Article 13); the same procedure is provided for in a draft convention on nationality questions signed at Rome on April 6th, 1922 (Article 4).

Although formerly the generally accepted view was that disputes regarding nationality were explicitly excluded from arbitration (see Arbitration Convention between the Argentine and Italy of September 18th, 1907), this restriction will have to be abolished once questions of nationality are made a matter of international regulation.

In my opinion, the problems referred to above and these two additional proposals would be the only ones suitable for immediate codification. Once this first stage has been reached, regulation on a wider basis might be attempted, for there can be no doubt that practical experience of the effects of international regulation in these matters will furnish valuable hints for the subsequent stages of the work which, as we hope, may be undertaken on a larger scale in the near future.

Two very eminent jurists, WEISS (Treatise I, page 329) and OPPENHEIM (*International Law*, I, page 487), have hoped that the solution of the conflicts with which we are dealing might be obtained by establishing a uniform law embodied in an international convention, or by formulating an international obligation for the States to revise their internal laws on a common basis, which would serve as a model for the drafting of such laws. This would represent an ideal, the maximum which any international jurist would have the right to contemplate.

I am of opinion, however, that, in order to reach this goal—which would mean the solution of all conflicts—it will be necessary to proceed by stages, for a universal regulation touching upon the substance of the matter would not seem to be compatible with the legal situation at the present day; it would surely be unfortunate if, by attempting tasks which for the moment are beyond us, we were to fail to achieve results which, although modest, would be of great value and, last but not least, practicable.

PRELIMINARY DRAFT OF A CONVENTION FOR THE SETTLEMENT OF CERTAIN CONFLICTS
OF LAWS REGARDING NATIONALITY.

Article 1.

The High Contracting Parties, while recognising the general principle that acquisition and loss of nationality are governed by the internal legislation of each country, undertake not to afford diplomatic protection to and not to intervene on behalf of their nationals if the latter are simultaneously considered to be its nationals, on grounds other than mere residence in the country, by the law of the State on which the claim would be made.

Article 2.

A woman who does not acquire through marriage the nationality of her husband and who, at the same time, is regarded by the law of her country of origin as having lost her nationality through marriage, shall nevertheless be entitled to a passport and to the diplomatic protection of the State of which her husband is a national.

Article 3.

The children of persons who enjoy diplomatic privileges and immunities, of consuls who are members of the regular consular service and, in general, of all persons who exercise official duties in relation to a foreign Government, shall be considered to have been born in the country of which their father is a national. Nevertheless, they shall have the option of claiming the benefit of the law of the country in which they were born, subject to the conditions laid down by the law of their country of origin.

Article 4.

A child born of parents who are unknown or whose nationality cannot be ascertained acquires the nationality of the State in which it was born or found, when it cannot claim another nationality in right of birth, proof of such other nationality being admissible under the law in force at the place where it was found or born.

Article 5.

The provisions of Article 4 shall apply where the nationality of the parents is known but the law of the State of which they are nationals does not grant to a child born outside its territory the nationality of its parents.

Article 6.

Notwithstanding the provisions of Article 1, all persons possessing double nationality shall be regarded by the States the nationality of which they possess as their nationals. In relation to third States the nationality of such persons shall be determined by the law in force in their place of domicile, if they are domiciled in one of the two countries of which they are nationals.

If such persons are not domiciled in either of these two countries, their nationality shall be determined in accordance with the law in force in that one of the two States in which they were last domiciled.

Article 7.

The Contracting Parties undertake to grant naturalisation only on condition that the applicant is released from his allegiance to his country of origin.

Naturalisation may nevertheless be granted if the State of origin of the applicant adheres to the principle of perpetual and inalienable allegiance, or if the applicant proves that he has been refused expatriation without just and reasonable cause.

Naturalisation acquired under the conditions laid down in paragraph 2 does not entitle the State which has granted such naturalisation to afford diplomatic protection to or to intervene on behalf of the person naturalised as against the State of which the naturalised person was formerly a national.

Article 8.

A release from allegiance (permit of expatriation) shall produce loss of the original nationality only at the moment when naturalisation is actually obtained in one of the Contracting States. Such release shall become null and void if the naturalisation is not actually granted.

Article 9.

A woman married to a foreigner who by the dissolution of her marriage (death of husband, annulment of the marriage, divorce) recovers her original nationality shall by the fact of such resumption of nationality lose the nationality she acquired by marriage.

Article 10.

In the case of a woman marrying a foreigner, acquisition by her of her husband's nationality and loss of her original nationality shall be conditional respectively upon her being treated by the law of the State to which she belongs as having lost her original nationality and upon her being treated by the law of the State of her husband as having acquired his nationality, whether at the moment of marriage or during the marriage.

Article 11.

In the case of an illegitimate child of a foreign father, acquisition of the father's nationality and loss of the child's original nationality are conditional respectively on the child's being treated by the law of the State to which it belongs as having lost its original nationality and on the child's being treated by the law of its father's State as having acquired his nationality at the moment of the change in the child's civil status.

Article 12.

As between the Contracting Parties, nationality shall be proved by a certificate issued by the competent authority and confirmed by the authority of the State. The certificate shall show the legal grounds on which the claim to the nationality attested by the certificate is based. The Contracting Parties undertake to communicate to each other a list of the authorities competent to issue and to confirm certificates of nationality.

Article 13.

Failing a direct agreement between the Contracting States, any disputes which arise between them regarding the application or interpretation of the present Convention shall be brought before the Permanent Court of International Justice unless, in virtue of a special convention or a general arbitration clause, the dispute is settled either by a procedure of conciliation or arbitration or by some other means.

The Contracting Parties agree that each Party shall be entitled to refuse to have the questions referred to in the present Convention submitted to a procedure of conciliation or arbitration before the competent national jurisdiction has given its final decision, except always in cases of denial of justice.

Article 14.

The provisions of the present Convention shall not in any way affect those of treaties, conventions or agreements in force regarding questions of nationality which have been concluded by the Contracting States before the date at which the present Convention comes into force.

Article 15.

The present Convention shall apply only to the nationals of a Contracting State.

Article 16.

The Contracting States do not undertake in virtue of the present Convention to apply any laws other than those of one of the Contracting States.

Article 17.

Clauses providing for ratification and accession.

Clauses as to the duration, renewal and denunciation of the Convention.

Warsaw, October 8th, 1925.

(Signed) S. RUNDSTEIN.

II. SUPPLEMENTARY NOTE BY M. RUNDSTEIN

[Translation.]

(C. P. D. I. 20, Annex.)

Some further observations, complementary to those I have already had the honour to submit on behalf of Sub-Committee A, are called for, in view of the fact that the International Law Association has prepared a detailed draft regarding the uniform regulation of questions of nationality, which was adopted by the Thirty-third Conference held at Stockholm in 1924 (Report of the Thirty-third Conference, Report of the Committee on Nationality and Naturalisation, pp. 22-72).

In analysing the Association's suggestions, it should be observed in the first place that the solution proposed by the Association cannot be considered a rational one. The recommendation of two modes of procedure for the purpose of avoiding conflicts, *i.e.*, either that of embodying the relevant clauses in national legislation or of concluding a special convention regarding questions of conflicts properly so called, would not bring us nearer to our goal. The proposal of a "model Statute" would involve far-reaching reforms of domestic legislation; it would be tantamount to a fundamental revision of laws which in many countries are regarded as rules of a constitutional nature. The more so since the "model Statute" is based on the universal recognition of *jus soli* as a general principle modified by optional provisions designed to facilitate the application of *jus sanguinis*. Such a solution, consisting in the establishment of a single test of nationality, would have little chance of general acceptance. What we are endeavouring to do is not to create uniform "qualifications" for the whole world; that would be a goal beyond our reach under present circumstances. The task of codification is a more modest and, I venture to assert, a more fruitful one, since the solution of conflicts that at first sight seem insignificant but that weigh heavily on the normal functions of international life is more important than the recommendation of uniform rules which under modern conditions it would be almost impossible to apply. It is doubtful, moreover, whether such rules would really be uniform; the fact that a rule is identical in several legislations does not imply that its practical application and the interpretation given to it by the courts and by juridical acts in administrative law would always be the same in the different countries. Further, it is difficult to conceive the normal operation of a uniform legislation unless a universal jurisdiction were created at the same time—that is to say, an international court with compulsory jurisdiction. This would be an essential condition, since without a common jurisprudence the uniform law in force in each country which had accepted the "model Statute" would be subject to the well-known influence of legal and administrative practice. Uniformity would therefore in point of fact be very problematical.

Nor can it be said that the recommendations contained in the "model Statute" would not require a fundamental revision of domestic legislations. On the contrary, it would be impossible to accept these recommendations without setting up new principles which could not be introduced into legal systems recognising the principle of *jus sanguinis*. Clause 1 of the "model Statute" ("nationality acquired on birth") favours the ingenious system embodied in the legislation of Great Britain; it adopts the admirable solution introduced into this legislation as a compromise between the two opposed principles of *jus soli* and *jus sanguinis*. But it differs from it in its conception of subsequent option which in English law requires a formal declaration regarding re-acquisition of the original nationality, whereas Clause 1 regards option as a repudiation of the nationality acquired in virtue of *jus soli*.

Could the system embodied in the English Law of July 4th, 1922, modifying the limitations recognised by the "Principal Act" of August 7th, 1914, regarding the extension of *jus sanguinis* and introducing the new principle of formal and compulsory declarations by the father and by the child, possibly be recognised as a universal solution?

I consider that the question of conflicts arising out of two opposite systems is not suitable for uniform regulation. It belongs rather to the province of bilateral conventions which take special and sometimes contradictory interests (emigration, military service, etc.) into account; such questions should be settled by means of a compromise where the contracting parties abandon the principles generally applied in their domestic legislation in order to obtain concrete and definite results by means of mutual concessions. The acceptance of Clause 1 would involve the introduction of reforms modifying the very structure of the laws on nationality in order to substitute, for instance, for the system of pure *jus sanguinis* the special provisions of English law (inscription in the register and subsequent option) modified by Clause 1, which is in favour of the adoption of *jus soli*. Doubtless such a new system embodying a general idea might be regarded as an effective means of preventing numerous and regrettable conflicts. But even if we accept the maxim that "general ideas are generous ideas", we must nevertheless bear in mind the obstacles in the way of the realisation of principles which, in theory, are rational.

Further, it would be difficult to maintain that the system proposed in Clause 2 of the "model Statute" regarding the legal effect of *legitimation* would be acceptable. A general statement that legitimation would produce its effect only if the illegitimate child possessed no other definite nationality would not be in conformity with the system accepted by most modern legislation. We may perhaps see here the influence of English law, which does not recognise legitimation *per subsequens matrimonium* and which in this particular differs from Scotch and North American law (see KUHN, *Principles of Anglo-American Law*, 1924, p. 183; DICEY-KEITH, pp. 522 and 849). I do not see the necessity of introducing a fundamental rule providing for the exclusion of one of the means by which nationality may be acquired. The codification of legal rules regarding nationality cannot, even by way of recommendation, provide a uniform basis to which individual legislations would have to conform; its principal task should be to endeavour to find solutions for conflicts. If any given country recognises the effect of legitimation on nationality, and the laws of another

country contain no provisions regarding this matter, or even give a negative solution to the question, the remedy must not be sought in the reform of the divergent laws — for I do not see the necessity of substituting for a system which is regarded by State A as rational a different system adopted by State B, which is not based on the legal traditions and interpretations generally recognised by State A. We do not say that the effects of legitimation must conform to a preconceived system; rather, while recognising the *existence* of divergence, we endeavour to solve the questions of acquisition or loss of nationality in such a way that the differences between individual legislations shall not involve the consequences of double nationality or statelessness. The acceptance of rules which are subject to the relevant laws in force in the various countries does not in any way affect these laws themselves. These rules may restrict their general effect and make the acquisition or loss of nationality dependent upon the previous solution of another question regarding the effect of a definite rule — that is to say, nationality may be acquired in virtue of legitimation *provided* such acquisition involves loss of the original nationality. In such a case, domestic law is subordinated to a rule embodied in a foreign law, but the principle of acquisition itself remains intact. For this reason, the solutions suggested in the report of our Sub-Committee in regard to legitimation would be preferable to a uniform regulation which would require a general remodelling of the laws in force and would constitute an attempt at introducing a principle restricting the possibilities generally recognised by the majority of legislations and even recommended in new draft laws (*cf.* the draft of the French law on nationality voted by the Senate, which puts an end to the controversy regarding the effect of legitimation on the nationality of illegitimate children).

Clause 2 ignores the question of the recognition of illegitimate children, which does not exist in English law, and which, as regards its effect on nationality, is of great importance in Belgian, French, Polish and Swiss legislation.

With reference to the question of the effect of marriage on nationality (Clause 3), it should be noted that, generally speaking, the preceding observations apply equally to the rules concerning this matter contained in the draft. These rules, providing for the possibility of declining the nationality acquired by marriage, are unacceptable. I refer to the considerations put forward in our Sub-Committee's report, and I am happy to see our point of view confirmed by an opinion given by President Hammarskjöld, who, in his report to the Conference of the International Law Association at Stockholm, laid stress on the fact that, "under present conditions, a reform which would deprive marriage of its automatic effect on the nationality of the wife would have very little chance of being universally accepted" (Report, p. 41). Clause 3 could only be regarded as intended to settle possible conflicts between different legislations; in this respect, it is in conformity with our Sub-Committee's proposal. But inasmuch as it lays down a fundamental rule to the effect that a married woman is entitled to keep her original nationality subject to a registered declaration, this clause necessarily involves a modification of principles which would meet with considerable difficulties. It would therefore be preferable to regard the suggestion under consideration as applicable exclusively to the settlement of conflicts. In this case the alternative provided for in Clause 3*b in fine* (*cf.* final draft, Report, p. 50) would be superfluous (... «or unless she makes a formal declaration to be recorded on the register of marriage to the effect that she wishes to retain her former nationality»). For *if* the national law makes a special reservation as to the effect of such a declaration, or if the option is contemplated of declining nationality, in which case the original nationality would remain intact ("a formal denunciation" in American law), the application of a rule on the suspension of the effects embodied in the law to which the husband is subject would prevent possible conflicts. But I do not see the necessity for laying down that all legislations must adopt the principle of separate nationality in virtue of a formal declaration by the wife. Moreover, it must be borne in mind that many legislations recognise the principle of formal renunciation of the original nationality or even adopt the strict principle that marriage has no effect whatever on nationality. Accordingly, neither a declaration by the wife nor renunciation by her are of importance for the settlement of the problem.

Clause 4 (conditions as to naturalisation) I consider superfluous; in so far as it introduces the rule of collective naturalisation in virtue of family ties, it runs counter to the principles recognised by many legislations, which allow of exceptions to this rule or provide for the possibility of reservations (conditions imposed by the act of naturalisation itself, option of subsequent repudiation, *cf.*, for instance, the English Law 1914-1922, Part II, Section 5). Moreover, the right granted to a child born in foreign territory to re-acquire by subsequent option its original nationality is erroneously regarded as "naturalisation" — the child is not obliged to observe the conditions regarding domicile or residence. This so-called naturalisation is nothing but an option, the conditions of which are governed by Clause 1.

Finally, Clause 5 (conditions as to loss of nationality) would be incompatible with legislations which provide for the acquisition of nationality by means other than naturalisation, marriage or legitimisation (limited exclusively to children without nationality), such as recognition, adoption, re-acquisition of her original nationality by a divorced woman, etc. In accordance with the above-mentioned rule, persons acquiring a new nationality in virtue of reasons other than those therein enumerated would not be considered as having lost their former nationality.

The draft submitted by the Association, which proposes to regulate the questions referred to in Clauses 1 to 5 by means of a "model Statute", recommends, in addition, the separate regulation of certain questions by means of international conventions. The recommendations deal with: (1) the problem of double nationality and statelessness; (2) the change of nationality of married women, and (3) expatriation.

1. The recommendations of the Association agree with the draft submitted by our Sub-Committee in so far as the regulations on double nationality are concerned. But I prefer the wording adopted in our preliminary draft and modelled on the proposal of the American Institute

for International Law. The Association's recommendations do not deal with the consequences involved in the imposition of nationality by the simple fact of residence; no attention is paid to declaration of intention as a decisive factor in acquisition of nationality (*cf.* Article 9 of the Draft Code of Private International Law by M. Bustamante y Sirven; also Article 2 of the Portuguese Decree of December 2nd, 1910, on naturalisation: "Any Portuguese citizen who for any reason is regarded as a national of another country may not, so long as he resides in that country, claim the status of a Portuguese citizen"). The criterion which it is suggested should be applied in the case of a person possessing double nationality residing in a third State is also inadequate. The documents produced by such a person (passport, certificate of origin, etc.) are not conclusive. They might be regarded as a presumption in support of the proof required by the third State, but I think it would be preferable to retain domicile as a criterion and as a basis for the application of the relevant law (Article 10 of the Bustamante draft).

As regards persons without nationality, the Association's recommendation would seem contradictory; on the one hand, such persons are regarded as possessing their former nationality, but at the same time they are not recognised the right to lay claim to the privileges accorded by treaties concluded between the country in which they are residing and the country of which they were formerly nationals. It would seem, therefore, that this provision would be of very limited value; it would affect conflicts arising under private international law and might be referred to in cases in which a State of which a stateless person was formerly a national refused to re-admit its former citizen who had been expelled by the foreign country in which he was domiciled.

2. The rule proposed in regard to the right to a change of nationality of women judicially separated from their husbands is not suitable for a convention on nationality applying to questions of public international law. This question is a problem belonging rather to the province of the legal capacity of married women; taking into account the rigidity of territorial laws, it is doubtful whether a rule of such far-reaching effect could be universally accepted. The Ferrari case settled by the French Cour de Cassation in 1922 (DALLOZ, 1922, I. 329, *Revue LaPradelle*, 1922-23, p. 444, and Note by PILLET, p. 461) shows that it would not be easy to subordinate the exclusive competence of territorial laws to the requirements of uniform regulation. French jurisprudence is of opinion that the acquisition of French nationality must be governed by territorial legislation, even when applied to foreigners (Articles 12, 14, 15 of the Bustamante draft). In the case of the re-admittance to her original nationality of a foreign woman who was originally a French national, the French Courts ignore the provisions of foreign law on the legal incapacity of the woman and marital authorisation (see PILLET-NIBOYET, p. 188). It is therefore not likely that a law which takes into consideration only the case of the death of the husband or divorce would be ready to admit that judicial separation, which does not dissolve the marriage tie, had an analogous effect. The divergency between the various legislations in regard to the effect of judicial separation is a sufficient reason for abandoning any attempt at a uniform settlement of conflicts of this nature.

3. Generally speaking, the recommendations concerning conflicts arising out of expatriation should be approved; they are in conformity with the resolution adopted by the Institute of International Law in 1896 (Articles 5 and 6), but it should be noted that questions concerning the forfeiture of a naturalisation already acquired, even when they exclusively concern cases of fraudulent naturalisation, are not yet ripe for settlement of any kind. This question, which has become acute owing to the events of the world war (except in the United States of America, where forfeiture of naturalisation was settled by the Law of June 29th, 1906, and in Great Britain, Section 7 of the Law of August 7th, 1914), has given rise to innumerable difficulties and has increased the number of persons possessing no nationality. In order to mitigate the unfortunate consequences of such a state of affairs, a rule was proposed to the effect that persons losing their nationality through forfeiture automatically resume their former nationality ("naturalisation obtained by fraud should be capable of cancellation, and upon this happening the individual concerned should revert to his former national status"). But could a State be compelled to re-admit a former national who had acquired a new nationality by means of naturalisation and whose naturalisation had been forfeited without taking into account the time which had elapsed between naturalisation and denationalisation, and introduce the principle of compulsory re-assumption of the original nationality without previously considering the questions of fact and of law involved? That would certainly be going too far, and I consider that an impartial consideration of the question would suggest the rejection of such a solution.

Warsaw, December 2nd, 1925.

(Signed) S. RUNDSTEIN.

III. M. SCHUCKING'S OBSERVATIONS REGARDING M. RUNDSTEIN'S REPORT
ON NATIONALITY.

(C. P. D. I, 20, Annex.)

[Translation.]

The undersigned is in agreement with the proposals contained in M. Rundstein's report, both with the negative part of the report and of the supplementary note—since certain questions have not yet reached a stage at which they can be settled—and with the positive proposals for the solution of certain other questions. I also entirely approve the informal proposals put forward in the preliminary draft in regard to those problems which can be solved by a Convention. I would merely venture to offer a few personal remarks on the following points:

1. Article 2 of the preliminary draft might be given too wide an interpretation as regards the rights of a woman who has not acquired foreign nationality on marrying a foreigner but is regarded by her country of origin as having lost her former nationality. It might be thought that the intention of this article was to give to a woman thus situated unlimited passport-rights, whereas obviously the sole intention is to place her on the same footing as her husband as regards the issuing of a passport by the State of which her husband is a national. In order to avoid confusion, therefore, it would be desirable to insert in Article 2 a short phrase such as "on the same footing as her husband".

2. Under Article 7 of the proposed Convention, naturalisation may be granted to the national of another State when such national has been refused expatriation by his State of origin "without just and reasonable cause". I entirely approve this principle, but the clause should not be interpreted in the light of the French text, page 7, paragraph 4, numbered section 3, in which it is stated that refusal of permission to emigrate on the ground that military service has still to be performed must always be regarded as "valid ground for refusal". I think there may be circumstances which give an individual a natural right to divest himself of his nationality of origin even when he has not fulfilled his military obligations, I would quote the following facts in support of my opinion.

The fact that refusal to perform military service has never ceased to be classed among those offences for which extradition is not allowable is no doubt due to the feeling that, in regard to this matter, there does not exist the legal necessity for civilised States to act together which, during the 19th century, produced the continuous extension of the principle of extradition. To-day, when certain States are obliged to abolish universal military service, civilised States have less than ever a common interest in securing that the subject of a neighbouring State shall always fulfil his military obligations. The existence of such a common interest could only be recognised at the moment when, as I hope will ultimately be the case, all the various national armies have been replaced by detachments of a single federal army dependent on the League of Nations; unhappily we have not yet reached this point. Moreover, it should not be forgotten that the whole conception of compulsory military service is passing through a crisis. Now that we are beginning to regard war as no longer constituting a legitimate procedure under international law, but as a crime, we must naturally regard compulsory military service in a quite different light from formerly. We observe in various countries a movement of refusal to take part in war, and several States which still adhere to the principle of compulsory universal military service have already taken this movement into account in their legislation. If, therefore, legislators—as is the case in a few States—dispense from service in wartime persons who have conscientious objections, does this not furnish proof that the universal duty to serve in the military forces is already considerably losing ground? It would seem quite unnecessary to force military service on nationals who might later on be freed from it in wartime. But in my opinion the following consideration is decisive. It cannot be denied that recent alterations in the map of Europe have included millions of persons in States which are new to them; and they can hardly be said to have been included in these new States at their own desire. Therefore the international pacification which all reasonable men desire, and for which we jurists must legally prepare the way, would be greatly advanced if the right of self-determination were first of all recognised in the form of the right of individuals freely to determine their own status, *i.e.*, persons who are ill at ease in the State to which they have been allotted, would be granted the fullest facilities for becoming nationals of another State of their own language and nationality. This principle would involve the granting of denaturalisation on extremely liberal lines and such denaturalisation could not be refused merely for failure to fulfil military obligations. Even if the contrary be the case, I do not consider that any other State would have a good reason for refusing naturalisation to an individual. *Cf.*, in this connection VON BAR, Vol. I, *Theorie und Praxis des internationalen Privatrechts*, pp. 197 *et seq.* *Ibid.*, for bibliography and practice.

3. The settlement of the problem of nationality by the national law alone has hitherto, in the case of a woman marrying a foreigner, been considerably hampered by the fact that this problem, in accordance with the principles of private international law, has a direct effect on the private law aspects of the institution of marriage. It has often been argued that in the domain of private law the unity of the institution of marriage must be maintained. *Cf.*, for instance, ASSER, *Das Internationale Privatrecht, Einleitfaden*, page 61; VON BAR, *op. cit.*, Volume I, pp. 439, 480, 501, *et seq.* *Cf.* also, as regards the unity of the institution in private law, PILLET, *Traité pratique du Droit international privé*, Paris 1923, Volume I, page 558.

Under these circumstances, it might perhaps be desirable to insert in Article 9 and the following Articles a formal phrase to the effect that the rules laid down under the International Convention should not in any way affect the private law relations between husband and wife.

(Signed) WALTHER SCHÜCKING.

IV. M. RUNDSTEIN'S REMARKS ON M. SCHÜCKING'S OBSERVATIONS

[*Translation.*]

(C. P. D. I. 20, Annex II.)

1. M. Schücking considers that Article 2 of the preliminary draft should be so drawn up as to eliminate all doubt concerning the right of the married woman to obtain a passport and the diplomatic protection of the State of which her husband is a national. He thinks it important to state that the nature of this right depends on the legal status of the husband himself. The question is thus one of rendering the rights of wife and husband equal. Therefore the words "on the same footing as her husband" should be added at the end of the article.

I agree that it would be desirable to insert this expression, as the rights of the wife derive from those of the husband.

2. As regards paragraph 2 of Article 7 of the preliminary draft, M. Schücking raises objections to the arguments put forward in the report (page 7). He takes the view that a request for naturalisation should not be refused on the ground that the person making the request has not fulfilled his military obligations. There are circumstances in which, in the conflict between the right of expatriation and obligations arising under military service, emigration should be allowed despite the requirements of allegiance. If there is no obligation to extradite persons who fail to fulfil the obligations of the military laws, there is equally no need to lay down that the legal consequences of such failure should be recognised internationally. The fact should also be taken into account that certain States have been obliged to abolish compulsory military service. Our generation hopes to attain general disarmament and regards war, not as a legitimate procedure, but as a crime. It therefore views compulsory military service in an altogether different light. Finally, the right of individuals to decide their own status should be recognised in view of the political changes brought about by the World War. Persons who are ill at ease in a State of which they have become nationals as a result of the cession of territory should be given an opportunity to emigrate; the right of emigration and consequently of changing their nationality should be definitely reserved.

With regard to these objections, it should be pointed out that Article 7, paragraph 2, of our preliminary draft does not mention the non-fulfilment of military duties as a just ground for the refusal of naturalisation. It is true that we referred to this matter in the arguments put forward but that was only to demonstrate the serious nature of the conflicts which might arise through the relationship of military service to the problem of nationality. Article 7, paragraph 2, as drafted, leaves each State sufficiently free to decide as to the reasons for refusal to allow expatriation; but, in the case of such refusal, naturalisation, while still remaining valid, does not include the right to diplomatic protection. This is the only way to obtain agreement between States, which are very susceptible as regards their competence in matters generally dealt with exclusively under their domestic legislation. It would certainly be desirable to lay down a general rule recognising absolute freedom in the matter of expatriation irrespective of domestic provisions concerning military service. But the States concerned would regard such a decision as trespassing on their sovereign rights. The settlement of such questions depends on political circumstances, and the contrary argument that a clause inserted in a convention regarding conflicts of nationality laws could change political conditions cannot be maintained. I do not affirm that these conditions are all they might be or that they do not call for reform—even radical reform. General disarmament is an ideal which merits all our enthusiasm, but it cannot be attained through the reform of nationality law. Such reform may be the direct consequence of disarmament, when disarmament has been attained, or perhaps of the establishment of guarantees against the danger of war.

3. M. Schücking observes that it would be desirable to add to Article 9 and the following articles an express provision to the effect that the rules laid down in these articles do not in any way affect the settlement of questions of private law. As the problem of nationality is of fundamental importance from the point of view of the application of the proper law in personal relations between husband and wife, and in regard to their matrimonial status, it should be noted that the solutions proposed in the preliminary draft do not affect the settlement of conflicts of private international law.

It must be clearly understood that it was never our intention to touch on questions of private international law. To mention this fact expressly in the text of a convention may, perhaps, be superfluous. The suggested clause might, however, be worded as follows, and we would apply the same formula to recognition and legitimation of illegitimate children:

"The provisions of Articles 9, 10 and 11 of the present Convention do not refer to the solution of conflicts of civil law, which shall continue to be subject to the internal law in force in the Contracting States or to international conventions on the subject."

Warsaw, January 3rd, 1926.

(Signed) S. RUNDSTEIN.

V. PRELIMINARY DRAFT OF A CONVENTION

AMENDED BY M. RUNDSTEIN AS THE RESULT OF THE DISCUSSION IN THE COMMITTEE OF EXPERTS.

[*Translation.*]

Article 1.

The High Contracting Parties undertake not to afford diplomatic protection to and not to intervene on behalf of their nationals if the latter are simultaneously considered as its nationals from the moment of their birth by the law of the State on which the claim would be made.

Article 2.

The children of persons who enjoy diplomatic privileges and immunities, of consuls who are members of the regular consular service, and, in general, of all persons who exercise official duties in relation to a foreign Government shall be considered to have been born in the country of which their father is a national. Nevertheless, they shall have the option of claiming the benefit of the law of the country in which they were born, subject to the conditions laid down by the law of their country of origin.

Article 3.

A child born of parents who are unknown or whose nationality cannot be ascertained acquires the nationality of the State in which it was born or found when it cannot claim another nationality in right of birth, proof of such other nationality being admissible under the law in force at the place where it was found or born.

Article 4.

A child born outside the State of which its parents are nationals has the nationality of the State where it was born if the State of origin does not give the parent's nationality to such child.

Article 5.

A person possessing two nationalities may be regarded as its national by each of the States whose nationality he has. In relation to third States, his nationality is to be determined by the law in force at his place of domicile if he is domiciled in one of his two countries.

If he is not domiciled in either of his two countries, his nationality is determined in accordance with the law in force in that one of these two States in which he was last domiciled.

Article 6.

Naturalisation may not be conferred upon a foreigner without his having shown the will to be naturalised or at least without his being allowed to refuse naturalisation.

Naturalisation acquired without the applicant being released from his allegiance by the State of origin does not give to the State according such naturalisation the right to give diplomatic protection to, and to intervene on behalf of, the person naturalised as against the State whose subject he originally was.

Article 7.

A release from allegiance (permit of expatriation) shall produce loss of the original nationality only at the moment when naturalisation is actually obtained in one of the Contracting States. Such release shall become null and void if the naturalisation is not actually granted within a period to be determined.

Article 8.

A woman who has married a foreigner and who recovers her nationality of origin after the dissolution of her marriage loses through such recovery of the original nationality the nationality which she acquired by marriage.

Article 9.

A married woman loses her original nationality in virtue of marriage only if at the moment of marriage she is regarded by the law of the State to which her husband belongs as having acquired the latter's nationality.

Where a change in the husband's nationality occurs during the marriage the wife loses her husband's nationality only if the law of the State whose subject her husband has become regards her as having acquired the latter's nationality.

Article 10.

A woman who does not acquire through marriage the nationality of her husband and who, at the same time, is regarded by the law of her country of origin as having lost her nationality

through marriage, shall nevertheless be entitled to a passport from the State of which her husband is a national on the same footing as her husband.

Article 11.

An illegitimate child does not lose its nationality of origin in consequence of the change in its civil status (legitimation, recognition) unless at that moment it is considered by the law of the State to which the father or the mother, as the case may be, belongs as having acquired the nationality of the parent in question.

Article 12.

An adopted child who does not by the fact of adoption acquire the nationality of the person adopting it retains its original nationality.

Article 13.

As between the Contracting Parties, nationality shall be proved by a certificate issued by the competent authority and confirmed by the central authority of the State. The certificate shall show the legal grounds on which the claim to the nationality attested by the certificate is based. The Contracting Parties undertake to communicate to each other a list of the authorities competent to issue and to confirm certificates of nationality.

(Signed) S. RUNDSTEIN.

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

QUESTIONNAIRE No. 3

adopted by the Committee at its Second Session, held in January 1926.

DIPLOMATIC PRIVILEGES AND IMMUNITIES.

The Committee is acting under the following terms of reference¹:

- (1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;
- (2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and
- (3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

The Committee has decided to include the question of diplomatic privileges and immunities in its list.

The Committee reached this decision on the basis of a report submitted to it by a Sub-Committee consisting of M. Diena and M. Mastny. It is, of course, understood that the Committee has not at the present stage felt itself called upon to pronounce either for or against all the various concrete proposals made in this report.

The particular questions falling within the general subject of diplomatic privileges and immunities which the Committee considers might advantageously be dealt with in a general convention are set out below.

The Committee has the honour to request the various Governments to inform it whether they agree with the Committee that these questions, or some of them, could advantageously be considered at the present moment with the view to the conclusion of a general convention, which, if necessary, could be completed by particular agreements between groups or pairs of States. According to its terms of reference, the Committee will report on the various points to the Council of the League after it has been able to consider the replies of the Governments.

It is expressly understood that the basis to be adopted in examining and answering the various questions raised herein should be the material considerations which make the existence of diplomatic privileges and immunities useful and desirable. The Committee does not consider that the conception of ex-territoriality, whether regarded as a fiction or given a literal interpretation, furnishes a satisfactory basis for practical conclusions. In its opinion, the one solid basis for dealing with the subject is the necessity of permitting free and unhampered exercise of the diplomatic function and of maintaining the dignity of the diplomatic representative and the State which he represents and the respect properly due to secular traditions.

A. PRIVILEGES AND IMMUNITIES OF DIPLOMATS IN THE TRADITIONAL SENSE OF THE TERM AND OF PERSONS BELONGING TO A LEGATION.

I. *Extent of these Privileges and Immunities considered under the following Heads.*

I. Inviolability attaching to:

- (a) The persons themselves;
- (b) The official premises of the legation, including the archives;
- (c) The private residence of the persons in question;
- (d) Correspondence;
- (e) Goods serving for the personal use of the diplomat.

¹ See Assembly resolution of September 22nd, 1924.

2. Immunity from civil, administrative or fiscal jurisdiction, with all the limitations and exceptions consistent with the object of the immunity.
3. Immunity from criminal jurisdiction.
4. Fiscal immunities (including Customs).

Note 1. — The above are merely heads for discussion. It is not suggested that every question falling under them should necessarily be regulated by a general convention. This reservation applies in particular to the question of fiscal immunities, in regard to which it may be desirable to leave details to be the subject of bilateral agreements but may at the same time be possible, as well as desirable, to lay down some general principles by way of a plurilateral or universal convention.

Note 2. — Under the head of inviolability should be discussed the question of the existence and, in the affirmative, of the extent of the right to afford asylum to persons threatened with criminal proceedings.

Note 3. — In connection with immunity, it would seem desirable to consider whether and to what extent immunity involves exemption from the operation of social legislation and, in particular, legislation concerning social insurance.

Note 4. — In connection with immunity from jurisdiction, it would be desirable to consider what should be the position of the privileged person as regards giving evidence before the courts.

II. *Persons entitled to Privileges and Immunities.*

It seems not to be disputed that among such persons must be included the chiefs of embassies and legations and the official staff employed exclusively in diplomatic work, and that the privileges and immunities extend to members of the families of such persons living with them. But there are other questions connected with this head which should be examined and settled:

1. First, the question arises whether, in order to avoid abuses or uncertainty, it should be a condition of possessing privileges that the persons in question should be included in a list delivered to the Foreign Office of the country concerned. In close connection with this point is the question whether and on what grounds (for example, on the ground of the palpably exaggerated number of officials included in the list) the Government would be entitled to refuse or to accept it the list with or without modification.

2. To what extent may official agents of a foreign State who are not employed in diplomatic work in the proper sense of the term acquire diplomatic privileges and immunities by being included among the personnel of the legation? Under this head falls the case of particular categories of attachés, such as certain commercial attachés, attachés for social questions and others.

3. What is the position of the servants of a diplomatic agent and of the servants of a legation, *i.e.*, its clerks, domestic staff and other employees?

4. In what cases and to what extent may diplomatic privileges and immunities be refused to a person, who would otherwise be granted them: (a) when he is a national of the country concerned; or (b) when, being already domiciled in the country, he occupies a special position intermediate between foreigners and nationals?

5. In regard to some of the above-mentioned categories, it will be necessary to examine the limits of the privileges (if any) which should be enjoyed.

III. *Duration of Diplomatic Privileges and Immunities as regards: (1) The Privileged Person; (2) Premises and Archives.*

Note 1. — Under the above point (2), it is intended to raise the question of the treatment to be accorded to privileged premises and archives which have ceased to be occupied or to be in the charge of a diplomatic agent; as may, for example, happen in the case of the decease of a diplomatic agent or when a State ceases to recognise and to receive representatives from the Government of a State which has established a legation in its territory and the legation premises and archives are left without any person entitled to take charge and be responsible for them.

Note 2. — In the case of the decease of the diplomatic agent, a similar question may arise as to the members of his family and his servants.

IV. *Position of a Diplomatic Agent within and, more particularly, in Transit through, the Territory of a State to which he is not Accredited.*

B. IN WHAT SENSE AND TO WHAT EXTENT ARE DIPLOMATIC PRIVILEGES AND IMMUNITIES ENJOYABLE BY PERSONS OTHER THAN THOSE DEALT WITH UNDER "A" ABOVE ?

Under this head it would be proposed to discuss, taking so far as necessary the same subdivisions as under "A", the position of:

- (a) Representatives of the Members of the League and officials of the League when engaged on the business of the League;

- (b) The Judges and staff of the Permanent Court of International Justice;
- (c) Permanent representatives specially attached to the League of Nations by various States;
- (d) Members of international bureaux and commissions not invested by treaty with diplomatic privileges and immunities.

Note — In the opinion of the Committee, it is not certain that an absolute identity of privileges and immunities should be established between diplomats proper and the categories just mentioned. It seems possible that the difference of circumstances ought to lead to some difference in the measures to be adopted.

* * *

The Committee will be grateful to receive suggestions from Governments as to any topics omitted above which are thought to be suitable for consideration with a view to the conclusion of a general international agreement.

In order to be able to continue its work without delay, the Committee will be grateful to be put in possession of the replies of the Governments before October 15th, 1926.

The Sub-Committee's report is annexed.

Geneva, January 29th, 1926.

(Signed)

Hj. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
*Director of the Legal Section of the
Secretariat.*

Annex.

REPORT OF THE SUB-COMMITTEE.

M. DIENA, *Rapporteur*.

M. MASTNY.

What are the questions relating to diplomatic privileges and immunities which are suitable for treaty regulation and what provisions might be recommended on this subject?

I. REPORT BY M. DIENA.

[Translation.]

The Committee of Experts for the Progressive Codification of International Law, having decided that this question should be included in its preliminary investigations, adopted the following resolution at its meeting at Geneva on April 8th, 1925:

"The Committee instructs a Sub-Committee to ascertain what are the questions relating to diplomatic privileges and immunities which are suitable for treaty regulation and what provisions might be recommended on this subject."

Having had the honour to be appointed Rapporteur of the Sub-Committee for Question (c), I thought it my duty, after commencing my investigations, to get into touch with His Excellency Dr. Mastny, who is also a member of this Sub-Committee, in order to discuss with him the manner in which I ought to carry out my task.

Dr. Mastny was good enough to reply in a long letter containing numerous remarks and suggestions of the greatest value.

As the first result of this exchange of views, we agreed in recognising that the whole question of diplomatic privileges and immunities was suitable for treaty regulation. There are, in fact, certain fundamental principles concerning this question which are generally admitted and although, as regards certain particular points, there is often considerable divergence between the laws and the legal practice of the various countries, these differences can be overcome by an international agreement arrived at either collectively or as the result of a series of bilateral agreements. Furthermore, if by means of an international agreement it were possible to effect progress in the positive law on this subject, in accordance with the aims of the most distinguished and best qualified students, that would at any rate remove many doubts and divergences which *for the moment* make it impossible to regard the internal regulations observed in the different countries with regard to diplomatic prerogatives as forming an altogether uniform legal system.

As regards the method to be adopted in our work, we agreed in recognising that it was necessary: (1) To determine as exactly as possible the existing law, taking into account international customary law and, where necessary, conventional law, as well as the municipal law created by the legislature and the Courts in the various countries; (2) to ascertain which points or, rather, questions are disputed as regards either legal doctrine or practice; (3) to indicate the solutions of these questions favoured in one or other country, and which of these would be the most reasonable solution; and (4) to indicate possible and desirable alterations and reforms to be introduced into the existing rules—paying due and even critical attention throughout both to the draft prepared on this question by the Institute of International Law at Cambridge in 1895 and to the rules contained in the project for the codification of American international law laid down on March 2nd, 1925, by the American Institute of International Law.

The Committee's resolutions would justify the Sub-Committee entrusted with Question (c) in preparing a preliminary draft international convention to be submitted to Governments. However, we decided, after serious consideration, that it would be premature at present to formulate definite provisions; such provisions should be reserved for a later stage.

It is certainly preferable to begin by setting out principles both *de jure condito* and *de jure condendo*. Future discussion by the Committee will tell us whether it is possible to do more at the present juncture. Further, we shall receive indications from the nature of the reception of our proposals or suggestions meet with from Governments, particularly as to the possibility of an international agreement.

The first problem to be decided regarding existing positive law may be subdivided into two questions: (1) What are the existing diplomatic prerogatives? (2) To what persons do they apply?

It is expedient to postpone consideration of this last question until we deal with questions 2 and 3 above.

As regards the first point, it should first be mentioned that, according to ancient and familiar doctrine, diplomatic agents should enjoy ex-territorial rights. The Institute of International Law recognises this principle, for its draft contains a chapter several articles of which deal with this very question of the ex-territorial rights of diplomatic agents. The American draft decides the question in exactly the opposite sense, Article 23 mentioning ex-territoriality only to state most explicitly that "the private residence of the agent and that of the legation shall not enjoy the so-called privilege of ex-territoriality".

In my opinion, this latter solution is the one that should be adopted. At the same time it is not necessary to say so explicitly, since there is no need to make a statement concerning a thing that does not exist.

It is perfectly clear that ex-territoriality is a fiction which has no foundation either in law or in fact, and no effort of legal construction will ever succeed in proving that the person and the legation buildings of a diplomatic agent situated in the capital of a State X are on territory which is foreign from the point of view of the State in question. There are sound practical as well as theoretical reasons for abandoning the term "ex-territoriality", for the mere employment of this unfortunate expression is liable to lead to errors and to legal consequences which are absolutely inadmissible.

Thus, if an individual entered a legation building and committed a crime there, the theory of ex-territoriality would require the local authorities to regard this crime as an offence committed on foreign territory, which would be an obvious error.

Moreover, even the Institute of International Law, after affirming the validity of legal acts officially executed by a diplomatic agent with reference to his own nationals according to the law of the country which he represents and notwithstanding any provisions to the contrary in the *lex loci*, admits in Article 8 of its draft an exception to this principle, "(1) if the acts concern a person who does not belong to the country which the Minister represents; (2) if they are to be effective in the country where the mission is stationed, and are such that they could not be validly performed outside the country or in any other manner".

These exceptions are perfectly justified, but in themselves they would appear to be destructive of the principle to which they are supposed to be an exception¹.

I was glad to learn that Dr. Mastny is substantially in agreement with my views on this matter. Nevertheless, in deference to tradition, Dr. Mastny would like to preserve the term ex-territoriality, with a limited meaning, and to continue to speak of "diplomatic ex-territoriality", while recognising that the expression is not to be taken literally.

As we are not concerned in this report with legal doctrine only, I have no objection to keeping the old term if there is a strong desire to do so; but in this case it would be necessary to do what the English so often do in the drafting of their laws, whose practical character we all recognise and appreciate. It is well known that English laws frequently contain a definition which is not of a general character, but whose sole object is to explain the sense in which a certain expression is used in a particular law.

Next, in order to specify the prerogatives of diplomatic agents, it is of course necessary first of all to make mention of the *inviolability* which attaches more particularly to their person, their official and private residence and their correspondence and personal effects for the duration of their official mission in the country to which they are accredited.

As this is a generally recognised rule, there should be no difficulty in concluding an agreement with a view to confirming this principle by means of a treaty clause. Even in this case, however, some doubt may arise as to what exceptions may be allowed to this principle. The American project does not touch-upon this point; the Institute of International Law in Article 6 of its draft enumerates the three following exceptions: "Inviolability may not be invoked: (1) in the case of lawful defence on the part of individuals against acts committed by persons who enjoy the privilege; (2) in case of risks run by the said persons, voluntarily or unnecessarily; (3) in case of reprehensible acts committed by them, compelling the State to which the Minister is accredited to take defensive or precautionary measures; but, except in cases of extreme necessity, this State must confine itself to making the facts known to the Government of the said Minister, to requesting the punishment or the recall of the guilty official, and, if necessary, to surrounding his house to prevent illegal communications or public expressions of opinion".

It should be noted that these provisions, particularly Nos. 1 and 2, are in accordance with existing international usage. There may, however, be some difference of opinion as to the application of No. 3, particularly as regards the measures which the territorial authorities may take in cases of extreme urgency.

There is some connection between the point dealt with in No. 3 of Article 6 of the Institute draft and the question of the alleged right of individuals pursued for offences against the local law, to take refuge in the legation building. If a diplomatic agent gives shelter in the legation building to persons who are regarded by the local authorities as criminals, these authorities will obviously consider the act of the diplomatic agent to be *reprehensible*. They may accordingly

¹ Article 23 of the American draft, after excluding the so-called privilege of ex-territoriality, adds: "However, legal acts executed in the places mentioned by diplomatic agents in the exercise of their functions shall be subject, as to form, to the legislative provisions of the country which they represent". It may be observed that, if this provision was intended to furnish the draft with a conventional law text, it can be approved, at least in principle, and with certain reservations. But if the provision was intended to proclaim a legal rule arising out of principles of law which are also binding upon the local authorities, quite apart from existing conventions, such a statement would, in my opinion, be without any legal justification at all, particularly as regards the validity of acts of marriage.

take the defensive or precautionary measures referred to in No. 3 of Article 6 in the Institute's draft.

There is no need for us to pronounce upon the question whether, as is affirmed in Article 22 of the American draft, the diplomatic agent is obliged to surrender to the local authority any individual pursued by that authority for crime or misdemeanour, or whether he may continue to protect him and, if necessary, help him to escape. All that is not connected, at any rate directly, with diplomatic prerogatives.

As regards immunity from taxation, it must be admitted that these privileges are not suitable for any detailed regulation which could be adopted in the form of a collective treaty. These privileges, which are not strictly necessary for the exercise of diplomatic functions, and which are granted to members of foreign missions simply for reasons of international courtesy, vary greatly in the different countries. Accordingly, it is only possible for States to conclude detailed agreements in this matter by means of bilateral conventions based on reciprocity. At the same time, it is not necessary to exclude the possibility of a collective agreement, but this should constitute the minimum; *i. e.*, it might be possible to obtain agreement to the adoption of certain universally accepted rules. We might take as the basis of this agreement Articles 9 and 11 of the regulations of the Institute of International Law, the former of which says: "The Minister's residence is exempt from military quarterings and from the taxes which are substituted therefor"; while Article 11 stipulates: "A public Minister abroad, the functionaries officially connected with his mission and the members of their families living with them shall be exempt from paying: (1) direct personal taxes and sumptuary taxes; (2) general taxes on wealth, either on the principal or on the income; (3) war-taxes; (4) Customs duties on articles for their personal use. Each Government shall have the right to indicate what proofs are required in order to secure these exemptions from taxes".

We may also take into consideration Article 24¹ of the American draft, the wording of which, however, is not so satisfactory as that of the Institute regulation given above.

* * *

The most difficult point in the matter under consideration is that relating to immunity from jurisdiction. In criminal cases this immunity is now absolute, according to generally recognised custom, during the exercise of diplomatic functions (the question of the persons to whom this immunity applies is one which we shall discuss later).

It should therefore be quite easy to affirm this principle in a convention (except as regards the measures which the territorial Power may take in defence of its security), a point upon which some doubt may arise when it is necessary to determine the details and the limits of these measures. Article 13 of the Institute's draft adds: "With regard to crimes, the persons mentioned in the preceding article shall remain subject to their national criminal law, as if the crimes had been committed in their own country".

The idea underlying this article may be approved, but the wording is far from satisfactory. It would have been better to say that these persons remain subject to their national *jurisdiction*. In any case, the words "as if the crimes had been committed in their own country" should have been omitted. If the State to which they belong preferred to treat acts constituting an infringement of the national criminal laws committed by officials in the diplomatic service, during the exercise of their functions in a foreign country, as offences committed in a foreign country, such State would be free to do so and no rule of international law would impose upon it an obligation to do otherwise.

From this point of view the formula adopted by the American draft is very much better, at any rate as regards criminal cases. Article 25 is as follows: "Diplomatic agents shall be exempt from the civil or *criminal* jurisdiction of the nation to which they are accredited. They cannot be prosecuted in civil or *criminal* matters except in the Courts of their own countries".

We now come to immunity from jurisdiction in civil and commercial matters.

It is first of all necessary to mention that, *in principle*, international usage recognises this immunity of diplomatic agents without distinguishing between acts performed by them in the exercise of their functions and those which they perform in a private capacity.

Nevertheless, Italian jurisprudence contains two judgments by the Rome Supreme Court of Cassation—one dated April 20th, 1915 (*Rivista di diritto internazionale*, 1915, page 217; *Foro italiano*, 1915, I, 1330); the other dated December 9th, 1921, and published on January 31st, 1922 (*Rivista di diritto internazionale*, 1924, page 173; *Foro italiano*, 1922, I, 334)—pronounced when this Supreme Court was not yet the only final Court of Cassation in the Kingdom—which affirmed the principle that the immunity of diplomatic agents from jurisdiction in civil questions only extends to acts performed in the exercise of their official functions, and accordingly does not apply to obligations contracted by them in their private capacity. These judgments of the Courts have been strongly criticised, however, even in Italy, from the point of view of international law as it exists to-day, and it cannot be said that in Italy the law is definitely settled in this sense.

Be that as it may, it is universally admitted that exceptions should be made to the principle of immunity from jurisdiction in civil and commercial matters. Nevertheless, when it comes to specifying these exceptions, we find considerable difference of opinion both in the doctrine and in the rulings of the Courts of the different countries.

¹ This article includes exemption from land taxes on the legation building among exemptions affecting the person of the diplomatic agent.

We have therefore now to deal with controversial questions, with the solutions most frequently found for them in practice, and also with those solutions which seem to us to be the most reasonable

For the sake of brevity, we will discuss these two kinds of solution together.

* * *

As regards the exceptions to the principle of immunity in civil and commercial matters, it will be well to pay attention to Article 16 of the Institute's draft and to Article 27 of the American project. The former is as follows: "Legal immunity may not be invoked: (1) in case of proceedings instituted as a result of engagements contracted by the exempt person, not in his official capacity, but in the exercise of a profession carried on by him in the country concurrently with his diplomatic duties; (2) with regard to realty actions, including possessory actions relating to property, real or personal, which is in the country".

The latter article is expressed as follows: "A diplomatic agent shall not be exempt from local jurisdiction even during the exercise of his functions: (1) for real actions, including possessory actions, relative to immovable property situated in the territory where the agent is accredited, and which is neither the house he occupies nor that of the legation; (2) for actions connected with his capacity as heir or legatee of an estate settled on the territory of the country to which the diplomatic agent is accredited; (3) for actions resulting from contracts executed by the diplomatic agent which do not refer to the seat or furnishings of the legation, if it has been expressly stipulated that the obligation must be fulfilled in the country where the agent is accredited; (4) in case of waiver of diplomatic immunity, which, however, cannot occur without the consent of the Government which the agent represents".

If we now enquire whether these texts are or are not in conformity with generally recognised custom and, if so, in what respects, we must admit that the exception most generally agreed to is that relating to real actions, including possessory actions, regarding immovable property owned in a private capacity.

On the other hand, there are those who consider that the exception may be extended to any matter referring to immovable property owned in a private capacity, so that it would be permissible to take action against a diplomatic agent in regard to immovable property, even if it were not a real action. As for actions of the latter kind, the Institute draft considers them permissible whether they relate to immovable or movable property, while the American draft only sanctions real actions relating to immovable property. I have been unable to find a sufficient number of legal precedents to say whether general practice in this matter tends in the one direction more than in the other.

The most reasonable solution, however, would be to make no distinction with regard to real actions between those relating to movable property and those relating to immovable property. The nature of the subject-matter of the action in no way affects its legal character.

Thus, in regard to the question whether a person belonging to a foreign legation and engaged in some occupation in the country, more particularly that of trader, may claim the prerogative of immunity with regard to obligations contracted in the pursuit of this occupation, legal doctrine, according to the Institute draft, pronounces on the whole, and rightly too, in the negative. Nothing would justify the extension to professional activities of a privilege which can only attach to the exercise of diplomatic duties.

In Great Britain, however, case-law, by its interpretation and application of the celebrated Diplomatic Privileges Act of 1708 (7 Anne, c. 12), does not furnish in this respect a sure and definite rule. DICEY ("A Digest of the Law of England with Reference to the Conflicts of Laws", 2nd edition, pages 200 and 201), when mentioning the commercial activities of a diplomatic agent as an exception to the general rule of immunity, places a query against the rule thus set out (see also SAROW, "A Guide to Diplomatic Practice", 1917, 189 *et seq.*).

As regards the exception contained in Article 27, No. 3, of the American draft relating to actions resulting from contracts entered into by the diplomatic agent which do not refer to the seat or furnishings of the legation and which have to be executed in the country to which he is accredited, this seems perfectly justified, since the prerogative in this matter is not in the least necessary in order to guarantee the free and dignified exercise of diplomatic duties.

Nevertheless, it must be recognised that this exception is not admitted by the jurisprudence of certain countries, particularly France. The Tribunal de la Seine, for example, on July 27th, 1889, passed a judgment which became final which ordered a Belgian Counsellor of Legation in Paris to pay a certain sum of money for the rent of an apartment, but this judgment was quashed by the French Cour de Cassation on January 19th, 1891, *in the interests of the law* (DALLOZ, "Jurisprudence générale", 1891, I, 9).

If the diplomatic agent voluntarily submits to local jurisdiction, it is generally held that the prerogative of immunity no longer exists. But whereas according to some authorities this rule should be accepted unconditionally, others declare that it is necessary for the diplomatic agent to have obtained from his Government permission to waive his prerogative.

In my opinion, the first solution is the one to be commended, especially when the diplomatic agent in question is head of a mission. It is his function to represent his Government and to be its mouthpiece, so that the local authorities must presume that acts performed by him which are *even indirectly* related to his duties are in conformity with the wishes of the Govern-

ment of the country which he represents. As regards diplomatic agents of lower rank, the local authorities would have every reason to suppose that, in waiving their prerogatives, they did so with their chief's permission, especially as these questions of authorisation really only concern the relations between officials of the same country. The Courts, however, particularly in France, often decide to the contrary; but even in France it is impossible to say that the law is absolutely well established on this point (see DESPAGNET, "Cours de Droit international public", 4th edition, revised and enlarged by DE BOECK, Paris, 1910, No. 243, note on page 340).

Even if the diplomatic agent, who as plaintiff submits voluntarily to local jurisdiction, is furnished with the express authorisation of his Government, there still remain certain doubtful and controversial points. It may happen that the defendant, not content with merely questioning the exception, makes a counter-claim (*demande reconventionnelle*). In that case, seeing that the diplomatic agent himself has submitted to local jurisdiction, it would appear to be reasonable to consider the ordinary law applicable. Several writers have expressed this opinion (compare, among others, PRADIER-FODÉRÉ, "Traité de Droit international public", Vol. III, Paris 1887, No. 1446; ULLMANN, "Völkerrecht", Tübingen 1908, pages 186 and 187). Others, however, have favoured the contrary solution (e.g., compare BLUNTSCHLI, "Le Droit international codifié", in Lardy's French translation, 2nd edition, note on No. 140, bottom of page 123; DICEY, *op. cit.*, 2nd edition, page 199).

English law is uncertain on this question (see DICEY, *op. cit.*, passage quoted).

Exemption from the duty of giving evidence in court would not appear, in accordance with the usage generally adopted, to present any great difficulties in practice. However, if we compare Article 17 of the Institute draft¹ with Article 28 of the Washington draft², we find differences which possibly extend beyond differences of drafting, for, whereas the Institute draft affirms the duty of the diplomatic agent to give evidence, although in the customary privileged forms, the American draft is content to state that, if the evidence is necessary, it must be requested in writing and through the diplomatic channel, without adding anything as to the duty of the agent to give it.

On this point the Institute draft takes better account of the interests of justice, but possibly the Washington draft is more in conformity with actual practice.

With regard to the duration of diplomatic prerogatives, it may unhesitatingly be claimed that inviolability lasts (according to what is stated in Article 5 of the Institute draft) for the whole period during which the Minister or diplomatic official remains in his official capacity in the country to which he has been sent. Article 29 of the American draft is expressed differently, namely, as follows: "The inviolability of the diplomatic agent and his exemption from local jurisdiction shall begin from the moment he crosses the frontier of the nation where he must exercise his functions; they shall terminate the moment he leaves the said territory".

In the first place, it may be objected that, according to general opinion, the official capacity of the diplomatic agent is only proved by the presentation of credentials, whereas, at the moment when he crosses the frontier of the State to which he is sent, no credentials have been presented. Further, as regards the duration and termination of the privilege of immunity from local jurisdiction, it cannot be accepted absolutely and as a general truth that the prerogative should cease with the departure of the diplomatic agent. Article 14 of the Institute draft makes a very judicious distinction and one so well founded in law that it may be regarded as a rule of existing positive law. This article declares that immunity survives the official's functions in respect of actions relating to the exercise of these functions. As regards other actions, immunity may only be claimed for as long as these functions are being exercised³.

Article 26 of the Washington draft says the same thing, but appears to be in contradiction with Article 29 of the same draft as quoted above.

It may also happen, however, that the diplomatic agent has contracted an obligation in his private capacity *prior* to entering on his duties, and that the other contracting party claims before the Courts the fulfilment of that obligation in the country to which the diplomatic agent is sent, while he is still exercising his functions. The case arose in France in respect of a Persian who, while in France, had signed a bill of exchange as surety. The holder of the bill of exchange, who had not received payment, summoned the surety in the French Courts at a time when the latter had been appointed Persian diplomatic agent in Paris and was actually exercising his functions. The Paris Court of Appeal, by a final judgment of May 7th, 1914, which confirmed a judgment given by the Tribunal de la Seine, ordered the Persian diplomatist to pay the sum claimed. The Supreme Court of France, however — on this occasion also *in the interests of the law* — quashed the judgment of the Paris Court by a judgment dated August 3rd, 1921 (CLUNET, *Journal de Droit international*, 1921, page 922; SIVEY, *Recueil général de Jurisprudence*, 1921, Part 1, page 121).

It must be admitted that the opinion given by the French Cour de Cassation is perfectly logical, if we accept the principle that, during the exercise of his duties, the diplomatic agent is protected from all legal actions, even in respect of acts performed in his private capacity.

Further, very delicate questions arise with regard to the legal situation of diplomatic agents when in the territory of a third country. Clearly they cannot claim all the privileges which belong to them in the country to which they are sent. On the other hand, they ought to have

¹ This article is as follows: "Persons enjoying immunity from jurisdiction may refuse to appear as witnesses before the national Courts on condition that they give their evidence, if required to do so through the diplomatic channel, to a magistrate of the country appointed for this purpose, and this evidence may be given even on the premises of the mission".

² Article 28 of the Washington draft is as follows: "The diplomatic agent may refuse to appear as a witness before the Courts of the country to which he is accredited. In case the evidence should be necessary, it must be requested in writing and through the diplomatic channel".

certain prerogatives sufficient to ensure that they will not be prevented from reaching the country to which they are sent. Dr. Mastny drew my attention to the fact that, when journeying to the country of their mission, they can avoid all difficulties in third countries by travelling as "couriers". Dr. Mastny would like to see European countries adopt the system which is recommended for the United States of America in Article 29, paragraph 2, of the Washington draft, as follows: "The diplomatic agent who, in going to take possession of his post or in returning therefrom, crosses the territory of an American Republic or is accidentally there during the exercise of his functions shall enjoy in that territory the personal immunity and immunity from jurisdiction referred to in the preceding articles". But what is the exact meaning of the words "accidentally there during the exercise of his functions"? Do they mean that, in order to enjoy his prerogatives, the agent must actually be in course of exercising his functions? Or is it sufficient that at that time he should be the holder of a diplomatic post, even if on leave? Whatever the answer, it is impossible to say that the ruling arising out of the Washington draft as just quoted corresponds exactly to existing law as interpreted by international custom.

Until a reform is effected by treaty arrangements we consider that, according to existing international law, diplomatic agents are only entitled to claim their prerogatives in third countries while they are journeying to the country of their mission or returning therefrom. This opinion is expressed in the Italian law of May 13th, 1871 (Article 11, last paragraph), relating to the guarantees enjoyed by the Holy See for diplomatic agents appointed by the Pope and required to exercise their duties in a foreign country.

* * *

We come finally to the question as to the persons to whom diplomatic privileges extend. We may first note that these prerogatives are generally recognised as attaching not only to the head but to the whole official staff of the diplomatic mission. There is also practically complete agreement that they apply to members of the family of the diplomatic agent living with him. The latter regulation is adopted without any restriction in Article 30 of the American draft¹. The Institute draft also adopts it explicitly as regards immunity from taxation (Article 11) and immunity from jurisdiction (Article 12), but, with regard to the privilege of inviolability, this draft (Articles 2-6) does not mention the members of the family of the diplomatic agent, although in Article 7 it recognises the prerogative of ex-territoriality as applied to their residence.

I am of opinion that, in practice, diplomatic immunities are usually extended to members of the families of diplomatic agents who live with them.

In this matter, as is well known, the point most often discussed and most open to question is that which refers to *unofficial* personnel. In the case of these persons, there is no question of applying all the prerogatives without distinction but only certain of them. Queen Anne's famous Statute of 1708 mentions, among persons in the suite of a diplomatic agent to whom is extended the privilege of immunity from local jurisdiction, "servants and domestic servants" and, according to DICEY (quoted above), English law interprets these words to mean that that privilege extends to anyone belonging to the suite of a diplomatic agent without distinction of nationality.

Italian legal practice gives a totally contrary decision. A judgment by the Rome Court of Cassation given on November 7th, 1881 (*Rivista di Diritto internazionale*, 1908, page 350), adopted the ruling that the prerogative of immunity from territorial jurisdiction cannot be applied to personnel which has neither the character nor the duties of diplomatic agents (compare also French Court of Cassation, October 13th, 1865; DALLOZ, February 1866, I, 233; VINCENT and PÉNAUD, *Dictionnaire de Droit international privé*, 5th diplomatic agent, page 80, No. 101).

Finally, there is a middle solution which was explicitly adopted in Article 19 of the German *Gerichtsordnungsgesetz* of 1898, recognising in the Reich the prerogative of immunity from jurisdiction as regards not only official personnel (*Geschäftspersonal*) but also persons in the service of a foreign diplomatic agent, *provided that they are not of German nationality*.

The last solution may be regarded as commonest in practice. It was also adopted in the Washington draft, Article 30 of which concludes by saying that "exemption from local jurisdiction extends likewise to their servants; but if the latter belong to the country where the mission resides, they shall not enjoy such privilege except when they are in the legation building".

Even the Institute draft (Article 2, No. 3) contains a regulation² which at least in form bears a certain resemblance to the Washington rule. It must be observed, however, that the Institute draft confers no prerogative of immunity from jurisdiction upon unofficial personnel, of whatever nationality, but only recognises the prerogative of inviolability.

¹ This article states: "The inviolability of diplomatic agents, the exemption from taxes and jurisdiction, as well as the other immunities which they enjoy and to which the preceding articles relate, also extend to all those who form part of the official personnel of the diplomatic mission, and to the members of their families who live with them"

² Article 2: "The privilege of inviolability extends (1).....; (2).....; (3) to all persons belonging to his *unofficial* staff, subject to the proviso that, if they are nationals of the country in which the mission resides, they shall only enjoy the privilege within the mission building."

Putting aside for the moment all considerations as to the intrinsic worth of the regulations adopted on this point in these drafts, we must note that in neither case is the wording very happy. The fact that a person in the service of a diplomatic agent is in the legation building cannot give rise to any *personal* privilege. He will certainly be inviolable as long as he remains in the building, but the same applies to anyone in a legation building, owing to the inviolability of the legation itself. It is therefore not easy to understand exactly what is meant by the Washington regulation whereby a legation servant belonging to the country in which the mission resides shall enjoy exemption from local jurisdiction when he is in the legation building. Does it mean that, so long as he remains in the legation, he cannot be arrested or have a writ served *directly* on him by a public official of the country? If this is so, we can only repeat what we said on the Cambridge draft. Or was it intended to mean that, for as long as the servant remains in the legation building, no proceedings can be begun against him by the local authorities? If the latter interpretation were accepted, it would create a disguised and absolutely unjustified right of asylum.

It is unnecessary to say that these remarks are not made in any hypercritical spirit, but are intended solely to prepare the material for laying down principles which are in accordance with the requirements of scientific doctrine and of practice.

On this point we should very much simplify matters if we admitted that diplomatic prerogatives extend *only* to heads of a mission, members of their families living with them and persons belonging to the *official* staff. Such a regulation would be justified by the fact that there is no legal reason (tradition alone is not enough) for extending prerogatives which were created for diplomats by reason of their functions to persons who have no diplomatic standing. There would be the further great advantage of precision. It is perfectly easy to distinguish official from unofficial personnel, since only the former is accredited to the Ministry of Foreign Affairs of the country.

* * *

I have suggested accordingly—and in principle Dr. Mastny is *de jure condendo* favourable—a reform which we think it would be desirable to introduce into the practice followed in most countries with regard to the persons to whom diplomatic privileges should be extended.

But there are other suggestions to be made on this question.

As regards the prerogative of inviolability (apart from the question of the persons to whom it should apply, a point to which we need not revert), I have no reform of any real importance to suggest. It is only necessary to give the most exact definition possible to the existing state of affairs, particularly in order to remove doubts which may arise in determining the exceptional cases in which the diplomatic agent cannot claim this prerogative. In doing this, it would be well to consider Article 6 of the draft by the Institute of International Law.

With regard to immunity from taxation, I can, even *de jure constituendo*, only refer to what I have already said in the foregoing pages.

The most important point in which I consider that a reform would be not only useful but necessary is that which relates to immunity from local jurisdiction. As regards immunity in penal matters, things could be left substantially as they are, subject to framing rules with the utmost possible precision. It must be admitted that, if a diplomatic agent could be harassed with proceedings of a penal nature¹ instituted against him, for whatever reason, in a criminal court, his independence, his freedom of action and peace of mind, as well as his dignity, might be impaired.

As regards immunity from jurisdiction in civil and commercial questions, the dignity, prestige and independence of the diplomatic agent can be sufficiently safeguarded if immunity is granted for acts performed by him in the exercise of his duties, but not for those performed in his private capacity.

Dr. Mastny is not absolutely opposed to this proposal *in theory*, but he thinks that it would be open to many objections in practice. It would carry me too far to attempt any detailed reply to Dr. Mastny in this report, and I will content myself with the following remarks. When reforms are to be made, we should not be put off by the consideration that a different system has hitherto been followed. There is no really compelling reason for adopting the same system in criminal and civil matters. I have already shown that the exclusion of immunity in criminal questions would involve consequences incomparably more serious than in civil and commercial questions. In constitutional countries members of Parliament enjoy special prerogatives as regards penal justice, but no one has ever suggested that they should enjoy the same prerogatives with regard to judicial proceedings taken against them in their civil or commercial relations. It is sometimes easy to determine straightaway whether a diplomatic agent has acted in his official rather than in his private capacity. In any case, it would be for the plaintiff who brings an action in civil law against a diplomatic agent to prove that the defendant was acting in his private capacity. We could still follow ancient custom as regards the form in which a diplomatic agent should be summoned to appear before the local courts, and it could be forbidden to serve a summons not only at the legation but also on him in person (*in persona propria*). And if judgment were given against a diplomatic agent it could be made impossible for measures of execution to be enforced within the legation or even at the private residence of the agent.

If we were to examine the historical development of diplomatic prerogatives, we should find that, with the advance of civilisation, these prerogatives tend to contract rather than to expand.

¹ It would be a different thing if the diplomatic agent were summoned to appear before a local court in virtue of his *civil* responsibility.

Speaking, as I am, to experts, I need not remind them that in times past diplomatic agents claimed the privilege of inviolability not only as regards their persons, their property and the seat of the legation, but also for the whole quarter in which they resided. To-day, however, there is not only no question of an alleged right of *quarter*, but not even of a right of inviolability in respect of the whole of the building in which the legation is situated, should it be confined to a single set of rooms in a palace or house (as happens in the case of legations belonging to the less wealthy countries).

We have already mentioned how many questions there are in positive international law which are still not accurately and definitely settled, especially in the matter of immunity from local jurisdiction in civil and commercial questions. If the reform here recommended were to be carried through, most of these controversial questions would disappear, with great advantage to the progress of law and the maintenance of friendly relations.

In this report there has nowhere been any question of the prerogatives belonging to officials of the League of Nations. We were unable to deal with this very important matter (regarding which there is already a draft by the Institute of International Law, approved at the Vienna meeting of 1924) without going outside our terms of reference.

This subject is worthy of a special convention, in which account will have to be taken of the very remarkable differences between *definitely* diplomatic functions and those of officials of the League of Nations.

If a general international agreement is not shortly concluded on this matter, and if all the privileges belonging to diplomatic agents are consequently to continue to be granted to officials of the League of Nations (or at any rate to some of them), there will be all the more reason for generally limiting the prerogative of immunity from local jurisdiction in civil and commercial matters to acts performed by diplomatic agents in the exercise of their functions.

* * *

Before concluding this long report, I must point out that Dr. Mastny in his friendly reply did not confine himself to discussing the proposal put to him, but also made a proposal himself which constitutes an entirely original contribution and which accordingly deserves to be examined and discussed with the greatest care and thoroughness. Substantially, he proposes the adoption of *conciliation procedure and arbitral jurisdiction* for all acts, whether official or private, performed by a diplomatic agent. For this purpose, a special court would be set up in each capital to deal with these questions, and it would contain representatives of the diplomatic corps and of the local authorities. I do not desire to add further details lest I should misinterpret the ideas of the author of this proposal. I therefore leave it to him to explain his ideas to the Committee with the necessary detail.

Nevertheless, I fear that a reform of this kind would satisfy neither Governments nor individuals. The former would probably not consent to submit questions concerning acts performed by the diplomatic agent in the exercise of his duties to a jurisdiction of this sort, in which the local element would be in a majority and to which part of the diplomatic element would be chosen by chance. On the other hand, individuals would not willingly submit to a special jurisdiction of this kind, since it would not furnish them with all the guarantees which they enjoy in an ordinary court.

(Signed) Giulio DIENA,
Rapporteur of the Sub-Committee.

II. LETTER FROM M. MASTNY TO M. DIENÁ.

Lomnice n. Popelku,
August 20th, 1925.

[Translation.]

Dear Professor.

After studying the question of diplomatic prerogatives in greater detail, I am in a position to communicate to you a few ideas which have occurred to me in the course of this examination. To begin with, I agree with you that the *entire* question of diplomatic privileges and immunities is suitable for treaty regulation, and I believe that such regulation would meet a general and long-felt need. Account should be taken of the draft regulation on diplomatic immunities adopted by the Institute of International Law at Cambridge (August 13th, 1895) and of the recent "codification" undertaken by the Pan-American Union (Project No. 22 of March 2nd, 1925).

According to the wording of Question (c), which comes within the competence of our Sub-Committee, the report should not confine itself *strictly to codification*, but should at the same time indicate "what provisions could be recommended" (page 49 of the Minutes).

Thus the terms of the question do not even exclude the preparation of a preliminary draft (page 47 of the Minutes).

Personally, I feel more inclined to decide in principle in favour of a report which, *without proposing a positive draft convention*, would determine: (1) the law as it stands at present (existing custom, positive provisions of international law, national legislation); (2) case-law on the subject; (3) present-day doctrine (controversial points); (4) suggested solutions of controversial questions by interpretation; and (5) possible and desirable alterations and even reforms to take account of the new post-war conditions affecting the relations of the different countries. The work should be performed throughout with a critical eye to existing drafts (those of Cambridge and Washington) and the report should also indicate the scope of the reforms proposed.

In my opinion, a preliminary draft would only be appropriate as regards undisputed and purely legal questions which do not aim at any reform and, not least important, which would not affect the prestige of States, a factor which often plays a decisive part in the matter under consideration (compare the liberal interpretation given by the Courts). With regard to questions which are not entirely free from controversy, I am of opinion that only the *third part* of the resolution of September 22nd, 1924, would admit of treaty provisions in draft form.

As regards the subject-matter of the report, it was decided that the Sub-Committee would not be required to deal with consular privileges, but I think it would be very useful, in order to show the differences in theory, to touch on this question, if only superficially, and also on the immunities of heads of States.

I take it that the Sub-Committee's instructions are limited to diplomatic privileges and that it is therefore not called upon to deal with the *duties* (obligations) of diplomatic agents (see the Pan-American project) nor with the right of legations in general. In the event, however, of framing a positive draft, it would be very useful to determine more or less in detail the duties of public Ministers and especially their obligations in regard to local laws — and this would at the same time to some extent define the limits of their privileges.

It now remains to determine whether our investigation should extend to details of the classification of permanent diplomatic agents, to ceremonial rights, if and in so far as they still exist, to certain honorary prerogatives sanctified by custom (precedence, representative character, the right of dealing directly with the head of the State, etc.). I think that this question might be touched on, but without entering into details, because in the first place it has lost much of its former importance and, secondly, because it relates not to a right but to etiquette prescribed by usage in the country where the diplomatic agent resides. There is, however, one question frequently discussed in respect of diplomatic agents of the second class, and that is the question of the exceptional prerogatives which "ambassadors" (and nuncios) enjoy with regard to other classes nowadays, when the principles formerly observed (royal honours) in the creation of embassies appear to have been abandoned.

On the question of *what diplomatic prerogatives are at present recognised*, legal doctrine is, as far as I know, unanimous, although these prerogatives are differently classified and opinions differ as to their extent.

Current terminology is unfortunately confusing. Prerogatives, privileges, immunities and ex-territoriality are all employed without any exact meaning being given to them. Ex-territoriality in particular is only too apt to lead to confusion.

I much regret that I have been unable as yet to consult your *Principi de Diritto internazionale*, which I have been expecting from Rome for the last fortnight, and which will give me the details of your theory of ex-territoriality. In the meantime I am against abandoning this term (as is done in Article 23 of the Washington draft) and I incline rather to the restrictive definition given by Srisower: "The removal of certain persons or certain portions of territory from the legal authority of the country in respect of matters to which, according to general principles, such persons and such portions of territory ought on the contrary to be subject".

I agree with those jurists who hold that the fiction "that certain persons or things *are situated* outside the State" is a fallacious figure of speech in permanent contradiction to the fact that

"these persons and these things cannot escape from the sovereignty of the State"; but this opinion does not prevent me from favouring the retention, though only as a metaphor, of the expression "ex-territoriality", which has existed for centuries, "*diplomatic ex-territoriality*" including no more than certain exemptions from the authority and power of the State enjoyed by the diplomatic residence.

I admit that in principle no exemption (privilege) can be other than limited and that from a legal point of view a State cannot be called upon to renounce its sovereignty.

Ex-territoriality in the limited meaning of the word refers only to the legal exceptions recognised in any particular State, and these must always be interpreted in a restrictive sense. I am of opinion that ex-territoriality in this limited sense becomes a purely theoretical matter and that no exception could be taken to it even by those theoretical opponents who would restrict the grounds for granting diplomatic prerogatives to the "free exercise of official functions". It is obvious that there is no need to employ this term in practice, and that it is even preferable not to use it, in order to avoid misunderstandings or false interpretations.

In my opinion all prerogatives are based upon:

- (1) Ancient tradition;
- (2) The dignity and prestige of the State on the one side, and courtesy on the other;
- (3) Independence (the free exercise of functions).

Theoretically, the last consideration should be decisive in interpreting doubtful cases. In practice, however, this is not so; hitherto prestige (and courtesy) have always prevailed over doctrine.

Bearing this in mind and considering the practical object of the work in hand, I am unable to subscribe either to the doctrine which refuses all protection in circumstances not connected with official dealings and which accepts only the principle of "free exercise", or to the theory which interprets all claims in favour of the privileged persons.

I consider that we must always keep in mind the three principles quoted above and attempt to find the happy mean (neither MONTESQUIEU nor LAURENT). This middle course should be followed, not only in interpreting existing law but in proposing reforms, and I am glad to see from your letter that you realise the part played by prestige.

We must remember that this principle of prestige will continually supply certain correctives to the increasingly restrictive tendencies of the present day, tendencies which are, indeed, perfectly natural when we consider the development of modern democracy in the international life of civilised States.

As regards the *individual prerogatives* in detail, I venture to submit for your consideration a few ideas in the nature of marginal notes which I have made during my study of the question.

(a) *Inviolability*, which is generally admitted and which is universally recognised in theory and hallowed by custom, is to the best of my knowledge a matter beyond dispute, as also is the question of where it ceases. It is difficult, however, to determine satisfactorily the cases in which inviolability could not be claimed. The Cambridge draft goes further than the Washington draft (Article 15), which has failed to mention that "there are cases when.....", but, on the other hand, it expressly mentioned the obligations of diplomatic agents towards local laws (Articles 5 and 16).

The provisions of Article 4 in the Cambridge draft (and part of Article 30 of the Washington draft) are quite in accordance with practice and, *de lege lata*, just, but *de lege ferenda* I should be inclined to adopt the suggestion you have made to me, namely, that *inviolability and all other privileges* should be limited in principle to persons belonging to the *official staff*, appointed by the Government and (I will add) included in the list presented to the Ministry of Foreign Affairs by the head of the mission (the practice in Great Britain). This, of course, involves a change, since national laws and custom usually regard inviolability as extending also to unofficial personnel.

A proposal for reform along these lines would not be free from objections, in the first place as regards exemption from direct personal taxation, and also in respect of the private secretaries of heads of missions and their *chauffeurs* in cases when an offence may lead to the arrest or imprisonment of the latter.

As regards *the beginning and end* of prerogatives, I prefer the Cambridge (Article 15) to the Washington (Article 29) text, since it also covers the case of an agent who has stayed in a country before being accredited to it.

I would remark in parenthesis that jurists often speak of the "delivery of passports"; in practice, passports are no longer presented.

The question as to what measures a Government may apply in the case of an abuse of his inviolability by a privileged person is a disputed one and, in my opinion, difficult if not impossible to settle, since it will always be a *questio facti*. It would be impossible to enumerate these measures. The attitude of the Government will depend upon the gravity of the case, its nature, the relations between the two States, etc.

The position of the public Minister (diplomatic agent) in regard to third Powers is a moot point, although in principle his right to "safety and courtesy" is generally admitted.

In practice, this question does not ordinarily raise any serious difficulty, since the diplomat who is passing through the territory of a third State can avoid any inconveniences by travelling as a "courier".

Article 29 of the Pan-American draft proposes that inviolability should continue for as long as the agent is exercising his official functions in the various American countries.

Could not a similar provision be considered in the case of European countries?

It is clear that diplomatic agents visiting the territory of third Powers either on official duty or privately cannot claim all (or the same) privileges that are granted to them in the country to which they are accredited, but official journeys by representatives of States (Ministers of Foreign Affairs, diplomatic agents in the strict sense of the term, officials of the League of Nations and other international officials) have for some time been so frequent and general that a settlement of this question would seem eminently desirable, and it would be well to systematise the different kinds of international representation created among States since the world war.

What, for example, is the position of an Italian official of the Secretariat of the League of Nations during a session of the Council at Rome or in Paris?

(See also Articles 15 and 14 of the Pan-American draft. Do international officials in the strict sense of the term enjoy more extensive privileges than diplomatic agents pure and simple? Is the international character of diplomatic agents inferior?)

(b) It is generally admitted that immunity from taxation is not absolute, but depends upon traditional legal usage in the different countries, on reciprocity, etc. There are, however, certain typical exemptions which are never disputed in practice and of which mention is made in the Pan-American draft (Article 24), as well as in the Cambridge draft (Articles 7-11).

If we wished to examine this question in detail, we should have to study the laws of the different countries, in order to fix by a process of elimination the absolute minimum for purposes of codification.

Exemption from Customs duties is nothing more than a usage dictated solely by considerations of international courtesy. Some States are generous in the matter, others less so.

This question and the question of exemption from Customs examination have caused and still continue to cause practical difficulties, but I quite agree with you that it is a matter for individual arrangements between the States in question and that in practice everything depends upon good-will, reciprocity and the tact of the privileged persons.

In my opinion the English instructions (see SAROW, "Diplomatic Practice", Vol. I, page 286) are most reasonable and calculated to satisfy the most exacting claims. Exemption is restricted to heads of missions.

If, however, it came to regulating the question by treaty, it would be also necessary to settle questions of detail (diplomatic parcels, account, etc.). There is no doubt about the point that the privileges can only extend to articles for private use.

As regards particularly the question of Customs *examination*, I consider it would be necessary to be content with a statement by the privileged person as soon as he has proved his diplomatic standing, this being a privilege connected with inviolability.

(c) *Immunities of the residence.* There is no occasion to appeal to "ex-territoriality" in order to explain this privilege (I may refer to my notes on the theory of ex-territoriality). The principle of the free exercise of functions combined with the "dignity and prestige" of the represented State sufficiently explain the theoretical grounds for this immunity. It would be really difficult to define in detail the circumstances which may lead to the termination or suspension of this immunity. Writers are divided in their opinion, and personally, I consider that the report should merely set out the present position in relation to theory and practice.

As regards the *right of asylum*, I am quite willing to subscribe to Article 22 of the Pan-American draft, but the question still remains without any doubt exceedingly difficult when we are dealing with political refugees in countries which have not yet attained that degree of civilisation which we are justified in expecting in normal international life.

The question is a political one, and in the Cambridge draft it was thought better to give no opinion. Experience, even of quite recent date, would justify treaty regulation and, if not the complete abolition, in any case a restriction of the right of asylum, together with explicit provisions in regard to procedure.

Clearly the abolition of the right of asylum cannot dispose of the question of the admissibility of *entrance into the diplomatic residence*.

I am in favour of compulsory resort to the diplomatic channel, except in cases of extreme urgency or of danger within the building.

(d) *Immunity from criminal (and police) jurisdiction.* I consider that Articles 6, 12, 13, 15 and 16 of the Cambridge draft faithfully reflect existing custom as sanctioned by the national legislation and the case-law of most countries.

As regards legal doctrine, there are serious differences of opinion as to the extent of this immunity, as to the measures of precaution and security to be taken by the Government in respect of a privileged person who has abused his immunity, and there are even differences in regard to the justification for this immunity. EMERSON'S ideas, and also LAURENT'S, brilliant and attractive as they are, presuppose conditions of the highest civilisation in all countries and a standard of absolute justice which even in our days are not yet attained.

(e) Exemption from civil jurisdiction is doubtless the most delicate and most troublesome question of all. May I be allowed first of all to make a personal observation? In theory I feel strongly the need of a reasonable restriction of this privilege, whereas in my capacity as diplomat it would be my duty to defend prerogatives in their entirety. However, I do not think I am betraying the cause of professional prestige if, in theory, I accept the suggested reforms which you explained in your letter and which won my fullest sympathy as soon as I read them. Exemption from civil jurisdiction certainly raises great difficulties, and whenever a case occurs in practice — happily this is seldom — it is a cause of embarrassment, not only to Ministers for Foreign

Affairs (who would no doubt all subscribe to the famous Memorandum of M. D'AIGUILLON), but often also to diplomatic agents themselves in view of the difference of opinion as to their power to waive their exemption without the consent of their Government (see Article 27, No. 4, of the Washington draft), and in view of their professional duty to uphold the principle of exemption, even in cases where they would prefer to appear before the local Courts in order to have actions wrongly brought against them dealt with promptly. In theory the matter most often referred to is that of debts contracted by diplomatic agents; but it must not be forgotten that there are a large number of other obligations in civil law in respect of which proceedings can be taken before the Courts and on which it may in practice be exceedingly difficult for a foreign tribunal to pronounce judgment, especially when proper verification necessitates the hearing of witnesses, or even a *post-mortem* examination.

The tendency of theory to restrict exemption from civil jurisdiction to acts performed in the course of an official mission is not, in my opinion, in any way damaging to the prestige of the represented State, nor derogatory to professional dignity, but I think all the same that I ought to draw your attention to the danger underlying the following objections:

(1) Existing national laws are for the most part inclined to favour absolute exemption (excluding, of course, generally admitted exceptions, such as real actions, trading, etc.). This is especially the case with English law (7 Anne, c. 12, paras. 3-6, April 21st, 1709), French law (Décreté of the 13th Ventôse, Year 2) and the United States statute corresponding to the English statute.

(2) The principle of complete immunity seems to have been hitherto the rule of the French and English Courts (Judgments of the Cour de Paris, dated July 12th, 1867, and January 21st, 1875, of the Cour de Lyon, dated December 11th, 1883; Case of Magdalena Steam Navy Company v. Martin, etc.).

(3) Most *jurists* favour complete immunity. Some of those who uphold this view, however, admit that liberal interpretation and practice often unduly extend the limits of this privilege and that due caution should be observed.

(4) The Cambridge draft (Articles 12-16) and the Washington draft (Articles 25-27) decided in favour of immunity (but see paragraph 3 of Article 27).

(5) As this immunity is one of the immediate consequences of *inviolability* there is no need to distinguish between official and unofficial persons.

(6) Analogy with exemption from criminal jurisdiction (the full extent of which is not disputed) calls for uniform regulation (see the Cambridge draft).

(7) In practice it is often very difficult to distinguish the capacity in which a privileged person has acted, and sometimes it is even impossible to give an opinion upon the case before the details have come to light through judicial proceedings.

(8) The principle of the *prestige of States* demands exceptional protection, particularly in those cases in which the Courts would have to discuss *delicate private affairs* (family matters; publicity of the procedure; publication in the newspapers, etc.).

(9) Jurists opposed to immunity are assuming ideal *conditions* of civilisation, a degree of protection which is not yet everywhere attained in our times, since there are still divergences of opinion even on fundamental social ideas and the general principles of civil law (ownership). Take West and East! We cannot be blind to quite recent experiences (China, Russia).

(10) Material progress allowing direct communication between States (by telephone, telegraph) makes it possible for any matter to be promptly settled through the diplomatic channel.

From a practical point of view, all these objections seem to me to be rather serious, and I am not sure how they could be disposed of.

Most probably the American members of the Codification Committee will be opposed to proposals of reform which would prejudice the codification initiated in America.

So long as there is reason to expect that the Washington draft will be accepted by American legislation, it is clear that any reform at variance with the principles adopted in America would still further increase the already existing differences of opinion between the American and European schools of thought. This would be contrary to the main object, which is to effect a codification that will remove divergences and to attempt the unification of ideas by eliminating differences. We have therefore an additional reason for proceeding cautiously.

In practice, then, our report should be confined to explaining the present state of affairs, which, however, does not prevent us from emphasising all the points in favour of the modification of existing law or from replying to objections that have been raised. The decision will rest with Governments. In my investigation into immunity from civil jurisdiction it occurred to me to seek a compromise which would at least partly satisfy the tendency to insist on national legislation (in cases not connected with official duties). I can only indicate in rough outline one of the suggestions which might be examined with a view to reconciling opposing views.

In essentials the idea is as follows:

- (a) To confirm immunity as the general principle;
- (b) To admit an exception in the case of all acts and circumstances not of an official character;
- (c) To introduce a *conciliation* procedure and *arbitral* jurisdiction for *all* acts (both official and private).

Machinery: Establishment of an independent tribunal at the Ministry for Foreign Affairs:

- (1) President: the doyen of the Diplomatic Corps;
- (2) members: an expert in the person of a professor of international law at the local university;
- (3) a professor of

civil law; (4) another member of the diplomatic corps (chosen by lot); (5) a Civil Court judge (member of the Supreme Court of the country).

This body would have *competence* in *all* cases of civil proceedings against a diplomatic agent, assuming that the plaintiff does not prefer the jurisdiction of the defendant's country.

Procedure in three stages:

I. The Court would have to decide upon the character of the case (official or unofficial);

II. Conciliation procedure:

If the conciliation procedure failed, it would be necessary to distinguish between:

- (a) Official case; file to be sent to the Ministry for Foreign Affairs for diplomatic action (plaintiff retains the right to apply to the Courts of the defendant's country);
- (b) Cases having no connection with official functions; in these cases resort would be had to;

III. *Arbitration*. — If arbitration were made compulsory or if the parties submitted to it voluntarily, there would be nothing abnormal in the procedure, and the Court could decide the case *in merito*. If, however, conciliation procedure were still to be observed even as regards the third stage, the Court would only have to give its *opinion in merito*:

- (a) If the opinion were not accepted by the plaintiff, he could still apply to the Courts in the defendant's country;
- (b) Refusal by the diplomatic agent would be interpreted as willingness to submit to the national Courts of the country in which he resides.

As I said, I am merely outlining my first idea, which would of course have to be developed; but arbitral jurisdiction, which is so popular nowadays, necessarily suggests itself as one of the means which can be employed.

(See also, for example, the Statute of the Austrian "Oberhofmarschallamt", the competence of which was limited to cases of voluntary submission by persons enjoying the privilege of ex-territoriality.)

I do not think it necessary to deal with the other exceptions to exemption (real action, etc.), although a critical examination of the wording of the Cambridge and Washington drafts on this matter would serve a useful purpose in connection with this problem.

(f) *Exemption from the duty of giving evidence* presents no difficulties (Cambridge, Article 17; Washington, Article 28).

(g) *The right of jurisdiction* as regards the personnel of the mission and *voluntary jurisdiction*. Theoretically, some order would need to be brought into the chaos of divergent opinions. I do not think that it is necessary to go into details in this report: it would suffice to note in quite general terms the principles and the theoretical interpretation, without touching upon the question of ex-territoriality.

(h) *The right to the exercise of religion*. Is this still a practical question now that freedom of worship is generally recognised in all civilised countries? (Article 10 of Cambridge draft). Moreover, the immunity of the building offers sufficient protection.

As regards the question of who the privileged persons are, I entirely share the opinion expressed in your letter (although opposed to practice), namely, that the privileges of diplomatic agents should be limited to official personnel and, as regards members of the family, to the wife and relatives in the direct line living with the privileged person.

With regard to extraordinary representatives, officials of the League of Nations, commissioners, couriers, etc., I will refer to what I have already said above (see also the Washington draft, Article 2 and Article 15).

These are the ideas which I think it my duty to put before you, with the request that you will regard them as mere marginal notes.

I shall be very happy if, within the modest limits of my capacity, I have been able to be of use to you, for it was with that sincere desire that this letter was written.

(Signed) DR. A. MASTNY.

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

QUESTIONNAIRE No. 4

adopted by the Committee at its Second Session, held in January 1926.

**RESPONSIBILITY OF STATES FOR DAMAGE DONE IN THEIR
TERRITORIES TO THE PERSON OR PROPERTY OF FOREIGNERS.**

The Committee is acting under the following terms of reference¹:

(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;

(2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and

(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

The Committee has decided to include in its list the following subject:

"Whether and, if so, in what cases a State may be held responsible for damage done in its territory to the person or property of foreigners."

On this subject the Committee has the honour to communicate to the Governments a report presented to it by a Sub-Committee², consisting of M. GUERRERO, Rapporteur, and M. WANG CHUNG-HUI³.

The nature of the general question and of the particular questions involved in it appears from this report. The report contains a statement of one theory as to the principles governing State responsibility in the matters considered and of the particular solutions derived from these principles. The Committee considers that this statement indicates the questions to be resolved for the purpose of regulating the matter by international agreement. All these questions are subordinate to the larger question, namely:

"Whether and in what cases a State is responsible for damage suffered by foreigners within the territories under its jurisdiction and to what extent the conclusions of the Sub-Committee should be accepted and embodied in a convention between States."

¹ See the Assembly Resolution adopted September 22nd, 1924.

² M. De Visscher was also appointed on this Sub-Committee but he was unfortunately prevented from taking any part in the preparation of the report.

³ Mr. Wang Chung-Hui signed the original text of the Sub-Committee's report. Having unfortunately not been able to attend the session of the Committee of Experts, he is not responsible for the actual text as annexed to the present document, this text containing certain amendments made by the Rapporteur in consequence of the discussion in the Committee.

It is understood that, in submitting the present subject to the Governments, the Committee does not pronounce either for or against the general principles of responsibility set out in the report or the solutions for particular problems which are suggested on the basis of these principles. At the present stage of its work it is not for the Committee to put forward conclusions of this nature. Its sole, or at least its principal, task at present is to direct attention to certain subjects of international law the regulation of which by international agreement may be considered to be desirable and realisable.

In doing this, the Committee should doubtless not confine itself to generalities but ought to put forward the proposed questions with sufficient detail to facilitate a decision as to the desirability and possibility of their solution. The necessary details are to be found in the conclusions of M. Guerrero's report¹.

In the same spirit, the Committee begs to refer to M. Guerrero's report for the details when it submits to the Governments the following question, which is closely related to the main question brought to their attention above.

"Whether and, if so, in what terms it would be possible to frame an international convention whereby facts which might involve the responsibility of States could be established, and prohibiting in such cases recourse to measures of coercion until all possible means of pacific settlement have been exhausted".

In order to be able to continue its work without delay, the Committee will be grateful to be put in possession of the replies of the Governments before October 15th, 1926. The Sub-Committee's report is annexed.

Geneva, January 29th, 1926.

(Signed) H. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See page 14.

Annex.

REPORT OF THE SUB-COMMITTEE.

M. GUERRERO, *Rapporteur*.

M. WANG CHUNG HUI,¹

1. *Whether and, if so, in what cases a State may be held responsible for damage done in its territory to the person or property of foreigners.*

2. *Whether and, if so, in what terms it would be possible to frame an international convention whereby facts which might involve the responsibility of States could be established, and prohibiting in such cases recourse to measures of coercion until all possible means of pacific settlement have been exhausted.*

[Translation.]

Before considering the question of the international responsibility of States for damage done to foreigners, we think it will be advisable to examine not only the genesis of international law but the history of its growth, which is totally unlike that of national law.

Our inclination to do so is strengthened by the fact that the question itself—in the form in which it is stated—might be regarded as a contradiction in terms, because it refers in the same breath to international responsibility, which can only arise out of the violation of an international duty, and damage caused to individuals, which is exclusively a question of domestic law.

In making this preliminary survey, we shall rely on the data provided by legal researches which have been successfully conducted within the last few years, principally by the German and Italian schools.

I.

For many years the juridical nature of international relations was denied by a number of authorities, but now the contrary view is almost universally accepted and is assuming definite shape as a legal doctrine.

The modern conception, however, is by no means founded on an idea substituted for that of *jus naturale*. It is the outcome of a logical sequence of scientific investigations; the result of a careful study of the various stages of the evolution of international law.

The absolute need of social intercourse created a need for law, that is to say, a set of standards to which the whole community had to conform. Indeed, it is impossible to conceive of any community, however small, without means of compelling its members to conform to its rules. These rules are determined by the nature of the relations between individuals, and by an equitable adjustment of the services they render. The compelling force which binds together the various individual interests of a community becomes a rule of law as soon as it engenders rights and duties.

In relations between States, rules are the result of the will to create a social order governed by laws applicable to all.

So long as every State led an isolated existence, there could be no co-ordination of mutual relations. It was not until States realised that they had interests in common that they organised themselves into an international community. In so doing, however, they did not sacrifice their individuality. They merely combined their several wills in one common will and thus created law. This law is superior to all others, because it is the sum total of the wills of all nations, and the will of each nation is itself superior to the will of the individual.

International law, thus established with all its juridical standards, dominates the will of individual States and governs the relations of the whole family of peoples in a manner so undoubtedly binding that no State can disregard it. The authority of each State is subordinate to the higher authority of the international community. The binding character of international law is founded on the free consent of States thereto—the consent of all States and not merely the consent of some. In other words, the unilateral will of one State or the collective will of a number of States is not sufficient to create legal rules binding on the whole community of States.

Therein lies the fundamental difference between national law and international law. The will of the individual State is all-powerful in the creation of the former, but it cannot create the latter. Only as a manifestation of the collective will of all States can international law assume a tangible, positive and objective form.

In endeavouring, therefore, to ascertain the existence of an international responsibility—a point which we shall discuss later—we must not look to find the duties from which it derives outside the boundaries of that international law which has been formed by the wills of separate States coalescing in one single will.

¹ See note 3 on preceding page.

The common will to establish some given rule as a legal international norm is expressed by formal or tacit agreement between the nations. Such agreement may or may not be in writing; but in either case, if it is carried out in practice, it is none the less the expression of a will which is destined to govern the mutual relations of the States. Whether it be termed a treaty or an international usage, whether it be founded on a *Vereinbarung* between States—as the German school would call it—or on international custom, the agreement is equally positive and binding. It is a manifestation of a common will and it embodies all the elements which characterise international legal rules. The force and authority of this will is equally valid, however it may be expressed; so much so, indeed, that the translation of a rule of customary law into written law neither modifies its nature nor increases its value; for instance, the violation of the immunity of diplomatic agents is not rendered one whit more or less serious by the fact that such immunity has or has not been formally recognised in a treaty.

It is none the less obvious that all treaties and usages must be regarded as sources of positive law, but no treaty or custom between two States can be held to be a source of law if it is in opposition to the will of the other States which form part of the community of peoples.

In our report, therefore, we shall constantly make use of this criterion of a collective will as evidence of the existence or non-existence of international responsibility. We shall thus avoid the old pitfall which has so often proved fatal to others who, after wandering far from the domain of international law, have sought to regain their foothold by grasping at ideas and notions which belong to quite a different sphere.

As we have shown, the body of law established by the will of international society is the only law which can govern the mutual relations of States, in other words, the rights and duties which States have accorded to or imposed upon themselves in their relations *inter se*. The violation of any of these rights involves the international responsibility of the offending State. Consequently, the injured State is alone entitled to complain. Under this system, States alone possess international rights and duties.

Individuals do not come within its scope. They move on a lower plane, where their lives are regulated in accordance with standards set up by a single will—the will of the State. In their own sphere individuals possess rights and duties and can accordingly incur responsibility, or, correlatively, invoke the responsibility of the State to which they belong. This body of rules, which governs the rights, duties and responsibilities of a State and of the individuals under its jurisdiction, constitutes domestic law, which is different in every respect and circumstance from international law.

According to the above definitions, therefore, the individual is not a subject of international law, and the violation of a rule of international law does not involve the individual in any responsibility.

Similarly, as international law imposes duties on States, only the individual is incapable of committing an offence against that law.

Any other interpretation would be tantamount to reverting to universal relations under the *jus naturale*, which is contrary to the system of positive international law.

Consequently in the present state of international law, as it ought to be defined, we can no longer admit the expressions which are still commonly used—of “international rights and duties of individuals” or “offences committed by individuals against the law of nations”—which are to be found in several treaties and legislations. The State is no more capable of violating the international rights of a foreigner—for the foreigner possesses no international rights—than the individual is capable of disregarding international obligations.

The error in question is due to an inexcusable confusion between national law and international law; between the law which governs the relations of the individual to the State and that which governs the relations of the State to other States. It would amount to regarding individuals as subjects whereas they are only objects.

This erroneous interpretation is often met with in international practice when claims are made for damage done to foreigners. The State which makes the claim, instead of doing so on its own behalf, comes forward as mandatory of the person who has suffered the damage.

The true rule should be that the individual may invoke the responsibility, under domestic law, of the State in which he resides; but that international responsibility may only be invoked by States.

II

After thus briefly examining the foundations of international law and one of the differences between domestic responsibility and international responsibility, it will be easier for us to deal with the first part of the question raised in I.

First Question.

WHETHER A STATE MAY BE HELD RESPONSIBLE FOR DAMAGE DONE IN ITS TERRITORY TO THE PERSON OR PROPERTY OF FOREIGNERS.

The responsibility which we have to determine is international responsibility, *i.e.*, responsibility resulting from the violation of international law. We have seen that international law is the

outcome of a collective will. We shall next seek to ascertain the circumstances in which such a collective will has been formed as regards the reciprocal rights and duties of States in the matter of the protection of nationals abroad.

This will, which is the creative force of international law, was first manifested when the international community came into being. States then realised that they had common interests which could only be harmonised by the rational organisation of inter-State relations. The community once formed, new States are admitted to it by an act of high importance, and the community, which has already observed the pre-natal growth of the new State, examines its legal capacity, and is only ready to grant recognition if the new State can in return offer satisfactory guarantees. For its part, the new member, by the very fact of its recognition, is committed to the observation of its international duties.

To discover these duties, and their correlative rights, we must go back to one of the two sources of international law: treaties, or customary law. Doctrine only merits relative consideration as a means—sometimes a satisfactory means—of throwing further light on juridical rules and rendering their formation easier. Doctrine as a creative source of law has even less force than the unilateral will of States. It has no power to determine what is the unanimous will of nations. It may, however, become law by its incorporation in international practice; but in that case the source of such law is custom and not doctrine.

As regards the protection of foreigners, customary law lays down certain rules which clearly express the definite will of States regarding the rights which they agree to accord to foreigners, the manner in which foreigners are to be treated, the method of determining the State which is responsible for their protection, and the means of ensuring such protection.

It will be of interest to examine these rules because we shall have to revert to them every time we seek to establish the constitutive elements of an international responsibility. We shall summarise the rules, briefly, in order to remain within the limits of our task.

1. *Rights.* — Some rights are not rights created by States for the benefit of their nationals or of foreigners; namely, the right to life, the right to liberty and the right to own property. The community has simply recognised the existence of these rights and States have mutually undertaken to ensure the possibility of enjoying them.

This undertaking is so nearly universal that many authors have been unable to resist the temptation to regard these rights as international rights of the individual. But in so doing they have committed the fundamental error of attributing to the individual a character which he does not possess—they have made him a subject of international rights and duties.

In speaking of rights, therefore, we mean that these individual rights ought to be recognised by all nations. In fact, wherever a man goes he takes his rights with him, and wherever he is it is the will of all States that these rights should be safeguarded. Before these rights, nationality sinks into the background, because they belong to the man as a human being, and are not, accordingly, subordinate to the will of the State.

This, however, is not equivalent to stating that the undertaking to safeguard these rights constitutes an absolute guarantee against any action to the prejudice of such rights, or that the State is responsible for any infringement of such rights. Their recognition simply implies the duty of surrounding the individual, whether he be a national or a foreigner, with adequate means for defending them.

2. *Treatment.* — Here also the will of the community of peoples is clearly defined. It accepts the above-mentioned rights as being the minimum which a State should accord to foreigners in its territory, but it does not thereby recognise the right to claim for the foreigner more favourable treatment than is accorded to nationals. The maximum that may be claimed for a foreigner is civil equality with nationals. This does not mean that a State is obliged to accord such treatment to foreigners unless that obligation has been embodied in a treaty. We thereby infer that a State goes beyond the dictates of its duty when it offers foreigners a treatment similar to that accorded to its nationals. In any case, a State owes nothing more than that to foreigners, and any pretension to the contrary would be inadmissible and unjust both morally and juridically.

3. *The Protector State.* — Nothing can be more logical than the desire of States to have it laid down that protection must be afforded exclusively by the State in the territory of which the foreigner happens to be.

This is easy to explain. Protection involves certain positive acts that can only be performed by the State possessing the sovereignty. Any duality of sovereignty would be inconceivable, for one sovereignty would exclude the other. The will of the States, in this matter, may be adequately expressed as follows: No trespassing on the sovereignty of another, and no renunciation, in however small a degree, of this essential prerogative.

Dual protection would, moreover, constitute a twofold and unjust inequality — first, from the point of view of the nationals of the State in which the foreigner resides, who are only protected by their own State; and secondly, from the point of view of the foreigner's co-nationals, who remain in the home country. A person leaving his country, and thus depriving it of his personal effort, would possess the privilege of being protected both by the State of origin and the State of adoption.

4. *Methods of affording Protection.* — As to methods, the will of the international community has not been expressed in positive terms. Its duty is to protect foreigners, but not to determine the methods to be employed.

In other words, every State is free to select its own ways and means of affording protection. The reason for this is obvious. The affording of protection is an element of national law, a field in which the will of the State is the supreme arbiter. It admits of no intermediary.

Nevertheless, the general means employed are almost everywhere the same: the laws and organs of the State. There is no other way of ensuring the observance of a duty involving a series of acts which are themselves subject to decrees of the State.

The State, however, remains free to organise its internal existence as it thinks best. What is required of the State is the fulfilment of the international duty: how it does so matters little.

But, although the State is perfectly free to select what methods it prefers for the protection of foreigners within its territory, it is not free to restrict its responsibility to cases of violation of the arrangements which it has made. Responsibility may be incurred by failure to adopt methods which should have been adopted or by the inadequacy of the methods actually adopted.

The above considerations will help us to formulate an answer to the first question asked. States are bound to conform to definite rules of conduct in respect of foreign nationals within their territory. If these rules are violated, and if, in certain circumstances, damage is thereby caused to such foreigners, the State in question may be held responsible to the State of which the foreigners are nationals.

We say "in certain circumstances", because damage does not *per se* imply international responsibility. For international responsibility to exist, the damage must be the result of a violation, by the State itself, of some international rule. Such violation may be positive or negative. It is positive when the State commits an unlawful act, contrary to international law; if, for instance, by a national law, it declares property owned by foreigners in its territory to be State property, without granting any compensation. It is negative when the State omits to fulfil a positive duty; for instance, when it fails to provide a judicial organ before which foreigners may defend their rights.

In both cases, the State has failed to fulfil an obligation which it voluntarily and freely assumed as a member of the international community—the obligation to accord to the individual certain rights, including the means of defending these rights. The State of which that individual is a national is wronged, in the first case by an act contrary to international law, and in the second case by an omission to fulfil an international duty. The responsibility is, therefore, international, because the act, or the omission, is to be laid at the door of the State itself.

Nevertheless, in order to establish international responsibility beyond doubt, care should be taken to ascertain that an international right does exist, and that it is not merely a case of some damage—no matter what—having been suffered by a foreigner.

The same act may, according to circumstances, be contrary to international law, or quite unconnected with international law. For instance, if a State were bound by treaty to grant to the nationals of another State treatment as favourable as that which its domestic legislation accorded to its own nationals, any infringement of this rule would involve the international responsibility of the former State. An illegal act would be imputable to that State. But, if no such treaty obligations had been incurred, no responsibility could be invoked, because the other source of international law—customary law—does not impose this obligation.

When we speak of an illegal act committed by the State, we mean an act done by the organs through which the State performs its functions and which enable it to fulfil its international duties.

Every one of these organs, whether it be legislative, administrative or judicial, can commit an illegal act, contrary to the rights of another State, imputable to the State to which the organs belong, and consequently involving that State's responsibility.

Should any act or omission, in the circumstances mentioned above, cause damage to foreigners, international responsibility would arise, not by reason of the damage suffered, but because of an infraction of international obligations which the State was bound to fulfil. In the case now under consideration the obligation arises from the fact that States are bound to afford protection to foreigners under their jurisdiction.

We say "under their jurisdiction", and by this we mean that protection must be afforded in all territories over which the State exercises its sovereignty, though it cannot be afforded outside these limits. Consequently, a State is bound to fulfil this obligation in its colonies and protectorates, but is not bound to do so in any part of its colonies or territories which may, temporarily or finally, have ceased to be subject to its sovereignty.

In the latter case, the duty of protection would devolve on the State occupying such territory.

In composite States, the infraction of an international rule by one of the component States of the federation involves the responsibility of the central power, which represents the State in its international relations. The central power may not advance the argument that the component State is autonomous; it cannot, any more than a centralised State, plead the independence and autonomy of authorities of a member State in order to avoid responsibility for, say, some legislative act. An argument of this kind, which might be admissible in domestic law, is inadmissible in international law, because, as regards relations between States, the community of nations only recognises the authorities which represent a State in external affairs.

As regards composite States, the question has been satisfactorily settled in Article 4 of the Regulations adopted by the Institute of International Law at its session of September 1900, where it is laid down that "the government of a federal State composed of a certain number of small States, which it represents from an international point of view, may not plead, in order to avoid the responsibility resting upon it, the fact that the constitution of the federal State does not give it the right to control the member States, nor the right to exact from them the discharge of their obligations".

III.

Second Part of the First Question.

IN WHAT CASES A STATE MAY BE HELD RESPONSIBLE FOR DAMAGE DONE IN ITS TERRITORY TO THE PERSON OR PROPERTY OF FOREIGNERS.

The foregoing considerations will be of great help to us in determining the limits of international responsibility in individual cases, without having recourse to obsolete ideas or conceptions based on analogies derived from domestic law.

It is particularly important, in the codification of international law, to steer resolutely clear of all conceptions which would tend to augment the responsibility of States by incorporating in international law principles drawn from dissimilar and even contrary sources.

Such tendencies have prejudiced the cause of international law and have increased rather than reduced the number of international disputes. We must be careful to avoid all exaggeration, as this might constitute a lasting and serious menace to friendly international relations. We must always consider the inter-State will, the only force that can create international law, and must refuse to admit responsibility whenever international opinion is divided or doubtful.

This will certainly be a prudent attitude to adopt, all the more so because States, as at present organised, possess in themselves the necessary means for rendering the protection of foreigners effective.

It is in the light of these observations that we shall now proceed to consider the various circumstances which may cause damage to foreigners and which may or may not involve international responsibility.

Political Crimes committed against Foreigners in the Territory of a State.

Political crime is the most serious case which can arise, since international law requires a higher form of protection for the foreigner who represents his State officially.

This crime, however, would not in itself constitute a violation of international law. Men, whether they are public officials or not, will always be exposed to the risk of injury and damage. It was obviously not the intention of the international community that the representative character of an individual should render him immune from ordinary misadventure.

Nevertheless, States have undertaken to exercise greater vigilance over these persons than they do over private individuals. They are also bound to take special steps to forestall any assault against the persons of foreign representatives and to display particular energy in pursuing the criminals and ensuring the proper course of justice.

Only if a State neglects these duties, or fails to act with all due diligence and sincerity, will its conduct involve an international responsibility.

This question has already been examined and skilfully settled by a special Committee of Jurists appointed by the Council of the League of Nations on September 28th, 1924.

The question was defined as follows:

"In what circumstances and to what extent is the responsibility of a State involved by the commission of a political crime in its territory?"

The reply of the Committee of Jurists was:

"The responsibility of a State is only involved by the commission in its territory of a political crime against the persons of foreigners if the State has neglected to take all reasonable measures for the prevention of the crime and the pursuit, arrest and bringing to justice of the criminal.

"The recognised public character of a foreigner and the circumstances in which he is present in its territory entail upon the State a corresponding duty of special vigilance on his behalf."

This method of defining the international duty of a State and determining the limits of its responsibility is entirely in keeping with the criterion which we suggested in Part I of this report. It has never been the intention of States themselves to guarantee the inviolability of individual rights or to assume responsibilities which belong to others. They have simply undertaken to make such domestic arrangements as will ensure that foreigners shall find in their territory the relative security afforded by good internal organisation and the existence of appropriate organs for the repression and judgment of crime.

This limitation of the obligation, and of the consequent responsibility, should impel the State which has suffered as a result of the crime to adopt an extremely prudent attitude towards the State in which the crime was committed or attempted. Responsibility cannot be established until a full enquiry has been conducted into the facts of the case. Therefore, as regards political crimes committed against strangers, we propose the adoption of the text which was given above.

Illegal Acts of Officials.

We have said that officials, to whatever branch of the national administration they may belong, are organs of the State and their acts are consequently to be regarded as acts of the State.

It is indeed through its officials that the State exercises protection. The obligation to provide officials has not been contracted in so definite a form as we have stated it, since international law has created the duty without laying down rules for its application. But, since the State is an abstract entity, it must, in order to find expression, provide itself with organs wherewith to exercise its powers.

Again, though it is perfectly true that the State is not bound to possess any specified organ, it is none the less under an obligation to set up all the organs which it requires to fulfil its international duties.

The first question which now arises is whether all acts of officials should be regarded as acts of the State. Our answer is in the negative, and we draw a distinction between acts accomplished by officials within the limits of their competence and acts which go beyond these limits.

The former are truly acts of the State and, if they are contrary to international law and adversely affect the rights of another State, they must certainly involve the responsibility of the State to which they can definitely and indisputably be ascribed. If, in these circumstances, a foreigner suffers damage, it is for the State to make compensation for such damage.

The reason for this is clear. When the official acts within the limits of his competence, he is obeying a command of the State. If such command infringes a rule of international law, the State must be responsible, since the infringement must arise from the command being wrongful, either as going beyond the rights of the State or as failing to satisfy a duty owed by the State.

In either case, the act of the official, though lawful from the point of view of domestic law, is an illegal act on the part of the State.

In order, however, for the responsibility of a State to be really involved because a foreigner had suffered damage through the fault of an official, and for the State of which the foreigner is a national to be entitled to consider itself wronged and to claim reparation, certain conditions must be fulfilled. These conditions are as follows: (1) the act accomplished by the official within the scope of his official powers must be contrary to an international duty; (2) the duty violated must be a legal and not merely a moral duty; (3) the right invoked by the injured State the violation of which has involved the damage must be a positive right created by treaty between the two States or by customary law duly recognised as emanating from the collective will of States; and (4) the damage must not be the result of an act accomplished by the official in defending the rights of the State.

When these basic conditions have been fulfilled, the international responsibility becomes clearly established and the State cannot plead the inadequacy of its laws. It has, indeed, incurred responsibility precisely because it has not foreseen the need of adequate legislation to enable it to fulfil its international duties. That is the main reason for the publication of treaties. By their publication treaties become laws which officials are bound to know and observe.

If the act of the official is accomplished outside the scope of his competence, that is to say, if he has exceeded his powers, we are then confronted with an act which, juridically speaking, is not an act of the State. It may be illegal, but, from the point of view of international law, the offence cannot be imputed to the State.

Those who seek to render States responsible for such acts are obliged to fall back on theories which are often ingenious but which have no place in international law. We may quote, for instance, the theory of *culpa in eligendo* or *in custodiendo*. This theory, like all the other faulty theories, is based on a *presumptio juris et de jure*, which cannot be applied in international law.

Moreover, is any State so perfectly organised that it can be certain of never making an error in choosing its officials or supervising their acts? Can it even be stated that a man will always conscientiously fulfil his duties and be incapable of ever committing a wrongful act?

Some persons assert that the existence of this responsibility is supported by the numerous precedents to be found in the past history of international claims. It would be extremely dangerous to attribute any value to these precedents. Positive international law cannot derive its strength from sources which are so exiguous and so conflicting.

A practice which is based on the use of force cannot be described as international practice in the sense admitted by international law. On the contrary, for the sake of the law's prestige, we should be careful to include in customary law only that which undeniably represents the definite will of all States composing the international community.

It would be inconceivable that States should, in their anxiety to protect foreigners, go so far as to guarantee these foreigners against all abuse of power on the part of the authorities and substitute international responsibility for individual responsibility.

Just as the act of the official, accomplished within the limit of his competence, is, from the point of view of international law, an act of the State, because it constitutes an application of the national law—no matter whether such law be perfect or faulty—so an irregularity on the part of an official is an individual act, which is not willed by the State and may even be the result of malice on the part of the official.

Although such cases should not be regarded as coming within the scope of international law, the State is nevertheless bound to proceed in such a way as to obviate their occurrence as far as possible, and to enable the foreigner who has been wronged to take action against the offender.

We shall therefore place these cases in a higher category than unlawful acts committed by individuals who are not officials. Acts of private persons and acts of officials who exceed their powers are alike private acts, but we consider that the vigilance exercised by the State should be more strict in the latter case.

Thus, with regard to acts of officials, international responsibility arises if a Government, being informed that an official is about to commit an unlawful act against a national of a foreign State, does not take timely steps to prevent it; or if, when the act has been committed, the Government does not hasten to visit the official in question with condign punishment under the national legislation; or, again, if it fails to give effect to the proceedings which the injured foreigner is entitled to bring in conformity with the State's legislation.

Apart from these circumstances, a State cannot be held responsible under international law.

Acts of Private Persons.

It is in this connection, more especially, that a mass of theory has been evolved with a view to proving that a State is internationally responsible for the acts of individuals subject to its jurisdiction. None of these theories will bear careful scrutiny.

In the first place, an attempt has been made to resuscitate a mediæval conception under which the body politic was held to be responsible for the acts of its members. This conception, which may have been of some service when all power was concentrated in the hands of sovereigns, would be utterly inapt in the present position of the relations between the State and the individuals under its jurisdiction.

Grotius took a step in the right direction by opposing to this theory the Roman conception of *culpa*, but his view was still far from meeting the requirements of international law and defining the true function of modern States in their international relations.

At the present time, the postulate that the State is not responsible for the acts of others has become a basic legal rule; indeed, if it were not so, the very foundations of the community would be shaken.

The sovereigns, who were formerly identified with the State, are no longer absolute masters of everything within their territory. The individual as well as the sovereign has a sphere of action proper to himself. He has full liberty of action and is responsible for his acts. The relation of one State to other States is the same as that of the individual to the State in which he resides. If one private person, be he national or foreigner, causes injury or wrong to another private person, be he national or foreigner, his act, being unlawful from the point of view of domestic law, entitles the injured party to take legal action in conformity with the law of the country.

We do not think it necessary to dwell at any length on this subject, as its importance, from the point of view of international law, is slight. Should any doubt arise concerning wrongs due to the acts of private persons, it will be sufficient to refer to our definition of the violation of international law and the nature and limits of the responsibility of States in their mutual relations.

Acts performed in the Exercise of Judicial Functions.

If there is one general principle concerning which there can be no discussion, it is respect for the majesty of the law. As between self-respecting States, there can be no greater insult than to question the good faith of municipal magistrates in their administration of justice.

There are certain other principles as unquestioned and as widely observed as the above. For instance, the principle that all interference or claim to interfere with the regular course of justice in another State is tantamount to an attack on that State's internal sovereignty.

Here we have certain legal standards, as categorical as they are precise, created by the will of all countries as rules of conduct to be observed in all circumstances of the life of the international community.

As regards the duty of affording judicial protection to foreigners, it is sufficient that they should be granted a legal status, which they can assert through appropriate laws and independent tribunals to which they are allowed access on the same footing as nationals. Neither more nor less.

The decisions of these tribunals must always be regarded as being in conformity with the law. None but a judge of the country is entitled to interpret that country's law. Even if he makes a mistake his judgment must be accepted; the dignity of justice and the character of modern States demand this.

The opinion that a State is not responsible for a judicial error committed by its tribunals is so firmly implanted in the minds of nations that legal publicists in all countries have criticised—and often very harshly criticised—the arbitral award under which De Martens declared the Netherlands to be responsible for the judicial error committed by its courts in the case of the Australian vessel *Costa Rica Packet*.

This is equivalent to stating that the community of nations admits no appeal against judicial errors other than that which the *lex loci* itself may afford to foreigners as well as nationals, and that, if no provision is made for appeal, both parties must acquiesce and cannot claim to invoke any responsibility at all on the part of the State in which the case was heard.

The same principle must apply to sentences which have been termed "*unjust*" or "*manifestly unjust*".

Nothing could be more dangerous than to admit the possibility of rehearing, elsewhere than in the courts of the country, a judicial decision alleged to be contrary to justice. An opening would thus be afforded for abuses of every kind, for the most serious violations of internal sovereignty and for countless international conflicts.

As States are at present organised, each being bound to respect the institutions of the others, any endeavour to create, at a given moment, a special court having power to overrule the national judicature would be unthinkable.

Unless we are ready to upset the one true basis of international law—the collective will of States—we will not entertain the supposition that States, when they entered the community,

ever contemplated an abridgment of the dignity and authority of their own courts of law. That, however, would be the final result of rehearing a case where no provision for appeal existed under the legislation of the State concerned; and yet the advocates of the theory of international responsibility, in connection with judicial decisions vitiated by *manifest or flagrant injustice*, would inevitably be led to provide for some such re-hearing.

Where would they find a *super-judge* competent to determine the existence of such injustice? And, supposing that they could discover such a personality, what would become of the principle of the equality of States, a principle on which the international community is based, and which cannot be disregarded without shaking the whole edifice to its foundations?

Moreover, to admit the possibility of international proceedings being brought in another country, in opposition to the original *lex loci*, would be contrary to the international rule under which nationals of a foreign State cannot claim more favourable treatment than nationals. This would, however, be the result if foreigners had an international appeal open to them in addition to the remedies offered by the national law.

We should not continue this reasoning any further had not a number of modern legal publicists unfortunately come forward in favour of this view of international responsibility. We must therefore persist in our argument, and we shall substantiate our contention—that no international recourse is admissible against municipal judgments—by quoting certain cases. These cases demonstrate the repugnance with which requests for intervention on these lines have almost invariably been received.

In 1885, when the Government of the United States of America received a request of this kind, the Secretary of State, Mr. Bayard, sent a letter to the American Minister in Mexico in which he said: "This Department is not a tribunal for the rehearing of decisions of foreign courts, and we have always laid down that errors of law and even of fact, committed by these tribunals, do not afford a motive for any intervention on our part".

Another American Secretary of State, Mr. Marcy, adopted a similar line in writing to the United States Minister in Chile, Mr. Starkéatter: "Irregularities committed in the case of an American citizen in Chile, unless they amount to a *refusal of justice*, afford no grounds for intervention by the United States."

When Great Britain and Portugal submitted to arbitration the question of the alleged *manifest injustice* of a decision given by the Corte de Relação, the arbitration tribunal stated: "While we unhesitatingly admit that the decision was erroneous, we cannot agree that it was manifestly unjust. It would be manifestly unjust to hold the Portuguese Government to account for faults imputable to the courts of that country. According to the Portuguese constitution, these courts are absolutely independent of the Government and therefore the Government can exert no influence over their decisions. The British Government cannot disregard this fact without at the same time disregarding the whole existence of Portugal as a civilised State, and that is obviously not the intention of the British Government."

As these views were expressed in cases in which the party concerned happened to be a small State, we can well imagine the reception which a great Power would accord to a claim to hold it responsible for an unjust decision given by its magistrates.

In every State the independence of the judicature and respect for the law are recognised as such fundamental principles that even when the courts are called upon to apply the rules of private international law, which, as a result of an international treaty, fall within the scope of the State's own laws, they are not made subject in doing so to the supervision of their Government (resolution of the Institute of International Law at its session at The Hague in 1875).

Another theory which is quite as inadmissible is that international responsibility is incurred through abnormal delay in the administration of justice.

No State can claim to possess courts so efficient that they never exceed the time-limit laid down in the laws of procedure. The larger the State, the greater the number of cases brought before its judges, and consequently the greater the difficulty of avoiding delays, sometimes quite considerable delays.

If we agree that the State is responsible neither for judicial errors nor for the manifest injustice of judicial decisions, nor for abnormal delay in the administration of justice, are we to infer from this that the State has no responsibilities in regard to the manner in which it dispenses justice? Certainly not. Its international responsibility may become seriously involved.

We have already shown that the State owes protection to the nationals of foreign States within its territory, and must accord such protection by granting foreigners the necessary means for defending their rights. But these means can only be such as are made available by the laws and courts of the country and by the authorities responsible for public order and security.

In the case in question the State would not be fulfilling its duty towards other States if it did not allow foreigners to have access to its courts on the same terms as its own nationals, or if these courts refused to proceed with an action brought by a foreigner in defence of the rights which are granted to him and through the means of recourse which are provided under the domestic laws.

Such responsibility would arise as the result of a *denial of justice*.

In saying "on the same terms as its own nationals", we desired to emphasise the necessity of equality as regards access to the means of recourse open to all persons under the same jurisdiction. Thus, if the nationals of a State are allowed to appeal from the decision of a court of first instance, the same privilege must be accorded to foreigners when their recognised rights are in dispute.

The decision of a judicial authority, in accordance with the *lex loci*, that a petition submitted by a foreigner cannot be entertained should not, however, be regarded as a *denial of justice*.

The State has fulfilled its duty by the very fact that the local tribunal has been able to give a decision regarding this request.

Denial of justice is therefore a refusal to grant foreigners free access to the courts instituted in a State for the discharge of its judicial functions, or the failure to grant free access, in a particular case, to a foreigner who seeks to defend his rights, although, in the circumstances, nationals of the State would be entitled to such access.

In conclusion, therefore, we infer that a State, in so far as it is bound to afford judicial protection, incurs international responsibility only if it has been guilty of a *denial of justice*, as defined above.

Damage caused to Foreigners in Cases of Riot and Civil War.

This problem has long been a source of disputes of every kind, and discussions which have not yet led to the enunciation of any definite rule. This is not due to the absence of international juridical standards by which the problem might be solved, but rather to a habit, which certain exponents of international law have acquired, of straying into fields where no enquiry on the lines of international law can be usefully carried out, and then evolving a series of quite unwarrantable conclusions, by means of analogies which are incompatible with that law.

Some authorities, in their desire to attain these results, have not hesitated to delve into the remote past, and to explore both the individualist and collective conceptions of law.

When these theories have crumbled away in the light of careful research, other theories have been advanced to replace them—new indeed, but equally futile.

The latest of these were expounded during the discussion of the regulations drawn up at Neuchâtel by the Institute of International Law, namely, the theories of *expropriation* and *State risk* (*risque étatis*).

We will examine these theories briefly, but will not of course approach the question from the same standpoint as their authors. Our sole concern is to discover rules of international law capable of being codified; we cannot therefore allow ourselves to wander deliberately further and further away from international law in the search for some basis of international responsibility.

Brusa has done so, and has openly avowed it. In his report to the Institute of International Law he states that foreign diplomatic intervention should be limited to cases in which justice is not accorded to a foreigner who has suffered damage in time of riot or revolution, or in which the Government has violated the law of nations, in particular (he observes) by violating a treaty under which foreign residents are exempted from forced loans and contributions.

"In this case," adds Brusa, "in addition to the correlative duty of affording compensation for the services rendered and returning the property received, the State has, it would seem, at the same time actually incurred responsibility towards the foreign State under the law of nations, and has thus afforded ground for direct diplomatic intervention."

Unless we are mistaken, the logical outcome of Brusa's idea is that:

1. The obligation to compensate for damage arises from the fact that the State has received services;
2. The responsibility of the State only becomes of an international character when the State violates the law of nations by the *denial of justice* or the violation of a treaty.

This would prove that the "responsibility" arising out of Brusa's arguments is purely civil.

In correlation with his theory of compensation for benefits received by the State (and as if he purposely desired to break away from international law), he advances simultaneously his other theory of *expropriation* in civil matters.

What would become of international law if rules deriving from private law were thus transferred to its sphere on the sole ground of some sort of analogy? And is there really any such analogy between the relations of States *inter se* and the relations between a State and individuals; between the international community and the national community? In the first place, there can be no juridical analogy between two bodies of law which are different as to their source, their content and their validity. International law and private law have been created, and are moved, by two separate forces, which have absolutely no kinship with one another. For the first, although it is superior, the concurrence of many wills is required; the latter is subject to no such limitative necessity.

According to this principle, therefore, international law must keep itself pure from any infiltration of domestic law.

Neither in the theories of Brusa, nor in the application of the idea of *risk* (*risque*) proposed by Fauchille on the same occasion, do we perceive any principles of private law which could be converted into principles of international law. It is therefore juridically impossible to draw any conclusions therefrom, even of a provisional nature.

In short, it is idle to assert that the elements required to establish international responsibility can be found in civil law or in the ideas applicable to civil law.

Apart from the fundamental difficulty which we have pointed out, these two theories are open to other criticisms. The theory of *expropriation*, for instance, ceases to be accurate when it places all loss that a foreigner may suffer in the case of revolution on the same footing as the loss of property for reasons of public utility. In the latter case we have a rendering of services which constitutes an undoubted title to compensation, however the question may have arisen; whereas, in other acts which may involve loss, we do not perceive a similar rendering of material services.

The theory of *State risk* (*risque d'Etat*) tends to introduce into international law economic conceptions which are out of place in international relations. The arguments by which it has been sought to bring these conceptions into the sphere of international law neither enhance their value nor justify their admission. "Foreigners", said Fauchille, "who come to take up their residence in a country constitute, like nationals, a source of gain for the State in which they reside: their industry and their sojourn in the territory bring profit to the State. Is it not logical and just that, in return, the State should be bound to give compensation for loss which these persons—be they nationals or foreigners—may have suffered at the hands of other nationals or other foreigners?"

Would it not be more logical to reverse the argument and say: Foreigners do not leave their homeland in order to be of profit to the State in which they take up their residence. On the contrary, they come to the country with the definite intention of availing themselves of its wealth, its hospitality and its institutions, hoping to carve out for themselves a better position than that which they have left behind them. Their change of residence being voluntary, they must accept all the risks of chance happenings and unforeseen events.

In this survey we should also reject all theories which base the responsibility of the State, in case of riot or revolution, on a *presumptio juris et de jure* or an *obligatio ex delicto*.

International law itself provides the basis for the solution of this question.

A riot is an act committed by private individuals, and not by the State. No loss occasioned to foreigners by a riot involves international responsibility unless the State has neglected to fulfil its duties of exercising vigilance, repressing disorder and providing judicial protection.

Damage caused by revolution may be the result of acts committed by either of the opposing parties. If the acts are committed by the lawful authorities, whose concern it is to restore order, the State is not responsible for the fact that, in exercising its supreme right and duty, it has caused damage to foreigners, since the interests of the community, of which foreigners as well as nationals form part, are higher than any private interests. The State, by taking steps to restore the well-being of the community, has simply acted as an entity which is bound, both from a national and an international standpoint, to maintain order and security. The former duty arises under the constitution, and the latter under the obligation which the State has contracted to ensure normal conditions of life for foreigners, and these conditions can only be secured if order and peace prevail. Although the claim of absolute irresponsibility may just conceivably be open to question when a State is exercising a right, it cannot possibly be questioned when the State is simultaneously exercising a right and discharging an international duty.

We do not share the opinion of those who deny that revolution is a case of *vis major*. In general, neither wars nor revolutions are desired by the State—the latter, indeed, even less so than the former. They almost invariably occur because some blind force, against which the public authorities are powerless, has been set in motion. No State is immune from the evil. Revolution bursts upon a country with all the brutal force of some convulsion of nature. Foreigners as well as nationals have to partake of the consequences and share in the good or evil fortune which these undesired and unforeseen events may bring.

If it could be sustained that the protective rôle of a State renders it indisputably liable to grant compensation for all losses suffered by foreigners, we could not overlook the question of compensation for losses caused to foreigners by strikes. In this case the responsibility of the State would be even more directly involved, since, in almost all countries, the State recognises the right to strike, or at any rate tolerates strikes. It should not be forgotten that in the intensive modern life of great cities a strike may cause greater loss to foreigners and nationals than that occasioned by minor revolutions, which have often formed a pretext for inordinate claims.

Loss occasioned by the acts of rebels or revolutionaries comes within the category of acts done by private individuals and therefore not imputable to the State. In this connection we should remember the rule that the duty of protection is confined to the territory over which the State exercises its sovereignty.

A State cannot be held responsible for occurrences in a territory no longer under its authority or control, when a case of *vis major* prevents it from fulfilling its duties as protector.

Let us now refer to customary law in order to ascertain whether there is any rule which may be regarded as an expression of inter-State will in the matter of losses suffered by foreigners in civil wars.

Customary law demonstrates with mathematical exactitude that States, wherever situated, have on all occasions absolutely rejected all international responsibility for such losses.

Powerful States have invariably asserted this rejection of responsibility in terms so clear and precise that no doubt can exist as to their very definite views on the subject. Weaker States, when they have not been able to resist external pressure, have indeed paid indemnities, but always subject to the reservation that they were not bound at law to pay them, and were simply doing so as an *act of grace*.

We will quote a few instances of States which, on various occasions, have pleaded the non-existence of international responsibility: Belgium, in 1830 and 1834; France, in 1830, 1848 and 1871; Russia, in 1850; Austria, in 1865; the United States of America during the War of Secession and in 1851, when a number of Spaniards were victims of the populace of New Orleans; and also all the States of Latin America.

Treaties concluded between certain European States, and between several of the American States, which contain provisions disclaiming responsibility in case of damage occasioned by revolt and civil war, have often been the subject of criticism. We think that these criticisms ought rather to be levelled against the nations which, in defiance of all international rules, have sought to impose on other States a responsibility which the latter could never really have incurred.

The States of Latin American have acted wisely in endeavouring to secure protection for their legitimate rights by means of treaty provisions.

It should be noted, moreover, that these treaties are careful not to exclude responsibility arising from a *denial of justice*.

In short, if international law is to be codified—as it certainly should be—in accordance with the will of States, as manifested either by treaties or by international practice, we must conclude that the State is not responsible for loss suffered by foreigners in cases of riot or revolution.

We do not, however, include in this category loss of property sustained by foreigners through the action of the State as a result of requisition, expropriation, confiscation, spoliation or on any other arbitrary proceedings. Whether in peace, in war or in time of revolution, the State should be foremost in respecting and protecting the property of foreigners.

We have said that property, with life and liberty, forms part of the fundamental rights of the individual and that these rights must be recognised and protected wherever the individual happens to be. A state of war or revolution would in no way justify the violation of any of these rights, and a State failing in the duty, which it has contracted with regard to the international community, to afford safety and protection would also incur international responsibility.

The State is therefore bound to grant compensation for the property of foreigners which it has appropriated in time of revolution.

As regards the property of foreigners seized by revolutionaries or rebels — an act which, as we have pointed out, falls within the category of acts committed by private individuals—the State must provide such foreigners with all facilities for prosecuting the offenders and recovering possession of their property. If, on the contrary, the State were to deprive these foreigners of all means of action, by passing a law of amnesty, its international responsibility would be involved and it would be answerable for any damage which the revolutionaries or rebels might have caused to the foreigners in question.

V.

Second Question.

WHETHER AND, IF SO, IN WHAT TERMS IT WILL BE POSSIBLE TO FRAME AN INTERNATIONAL CONVENTION WHEREBY FACTS WHICH MIGHT INVOLVE THE RESPONSIBILITY OF STATES COULD BE ESTABLISHED, AND PROHIBITING IN SUCH CASES RECOURSE TO MEASURES OF COERCION UNTIL ALL POSSIBLE MEANS OF PACIFIC SETTLEMENT HAVE BEEN EXHAUSTED.

We have shown that international responsibility does not arise by reason of any loss which foreigners may sustain but by reason of a failure to act, or the commission of an act, contrary to international law and imputable to the State. Although in some cases responsibility clearly results from the existence or non-existence of a fact, it is often — we might say almost always — necessary to conduct a careful enquiry into the facts in order to ascertain whether they really give rise to a question of international law and whether the State has incurred responsibility.

At present, the best international method for conducting such enquiries is that of international commissions of enquiry.

Let us summarise the advantages of these commissions:

1. The time which elapses between the committing of the acts and the constitution of the commissions undoubtedly helps to abate the excitement and passions aroused;
2. The nationality of the persons appointed to conduct the enquiry, their standing and the moral responsibility which rests upon them afford a guarantee of the impartiality of their investigations;
3. Since the conclusions of these commissions do not take the form of an arbitral award, the conflict may be eliminated by the mere acceptance of these conclusions, without any judgment, which might wound the susceptibilities of the responsible State, having been pronounced;
4. Should the conclusions produce no immediate result, the dispute may still be settled by other pacific methods.

In most cases the enquiry may be expected to end the dispute without creating any abiding bitterness between the two States concerned. Neither party has reason to regard itself as victor or vanquished; neither has had to bow to the peremptory dictates of a judicial sentence. The commission merely submits its report and the parties concerned are free to draw their conclusions therefrom and to order their actions accordingly.

We should not forget the immense service which was rendered to the cause of peace by this method of conciliation in the Dogger Bank affair between Russia and Great Britain. Never has a question of damage caused to foreigners brought two great Powers so near to the brink of war as in 1904, when the Russian fleet on its way to the Far East bombarded a British fishing fleet on the Dogger Bank.

War was only avoided by having recourse to one of the international commissions of enquiry provided for in the Hague Convention of 1899.

The first result of this procedure was to allay the justifiable indignation which had been aroused in England and which was gathering volume as the discussion between the Russian and British Governments continued.

The commission was composed of five members, one being chosen by the Government of each of the nations concerned, two others by the French and American Governments, and the fifth by these four members sitting together. Four months later it submitted a report, stating,

amongst other conclusions, that the British fishing fleet had not committed any hostile act and that, as there was no torpedo-craft among the trawlers or in the vicinity, the Russian Admiral Rojestvensky had not been justified in opening fire.

In view of this very conclusive statement, the Russian Government, without further procedure or action, paid the British Government an indemnity for the victims and the incident was definitely closed.

Treaties, with a compulsory clause, concerning international commissions of enquiry, have already been concluded between several States, in particular between France and the United States, between the United States and a number of Latin-American States, between the Central American Republics and between Argentina, Brazil and Chile.

Consequently, we propose that an international convention should be drawn up under which the signatory States would bind themselves to entrust to international commissions of enquiry the investigation of the facts which may have given rise to an incident, involving international responsibility, where it has been impossible to settle such incident by ordinary methods.

Whenever a dispute should arise the parties concerned would be entitled to demand the appointment of a commission of enquiry.

The Permanent Court of International Justice might be chosen to act as an intermediary organ between the States parties to the dispute. On receiving a request, the Court would invite each of the States concerned to appoint a commissioner and would at the same time request two Governments, selected by itself, to appoint two other commissioners each. The Court would fix the date and place at which the four members should meet to elect the fifth commissioner—who would be Chairman of the Commission—and to begin the enquiry.

The procedure to be followed and the powers of the commission might also be defined in this Convention.

Further, and most important of all, there would be a clause by which the States would undertake not to commit any act of violence either before or after the formation of the commission of enquiry, and to provide the latter body with all necessary facilities for carrying out its task.

The commission should also have the power to order measures for safeguarding the rights of each of the parties concerned until the commission has submitted its report.

The report and all decisions and conclusions of the commission would have to be agreed to and drawn up by a majority vote.

The report should merely establish the facts, without taking the form of an award, leaving the parties free to act as they think best on the conclusions of the commission of enquiry. As a corollary to the undertaking concerning the appointment of commissions of enquiry, States should also bind themselves, in the same convention, to submit to the arbitration of the Permanent Court of International Justice any dispute not definitely closed by the report of the commission of enquiry.

The convention might also—and this would be even more advantageous—lay down that permanent commissioners should be appointed for a fixed period from lists of names which each contracting State would send to the Permanent Court of International Justice. When a case arose an international commission of enquiry would be immediately formed consisting of five commissioners, one appointed by each of the States concerned in the dispute, two other commissioners of other nationalities elected by the Court, and finally a fifth commissioner appointed by the four others.

Should a dispute arise, whatever the nature or form of that dispute might be, States would undertake to abstain from all coercive measures.

This method of acting as judge in one's own cause has indeed become incompatible with the organisation of modern international society. To resort to coercion would be tantamount to returning to primitive times when reparation was exacted by force.

The shock caused to the conscience of the world whenever coercive measures are employed in peace-time is sufficient to prove that the case of violence is no longer admitted in the present state of modern civilisation.

The international community as represented at Geneva in 1924, condemned acts of force and violence and placed them on a level with the crime of aggression in the Protocol on Arbitration, Security and Disarmament, which it drew up and which, when all is said and done, will remain the finest effort ever made in human history to ensure world peace. The official comment on Article 10, which determines the aggressor, reads as follows: "The text refers to resort to war, but it was understood during the discussion that, while mention was made of the most serious and striking instance, it was in accordance with the spirit of the Protocol that acts of violence and force, which possibly may not constitute an actual state of war, should nevertheless be taken into consideration by the Council". This official comment was unanimously approved by the 1924 Assembly.

VI

*Conclusions*¹.

The conclusions we are about to draw are the logical outcome of the principles by which we have consistently been guided in preparing this report—and which we hold to be the only possible basis for the elaboration of rules likely to secure the approval of all States.

¹ As reproduced here, the conclusions of the report contain amendments made by M. Guerrero as a result of the discussion in the Committee of Experts.

Were we to depart from these guiding rules, were we to seek to codify principles regarding which the collective will is uncertain or actually divided, our endeavours would be useless; indeed, we should be encouraging the establishment of a series of continental systems and codifications of law—which already exist in outline—the sole result being to create unending sources of disagreement.

We should not lose sight of the fact that the object of our task is to establish rules which may be embodied in international conventions, and that these conventions, to be effective, require the consent of all, or nearly all, the countries of the world.

These are our conclusions:

1. Since international responsibility can only arise out of a wrongful act, contrary to international law, committed by one State against another State, damage caused to a foreigner cannot involve international responsibility unless the State in which he resides has itself violated a duty contracted by treaty with the State of which the foreigner is a national, or a duty recognised by customary law in a clear and definite form.

2. The responsibility of a State is only involved by the commission in its territory of a political crime against the persons of foreigners if the State has neglected to take all reasonable measures for the prevention of the crime and the pursuit, arrest and bringing to justice of the criminal.

The recognised public character of a foreigner and the circumstances in which he is present in its territory entail upon the State a corresponding duty of special vigilance on his behalf.

3. A State is responsible for damage incurred by a foreigner attributable to an act contrary to international law or to the omission of an act which the State was bound under international law to perform and inflicted by an official within the limits of his competence, subject always to the following conditions:

(a) If the right which has been infringed and which is recognised as belonging to the State of which the injured foreigner is a national is a positive right established by a treaty between the two States or by the customary law;

(b) If the injury suffered does not arise from an act performed by the official for the defence of the rights of the State, except in the case of the existence of contrary treaty stipulations;

The State on whose behalf the official has acted cannot escape responsibility by pleading the inadequacy of its law.

4. The State is not responsible for damage suffered by a foreigner, as a result of acts contrary to international law, if such damage is caused by an official acting outside his competence as defined by the national laws, except in the following cases:

(a) If the Government, having been informed that an official is preparing to commit an illegal act against a foreigner, does not take timely steps to prevent such act;

(b) If, when the act has been committed, the Government does not with all due speed take such disciplinary measures and inflict such penalties on the said official as the laws of the country provide;

(c) If there are no means of legal recourse available to the foreigner against the offending official, or if the municipal courts fail to proceed with the action brought by the injured foreigner under the national laws.

5. Losses occasioned to foreigners by the acts of private individuals, whether they be nationals or strangers, do not involve the responsibility of the State.

6. The duty of the State as regards legal protection must be held to have been fulfilled if it has allowed foreigners access to the national courts and freedom to institute the necessary proceedings whenever they need to defend their rights.

It therefore follows:

(a) That a State has fulfilled its international duty as soon as the judicial authorities have given their decision, even if those authorities merely state that the petition, suit or appeal lodged by the foreigner is not admissible;

(b) That a judicial decision, whatever it may be, and even if vitiated by error or injustice, does not involve the international responsibility of the State.

7. On the other hand, however, a State is responsible for damage caused to foreigners when it is guilty of a *denial of justice*.

Denial of justice consists in refusing to allow foreigners easy access to the courts to defend those rights which the national law accords them. A refusal of the competent judge to exercise jurisdiction also constitutes a *denial of justice*.

8. Damage suffered by foreigners in case of riot, revolution or civil war does not involve international responsibility for the State. In case of riot, however, the State would be responsible if the riot was directed against foreigners, as such, and the State failed to perform its duties of surveillance and repression.

9. The category of damage referred to in the preceding paragraph does not include property belonging to strangers which has been seized or confiscated in time of war or revolution, either by

the lawful Government or by the revolutionaries. In the first case the State is responsible, and in the second the State must place at the disposal of foreigners all necessary legal means to enable them to obtain effective compensation for the loss suffered and to enable them to take action against the offenders.

The State would become directly responsible for such damage if, by a general or individual amnesty, it deprived foreigners of the possibility of obtaining compensation.

10. All that has been said in regard to centralised States applies equally to federal States. Consequently, any international responsibility which may be incurred by one of the member States of a federation devolves upon the federal Government, which represents the federation from the international point of view; the federal Government may not plead that, under the constitution, the member States are independent or autonomous.

11. Any dispute which may arise between two States regarding damage suffered by foreigners within the territory of one of the States must be submitted to an international commission of enquiry appointed to examine the facts.

If the report of the commissioners adopted by a majority vote does not result in the incident being closed, the parties concerned must submit the dispute to decision by arbitration or some other means of pacific settlement.

12. States must formally undertake not to resort in the future to any measure of coercion until all the above-mentioned means have been exhausted.

(Signed) Gustavo GUERRERO,
Rapporteur.

[Communicated to the Council,
the Members of the League
and other Governments.]

C. 47. M. 24. 1926.]
[C. P. D. I. 57].

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

QUESTIONNAIRE No. 5

adopted by the Committee at its Second Session, held in January 1926.

**PROCEDURE OF INTERNATIONAL CONFERENCES
AND PROCEDURE FOR THE CONCLUSION
AND DRAFTING OF TREATIES.**

The Committee has the following terms of reference¹:

- (1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;
- (2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and
- (3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

The Committee has decided to include in its list the following subject:

"Whether it is possible to formulate rules to be recommended for the procedure of international conferences and the conclusion and drafting of treaties, and what such rules should be.

On this subject the Committee has the honour to communicate to the Governments a report presented to it by a Sub-Committee consisting of M. MASTNY, as Rapporteur, and M. RUNDSTEIN. The report comprises a report presented by M. Mastny and observations thereon by M. Rundstein.

The nature of the general question and of the particular questions involved therein appears from the report. There is no question of attempting to reach by way of international agreement a body of rules which would be binding obligatorily upon the various States. The object of the suggested investigation is more modest. It would be sought to put at the disposal of the States concerned rules which could be modified as they chose in each concrete case but whose existence might save them much discussion, doubt and delay.

It is in this spirit that the Committee ventures to submit, with the report, two attached lists² indicating possible subjects for regulation, lists modified in some respects by the Rapporteur in consequence of the discussion in the Committee but continuing, in the view both of the Committee and of the Rapporteur, to have the character of questionnaires. It is also understood that, at the present stage of its work, the Committee does not pronounce either for or against the opinions expressed on various points in the report.

The Committee has felt that it should not limit itself to raising the general question. It has wished, by referring to the report and to the lists, to call attention to a number of details with a view to facilitating the decision as to whether regulation by international agreement is desirable and realisable.

In order to be able to continue its work without delay, the Committee will be glad to be put in possession of the replies of the Governments before October 15th, 1926.

The Sub-Committee's report is annexed.

Geneva, January 29th, 1926.

(Signed) HJ. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See Assembly Resolution of September 22nd, 1924.

² See pages 11 and 12.

Annex.

REPORT OF THE SUB-COMMITTEE.

M. MASTNY, *Rapporteur*.

M. RUNDSTEIN.

Whether it is possible to formulate rules to be recommended for the procedure of international conferences and the conclusion and drafting of treaties, and what such rules should be.

I. REPORT SUBMITTED BY M. MASTNY.

[*Translation.*]

At its first session held at Geneva (meeting of April 8th, 1925), the Committee of Experts for the Progressive Codification of International Law adopted, among others, the following resolution:

"(g) The Committee appoints a Sub-Committee to examine the possibility of formulating rules to be recommended for the procedure of international conferences and the conclusion and drafting of treaties, and what such rules should be."

The undersigned, having had the honour to be appointed Rapporteur of the Sub-Committee, got into touch with M. Rundstein, the other member of the Sub-Committee, and explained to him his general ideas on the subject and on the method of work the Sub-Committee should adopt.

After an exchange of views, the two members of the Sub-Committee have come to the conclusion that the matter indicated in the resolution is suitable, subject to certain reservations, for regulation by convention, *i.e.*, for codification in the broad sense of the term accepted by the Committee of Experts at its first session.

The desire to formulate certain rules applicable to the procedure of international conferences has often been observed in practice and has also found expression in theoretical writings (see, for example, L. OPPENHEIM, *Die Zukunft des Völkerrechtes*, Leipzig, 1911, page 23).

The writers on international law who deal with the special questions connected with the negotiation of treaties in most cases confine themselves to explaining in greater or less detail the ordinary organisation and procedure of conferences, and draw attention to disputed points, or give an historical account of past congresses and conferences (see P. PRADIER-FODÉRE, *Cours de droit diplomatique*, 1899, Vol. II, pages 297 *et seq.*; E. SATOW, *A Guide to Diplomatic Practice*, 1922, Vol. II; and R. GILADY-GRUBER, *Internationale Staatenkongresse und Konferenzen*, 1919).

Ludwig BITTNER, in his excellent book *Die Lehre von den völkerrechtlichen Vertragsurkunden*, dealing with the form in which treaties are negotiated and concluded, expresses doubts as to the possibility of systematically regulating procedure owing to the many different kinds of international conferences (political conferences, conferences for legislation by way of conventions, administrative conferences, etc.) and the endless combinations of the different types which, in his opinion, preclude any possibility of uniform regulation (BITTNER, page 104).

While admitting the difficulty of the problem, the Rapporteur is unable to accept this view in its entirety; he is convinced of the possibility of drawing up certain rules both for the procedure and the organisation of international conferences, provided that these rules are sufficiently general to allow States and their representatives the requisite freedom in settling the details in each case according to circumstances and with due regard to the special requirements which may arise in practice.

The success of such rules would depend on the method employed in establishing them.

As it stands, the text of Resolution (g) would authorise the Sub-Committee to submit a preliminary draft of such regulations forthwith.

An attempt to settle the problem in this way at the outset would seem, however, to be premature, in the first place for purely formal reasons.

The resolution adopted by the Assembly of the League of Nations on September 22nd, 1924, which set up the Committee of Experts on International Law, provides for the execution of the work of codification in three stages.

In the first stage the Committee has merely to prepare "a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment".

In the Rapporteur's opinion, it is only during the third stage that the final results of the work should be submitted, after the replies of the Governments and learned societies have been studied and discussed.

This view was also expressed in the resolution of the Committee of Experts (meeting of April 8th, 1925) which, in entrusting the Sub-Committees with the study of certain questions, observed that "the Committee has not at present gone beyond the preliminary examination of the fields to be investigated with a view to later elaboration of detailed proposals".

But, apart from these purely formal reasons, there are others which necessitate caution and justify the Sub-Committee in confining its report to a general statement of methods and to indicating their character.

¹ Not separately printed in English.

The technique of the organisation and procedure of international conferences has developed gradually since the seventeenth century (the first foundations were laid by the Congress of Westphalia and the Congress of Vienna).

The procedure of present-day conferences has been based, in the case of political conferences, on the Berlin Congress of 1878; in the case of conferences relating to the codification of law, on the two Hague Conferences of 1899 and 1907; and in the case of administrative conferences, on the conferences of the International Unions (postal, telegraphic, etc.) and their international bureaux.

As regards more especially the preparatory procedure (preliminaries, preparation of the subject, invitations and convocation, it is the London Maritime Conference of 1908 which serves as model.

A certain number of practices have grown up and these reappear at each conference and are handed on from one to the other.

Sometimes the rules *in concreto* are supplemented as to detail to meet special requirements which arise in practice, and sometimes the rules of procedure, particularly those of the meetings themselves, are simplified.

The process of evolution reached its culminating point in the proceedings of the Peace Conferences at Paris and in the activities of the League of Nations and its Secretariat. The latter has rendered immense services in connection with the problem with which we are dealing by working out all the details involved by the complexity of the international life of to-day.

The process of evolution has not yet ceased, however. To realise this, it is sufficient to study the history of recent conferences and to observe that the procedure, while in general following established precedent, has been modified in detail by the application of special provisions *in concreto*.

One of the objections urged against the codification of international law is that it is a serious drawback to give fixed contractual form to principles in process of evolution. The work of codification, however, is open to no such objection as far as the procedure of conferences is concerned provided that:

(a) Codification is confined to the formulation of *subsidiary* rules of procedure (in the event of States not deciding to establish special rules);

(b) Codification only gives concrete expression to principles generally recognised as forming part of the customary law.

* * *

The rules which usually govern the procedure of international conferences may be divided into two categories.

1. The first category includes a series of rules which are left to the free choice of the States and their representatives taking part in the conference.

As regards this category it is impossible to say that a custom exists in the legal sense of the term, as the rules are purely formal and can constantly be changed at the discretion of the participating States.

This category of rules is based on usage followed without "*opinio necessitatis*".

2. The second category, on the other hand, includes certain rules which from the legal point of view are merely the application of certain fundamental principles generally recognised as forming part of existing international law (customary law, "*opinio necessitatis*").

It is in particular the questions coming within this second category which, having their origin in international customary law (substantive law), are not always interpreted and applied in the same way and offer difficulties which often hamper the smooth running of international conferences.

Even a superficial discussion of the various questions in dispute from the point of view of practical application to international conferences would go far beyond the scope of a report the only purpose of which, at the present stage, is to demonstrate whether codification is possible and desirable.

Clearly, the codification of rules the terms of which depend on the previous solution of a controversial question would in principle present greater difficulties than a simple codification of customs and practices which are universally admitted and uniformly interpreted.

The utility of codification is therefore not always in proportion to its practicability.

The Rapporteur, for his part, has no hesitation, however, in pronouncing in favour of a codification extending even to controversial questions, and he believes that a codification of this kind in the wide sense of the term would render the greatest service to international relations in connection with conferences.

It is true that the subject-matter specified in Resolution (g) appears by its very nature to imply that the work of codification should be confined to questions relating purely to form. It follows that the discussion of questions of substantive law should be limited to problems which are directly connected with questions of form.

Apart from this, codification must necessarily avoid trespassing on the domain of politics, which nevertheless often has an influence on the provisions *in concreto*.

At the same time it should adopt formulas sufficiently wide to allow of any special measures being taken which may be required in particular cases.

* * *

To answer the question "what such rules should be", it is necessary first of all to decide on what basis regulation should be established,
Three solutions suggest themselves:

- (1) Regulation of procedure containing only rules common to all types of conferences;
- (2) Detailed regulation of the procedure of a certain type of conference;
- (3) Adoption in a convention of certain general principles which should be observed by States when conferences are held, irrespective of the special nature of such conferences.

Sub 1: First Type. — The Rapporteur considers that such regulations, in endeavouring to provide for every possible combination of the different types of conferences, would have to be of so general a nature that the practical utility of codification would be doubtful.

Sub 2: Second Type. — Objections may be made to detailed regulations applying to certain types of conferences.

Owing to the variety of their objects and aims, no absolute classification of international conferences has been established.

For the purposes of codification, it would perhaps be necessary to establish certain distinctions. In the first place, a distinction might be made between conferences planned and organised by the League of Nations and held under its auspices, and all conferences unconnected with the League.

A further distinction should be made between political conferences and non-political conferences (administrative, economic, social, etc.).

From the legal point of view, a distinction should be made between conferences on international conventional law (codification conferences) and special conferences (conferences settling particular relations between the contracting States).

Lastly, according to the character of the representatives, a distinction should be made between diplomatic conferences (diplomatic agents) and technical conferences (experts).

Which of these types should be considered for the purposes of codification?

As regards conferences held under the auspices of the League of Nations, the Rapporteur considers that, within the sphere of its activities, the Secretariat is the body best qualified to perform the preliminary work and to determine the procedure, while taking into account the special requirements of each particular case. Nevertheless, the practical experience gained at recent conferences shows that even the draft rules of procedure prepared with the greatest care by the Secretariat have not always been adopted *en bloc*.

As regards political conferences unconnected with the League of Nations, the Rapporteur considers that the variety of objects and aims and the complexity of the questions to be discussed, together with the varying number of States taking part and the character of the representatives in individual cases, etc., do not permit of any uniform or universal type of rules of procedure; and this opinion is borne out by practical experience.

As regards non-political conferences, it should be pointed out that certain periodical conferences (those of the international unions and others) are already provided with rules of procedure adapted to their special needs.

Lastly, the character of diplomatic and technical conferences is so different as to discourage attempts at codification of the kind with which we are now dealing.

If we accept the idea that the organisation of and the regulations for the conferences held under the auspices of the League of Nations should be left in the hands of the Secretariat, the types of conferences for which regulation would be undertaken would be very limited in number and the practical utility of regulating procedure would also be limited, especially as it is obvious that any regulations adopted would only be of a subsidiary character.

Sub 3: Third Type. — If we recognise the objections put forward in 1 and 2, there only remains the third alternative, which contemplates the adoption, by means of conventions, of certain general principles of procedure for all international conferences irrespective of their special character.

Codification in this last sense should be confined:

- (a) To the generally recognised principles of substantive international law (customary law);
- (b) To the general rules as regards form consecrated by usage;
- (c) To the positive rules of conventional legislation with a view to obviating the difficulties to which disputed questions may give rise (conventional law).

* * *

In determining the *scope of the codification* to be undertaken, it would be well to consider the various points enumerated in the following list.

LIST OF SUBJECTS TO BE EXAMINED.

PROCEDURE OF INTERNATIONAL CONFERENCES.

General principles.
Definition of International Conferences.
Classification of International Conferences.

A. *Organisation.*

Qualifications for membership.

Independent States.
Composite States.
States not enjoying complete independence and other formations.

Right of representation.

States concerned.
Admission of third Powers.

Rights of members taking part.

System of representation.

Delegations.

Questions of competence.

(a) Plenipotentiary delegates. Principal representatives. Assistant delegates.
Substitute representatives.
Secretaries of delegations.
Experts.
Technical assistants.
Auxiliary staff.

(b) Observers.

Diplomatic privileges and immunities.

B. *Preparatory Procedure.*

Preliminary conventions.

Initiative, invitation, convocation.

Previous agreement on the subjects of the conference.

Choice of place and date.

Preparation of the subject-matter and drafting of agenda (method and form).

Proposals and preliminary drafts (priority).

Reservations.

C. *Procedure of the Conference (Rules of Procedure).*

Rank and precedence.

Language employed (translation, interpreters).

Chairmanship (provisional chairmanship).

The Bureau: its competence.

Powers of the Chairman.

Verification (exchange, deposit) of full powers.

Unlimited powers. Full powers.

Limited powers.

Authorisation.

Instructions.

Credentials of diplomatic agents.

Committees and sub-committees.

Their members.

Drafting committee.

Rapporteurs; co-rapporteurs.

Debates.

Rules to be followed during the debates.

Agenda.

Proposals. Manner, initiative, priority. Placing of new questions on the agenda.

Draft resolutions, amendments and motions.

Previous question; motion for suspension.

Voting: method and form.

Unanimity. Absolute majority. Specified majority.

Plurality of votes.

Voice in the decision.

Voice in the discussion.

Right of a minority to withdraw.

Right of protest.

Declarations. Reservations.
Minutes (records).

Intrinsic value. Form. Adoption.

Publicity. Public and private meetings.

Press report.

Final Act.

Protocol of Closure.

The extent of the codification to be undertaken would depend on which of the three methods referred to above was chosen. The first and second alternatives would involve dealing particularly with the subjects specified under B and C of the above list (Preparatory Procedure and Rules of Procedure).

From the legal point of view, such regulations would not offer very serious difficulties as far as drafting the rules in question was concerned, since this part of the subject-matter belongs to the domain of usage and of "form" and since, apart from this, the rules would have the character of strictly directive and subsidiary "model regulations", the States having full freedom to make use of them or to draw up special regulations according to the requirements of actual cases.

Codification undertaken on the third system, however, should also cover the more or less delicate questions indicated under A (Organisation). Such regulations would have to some extent an obligatory character as embodying positive rules based on the guiding principles of international customary law (concrete law), defining the limits of their application from the legal point of view, and endeavouring at the same time to provide a satisfactory solution for controversial questions coming within the competence of the organs and representatives of the various States. The drafting of rules of the latter type would require special care (particularly as regards the application of the principle of the legal equality of States).

With a view to a full investigation of the subjects enumerated above, the Rapporteur has prepared two detailed and annotated questionnaires on the subject-matter of the questions entrusted to the Sub-Committee; these questionnaires also provide an analysis of the various questions from the point of view of the proposed codification. They should be annexed to the report if the Committee of Experts decides to recommend the regulation in question to the Governments.

* * *

As regards more particularly the *second part* of the Sub-Committee's task, *i.e.*, the problem of the codification of the rules to be applied with regard to the *conclusion and drafting of treaties*, the Rapporteur wishes to point out in the first place that all the subject-matter comprised by this problem has been recently dealt with at length by Ludwig BITTNER in the work quoted above (*Die Lehre von den völkerrechtlichen Vertragsurkunden*, Berlin, 1924). The author has endeavoured to deal with the subject in all its details and to consider all the aspects of the form of treaties, without neglecting the questions of substance which are intimately connected therewith.

Among other works principally devoted to the study of the form of international treaties, reference may be made to the well-known diplomatic handbooks of Charles B. DE MARTENS, *Guide diplomatique*; P. PRADIER-FODÉRE, *Cours de droit diplomatique*; SATOW, *Diplomatic Practice*; J. W. FORSTER, *Practice of Diplomacy*, Boston, 1906; and the special study by S. B. CRANDAL, *Treaties: Their Making and Enforcement*, Washington, 1916.

Having regard to the actual text of resolution (g), the Sub-Committee should confine its attention to the subject-matter summarised in the following list:

LIST OF SUBJECTS TO BE EXAMINED.

CONCLUSION AND DRAFTING OF TREATIES.

General Ideas:

Definition of treaties.

Classification of treaties.

The following must be excluded:

General theory of the validity of treaties, the effects of treaties, their execution, sanctions, termination, prolongation, confirmation, renewal, etc.

A. *Methods of Conclusion.*

Subject-matter of treaties.

Organs of conclusion. Questions of competence.

1. *Direct representation.*

Supreme executive power:

Chiefs of States.

Collective constitutional organs.

2. Delegated representation.

Mandated authority:

Minister for Foreign Affairs.
Diplomatic agents.
Special delegates.

Methods of conclusion.

1. Direct (immediate) conclusion (simple juridical act).

2. Indirect (mediate) conclusion (composite juridical act).

A. Mandate.
B. Negotiation of treaties (preliminary draft).
C. Ratification (completion of the treaty).

B. *Forms of Conclusion* (drafting).

Nomenclature:

Treaty, Pact, Convention, Agreement, Arrangement.
Protocol, Declaration, Exchange of diplomatic notes.

1. *Mediate Conclusion.*

Diplomatic instruments.
Intrinsic conditions, extrinsic conditions, essential conditions.
Type of solemn treaty.
Preamble. Subjects, organs, object of treaty (*Narratio*).
Description of mandatories.
Their authority to negotiate:

(a) Full powers.
(b) Authorisation.
(c) Instructions.

The body of the treaty (*Dispositio*).
Stipulations: general clauses; special clauses.
Principal articles, subsidiary articles, general and special articles.
Separate, additional and supplementary articles.

Final part of treaty (*Corroboratio*).

Special clauses:

Ratification clause.
Clauses as to coming into force, duration, denunciation.
Clauses allowing adhesion (accession).

Place, date, number of copies.

Signature, initials, seal, alternation of order of signature in the different copies.
Accessory instruments. Annexes.
Reservations.
Final Act.
Protocol of Closure.

Ratification (from the point of view of form).

Instrument of ratification.
Exchange and deposit of the instruments of ratification.
Procès-verbal of exchange of instruments of ratification.

2. *Direct Conclusion.*

Simplified formulas.

Declaration.
Protocol.
Diplomatic notes.

Interpretation.
Modification of treaties.

C. *Publication of Treaties.*

Registration (Article 18 of the Covenant of the League of Nations).

D. *Spheres of International Law and Municipal Law (constitutional law).*

Theories in dispute:

(a) Ratification.

Refusal to ratify,
Incomplete ratification.

(b) Concurrence of legislative bodies.

This list, without going into details, gives an idea of the extent of ground to be covered.

The Rapporteur on this occasion cannot do more than make certain general observations indicating the possibilities of methods which might be applied to the codification of the points in question.

The different classifications of international treaties are as numerous as the writers who have dealt with them, and vary with the individual point of view. Most of them are of little practical value.

Nevertheless, it is the duty of the Rapporteur to call the attention of the Committee to the prevailing anarchy as regards terminology (treaty, convention, pact, agreement, arrangement, protocol, declaration, etc.). Up to the present, all attempts to obtain a uniform classification based on principles which take due account of the need of co-ordinating nomenclature, form and contents, have failed. In practice, little attention is paid to the exact meaning which should be given to terms customarily used.

The choice of nomenclature and form is governed by arbitrary considerations and depends upon the nature of the relations between States, the custom of the respective chancelleries, and sometimes even upon the carelessness of those who draft diplomatic instruments.

The Rapporteur sees no need to propose that these questions, which indeed are of no legal importance, should be regulated by treaty agreement, since in his opinion the remedy lies in the regular practice of registration as provided in Article 18 of the Covenant of the League of Nations, which is bound sooner or later to lead more or less automatically to the desired standardisation of nomenclature. At the same time, a certain elasticity in terminology is both inevitable and necessary in order that States may be left the freedom they require.

* * *

The exact sphere of codification within the strict meaning of the Sub-Committee's mandate is indicated above under the headings "A" and "B" in the list of subjects (Methods of Conclusion, Forms of Conclusion).

The codification of the points contained therein may be considered from various points of view:

1. A codification relating solely to form, the scope of which is indicated above, particularly under "B" (Forms of Conclusion), would consist in establishing formulas for all existing diplomatic instruments as "prescribed models". This would result in a list of formulas generally recognised as being in "good and due form" for the purpose of concluding actual treaties.

Such a compilation would constitute a valuable official diplomatic manual, particularly if the formulas were prepared in several languages. It would be of great practical assistance in preventing faulty drafting and would make for greater precision and clearness in treaties. From a practical point of view, codification of this kind would not necessarily require conventional regulation. The Rapporteur considers that it would be sufficient if such a manual were prepared and published by the League of Nations, provided it did not contain new elements.

2. It would be different, however, if it were proposed to introduce changes in the forms which have come to be generally accepted.

What changes could or should be made?

The first aim should be to simplify existing forms.

The formulas of treaties and diplomatic instruments concluded by mediation (the typical solemn instrument, full powers, the instrument of ratification) have developed since the twelfth and thirteenth centuries under the predominating influence of the French and English Chancelleries. These formulas date back to mediæval times, long before the beginning of the constitutional life of modern States and, further, to forms of government which permitted no delegation of powers.

It follows that the tenor of some of the inherited official formulas referring to ratification is no longer in complete accord with contemporary legal ideas. It would be well to make some concession to the modern spirit, but that is not a subject which can be considered by the Committee, since it is primarily a question of internal law and therefore not a matter for international regulation. Moreover, the difficulty of any attempt at reform would be increased by the respect felt for tradition.

There are, however, other questions relating to the simplification of formulas which come within the limits of the problem before us, without encroaching upon the province of constitutional law. One of these is the introduction of a uniform style in certain special clauses in the final part of treaties, the forms for which are often defective and even inexact, being sometimes too vague and sometimes too narrow.

3. As regards the points included in the above list under "A" (Methods of Conclusion), the question of regulation assumes a different aspect (as in the case of Group A of the list drawn up for the examination of questions of procedure at international conferences).

These are, first and foremost, questions of the competence of representatives entrusted with the negotiation and conclusion of treaties.

These questions can only form the subject of international regulation in so far as security and good faith in international relations require that the limits of the powers and capacity of the representatives entrusted with the negotiation and conclusion of treaties on behalf of the State should be defined from the point of view of international law.

The Rapporteur is of opinion that conventional regulation of the questions in this group would meet with no serious obstacles, provided, however, that the aim in view was limited to a strict codification of generally recognised principles of international law and to the settlement of certain questions which are actually the subject of controversy.

* * *

The question of the importance of the publication of treaties after registration as laid down in Article 18 of the Covenant should logically be considered along with problems regarding the conclusion of treaties, but as this question has already been included among those to be discussed by the League of Nations, the Sub-Committee decided not to deal with it.

* * *

It follows as a logical consequence from the general character of the powers conferred upon the Committee of Experts that their codifying work must not encroach upon the sphere of internal law.

The Rapporteur has nevertheless included the problem of *ratification* and that of the *concurrency of legislative bodies* in the list of subjects to be examined, for the following reasons:

Among the questions dealt with by writers on international law these two problems are the most discussed and the most highly controversial. All theoretical attempts to explain on uniform lines the relation between the two spheres of law, in matters concerning the validity of international treaties, encounter an obstacle in the diversity of constitutional laws. The gulf created between the two spheres of law by the rapid democratisation of modern constitutions, on the one hand, and respect for the traditional forms of international law (which is a characteristic of all customary law), on the other hand, is too wide to be bridged. As a result, intercourse between nations sometimes suffers from legal uncertainty and obscurity when the conditions governing the validity of treaties are not the same in the two spheres of law.

Quite recent practice appears to be in favour of first ensuring the internal validity of treaties, but this treatment of the question can obviously only apply to particular cases and can provide no answer to disputed points of theory.

Settlement by codification being excluded, would it not at least be possible to seek means of solving the problem in order to safeguard the legal relations between States?

The various kinds of constitutional clauses referring to these questions and the different interpretations given of them — interpretations which may in the future differ still further — make the legal position in the matter very vague. The rapporteur thinks that legal relations between States would greatly gain both in security and clearness if Governments decided to notify such clauses to one another together with the authentic interpretation which they give to them in practice.

This idea is not entirely new and is akin to the proposal formulated by the League Secretariat in Article 10 of its memorandum of May 19th, 1920.

The Rapporteur has no doubt that such a list of the constitutional clauses of all countries, accompanied by their authentic interpretation, would greatly help in clarifying international relations.

* * *

Conclusion.

Sub-Committee G, having concluded its first preparatory examination of the matters with which it is instructed to deal, is of the opinion that the points specified in the terms of reference are suitable for regulation by the methods and to the extent mentioned in the report.

The Sub-Committee proposes that the subjects specified under Question (g) should be placed on the list of subjects of international law the regulation of which by international agreement would seem to be desirable and realisable.

(Signed) Dr. A. MASTNY,

Rapporteur.

S. RUNDSTEIN,

Member of the Sub-Committee.

II. REMARKS BY M. RUNDSTEIN.

[*Translation.*]

I am in general agreement with the views expressed by Dr. Mastny in his report. In particular, I think that action should take the form of suggestions to Governments; it is for the Governments to make exact and definite regulations. The consent of Governments could be obtained if the regulations to be established were regarded as *jus dispositivum* without restricting the freedom of States. In this matter, the principle of liberty must be observed.

With regard to the problem of drafting and concluding treaties I should like to draw attention to the question of executing international conventions. Regulations established by international convention require executive measures in the form of decrees or even internal laws. Otherwise they are of no value, for the administrative and judicial authorities in the different countries would have no legal grounds for putting them into execution (for example, a convention requires the contracting parties to execute judgments given by a mixed arbitral tribunal, or to modify existing laws which remain binding until they are expressly repealed). It would be perhaps desirable to recommend the introduction of a special clause whereby the contracting parties would undertake to notify the promulgation of laws or administrative regulations necessary in order to execute a convention which has come into force.

Furthermore, I consider that the following problems should be examined:

1. The question of adhesion.
2. The question of difficulties of interpretation in cases in which a convention is drawn up in more languages than one.
3. The question of converting duly ratified and internationally valid conventions into internal laws.

Geneva, January 12th, 1926.

(Signed) S. RUNDSTEIN.

III. LISTS OF MATTERS SUSCEPTIBLE OF REGULATION.

Modified by the Rapporteur in consequence of the Discussion in the Committee of Experts.

LIST I.

Procedure of International Conferences.

A. *Organisation.*

Questions of competence,

- (a) Delegates plenipotentiary. Principal representatives.
Assistant delegates. Substitute representatives.
Secretaries of delegations.
Experts.
Technical assistants.
Auxiliary staff.

- (b) Observers.

Diplomatic privileges and immunities ¹.

B. *Preparatory Procedure.*

Initiative, invitation, replies, convocation.
Previous agreement on the subjects of the conference.
Establishment of the agenda (method and form).
Proposals and drafts.
Reservations.

C. *Procedure of the Conference (Rules of Procedure).*

Order of delegations.
Language, translation, interpreters.
Provisional chairmanship. Chairmanship.
The Bureau: its composition; its powers.
Powers of the Chairman.
Exchange or deposit of powers, verification.
Full powers.
Limited powers.
Powers of diplomatic agents as such.
Committees and Sub-Committees: their composition.
Drafting Committee.
Discussion and rules of debate.
Proposals. Draft resolutions, amendments and motions.
Previous question; motion for suspension.
The right to vote:
1. Plurality of votes. Voice in the decision. Voice in the discussion.
2. Necessity for unanimity. Absolute majority. Specified majority.
3. Ballot. Method and form.

Right of a minority to withdraw.
Right of protest.
Declarations, reservations.
Minutes (records): form; approval.
Publicity. Public sittings and non-public sittings.
Final Act.
Protocol of closure.

LIST II.

Conclusion and Drafting of Treaties.

A. *Methods of Conclusion.*

Capacity to conclude treaties.
Organs for concluding treaties. Questions of competence.

¹ See the special questionnaire on this matter (Questionnaire No. 3. C 45.M. 22. 1926. VI).

B. *Forms in which Treaties may be concluded and drafted.*

Nomenclature:

Treaty. Pact. Convention. Agreement. Arrangement.
Protocol. Declaration. Exchange of diplomatic notes.

Diplomatic instruments:

Intrinsic and extrinsic conditions.
Essential conditions.

Type of solemn treaty:

Preamble. Subjects, organs, object
Description of mandatories.
Their authority to negotiate.
The body of the treaty.
Stipulations: General clauses; special clauses.
Principal, accessory, general, particular articles.
Separate, additional, supplementary articles.
Final part of treaty.
Special clauses.
Ratification clause.
Clauses as to coming into force, duration, denunciation.
Clauses allowing adhesion or accession.
Stipulations for the communication of laws or regulations necessary for the execution
of a treaty.
Place, date, number of copies, by whom copies are to be delivered.
Signature, initialling, seal, alternation of order of signature in the different copies.
Accessory instruments, Annexes.
Reservations.
Final Act.
Protocol of Closure.
The ratification.
The instrument of ratification.
Exchange, deposit of instruments of ratification.
Procès-verbal of exchange of instruments of ratification.

Simplified formulas:

Declaration.
Protocol.
Diplomatic notes.

[Communicated to the Council,
the Members of the League
and other Governments.]

C. 48. M. 25. 1926, 27.
[C. P. D. I. 58.]

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

QUESTIONNAIRE No. 6

adopted by the Committee at its Second Session, held in January 1926.

PIRACY.

The Committee has the following terms of reference¹:

(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;

(2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and

(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

The Committee has decided to include in its list the following subject:

"Whether, and to what extent, it would be possible to establish by an international convention, appropriate provisions to secure the suppression of piracy."

On this subject the Committee has the honour to communicate to the Governments a report presented to it by a Sub-Committee consisting of M. MATSUDA as Rapporteur and M. WANG CHUNG-HUI².

The nature of the general question and of the particular questions involved therein appears from the report. The report contains a statement of principles to be applied and of particular solutions derived from these principles. The Committee considers that this statement indicates the questions to be resolved for the purpose of regulating the matter by international agreement. All these questions are subordinate to the larger question set out above.

It is understood that, in submitting the present subject to the Governments, the Committee does not pronounce either for or against the general principles set out in the report or the solutions suggested for various particular problems on the basis of these principles. At the present stage of its work, it is not for the Committee to put forward conclusions of this kind. Its sole, or at least its principal, task for the present consists in drawing attention to various questions of international law the regulation of which by international agreement would seem to be desirable and of realisable.

In doing this, the Committee should doubtless not confine itself to generalities but should put forward the proposed questions with sufficient detail to facilitate the decision as to the desirability and possibility of their solution. The necessary details will be found in the final conclusions of M. Matsuda's report³.

In order to be able to continue its work without delay, the Committee will be glad to be put in possession of the replies of the Governments before October 15th, 1926.

The Sub-Committee's report is annexed.

Geneva, January 29th, 1926.

(Signed)

Hj. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See Assembly Resolution of September 22nd, 1924.

² M. Wang Chung-Hui signed the original text of the Sub-Committee's report. Having unfortunately not been able to attend the session of the Committee of Experts, he is not responsible for the actual text as annexed to the present document, this text containing certain amendments made by the Rapporteur as a result of the discussion in the Committee.

³ See page 4.

Annex.

REPORT BY THE SUB-COMMITTEE.

M. MATSUDA, Rapporteur.

M. WANG CHUNG-HUI¹.

Whether, and to what extent, it would be possible to establish, by an international convention, appropriate provisions to secure the suppression of piracy.

[Translation.]

Authors of treaties on international law often differ as to what really constitutes this international crime. In order to avoid any confusion, a clear distinction should be drawn between piracy in the strict sense of the word and practices similar to piracy. The former comes within the scope of international law in general, the latter either under international treaty law in force between two or more States or simply under a national law. We will examine each of these aspects of the problem in turn, although the first alone is of real general importance from the international point of view.

A. PIRACY IN INTERNATIONAL LAW.

I. According to international law, piracy consists in sailing the seas for private ends without authorisation from the Government of any State with the object of committing depredations upon property or acts of violence against persons. The pirate attacks merchant ships of any and every nation without making any distinction except in so far as will enable him to escape punishment for his misdeeds. He is a sea-robber, pillaging by force of arms, stealing or destroying the property of others and committing outrages of all kinds upon individuals.

Piracy has as its field of operation that vast domain which is termed "the high seas". It constitutes a crime against the security of commerce on the high seas, where alone it can be committed. The same acts committed in the territorial waters of a State do not come within the scope of international law, but fall within the competence of the local sovereign power.

When pirates choose as the scene of their acts of sea-robbery a place common to all men and when they attack all nations indiscriminately, their practices become harmful to the international community of all States. They become the enemies of the human race and place themselves outside the law of peaceful people.

Certain authors take the view that desire for gain is necessarily one of the characteristics of piracy. But the motive of the acts of violence might be not the prospect of gain but hatred or a desire for vengeance. In my opinion it is preferable not to adopt the criterion of desire for gain, since it is both too restrictive and contained in the larger qualification "for private ends". It is better, in laying down a general principle, to be content with the external character of the facts without entering too far into the often delicate question of motives. Nevertheless, when the acts in question are committed from purely political motives, it is hardly possible to regard them as acts of piracy involving all the important consequences which follow upon the commission of that crime. Such a rule does not assure any absolute impunity for the political acts in question, since they remain subject to the ordinary rules of international law.

By committing an act of piracy, the pirate and his vessel *ipso facto* lose the protection of the State whose flag they are otherwise entitled to fly. Persons engaged in the commission of such crimes obviously cannot have been authorised by any civilised State to do so. In this connection we should note that the commission of the crime of piracy does not involve as a preliminary condition that the ship in question should not have the right to fly a recognised flag.

Every enterprise for the purpose of committing robbery at sea is not necessarily piratical in character. A wrecker, for instance, unlike a pirate, has a nationality, despite the fact that he is indirectly a menace to safety at sea. In like manner, a mere quarrel followed by acts of violence or depredations occurring between fishermen on the high sea ought not to be regarded as an act of piracy, since such acts do not constitute a menace to the international maritime commerce for the protection of whose security every civilised State is to some extent interested in intervening so far as its power permits.

A ship may clearly be a pirate ship even if it was not fitted out for that purpose or if it began its voyage without criminal intention. If a mutiny breaks out on board and the mutineers seize the vessel and use it to commit acts of piracy, the vessel *ipso facto* loses the original protection of its flag.

Acts of piracy can as a general rule only be committed by *private* vessels. A warship or public vessel can never, so long as it retains that character, be treated as a pirate. If such vessels commit acts of depredation or unjustifiable violence, the State whose flag they fly demands reparation from them and has to inflict suitable penalties upon the commander and crew and pay lawful damages

¹ See Note 2 on preceding page.

to the victims of such acts. If the crew of a warship or other public vessel mutinies and sails the seas for its own purposes, the vessel ceases to be a public one, and the acts of violence which it commits are regarded as acts of piracy.

The case appears more difficult when there is a civil war and the regular Government's warships take the side of the rebels before the latter have been recognised as belligerents. The regular Government sometimes treats such ships as pirates, but foreign Powers ought not to do so unless these ships commit acts of violence against vessels belonging to the Powers in question. Third Powers, on the other hand, may consider such ships as pirates when they commit acts of violence and depredations upon vessels belonging to those Powers, unless the acts are inspired by purely political motives, in which case it would be exaggeratedly rigorous to treat the ships as declared enemies of the community of civilised States.

II. Before taking action against pirates, it must first be ascertained that they really are pirates. The mere fact of hoisting a flag does not prove the right to fly it; and, accordingly, if a vessel is suspected of piracy, other means have to be used to establish its nationality.

The two following principles are recognised both by law and in practice:

(1) Any warship has the right upon the high seas to stop and seize any vessel, under whatever flag it may be sailing, which has undoubtedly committed an act of piracy.

(2) If the vessel is only under suspicion, the warship is authorised to verify its true character. It must, however, use this right judiciously and with caution. The commander of the warship is responsible for any action taken. If, after inspection of the suspected vessel, the suspicion proves to have been unfounded, the captain of the suspected vessel is entitled to reparation or compensation, according to circumstances.

If, on the other hand, the suspicion of piracy is confirmed, the commander of the warship either himself proceeds to try the pirates (unless the arrest took place in the territorial waters of a third Power) or he brings them into the port of some country to be judged by a competent tribunal, and the fate of the vessel and its crew is determined by the domestic law of the country in question. The attacks of pirates are directed against the interests of maritime trade throughout the world, and pirates are therefore justiciable in every civilised country. The State which seizes the pirate vessel and arrests the crew is the obvious judge of the validity of the capture and the guilt of the parties concerned. It should by preference be accorded the right to investigate and to pass judgment in the case, unless the internal law or some international convention otherwise decides, or unless the case is that dealt with in the following paragraph.

May a warship pursue and arrest pirates in the territorial waters of a foreign Power without thereby violating the sovereign rights of that Power? Under normal circumstances, the sovereign of the territory alone has the right, in territorial waters, to protect national and international interests; but in the case of acts intended to safeguard international relations, it would appear reasonable to assume that the Government of the territory tacitly consents if it is not in a position to continue the pursuit successfully; otherwise, if the coastal State could not take the necessary measures to carry through the pursuit in time, the result would be to facilitate the flight of the pirate and enable him to escape punishment. In such cases, however, the right to try for piracy devolves upon the State to which the territorial waters belong. It is the recognition due to its sovereignty. The right to pursue, attack and seize a pirate belongs to warships.

The effects of the capture, the consequences of the validity of the seizure, the right of recovery by the lawful owners and the reward to be given to the captors are questions which are governed by the law of the State having jurisdiction. Accordingly they are solved in a different manner by each State, either in its domestic legislation or in its special conventions. The following four conditions must as a rule be fulfilled in the exercise of the right of recovery and restitution of the goods stolen:

- (1) The owner must lodge his claim within a year after sentence of capture has been passed;
- (2) The claimant must vindicate his claim of ownership before the competent tribunals;
- (3) The costs of recovery are fixed by such tribunals;
- (4) The costs must be borne by the owner;

B. PIRACY IN TREATIES AND SPECIAL LAWS OF STATES.

In addition to piracy by the law of nations, States have occasionally, by treaty or in their internal law, established a piracy by analogy which has no claim to be universally recognised and must not be confused with true piracy; the assimilations in question can only create a sort of piracy under internal law and from the point of view of the countries which make them. The acts dealt with are of a grave nature, it is true, but they do not constitute a danger to the shipping and commerce of all nations indiscriminately. Legislators are justified in taking strong measures in such cases, but the classification of such acts as piracy is a fact which only concerns the State whose laws contain provisions to that effect. From the international point of view, the acts come within the competence only of the country in which they are punishable. No country making

a capture can cite them as the basis of a claim to international competence nor can they justify actual capture by a foreign State unless there is a convention which expressly provides otherwise.

We shall now examine the salient facts and the commonest of these analogous forms of piracy. In the first place, there is privateering.

1. The immediate object of privateering is the use of violence for purposes of gain, and this gives it a certain resemblance to piracy.

Although the object of the privateersman is to take the property of others, his acts are only committed against the national enemy of the country which has given him his letters of *marque*. This circumstance gives him a legal standing as regards nationality; at the same time it places responsibility upon the nation whose flag he flies, and thereby excludes any idea of piracy. Moreover, if a vessel so commissioned infringes the rights of other nations by acts of violence or irregularities which exceed the powers it holds, it cannot on that account be regarded as a pirate unless its intention is obviously piratical. In such a case, the State which commissioned it is responsible to other countries for any illegal acts it may commit, and has the right to try and punish.

2. Vessels have also been regarded as pirates when, their own countries remaining neutral, they received a commission from a foreign belligerent State and captured vessels belonging to a Power which, while an enemy of that State, was at peace with the vessel's own country.

This, too, is not piracy according to international law, but only according to the domestic law of one or more States.

Certain writers hold that, as a result of the acts it commits, such a vessel is denationalised, and is not legitimately under the protection of any flag; such acts would thus be true acts of piracy according to international law. This view, however, is mistaken; such a vessel is not denationalised. It is covered in respect of third Powers by the commission it has received. It has a respondent answerable to third Powers, namely, the State which commissioned it and which becomes liable for its acts. Lastly, it should be borne in mind that the vessel does not attack all merchant shipping indiscriminately; it merely captures the vessels of the Power at war with the State which commissioned it. It makes war upon a certain nation. It is not an enemy of the human race. This, then, cannot be said to be a case of piracy under international law, but such a vessel can certainly be classed as a pirate by the domestic law of an individual State.

3. Then, again, the sailors forming the crew of a merchantship are generally treated as pirates if they mutiny against the commander during a voyage, murder him and the other officers and seize the ship. But this too is piracy only under the domestic law of individual States.

4. Governments struggling to quell a rebellion have an incontestable right to describe as pirates, or to announce that they will treat as pirates, rebels who sail the seas for the purpose of seizing property belonging to subjects or citizens who have remained faithful to the duly established authorities. Rebellions are entirely a matter for the domestic law of the individual State, and a Government has every right to threaten to treat rebels as pirates, however widespread the rebellion may be.

Foreign Powers, however, are not obliged to accept this description or agree to such persons being treated as pirates.

C. CONCLUSIONS.

The confusion of opinion on the subject of piracy is due to failure to draw a clear distinction between piracy in the strict sense of the word, as defined by international law, and piracy coming under the private laws and treaties of individual States. In our view, therefore, it would be preferable for the Committee to adopt a clear definition of piracy applicable to all States in virtue of international law in general. Accordingly, we have the honour to submit to the Committee the following draft.

DRAFT PROVISIONS FOR THE SUPPRESSION OF PIRACY¹.

Article 1. — Piracy occurs only on the high sea and consists in the commission for private ends of depredations upon property or acts of violence against persons.

It is not involved in the notion of piracy that the above-mentioned acts should be committed for the purpose of gain, but acts committed with a purely political object will not be regarded as constituting piracy.

Article 2. — It is not involved in the notion of piracy that the ship should not have the right to fly a recognised flag, but in committing an act of piracy the pirate loses the protection of the State whose flag the ship flies.

¹ As amended by M. Matsuda as the result of the discussion in the Committee of Experts.

Article 3. — Only private ships can commit acts of piracy. Where a warship, after mutiny, cruises on its own account and commits acts of the kind mentioned in Article 1, it thereby loses its public character.

Article 4. — Where, during a civil war, warships of insurgents who are not recognised as belligerents are regarded by the regular Government as pirates, third Powers are not thereby obliged to treat them as such.

Insurgents committing acts of the kind mentioned in Article 1 must be considered as pirates, unless such acts are inspired by purely political motives.

Article 5. — If the crew of a ship has committed an act of piracy, every warship has the right to stop and capture the ship on the high sea.

On the condition that the affair shall be remitted for judgment to the competent authorities of the littoral State, a pursuit commenced on the high sea may be continued even within territorial waters unless the littoral State is in a position to continue such pursuit itself.

Article 6. — Where suspicions of piracy exist, every warship, on the responsibility of its commander, has authority to ascertain the real character of the ship in question. If after examination the suspicions are proved to be unfounded, the captain of the suspected ship will be entitled to reparation or to an indemnity, as the case may be. If, on the contrary, the suspicions of piracy are confirmed, the commander of the warship may either proceed to try the pirates, if the arrest took place on the high sea, or deliver the accused to the competent authorities.

Article 7. — Jurisdiction in piracy belongs to the State of the ship making the capture, except: (a) in the case of pursuit mentioned in Article 5, paragraph 2; (b) in the case where the domestic legislation or an international convention otherwise decides.

Article 8. — The consequences of capture, such as the validity of the prize, the right of recovery of the lawful owners, the reward of the captors, are governed by the law of the State to which jurisdiction belongs.

Geneva, January 26th, 1926.

(Signed) M. MATSUDA.

[Communicated to the Council,
the Members of the League
and other Governments.]

C. 48. M. 25. 1926²²
[C. P. D. I. 58.]

Geneva, February 9th, 1926.

Duplicate

LEAGUE OF NATIONS

Committee of Experts for the Progressive Codification of International Law.

QUESTIONNAIRE No. 6

adopted by the Committee at its Second Session, held in January 1926.

PIRACY.

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The Committee has decided to include in its list the following subject:

"Whether, and to what extent, it would be possible to establish by an international convention, appropriate provisions to secure the suppression of piracy."

On this subject the Committee has the honour to communicate to the Governments a report presented to it by a Sub-Committee consisting of M. MATSUDA as Rapporteur and M. WANG CHUNG-HUI².

The nature of the general question and of the particular questions involved therein appears from the report. The report contains a statement of principles to be applied and of particular solutions derived from these principles. The Committee considers that this statement indicates the questions to be resolved for the purpose of regulating the matter by international agreement. All these questions are subordinate to the larger question set out above.

It is understood that, in submitting the present subject to the Governments, the Committee does not pronounce either for or against the general principles set out in the report or the solutions suggested for various particular problems on the basis of these principles. At the present stage of its work, it is not for the Committee to put forward conclusions of this kind. Its sole, or at least its principal, task for the present consists in drawing attention to various questions of international law the regulation of which by international agreement would seem to be desirable and of realisable.

In doing this, the Committee should doubtless not confine itself to generalities but should put forward the proposed questions with sufficient detail to facilitate the decision as to the desirability and possibility of their solution. The necessary details will be found in the final conclusions of M. Matsuda's report³.

In order to be able to continue its work without delay, the Committee will be glad to be put in possession of the replies of the Governments before October 15th, 1926.

The Sub-Committee's report is annexed.

Geneva, January 29th, 1926.

(Signed)

Hj. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See Assembly Resolution of September 22nd, 1924.

² M. Wang Chung-Hui signed the original text of the Sub-Committee's report. Having unfortunately not been able to attend the session of the Committee of Experts, he is not responsible for the actual text as annexed to the present document, this text containing certain amendments made by the Rapporteur as a result of the discussion in the Committee.

³ See page 4.

Annex.

REPORT BY THE SUB-COMMITTEE.

M. MATSUDA, Rapporteur.

M. WANG CHUNG-HUI¹.

Whether, and to what extent, it would be possible to establish, by an international convention, appropriate provisions to secure the suppression of piracy.

[Translation.]

Authors of treaties on international law often differ as to what really constitutes this international crime. In order to avoid any confusion, a clear distinction should be drawn between piracy in the strict sense of the word and practices similar to piracy. The former comes within the scope of international law in general, the latter either under international treaty law in force between two or more States or simply under a national law. We will examine each of these aspects of the problem in turn, although the first alone is of real general importance from the international point of view.

A. PIRACY IN INTERNATIONAL LAW.

I. According to international law, piracy consists in sailing the seas for private ends without authorisation from the Government of any State with the object of committing depredations upon property or acts of violence against persons. The pirate attacks merchant ships of any and every nation without making any distinction except in so far as will enable him to escape punishment for his misdeeds. He is a sea-robber, pillaging by force of arms, stealing or destroying the property of others and committing outrages of all kinds upon individuals.

Piracy has as its field of operation that vast domain which is termed "the high seas". It constitutes a crime against the security of commerce on the high seas, where alone it can be committed. The same acts committed in the territorial waters of a State do not come within the scope of international law, but fall within the competence of the local sovereign power.

When pirates choose as the scene of their acts of sea-robbery a place common to all men and when they attack all nations indiscriminately, their practices become harmful to the international community of all States. They become the enemies of the human race and place themselves outside the law of peaceful people.

Certain authors take the view that desire for gain is necessarily one of the characteristics of piracy. But the motive of the acts of violence might be not the prospect of gain but hatred or a desire for vengeance. In my opinion it is preferable not to adopt the criterion of desire for gain, since it is both too restrictive and contained in the larger qualification "for private ends". It is better, in laying down a general principle, to be content with the external character of the facts without entering too far into the often delicate question of motives. Nevertheless, when the acts in question are committed from purely political motives, it is hardly possible to regard them as acts of piracy involving all the important consequences which follow upon the commission of that crime. Such a rule does not assure any absolute impunity for the political acts in question, since they remain subject to the ordinary rules of international law.

By committing an act of piracy, the pirate and his vessel *ipso facto* lose the protection of the State whose flag they are otherwise entitled to fly. Persons engaged in the commission of such crimes obviously cannot have been authorised by any civilised State to do so. In this connection we should note that the commission of the crime of piracy does not involve as a preliminary condition that the ship in question should not have the right to fly a recognised flag.

Every enterprise for the purpose of committing robbery at sea is not necessarily piratical in character. A wrecker, for instance, unlike a pirate, has a nationality, despite the fact that he is indirectly a menace to safety at sea. In like manner, a mere quarrel followed by acts of violence or depredations occurring between fishermen on the high sea ought not to be regarded as an act of piracy, since such acts do not constitute a menace to the international maritime commerce for the protection of whose security every civilised State is to some extent interested in intervening so far as its power permits.

A ship may clearly be a pirate ship even if it was not fitted out for that purpose or if it began its voyage without criminal intention. If a mutiny breaks out on board and the mutineers seize the vessel and use it to commit acts of piracy, the vessel *ipso facto* loses the original protection of its flag.

Acts of piracy can as a general rule only be committed by *private* vessels. A warship or public vessel can never, so long as it retains that character, be treated as a pirate. If such vessels commit acts of depredation or unjustifiable violence, the State whose flag they fly demands reparation from them and has to inflict suitable penalties upon the commander and crew and pay lawful damages

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to the victims of such acts. If the crew of a warship or other public vessel mutinies and sails the seas for its own purposes, the vessel ceases to be a public one, and the acts of violence which it commits are regarded as acts of piracy.

The case appears more difficult when there is a civil war and the regular Government's warships take the side of the rebels before the latter have been recognised as belligerents. The regular Government sometimes treats such ships as pirates, but foreign Powers ought not to do so unless these ships commit acts of violence against vessels belonging to the Powers in question. Third Powers, on the other hand, may consider such ships as pirates when they commit acts of violence and depredations upon vessels belonging to those Powers, unless the acts are inspired by purely political motives, in which case it would be exaggeratedly rigorous to treat the ships as declared enemies of the community of civilised States.

II. Before taking action against pirates, it must first be ascertained that they really are pirates. The mere fact of hoisting a flag does not prove the right to fly it; and, accordingly, if a vessel is suspected of piracy, other means have to be used to establish its nationality.

The two following principles are recognised both by law and in practice:

(1) Any warship has the right upon the high seas to stop and seize any vessel, under whatever flag it may be sailing, which has undoubtedly committed an act of piracy.

(2) If the vessel is only under suspicion, the warship is authorised to verify its true character. It must, however, use this right judiciously and with caution. The commander of the warship is responsible for any action taken. If, after inspection of the suspected vessel, the suspicion proves to have been unfounded, the captain of the suspected vessel is entitled to reparation or compensation, according to circumstances.

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The effects of the capture, the consequences of the validity of the seizure, the right of recovery by the lawful owners and the reward to be given to the captors are questions which are governed by the law of the State having jurisdiction. Accordingly they are solved in a different manner by each State, either in its domestic legislation or in its special conventions. The following four conditions must as a rule be fulfilled in the exercise of the right of recovery and restitution of the goods stolen:

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B. PIRACY IN TREATIES AND SPECIAL LAWS OF STATES.

In addition to piracy by the law of nations, States have occasionally, by treaty or in their internal law, established a piracy by analogy which has no claim to be universally recognised and must not be confused with true piracy; the assimilations in question can only create a sort of piracy under internal law and from the point of view of the countries which make them. The acts dealt with are of a grave nature, it is true, but they do not constitute a danger to the shipping and commerce of all nations indiscriminately. Legislators are justified in taking strong measures in such cases, but the classification of such acts as piracy is a fact which only concerns the State whose laws contain provisions to that effect. From the international point of view, the acts come within the competence only of the country in which they are punishable. No country making

a capture can cite them as the basis of a claim to international competence nor can they justify actual capture by a foreign State unless there is a convention which expressly provides otherwise. We shall now examine the salient facts and the commonest of these analogous forms of piracy. In the first place, there is privateering.

1. The immediate object of privateering is the use of violence for purposes of gain, and this gives it a certain resemblance to piracy.

Although the object of the privateersman is to take the property of others, his acts are only committed against the national enemy of the country which has given him his letters of *marque*. This circumstance gives him a legal standing as regards nationality; at the same time it places responsibility upon the nation whose flag he flies, and thereby excludes any idea of piracy. Moreover, if a vessel so commissioned infringes the rights of other nations by acts of violence or irregularities which exceed the powers it holds, it cannot on that account be regarded as a pirate unless its intention is obviously piratical. In such a case, the State which commissioned it is responsible to other countries for any illegal acts it may commit, and has the right to try and punish.

2. Vessels have also been regarded as pirates when, their own countries remaining neutral, they received a commission from a foreign belligerent State and captured vessels belonging to a Power which, while an enemy of that State, was at peace with the vessel's own country.

This, too, is not piracy according to international law, but only according to the domestic law of one or more States.

Certain writers hold that, as a result of the acts it commits, such a vessel is denationalised, and is not legitimately under the protection of any flag; such acts would thus be true acts of piracy according to international law. This view, however, is mistaken; such a vessel is not denationalised. It is covered in respect of third Powers by the commission it has received. It has a respondent answerable to third Powers, namely, the State which commissioned it and which becomes liable for its acts. Lastly, it should be borne in mind that the vessel does not attack all merchant shipping indiscriminately; it merely captures the vessels of the Power at war with the State which commissioned it. It makes war upon a certain nation. It is not an enemy of the human race. This, then, cannot be said to be a case of piracy under international law, but such a vessel can certainly be classed as a pirate by the domestic law of an individual State.

3. Then, again, the sailors forming the crew of a merchantship are generally treated as pirates if they mutiny against the commander during a voyage, murder him and the other officers and seize the ship. But this too is piracy only under the domestic law of individual States.

4. Governments struggling to quell a rebellion have an incontestable right to describe as pirates, or to announce that they will treat as pirates, rebels who sail the seas for the purpose of seizing property belonging to subjects or citizens who have remained faithful to the duly established authorities. Rebellions are entirely a matter for the domestic law of the individual State, and a Government has every right to threaten to treat rebels as pirates, however widespread the rebellion may be.

Foreign Powers, however, are not obliged to accept this description or agree to such persons being treated as pirates.

C. CONCLUSIONS.

The confusion of opinion on the subject of piracy is due to failure to draw a clear distinction between piracy in the strict sense of the word, as defined by international law, and piracy coming under the private laws and treaties of individual States. In our view, therefore, it would be preferable for the Committee to adopt a clear definition of piracy applicable to all States in virtue of international law in general. Accordingly, we have the honour to submit to the Committee the following draft.

DRAFT PROVISIONS FOR THE SUPPRESSION OF PIRACY¹.

Article 1. — Piracy occurs only on the high sea and consists in the commission for private ends of depredations upon property or acts of violence against persons.

It is not involved in the notion of piracy that the above-mentioned acts should be committed for the purpose of gain, but acts committed with a purely political object will not be regarded as constituting piracy.

Article 2. — It is not involved in the notion of piracy that the ship should not have the right to fly a recognised flag, but in committing an act of piracy the pirate loses the protection of the State whose flag the ship flies.

¹ As amended by M. Matsuda as the result of the discussion in the Committee of Experts.

Article 3. — Only private ships can commit acts of piracy. Where a warship, after mutiny, cruises on its own account and commits acts of the kind mentioned in Article 1, it thereby loses its public character.

Article 4. — Where, during a civil war, warships of insurgents who are not recognised as belligerents are regarded by the regular Government as pirates, third Powers are not thereby obliged to treat them as such.

Insurgents committing acts of the kind mentioned in Article 1 must be considered as pirates, unless such acts are inspired by purely political motives.

Article 5. — If the crew of a ship has committed an act of piracy, every warship has the right to stop and capture the ship on the high sea.

On the condition that the affair shall be remitted for judgment to the competent authorities of the littoral State, a pursuit commenced on the high sea may be continued even within territorial waters unless the littoral State is in a position to continue such pursuit itself.

Article 6. — Where suspicions of piracy exist, every warship, on the responsibility of its commander, has authority to ascertain the real character of the ship in question. If after examination the suspicions are proved to be unfounded, the captain of the suspected ship will be entitled to reparation or to an indemnity, as the case may be. If, on the contrary, the suspicions of piracy are confirmed, the commander of the warship may either proceed to try the pirates, if the arrest took place on the high sea, or deliver the accused to the competent authorities.

Article 7. — Jurisdiction in piracy belongs to the State of the ship making the capture, except: (a) in the case of pursuit mentioned in Article 5, paragraph 2; (b) in the case where the domestic legislation or an international convention otherwise decides.

Article 8. — The consequences of capture, such as the validity of the prize, the right of recovery of the lawful owners, the reward of the captors, are governed by the law of the State to which jurisdiction belongs.

Geneva, January 26th, 1926.

(Signed) M. MATSUDA.

Geneva, February 9th, 1926.

LEAGUE OF NATIONS.

**Committee of Experts for the Progressive Codification
of International Law.**

QUESTIONNAIRE No. 7

adopted by the Committee at its Second Session, held in January 1926.

EXPLOITATION OF THE PRODUCTS OF THE SEA.

The Committee has the following terms of reference¹:

(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;

(2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and

(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

The Committee has decided to include in its list the following subject:

"Whether it is possible to establish by way of international agreement rules regarding the exploitation of the products of the sea."

M. Suarez was requested to examine this question with special reference to the treaties dealing with the subject.

The Committee has the honour to communicate to the Governments a report submitted to it by M. Suarez.

The practical importance of the question appears to be established by this report and is emphasised in the conclusions which are there reached. The Committee considers that the report indicates in broad outline the problems which a conference including experts of various kinds might be called upon to solve, and feels it a duty to emphasise the urgent need of action.

In order to be able to continue its work without delay, the Committee will be glad to be put in possession of the replies of the Governments before October 15th, 1926.

M. Suarez' report is annexed.

Geneva, January 29th, 1926.

(Signed) HJ. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section
of the Secretariat.

¹ See Assembly Resolution of September 22nd, 1924.

Annex.

REPORT ON THE EXPLOITATION OF THE PRODUCTS OF THE SEA,

Rapporteur: M. José León SUÁREZ.

[Translated from the Spanish.]

At its private meeting on April 8th last, the Committee of which you are Chairman adopted the following resolution in paragraph (j):

"The Committee appoints a sub-committee to enquire, with reference, *inter alia*, to the treaties dealing with the subject, whether it is possible to establish by way of international agreement rules regarding the exploitation of the products of the sea."

The Sub-Committee appointed consists only of the author of the present report.

I may recall the fact that my original proposal submitted at the meeting on April 6th read as follows:

"Should not a special technical conference be convened, to draw up immediately, without regard to the extension or maintenance of maritime jurisdiction extending to the three-mile limit, uniform regulations for the exploitation of the industries of the sea, whose wealth constitutes a food reserve for humanity, over the whole extent of the ocean bed forming part of the continental shelf, *i.e.*, the region along the coasts where the depth does not exceed 200 metres?"

It is important to remember this text because, after studying the proposal as drafted by my distinguished colleague M. Fromageot, in which he makes reference to *existing treaties* dealing with the subject, I am bound to express the opinion that the problem, which, as I originally put it, was a simple one, has been complicated by the text adopted and that its scope has been greatly extended while no progress has been made towards its solution. Moreover, this way of putting the question has made it impossible for me to send my report earlier. Although I arrived at Buenos Aires at the end of June, or some five months ago, owing to the fact that the shipping companies organising the return service run only one steamer of the same class every month, I am still awaiting replies to the request for information regarding international maritime legislation which I sent from Europe to various legations and institutions in order to acquaint myself with all the available data. Owing to the delay in obtaining information and to the fact that correspondence between Europe and Buenos Aires takes at least a month, and owing also to all the business I had to neglect during my absence and my return to Europe to attend the January session, I have been unable to study the ten or twelve important treaties which, out of the twenty or thirty in existence, might be of value to me in carrying out the Committee's instructions.

I am familiar, however, with their general purport, and know that they can be of little value except as forming precedents for the proposal, which originally, I repeat, did not aim at laying down international regulations for hunting and fishing at sea but at convening a committee of experts, representing as far as possible all the Governments directly concerned, to draw up regulations according to the carefully considered procedure of successive discussions which the Committee has adopted and which obviates any possibility of hasty decisions.

There is therefore a difference between the principle I proposed and that adopted by the Committee. The former obviates the difficulty which is inherent in the latter. As international regulation has hitherto been of a limited and local character and has, except in two or three cases, been directed not solely to the protection of species from extinction but mainly to establish police measures and to ensure reciprocity and *commerce*, regardless of biological interests, which in this case are inseparable from *economic* and *general* interests, this regulation, though it has been of value on occasion, is no longer adequate. The result of pursuing the international regulation of hunting and fishing at sea in the restricted sense hitherto accepted has been the useful but by no means sufficient one of delaying, but not preventing, the extinction of some of the principal species. And as, if we consider the life of all the species in the animal kingdom, biological solidarity is even closer among the denizens of the ocean than among land animals, the disappearance of certain species would destroy the balance in the struggle for existence and would bring about the extinction of other species also.

The wealth constituted by the creatures of the deep is not fixed in the sense of being confined to one region or latitude but varies from year to year according to the biological, physical and chemical circumstances affecting the *plankton* among which they live. The majority of aquatic animals are essentially migratory, and it is this characteristic which creates the biologic-

geographical solidarity of species, which should find its counterpart in a legal solidarity in the sphere of international law in which we are working.

This urgent necessity for international regulation of the exploitation of the biological wealth of the sea is a new phenomenon to jurists but is familiar to all those who are brought into contact with the creatures of the deep, either in the pursuit of gain or in the interests of science. *The marine species of use to man will become extinct unless their exploitation is subjected to international regulation.* It is this situation, Gentlemen, which must be considered, and not the existing treaties, which in their time were a palliative but never a cure and which to-day are no longer sufficient and even constitute a danger, either because the species in question migrate for natural reasons from places where they are protected to places where they are uneconomically exploited or because, when they are hunted to excess in certain areas, they take refuge in other waters where they are less molested, thus constituting, in practice, a monopoly in favour of certain countries.

The human race is already beginning to experience a shortage of food, and this shortage is likely to be accentuated, owing not only to the increase of population but to the growth of the average consumption of each individual. As the democratic organisation of society improves, so man increases his consumption, particularly of meat and corn. This is due not only to a physiological but to a psychological necessity — the craving to make up for past deprivation of meat, which has generally been regarded as a food reserved for the rich. Coming as I do from a country whose main export is meat and corn, I am not influenced by any immediate apprehensions or by my own material interests, for it is clear from the present tendency of the world meat market that the republics of the Plata enjoy great natural advantages, and that, as the cattle-rearing industry exhausts the reserves of production, the greater the demand the greater will be the value of the supply. I am not considering, however, the interests of the moment or of any particular country but the general interest of mankind, which before long will have to draw upon the reserves of the sea to make good the inadequacy of the food production of the land. It is our business to see that this step is not taken too late.

The exploitation of the products of the sea requires regulation the most urgently in the waters nearest the coasts, because it is in these regions, and particularly on the shoals, that the species most useful to man have their habitat. In the open sea away from the continental shelf, where the depth exceeds 200 metres, only a few species useful to man are to be found in the upper levels of the sea. Apart from the waters in the immediate vicinity of the beach, it may be said to be a natural law that the intensity and variety of marine life is inversely proportional to the depth of the water.

If we are to do work of real value to the community, therefore, we cannot (subject to the necessary exceptions) make our enquiries with reference to "the treaties dealing with the subject". In proof of this I may cite the opinion of all the experts I have consulted in various countries, including the United States, which has been the most successful in regulating these questions, and which, owing to its geographical position, is the country which least requires international co-operation to preserve its maritime wealth. These various opinions may be summed up in that of the Argentine expert M. Luciano H. Valette, who has been most helpful to me on this and other occasions. Referring to proposal (j), with which the present report deals, M. Valette, who is chief of the Fisheries Department of the Argentine Ministry of Agriculture, said:

"You cannot fail to perceive the discrepancy which exists between the actual biological facts and the principles embodied in existing international conventions and treaties, to which you are asked to subordinate your opinion and adapt your report in conformity with the resolution adopted by the Codification Committee in paragraph (j). I gather that your original proposal, which was conceived on the soundest possible lines, has been condemned; none the less I hope that, even if the European members of the Committee at Geneva fail to realise its urgency, it will triumph in the narrower but more congenial sphere of American interests."

There can be no political, economic or other objections to the recommendation that all Governments having maritime interests should hold a conference of experts to determine what species should be protected and in what districts, to decide what form this protection should take in order to prevent their extinction, and to draw up the main principles of international regulation. The United States, once they had prevented the extermination of the seal in the north-west by means of an agreement with Great Britain, Russia and Japan, which they later supplemented by uniform regulations governing hunting and fishing along the shores of the various States of the Union, appeared to be dispensed from the necessity of calling in the aid of international law. Now, however, that the sea is becoming replenished with species which were at one time almost extinct, experience is showing that the work is incomplete; for animals, happier in this than men, are ignorant of jurisdictions and national frontiers and observe not international law but internationalism; the sea for them is a single realm, like Ovid's dream of a world forming a single fatherland for humanity. The Conference of American Raw Fur Traders, which met at Washington under the auspices of the National Association of the Fur Industry in October 1924, adopted the following resolution *5 a* based on the international and inter-State considerations I have outlined above: "We deem it essential and recommend that the laws relating to fur-bearing animals be formulated by the various legislative bodies in pursuance of a uniform policy of conservation and with as full co-operation as possible between States of a similar climatic or natural condition". The necessity for international co-operation is also stressed in the articles published in the National Association

of the Fur Industry Year-Book, 1924. For instance, Mr. Henry O'Malley, Fisheries Commissioner of the United States, in his article on the Alaska Fur-Seal Industry, reaches the following conclusion: "From the foregoing it is plainly evident that the fur-seal industry is carried on by activity complex in character and broad in extent. It has features international in scope which must be handled through diplomatic channels".

In the Appendix will be found a list of the existing treaties. In order, however, to show how little value they possess, I shall go on to put forward a number of other considerations illustrating the force of my original proposal.

I shall be obliged to go into some of the technical antecedents of the sea fishing and hunting industry in order to convince my colleagues of the expediency of adopting my suggestion.

If proposal (7) as it stood were limited to *existing treaties*, it would not cover the modern whaling industry, which is rapidly exterminating the whale. To-day it is carried out with the help of a perfected form of weapon and special craft; but the great increase in its scope is due to the manner in which the animal is treated once it has been killed. The extraction of the *oil*, which previously had to be done ashore, is now done in floating factories, which accelerates the process ten- or twenty-fold and renders national control impossible, since no action can be taken in the *open sea*, and the whalers have no need to touch land to extract the principal product from their quarry. This process is carried out principally in the southern waters of South America. Here the whales, pursued and almost exterminated in the North Polar regions, have taken refuge, driven by the instinct of self-preservation and a certain degree of rudimentary intelligence which they possess. To such a pitch of perfection have the Norwegian whalers brought their trade that one of the conditions imposed by the majority of insurance policies for this class of craft is that the harpooner and some of the crew should be Norwegian.

M. Valette, to whom I had occasion to refer above, has described this process of extracting oil from whales, and it really seems impossible that the Governments interested in preserving so important a source of wealth should do nothing to prevent its extinction, which will be complete in five to ten years at the most. "This class of fishing", he says, "has reached such a point as to be a veritable butchery, which is the more deplorable when one considers the uniparous character of whales and the length of their period of gestation".

Dr. Charcot, an eye-witness of these practices in the Antarctic seas in the vicinity of the Argentine, was so impressed that he addressed a communication to the French Colonial Ministry drawing attention to the rapidity with which whales would disappear if they went on being exterminated in a manner which he qualified as barbarous. Even fifteen years ago, Dr. Charcot emphasised the *urgent necessity of an international agreement settling such important matters as the protection of young whales, the creation of reserves for adults, and the full industrial utilisation of all the parts of the captured whale*. The Paris Academy of Science also unanimously recommended that an international committee should meet to settle the problems of fishing in the open sea, such as more thorough exploitation and the preservation of species.

These examples, only two among hundreds which might be quoted, fully demonstrate that the crying need for general international legislation has not been met by existing treaties on maritime hunting and fishing.

The absence of such legislation accelerates the disappearance of these species year by year, not so much because they are decreasing of themselves as because their destruction is becoming more intensive. The products of the fisheries are not fully utilised, and it would appear that, although all those who carry on this trade realise the harm they are doing, each is unwilling to restrict his activities for the benefit of the others, and they endeavour to kill as many whales as they can, realising that the total extinction of the species is approaching and that they must avail themselves of such opportunities as still remain.

At the British Imperial Conference in 1923, one of the speakers, alluding to this wanton destruction, proposed that the British Empire should adopt regulations. This, however, is not possible, as the fisheries are carried on in the open sea, and the Argentine and Chile, as owners of the neighbouring coasts and islands, could claim rights at least equal to those of Great Britain, while other countries which engage in whaling in the Antarctic, such as the United States, the three Scandinavian countries, the Netherlands, Russia, and various others, could easily put forward claims as well, since, with the modern system of floating tanks and rafts, there is no need of *terra firma* for the necessary operations, quite apart from the fact that on those uninhabited islands and coasts such operations could easily be carried out openly or secretly. The present system of control (of very doubtful legality) is quite inadequate; indeed, it defeats its own ends from the point of view of the preservation of species, the only one which in this report we need consider. It takes the form of a tax imposed by the Governor of the Falkland Islands, which belong to Great Britain, at the rate of 5/- per barrel of whale-oil of approximately 170 kilogrammes. This *fiscal* system runs counter to the economising of wealth and promotes its more rapid destruction.

The riches of the sea, and especially the immense wealth of the Antarctic region, are the patrimony of the whole human race, and our Committee is the body best qualified to suggest to the Governments what steps should be taken before it is too late.

To save this wealth, which, being to-day the uncontrolled property of all, belongs to nobody, the only thing to be done is to discard the obsolete rules of the existing treaties, which were drawn up with other objects, to take a wider view, and to base a new jurisprudence, not on the defective

legislation which has failed to see justice done but on the scientific and economic considerations^{2/2} which, after all the necessary data has been collected, may be put forward, compared and discussed at a technical conference by the countries concerned. In this way a new jurisprudence will be created of which to-day we have no inkling, owing to the fact that the necessity which now arouses our legitimate apprehensions was never contemplated.

I have referred especially to whales; but other species of equal value are also in danger of extinction, such as the *pinipedes* (with fin-like feet; from *pinna* and *pes*), to which belong various families popularly included under the generic term of seals, among them the fur-seals so highly prized by traders. These animals, being amphibious, require protection not only on land but in the sea. The rocks on which they live are often at a distance from the mainland and cannot be permanently occupied by man because they are constantly beaten and submerged by the waves. Only adequate legislation can protect these animals, which are almost extinct in the south, as they regularly migrate from the Antarctic Ocean to the coasts of Brazil in the latitude of São Paulo. The Northern Hemisphere has been replenished with seals to a certain extent, thanks to the effective measures proposed by the United States, to which is also due the reappearance of these valuable animals in the Pribiloff and Kurile Islands.

With the help and guidance of M. Valette, I have sketched on a map¹, which is attached to and forms an integral part of the present report, the geographical distribution of some of the most economically important species which should be preserved for the use of humanity. I have done this merely by way of illustration and as impartial evidence to convince my colleagues that we must accept the idea of holding a technical conference to draw up international regulations for the exploitation of certain species. I make no attempt to mention the cases of definite species but merely quote certain examples; there are many others which it would be tedious and unnecessary to enumerate here. The source of wealth which is most immediately threatened with total extinction is the whale, because its bulk prevents concealment, because its slowness of reproduction makes the replacement of casualties impossible, and because the species, being concentrated in the South Polar region after having been exterminated in the north, is attacked in these waters by fishers from every part of the world and is being exterminated with alarming rapidity. The average number of whales killed in the Antarctic every year is not less than 1,500 and sometimes as many as 2,000. No other method than international regulation can be conceived to prevent the annihilation of whales, the total remaining number of which may tentatively be put at 10,000 or 12,000 at the most. What should be the main points of such regulation? Without any more claim to be exhaustive than in my enumeration of species, I would suggest the following: establishment (in the open sea) of *reserved zones* on the basis of what is known already or may be discovered with regard to the habitat and migrations of whales; exploitation of each zone in turn and for a limited period; uniformity of methods (without going into details of a nature to hamper industrial freedom), in order to ensure the full utilisation of the products of the chase, which to-day are squandered owing to the thirst for immediate gain at all costs; adoption of general rules regarding the ages at which whales and seals should not be killed even when found in zones and during periods not subject to prohibition.

In conjunction with the facts I have adduced, particularly with regard to the South Polar region, should be taken others concerning quite different areas, which show that isolated measures of protection or measures taken by a single country are useless, and that they must as a rule be general and international in character. Most of the whales are in the south, as they are ruthlessly hunted in the north; but as their hunters have followed them, they are now tending to return to the north or to disperse all over the world in search of the peace they will never find. A report of the Trönsberg Whaling Company, which operates in the South American latitudes of the Pacific, mentions in a memorandum for 1924 that it made a *net* profit of 2,958,120 crowns; it paid its shareholders 50 per cent on their capital, and the balance of 1,038,120 crowns went to the reserve. This net profit at present (December 1925) represents some fourteen million French francs — an enormous sum if we take into account the amount of capital invested. There is also an Argentine company which, I believe, makes similar profits, although I have not been able to obtain details.

Encouraged by these results, and knowing that the sooner it kills the whales the more it will prevent from falling into the hands of others, as they constitute a form of wealth which will soon be exhausted, the Trönsberg Whaling Company ordered the construction of four additional whalers for the 1925-26 season.

On our chart of marine wealth we show the *herring* (*clupea harrengus*), whose preservation is of particular importance to Great Britain, Norway, the Netherlands, Germany, Belgium, and Denmark. It is also of some concern to Spain, Portugal, France, the United States, Iceland, etc., because when other kinds of fish become scarce or disappear (as has occurred on the coasts of Galicia) the fisherfolk return to their old habits and go to places often at a great distance from their coasts. They do not wait for the fish to come to them but go and seek it in its own haunts.

The salmon of the Atlantic lives in the seas and rivers of North-Western and Western Europe. Its migrations extend as far as the United States, between Cape Cod and Ungava Bay (this is as regards the Northern Atlantic). As regards the salmon of the Northern Pacific, the five exploited species of the genus *onchorhynchus* are found in the rivers of Asia and in those of Alaska and California. No one can foresee the migrations to which they may be subject in future, but it can be confidently anticipated that, within the vast areas indicated, their rational exploitation will

¹ This map is not reproduced.

be impossible without an international agreement on an economic and biological and not on a political or commercial basis.

Another typical species shown on the map is the cod (*gen. gadus*), which is found throughout the Northern Atlantic from the extreme north as far as the Bay of Biscay on the European side, and Cape Hatteras on the American side, but is chiefly concentrated in the Newfoundland banks.

Another fish which is much sought after is the "caballa" (*scomber scombrus*) whose migrations extend from the Black Sea to the Canaries, Scotland, France and Norway, as far as Europe is concerned, and to the north-east of America.

The ichthyological life of the South American waters has been little studied as regards habitat and migrations, but among other species may be mentioned the hake (*cynoscion striatus*), which migrates to the waters off Brazil, Uruguay and the Argentine.

The map also shows the distribution of animals of the seal tribe, indicating the principal habitats of walruses, sea elephants and other species belonging to this genus.

A line on the map indicates to the southward the principal area in which whales take refuge, but there are also a number in the north and in the Pacific in process of migration from one Pole to the other, as has already been explained.

Until recently equilibrium existed between the production and consumption of the greater part of fish; the same cannot be said of animals which are hunted, whose numbers began to decrease some time ago. But the improvement of modern appliances and the constant progress of what Bergson might term our "age of machinery" has also had its effect on fishing. Thus, for example, herrings were previously fished at certain periods of the year and not at others. The fishermen waited for them to form shoals and to approach their meeting-grounds, which became the traditional fishing-zones. This practice in itself constituted a restriction: but now, with modern methods, herrings are fished *throughout the year*; and the fishers do not wait for the shoals to approach but go and look for them. If this intensive method of fishing continues, the numbers of herring, which are already falling off, cannot fail to decrease rapidly.

I have said enough with regard to the hunting of whales and seals, but it is worth mentioning that the Swiss zoologist Paul Sarazin stated, before the International Commission for the Protection of Wild Life which met at Berne in 1913, that, with the invention of floating grease- and oil-factories, which are becoming more and more numerous on the high seas and are stimulated by investments of capital seeking a higher return than can be obtained in any other industry, the most important source of marine wealth would mathematically be exhausted within a short period.

In view of the considerations I have outlined above, I venture to submit, in my capacity of rapporteur on point (7), the following conclusions¹:

1. That it is possible, by means of adequate regulation, to secure the economical exploitation of the products of the sea.
2. That such regulation could not fail to be in the general interest; since, if the present confusion persists for a few years longer, the extinction of the principal species will be the inevitable consequence of their unrestricted exploitation.
3. That the treaties dealing with the subject apply only to certain species and are for the most part regional in character. They have not always taken into account the point of greatest importance to humanity, which is to find means to prevent the disappearance of species, and not infrequently they concern measures of police or purely commercial measures, without considering the biologic-economic aspect, which is the essential aspect.
4. That the attention of all maritime Powers should be called to the urgency of establishing regulations by holding a conference including experts in applied marine zoology, persons engaged in marine industries, and jurists.
5. That, without prejudice to other matters, the general technical programme of the conference referred to in the previous paragraph might include the following:
 - (a) General and local principles for the organisation of a more rational and uniform control of the exploitation of the aquatic fauna in all its aspects;
 - (b) Creation of reserved zones, organisation of their exploitation in rotation, close periods and fixed ages at which killing is permitted;
 - (c) Determination of the most effective method of supervising the execution of the measures adopted and maintaining the control.

Buenos Ayres, December 8th, 1925.

José León SUÁREZ.

¹ Printed as modified by the Rapporteur as a result of the discussion in the Committee of Experts.

Appendix.

LIST OF INTERNATIONAL TREATIES ON THE REGULATION OF MARITIME INDUSTRIES.

1. International Convention for regulating the Police of the Northern Sea Fisheries outside Territorial Waters. The Hague, May 6th, 1882.
Declaration modifying Article 8 of the Convention of 1882. February 1st, 1889. (Great Britain, France, Germany, Denmark, Belgium, Netherlands.)
2. Convention on the Liquor Traffic among Fishermen, signed at The Hague by the same Powers. November 16th, 1887.
3. Convention between the United Kingdom, the United States, Japan and Russia for the Preservation and Protection of the Fur-Seals in the North Pacific Ocean. July 7th, 1911.
4. Treaty regarding Spitzbergen, between the United States, Great Britain, Denmark, France, Italy, Japan, Norway, Netherlands and Sweden. Paris, February 9th, 1920. (Article 2.)
5. Great Britain and Belgium. March 22nd, 1852; May 2nd, 1891; August 26th, 1891. (North Sea Fisheries.)
6. Great Britain and Denmark. June 24th, 1901. Farøe Islands and Iceland.
7. Fisheries Convention, France and Great Britain. August 2nd, 1839.
8. Declaration concerning the Obligations of Fishermen in the Seas between the Coasts of France and Great Britain. June 23rd, 1843.
9. Convention concerning Newfoundland and West and Central Africa, London, April 8th, 1904. (France and Great Britain.)
10. Declaration by France and Great Britain : Oyster Fisheries. September 29th, 1923.
11. Great Britain and Netherlands. Allowances to Witnesses in Fishery Cases. April 26th, 1902.
12. Convention between France and Italy on Reservations in the Fisheries between Corsica and Sardinia. Rome, January 18th, 1908.
13. Great Britain and Nicaragua : Turtle Fishery. May 6th, 1916.
14. Great Britain and Sweden. July 17th, 1856 (Article 10).
15. Great Britain and the United States:
 - (a) Convention of April 11th, 1908, respecting Fisheries in the United States and Canada, signed at Washington.
 - (b) Convention of October 20th, 1818, signed in London, regarding Fishing Disputes.
 - (c) North Atlantic Fisheries : Arbitration. January 27th, 1909.
 - (d) Treaty: Preservation of Fur-Seals, Washington, February 7th, 1911.
 - (e) Agreement: North Atlantic Fisheries. July 20th, 1912.
 - (f) Treaty with Canada for Preservation of Halibut Fishery. Washington, October 21st, 1924.
16. Treaty: Great Britain-United States, Behring Sea Arbitration, February 29th, 1892; and Convention, February 8th, 1896.

[Communicated to the Council,
the Members of the League
and other Governments.]

C. 50. M. 27. 1926. 22
[C.P.D.I. 60.]

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

**CRIMINAL COMPETENCE OF STATES IN RESPECT
OF OFFENCES COMMITTED OUTSIDE THEIR TERRITORY**

Report adopted by the Committee at its Second Session, held in January 1926.

The Committee has the following terms of reference¹:

(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;

(2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and

(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

At its first session the Committee appointed a Sub-Committee, consisting of Mr. Brierly as Rapporteur and M. De Visscher, to enquire:

"Whether it is possible to lay down, by way of conventions, principles governing the criminal competence of States in regard to offences committed outside their territories and, if so, what these principles should be."

After a close study of the special questions to which attention is called in the report drawn up by Mr. BRIERLY, and the observations thereon submitted by M. DE VISSCHER, the Committee has found that international regulation of these questions by way of a general convention, although desirable, would encounter grave political and other obstacles.

In these circumstances, the Committee, which has also taken into consideration the close connection between the present subject and the subject of extradition, has refrained from placing the question set out above on its provisional list. On the other hand, the Committee has decided to communicate to the Governments Mr. Brierly's report and the attached observations by M. De Visscher in order to give them the opportunity of profiting by the light thrown on the subject in this report and annex.

Geneva, January 29th, 1926.

(Signed) HJ. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See Assembly Resolution of September 22nd, 1924.

Annex.

REPORT OF THE SUB-COMMITTEE

Mr. BRIERLY, Rapporteur,
M. DE VISSCHER.

Whether it is possible to lay down, by way of conventions, principles governing the criminal competence of States in regard to offences committed outside their territories and, if so, what these principles should be.

I. REPORT BY Mr. BRIERLY.

1. The terms of reference to your Sub-Committee do not limit our consideration of the criminal competence of States in regard to offences committed outside their territories to offences committed by non-nationals. We apprehend, however, that there can be no question of the competence of a State in respect of the offences of its own nationals, wherever these may be committed; and that it is solely a matter for the determination of each State whether it will assume, and in what cases it will exercise, jurisdiction over offences committed by its own nationals abroad. We believe, further, that no good purpose would be served by suggesting that a principle so well established should be embodied in a convention. We propose, therefore, to limit our observations to the criminal competence of States in regard to offences committed outside their territories by persons other than their own nationals.

2. Such offences may be committed either within the territory of another State or in a place which is not within the territory of any State. We believe that the Committee in drafting our terms of reference desired us to consider chiefly, if not solely, the former class of offences. In any case, we should not recommend the latter class as suitable for conventional regulation. It includes a number of cases which have little in common except that the place in which the offence is committed is outside the territory of every State; for example, a State may apply its criminal law to offences on the high seas on board ships flying its flag; piracy is justiciable by any State, and certain treaties exist under which one State consents to the assumption of jurisdiction over its nationals by another State in specified cases, e.g., the treaties recently negotiated by the United States for the prevention of the introduction of intoxicating liquors into its territory. These examples are sufficient to make it clear that no single principle underlies the cases in which a State may assume jurisdiction over non-nationals for offences committed outside the territory of any State. We shall therefore confine our remarks to the question of jurisdiction over offences committed within the territory of another State.

3. A diversity of practice exists in this matter. Great Britain, the United States, Denmark and Portugal do not themselves assume any jurisdiction over such offences when committed by non-nationals, and the two former States, if not all the four States named, would appear to hold the view that by international law no State is entitled to assume such jurisdiction. Their theory of criminal competence is on this point strictly territorial. On the other hand, the practice of most other States departs from the territorial principle to a greater or less extent.

The following summary of the practices prevailing among such States is taken from a recent article in the *British Year-Book of International Law*, "The Exercise of Criminal Jurisdiction over Foreigners," by Mr. W. E. BECKETT. After stating that Mexico, Greece, Russia, Brazil and China assume jurisdiction in case of offences of a certain degree of seriousness which are criminal both by their own law and by that of the *lex loci delicti commissi*, he says:

"Italy has somewhat similar provisions in her code with respect to crimes against Italians abroad, but this jurisdiction seems to be looked upon as a reserve or extraordinary jurisdiction, for it is provided that, except in the case of offences committed within three miles of the frontier, it shall only be exercised if and when an offer of extradition has been made to the State in which the crime was committed and has been refused.

"Norway and Sweden have similar provisions, but subject to the consent of the executive to the proceedings. . . . Austria, Hungary, Italy and the Argentine make crimes (felonies, not misdemeanours) committed by foreigners abroad, whether against their nationals or not, justiciable by their tribunals if the criminal enters the country, provided that extradition has been offered to and refused by the State possessing territorial jurisdiction, though,

in the case of Hungary, proceedings will only be taken on the authority of the Minister of Justice. . . .

“ Again, France, Germany, Austria, Belgium, Holland, Hungary, Italy, Norway, Russia, Sweden, Greece, Brazil, Spain, Switzerland, Japan and Chile all have provisions giving their Courts power to punish aliens for acts committed abroad which are directed against the safety of the State or its financial credit. These provisions appear as exceptions to the general principle of strict territorial jurisdiction which is enshrined in the codes of most of these countries.”

It is clear, therefore, that the practice of States is far from uniform. Nor is it easy, except in the case of those States which maintain the territorial theory, to infer from the practice adopted by a State the theory upon which it bases its assumption of jurisdiction, since we cannot safely argue from the fact that a State assumes jurisdiction only in certain cases that it regards those cases as the only ones in which the assumption of jurisdiction would be legitimate. It would, however, appear that there are few, if any, States which would maintain the view that international law leaves an absolute discretion in this matter to every State. Most States, if not all, would appear to regard the territorial basis of jurisdiction as the normal rule, and the question of real doubt is whether international law permits any, and, if so, what, exceptions from it. We feel assured that any conventional regulation of the matter would necessarily have to be based on this assumption.

Before we consider some of the exceptions from the territorial theory which are actually asserted by States, it is convenient to notice that even those States which deny the legitimacy of exceptions allow that in certain cases a crime may be committed *within* the territory of a State and therefore be justiciable by its criminal Courts, even though the person committing it is physically outside the territory. An obvious illustration would be that of a man who should fire a gun across a frontier and kill another man in a neighbouring State, or, to take a case in which extradition to Germany was actually granted by Great Britain, a man may obtain money by false pretences by means of a letter posted in Great Britain to a recipient in Germany. Mr. John Bassett Moore has called the jurisdiction of Germany in such a case an objective territorial jurisdiction and that of Great Britain a subjective territorial jurisdiction. The recognition of an objective territorial jurisdiction by States which maintain the territorial theory without expressly admitting any exceptions from it clearly reduces very considerably the extent of the difference between the view of such States and that of those which claim that the territorial theory is subject to exceptions.

The exception from the territorial theory most commonly claimed is that in favour of jurisdiction over crimes against the security or credit of a State. There are arguments of great force both in favour of and against the admissibility of this exceptional jurisdiction. On the one hand, it may be said that it relates to a very special class of crimes, the consequences of which may be of the utmost gravity to the State against which they are directed. Further, it would often happen that the acts in question would not contravene the *lex loci delicti commissi*, so that unless this exception from the territorial theory is admissible they would often escape punishment altogether. The territorial basis of jurisdiction, it may be urged, is not a mere dogma; it is justified normally because it is convenient that crimes should be dealt with by the State whose social order they affect most closely and this in general is the State on whose territory they are committed; in this special class of crimes it is not the territorial State that is primarily affected, even if that State is affected at all, but rather the State whose security is attacked; here, therefore, the territorial basis of criminal jurisdiction should admit of an exception on the principle of *cessante ratione legis, cessat lex ipsa*. There is force in these arguments, but there are also serious objections to the conclusion to which they lead. In the first place, there seems to be a certain anomaly in submitting to a non-territorial jurisdiction the very class of crimes which States by common consent exclude from extradition. But a more serious objection is this. Every State is at present regarded as the judge of what endangers its own security. A State, for instance, may regard criticism of its Government in the Press as dangerous; if it chooses to impose special restrictions on its own Press or even on the journalistic activities of its own nationals in other countries, that is no affair of other States. But is such a State entitled to apply, in so far as it has the ability, its repressive Press laws to non-nationals who may venture to criticise it in the Press of other countries? Or, again, a State may, perhaps quite justly, be convinced that speculation in its currency is an attack on its credit; but is it therefore justified in taking advantage of this alleged exception from the territorial basis of jurisdiction to extend its criminal law to non-nationals carrying on their business in the money markets of their own countries? It is difficult to believe that any State would tolerate the punishment of its own nationals by another State for acts of this kind; yet if the exception is allowed in the form in which it is usually claimed it clearly renders such punishment legitimate. It is, of course, perfectly true that States do not in fact use their non-territorial jurisdiction in the ways we have suggested as possible, but we do not think that that consideration weakens the force of the objection. If it is agreed that such an abuse of the non-territorial jurisdiction would be inadmissible, there would seem to be no reason why that jurisdiction, if it is to be accepted at all, should not be so defined as to exclude its extension to such cases as those that we have mentioned.

It will have been observed from the summary of the practice of States given earlier in this report that certain States depart from the territorial basis in other cases besides those of crimes endangering their security, e.g., by asserting a non-territorial jurisdiction when a crime has

been committed abroad against their nationals, or when extradition has been offered to and refused by the State on whose territory the crime was committed. It does not seem to us to be necessary to consider the merits of these claims in detail in this report, since we are of opinion that the possibility of a conventional regulation of the whole matter will depend, not on the merits of this or that case in which a non-territorial jurisdiction is at present claimed, but on the prior and more fundamental question whether the territorial basis is to admit of any exception at all. It is clear that the crux of the problem lies in the divergence of view between those States which do and those which do not allow the legitimacy of such exceptions, and that we have to ask ourselves whether the Committee would be justified in hoping for a possible reconciliation between these two groups of States.

Such a reconciliation could be brought about either by one group of States abandoning its own view and accepting that of the other, or by both groups adopting some intermediate principle; but it occurs to us as possible that the theory of an objective territorial jurisdiction to which we have referred above might assist in bridging the gap between the two views. We do not, of course, suggest that on that theory a State could assume jurisdiction over *all* those acts which are an exception from the territorial basis in favour of crimes against the security of a State would bring within its competence, but it could do so over *many* of those acts, and probably over those which most closely affect its interests. The objective territorial theory is well defined in the following words from Professor C. C. HYDE's *International Law*: "The setting in motion outside of a State of a force which produces as a direct consequence an injurious effect therein justifies the territorial sovereign in prosecuting the actor when he enters its domain"; and it clearly requires a closer causal connection between the act in one country and its effects in another than is required by the theory of an express non-territorial jurisdiction over acts endangering the security of a State. The objective territorial theory would not, of course, cover the other exceptions from the territorial theory, which, as has been pointed out above, are at present claimed by certain States.

Alternatively, if it should be thought that the objective territorial theory does not go far enough to meet the views of those States—and they are a majority—which claim to a greater or less degree a definitely non-territorial jurisdiction, an intermediate principle might possibly be found if such States should be willing to consent to more particular definition of the acts in respect of which non-territorial jurisdiction is to be exercisable. Such a compromise would, of course, involve that States, instead of reserving to themselves the right to decide for the purposes of their non-territorial jurisdiction what acts endanger their security, would accept an agreed and uniform list in which such acts would be specified. We put forward these suggestions as conceivable means of overcoming a difficulty which would otherwise appear to be an insuperable bar to any convention on the subject, but we are very conscious that any conventional settlement of the matter would demand sacrifices from one or from both groups of States in a matter which is clearly one of great delicacy. To a State adhering strictly to the territorial basis of jurisdiction, the assumption by other States of competence to deal with acts committed in its own territory easily appears as an invasion of its sovereign rights, whilst to a State claiming an exceptional non-territorial jurisdiction over acts endangering its security the suggestion that this jurisdiction should be curtailed may appear to throw doubt on its right of self-defence. Your Sub-Committee is not qualified to express any opinion as to the likelihood of a compromise on such lines as we have suggested being found acceptable to either group of States.

In conclusion, we desire to call the attention of the Committee to the resolutions of the Institute of International Law on this matter in 1883, although with great respect we do not ourselves believe that a settlement on the lines which commended themselves to the Institute would be desirable. The Institute adopted the territorial basis of competence in an extreme form, going so far as to say: "La justice pénale d'un pays dans le territoire duquel se réalisent ou devaient se réaliser, selon l'intention du coupable, les effets de son activité, n'est pas compétente à raison de ces effets seuls"; but it admitted the following exception: "Tout Etat a le droit de punir les faits commis même hors de son territoire et par des étrangers en violation de ses lois pénales, alors que ces faits constituent une atteinte à l'existence sociale de l'Etat en cause et compromettent sa sécurité, et qu'ils ne sont point prévus par la loi pénale du pays sur le territoire duquel ils ont eu lieu."

(Signed) J. L. BRIERLY, Rapporteur.

II. OBSERVATIONS BY M. DE VISSCHER.

[Translation.]

I. I agree with Mr. Brierly that we cannot contemplate inserting rules in an international convention which would tend to restrict the right of a State to institute prosecutions in respect of acts committed abroad by its nationals. I consider, however, that it might be desirable to stipulate that a State which refuses to surrender its nationals in respect of offences committed by them abroad of the kind mentioned in the extradition treaties should itself be required to put them on their trial (see on this point my observations concerning the report on Extradition).

II. The essential point seems to me to have been stated with great precision by the Rapporteur. Territorial competence (*lex loci delicti commissi*) must in the case of offences committed by foreigners be regarded as the rule. The reason for this seems to me to lie in the fact that it is generally in the country where the offence has been committed that the disturbance caused thereby to social order is the most serious.

Positive law contains two exceptions to this principle which are of serious importance; the one, which is based upon the nature of the interests prejudiced, relates to offences against the security or credit of the State; the other, which is based on the nationality of the victim, relates to offences committed against nationals.

The first exception figures in many legislative systems and has sound reasons to justify it. The second is less generally admitted and is much more disputable.

In the case of offences directed against the security or credit of a State, it is hard to conceive of any law competent to repress them other than that of the State which is menaced. Their repression in most cases is of no interest to the State on whose territory the acts are committed; it may even happen that the consequences deriving from them are a cause of profit to it. In any case, a State cannot abandon to another the task of dealing with and punishing acts susceptible of causing injury to its essential interests. We may add that, even if the cases in which these dispositions are applied are in practice rare, it would none the less be very difficult to induce States to give them up.

No such good reasons can be urged in favour of the second exception to the principle of territorial competence, namely, that which is based upon the nationality of the victim. On the one hand, it can hardly be maintained that the general interests of a State have been attacked merely because one of its nationals has been the victim of an offence in a foreign country. On the other hand, the criminal law of the country where the offence has been committed owes foreigners such protection as will in general ensure the repression of such offences. The exception would therefore only be justified if one or other of these two considerations were invalid. This might be the case if the victim were the holder of a public office or, again, if the country where the offence was committed did not possess any criminal law worthy of the name.

It would therefore seem to us — at any rate, at first sight — that in an attempt to lay down general rules concessions ought mainly to be made by those States which adhere to the system of strict territoriality in respect of offences directed against the security and credit of the State, while concessions of an opposite kind would be required from States which apply more or less numerous derogations from this system in respect of offences against nationals.

Moreover, may it not be said of offences against the security or credit of a State that they are acts which, although they are committed in foreign territory, tend as a direct consequence to undermine the institutions of the State within the limits of its own territory? The objective territorial theory described in the report might be applied here, although it is clear that serious difficulty is likely to arise in determining the more or less immediate degree of causal connection which must exist between acts committed abroad and their consequences in the country itself.

III. As the report points out, an understanding could no doubt only be arrived at at the cost of mutual concessions which would involve the abandonment of conceptions which have been adopted or of practices which have been followed hitherto. Although Governments alone can decide how far they are able to advance in this direction, a committee of jurists may suggest certain bases of agreement which appear to it likely to restrict the sphere of the conflicts which now arise in respect of criminal competence.

Ghent, November 24th, 1925.

(Signed) Charles DE VISSCHER.

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

REPORT ON EXTRADITION

adopted by the Committee at its Second Session, held in January 1926.

The Committee has the following terms of reference¹:

- (1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;
- (2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and
- (3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

At its first session the Committee appointed a Sub-Committee, consisting of Mr. BRIERLY as Rapporteur and M. DE VISSCHER, to consider:

"Whether there are problems connected with extradition which it would be desirable to regulate by way of general conventions and, if so, what these problems are and what solutions should be given to them."

After a close study of the report drawn up by Mr. Brierly and the observations thereon submitted by M. De Visscher, the Committee considered that certain questions connected with extradition were susceptible of being dealt with by way of a general international convention. These questions are the following:

1. The question whether and in what conditions a third State ought to allow a person who is being extradited to be transported across its territory.
2. The question which of two States both seeking extradition of the same person from a third State ought to have priority over the other.
3. The questions which arise as to the extent of the restrictions on the right of trying an extradited person for an offence other than that for which he was extradited and on a State's right to extradite to a third State a person who has been delivered to it by way of extradition.
4. The question as to the right of adjourning extradition when the person in question has been charged or convicted, in the country where he is, for another crime.
5. The question of confirming the generally recognised rule by which the expenses of extradition should be entirely borne by the claimant State.

The discussion in the Committee of the other questions mentioned in the report led it to the conclusion that, although their solution by international agreement appeared very desirable, the difficulties in the way were too great for such solution to be realisable in the near future.

In these circumstances, and in view of the predominant importance of the last-mentioned questions, the Committee, while taking into full account the reasons which in the opinion of many important authorities tell in favour of a general international regulation of extradition, has refrained from including in its provisional list even the questions which in themselves were found susceptible of being treated in a convention.

On the other hand, the Committee decided to communicate to the Governments Mr. Brierly's report and the attached observations of M. De Visscher in order to enable them to profit by the light thrown on the matter in these documents and to form a clearer view of the position.

Geneva, January 29th, 1926.

(Signed) HJ. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See the Assembly Resolution of September 22nd, 1924.

Annex.

REPORT OF THE SUB-COMMITTEE.

Mr. BRIERLY, *Rapporteur*.

M. DE VISSCHER.

Whether there are problems connected with extradition which it would be desirable to regulate by way of general conventions and, if so, what these problems are and what solutions should be given to them.

I. REPORT BY Mr. BRIERLY.

The Sub-Committee believes that it is unnecessary for it to consider what, if any, are the rules of customary International Law in the matter of extradition. Interesting doctrinal controversies exist on that question; but actually extradition is carried out in modern times, with rare exceptions, on conditions which are regulated by treaties. The great majority of such treaties are bilateral, and their total number is very large indeed. A multilateral extradition treaty, however, signed in 1923, exists between the States of Central America; and another, between twelve American States, including the United States, was signed in 1902, but has not been ratified. The question therefore which its terms of reference present for the consideration of the Sub-Committee is in effect the desirability or otherwise of regulating by a general convention all or some of the matters at present regulated by separate extradition treaties; and this question can best be answered by a short examination of the chief matters which are ordinarily dealt with in the existing treaties, with a view to seeing, firstly, how far uniformity of practice already exists, and, secondly, where such uniformity does not exist, whether the differences of practice appear to be based on differences of policy which are unlikely to be reconciled, or are likely to admit of reduction to a uniform rule.

It is proposed to treat the matter under the following heads:

- I. Extraditable persons;
- II. Extradition crimes;
- III. Procedure of extradition;
- IV. Miscellaneous provisions.

I. *Extraditable Persons.*

It is believed to be the uniform practice to regard as extraditable nationals of the State demanding extradition and nationals of third States. But an important difference exists with regard to the extraditability or otherwise of nationals of the State of asylum. The majority of States decline to extradite their own nationals. Great Britain and the United States, regarding criminal jurisdiction as essentially territorial, are prepared in principle to do so; actually, the treaties of these two States contain varying provisions on this point, doubtless on account of the difficulty of securing reciprocity for their policy. It is, however, not easy to justify in principle the policy of refusing to extradite nationals. The theory that a State should try its own nationals for crimes wherever committed fails as a justification for two reasons: (a) Because in many cases it is impracticable to try a crime committed in another country on account of the impossibility of securing the relevant evidence; and (b) because the argument cannot have any application to a national who has escaped to his own country *after conviction* in a foreign country, since on general principles of justice such a person may not be tried again for the same offence. If, on the other hand, the refusal to surrender a national arises from a lack of confidence that justice will be rendered to him in the foreign State, that would seem to be a reason which would justify the refusal of extradition to that State altogether, but could not justify the practice of differentiating between nationals and other persons. But whatever the respective merits of these different views as to the extraditability of nationals may be, and even if the States should be unwilling to adopt a uniform practice in the point, we do not think that this question of itself creates any insuperable bar to a general convention on extradition, since the divergent policies might be reconciled by the insertion of an optional clause under which those States which were prepared to surrender their own nationals would agree to do so, either on terms of reciprocity or on such other terms as they might choose to specify in adhering to the clause.

II. *Extradition Crimes*

The ordinary practice is to enumerate these in each treaty. The details of such enumerations are very various, but in most treaties extradition is reserved for the more serious crimes. States have an obvious interest in limiting their lists of extradition crimes, since at the best the procedure of extradition is cumbersome and expensive.

We think there are serious difficulties in constructing a single list of extradition crimes for insertion in a general convention on extradition:

(a) Because the needs of States are in this respect not uniform. For example, as between two neighbouring States the interests of justice may well make it necessary that extradition should be mutually granted for relatively slight offences; it is easy for a criminal to cross a single land frontier and it is a comparatively simple and inexpensive process to recover him from a neighbouring State. These are reasons which clearly justify a differentiation in this matter between States on geographical grounds.

(b) Because a uniform list of extradition crimes is hardly possible without uniformity of criminal law, which does not exist. On the contrary, the detailed definitions, even of crimes which are generally similar, differ in different systems of law, and in criminal, even more than in any other branch of law, a strict adherence to the letter of a definition is necessary in justice to the accused person. It is not permissible to employ a free interpretation. The difficulties caused by the existing absence of uniformity in the definition of crimes can be met fairly satisfactorily in a bilateral treaty, in which it is necessary to take into account only two systems of law; they would be almost insuperable in a general convention. On the whole, we consider that, if the States should decide to adopt a general convention on extradition, the most convenient method of dealing with this particular matter would be to grant extradition for any act punishable with a certain prescribed severity either in the two States concerned or in the State demanding extradition, and not to attempt a detailed list of extradition crimes. This would involve a somewhat drastic breach with existing practice, but we observe that this is the method adopted in the treaty of the Central American States referred to above.

A further difficulty under this heading arises out of the practice, all but universal in modern extradition treaties, of excluding from extradition "political crimes". We think it certain that this exclusion would have to be made in any general convention, but we feel grave doubts as to whether it would be possible to secure any agreed definition of "political" in this connection. It is not necessary here to discuss in detail the attempts that have been made to define this conception, because we doubt whether any of them has been satisfactory, and certainly none of them has secured general acceptance. In practice, what seems to happen is that it is left to the State on which the demand for extradition is made to decide whether in any given case an alleged crime is "political" or not. If, as we anticipate, it should prove impossible to reach an agreed definition, there would seem to be no reason why this practice should not continue to be followed under a general convention.

Existing treaties generally require that the act for which extradition is claimed should be punishable by the law of both the States concerned. In this connection the effect, if any, to be allowed to prescription is sometimes dealt with. It would probably not be difficult to arrive at uniformity on these points.

III. *Procedure of Extradition.*

A request for extradition is generally made and answered through the diplomatic channels. Some treaties allow more informal demands, and there would seem to be an obvious advantage in this plan, at any rate in treaties providing for extradition as between colonial dependencies far removed from their respective central Governments. It is also common, and it appears almost necessary, to provide for the provisional detention of a fugitive pending a formal demand for his extradition. We do not anticipate serious differences of view on these points.

But a more difficult question is the following. There exists considerable difference in the procedure followed by States in forming their decision as to whether a demand for extradition should or should not be acceded to. The difference turns on a difference of view as to the respective functions of the judicial and the executive organs in passing upon the demand. At first sight, indeed, it might appear that since the answer, however it may be arrived at, will be returned through the diplomatic channel, the method of arriving at it would be a purely domestic matter to be determined by the municipal law of the State of asylum, and a matter of indifference so far as the provisions of the extradition treaty are concerned. This, however, is not so, since the method which the State of asylum thinks fit to use in arriving at its decision on a request for extradition necessarily affects the nature and amount of the information which the State asking for extradition must supply; and it is essential that the treaty should specify in sufficient detail the documents or other information by which a demand should be supported. It is common ground, for instance, that evidence of the identity of the accused, and of the nature of the act charged against him; should be supplied. Certain minor differences exist in relation to these points; but a more important difference relates to the question of whether the demand should be supported by evidence of probable guilt or merely of accusation. The practice of Great Britain and the United

States is not to extradite a person merely on proof that he is *accused* of an extradition crime, but to require the production of such evidence as would justify his being brought to trial in the country of asylum if it were alleged that he had committed the crime of which he is accused in that country. Certain critics have attributed this greater strictness of practice to a lack of confidence in these countries in the justice of others; but it appears rather to be based on the theory that to extradite a person for trial abroad is an act essentially similar to that of committing him for trial at home, and that the accused has a right to the same safeguards in the two cases. But undoubtedly this practice adds to the expense and delay of extradition proceedings. Although superficially this difference is one only of procedure, we believe that it might be difficult to secure the adoption of a uniform rule on the matter.

IV. *Miscellaneous Provisions.*

The object of this report is merely to offer some considerations on the more important matters connected with extradition, and it does not attempt to exhaust all the matters which would have to be made the object of detailed discussion in a body attempting to draft a general convention on the subject. One or two further matters may, however, be mentioned.

1. Difficulties have arisen from time to time in reference to the transit across the territory of a third State of a person whose extradition has been granted. It has been thought that such third State could not properly permit the transit unless the conditions upon which it would itself have granted the extradition are satisfied. We think that the reasonable course is for the third State to allow the transit over its territory on being satisfied that the extradition has been duly granted by the State of asylum. This is a provision, however, which can hardly be laid down except by a general convention on extradition.

2. A uniform rule is also desirable, and should not be difficult to achieve, on the question of priority as between two States, each claiming the extradition of the same person from a third State. If one of these is the State of which he is a national and the other that in which his alleged crime was committed, it would seem proper that the claim of the latter should be preferred. Indeed, it would be a matter for consideration, which the treaty should determine, whether extradition should in any case be granted except to the State on whose territory a crime is alleged to have been committed. But it may be that the same person is charged with two or more crimes committed in different States, and in that event it would be desirable to determine which claim should be preferred, *e.g.*, whether that of the State whose claim is first received, or that of the State alleging the more serious crime. This is a point which also can hardly be satisfactorily dealt with except in a general convention.

3. A general practice exists of limiting the right to try a person extradited to his trial for the particular crime for which his extradition was claimed. The details of the limitation vary; some treaties, for instance, allow trial for any crime on the list of extradition crimes. The right to re-extradite to a third State a person placed in the power of a State by extradition raises a somewhat similar point. On both an agreed provision would seem to be not impracticable.

4. Other minor provisions which do not appear likely to raise differences of view, and which it is sufficient therefore merely to mention here, are the right to defer extradition if the accused person is accused of, or has been condemned for, another crime in the country of asylum and the practice that the expenses of extradition should be paid by the State demanding it.

Conclusions.

We believe that on a large number of questions connected with extradition there already exists practical uniformity in the practice of States, and that in certain others the differences which exist are not founded on any seriously divergent policies and might be capable of reconciliation. But undoubtedly there are still other questions upon which States appear to hold strongly opposed views, the existence of which renders a single comprehensive convention, regulating the whole practice of extradition for all States, unlikely of achievement. Whether a general convention dealing only with part of the subject of extradition would be desirable on the assumption that one dealing with the whole of the subject is impracticable, seems to be a matter for serious consideration. It would be open to the obvious criticism that it added one more to the number of extradition treaties which it is the object of a codifying process to reduce, since a partial general convention would of course require to be supplemented by special bilateral conventions on the points on which general agreement had proved impossible; but, on the other hand, certain of the differences which at present appear to be formidable obstacles might, on a general discussion, prove less serious.

It is perhaps unnecessary for us to remind the Committee that extradition between States calls for a certain degree of mutual confidence in each other's judicial institutions, and that a general convention on the subject is only possible on the assumption that each State is willing to accord equal treatment to every other. Whether or not these conditions are satisfied is a matter of prime political importance, but it is not one upon which we are able to form an opinion

II. OBSERVATIONS BY M. DE VISSCHER ON THE REPORT BY M. BRIERLY.

[*Translation.*]

I am generally in agreement with the views expressed by Mr. Brierly in his report on extradition. In particular I feel: (1) that there are a certain number of questions which arise in practice at present in connection with extradition, which it would seem possible to attempt to deal with by way of a general international convention analogous to the Montevideo Treaty of January 23rd, 1889; (2) that other questions are not suitable for such treatment; (3) and, finally, that the existence of this latter class of question does not, at least at first sight, furnish a sufficient reason for discouraging Governments from undertaking measures of codification limited to those points upon which an agreement in the form of a convention seems already to be possible and desirable.

Observations on Various Questions raised in the Report.

At present, in the first phase of our Committee's work, there can be no question of submitting a detailed study of the various points touched on in the report, still less of formulating final proposals as a basis for discussion at an international conference. The following observations are thought, however, to be of some interest from the point of view of the subsequent development of our investigations.

I. *Extradition of Nationals.*

Like the Rapporteur, I am, in principle, of opinion that the authorities of the country where an offence has been committed are the authorities best qualified to punish it, and that, in this respect, they possess a natural jurisdiction which it would be desirable to see recognised as widely as possible. Nevertheless, in practice, one has to take account, not merely of the strong repugnance which the great majority of States display against handing over their nationals to a foreign country, but also of the reasons which explain this feeling and which, as a matter of fact, vary considerably from country to country. For example, there is no doubt that a country's attitude in this matter will always be influenced by the amount of confidence which it feels in the administration of justice in a particular other country and—despite all theoretical considerations—one cannot be surprised that a country should be more exacting in its appreciation when it is called on to hand over one of its own nationals than when the subject of extradition is a foreigner. It might be useful, as Mr. Brierly suggests, to provide for the insertion of an optional clause. Thus one could conceive the insertion of a general clause declaring that extradition of nationals was allowable unless the contrary was provided. There are already various treaties containing clauses to this effect; this is the case, for example, with general extradition treaties concluded by France.

Possibly, a further step in this direction might be made. Whether or not one is in favour or opposed to extradition of nationals, agreement exists on one point, namely, that it is inadmissible that refusal to extradite nationals should confer immunity on them. In other words, a State whose law does not permit extradition of its nationals ought to be obliged itself to punish offences committed by its subjects abroad, when they are such as would justify a demand for extradition. This consideration has led to the provision which is to be found, for example, in the Belgian Law of 1878 (Article 8), under which persons who have committed abroad a crime or minor offence covered by an extradition law of their country of origin ought to be prosecuted in the latter country, either on complaint by the injured party or on official notification received from the foreign authorities. This provision establishes a direct connection between the rule of non-extraditability and extension of criminal competence to offences committed outside the territory. The latter extension fills the gap created by the rule of non-extraditability of nationals, a refusal to extradite on the ground of a person's nationality being counterbalanced by his prosecution under his national law.

Might not the attempt be made to establish in a general convention a formula imposing the above obligation on all States which were unwilling to accept the extradition of their nationals, whether for the reason that they adhere to the rule of non-extraditability of nationals, or for the reason that they only allow extradition of nationals as a measure to be taken at their own option?

II. *Extradition Crimes.*

I share the Rapporteur's views as to the impossibility of reaching general agreement on a list of extraditable offences. Such agreement is impossible, both because of the diversity of interests of the various States, and because of the divergencies between their penal laws. To find the full measure of the difficulty it is enough to recollect the difficulties which are experienced even between States between which particular treaties of extradition exist, either from the divergence of their respective laws, or from modifications introduced therein subsequent to the treaties.

Like Mr. Brierly, I believe that the only way of obtaining a certain degree of agreement would be to adopt as a criterion the notion of a minimum penalty. Extradition would only be made obligatory for offences which are subject to a definite minimum penalty, both in the State

requesting and in the State requested to grant extradition. In other cases the extradition would be merely optional. This is the system followed in several extradition treaties concluded by France. Moreover, it is possible to quote several legislative systems which subordinate extradition to the existence of a minimum penalty in the country requested to extradite. The proposed criterion is therefore one which is already, to some extent, established in actual law.

The difficulty connected with *political offences* arises mainly from the fact that, in connection with extradition, an exceptional extension is given to the conception "political offence". Ordinarily, by a political offence is meant a purely political offence, *i.e.*, one not accompanied by any offence against the ordinary law; but in connection with extradition the conception is frequently extended to cover *ancillary offences*, *i.e.*, offences against the ordinary law connected with political acts or events. It is, as a matter of fact, the State requested to grant extradition which has the sovereign right of appreciating, according to the circumstances of the case, whether the act in virtue of which extradition is requested has or has not a political character (Resolution of the Institute of International Law, Oxford session, 1880). This unilateral right of appreciating the circumstances of the case, which necessarily implies the right of appreciating the motives involved, has not infrequently created difficulties between States. It is difficult, nevertheless, to envisage any other system even if there were a general extradition convention. Indeed, it might even be valuable to insert in such a convention a stipulation legitimising existing practice on the point, so as to prevent recurrence of the difficulties which have arisen.

III. *Extradition and Criminal Jurisdiction.*

According to the generally received theory and practice, a State does not hand over persons justiciable by it. In other words, extradition should be refused when the facts on which the request for extradition is based are, on any ground whatever, punishable under the jurisdiction of the State requested to extradite. In this case the refusal to extradite arises from a concurrence of criminal jurisdiction. The principle is not, however, universally accepted. It appears that in England and the United States the existence of jurisdiction in the English or American courts would not, in itself, be an obstacle to extradition, although in England the courts may in such case declare that, having regard to the circumstances, it is preferable for the person whose extradition is demanded to be prosecuted before the British courts.

Leaving on one side the case where the person whose extradition is demanded is a national of the State requested to extradite him, and the latter's criminal jurisdiction over him is accordingly based upon his personal allegiance, might it not be well to try to settle the scope of the principle more precisely, for example: (a) To establish in a general convention the rule that extradition may always legitimately be refused when the acts on which the request is founded were committed in the territory of the State requested to extradite (predominant jurisdiction founded on the principle of territoriality); (b) and on the contrary to stipulate that, when the acts on which the demand for extradition is based were committed in the territory of the State requesting extradition, extradition may not be refused on the mere ground of concurrent jurisdiction, unless the said acts have already, in the State requested to extradite, been made the subject either of a final judgment or of a prosecution already commenced (this is, for example, the principle contained in the Swiss Federal Law of January 22nd, 1892).

IV. *Miscellaneous Provisions.*

Like Mr. Brierly, I consider that agreement is obtainable and desirable on various questions mentioned in Section IV (Miscellaneous Provisions). The full scope of the principle referred to in No. III would require to be made more explicit. Differences of view exist as to its consequences (for example as to the lawfulness of a prosecution implying restraint of the person) and as to the exceptions to the principle (such as may result, for example, either from an agreement between the State which has accorded and that which has obtained extradition, or from a renunciation by the person extradited of restrictive conditions subject to which he was extradited).

Ghent, November 17th, 1925.

Ch. DE VISSCHER

[Communicated to the Council,
the Members of the League
and other Governments.]

C. 52. M. 29. 1926.
[C. P. D. I. 62].

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

REPORT TO THE COUNCIL OF THE LEAGUE OF NATIONS

adopted by the Committee at its Second Session, held in January 1926.

**LEGAL STATUS OF GOVERNMENT SHIPS EMPLOYED
IN COMMERCE.**

The Committee is acting under the following terms of reference¹:

(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;

(2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and

(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

In execution of the above terms of reference, the Committee appointed a Sub-Committee:

"To enquire into the legal status of Government ships employed in commerce with a view to the solution by way of conventions of the problems raised thereby."

The Sub-Committee, which was composed of M. DE MAGALHAES as Rapporteur and Mr. BRIERLY, submitted to the Committee a report setting out the reasons in support of its conclusion that the subject is one the regulation of which by international agreement is at the present moment desirable and realisable. This report has been examined by the Committee.

The Committee, while in agreement with the above conclusion of the Sub-Committee, observes that the subject has already been studied at two international conferences called by the International Maritime Committee and held respectively at Gothenburg and Genoa, and that a draft convention has been submitted to the Government of Belgium with the request that that Government will call a diplomatic conference in order to prepare a convention for adoption and signature by the States, and that the Belgian Government has this request under examination.

Considering, in consequence, that, if the Belgian Government should give effect to the request made to it, communication of the subject to the various Governments in accordance with the Assembly's resolution of September 22nd, 1924, might appear superfluous, the Committee has resolved to transmit its Sub-Committee's report to the Council with an expression of the opinion of the Committee that the subject is one which it is desirable and presently realisable to regulate by international agreement, either in the manner proposed by the International Maritime Committee or, if that Committee's initiative remains without effect, in such other manner as the Council may deem appropriate.

The Committee feels it desirable to add that, in adopting the above-mentioned conclusion of the Sub-Committee's report, it does not pronounce either for or against the solutions proposed for special problems by the Sub-Committee. At the present stage of its work, it is not for the Committee to put forward conclusions of this nature. Its task is rather that of directing attention to certain subjects of international law the regulation of which by international agreement appears to be desirable and realisable.

The Sub-Committee's report, with three appendices, is attached to the present communication.

Geneva, January 29th, 1926.

(Signed) HJ. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

¹ See Assembly Resolution of September 22nd, 1924.

Annex.

REPORT OF THE SUB-COMMITTEE.

M. DE MAGALHAES, Rapporteur.
Mr. BRIERLY.

Enquiry into the legal status of Government ships employed in commerce with a view to the solution by way of conventions of the problems raised thereby.

[Translation.¹]

The problem of the immunity of Government ships may to-day be regarded as one that is, in principle, capable of solution.

It is only recently that this question has been systematically and carefully explored by jurists, by writers in legal reviews and publications, by the rulings of courts, or by international conferences, but it none the less insistently calls for a solution; so much so, indeed, that we can already assume with certainty that the States are prepared to accept a decision on this subject in the immediate future.

In truth, it is not merely considerations of doctrine which render a solution of this problem advisable, and even necessary, but also, and primarily, practical considerations, and the necessity of placing a Government which engages in commerce on a footing of equality, instead of in a privileged position, in relation to other traders.

Inequalities and privileges are always displeasing and more or less objectionable, but they are particularly so in questions of law and justice.

When discrimination of this kind exists between a Government and its own subjects, it is more difficult to prevent or to remedy it, but when it occurs between a Government and the subjects of another State, the question assumes a new aspect, particularly if the State in question, while entering into competition with private undertakings, leaves the public free—as it is bound to do in most cases—to avail itself or not, as it thinks fit, of the enterprises which the Government proposes to operate.

The general problem of the immunity of Governments, heads of Governments, and of their diplomatic agents has for some time past been the subject of discussions, criticisms and even of restrictions.

Demands have long been made that a restriction should be applied in the case of ships which a Government employs in commercial work.

But since, as a fact, prior to the Great War 1914-1918, few Governments had embarked on this course, and the economic conditions were not such at that time as to place any great difficulties in the conduct of such business, the more limited problem of the immunity of Government vessels had not assumed the importance, gravity and intensiveness that it did subsequently.

The circumstances which induced certain Governments, during and after the war, to become shipowners are matters of common knowledge, as are also the poor results which they obtained, and continue to obtain, from their management of these enterprises.

Consequently, as a result of defective organisation and financial difficulties, legal disputes arose, and became more and more acute, in many countries, in regard to the liabilities incurred by Governments of other States in their capacity as owners or operators of shipping. The question was accordingly raised before the courts, which—after some very interesting discussions—gave divergent rulings. Some of these judgments recognised and upheld the immunity which had hitherto been, so to speak, an accepted doctrine of public international law, while others rejected it as having already ceased to be compatible with the new principles which ought to govern this branch of law, and as being no longer in harmony—nay, rather in conflict—with the exigencies of the modern world; others again took the view, for reasons of another kind, that a case had arisen for restricting this doctrine of immunity.

It should be pointed out that even the first group, namely, those who respected and upheld the principle of immunity, did so with reluctance and that some of them expressly stated that it was not only necessary but desirable that restrictions should be imposed by legal means.

Now, the legal processes of public international law are the treaties between different countries, and the conventions which are concluded conjointly between more or less numerous groups of countries.

As regards the theory of the subject, liberal tendencies have suddenly acquired immense force, and among the numerous representatives of different States, who have discussed the problem or given their views, there have been few to come forward in defence of immunity for Government vessels employed in commercial work.

In the international conferences in which this question appeared on the agenda, and in particular in the conferences held by the International Maritime Committee, the same tendency predominated, and the solution which appeared just and necessary was received and adopted without opposition.

A few of its supporters were indeed less sanguine and showed some doubt and concern as to the probability of its acceptance by the Governments if it attempted too much or went too far into detail.

Perhaps they were right, and though it is true that certain facts and declarations justify us even now in assuming that the Governments are themselves convinced and are prepared to accept this solution — and the attitude of the Governments of the United States of America,

¹ Note.— The official English texts of the passages quoted have been used where possible; such texts are unfortunately not available to the Secretariat for the Genoa Conference.

Great Britain and Germany is particularly significant in this connection—we shall be wise to avoid any attempts which might complicate the solution, and rest content with a satisfactory result instead of striving to attain ideal perfection.

It may therefore be said that the draft international convention¹ which was drawn up by the Gothenburg Conference in 1923 and was afterwards provisionally approved by the International Diplomatic Conference at Brussels in the same year has received universal support and is suitable for acceptance by the Governments.

We are consequently of opinion that the legal status of Government vessels employed in commercial work is a problem which it is most desirable, and quite possible, to solve by means of international agreement.

We would go further and add that, since the Gothenburg Draft Convention has been approved by the Genoa Conference, it is to be hoped that the Permanent Bureau of the International Maritime Committee will request the Belgian Government to convene the Diplomatic Conference, in order to draw up a draft convention which the States could be invited to sign.

That is not, however, in our opinion, a reason which should prevent us from submitting our report, and we consider that the Committee for the Progressive Codification of International Law should certainly express its view on this important question, and should support the action of the Belgian Government if the latter is prepared to move in the matter. If it does not see fit to do so, it will be necessary to follow the procedure laid down in the Assembly's resolution of September 22nd, 1924.

Since many of the Governments have already signified their assent, the procedure might even be simplified by reporting direct to the Council on this question instead of first asking the opinions of the Governments.

In any case we consider that the proper performance of our task—at least as regards the principal problems involved—requires that we should state clearly the nature of the solutions adopted in the Draft Convention of the Gothenburg Conference and confirmed or amended at the Genoa Conference, and that we should add such observations and proposals as in our opinion are necessary in order that the legal status of Government vessels employed in commercial work may be laid down in a manner compatible both with the principles of law and with the economic requirements of the day, due allowance being of course made for the differences between the legal systems of the various countries.

* * *

It must be pointed out, to begin with, that the Draft is not concerned solely with State vessels, but also with State-owned cargoes and with cargoes and passengers carried by State vessels.

This extension of its scope is clearly justified; for the arguments used in connection with State-owned ships are just as applicable to the removal of the immunity which State-owned cargoes enjoy under the prevailing doctrine.

Indeed, it would be absurd to allow a State to be sued for a claim relating to one of its ships but not to allow it to be so sued for a claim relating to cargoes which it owns—especially if the cargoes are carried in those very ships.

Similarly, it would be absurd to make Government ships liable to arrest but to exempt the cargoes carried in those ships.

Moreover, there is already universal agreement on this point; the only points of difference are in regard to the cargoes which should be exempted, *i.e.*, as to what are the cargoes in respect of which the right of extra-territoriality and immunity from arrest should be maintained. That is, however, a question to which we shall return later.

The problem of the legal status of Government vessels has only been examined and discussed from the point of view of immunity, which, when all is said and done, merely covers exemption from the payment of certain taxes, port and navigation dues, as well as the right of extra-territoriality and the privilege of immunity from arrest.

But the Draft does not confine itself to proposing to put an end to the immunity of certain State vessels.

It does more, for it lays down that the ships in question, as also their cargoes and passengers, "shall be subjected, in respect of claims relating to the operation of such vessels or to such cargoes, to the same rules of liability and to the same obligations as those applicable to private vessels, persons or cargoes".

It is, in fact, necessary, as was recognised in the discussions which took place at the Gothenburg Conference, that the Draft Convention should not merely confine itself to abolishing immunity, but should also legislate as to the liabilities and obligations to which States may become subject when they carry on maritime trade.

Such a provision will remove any doubts which might persist—particularly in connection with English law—as to the legal status of Government vessels employed for commercial operations.

The most important and serious aspects of the abolition of immunity are brought out in Article 2 of the Draft Convention, which lays down that:

"Such rules and liabilities shall be enforceable by the tribunals having jurisdiction over, and by the procedure applicable to, a privately owned merchant vessel or cargo or to the owner thereof."

This provision definitely abolishes extra-territoriality and allows arrest.

* * *

¹ French text published in the *Revue de droit maritime comparé*, Vol. IV, page 595, and in the *Bulletin du comité maritime international* No. 65 (French edition), page VI; English text in the *Bulletin of the International Maritime Committee* No. 65 (English edition), page VI.

The Draft contains, however, three restrictions of considerable scope:

A. — The first of these restrictions, which occurs in Article 1, provides that State vessels are to be subjected to the same rules of liability and to the same obligations as those applicable to privately owned vessels, only "*in respect of claims relating to the operation of such vessels or such cargoes*";

B. — The second restriction, which occurs in Article 3, makes an exception, as regards extra-territoriality and seizure in the case of "*ships of war and other vessels owned or operated by the State and employed only in Governmental non-commercial work*" and in the case of "*State-owned cargo carried only for purpose of Governmental non-commercial¹ work on vessels owned or operated by the State*";

C. — The third restriction is to be found in Article 4, which lays down that the Convention is to be applied "*in every Contracting State in all cases where the claimant is a citizen of one of the Contracting States*, provided always that nothing in this Convention shall prevent any singular Contracting State from settling by its own laws the rights allowed to its own citizens before its own courts".

A.

The first restriction — *in respect of claims relating to the operation of such vessels or such cargoes* — did not appear in the preliminary Draft of the London Conference (1922).

It was inserted at the Gothenburg Conference to meet some observations which had been submitted by the French "Association de droit maritime".

The report of that Association had pointed out that, "as the Draft of the International Maritime Committee subjects State-owned ships to the same obligations and to the same liability as private-owned, we must draw the conclusion that, according to this Draft, every creditor of the State shall have the right to enforce his claim against the State by having one of the latter's vessels arrested and sold".

And, after expressing the view that "there is no reason for admitting that any creditor of the State, whatever be the origin of the claim, shall have a right to enforce his claim on a State-owned ship in virtue of the suspension of immunity which is granted for the protection of very special interests", the report suggests that "we must first of all limit to the maritime creditors the right of action and of arrest". It goes on to say: "but this first restriction is not sufficient" because "there are creditors whose claim has some relation to the maritime trade carried on by the State, but does not concern the management of the particular ship against which the process is enforced", and that "in such case a creditor ought to be treated like any common creditor, and there would be no reason for raising the immunity on his behalf".

These observations were referred to during the Conference, and, from the various opinions expressed, it seems fair to conclude that the words which have been inserted—"*in respect of claims relating to the operation of such vessels or such cargoes*"—were intended to effect the two restrictions desired by the French Association.

The Rapporteur of your Sub-Committee, who took part in the Genoa Conference, was therefore led to put forward the following observations:

"Though it is correct, as is shown by the preliminary debates on the Draft, that the intention and effect of the restriction were that: *a vessel belonging to or operated by the State cannot be arrested except in respect of a claim relating to such vessel*, it might be inferred—having regard to the form in which this intention was expressed—not indeed that any creditor of a Government (e.g., a holder of public debt bonds) could obtain the arrest of a vessel, but that a creditor for a claim relating to a vessel belonging to a given State might obtain the arrest of another vessel of the same State. (I am, of course, referring to ships which fall under the stipulation of Article 1 and not to those covered by the exception in paragraph(a) of Article 3; and I spoke only of the ships for the sake of simplicity, it being, of course, understood that the same arguments apply to the cargoes).

"This idea was very clearly set forth in the preliminary Draft, which appeared in the above-quoted report of Professor Rippert², where we read: '*by the creditors whose claims are relating to the operation of the arrested ship or to the carriage of its cargo*'. If it is desired to maintain the doctrine that the abolition of extra-territoriality and the permission to arrest a vessel is to be restricted to these creditors, the above wording ought to be used in place of that which appears in Article 1 of the Draft.

"In that case, in my view, the restriction should appear, not in Article 1, but in Article 2, and we ought to accept the amendment to Article 2 which was proposed by the French Association."

That amendment has, however, already been opposed by M. Louis Franck, who contended that the restriction was not, and ought not to be, applicable to maritime creditors, since in that case they would be able to enforce their rights against all vessels and all cargoes of the debtor State, even if their claim only related to the operating of a single and specified vessel or to a single and specified cargo of the State in question.

The Conference gave its assent to this authoritative opinion.

We have no objection to offer, but we consider that the restriction ought to appear in Article 2 and not in Article 1, because it should only affect extra-territoriality and the prohibition of arrest, and not the whole range of liabilities and obligations to which a State may be subject in the conduct of maritime trade.

¹ This word does not appear in the French text.

² Report submitted by the French "Association de droit maritime" to the Genoa Conference. The report which we quoted previously is that presented by the same Association to the Gothenburg Conference.

B.

Article 3 of the Gothenburg Draft lays down that:

"In the case of:

- "(a) Ships of war and other vessels owned or operated by the State and employed only in Governmental non-commercial work;
- "(b) State-owned cargo carried only for purpose of Governmental non-commercial¹ work on vessels owned or operated by the State;

such liabilities shall be enforceable only by action before the competent tribunals of the State owning or operating the ship in respect of which the claim arises."

This article was the subject of prolonged discussion. In order to gain a proper insight into the observations and criticisms which were made, the doubts and difficulties to which it gives rise, and the whole scope of its application, we must approach the question methodically.

An exception is to be made for certain vessels and for certain cargoes.

For what ships ought an exception to be made? For what ships is it desired to make an exception?

Does the wording of the article correspond to the intention?

The same questions may be asked in regard to the cargoes.

Sub-paragraph (a) makes an exception for ships of war and other vessels owned or operated by the State and employed only in Governmental non-commercial work.

As regards *ships of war*, Sir Graham Bower asked the Gothenburg Conference to define a ship of war as "a fully commissioned ship on board of which the naval code is in force", and Sir Norman Hill, who supported this proposal, said: "We want a general term which will be applicable to all nations and would not leave it to the Courts to enquire as to whether in fact a 'ship of war' means a 'fighting ship', or whether it is a fully commissioned ship which has no power of fighting. We want to except from this liability for arrest all the ships which in the ordinary acceptation of the word belong to the fighting navy of the nation, whether they are store ships, oil carriers, colliers or whether they are the ships that Sir Graham Bower instanced, floating workshops where they take care of the submarines and torpedo boats".

Professor Berlingieri thought it would be better not to attempt any definition, since all definitions were dangerous.

Dr. Sohr argued that the definition was useless because the expression "ships of war" was supplemented by the expression "other vessels owned or operated by the State and employed only in Governmental non-commercial work". All the ships referred to by Sir Norman Hill which were not covered by the first expression would come under the second. The Chairman subsequently proposed to put both classes of vessel, which in the London draft appeared in separate paragraphs, together in the same paragraph.

The Conference unanimously adopted this proposal.

Nevertheless, at the Genoa Conference it was proposed to substitute another text for Article 3 on the lines of the draft adopted by the Imperial Economic Conference, which had added, after "ships of war", the words "State yachts, surveying vessels, hospital ships . . .".

The Conference adopted a wording which represented a compromise between the text of the draft and the above proposal, for there were differences on other points as well; however, it retained the expressions referred to.

If definitions are dangerous, enumerations are even more so, and it cannot be denied that the enumeration in the Genoa draft is incomplete. It is therefore dangerous as well as useless, because no one can dispute that all the vessels enumerated are covered either by the term "ships of war" or by the words "other vessels owned or operated by the State and employed only in Governmental non-commercial work".

It is true that the wording of the Gothenburg Draft was replaced in the text adopted, as a compromise, at Genoa by the words "*other vessels owned or operated by the State and employed in other than commercial work*"²; but the vessels in question are also covered, beyond all doubt, by this new wording.

We will now consider whether the Genoa Conference, in substituting the expression in question for the wording of the Gothenburg draft, really effected an improvement.

The Rapporteur of your Sub-Committee said at the Genoa Conference:

"It is a wording which cannot very well be elucidated in the Convention itself. But is it the best which could be found to give expression to the idea which we all have in our minds in a more or less positive form, or could a more precise form have been devised?"

"The Association française de droit maritime had proposed to replace the expression in question by the words 'Public Service'. The learned Professor Rippert pressed for this alteration, but it was not accepted, because it was held that the expression 'Public Service' would have a wider meaning and because it was thought necessary to adopt a form that would combine the two ideas: 'that the work must be Governmental work' and 'that it must be non-commercial work'.

¹ This word does not appear in the French text.

² The provisional translation of the English text as circulated at the Genoa Conference reads: "autres bâtiments appartenant à un gouvernement ou exploités par lui et affectés exclusivement à un service autre qu'un service commercial". The original English text is as follows: "and other vessels owned or operated by the State and employed in other than commercial work". We consider that the translation adopted ought to be: "et autres navires possédés ou exploités par l'Etat, et affectés exclusivement à un service autre qu'un service commercial".

"However, considering that the expression 'Public Service' is the one which has been employed in international Conventions, and that, to avoid fresh uncertainties and to assist uniformity of interpretation, it is desirable to retain the same expressions so far as possible, and considering, moreover, that the expression 'Governmental work' seems to suggest that Governmental work is something distinct from State work, the expression 'Public Service' is in my opinion to be preferred, provided that you qualify it by 'non-commercial', thus avoiding the objections pointed out in regard to the first of the expressions suggested, while continuing to convey both the ideas referred to above.

"Further, the restriction thus placed on the words 'Public Service' might be considered as a legal interpretation of these words, where they occur in previous Conventions."

Neither of these expressions was accepted; but the doubts and difficulties have not been dispelled. On the contrary, we consider that the term which has been adopted is less clear and less explicit, and we fear that the abolition of immunity will not be so extensive as, in our opinion, it ought to be.

For these reasons we consider that the words "for a commercial purpose", which were inserted at Genoa in Article 1 and which appear in the draft of the Imperial Economic Conference, ought to be omitted.

* * *

It is, however, certain that, no matter what expression may be used, there will always be doubtful points and difficulties of interpretation which can only be decided by the courts of the country in which the case is tried, in accordance with the legal standards of that country¹; hence we are bound to have a number of different rulings with divergent and even conflicting interpretations.

The Rapporteur of your Sub-Committee observed at Genoa:

"The only way to mitigate this difficulty would be by adopting the proposal which M. Bischoff made at the London Conference in 1922, namely, that 'the legal controversies which may arise with regard to provisions settled by such Convention should, in order to obtain continuity and uniformity of jurisdiction, be submitted for final decision to the Permanent Court of International Justice at The Hague'.

"This proposal, which was referred to by M. Van Slooten at the Gothenburg Conference, did not gain the approval of any conference (though its desirability was admitted), owing to the fear lest its importance and far-reaching character might imperil the success of the Convention.

"These circumstances, which are certainly to be regretted, render me disinclined to press for the adoption of this proposal. Nevertheless, I would suggest that, if the effect of the proposed clause were limited to the subject of the Convention, this danger might perhaps be greatly mitigated, if not altogether obviated.

"It would also be desirable to amend the text so as to make the recourse to the International Court — whose decisions, it may be observed, would not be binding as legal interpretations — optional, instead of compulsory, as is, or seems to be the case, under the proposal in question."

In view of the above considerations, Dr. Bischoff moved the following proposal:

"The High Contracting Parties undertake, in case there should be a divergence in different countries as to the interpretation of the provisions of the present Convention, to request the Council of the League of Nations to obtain the opinion of the Permanent Court of International Justice at The Hague on the divergence in question."

We are of opinion that this proposal, the utility and importance of which are manifest, should also receive your approval.

* * *

Another expression used in Article 3 gave rise to certain doubts. This was the term "operated" (*exploités*).

The question at issue is whether the provisions of Articles 1 and 2 of the draft are applicable in the following cases:

- (a) When the ship is wholly chartered by the State;
- (b) When the State has taken possession of the vessel by requisition;
- (c) When the vessel which is employed by the State for commercial work is incidentally carrying goods intended for purposes of national defence.

¹ In the Report of the Italian Association for Maritime Law at the Genoa Conference, Professor Berlingieri gave a summary of a treatise which Professor Fedozzi had written on the Gothenburg Draft, and pointed out that the draft in question failed to provide a solution for a question of the first importance, *i.e.*, whether a judge who has to determine the nature of the work for which a ship is employed is bound to be guided by the fact that she is classed as a public vessel by the laws or Government regulations of the State to which she belongs, and whether he is therefore precluded from entertaining other considerations. After some very pertinent reflections on this point, the learned Professor concludes *fori*. The Conference did not see the need of making this distinction in the country in which the case is tried (*loci* see any such need, especially in view of the arguments already contained in the Report in favour of this system, and the fact that this question was so clearly put before the Conference both by M. Franck and by the Rapporteur of your Sub-Committee.

In our opinion, however, these doubts are not justified. One cannot interpret the provisions of the draft separately; on the contrary, they must be considered as a whole, in combination, in relation to each other.

It will be seen that Articles 1 and 2 lay down a rule, while Article 3 provides an exception. The scope of the rule must therefore be wide and general, while that of the exception must be restricted.

The rule covers not only ships belonging to the State, but also ships which, though not belonging to the State, are operated by it. The term "operated" must necessarily be taken in a wide sense; moreover, if the State is operating a vessel which does not belong to it, it does so because it has fully chartered or requisitioned it.

Take the case of a vessel which has been fully chartered by the State or is employed by the latter exclusively on Governmental non-commercial work. Since it is operated by the State, it follows that it is covered by the exception in paragraph (a) of Article 3 of the draft; or, on the other hand, if the vessel is not employed exclusively on Governmental and non-commercial work, it is covered by the rule in Articles 1 and 2.

The same argument applies if the vessel is requisitioned.

As regards the third supposition, the fact that the carriage of the goods is incidental does not affect the matter. What we require to know is:

- (1) Whether the vessel is exclusively employed for carrying the goods in question;
- (2) Whether the carriage is a Governmental or a public non-commercial service, or a service other than commercial (whatever terms it may be decided to use).

At the Genoa Conference, the Instituto Italiano di Diritto Internazionale proposed to add after "operated" the words "*or employed (employés) in any manner by the State*".

If the word "operated" is taken in a wide sense, it is clear that it already covers this addition; but we must not forget the words "*and employed (affectés) . . .*" which follow (in Article 3), qualifying the word "operated", and which would similarly qualify the words the Instituto Italiano proposes to add.

The Conference did not adopt the Italian proposal.

* * *

As regards the cargo, there was a question of doctrine which gave rise to discussion.

The Gothenburg draft in Article 3, paragraph (b), provides an exception for "State-owned cargo carried only for purposes of Governmental work on vessels owned or operated by the State".

The French Association du droit maritime in its report to the Gothenburg Conference argued against the requirement that the cargoes should be carried on a vessel owned or operated by the State.

"We do not perceive", says the report, "why the character of the carrying ship can have any influence on the status of the goods belonging to the State. The one thing that matters is the destination of such goods. If they are intended for public service they must be respected by the creditors, whatever be their character, and consequently whatever be the nature of the carrying ship."

As this argument was not accepted, the French Association returned to it again in its report to the Genoa Conference, laying stress on the possibility that the goods might be seized, and adding that "no State would consent to the possibility of a cargo which it intends for Governmental purposes being seized, even if it were being carried in a merchantship."

M. Franck opposed this contention, pointing out how unjust it would be to grant immunity to State-owned cargoes, even if they were intended for Governmental non-commercial purposes, when they were carried together with other goods belonging to private individuals.

Take the case of general average; all the cargoes have to contribute to make good the common damage and all must be subjected to the same rules of liability and procedure.

This point of view secured the assent of the Conference in spite of the opposition of the French Association and the support given it by the Instituto Italiano di Diritto Internazionale. We also take the same view.

Nevertheless, the text of the Gothenburg draft was modified.

The text provisionally approved by the Genoa Conference reads¹ as follows: ". . . cargoes carried for Governmental and non-commercial purposes on vessels owned or operated by the State . . ."

Some of these differences of wording are not without importance, as, for instance, the insertion of the word "*non-commercial*", which was added to restrict the scope of the term "Governmental", and the omission of the words "*State-owned*" and "*only*", which were—and are still in our view—necessary in order to prevent the exception relating to cargoes from acquiring a wider scope than that relating to vessels, and also in order to bring this paragraph (b) into line with paragraph (a).

In regard to this point we would add a further observation.

We can see no reason why the expressions employed in regard to cargoes should differ from those employed in connection with vessels. So that if we say, in regard to the latter, "employed

¹ The final text is to be determined by the "Bureau permanent du comité maritime international". Furthermore, as we have already pointed out, the French translation of the English text of the resolution is also provisional.

only on work other than non-commercial work" or "employed only on Governmental non-commercial work" we ought to say, when referring to the cargoes: "carried for other than exclusively commercial purposes" or "carried only for Governmental non-commercial purposes".

C.

The third restriction refers to the scope of application of the Convention.

The Gothenburg Draft laid down in Article 4 that "the provisions of this Convention will be applied in every Contracting State in all cases where the claimant is a citizen of one of the Contracting States, provided always that nothing in this Convention shall prevent any of the Contracting States from settling by its own laws the rights allowed to its own citizens before its own courts".

In the preliminary draft this clause was entirely different. In its preamble, the High Contracting Parties undertook that the liabilities which they might incur in respect of sea-going vessels owned by them or in respect of cargoes carried on such vessels should be subjected to the rules laid down.

Some observations were made on this subject at the Gothenburg Conference and attention is called to those which appear in the report of the French Association.

After pointing out the difficulty of arriving at an international unification of law on this question, and after observing that all the Conventions previously adopted at Brussels contained a provision defining their scope of application and limiting it to cases of disputes between parties of different nationalities, the French Association expressed the view that it would be better to state that the Convention would only be applicable in international cases. Since, however, the adoption of such a rule would narrow the scope of the Convention to a far greater degree than was apparently intended by the International Maritime Committee, the "Association" moved the adoption of another rule for which a precedent existed in the Draft Convention of October 26th, 1922, dealing with the liability of the shipowner, namely, that the Convention should be applicable "before the courts of a Contracting State, if one of the parties to the dispute was a national of one of the Contracting Parties, even if the vessel concerned was flying the flag of the State before whose courts the case had been brought".

The French Association therefore proposed to replace the preamble by a new Article numbered 4, which was to read as follows:

"The provisions of the present Convention shall be applied in every Contracting State in all cases where the creditor interested is not a citizen of the State owning the ship or the goods to which the claim refers."

The Association further proposed that a recommendation should be addressed to the different Contracting States in favour of the adoption of the rules of the Convention for regulating the relations between the ship- and cargo-owning State and its citizens who are creditors of the State by reason of the operation of the ship or the carriage of the goods.

A lively debate ensued at the Conference on this question and various opinions were expressed, some even advocating the rejection of the article as useless and dangerous.

Finally, it was agreed to accept the article as it appears in the draft.

At the Genoa Conference the French Association returned to the subject in its report and again proposed that the scope of the Convention should be modified. The reasons advanced were as follows:

"The clause regarding the application of the Convention which was moved by the French Association was based on the provision adopted in the Brussels Convention of 1922 regarding the limitation of shipowners' liabilities. The rule laid down at Gothenburg has been drawn as widely as possible in order to multiply the cases in which the Convention would apply. It is only required that the creditor concerned should be a citizen of one of the Contracting States.

"But at present, according to the new draft adopted in 1923 for the clauses of the Convention relating to limitation of liability, the Convention would only be applicable if the vessel in regard to which the liability was incurred was registered in one of the Contracting States or was being operated by one of those States. It seems that a similar alteration requires to be made in the clauses of the draft which relate to the immunity of State vessels; for this draft Convention is concerned, in the first place, with the obligations and liabilities of the State, and in the second place with the right to arrest vessels. From both these points of view it seems preferable to limit its application to vessels and cargoes belonging to one of the Contracting States."

The Rapporteur of your Sub-Committee was able to point out, by taking hypothetical cases and applying to them the article of the Draft Convention and the new text proposed by the French Association, that the latter, although intended to limit the application of the Convention, actually extended it; and he added that he was not opposed to such an extension but that he shared the fears which the French Association had itself expressed in its former report, namely, that it might endanger the acceptance of the draft by some of the Governments.

After further remarks had been made by M. Franck and others, the Conference, which took the same view as the speakers, declined to approve the new French text.

We consider that, when dealing with so delicate and serious a question, it is best to move cautiously and to keep Article 4 in its present form.

* * *

A new and important restriction was adopted at the Genoa Conference.

The Imperial Economic Conference had inserted an additional Article (5) in the text of the Gothenburg Draft, reading as follows: "This Convention shall not be binding on a belligerent State in respect of claims arising during the period of belligerency".

At the Conference, Sir Leslie Scott proposed a different clause: "Notwithstanding the above provisions, no person shall be entitled in time of war to cause the arrest of a vessel belonging to or operated by one of the belligerent States nor of the cargo belonging to such State or carried on board such a vessel, nor to institute any proceedings against such State before a foreign Court; nevertheless, any person, not being an enemy, who has suffered damage may institute proceedings before the competent Court of the aforesaid belligerent State".

This is the clause which was adopted and we consider that you might also approve it.

The situation created by a state of war is of such a special character and so grave that it fully justifies this restriction.

* * *

The Genoa Conference also added, on the motion of the French Association, an additional clause which requires no justification, to the effect that "the provisions of the Conventions of 1910 and 1922 are hereby modified in so far as they create an exception in respect of all State vessels". The Permanent Bureau of the International Maritime Committee will have to insert this clause in the draft; the French Association had wished to incorporate it in Article 1.

We consider that it ought to become Article 4, the present Article 4 being renumbered 5.

* * *

Conclusion.

Your Sub-Committee considers that the legal status of Government vessels is a subject the solution of which by way of Convention is both desirable and practicable, and that, in consequence, the Council should be requested, in case the Belgian Government convenes the Diplomatic Conference to deal with this question, to inform that Conference that it supports this action; the Council should, at the same time, give its opinion on the draft which will be submitted. If, however, the Belgian Government should not see its way to convene a Conference, the Council should do so itself.

The solution in question could then be adopted by the representatives of the Governments, and the Gothenburg Convention would be submitted to the Conference with the amendments which we have had the honour to suggest, or with such others as you may think desirable to insert.

(Signed) BARBOSA DE MAGALHAES,
Rapporteur.

J. L. BRIERLY.

Appendix I.

RESOLUTION VOTED BY THE CONFERENCE OF GOTHENBURG (August 15th-17th, 1923).

Immunity of State-Owned Ships.¹

Article 1. — Vessels owned or operated by States, cargoes owned or operated by States, cargoes owned by them, and cargo and passengers carried on such vessels and the States owning or operating such vessels shall be subjected, in respect of claims relating to the operation of such vessels or to such cargoes, to the rules of liability and to the same obligations as those applicable to private vessels, persons or cargoes.

Article 2. — Except in the case of the ships and cargoes mentioned in paragraph 3, such rules and liabilities shall be enforceable by the tribunals having jurisdiction over, and by the procedure applicable to, a privately owned vessel or cargo or the owner thereof.

Article 3. — In the case of:

"(a) Ships of war and other vessels owned or operated by the State and employed only in Governmental non-commercial work;

"(b) State-owned cargo carried only for purpose of Governmental non-commercial work on vessels owned or operated by the State;

such liabilities shall be enforceable only by action before the competent tribunals of the State owning or operating the vessel in respect of which the claim arises.

Article 4. — The provisions of this Convention will be applied in every contracting State in all cases where the claimant is a citizen of one of the contracting States, provided always that nothing in this Convention shall prevent any of the contracting States from settling by its own laws the rights allowed to its own citizens before its own courts.

¹ English text printed from the *Bulletin of the International Maritime Committee* (English edition), page VI.

Appendix II.

NOTE ON THE RESULTS OF THE CONFERENCE OF GENOA.

[Translation.]

The Permanent Bureau of the International Maritime Committee has sent to its associates a circular letter dated October 31st in which it gives an account of the results of the Conference of Genoa and makes the following statement in regard to the question of the immunity of State ships:

B. *Immunities of State Ships.*

The Gothenburg draft underwent a second reading. This showed general acceptance of the draft. Two amendments were adopted. Article 3, dealing with the position of warships and ships in the public service, is now drafted as follows:

"(a) Warships, State yachts, patrol vessels, hospital ships and other vessels belonging to a Government or operated by it and employed exclusively on other than commercial work;

"(b) Cargoes transported for governmental and non-commercial purposes on board ships belonging to or operated by the State:

"Shall not be liable to attachment, and claims relating to them shall be exclusively within the competence of the competent court of the State owning or operating the ships occasioning such claims."

On the other hand, a new Article numbered 5 was added to govern the position, in time of war, of ships and cargoes belonging to a State. The Article is as follows:

"In time of war, ships belonging to a belligerent State or managed by it, and cargoes belonging to such a State or borne on such ships, shall not be liable to attachment, seizure or detention by a foreign court of justice.

"Actions against such ships or cargoes may, during the war, be brought before the competent court of the State owning or managing such ships or cargoes."

The question is ripe for action and the Permanent Bureau has entered into communication with the Belgian Government with a view to convocation of a diplomatic Conference. There is every reason to believe that this request will be favourably received.

(Signed) BARBOSA DE MAGALHAES,
Rapporteur.

Appendix III.

NOTE ON THE AMENDMENTS, SUBSTITUTIONS AND ADDITIONS IN THE
GOTHENBURG DRAFT PROPOSED BY THE SUB-COMMITTEE.

[Translation.]

(a) In Article 1, suppress the words "in respect of claims relating to the operation of such vessels or to such cargoes" and insert them in Article 2 after the words "such rules and liabilities".

(b) In Article 3, paragraph (a), substitute the word "public" for the word "governmental", and in paragraph (b) of the same article for the word "governmental" read "public".

(c) Article 4 should be drafted as follows:

"The provisions of the Conventions of 1910 and 1922 are amended in so far as they except all State ships¹."

Article 4 of the draft becomes Article 3.

(d) Add a new article numbered 6 to read as follows:

"In time of war, ships belonging to a belligerent State or managed by it, and cargoes belonging to such a State or borne on such ships, shall not be liable to attachment, seizure or detention by a foreign court of justice.

"Actions against such ships or cargoes may, during the war, be brought before the competent court of the State owning or managing such ships or cargoes."

(e) Add further new article numbered 7, to read as follows:

"The High Contracting Parties undertake that, should different interpretations of the provisions of this convention be adopted in various countries, they will request the Council of the League of Nations to obtain the opinion of the Permanent Court of International Justice at The Hague upon the said divergences of interpretation."

(Signed) BARBOZA DE MAGALHAES,
Rapporteur.

¹ As we said in our report, this provision, which was proposed by the French Maritime Law Association, was approved by the Genoa Conference, and the Permanent Bureau was to insert it in the draft. We do not understand why it is not included in the Bureau's circular letter reproduced in Appendix 2.

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"The High Contracting Parties undertake that, should different interpretations of the provisions of this convention be adopted in various countries, they will request the Council of the League of Nations to obtain the opinion of the Permanent Court of International Justice at The Hague upon the said divergences of interpretation."

(Signed) BARBOZA DE MAGALHAES,
Rapporteur.

¹ As we said in our report, this provision, which was proposed by the French Maritime Law Association, was approved by the Genoa Conference, and the Permanent Bureau was to insert it in the draft. We do not understand why it is not included in the Bureau's circular letter reproduced in Appendix 2.

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

QUESTIONNAIRE No. 2

adopted by the Committee at its Second Session, held in January 1926.

TERRITORIAL WATERS

The Committee has the following terms of reference¹:

(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;

(2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and

(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

The Committee has decided to include in its list the following question:

"Whether there are problems connected with the law of the territorial sea, considered in its various aspects, which might find their solution by way of conventions, and, if so, what these problems are and what solutions should be given to them, and, in particular, what should be the rights of jurisdiction of a State over foreign commercial ships within its territorial waters or in its ports?"

On this subject the Committee has the honour to communicate to the Governments a report presented to it by a Sub-Committee consisting of M. Schücking as Rapporteur, M. de Magalhaes and Mr. Wickersham. This report comprises a memorandum by M. Schücking, to which is appended a draft of a Convention; observations by M. de Magalhaes; observations by Mr. Wickersham, and, finally, the text of the draft Convention amended by M. Schücking in consequence of the discussion in the Committee of Experts, together with notes on this amended draft.

The nature of the general question and of the particular questions involved therein appears from the report. The latter contains a statement of principles to be applied and of the solutions of particular questions which follow from these principles. The Committee regards this statement as indicating the questions to be resolved in order to deal with the matter by way of an international agreement. All these questions are subordinate to the larger question set out above.

It is understood that, in submitting the subject to the Governments, the Committee does not pronounce either for or against the general principles set out in the report or the solutions proposed on the basis of these principles for various particular problems. At the present stage of its work it is not for the Committee to put forward conclusions of this character. Its sole, or at least its principal, task at present is to direct attention to certain subjects of international law the regulation of which by international agreement may be considered to be desirable and realisable.

In doing this, the Committee should doubtless not confine itself to generalities but ought to put forward the proposed questions with sufficient detail to facilitate a decision as to the desirability and possibility of their solution. The necessary details are to be found in M. Schücking's final conclusions, *i.e.*, in the draft convention as amended by him in consequence of the discussion

¹ See the Assembly resolution adopted September 22nd, 1924.

in the Committee ¹. Thus, to take only some examples, M. Schücking in various articles of the amended draft convention raises the questions :

- (a) Whether several zones of diverse legal character should be recognised as territorial waters or this designation be reserved for the zone within which the powers of the coastal State are most complete.
- (b) Whether the powers of that State should be described as sovereign rights.
- (c) What should be the width of the territorial sea and possibly of other zones.

In order to be able to continue its work without delay, the Committee will be glad to be put in possession of the replies of the Governments before October 15th, 1926.
The Sub-Committee's report is annexed.

(Signed) HJ. L. HAMMARSKJÖLD,
Chairman of the Committee of Experts.

VAN HAMEL,
Director of the Legal Section of the Secretariat.

Geneva, January 29th, 1926.

¹ See page 47.

Annex.

REPORT OF THE SUB-COMMITTEE

M. SCHÜCKING, *Rapporteur*.

M. DE MAGALHAES;

Mr. WICKERSHAM,

Problems connected with the law of the territorial sea, considered in its various aspects, which might find their solution by way of conventions.

Enquiry, in particular, into the rights of jurisdiction of a State over foreign commercial ships within its territorial waters or in its ports.

I. MEMORANDUM BY M. SCHÜCKING

C. P. D. I. 19.

At its first meeting, held at Geneva, the Committee of Experts for the Progressive Codification of International Law requested the Sub-Committee of which the undersigned has had the honour to be appointed Rapporteur to consider whether there were any problems connected with the law of the territorial sea, considered in its various aspects, which might find their solution by way of conventions, and, if so, what these problems are, and what solutions should be given to them. The Sub-Committee was asked, in particular, to enquire into the rights of jurisdiction of a State over foreign commercial ships within its territorial waters or in its ports.

The question of territorial waters involves a number of difficult problems of international law. The unsatisfactory manner in which these questions have hitherto been solved has given rise to repeated efforts by various Governments to solve them, either wholly or in part, by international convention.

For example, Lord Derby declared, in a circular note dated 1874: "It appears to be manifest that some limits to maritime jurisdiction must be fixed by general consent among the different nations, and that no nation can have the right to assume by a decree of its own Government a jurisdiction more extended than that sanctioned by such general assent. . ."

In 1911, after the seizure of an English trawler, the "Onward Ho", by a Russian coastal patrol boat in the waters of the Arctic Ocean, the Imperial Russian Government expressed its willingness to agree to the holding of a conference to discuss the extent of territorial waters.

At the time of the Aaland Islands Conference, in 1921, the French and Italian delegates pointed out—and the statement was not contradicted — that, if the general question of territorial waters had to be dealt with, representatives of all States possessing maritime interests should be invited.

In 1923, the Government of Soviet Russia, in a note dated May 23rd, addressed to Great Britain, urged that the question of territorial waters should be examined as a whole by a conference of the Powers concerned, with a view to the conclusion of an international agreement.

In November 1924, a Conference met at Helsingfors to deal with the problem as it affected the Baltic.

Proposals have from time to time been put forward by learned societies for settling these problems by treaty.

The Institut de Droit international has dealt with these questions on various occasions. (See the *Annuaire de l'Institut*, Vols. XII, XIII, XXV, XXVI and XXVIII.)

The International Law Association also interests itself in these questions. (See the Reports of the International Law Association, Vols. 1892, 1895, 1908, 1912, 1922 and 1923.)

A draft convention was provisionally adopted by the Third Committee of the Assembly of Jurists which met at Santiago de Chile in 1912 to codify American international law.

Cf. Article 4 of the Declaration on the fundamental laws of the American Continent, drawn up by the American Institute of International Law in 1917.

An extensive codification project has been prepared by the American Institute of International Law (Draft Convention of October 12th, 1924). (See the *Revista de Derecho internacional* for November 30th, 1924.)

The question of merchant vessels in internal waters, *i.e.*, in ports, has given rise to action on the part of a learned society.

The Institut de Droit international, in its Hague Regulations of August 23rd, 1898, devoted several articles to the position of merchant vessels in foreign ports from the point of view of their observance of the local laws and regulations.*

These instances are sufficient to show how greatly the need for positive rules in this domain has been felt. The absence of results shows at the same time that there are inherent difficulties in these questions. Nevertheless, it may be hoped that, if it is proposed at any time to regulate this matter by convention, valuable guidance will be found in the treaty settlement of analogous problems.

Paragraph (c) of Article 23 of the Covenant of the League of Nations imposes the obligation to "make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League". The League of Nations has shown great activity in the execution of the duty entrusted to it. At its invitation and under its auspices the first General Conference on Communications and Transit met at Barcelona on March 10th, 1921. This Conference drew up not only a series of rules for the organisation of general conferences and of the Advisory Committee for Communications and Transit, but also the text of two important Conventions which have since obtained the necessary ratifications and come into force — the first on traffic in transit and the second on the regime of navigable waterways of international concern.

A second General Conference met at Geneva on November 15th, 1923. It drew up, *inter alia*, an important Convention on the International Regime of Maritime Ports. (See with regard to these Conventions the excellent work of M. Charles DE VISSCHER, "Le Droit international des communications", Ghent and Paris, 1924.)

By reason of the complicated character of the question of territorial waters, an agreement as to the establishment of definite rules could only be obtained by drafting a very comprehensive project containing solutions of more questions of detail than will be dealt with in most of the other codification projects to be drawn up by the Committee of Experts for the Progressive Codification of International Law.

On the other hand, we ought to restrict ourselves to problems the undoubted value of whose solution would consist in the establishment of definite rules of law corresponding to the interests of international solidarity.

(See Max HUBER, "Beiträge zur Kenntnis der soziologischen Grundlagen des Völkerrechts und der Staatengesellschaft", *Jahrbuch des öff. Rechts*, Vol. IV, pp. 102 *et seq.*)

Then, again, we should strictly confine ourselves to dealing with such questions concerning territorial waters as arise in time of peace and are within the domain of international public law. Questions of private law relating specially to the law of territorial waters, and questions connected with the law of war and of neutrality, are excluded. In this we are acting upon the resolutions of the Committee of Experts for the Progressive Codification of International Law.

I. THE NOTION OF TERRITORIAL WATERS.

We must begin by answering the question: "What is meant by the expression territorial waters?"

The clearest and most accurate definition is put forward by those learned societies which define territorial waters as an area of water of a distinct geographical character.

The resolutions of the Institut de Droit international of 1894 contain provisions with regard to the right of sovereignty of a State over a zone of the sea which washes its coasts. Certain bays and straits are assimilated to this zone.

The decisions of the International Law Association of 1895 adopt the same standpoint.

According to the most recent project prepared by the American Institute of International Law in 1924, the following are assimilated to territorial waters: straits and maritime channels which are not subject to special dispositions, certain bays, and the sea surrounding certain islands.

These definitions contain the idea of a coastal sea, *i.e.*, waters which follow the sinuosities of an open coast. They also cover expanses of water enclosed by bays the entrance to which from the sea does not exceed a certain width. Wider bays are often treated in the same way as a result of historical rights accorded to the coastal State by the community of nations. This definition of territorial waters also applies to straits and natural maritime channels if they are not subject to a special regime in consequence of a collective convention.

Finally, the doctrine of territorial waters influences the legal status of artificial maritime channels if these are not subject to special rules, as the majority of them are.

II. THE LEGAL STATUS OF TERRITORIAL WATERS.

The most diverse theories have been put forward as to the legal status of territorial waters. They may, however, be divided into two general categories:

See FAUCHILLE: *Traité de Droit international public*, Vol. I, Part 2, Paris, 1925, p. 131: "...les unes font rentrer la mer territoriale dans le territoire même de l'Etat; les autres dénieient qu'elle constitue un véritable territoire maritime".

See also BJÖRKSTEN: *Das Wassergebiet Finnlands in Völkerrechtlicher Hinsicht*, Helsingfors, 1925, p. 102: "Wenn man die Frage beantworten will, ob das Küstenmeer zum Staatsgebiete gehört oder nicht, hat man erst eine andere Frage zu beantworten: Erscheint uns die von dem Küstenstaat innerhalb des Küstenmeeres ausgeübte Gewalt als das Primäre, als die Regel, und die Meeresfreiheit als das Sekundäre, als die Ausnahme? Beantwortet man die Frage bejahend, so folgt daraus, dass man in dem Küstenmeer einen integrierenden Teil des Staatsgebietes erblickt, will man aber die Frage in einem ganz entgegengesetzten Sinn beantwortet wissen, so hat man sich für die Meeresfreiheitstheorie ausgesprochen. Schliesslich lässt sich denken, dass die Staatsgewalt und die Meeresfreiheit gleich stark auftreten, sodass keine von diesen das Uebergewicht zu haben scheint; in diesem Fall kann unsere Frage nach keiner von den beiden oben angegebenen Richtungen beantwortet werden, sondern das Küstenmeer muss dann entweder für einen Teil des Staatsgebietes und zugleich einen Teil des offenen Meeres oder für eine Uebergangsstufe gehalten werden, oder man kann Störck beipflichten, wenn er lehrt, die Küstengewässer seien nicht Inland, nicht Ausland, auch nicht Uebergangsstufe zwischen Inland und Ausland, sondern lediglich Küstengewässer mit allen den Attributen, die die ältere und jüngere Praxis ihnen zuweisen."

One of these theories is based upon the idea of the dominion of the coastal State over the territorial sea—a dominion which must be restricted by certain rights of common user in favour of other States. The other theory propounds the freedom of the sea and only recognises certain restricted rights in favour of the coastal State in the domain of the so-called territorial sea.

This theory leads to strange contradictions. It is unable to oppose the constant and unilateral extension of the rights of the coastal State in respect of the territorial sea, for States have never hesitated to increase the exercise of rights arbitrarily by unilateral act if their real or imaginary needs have so required. We would venture to point out that none of the claims to a coastal State's jurisdiction were put forward or enforced until the 19th century. (See RAABSTAD: "La mer territoriale", Paris, 1913, p. 132.) Nor can these claims be based upon special isolated rights of servitude. If we base them on the right of established possession (as FAUCHILLE does in the work already quoted, p. 147), we come very near to recognising a general right of dominion.

Further, the doctrine of the right of dominion of the coastal State is quite in accordance with the traditions of international law. The most famous doctrine on the theory of the territorial sea is the thesis of БУНКЕРШОЕК: *Terrae dominium finitur ubi finitur armorum vis*. The idea of *terrae dominium* must be synonymous with the idea of ownership, which, in international law, can only mean dominion over territory.

It might at first sight be imagined that it is of no importance which of the two theories is adopted. They agree in declaring that the coastal State possesses certain rights in the territorial sea and that other States have a certain right of common user in it. If the matter is examined more closely, however, it will be seen that the solution of this question of principle is not a matter of indifference in practice. If we accept the coastal State's right of dominion, we must admit that it would undoubtedly be legally entitled to extend its dominion in new directions, provided, of course, that such action did not conflict with the right of common user of other States or with the provisions of conventions already concluded. Two examples taken from recent international practice illustrate the effect of this principle:

"C'est ainsi que la France et la Grande-Bretagne ont pu respectivement, dans les limites de leurs eaux côtières, sans soulever des observations d'aucune autre Puissance, se livrer aux travaux de percement d'un tunnel sous la Manche. De même, la Grande-Bretagne, sans que son droit ait été davantage contesté, exploite sous la mer, à plusieurs kilomètres de sa côte, des mines d'étain ou de cuivre en Cornouailles, et des mines de charbon dans le Comté de Cumberland, ainsi qu'entre Folkestone et Douvres." (FAUCHILLE, *op. cit.*, p. 205.)

It might be denied that these rights exercised by coastal States are based upon a right of dominion, and it might perhaps be concluded that coastal States have from time immemorial exercised an exclusive right of user in the territorial sea. The exclusive utilisation of the riches of the sea would then be merely a case of the extension of a special historical right. The following fact in law leaves no doubt as to the nature of the rights exercised by the coastal State in respect of the territorial sea. It is only in recent times, however, that States have claimed rights of dominion in the air above the territorial sea.

"Les Etats, tant dans leur droit conventionnel que dans leur droit interne, sont unanimes à considérer, au point de vue aérien, la mer côtière comme une fraction de leur territoire. La convention aérienne du 13 octobre 1919 est, à cet égard, particulièrement explicite: après avoir reconnu que 'chaque Puissance a la souveraineté complète et exclusive sur l'espace atmosphérique au-dessus de son territoire', son article premier déclare, en effet, que, 'au sens de la convention, le territoire d'un Etat sera entendu comme comprenant le territoire national métropolitain et colonial, ensemble, les eaux territoriales adjacentes au dit territoire'. C'est également la règle que consacrent les conventions particulières conclues par les Etats: France et Suisse, 9 décembre 1919, article 2; Danemark et Grande-Bretagne, 23 décembre 1920, article premier; Allemagne et Pays-Bas, 24 juillet 1922, article premier; Grande-Bretagne et Pays-Bas, 11 juillet 1923, article premier, etc. On la trouve encore formulée expressément par les lois intérieures des différents pays. Citons à ce sujet le décret espagnol du 25 novembre 1919, article 11; le décret-loi italien du 25 novembre 1919, article premier; l'acte anglais de 1920, chapitre 80, préambule; le décret russe du 17 janvier 1921, article 20. . ." (FAUCHILLE, *op. cit.*, pp. 1151 et seq.)

These facts can only be upheld by a legal conception according to which the territorial sea is itself under the dominion of the coastal State, subject to the restrictions of common user and of international conventions. They justify us in concluding that the only valid theory is that of the right of dominion of the coastal State over the territorial sea within fixed limits. The facts referred to also give practical ground for the belief that it is absolutely necessary to recognise by international convention the coastal State's rights of dominion over the territorial sea.⁶ This would not be an innovation but merely the final outcome of an evolution which finds expression in a series of international conventions.

“ . . . le droit international, dans son état actuel, admet que la mer territoriale, sans être susceptible de propriété au sens privé du mot, l'est dans le sens international de souveraineté. Pour lui, l'Etat riverain est souverain de la mer côtière, comme de la terre ferme; sa souveraineté sur elle est comme le prolongement de sa souveraineté sur son territoire: elle est une portion de son domaine et non pas simplement une partie du vaste océan envisagé dans sa majestueuse unité. La frontière de chaque Etat maritime se trouve dès lors fixée à la limite même de la mer territoriale. Le droit conventionnel et le droit interne des Etats sont, à cet égard, très explicites. La XIII^e Convention de la Paix de La Haye du 18 octobre 1907 concernant les droits et les devoirs des Puissances neutres en cas de guerre maritime, qu'ont signée 43 Etats, dont 25 l'ont ratifiée ou y ont adhéré, considère que le caractère neutre doit être appliqué aux eaux territoriales d'un Etat étranger aux hostilités, aussi bien qu'à son territoire terrestre. Parmi les lois intérieures des Etats, on peut citer la loi italienne du 16 juin 1912 sur le transit et le séjour des navires marchands le long des côtes, qui qualifie de 'mer de l'Etat' la zone de mer comprise entre dix milles marins du rivage (article premier); les règlements roumain du 5 décembre 1912 (article premier) et français du 26 mai 1913 (article 2), sur l'admission en temps de guerre des navires étrangers, qui désignent respectivement d' 'eaux roumaines' et d' 'eaux territoriales françaises' les eaux qui longent les côtes de la Roumanie et de la France; l'ordonnance des Pays-Bas du 30 octobre 1909, sur le droit d'entrée des navires de guerre étrangers, qui décide que les eaux territoriales du Royaume sont 'dans les limites' de celui-ci (article 10)”. (FAUCHILLE, *op. cit.*, pp. 157 et seq.)

The territorial sea will always retain its special character as part of the area of a State's dominion. This special character is founded not merely on the right of common user possessed by other States but also on the fact that the cession, for example, of this area of dominion to another State, without the simultaneous cession of the coastal territory, cannot be regarded as legally possible. The intimate connection between the two precludes such a proceeding. Nor can the territorial sea be regarded, as certain Civil Codes in Latin America suggest, as public property.

Argentine Civil Code, Art. 2374. — . . . the following are the *public property* of the general State or of the individual States:

16. The seas adjacent to the territory of the Republic, to a distance of one marine league, measured from the lowest tide line, but the right of police as to objects concerning the security of the country and the observance of the fiscal laws extends to a distance of four marine leagues measured in the same manner.

Chilian Civil Code of December 15th, 1855, Art. 593. — La mer qui touche les côtes (adjacentes) jusqu'à la distance d'une lieue marine, mesurée à compter de la ligne de la plus basse marée, est mer territoriale et appartient au domaine national; cependant, le droit de police pour tout ce qui concerne la sûreté du pays et l'observation des lois fiscales s'étend jusqu'à la distance de quatre lieues marines mesurées de la même manière.

Questions regarding the cession of the territorial sea and its classification in internal law are not, strictly speaking, questions for settlement by codification.

See FAUCHILLE, *op. cit.*, p. 72; CH. DE VISSCHER et GANSBOT: "Le différend de Wiellingen", *Revue de Droit international*, 3rd Series, Vol. I, p. 293; BJÖRKSTEN, *op. cit.*, p. 103.

As proof of the essentially dominant character of the rights of the coastal State in respect of the territorial sea, the fact that all schemes of codification seek to assert the right of dominion of the coastal State over the territorial sea may be claimed as decisive.

Cf. the project of the Institut de Droit international, 1894: "L'Etat a un droit de souveraineté sur une zone qui baigne la côte";

The project of the International Law Association, 1895, uses the same expression.

Cf. the project of the International Law Association, 1923 (Storny Project), Article 1: "L'Etat possède la *jurisdiction* sur une zone de la mer qui baigne ses côtes. Cette zone porte le nom de mer territoriale";

Cf. the project of the American Institute of International Law, 1924, Article 6, Paragraph 1: "The American Republics exercise the right of sovereignty not only over the water but over the bottom and the subsoil of their territorial sea. By virtue of that right, each of the said Republics alone can exploit or permit others to exploit all the riches existing within that zone".

Article 1 of the Convention to be proposed might therefore be worded as follows:

"The character and extent of the rights of the riparian State.

"Article 1. — The State shall have an unlimited right of dominion over the zone which washes its coast, in so far as, under general international law, the rights of common user of the international community or the special rights of any State do not interfere with such right of dominion.

"The right of dominion shall include rights over the air above the said sea, and the soil and subsoil beneath it."

III. THE EXTENT OF THE TERRITORIAL SEA UNDER THE DOMINION OF THE COASTAL STATE.

The most difficult question is that of the extent of the territorial sea. The secondary question, namely, at what point the landward limit of the territorial sea is situated, will be dealt with later. The problem of the limit of the territorial sea on the side of the open sea is complicated by the fact that the very States which, actuated by the desire for dominion, are constantly satisfying their needs by extending their dominion in the territorial sea, nevertheless consistently refuse to sign any instrument of public law extending their dominion over a definite area. It is their traditional habit to establish definite zones for special purposes by means of their laws and administrative practice. The following synopsis will suffice to explain the matter clearly:

Great Britain. — The law on jurisdiction in territorial waters, known as the Territorial Waters Jurisdiction Act of August 16th, 1878, provides that any offence committed by any person, whether a British subject or not, within the limits of the territorial waters of His Majesty's possessions comes within the jurisdiction of the Admiralty (Article 2), and that for the purpose of offences coming within the jurisdiction of the Admiralty the territorial waters include all that portion of the high seas situated less than one maritime league from the coast, reckoned from low-water mark (Article 7).

By virtue of customary law, the extent of the *fishing zone* reserved for fishermen is three miles. This limit is established as between Great Britain and France, Belgium, the Netherlands, Germany and Denmark in Article 2 of the Hague Convention of May 6th, 1882.

The *Customs zone* used to extend for 12 miles under the old laws (the Hovering Acts 1736, 1838). Under the Customs Consolidation Act of 1876, the extent of the Customs zone is fixed at three nautical miles.

By virtue of customary law, the extent of British *neutral waters* is three nautical miles. (*Revue générale de Droit international public*, Vol. 21, p. 413, note by M. RAESTAD.)

United States of America. — *Customs zone and neutrality zone.* — Under the Naval Code, the *neutrality zone* extends for three nautical miles. Under the Acts of 1797, 1799 and 1807, the *Customs zone* extends for 12 nautical miles. The Supreme Court pronounced a judgment on April 30th, 1923, in which it deals first with the text of the 18th amendment to the Constitution. It notes, *inter alia*, that the territory subject to the jurisdiction of the United States includes the harbours, bays and other arms of the sea along their coasts and the belt of water which washes those coasts to the width of one nautical league or three geographical miles. . . . The Court refuses to allow any vessels entering the territorial waters of the United States, whether foreign or national, to carry any alcoholic liquors either as cargo or as stores, even under seal. (*Cf. PAULUS, "La mer territoriale"*, *Revue de Droit international et de Législation comparée*, 3rd Series, Vol. 1, pp. 409 *et seq.*)

Netherlands. — Declaration by the Minister for Foreign Affairs in the Lower House in 1924: "Whereas, in view of recent Government communications, adhesion to the idea of extending the limit of the territorial sea from the point of view of the maintenance of *neutrality* cannot for the present be expected on the part of the principal maritime Powers (PAULUS, *op. cit.*, p. 412), the Netherlands have fixed three nautical miles as the limit of their neutral waters in their declarations of neutrality of 1904 and 1914".

German Reich. — Article 3 of the "Prisenordnung" of September 30th, 1909, reads: "Das Prisenrecht ist nicht geltend zu machen: (a) innerhalb *neutralen Hoheitsgewässers*, d.h. innerhalb eines Seegebietes, das in einer Breiteausdehnung von 3 Seemeilen von der Niedrigwasserküste gerechnet, die Küste und die zugehörigen Insel und Buchten begleitet; als zugehörig gelten! Inseln, wenn sie nicht weiter als 6 Seemeilen von einer demselben Staate gehörigen Festlandsküste entfernt sind, Buchte wenn ihre Küste ausschliesslich im Besitze neutrale Staate steht und ihre Öffnung 6 Seemeilen oder weniger ist".

In a note addressed to Finland on February 24th, 1924, Germany declares that she regards the three-mile zone as the only recognised zone. The note goes on to protest against Finland's action in extending her *Customs control* beyond this limit.

According to the schedule of zones prohibited to aerial navigation (Nachweisung der Grenzen der für den Luftverkehr verbotenen Zonen) attached to the Decree of the Prussian Ministers of Public Works and of the Interior dated April 29th, 1914 (*Deutsche Luftfahrzeitschrift* of May 13th, 1914, pp. 219, 220), the manœuvring prohibition extends to a distance of three nautical miles to seaward of the coast in respect of the zones (defined in detail in the schedule) of Königsberg, Swinemunde, Kiel, the North Sea coasts, and Heligoland.

Reserved fishing zone: As a contracting party to the International Convention on Fishing in the North Sea, concluded at The Hague on May 6th, 1882, Germany adopted the three-mile limit (Article 2) for the fishing zone reserved for the use of her nationals on the German coast of the North Sea between the Danish and Dutch frontiers (see Imperial Law of April 30th, 1884, putting the said convention into force). The same limit is also observed, though there is no express provision to that effect, on the German coast of the Baltic Sea between the Danish and Russian frontiers. (*Revue générale de Droit international public*, Vol. 21, p. 404.)

France. — *Fishing zone:* Three nautical miles according to the Decrees of 1862 and the law of 1888.

Customs zone: Two myriamètres according to the law of March 27th, 1813.

Neutrality zone (Decree of October 19th, 1912): "Pour l'application des règles de la convention 13, en date du 18 octobre 1907, les eaux territoriales françaises s'étendent en deçà d'une limite qui est fixée à six milles marins au large de la laisse de basse mer, le long de toutes les côtes et des bancs découvrant qui en dépendent, ainsi qu'autour du balisage fixe qui détermine la limite des bancs non découvrants".

In the instruction of the French Minister of Marine of December 19th, 1912, concerning the application of international law in the event of war, it is stated in Articles 22 and 23: "Pour l'application de la XIII^{me} Convention de La Haye, vous considérerez les eaux territoriales comme ne s'étendant jamais à moins de trois milles des côtes, des îles ou des bancs découvrant qui en dépendent, à compter de la laisse de la basse marée et jamais au-delà de la portée du canon. Vous respecterez toute limite de cette nature qui se trouverait ainsi régulièrement fixée avant l'ouverture des hostilités".

Safety zone (Decree of October 24th, 1913, prohibiting the flying or manœuvring of aircraft in certain zones, Article 1): "Sauf autorisation spéciale, il est défendu aux aéronefs de passer ou d'évoluer: 1^o au-dessus de la zone comprise à l'intérieur du périmètre myriamétrique (en annexe, la zone maritime de dix kilomètres) indiqué pour: Toulon, Iles d'Hyères, Rochefort, Aix, Oléron, La Rochelle, Ré, Lorient, Groix, Brest, Ouessant".

Belgium. — *Fishing zone:* Three nautical miles under the law of August 19th, 1891.

Customs zone: One myriamètre under the law of June 7th, 1832. — *Ordinary jurisdiction:* "La jurisprudence paraît se rallier à la limite de trois milles, notamment pour la détermination de la compétence dans les actions du chef de l'abordage." (*Revue générale de Droit international public*, Vol. 21, p. 408.)

Spain. — Territorial waters were established in Spain by Royal Decree of 1760, (FULTON, "The Sovereignty of the Sea", London, 1911, p. 569). The six-mile zone is the *Customs limit* under the Customs Law of October 15th, 1894, and

also the *fishing limit* under the decree of December 17th. The *neutrality zone*, which coincides with the *zone of jurisdictional waters*, extends for six miles.

Portugal. — The *Customs zone* extends for six nautical miles under the Customs Law of May 27th, 1911, Article 216.

Fishing zone: Three nautical miles under the law of October 28th, 1908. Under a Treaty of Commerce and Navigation concluded with Spain, the fishing zone reserved for Portuguese nationals extends for six nautical miles (Annex 6, Articles 2 and 3).

Italy. — Italy applies two limits in respect of Customs control: a zone of five kilometres for the supervision of navigation, and a zone of ten kilometres within which the captain of any vessel must be in possession of a passport authorising him to enter territorial waters (Customs Law of January 26th, 1896, Chapter II, Article 27). On the African coast, the Customs zone is 12 nautical miles wide (Royal Decree of February 4th, 1913, Article 2).

The Decree of June 16th, 1895, concerning foreign *warships* which in time of peace approach the ports or coastal waters of the area in which they are navigating, prohibits foreign warships from engaging in firing practice within gunshot of the shore, unless they have obtained special authorisation through the diplomatic channel to do so.

Under the terms of a decree of August 20th, 1909, foreign vessels in port may be required to withdraw to gunshot range if a state of siege is established. In case of war, the sea of the State may be completely closed. By "the sea of the State" is to be understood a zone of coastal sea ten nautical miles wide (*war and neutrality zone*).

Greece. — *Fishing zone:* Three nautical miles under the Royal Decree of January 8th, 1898.

Customs zone: A belt six nautical miles wide from the coast constitutes the zone of supervision.

Brazil. — The *neutrality zone* in the world war was three nautical miles wide; a *neutrality zone* five nautical miles wide was established by *Chile* and *Uruguay* in their declaration of neutrality of August 7th, 1914. (BJÖRKSTEN, *op. cit.*, p. 54.)

Denmark. — *Fishing zone:* "En accédant à la Convention internationale réglant la police de pêche dans la Mer du Nord, conclue à La Haye le 6 mai 1882, le Danemark a adopté la limite de trois milles marins pour la zone de pêche réservée aux pêcheurs nationaux sur les côtes danoises."

The present situation seems to be that Denmark recognises the three-mile zone in respect of all its coasts for purposes of fishing, in relation to the States signatory to the Hague Convention of May 6th, 1882, but that in relation to other States, notably Sweden, it maintains in respect of all its coasts a limit of one geographical league, which is also the general limit of Danish territorial waters. (RÆSTAD, in the *Revue générale de Droit international public*, Vol. 21.)

General limit (Royal Decree of February 12th, 1812, applicable both to Denmark and to Norway): "Our territorial sovereignty, in all cases in which it is necessary to determine its limits from the seashore, shall be deemed to extend to a distance of one ordinary nautical league, reckoned from the furthest island or islet which is not submerged by the sea."

Norway. — *Fishing zone:* The Royal Decree of December 22nd, 1906, which contains instructions for the warships responsible for the supervision of the coasts, declares that all persons other than Norwegian citizens or inhabitants of the Kingdom are prohibited from fishing in Norwegian territorial waters, the limit of which is fixed for purposes of fishing at a distance of one ordinary nautical league from the furthest island or islet which is not submerged by the sea.

By a law of July 14th, 1922, the *Customs zone* is fixed at a width of ten marine leagues (*Quartmeilen*).

Sweden. — *Customs zone:* Law of July 1st, 1904, Article 1, paragraph 2: one nautical league.

Neutrality zone: The regulations concerning maritime prizes of April 12th, 1808, Article 1, paragraph 1, provides that no vessel may be captured nearer the coast than at a distance of one nautical league (one-fifteenth of a degree).

According to paragraph 2 of the same article, the limit of neutral waters off a fortress coincides with the furthest gunshot range.

In the world war, Sweden, like Norway, was unable to maintain her claim to a neutrality zone of one nautical league. The belligerents paid no attention to this zone. In two publications dated November 29th, 1915, and June 19th, 1916, the submarine warships of the belligerents were prohibited from staying in or passing through Swedish waters within a limit of "three Swedish minutes", but it is highly characteristic that the publication of August 14th, 1916, which requires merchantmen to fly their flags in Swedish territorial waters, does not contain any special provisions regarding the extent of the neutrality zone (BJÖRKSTEN, *op. cit.*, p. 39).

Fishing zone (Royal Proclamation of May 5th, 1871): One nautical league. The same dispositions are contained in Article 1 of the Convention between Sweden and Denmark of July 14th, 1899.

Russia. — *Customs zone:* Under the law of December 10th, 1909, the *Customs zone* extends for twelve nautical miles.

Article 3 of the Peace Treaty between Soviet Russia and Finland establishes a zone of four miles for Russian territorial waters; under the terms of Paragraph 4 of Article 3, Russia has the right to extend her territorial sea to a zone exceeding four miles in width in the eastern part of the Bay of Kronstadt.

The practice of international law (conventions, conferences, exchanges of notes, arbitration tribunal awards) varies greatly. Sometimes the system of national legislation is adopted and definite zones are created.

Convention between the United States of America and the United Kingdom concerning the regulation of the traffic in alcoholic liquor, signed at Washington January 23rd, 1924, Article 1: The High Contracting Parties declare that it is their firm intention to maintain the principle that the real limit of territorial waters is at a distance of three nautical miles from the coast towards the high seas, reckoned from low-water mark. Similar conventions were concluded between the United States of America and Germany; the United States of America and Sweden (April 22nd, 1924); the United States of America and Norway (May 24th, 1924); the United States of America and Denmark (April 29th, 1924); and the United States of America and the Netherlands (PAULUS, *op. cit.*, p. 412). It is only in the Treaty concluded with Great Britain that the limit of three miles is fixed. But all these treaties allow Customs control to be exercised outside the zone of the territorial sea. The peculiarity of these conventions lies in the fact that the Customs limit is not the same in all cases. It depends upon the speed of the vessel, subject to control; for supervision may not be exercised at a greater distance from the coast than the vessel in question can cover in one hour.

A three-mile fishing zone is recognised in the following treaties: Great Britain-United States of America (October 21st, 1818); France-Great Britain (August 2nd, 1839, and November 11th, 1867); International Convention regarding Fishing in the North Sea (May 6th, 1882); Denmark-Great Britain (June 24th, 1901); United States of America-Japan-Russia-Great Britain (July 7th, 1911).

A six-mile fishing zone is recognised in the Treaty between Spain and Portugal of March 27th, 1893; a fishing zone of one nautical league between Denmark and Sweden (July 14th, 1899); a zone of one nautical mile between Austria-Hungary and Italy (December 6th, 1891, and February 11th, 1906); and a zone of ten nautical miles between Roumania and Russia (October 16th-29th, 1907).

On November 29th, 1902, M. Asser, acting in the capacity of arbitrator, ruled, in the question of the United States fishing vessels "James Hamilton Lewis" and "C. H. White", which had been seized by Russian cruisers, that, in the absence of any agreement, Russian territorial waters could not extend as far as 11 miles from the coast.

In the arbitration award of 1893 in the Anglo-American dispute concerning seal-hunting in the Behring Sea, we find the following words: " . . . if such seals are beyond the ordinary limit of three miles"

As regards the safety zone, the Convention of October 29th, 1888, concerning the Suez Canal stipulates a width of three miles.

A neutrality zone of five and three miles is provided for in the Anglo-American (U.S.A.) Treaty of December 31st, 1806.

A criminal jurisdiction zone of five miles is provided for in the Treaty of Montevideo of January 23rd, 1889 (Article 12).

The "Elida" case. — "Die 'Elida' war ein schwedisches Fahrzeug, das am 8. Mai 1915 von einem deutschen Kreuzer Trelborg, jedenfalls ausserhalb der 3-Meilen-Grenze, aber vielleicht innerhalb der schwedischen 4-Meilen-Grenze festgenommen wurde. Das Kieler-Prisen-Gericht sprach die Prise frei. Das Urteil wurde unter andern darauf gegründet, dass die Festnahme wahrscheinlich innerhalb der 4-Meilen-Grenze und mithin in schwedischen Gewässern stattgefunden habe. Diese Betrachtungs-Weise konnte das Ober-Prisen-Gericht in Berlin nicht guthessen. Die Prisen-Ordnung sei in diesem Punkte klar. Die 3-Meilen-Grenze sei die einzig anerkannte Grenze. Auch hat sich die deutsche Regierung im Jahre 1897 auf eine von der schwedischen Regierung an die deutsche Gesandtschaft in Stockholm gerichtete Mitteilung über die Fischerei-Hoheits-Grenze darauf beschränkt, den Anspruch Schwedens auf die 4-Meilen-Grenze für die Fischerei nicht zu bestreiten." (See BJÖRKSTEN, *op. cit.*, pp. 47 et seq.)

The "Heina" case. — "Ein norwegisches Fahrzeug wurde am 13. Dezember 1914 in einer Entfernung von 4 ³/₄ See-Meilen von der dänischen Seeküste festgenommen. In dem Urteile wurde festgestellt, dass, weil Dänemark keine breitere Neutralitäts-Zone als eine von 4 See-Meilen beanspruche, Frankreich keine andere zu respektieren brauche." (BJÖRKSTEN, *op. cit.*, p. 48.)

"Das Aalands-Abkommen vom 20. Oktober 1921 enthält Bestimmungen betreffend die Ausdehnung der Aaländischen Territorial-Gewässer, d. h. der Zone, welche der Neutralisierung unterliegt. Einmal darf sich der Umfang der Zone niemals über eine longitudinal und latitudinal genau angegebene Linie erstrecken (diese bildet eine Maximums-Grenze), sodann wird die Breite der Zone der Territorial-Gewässer innerhalb der Zone auf 3 SM. festgestellt (Art. 2)."

• Sometimes, however, the view adopted is that of the sole dominion of the riparian State.

Under Article 4 of the Convention of 1888 concerning the Suez Canal, the provisions of that article are applicable to a zone of three miles outside the ports.

Cf. Hay-Pauncefote Convention of 1900, Article 2, paragraph 5: "The provisions of this article shall apply to waters adjacent to the Canal within three marine miles of either end".

"Nach Artikel 2 des Panama-Abkommens von 1903 erstreckt sich die durch das Abkommen festgestellte Zone 3 See-Meilen von den beiden Endungen des Kanals." (BJÖRKSTEN, *op. cit.*, p. 45.)

In opposing the Spanish claim to a six-mile zone, the United States of America and Great Britain upheld a three-mile zone. In 1875, Secretary Fish declared to Thornton: "We have always understood and assented that, pursuant to public law, no nation can rightfully claim jurisdiction at sea beyond a nautical league from its coasts". (FULTON: "The Sovereignty of the Sea", Edinburgh and London, 1911, p. 665, No. 2.)

"Auf der zweiten Haager Friedens-Konferenz wurde die Frage im Zusammenhang mit dem Minen-Abkommen behandelt. Der brit. Entwurf eines Minen-Abkommens enthielt das Verbot gegen die Legung von Minen ausserhalb der Territorial-Gewässer des Kriegsführenden, Festungen ausgenommen. In der 2. Unterkommission der 3. Kommission schlug Van der Heuvel anstatt des Ausdrucks 'Territorial-Gewässer' die Annahme einer fixen Grenz-Bestimmung vor. Der britische Delegierte erklärte, s. E. sei unter Küsten-Gewässer eine Küsten-Zone in einer Breite von 3 See-Meilen zu verstehen. Tornjell fand, dass die Feststellung der Ausdehnung der Küsten-Gewässer ausserhalb der Zuständigkeit der Konferenz liege. Dagegen wandte Van der Heuvel ein, es handle sich lediglich um die Feststellung einer Zone innerhalb deren Minen gelegt werden können. Der Ausschuss, dem die Ausarbeitung einer Konvention überlassen war, schlug in Artikel 2 seines Entwurfes die 3-Meilen-Zone vor; der Vorschlag wurde mit schwacher Mehrheit von der Kommission angenommen. Indem der Konferenz vorgelegten Entwurf war aber von keiner 3-Meilen-Grenze mehr die Rede; das Verbot gegen Minen-Legen auf offener See war weggelassen." (BJÖRKSTEN, *op. cit.*, pp. 46 et seq.)

"Während des Weltkrieges hat Deutschland ohne Rücksicht auf die schwedischen Ansprüche auf eine 4-Meilen-Zone mit Berechnung einer 3-Meilen-Zone Minen in den Schweden bespülenden Gewässern gelegt." (BJÖRKSTEN, *op. cit.*, p. 47.)

"Auf der vom 10.-20. Oktober 1921 abgehaltenen Aalands-Konferenz wurde im Entwurf eine 3-Meilen-Zone festgelegt." (BJÖRKSTEN, *op. cit.*, pp. 47 et seq.)

The Treaty concluded in 1924 between Great Britain and the Russian Soviet Republic declares (paragraph 2 of Article 5): "This article shall not be deemed to prejudice the views held by either party of the limits in international law of territorial waters".

The gunshot zone is identified with a width of three nautical miles in the Treaty concluded in 1806, but not ratified, between Great Britain and the United States, in Lord Stowell's award given in 1800 in the case of the "Twee Gebroeders" and in Story's judgment in 1812 in the case of the "Ana".

On February 25th, 1897, in the case of the Australian whaler "Costa Rica Packet", which had seized a Dutch ship, the arbitrator, M. F. De Martens, declared that the right of sovereignty of a State over territorial waters is determined by gunshot range. (FAUCHILLE, *op. cit.*, pp. 182 et seq.)

On November 29th, 1902, M. Asser, acting in the capacity of arbitrator, ruled, in the question of the United States fishing vessels "James Hamilton Lewis" and "C. H. White", which had been seized by Russian cruisers, that, in the absence of any agreement, Russian territorial waters could not extend as far as 11 miles from the coast. (FAUCHILLE, *op. cit.*, p. 183.)

All the codification projects are in agreement as to the necessity of establishing exact limits for the territorial sea.

Institut de Droit international, draft of 1894, Article 2: "La zone de mer territoriale s'étend à six milles marins (60 au degré de la latitude) de la laisse de basse marée sur toute l'étendue des côtes."

Article 4: "En cas de guerre, l'Etat riverain neutre a le droit de fixer, par la déclaration de neutralité ou par notification spéciale, sa zone neutre au-delà de 6 milles, jusqu'à portée des canons des côtes."

Cf. OPPENHEIM, in the Annuaire de l'Institut de Droit international for 1913 (pp. 404 et seq.): "Comme je ne crois pas qu'il soit recommandable d'étendre la limite de la mer territoriale au-delà de trois milles, je voudrais que l'Institut reconsidérât son attitude au sujet de l'étendue de la mer territoriale. . . J'adhère à la proposition de sir Th. Barclay d'abandonner l'article 4 des règles adoptées par l'Institut en 1894. Mais, en son lieu et place, j'aimerais proposer l'article suivant: 'En temps de guerre, la zone de la mer territoriale est la même qu'en temps de paix et des combats en mer ne sont permis, près des côtes des Etats neutres, qu'à une distance de portée de canon des côtes'. Je propose, comme texte de l'article 2 de l'avant-projet, un texte qui suivrait littéralement celui de l'article proposé par sir Th. Barclay en 1892: 'La zone de la

mer territoriale s'étend à trois milles marins de la laisse de basse mer dans toute l'étendue des côtes, à moins que l'usage continu et séculaire n'ait sanctionné une zone plus large." La raison pour laquelle je m'oppose à une extension de la limite de trois milles est que la souveraineté reconnue d'un Etat riverain sur la mer territoriale ne comprend pas seulement des droits, mais implique aussi de lourdes responsabilités en temps de paix, de même qu'en temps de guerre, et surtout pour les neutres en temps de guerre. Il faut aussi tenir compte de ce que la Grande-Bretagne, les Etats-Unis et plusieurs autres Etats, pour des raisons d'ordre politique, ne consentiront jamais à une augmentation du rayon de la mer territoriale, et, à mon avis, l'Institut ne devrait pas se prononcer en faveur d'une règle qui n'a aucune chance d'être unanimement adoptée en pratique par les Etats."

Project of Captain Stormy (International Law Association). — Article 1: "La mer territoriale s'étend depuis le rivage jusqu'au point indispensable à l'effet de garantir la défense, la neutralité et d'assurer les services de la navigation et de la police maritime côtière en leurs diverses manifestations." On ne fait figurer ici le droit de pêche exclusive, car nous croyons que ce droit doit faire l'objet d'une réglementation séparée. Article 3: "En général, la largeur de la mer territoriale n'excédera pas six milles." Article 15: "Aucun Etat ne pourra modifier, en cas de guerre, des limites de sa mer territoriale." Article 14: "Les limites acceptées pour la mer territoriale seront marquées, à l'aide d'un signe universel particulier, sur les cartes nautiques dont l'échelle le permettrait, en vue de sa connaissance par tous les navigateurs."

"Im Jahre 1924 wurde die Frage des Küsten-Meeres auf der Stockholmer Tagung der International Law Association in der Versammlung erörtert. Die Kommission, die mit den Vorbereitungen der Frage beschäftigt war, schlug als allgemeine Grenze der Küsten-Gewässer 3 SM. vor. (Eine Minorität befürwortete die 6 SM. Grenze.) Die Kommission war darüber einig, dass die Seegrenze des Küsten-Staates für alle Staats-Funktionen nicht gleich zu sein brauche...." (BJÖRKSTEN, *op. cit.*, pp. 62 et seq.)

See also the report of Dr. DARDAY, *Report of the 25th Conference of the International Law Association*, pp. 547 et seq.

"Dans un projet sur les droits fondamentaux du continent américain, qui fut accepté provisoirement par la troisième Commission de l'Assemblée de juristes réunis à Santiago du Chili, en 1912, et qui fut, en 1917, présenté, à La Havane, à l'Institut américain de Droit international, M. Alvarez a proposé que la mer territoriale de l'Amérique est une distance de 6 milles marins" (Art. 14); (See ALVAREZ, *La Codificación del Derecho internacional en América*, p. 102.)

"C'est également la limite qu'a indiquée M. Pessoa dans le projet de code de droit international public qu'il a rédigé en 1911, à la suite de la décision de la troisième Conférence pan-américaine de 1906, relative à la codification du droit international, et qu'il a présenté en 1912 à l'assemblée des jurisconsultes tenue à Rio-de-Janeiro." (See PESSOA, *Projeto del código internacional publico*, 1911.)

American Institute of International Law: Draft Convention submitted to the session of the American Institute of International Law at Lima, Peru, December 20th, 1924. Article 3: "By territorial sea is meant the extent of the ocean which washes the coasts of the American Republics to a distance of ... marine miles measured from the lowest point of low-water mark". Article 11: "The American Republics may extend their jurisdiction beyond the territorial sea for an additional distance of ... marine miles for reasons of safety and in order to assure the observance of sanitary and similar regulations. . ."

The necessity of doing so seems to us to be all the more urgent because, in spite of divergencies of doctrine, the theory most widely accepted accords to the riparian State the right to extend the limit of its territorial sea to the range of the coastal guns by unilateral acts.

See OPPENHEIM, paragraph 186, *International Law*. — STRUPP, *Grundzüge des Völkerrrechtes*, p. 71: "Doch lässt sich nicht sagen, dass die 3-Meilen-Theorie einem Völkerrechtssatz entspräche. Auch die frühere Annahme der Kanonenschussweite vermag heute bei der grossen Tragweite der Küsten-Geschütze selbst nicht einmal mehr in dem Sinne einem Anhalt geben, dass das Küsten-Gewässer keines Falls weiter berechnet werden dürfe als auf Kanonenschussweite. So bleibt es dem einzelnen Landesrecht überlassen, die Küstenmeere bis dann von sich aus zu bestimmen". See the table of opinions given by FAUCHILLE, *op. cit.*, p. 177.

In view of the actual range of the coastal guns, we are faced by a positive rule of international law, the practical application of which would lead, at any rate in peace-time, to quite inadmissible results, which would restrict the freedom of the sea to an intolerable extent. This is also a point of importance in relation to war-time. (See the opinion expressed by OPPENHEIM, quoted *supra*, page 9.)

It is therefore necessary to decide upon a fixed territorial sea zone. If we examine the practice in international law, the codification projects and doctrine, with a view to establishing a fixed zone, we find a wide variety of limits. Whatever limits we may establish, we run the risk of prohibiting some State from exercising its administrative rights in connection with its dominion over the territorial sea to the extent to which it has been exercising them until the Convention comes into force. Further, we run the risk of restricting the rights of common user of other States in domains in which these rights have been exercised without question. On account of these difficulties, the efforts made in various quarters to fix a definite zone appear to have failed. For this reason, the problem can only be solved on the following lines: Within the zone of the territorial sea the rights of other States must be respected, as also the rights of common user in force in respect of the whole of the territorial sea (e.g., the right of pacific passage), and the rights which have hitherto been exercised in consequence of the rights of common user of the sea or by virtue of special treaties. In other words, if a riparian State, such as, for example, the German Reich, has hitherto restricted the exclusive rights of fishing near the coast to a zone of three nautical miles, the Convention to be drawn up must not result, in consequence of the fixing of a wider zone, in fishing vessels not having right of access to the German territorial sea to the extent to which such right of access has hitherto been accorded to them. If the historically acquired rights of other States are respected in this manner, such States should be satisfied, the more so that in principle the width of the territorial sea is to be extended to more than three nautical miles. The most practical limit would perhaps be six miles.

In fixing this limit the following considerations are of importance: First, the three-mile limit cannot be regarded as the zone of dominion generally accepted according to the practice and doctrine of international law. Further, there is the important fact, mentioned above, that according to the most approved doctrine a State has the right to extend its dominion to the range

of the coastal guns; consequently, the recognition of the six-mile limit would still involve a sacrifice on the part of many riparian States.

A further argument in favour of the six-mile limit is that the projects of codification which fix a definite limit take a six-mile limit as their point of departure (*cf.* the project of the Institut de Droit international, 1894, and the project of the International Law Association, 1895).

As has already been observed, the idea of fixing the limit at six miles is not approved by those States which have hitherto exercised more extensive administrative rights than would be accorded to them if a six-mile zone were adopted. This brings us to the two-zone system recognised by many writers.

See the project of the American Institute of International Law. RÆSTAD: "La mer territoriale", pp. 175 *et seq.* "Il faut donc envisager, à mon avis, la possibilité d'une différenciation progressive des droits que les nations exercent sur mer..." See also WESTLAKE, *International Law*, 2nd edition, pp. 189 *et seq.*; BJÖRKSTEN, *op. cit.*, pp. 65 *et seq.*

The first zone would be fixed. The basis of this zone should be the right of dominion exercised in principle by two riparian States subject to the reservations mentioned above. In the second zone the only rights of riparian States which should be recognised are those which have hitherto been exercised for purely administrative purposes. The Convention should enumerate the rights which riparian States may exercise in the second, variable, zone by acts of public authority. The possibility must be borne in mind that States which have not hitherto exercised rights by acts of public authority in this second zone might also become entitled to exercise rights there in virtue of the Convention.

Nevertheless, there is a serious danger that States might exhibit a general tendency to create for themselves a second zone which would be analogous in character to the first. It would be well to take steps in advance to prevent this. If riparian States are restricted in the manner proposed, in the second zone, to the exercise of definite rights which have been exercised up to the time of the coming into force of the Convention, it will be easier to avoid the difficulty of having to establish an abnormal limit for the exercise of rights in the second zone, *i.e.*, the variable zone. It would be of decisive importance for the future to determine the area within which the rights in question could be exercised. The doubts felt, in consequence of the adoption of such regulations, by certain States which would be prohibited from satisfying needs arising subsequently outside the zone of dominion might be dispelled by the following considerations: In most cases the common interests of several States would be at stake and these might be satisfied by a revision of the Convention. But even in the case of a need felt by a single State, the State in question might, as an exceptional measure, be authorised to apply to an international tribunal for permission to exercise the right in question. Such a grant to a particular State of rights which would further restrict the common freedom of the sea would be in accord with the legal conception which is now accepted, that the open sea is not *res nullius* but *res communis*. This conception may be regarded as the nucleus of the idea of an organised dominion of the community of nations over the sea.

See POLITIS, minutes of the meeting of the Institut de Droit international, August 1st, 1925: "Contrairement à l'avis exprimé précédemment, M. Politis estima qu'il y a grand intérêt à prendre parti dans la question de savoir si la mer est *res nullius* ou *res communis*. D'après lui, c'est la seconde solution qui représente aujourd'hui la vérité scientifique. L'idée de la *res nullius* était jadis en harmonie avec la conception négative de la liberté. Elle ne s'accorde plus avec la conception positive de la solidarité, qui est à la base des relations internationales modernes... La nécessité d'un contrôle international sur tous les usages de la mer, même, s'il a lieu, près des côtes, pénètre tous les jours davantage dans les habitudes et dans la conscience des peuples."

Such a grant would create special rights for the satisfaction of the newly felt needs of a riparian State outside the fixed zone. It would imply the existence of certain organising institutions to which we shall refer later.

The category of rights to be recognised in the second zone on the basis of existing usage should include police measures to prevent the possibility of prohibited military exercises by another State, and measures of Customs and sanitary control. Exclusive economic rights of user outside the six-mile zone are not claimed to-day by any State. It should be forbidden to grant such rights in future, even if it is desired to enable riparian States in exceptional cases to obtain permission to exercise new rights in the second zone.

In addition to these arguments, which all deal with the limit of the exercise of rights by the riparian State in the domain of the sea, in so far as such limit is fixed on the side of the high seas, mention should also be made of the line which limits the rights of dominion of the riparian State on the landward side. This question is much simpler. The general practice of the States, all projects of codification and the prevailing doctrine agree in considering that this line should be low-water mark along the whole of the coast.

See BJÖRKSTEN, *op. cit.*, p. 91; FAUCHILLE, *op. cit.*, pp. 195 *et seq.* (With regard to special configurations, see pp. 11 *et seq.*)

Consequently, Article 2 of the Convention will read as follows:

"Extent of the rights of the riparian State.

"Article 2. — The zone of the coastal sea shall extend for six marine miles (60 to the degree of latitude) from low-water mark along the whole of the coast.

“The rights of other States which have been exercised by virtue of the common right of user of the high seas or of special treaties shall not be affected. States may exercise their rights of dominion by virtue of usage, and within the limits of such usage, beyond the zone of dominion in the following domains: police measures to prevent the possibility of military exercises being carried out by other States, and measures of Customs and sanitary control. Other rights beyond the zone of dominion may only be accorded to the riparian State by the body mentioned in Article 3 if they are demonstrated to be urgently necessary. Such grant shall in no case include rights of exclusive economic user outside the territorial sea.”

IV. INTERNATIONAL WATERS OFFICE.

If the rules proposed by us be put into operation by Convention, there will still be very varied forms of legal rights in the parts of the sea near the coast, for, apart from the fundamental rights of common user in respect of the territorial sea, to which we shall return later, third States will be able to exercise various rights in respect of the territorial sea solely by virtue of the fact that they exercised such rights before the conclusion of the Convention in consequence of the common usage of the high seas or of special treaties. Again, riparian States could exercise special rights in waters which do not, strictly speaking, form part of the territorial sea. The legal position in this respect cannot be changed. The present state of affairs will continue. It is therefore necessary to prevent, at any rate for the future, the possibility of conflicts arising as a result of this confused legal position. This is not, we think, in any way impossible. All the questions which may arise can be reduced to this one question: To what point does the common right of user of the sea extend, and to what point do the rights of particular States, especially the riparian State, extend? This question of the limitation of the common use of waters is not new to jurists. It arises also in the interior of States, and civilised States have endeavoured to solve it by establishing registers of special waters, sometimes in connection with the establishment of land registers and sometimes separately.

These documents, which are published and controlled by State authorities, contain a record of all special rights restricting common use; and these records create the law for the future. All that is necessary is to transplant this institution to the domain of legal rights which restrict the common use of waters in the neighbourhood of riparian States.

International unions with special offices were established for many administrative purposes even before the formation of the League of Nations. The duty of an International Waters Office would be to compile a register of the rights which particular States consider they possess in the fixed zone of foreign riparian States, or which such riparian States consider that they possess outside their own fixed zone.

In the case of rights arising out of the traditional common use of waters not hitherto included in the fixed zone, the registration of such rights in favour of any State will suffice to ensure their enjoyment in future by all other States. In the case, however, of rights arising from special treaties, such rights can, naturally, only be claimed by the States signatory to these treaties, and only provided that they register them within a fixed time-limit. A time-limit must also be fixed for the registration of rights which the riparian State claims to exercise outside the fixed zone of the territorial sea. The legal instruments concerned must be presented and registered. The onus of proof will be upon the State applying for the registration of a right in its favour. Applications must be communicated to all the States signatory to the Convention; they may be opposed within a time-limit to be fixed. If an application is opposed, the question will be decided, in the first instance, by a mixed commission of experts and jurists. Appeal lies from decisions of this commission to the Permanent Court of International Justice. All States will be informed of the registration of a right. The register will be published.

The same procedure would apply in cases in which a State claims to have an urgent and new need outside the sphere of its dominion over the territorial sea. It must apply to the International Waters Office, which may only grant a right after publication of the application and provided that it is not opposed. In the event of opposition, the question goes before a mixed commission, before which the State claiming the right must prove that it cannot otherwise protect the interests affected. In this case also, both parties have a right of appeal to the Permanent Court of International Justice.

The International Waters Office will also be responsible for publishing maritime charts showing the zones of the territorial sea.

Article 3 of the Convention ought therefore to read as follows:

“International Waters Office and registration in the International Waters Register.”

“Article 3. — The States signatory to the Convention undertake to establish an International Waters Office.

“The duty of this Office is to compile a register of rights possessed by the different States in the fixed zone of foreign riparian States, or by the riparian States themselves outside the fixed zone.

“The registration of a right in the International Waters Register kept by the International Waters Office in favour of any State in a foreign territorial sea shall be in favour of all States, if such right is founded upon common usage.

"A time-limit of . . . shall be fixed by the International Waters Office for the submission of all applications for such rights, as also for rights claimed by a riparian State outside its fixed zone by virtue of usage.

"The relevant legal instruments must be presented and registered. The onus of proof shall be upon the State applying for registration of a right in its favour. Applications must be communicated to all the States parties to the Convention.

"Applications may be opposed within a time-limit to be fixed. If an application is opposed, the question is decided, in the first instance, by a mixed commission of experts and jurists. Appeal lies from decisions of this commission to the Permanent Court of International Justice. All States shall be informed of the registration of a right. The Register shall be published.

"The same procedure shall apply in cases in which a State claims to have an urgent new need outside the sphere of its dominion over the territorial sea. It must apply to the International Waters Office, which may only grant a right after publication of the application and provided that it is not opposed. In the event of opposition, the question shall go before a mixed commission, before which the State claiming the right must prove that it cannot otherwise protect the interests affected. In this case also, appeal lies to the Permanent Court of International Justice.

"The International Waters Office shall also be responsible for publishing maritime charts showing the zones of the territorial sea."

V. BAYS.

With regard to bays, the following dispositions are found in internal legislation, in international treaties, in the codification projects, and in international arbitration awards.

"Nach dem Vorbild eines ältern Englisch-Französischen Vertrages über die Kanal-Fischerei, eines französischen Reglements vom 2. August 1839 und vom 24. Mai 1843, eines französischen Fischerei-Gesetzes vom 1. März 1888, einer Bekanntmachung des britischen Handels-Amtes vom November 1868 enthaltend eine Anerkennung der Gebiets-Hoheit des norddeutschen Bundes in seinen Buchten, wurde im Haager Vertrag vom 1883 über die Fischerei in der Nordsee folgende Bestimmung aufgenommen: Artikel 2, Absatz 2: 'Pour les baies, le rayon de trois milles sera mesuré à partir d'une ligne droite tirée en travers de la baie dans la partie la plus rapprochée de l'entrée, au premier point où l'ouverture n'excèdera pas dix milles.'" (SCHÜCKING, "Das Küstenmeer im internationalen Rechte", p. 22.)

"Norwegen gehört auch zu denjenigen Staaten, welche grössere Buchten beanspruchen. Von jeher besteht solcher Anspruch hinsichtlich der Vestfjord. Die Verordnung vom 17. Dezember 1896 verbot unter anderm den Walfang im Varanger Fjord und innerhalb einer Linie gezogen von Kiberg bis zur Mündung der Gräuss-Jakobselv, und bei Thiberg noch innerhalb einer geographischen Meile und Ufer." (BJÖRKSTEN, *op. cit.*, p. 83.)

"Auch Russland hat Souveränität über grössere Meerbusen beansprucht. Solange Finnland und die Baltischen Staaten zu Russland gehörten, wurde der finnische Meerbusen als ein russisches Eigengewässer behandelt. Der Tages-Befehl der Ost-See-Flotte vom 24. Juni (alten Stils) 1914 verordnete, dass der finnische Meerbusen für die Dauer der Kriege-Operationen für die Schifffahrt geschlossen sein solle. Im Jahre 1896 verbot Russland das Fischen mit Schleppnetzen im Weissen Meer, ein britischer 'Trawler' wurde dort im Jahre 1910 beschlagnahmt. In dem im Sommer 1924 unterzeichneten Abkommen zwischen Russland und Gross-Britannien wurde den Russen das ausschliessliche Recht zum Fischfang in diesem Meer südlich der Parallele 67 Grad 40 Sekunden zugestanden." (BJÖRKSTEN, p. 83.)

"In den beiden Englisch-Französischen Fischerei-Zonen vom 3 SM., gemäss den Verträgen von 1839 und 1867, wird als Grundlinie eine Linie festgestellt, die von dem einen Mündungsufer gezogen wird, in einer solchen Bucht deren Mündung nicht breiter als 10 SM. ist." (BJÖRKSTEN, *op. cit.*, p. 84.)

"Lord Fitzmaurice a déclaré, le 21 février 1907, à la Chambre des Lords d'Angleterre, qu'on ne pouvait comprendre comme territoriales que les baies dont l'entrée ne dépasse pas six milles; c'est aussi l'opinion qu'a émise, le 6 juin 1870, lord Granville, secrétaire d'Etat britannique pour les Affaires étrangères. On la trouve encore soutenue aux Etats-Unis par le juge Forster, dans la question des 'Halifax Fisheries' et, en 1890, par le juge Blatchford, au nom de la Cour suprême des Etats-Unis, dans l'affaire *Manchester v. Massachusetts*. (FAUCHILLE, *op. cit.*, p. 373.) La Cour d'arbitrage de La Haye, dans sa sentence arbitrale du 7 septembre 1910, rendue au sujet de l'affaire des pêcheries des côtes septentrionales de l'Atlantique entre les Etats-Unis et la Grande-Bretagne, après avoir déclaré que les baies territoriales s'étendent aussi loin qu'elles conservent la configuration et les caractéristiques d'une baie, a refusé de considérer comme un principe rigoureux de droit international s'imposant aux Etats la règle de la territorialité des baies dont l'ouverture n'excède pas six milles et a recommandé aux parties litigieuses d'admettre comme principe, sauf en ce qui concerne certaines baies qu'elle énumère et pour lesquelles elle adopte de plus longues distances, de ne regarder comme territoriales que les baies dont l'entrée ne dépasse pas dix milles. Un des arbitres, le Dr. Drago, émit une opinion dissidente: Après avoir soutenu qu'il existait une classe de baies, les baies historiques qui, quelle qu'ait leur largeur, sont territoriales, il déclara que, pour les autres, c'est-à-dire pour les baies communes et ordinaires, il ne pouvait pas y avoir de règles générales et que le principe à poser devait être tiré dans chaque cas de la pratique suivie par la nation intéressée." (FAUCHILLE, p. 374.)

See also other cases of international practice mentioned by FAUCHILLE, *op. cit.*, pp. 374 et seq.

As regards practice, see RÆSTAD, *op. cit.*, pp. 146 et seq.: "Quant à l'étendue des baies territoriales, la pratique, telle qu'elle s'est affirmée dans les conventions de pêche, a dégagé une tendance marquée vers la limitation des prétentions quelquefois exagérées à l'empire des baies. Mais la limitation arbitraire introduite par les dites conventions — la ligne de dix milles — n'a pas réussi à anéantir la territorialité des baies appelées historiques." Cf. also SALMOND, "Territorial Waters", in *The New Quarterly Review*.

Institut de Droit international: Resolution of 1894, Article 3: "Pour les baies, la mer territoriale suit les sinuosités de la côte, sauf qu'elle est mesurée à partir d'une ligne droite tirée en travers de la baie dans la partie la plus rapprochée de l'ouverture vers la mer, où l'écart entre les deux côtes de la baie est de 12 milles marins de largeur, à moins qu'un usage continu et séculaire n'ait consacré une largeur plus grande."

In 1895, the International Law Association fixed the width at ten marine miles.

Cf. OPPENHEIM, in the *Annuaire de l'Institut de Droit international* for 1913, pp. 406 et seq.: "La rédaction de cet article (Article 3) a besoin d'être modifiée, puisque la distinction nécessaire n'y est pas faite entre les baies qui sont environnées de terres d'un seul Etat et les autres. Il est universellement reconnu que les baies qui sont environnées des terres de deux ou plusieurs Etats, quelque étroite que soit leur embouchure, ne sont pas territoriales, mais forment partie de la haute mer. Pour cette raison, je propose le texte suivant pour l'article 3: 'Pour les baies qui sont environnées des

terres de deux ou plusieurs Etats, la mer territoriale suit les sinuosités de la côte. Pour les baies qui sont environnées de terres d'un seul Etat, la mer territoriale suit les sinuosités de la côte, sauf qu'elle est mesurée. . . .

"Quant à déterminer combien l'embouchure des baies doit être étroite, afin qu'on puisse les considérer comme territoriales, il est impossible, à mon avis, de poser d'autres règles que celle-ci: 'L'ouverture vers la mer doit être assez étroite pour être commandée par des batteries de la côte'. Toutefois, si l'Institut était d'avis de poser la règle que l'ouverture ne doit pas être plus large que 12 milles, je n'y ferais pas d'objections, car la portée du canon augmente constamment."

Project STORNY, Article 6: "Dans les baies, golfes, criques et anses de la côte, la mer territoriale suivra en général, la configuration de celle-ci, sauf qu'elle doit être comptée à partir d'une ligne droite tirée à travers la baie, golfe, crique ou anse, dans la partie la plus rapprochée de l'entrée de la mer où la séparation des côtes soit telle que les deux zones de mer territoriale déterminées chacune et séparément, conformément au critérium du présent projet de convention, se trouvent en effet pratiquement unies." Article 7: "L'Etat pourra comprendre dans les limites de la mer territoriale les estuaires, golfes, baies ou parties de la mer adjacente où un usage continu et séculaire aura consacré sa juridiction, ou qui, dans le cas où ces précédents n'existaient pas, seraient d'une nécessité inéluctable selon le concept de l'article 2."

Project of the American Institute of International Law, Article 4, paragraph 1: "For bays extending into the territory of a single American Republic, the territorial sea follows the sinuosities of the coast, except that it is measured from a straight line drawn across the bay at the point nearest the opening into the sea where the two coasts of the bay are separated by a distance of . . . marine miles, unless a greater width shall have been sanctioned by continued and well-established usage."

The facts and opinions which have been quoted give an idea of the variety of usages and of the multiplicity of conceptions. The impression which the table creates proves once again the necessity for codification. If codification is to be effective, due consideration must be shown in this matter also to the various conceptions which are entertained. Such a method demands that a clear distinction should be drawn, on the basis of the usages in force, between bays to which the rules of ordinary international law should be applied, even if these are not at present beyond doubt, and the bays in respect of which a particular State has claimed to occupy a special legal position (historical bays).

Let us begin by examining the former. These may be divided into two categories: (1) bays which are bordered by the territory of a single State; (2) bays which are bordered by the territory of two or more States.

See, as regards international practice in relation to the second group of bays, FAUCHILLE, *op. cit.*, pp. 384 *et seq.* Project of the American Institute of International Law, Article 4: "In the case of an international bay whose coasts belong to two or more different countries, the territorial sea follows the sinuosities of the coast, unless there exists a convention to the contrary".

As regards bays which are bordered by the territory of a single State, there is general agreement on the point that the entrance to the bay on the side of the opening towards the sea must not exceed a certain width. The waters of these bays are not regarded as territorial waters but as internal waters. See Sir Cecil HURST, "The Territoriality of Bays", *British Year-Book of International Law*, 1922-23, pp. 42 *et seq.*

Divergencies of opinion only arise on the following question: How narrow must the entrance to the bay be in order that this rule may be applicable? If we adopt a six-marine-mile zone for the territorial sea, it would seem logical to apply the rule in question to all bays whose imaginary entrance line does not exceed 12 marine miles in width, for the riparian State dominates on both sides all the part nearest to the opening towards the sea. This being so, it would seem logical to assign all the waters within the bay to the riparian State, but not *qua* territorial sea. We must recognise the more absolute right of dominion which a State exercises over its internal waters. For bays which are bordered by a single State, but the entrance to which exceeds 12 miles in width, it must be admitted in case of doubt, *i.e.*, if no historical right can be upheld in respect of the territorial sea, that the territorial sea is governed by the general rule (*i.e.*, that it follows the sinuosities of the coast).

The same rule of law is applicable to bays whose shores belong to various States, without reference to the width of the bay. All the recent codification projects are in agreement on this point.

There remains to be considered the legal status of bays which are only bordered by a single State and which are subject for historical reasons to claims of exclusive right of user. As we have already observed, such a right must be recognised on principle. The position is an anomalous one, and for that reason such rights must be dealt with in the same way as the rights to be exercised outside the fixed zone of the territorial sea by particular States. At the same time, it must not be forgotten that in the case of bays such rights lead to the recognition of a general right of dominion over the waters in question (the internal waters of the bay) and not merely to the exercise of certain special rights of dominion (such as, for example, the right of sanitary or Customs control).

As these historical rights restrict in a special manner the common use of the sea, it is necessary that they should be definitely formulated in an international convention, as was proposed in respect of the rights of the riparian State outside the territorial sea. This should be done under the same conditions as in the case of the rights enumerated in Article 3, *i.e.*, the rights in question should be registered in the International Waters Register. It should be made impossible for such rights to be acquired in the future.

Article 4 of the Convention should therefore read as follows:

"Bays.

"Article 4. — In the case of bays which are bordered by the territory of a single State, the territorial sea shall follow the sinuosities of the coast, except that it shall be measured from a straight line drawn across the bay at the part nearest to the opening towards the sea,

where the distance between the two shores of the bay is 12 marine miles, unless a greater distance has been established by continuous and immemorial usage.

"In the case of bays which are bordered by the territory of two or more States, the territorial sea shall follow the sinuosities of the coast.

"As regards the recognition of rights which are in contradiction with the tenor of the general rules, the provisions of Article 3 concerning presentation and registration in the International Waters Register shall be applicable. It shall not be possible to acquire such rights in the future."

VI. ISLANDS.

Special difficulties may arise in cases where—as frequently happens—there is an island or a number of islands situated off a coast. Is the zone of the territorial sea to be measured from the coast of the mainland or from the coast of the island on the side of the high seas? We find material for the solution of this question in national legislations, in the practice of States and in the codification projects.

"Nach dem Nordsee-Abkommen soll die 3-Meilen-Grenze von der niedrigen Wasser-Linie und den 'Iles et des bancs qui en dépendent' gerechnet werden. Der Ausschuss der II. Friedens-Konferenz, dem die Ausarbeitung des Entwurfes eines Minen-Abkommens überlassen wurde, schlug vor, dass die 3-Meilen-Grenze von der Niedrig-Wasser-Linie wie 'des fles et des flots qui en dépendent' gerechnet werden solle. Die Veränderung des Ausdruckes des Nordsee-Abkommens wurde in folgender Weise begründet:

"Aux embouchures des grands fleuves et, à vrai dire, partout dans le monde . . . on trouve des récifs et des bancs de sable à une distance beaucoup supérieure à trois milles de la côte; si l'on ne rend pas le texte plus précis, en supprimant la mention des bancs, il sera loisible d'étendre l'application de l'article 2 à ces bancs et ces récifs entièrement ou en partie submergés, et le principe adopté, qui interdit, en règle générale, de placer des mines en dehors des eaux côtières, pourra être compromis."

"Die französische Verordnung vom 18. Oktober 1912, die die Neutralitäts-Grenze Frankreichs auf 6 SM. feststellte, bestimmt, dass sie von der Küste 'et les bancs découvrants qui en dépendent, ainsi qu'autour du balisage fixe qui détermine la limite des bancs non découvrants' zu rechnen sei.

"Das Aaland-Abkommen bestimmt (Art. 2, § 11): 'Les eaux territoriales des îles d'Aaland sont considérées comme s'étendant à une distance de trois milles marins de la laisse de basse mer des îles, flots et récifs non constamment submergés'."

"Das Dekret des Dänisch-Norwegischen Königs von 1745 rechnete die 4-Meilen-Grenze von den Untiefen und Schären ausserhalb der Norwegischen Küste. Das Gesetz vom 14. Juli 1922, welches die Zoll-Grenze Norwegens auf 10 SM. feststellte, hat eine neue Formulierung eingeführt, indem es bestimmt, dass diese in einer Entfernung von 10 SM. ausserhalb der Inseln und Felseninseln, die nicht ständig von dem Meere überspült werden, liegen solle."

"Nach Artikel 3 des Dorpater Friedensvertrages zwischen Soviet-Russland und Finnland bestimmt sich die Ausdehnung der Territorial-Gewässer Finnlands im finnischen Meerbusen 'à partir de la côte ou à partir du dernier flot ou rocher dépassant le niveau de la mer'. Nach Anmerkung 1 des Artikel 3 des Vertrages werden die auf den beiden russischen Seekarten gezogene Grenze für authentisch erklärt." (BJÖRKSTEN, *op. cit.*, pp. 85 et seq.)

Under the terms of the peace treaties which put an end to the world war of 1914-19, the maritime frontiers include, in principle, islands and islets situated less than three miles from the coast. This is laid down in particular in Article 30 of the Treaty of Sèvres with Turkey; and the same provision is found in Article 6 of the Treaty of Lausanne of July 24th, 1923.

The rules issued by the Institut de Droit international in 1894 merely state that the territorial sea extends for six marine miles from low-water mark along the whole of the coast; the Rapporteur, Mr. Barclay, declared, however, that the expression "coast" included the coast of the islands. (See the *Annuaire de l'Institut de Droit international*, Volume 12, p. 126, and Volume 13, pp. 293, 298 and 329.)

American Institute of International Law; Article 5: "With regard to islands and keys possessed by an American Republic outside or within the limits of its territorial sea, each shall be surrounded by a zone of territorial sea coming within the definition of Article 3. In case of an archipelago, the islands and keys composing it shall be considered as forming a unit and the extent of territorial sea referred to in Article 3 shall be measured from the islands farthest from the centre of the archipelago."

In this question also our task is to define a law which is in process of formation, for already we are able to refer to facts and doctrines based upon the conception of a uniform law.

As regards the doctrine, see BJÖRKSTEN, *op. cit.*, pp. 86 et seq.

The zone of the territorial sea is measured not from the mainland but from the coast of the islands off the mainland. This rule can only be maintained on the twofold hypothesis that we are dealing with islands which are not always completely submerged by the sea and that the islands in question are not so far distant from the coast that they would be outside the zone of the territorial sea if the latter were measured from the coast of the mainland. Agglomerations of islands situated off the coast must be regarded as units, and consequently the island which is situated farthest from the centre of the agglomeration of islands in the direction of the high seas is taken as the basis for measuring the zone of the territorial sea.

As regards islands which are artificially created by anchorage to the bed of the sea, and which have no solid connection with the bed of the sea, but which are employed for the establishment of a firm foundation, e.g., for enterprises designed to facilitate aerial navigation, we must be guided by the view that such an enterprise cannot claim that a special zone of territorial sea is constituted round such artificial island. Such fictitious islands must be assimilated to vessels voyaging on the high seas.

It has been discussed whether a zone of territorial sea should be established around artificial islands which are actually connected with the bottom, such as islands designed to carry light-houses; there is no uniform legal doctrine as regards such islands. This is evident from the

fact that two such eminent authorities as the English judge, Lord Russell, and the jurist, M. L. Oppenheim, have expressed divergent views.

Lord RUSSELL states: "If a lighthouse is built upon a rock or upon piles driven into the bed of the sea, it becomes, as far as that lighthouse is concerned, part of the territory of the nation which has erected it". OPPENHEIM says: "Il n'y a pas de droits de souveraineté sur une zone de la mer qui baigne les phares".

We must also abandon the attempt to settle the difficulties arising out of the presence of permanent ice near the coast. (For international practice, see FAUCHILLE, *op. cit.*, page 203.)

The cases mentioned by Fauchille (Spitzbergen, Alaska) are not sufficient to enable us at the present time to claim that there is a definite legal conception which could be used as a basis for a codified rule. No project of codification refers to the matter.

Article 5 of the Convention would therefore read as follows:

"Islands.

"Article 5. — If there are natural islands, not continuously submerged, situated off a coast, the inner zone of the sea shall be measured from these islands, except in the event of their being so far distant from the mainland that they would not come within the zone of the territorial sea if such zone were measured from the mainland. In such case, the island shall have a special territorial sea for itself."

VII. COMMON LAND FRONTIERS.

Difficulties may arise with regard to the fixing of the frontier of the territorial sea at places where two States have a common land frontier meeting a particular coast. The question is whether we should regard as the limit between the two territorial seas an imaginary line constituting the prolongation of the land frontier between the two States in the same direction towards the sea or if a line should merely be drawn at 90° to constitute the frontier line between the two territorial seas at the point on the coast where the territories of the two States join.

In the case of existing States, the matter will be settled by historical considerations.

In the event of a political change in the existing frontiers between riparian States, it would be advisable to establish special rules in each case having regard to the special geographical circumstances which have led to the fixing of a new frontier. It would be better to arrange for the conclusion of a special agreement between the States concerned, or for the settlement of the matter by arbitration or an ordinary tribunal, than to lay down an immutable principle. For example, a similar frontier dispute between Sweden and Norway was settled by an award of the Permanent Arbitration Court at The Hague in 1909, while on the occasion of the separation of Finland from Soviet Russia the matter was settled by contractual agreement.

See STRUPP: "Der Schwedisch-Norwegische Grenzstreit", quoted by SCHÜCKING in *Das Werk vom Haag*, Series 2, Volume 1, pp. 47 *et seq.*; BJÖRKSTEN, *op. cit.*, pp. 93 *et seq.*

VIII. STRAITS.

There remains to be considered, as we have already observed, the application to narrow straits of the rules of law concerning territorial waters. Although the theory of territorial waters is not without influence on the question of artificial maritime channels, these can clearly be eliminated, as they are not included in the definition of the subject under discussion by the Rapporteur of the Second Sub-Committee.

As regards straits, we are not called upon to consider those which are not subject to conventional regulation. Further, we are only called upon to consider straits the entrance to which is not more than 12 marine miles in width, for, in the case of wider straits, the ordinary principles of territorial waters apply. This is so whether the straits which are more than 12 miles wide are in the possession of several States or of a single State. Difficulties only arise where, although the strait is less than 12 marine miles wide at the entrance, it exceeds this limit in its subsequent course.

In this case it will be necessary to distinguish according as the strait is surrounded by the territory of several States or only by the territory of one State. In the former event, the principles concerning territorial waters will, of course, be applicable; in the latter, legal practice is based on the idea that, if the entrance and the issue of a strait less than 12 marine miles wide belong to the riparian State, all the waters of the strait must belong to that State, in accordance with the principle governing bays.

It seems to us of capital importance that this principle should be codified.

Likewise, the following principle: In the case of a strait less than 12 marine miles wide, bordered by several riparian States, difficulties arise with regard to the fixing of the boundary of the territorial waters within the strait; for, if it were decided to assign to each riparian State the ordinary six marine miles, there would be frequent disputes as to the right of dominion over the soil. Different solutions are possible. International practice, doctrine and codification projects have dealt with the question on various occasions.

For international practice and doctrine, see the well-documented work of GUERRA, "Les eaux territoriales dans les détroits, spécialement dans les détroits peu larges", *Revue générale de Droit international public*, 1924, pp. 232 *et seq.*

Institut de Droit international: Article 10 of the project of 1894: "Les dispositions des articles précédents s'appliquent aux détroits dont l'écart n'excède pas 12 milles, sauf les modifications et distinctions suivantes: les détroits dont les côtes appartiennent à des Etats différents font partie de la mer territoriale des Etats riverains qui y exerceront leur souveraineté jusqu'à la ligne médiane; les détroits dont les côtes appartiennent au même Etat et qui sont indispensables aux communications maritimes entre deux ou plusieurs Etats autres que l'Etat riverain font toujours partie de la mer territoriale du riverain, quel que soit le rapprochement des côtes . . ."

Article 11: "Le régime des détroits actuellement soumis à des conventions ou usages spéciaux demeure réservé."

STORNY project: Article 8: "Dans les détroits s'appliqueront les mêmes règles que les précédentes. Si les deux côtes appartiennent à un même Etat et si la largeur du détroit est inférieure ou pratiquement égale au total de l'étendue qui correspond aux eaux juridictionnelles des côtes, toute la largeur du détroit fait partie de la mer territoriale. Si les côtes, dans ce cas, appartaient à deux ou plusieurs Etats, la séparation des juridictions serait fixée par convention entre lesdits Etats riverains."

Project of the American Institute of International Law. In the American project questions concerning straits are not dealt with in the section on the territorial sea but in a special section entitled: "Straits and Natural Channels connecting two Seas". According to Article 20 of this section, the principles governing the territorial sea (Articles 6-11) are applicable to straits and channels.

Article 17: "In straits and natural channels connecting two open seas and separating two or more Republics—either on two continents, a continent and an island, or two islands—the limit of the territorial waters of each Republic shall be the middle of the strait or channel separating them, if the width of this is less than . . . miles. In such case, each one of the said Republics has within its own zone the right of sovereignty and jurisdiction which it possesses over its territorial sea."

Article 18: "If the strait or channel is more than . . . miles in width, the right of jurisdiction of the riparian American Republics shall extend, in the case of each of them, for . . . miles from their respective coasts. Outside this limit navigation shall be entirely free, but only if each entrance to the strait is more than . . . miles in width; otherwise navigation in the said zone shall be subject to the regulations of the riparian Republics. As regards the installations mentioned in Article 15, these may only be established by the riparian Republics by common agreement."

Article 19: "If the strait or channel separates two coasts of the same Republic, the said Republic shall be the sole proprietor and navigation shall be subject to its regulations."

The legal view most generally favoured fixes as the limit the middle of the strait.

A rule of law not without practical importance which has been established as regards rights in straits serving as a passage to open seas is that such a strait may never be closed. This rule is in accordance with the idea that a riparian State is not entitled in time of war completely to close its territorial sea.

See SCHÜCKING: "Die Verwendung von Minen im Seekrieg", *Zeitschrift für internationales Recht*, 1906, pp. 121 et seq.

This involves matters concerning belligerent rights which are outside the scope of the present report. We consider, therefore, that we can leave on one side the application of the doctrine of belligerent rights to measures of constraint applied under peace-time regulations, such, for example, as the pacific blockade of a riparian State by other States.

For this reason, the Convention need only contain the following disposition with regard to the question of straits:

"Straits.

"Article 6. — The regime of straits at present subject to special conventions is reserved. In straits of which both shores belong to the same State the sea shall be territorial even if the distance between the shores exceeds 12 miles, provided that that distance is not exceeded at either entrance to the strait.

"Straits not exceeding 12 miles in width whose shores belong to different States shall form part of the territorial sea as far as the middle line."

IX. PACIFIC PASSAGE.

The doctrine which we have adopted, based upon the fundamental right of dominion of the riparian State over the territorial sea, has never denied that all States possess rights of common user over the territorial sea, the most important of which is the right of free passage. The question to what extent, in the event of war, the rights of common user possessed by States over foreign territorial seas can be restricted by the rights of belligerents and neutrals need not be examined here.

The right of free passage is frequently recognised in national legislations and in conventional practice.

We may refer in this connection to a decree issued by France on May 26th, 1913, for the purpose of determining in time of war the conditions of access and sojourn for vessels other than French warships in anchorages and harbours along the coast (Article 2). In Italy, it is expressly declared, in a law dated June 16th, 1912, with regard to the regulation of the transit and anchorage of merchant vessels along the coasts of a State, that "the transit and sojourn of national or foreign merchant vessels may be prohibited at any time—in time of peace as well as in time of war—and at any place whatever, whether internal or external, in the seas of the State, if this is considered necessary in the interests of national defence."

We find the same doctrine in the United States:

"We do not contest the right of vessels of other nations", wrote Secretary Bayard on May 28th, 1886, in a note to Mr. Manning, Secretary to the Treasury, "to pass freely through the zone of the territorial sea, provided that in so doing, they do not become a source of peril for the shore or give rise to suspicions of smuggling".

The Treaties of Peace with Germany, June 28th, 1919 (Article 321), of Neuilly-sur-Seine with Bulgaria, November 27th, 1919 (Article 212), and of Sévres with Turkey, August 10th, 1920 (Article 328), after stipulating that Germany, Bulgaria and Turkey undertake respectively to grant freedom of transit through their territories, on the routes most convenient for international transit, to vessels coming from or going to territories of any of the Allied and Associated Powers, declare that "for this purpose the crossing of territorial waters shall be allowed".

In Conventions concluded on June 28th, September 10th and December 9th, 1919, with the Principal Allied and Associated Powers, Poland (Article 17), the Kingdom of the Serbs, Croats and Slovenes (Article 15) and Roumania also undertook to grant freedom of communication and transit to those Powers across their "territorial waters".

A similar provision is also to be found in the Convention of April 21st, 1927, regulating as regards transit the relations between Germany, Poland and the Free City of Danzig (Article 1).

Finally, the same principle is formulated collectively in the Convention on Freedom of Transit signed at Barcelona on April 20th, 1921. It was stated in the draft of this Convention that "transit across territorial waters shall be free" (Article 2), and in Article 2 of the final text of the annexed Statute that, "in order to ensure the application of the provisions of this article (concerning free transit), the Contracting States will allow transit in accordance with the customary conditions and reserves across their territorial waters". The rule thus adopted—which clearly does not concern warships, since the Convention only relates to transit considered in its commercial aspect—is to "continue in force in time of war so far as such rights and duties (the rights and duties of belligerents and neutrals) permit". Its adoption, however, is without prejudice to the rights of sovereignty or authority of the Contracting States over routes available for transit (cf. preamble to the Convention), and it may be suspended on grounds of public health or security, or in case of an emergency affecting the safety of the State or the vital interests of the country (Articles 5 and 7). (FAUCHILLE, see pp. 1090 *et seq.* and pp. 169 *et seq.*)

Article 32, Section 6, Paragraph 1, of the Peace Treaty of Dorpat grants to merchant vessels the right of free passage across the waters of the Contracting Parties. Freedom of passage across the territorial waters is expressly provided for in the Treaty of Commerce and Navigation between Great Britain and Finland dated December 14th, 1923 (Article 11, Paragraph 2).

All the codification projects admit the right of free passage.

Institut de Droit international: Article 1: "L'Etat a un droit de souveraineté sur une zone qui baigne la côte, sauf le droit de passage inoffensif réservé à l'article 5." Article 5: "Tous les navires, sans distinction, ont le droit de passage inoffensif par la mer territoriale, sauf le droit des belligérants de réglementer et, dans un but de défense, de barrer le passage dans ladite mer pour tous navires et sauf le droit des neutres de réglementer le passage dans ladite mer pour les navires de guerre de toutes nationalités."

Cf. Article 10 of the Hague Convention of 1907 on the rights and duties of neutrals: "La neutralité d'une Puissance n'est pas compromise par le simple passage dans ses eaux territoriales des navires et des prises des belligérants".

The projects of the International Law Association contain the same provisions as the project of the Institut de Droit international.

Article 7 of the project of the American Institute of International Law reads as follows: "Merchant vessels of all countries may pass freely through the territorial sea, subject to the laws and regulations of the Republic to which the said sea belongs. Neither warships nor merchant vessels can sojourn in the territorial sea, or fish there, or commit any act involving the violation of those laws and regulations, without the authorisation of the said Republics".

Article 12: "Subject to the preceding restrictions, transit through this zone shall be absolutely free, as on the high sea."

In view of this general legal agreement as to the existence of the right of free passage, it might be held that a codification of the rule is superfluous, were it not that we are dealing with a principle the consequences of which may vary considerably in detail and may give rise to doubts and disputes. In the first place, we must decide whether in applying the rule of free passage a distinction is to be made between merchant vessels and warships. It has been pointed out in the doctrine on the subject that a right of free passage for warships can only be presumed and that the riparian State may arbitrarily prohibit the passage of warships through its territorial sea by the same right as it forbids access to its ports and internal waters. This view is, for example, expressed by the eminent professor, M. POLITIS.

See POLITIS, in the "Chronique des faits internationaux", *Revue générale de Droit international public*, Vol. 8, pp. 341 *et seq.*: "En temps de paix, il est admis comme principe général que l'accès des eaux territoriales ou nationales d'un Etat est présumé libre pour les navires de guerre étrangers. Ce principe constitue une dérogation à la règle qu'une force armée étrangère ne peut, sans l'autorisation expresse du gouvernement, pénétrer sur le territoire. Aussi doit-il être restreint aux termes de la convention ou dans les limites de la coutume qu'il a établie. Or, la coutume admet que le libre accès des navires de guerre étrangers est basé sur la concession présumée du souverain et cette présomption doit, par conséquent, disparaître toutes les fois que l'intention contraire est manifestée. Tout Etat a le droit de fermer aux navires de guerre étrangers ses ports. . . . Aussi bien la mesure est-elle exceptionnelle, la règle la plus généralement suivie étant celle de la liberté moyennant certaines conditions."

In connection with this opinion it should be pointed out that such a restriction of the right of free passage to merchant vessels alone is foreign to international law. At the same time, the project of the American Institute of International Law gives rise to doubt on the subject, inasmuch as it refers only to *merchant* vessels of all countries as being entitled to pass freely through territorial seas.

Of course, we are dealing only with "pacific" passage. It is much more natural to doubt the pacific character of the passage in the case of a large war fleet which enters the territorial sea of a foreign State at a time of general political tension than in the case of an ordinary merchant vessel. This does not, however, affect in any way the legal principle that even warships possess

a right of common user in respect of foreign territorial waters which cannot be restricted arbitrarily, but only for reasons of national self-preservation.

It is of importance that this principle should be codified, in order that all vessels without distinction may be assured the right of free pacific passage. This right should even be extended to submarines, though in their case it has often been disputed when occasion has arisen.

Sir Thomas Barclay, in his 1925 Preliminary Report on the Revision of the Resolutions adopted by the Institut de Droit international regarding Territorial Waters, writes (page 4): "En ce qui concerne le droit de passage inoffensif, faut-il le limiter à la navigation sur la surface? En d'autres termes, y a-t-il lieu d'interdire le passage, même inoffensif, de vaisseaux sous-marins submergés et ainsi invisibles de la rive? La question me paraît très discutable, car cette navigation échapperait au contrôle de la police côtière. Ainsi, le sous-marin pourrait endommager des câbles sans être vu. Il est possible, d'ailleurs, que la pêche pourrait être exercée par des bateaux submersibles..."

A very reasonable attitude, however, was adopted towards the regulation of this question by the eminent Professor Diena, who proposed that submarine vessels should be required to pass through territorial waters on the surface (Minutes of the meeting of the Institut de Droit international, August 1st, 1925).

Without this safeguard, the riparian State could not be certain whether the passage was really pacific.

So far as concerns the right of free passage, no distinction whatever should be drawn between vessels coming from another territorial sea, or from the high seas, or proceeding from an international river to the high seas in the course of their voyages. In the last-mentioned case, the right of free passage through territorial waters is also recognised by the Barcelona Statute of April 20th, 1921, on the Regime of Navigable Waterways of International Concern. In this case, the merchant ships in question would, on leaving the international river and entering the territorial sea, become subject to the rules governing the rights of merchant vessels in the territorial sea, for the Statute on the Regime of Navigable Waterways of International Concern recognises only the right of free access to the sea.

Some uncertainty might arise as to vessels sojourning in a foreign territorial sea. Accordingly, the American Institute of International Law thought it necessary to include in its project the following clause: "Neither warships nor merchant vessels can sojourn in the territorial sea without the authorisation of the said Republics".

In our opinion, such a rule is not necessary in so far as the vessels are sojourning in the foreign territorial sea with the intention of proceeding further: where, for example, a sailing vessel is awaiting favourable weather, or a steamship is unable to continue its voyage pending urgent repairs.

A right of free passage must cover a sojourn of this kind. If a merchant vessel remains at anchor with the object of awaiting the arrival of smugglers at a certain place in order to transfer prohibited imports to them, it obviously cannot justify its sojourn by invoking the right of free passage. To avoid risks of this kind, the riparian State may place restrictions on such sojourn. (For the sojourn of warships in a territorial sea, see p. 28.)

Furthermore, the right of free passage includes the passage of persons and goods whose admission to the foreign territory is prohibited — assuming, of course, that the passage required is merely through the territorial waters in question. The crew of a German fishing-boat found in Moroccan territorial waters was recently prosecuted in the French naval courts, not only on the ground that fishing was prohibited but on the ground that the vessel had entered Moroccan territory without special authorisation and in contravention of an explicit prohibition. It would be desirable to formulate definitely the right of transit for persons and goods as a corollary of the principle of free passage. As regards that part of the territorial sea which connects international rivers with the high seas, this principle is already established by Article 3 of the Statute on the Regime of Navigable Waterways of International Concern.

Article 7 of the proposed Convention would contain the following provisions:

"Pacific passage.

"Article 7. — All vessels, without distinction, shall have the right of pacific passage through the territorial sea. In the case of submarine vessels, this right shall be subject to the condition of passage on the surface. The right of passage includes the right of sojourn, in so far as the latter may be necessary for navigation. For the sojourn of warships, see Article 12.

"The right of free passage includes the right of passage for persons and goods, independently of the right of access to the foreign mainland."

X. COASTING TRADE.

The right of the riparian State to reserve the coasting trade to its own nationals is an exception to the right of passage through foreign territorial waters. On this subject there is a general juridical conception which is embodied in numerous national enactments and in international conventions, and which is also reflected in the doctrine of international law.

The rule excluding vessels flying a foreign flag from the coasting trade is enforced by the legislation of almost every European country: Germany, Law of May 22nd, 1881; France, Law of September 21st, 1793, Law of April 2nd, 1889, Law

of July 22nd, 1909; Portugal, Article 1315 of the Commercial Code of 1833 kept in force by the law approving the Commercial Code of 1888; Spain, Decree of July 15th, 1870; Italy, Law of July 11th, 1904. Great Britain: the Navigation Act of 1849 restricted the coasting trade to British subjects, but an Act of March 23rd, 1854, substituted a system of freedom for the system of prohibition, subject to the Government's right to withdraw by Order in Council the right of engaging in the coasting trade from the vessels of States which do not admit reciprocity. The coasting trade is free in Belgium and the Netherlands on payment of an indemnity. Finland has reserved the maritime coasting trade to her own vessels. Paragraph 4 of the "Commercial Law" of December 27th, 1919: "Commercial navigation between places situated in Finland shall only be carried on by Finnish vessels". See also the Treaty of Peace of Dorpat, Article 32, Section 6, paragraph 3: "The term coasting vessels, however, shall not include vessels navigating between the ports of the Baltic and the ports of other seas contiguous to Russia, including the seas in the interior of that country". Treaty of Commerce and Navigation concluded by Finland with Denmark, August 3rd, 1923, Article 17; with Germany, January 19th, 1923, Section 22, paragraph 2; with Great Britain, December 14th, 1923, Article 13, paragraph 3: "It is also understood that, in the event of the coasting trade of either party being exclusively reserved to national vessels, the vessels of the other party, if engaged in trade to or from places not within the limits of the coasting trades so reserved, shall not be prohibited from the carriage between two parts of the territories of the former party of passengers holding through tickets or merchandise consigned on through bills of lading to or from places not within the above-mentioned limits, and while engaged in such carriage these vessels and their passengers or cargoes shall enjoy the full privileges of this treaty."

The coasting trade is prohibited by the following conventions: France-Sweden and Norway, February 14th, 1865, Article 4; France-Austria, December 11th, 1866, Article 5; France-Russia, April 1st, 1874, Article 10; France-Spain, December 18th, 1877; France-Portugal, December 19th, 1881, Article 23; France-Great Britain, February 28th, 1882, Article 8; France-Austria-Hungary, April 9th, 1884, Article 8; France-Mexico, November 27th, 1886, Article 19; Peru-Portugal, 1853; Peru-United States, 1870; Peru-Russia, 1874; Peru-Argentine, 1874. Germany specially authorised the coasting trade with Siam, February 7th, 1872, Article 1; Roumania, February 14th, 1877, Article 1; Austria-Hungary, May 23rd, 1881, Article 11.

Cf. BJÖRNSTEN, *op. cit.*, p. 113: "Man unterscheidet zwischen kleiner Cabotage (*petit cabotage*) und grosser Cabotage (*grand cabotage*). Unter jener ist die Schifffahrt zwischen zwei demselben Staate zugehörigen am selben Meere belegenten, unter dieser die Seefahrt zwischen zwei demselben Staat zugehörigen, aber an verschiedenen Meeren gelegenen Häfen zu verstehen." P. 114: "In dem dem Entwurf des Wasserstrassen-Abkommens begleitenden Bericht, welcher der Konferenz von Barcelona vorgelegt wurde, wurde folgende Definition des Begriffs Cabotage gegeben: 'Les mots transports locaux signifient les transports autres que les transports à l'importation, les transports à l'exportation, les transports en transit, avec ou sans transbordement d'un navire ou bateau dans un autre, avec ou sans mise à quai, avec ou sans mise en entrepôt intermédiaire.'"

Cf. also Charles DE VISSCHER, *Le Droit international des communications*, p. 144.

It would be of advantage to codify the legal conception of the coasting trade, because certain doubts as to what is to be covered by the term could then be cleared up. If a codified rule could really be arrived at, it would give expression to an undoubtedly increasing tendency in the evolution of modern law. The question at issue is this: The most essential reason for reserving the coasting trade to the riparian State is, in accordance with the accepted doctrine of the theory of ancient international law, the desire to reserve the fishing in the territorial sea to the people of the coast, who are generally poor. This is largely a local and manual (*handwerklich*) industry, and it seems to us entirely irrational to extend the notion of coasting trade under the name of "long-distance coasting trade" (*grand cabotage*) so as to make it cover voyages from a port in a particular State to a port in a remote colony. The only possible result of such a legal conception would be to impose intolerable restrictions on the common use of the sea. Happily, there is now perceptible in the practice of States a tendency to confine the notion of the coasting trade to its original limits. Such tendencies as this are in the interests of international freedom of commerce and transit. Thus, on the occasion of the elaboration of the Ports Statute, the Geneva Conference of 1923 made the following recommendations:

"The Conference recommends that all States, including those which are not Members of the League of Nations, should accept the fundamental principles of the above-mentioned Statute and should refrain from inequitable economic measures, such as, in particular, an abusive extension of the scope of the maritime coasting trade.

"More especially, the Conference recommends to the States signatories to the Convention on the International Regime of Maritime Ports, or adhering thereto, and under the same sovereignty as other States whose territory is situated overseas, or States which have such territories under their sovereignty or authority, to apply, in all circumstances, in their ports or in the ports of the above-mentioned territories, and in the conditions laid down in Articles 2, 5 and 6, the same treatment to their own ships carrying on trade between their territories and such States or overseas territories, and also to their cargoes and passengers, as is applied to the ships of other Contracting States utilising the aforesaid ports and carrying on other trade than the trade specified above."

"The Brazilian delegation, supported by certain other delegations, made a definite statement that, as regards the conveyance between two ports in the same country of national or nationalised goods and of passengers coming from or destined for these ports, the general conditions as to transport, including, for example, harbour dues, pilotage, towage and railway rates, were not governed by the Convention. The Committee, however, considered that it was inadvisable to make a pronouncement on this subject. On the other hand, in whatever way the meaning of the phrase 'coasting trade' might be extended—the Committee did not wish to define its scope—the latter considered that a vessel, which called in turn in the course of a voyage at two or more ports between which navigation was reserved, should not be regarded as engaged in coasting trade unless it disembarked in one such port a cargo or passengers embarked at another such port."

A Convention drawn up at Barcelona, Article 5 of the Statute on the Regime of Navigable Waterways of International Concern, manifests the same tendency, as regards the coasting trade on important international rivers, to restrict the meaning of the coasting trade in the interests of freedom of commerce and transit:

"A riparian State has the right of reserving for its own flag the transport of passengers and goods loaded at one port situated under its sovereignty or authority and unloaded at another port also situated under its sovereignty or authority. A State which does not reserve the above-mentioned transport to its own flag may nevertheless refuse the benefit of equality of treatment with regard to such transport to a co-riparian which does reserve it."

We therefore recommend that the following article be included in the Convention:

"Coasting trade.

"Article 8. — A riparian State has the right of reserving for its own flag the transport of passengers and goods loaded at one port situated under its authority and unloaded at another port also situated under its authority. A State which does not reserve the above-mentioned transport to its own flag may nevertheless refuse the benefit of equality of treatment with regard to such transport to a co-riparian which does reserve it."

XI. JURISDICTION.

Questions of special difficulty arise when we come to consider how far a vessel passing through territorial waters is subject to the civil and criminal jurisdiction of the riparian State. We feel that in considering this question it is well to distinguish two cases — that of a vessel passing through foreign territorial waters and that of a vessel at a port in a foreign riparian State; for the legal position is essentially different. The port forms a portion of the inland waters, as is also perhaps implied by the definition given in the Ports Statute.

See DE VISSCHER, *op. cit.*, pp. 108 *et seq.*: "A très juste titre, la Conférence a estimé qu'un port maritime se caractérise essentiellement non par le fait qu'il est situé sur la mer, mais par le fait qu'il est régulièrement fréquenté par les navires de mer . . . Un port situé sur une voie d'eau intérieure tomberait donc sous l'application du Statut, s'il est utilisé normalement pour la navigation maritime . . ."

The territorial sea, on the other hand, has an entirely different character. For the present, therefore, we must leave on one side the case of a vessel in foreign ports; we shall deal with it later.

In our opinion, to subject vessels passing through the territorial sea to the full jurisdiction of the riparian State would be to restrict the use of the territorial sea to the detriment of such vessels. Applying this principle to civil jurisdiction, it would, for example, be possible for the creditors of a shipowner, on learning that their debtor's vessel was passing through the national territorial sea, to obtain an order from the Courts of the riparian State enabling them to have the vessel stopped in the middle of her voyage and seized as security.

Throughout the history of international law, there is no known case in which the Courts of a riparian State have been able to extend their competence to the point of ordering such a seizure or of taking such action as to compel witnesses to attend by coercion or arrest according to the rules of civil procedure. On the contrary, M. Fauchille quotes a decision of the French Cour de Cassation refusing to admit such competence on the ground that, "si les eaux territoriales sont remises aux pouvoirs de police et de sûreté de l'Etat, elles ne forment pas une portion du territoire français ou colonial et ne rentrent pas, dès lors, dans l'une quelconque des circonscriptions judiciaires en lesquelles il a été divisé". (*Proux v. Courcoux*, Chambre civile, November 20th, 1918, FAUCHILLE, p. 1096.)

It must not, however, be overlooked that opposite views are represented both in the doctrine of international law and in the codification projects. These views are clearly connected with the needs of criminal jurisdiction and assimilate the case to that of the legal position in connection with ports.

It is noteworthy, for example, that, whereas the Institut de Droit international adopts the principle of the exemption of vessels passing through the territorial sea from the jurisdiction of the riparian State, the distinguished jurist, Oppenheim, takes the opposite view; that is to say, he extends the jurisdiction of the riparian State to vessels passing through the territorial sea. The proposals put forward by the American Institute of International Law appear, in substance, to support Oppenheim's doctrine, since they subject vessels to the legislation of the riparian State and make no exception in the matter of jurisdiction. The riparian State could thus claim the right to unlimited jurisdiction over vessels passing through the territorial sea.

Cf. Institut de Droit international, Article 8, paragraph 1: "Les navires de toutes nationalités, par le seul fait qu'ils se trouvent dans les eaux territoriales, à moins qu'ils ne soient seulement de passage, sont soumis à la juridiction de l'Etat riverain . . ."

Oppenheim project: "Les navires de toutes nationalités, par le seul fait qu'ils se trouvent dans les eaux territoriales, sont soumis à la juridiction de l'Etat riverain."

Project of the American Institute of International Law; Article 7, paragraph 1: "Merchant vessels of all countries may pass freely through the territorial sea, subject to the laws and regulations of the Republic to which the said sea belongs."

There is a decision of the Federal Court of the United States which seems to admit of an intermediate point of view. It recognises in principle the jurisdiction of the riparian State, but endeavours to attenuate the monstrous consequences of this juridical conception by admitting the discretionary power of that State in regard to the application of the principle — a solution which does not seem entirely satisfactory.

Cf. NIELSEN: "The Lack of Uniformity in the Law and Practice of States with regard to Merchant Vessels", *American Journal of International Law*, Vol. 13, 1919, p. 81: "The general principles laid down in the cases to which attention has been called are concisely summarised with citations in the following extract from the opinion of the Court in the case of

Esther, in which suit was brought against the Swedish steamship by a seaman to recover unpaid wages and damages for personal injury: "... In the absence of treaty stipulations, the Courts of Admiralty have civil jurisdiction in all matters pertaining to the foreign ship ... in certain cases when the Court has the vessel in its territorial jurisdiction ... The exercise of this civil jurisdiction ... is not imperative but discretionary, and the Courts from motives of convenience or international comity will not take jurisdiction without the assent of the country to which the ship belongs, where the controversy involves matters arising beyond the territorial jurisdiction of this country, or relates to differences between the master and the crew, or the crew and the shipowners ..."

The question has been dealt with more frequently from the point of view of criminal jurisdiction. Of course, the writers and the Courts who wish to exempt passing vessels from the jurisdiction of the riparian State admit that the latter is competent to deal with offences against the regulations issued, in accordance with law, by the riparian State with regard to trade in the territorial waters (fishing, Customs and health control). On the other hand, the writers and the Courts who favour the jurisdiction of the riparian State over vessels passing through territorial waters contend that it has unlimited criminal jurisdiction in respect of all offences committed on board a foreign vessel passing through its territorial waters. British jurisprudence accepts this view in principle since the famous "Franconia" case, and the principle is established in the Territorial Waters Jurisdiction Act. In practice, however, this doctrine is restricted by the fact that no such criminal proceedings can take place except at the special request of one of the principal Secretaries of State. Except in the case of Great Britain, national legislation and international practice are divergent. Most countries are opposed to the conception admitted by Great Britain.

"Le système français fait application à la mer territoriale des règles de l'avis du Conseil d'Etat français du 21 novembre 1806 sur le régime des navires de commerce étrangers dans les ports. Il part du principe que la mer territoriale est une portion de l'Etat côtier qui doit soumettre à sa juridiction pénale les faits coupables commis à bord de tous les bâtiments marchands existant dans ladite mer, à l'exception de ceux qui ne portent pas atteinte à l'intérêt du riverain, pour lesquels la compétence doit appartenir aux tribunaux de l'Etat du navire. Les faits qui échappent ainsi à la juridiction territoriale sont: (1) les infractions à la discipline et aux services intérieurs; (2) les crimes ou les délits commis à bord entre gens de l'équipage, à quelque nationalité que ceux-ci appartiennent, qui n'ont pas troublé la tranquillité du territoire ou au sujet desquels le secours de l'autorité locale n'a pas été réclamé." (FAUCHILLE, *op. cit.*, p. 1099.)

"Le système de l'avis du Conseil d'Etat du 20 novembre 1806 a été consacré par les conventions signées par la France, en son nom ou au nom des pays du protectorat français, avec la Bolivie, le 5 août 1807, article 21; la République Dominicaine, le 25 octobre 1882, article 21; l'Espagne, le 7 janvier 1802, article 24 (2); les Etats-Unis, le 23 février 1853, article 8; la Grèce, le 7 janvier 1876, article 21; le Honduras, le 22 février 1856, article 23; l'Italie, le 26 juillet 1862, article 13; le Portugal, le 11 juillet 1866, article 12; la Russie, le 1^{er} avril 1874, article 11; le Salvador, le 5 juin 1878, article 21 (1 et 2)." (TRAVERS, *Le Droit pénal international*, Vol. 2, pp. 378 et seqq.)

The Treaty concluded on December 2nd, 1856, between the French and Spanish Governments quite definitely departs from the principles of the opinion given by the Conseil d'Etat on November 20th, 1806. According to Article 25 of this agreement: "Toute embarcation naviguant, passant ou pêchant dans la Bidassoa demeurera soumise exclusivement à la juridiction du pays auquel elle appartiendra, et ce ne sera que sur les îles et sur le territoire ferme soumis à leur juridiction que les autorités de chaque Etat pourront poursuivre les délits de fraude, de contravention aux règlements ou de toute autre nature que commettraient les habitants de l'autre pays; pour prévenir les abus et les difficultés qui pourraient résulter de l'application de cette clause, il est convenu que toute embarcation touchant à l'une des rives, y étant amarrée ou s'en trouvant assez rapprochée pour qu'il soit possible d'entrer directement au rivage, sera considérée comme se trouvant déjà sur le territoire du pays auquel appartient cette rive." (TRAVERS, *op. cit.*, p. 384.)

The Franco-Spanish Treaty has served as a model for all the subsequent conventions concluded by France, namely, with Italy, July 26th, 1862, Article 13; Portugal, July 11th, 1866, Article 12; Russia, April 1st, 1874, Article 2; Greece, January 7th, 1876, Article 21; Salvador, June 5th, 1878, Article 21; San Domingo, October 20th, 1882, Article 21; Bolivia, August 5th, 1897, Article 21.

The laws of a considerable number of other countries, while conforming in principle to the diplomatic agreements enumerated above, follow in practice the system described in the opinion of the French Conseil d'Etat of November 20th, 1806. Mention may be made of Belgian legislation, of Article 189 of the Mexican Penal Code and of Article 53 of the Portuguese Penal Code. The general ideas of the French system have also been adopted in Italy. (TRAVERS, pp. 390 et seqq.)

According to KOHLER (*Internationales Strafrecht*, p. 240), Germany has adopted the French system: "Das ergibt sich aus den Gesetzen vom 30. April 1884 und 4. März 1884, welche die Bestimmungen der Internationalen Nord-See Verträge auf die Küsten-Gewässer erstrecken, also einerseits der deutschen Gesetzgebung das Recht bestätigen, derartige Bestimmungen zu treffen, andererseits den fremden Fahrzeugen eine relative Selbstständigkeit zuerkennen. Daher auch die Bestimmung des § 129 Seemanns-Ordnung 1902, wonach eine Strafklage gegen einen Kapitän von Seiten eines Mitgliedes der Schiffsmannschaft nicht bei einem ausländischen Gericht erhoben werden darf. Es ergibt sich ferner für Deutschland, wie für andere Länder, aus der den Konsuln eingeräumten Polizei-Befugnis über die internen Verhältnisse der Inland-Schiffe, die in dem ausländischen Hafen liegen. Vergleiche das deutsche Gesetz über Bundes-Konsulate 1867, § 33, so dann die Dienst-Instruktion für Konsuln, 22. März 1873, worin ausgesprochen ist, dass bei internationalen Streitigkeiten des Schiffes die Lokal-Behörden nur einzuschreiten haben, wenn sie ersucht werden, oder wenn die öffentliche Ordnung gefährdet ist. Man vergleiche auch die deutschen Konsular-Verträge, z. B. den Konsular-Vertrag mit Russland 8. Dezember 1874, Artikel 11: 'Den Konsuln ... steht ausschliesslich die Aufrechterhaltung der innern Ordnung an Bord ihrer nationalen Schiffe zu.'" (TRAVERS, *op. cit.*, p. 384.)

Certain Latin-American countries, however, accept the British view.

"Conformément au principe du droit anglais et plus absolu, l'article 5 du code pénal chilien soumet à la loi chilienne les infractions commises à bord des navires étrangers autres que les navires de guerre, dans les ports chiliens et les eaux chiliennes. Par application de cette disposition, la Cour de la Serena, en 1876, affirmé la compétence des tribunaux chiliens pour connaître d'un vol commis à bord du vapeur anglais 'Eten', alors que ce bâtiment était, non pas dans un port, mais dans les eaux territoriales, à la hauteur de Huasko.

"L'article 2 du code d'instruction pénale de la République de l'Equateur contient une disposition semblable.

"Le Traité de Montevideo du 23 janvier 1889, relatif au droit pénal international, conclu entre le Paraguay, le Pérou, la République Argentine et l'Uruguay, a pleinement consacré le système de la loi anglaise de 1878 et des législations du

Chili et de l'Equateur. L'article 11 porte que les délits commis à bord des navires de commerce seront jugés et punis conformément à la loi de l'Etat dans les eaux duquel se trouvera le navire à l'époque où une infraction aura été commise." (TRAVERS, *op. cit.*, pp. 401 et seqq.).

The practice of the United States Courts does not appear to be uniform.

"Der Standpunkt der amerikanischen Gerichts-Praxis ist nicht ganz klar. Viel spricht dafür, dass man in der Union hauptsächlich dem französischen System nach dem Urteil von 1859 nahe steht. In dem Falle Wildenhuss von 1886 wurde vom Richter erklärt, dass auf Grund des internationalen Rechts ein Schiff das den Hafen eines fremden Staates zu Handelszwecken anlaufe, mangels anderweitiger Vertrags-Bestimmungen der lokalen Gerichtbarkeit unterworfen sei." (BJÖRKSTEN, *op. cit.*, p. 124.)

"But it had come to be generally recognised that, in comity, all matters of discipline and all things done on board which affected only the vessel or those belonging to her, and which did not involve the peace or dignity of the country or the tranquillity of the port, should be left to be dealt with by the authorities of the nation to which the vessel belonged." (WHEATON, *International Law*, pp. 168 seqq.)

As regards the codification projects, the Institut de Droit international, as we have already observed, takes the view that vessels passing through territorial waters are not as a general rule subject to criminal jurisdiction, except in the case of injury to the rights and interests of a riparian State or of one of its nationals not on board the vessel.

Institut de Droit international, Article 6: "Les crimes et délits commis à bord de navires étrangers de passage dans la mer territoriale par des personnes qui se trouvent à bord de ces navires, sur des personnes ou des choses à bord de ces mêmes navires, sont, comme tels, en dehors de la juridiction de l'Etat riverain, à moins qu'ils n'impliquent une violation des droits et des intérêts de l'Etat riverain ou de ses ressortissants ne faisant partie ni de l'équipage ni des passagers."

The same principle is adopted in the project drawn up by M. Storny for the International Law Association (Article 18). It should be observed that the project of the American Institute of International Law limits criminal jurisdiction in the same way in Article 10, although, as we have pointed out above, it lays down the principle that the riparian State has unlimited jurisdiction over vessels passing through its territorial waters.

The American Institute of International Law: Article 10: "Crimes committed on board a merchant vessel in the territorial sea belonging to an American Republic shall be subject to the jurisdiction of the country to which the vessel belongs, unless they disturb the order and public tranquillity of the region where they have been committed. In this case, they shall be subject to the authority of the Republic where the act in question was committed."

The distinguished Professor Oppenheim proposes that Article 8 of the project of the Institut de Droit international should be revised so as to establish, as regards vessels passing through territorial waters, the joint competence, in matters of criminal jurisdiction, of the riparian State and of the State from which the vessel comes.

It would seem urgently necessary to clear up this vitally important question by way of codification. In our view, the predominant tendency in international practice and in the projects for codification should be followed, that is to say, the competence of the riparian State in matters of criminal jurisdiction in respect of vessels passing through the territorial sea should be limited. It is the business of law to settle questions of capital importance in a satisfactory manner. If, however, we consider the actual circumstances, we are obliged to ask what reason there is for recognising the criminal jurisdiction of a riparian State, which in most cases cannot possibly be exercised for purely practical reasons. We allude primarily to vessels passing through territorial waters without putting in at any port, and consequently without any intention of entering into closer relations with the riparian State. We also have in mind the case of vessels which, although they have called at a port in a riparian State, have left it and are heading for the high seas by way of the territorial sea. As a general rule, the riparian State is ignorant of what occurs on board such vessels.

The practical importance of the question of jurisdiction becomes much greater when a crime is committed on board a vessel while it is crossing the territorial sea to put in at a port of the riparian State. In the ordinary way, the authority in control of the vessel, representing the authority of the national Government, would take steps to bring the offender to justice. If, however, the offence was an offence against the authority in control of the vessel itself, and if the authority legitimately in control of the vessel had been rendered impotent, as in the famous "Franconia" case, it would be sufficient for the port authorities, by virtue of their right to maintain public order, to arrest the offender and notify the official representative of the State concerned.

Even if, as against a convention limiting in the manner suggested the penal jurisdiction of the riparian State, individual Governments invoked arguments based on legal conceptions conflicting with those of their countries, such a convention would have most valuable effects if it imposed the restrictions in question. It is obvious that the principle that vessels passing through territorial waters are completely exempt from the jurisdiction of the riparian State cannot be applied unconditionally.

The riparian State ought indeed to be legally entitled to take action in respect of all offences jeopardising the maintenance of order in territorial waters. We shall deal later with the power of the riparian State to establish such legal rules and with the penalties for their infringement

For the moment, we are considering prosecutions for offences which are not closely connected with the specifically territorial character of the waters. Such offences can only come under the criminal jurisdiction of the riparian State if their consequences have not been confined to the vessel, crew and passengers (if, for example, the pilot, after coming on board, is murdered or paid in false money). It is, of course, essential, as a condition of the jurisdiction of the riparian State,* that such offences should be punishable according to the laws of that State and that, its Courts should be competent to try such cases.

Any disputed questions in international private law which may arise out of such incidents will not be dealt with here.

Article 9 of the Convention should contain the following provisions:

"Jurisdiction.

"Article 9. — Vessels of foreign nationalities passing through territorial waters shall not thereby become subject to the civil jurisdiction of the riparian State.

"Further, crimes and offences committed on board a foreign vessel passing through territorial waters by persons on board such vessels against persons or things also on board shall, as such, be exempt from the jurisdiction of the riparian State.

"Offences, the consequences of which are not confined to the vessel or the persons belonging to it, are subject to the criminal jurisdiction of the riparian State in so far as they constitute offences against its established law and its tribunals have competence to deal with them."

XII. REGULATIONS.

If, in accordance with the foregoing arguments, the riparian State is to be recognised as possessing a right of jurisdiction within certain limits over vessels passing through its territorial waters, that State has undoubtedly, as a consequence of its power of dominion, a *potestas legislativa et executiva*.

Accordingly, the riparian State is the legislator within the limits of the territorial waters under its dominion. Vessels and their crews which are merely passing through the territorial waters can only be bound by the legal regulations established to protect those of the riparian State's interests which are specially concerned with the territorial waters. The practical outcome of this doctrine would be the establishment of the principle that a general regulation of the riparian State based upon the conception of the *ius soli* could not apply to a child born on a foreign vessel passing through the territorial waters. Consequently, such child would not acquire the nationality of the riparian State. On the other hand, a vessel passing through territorial waters can never urge an exceptional situation as a ground for the non-application of the regulations issued by the riparian State in regard to police matters, Customs duties and health dues in its territorial waters.

The doctrine and practice of international law agree in upholding the right of the riparian State to legislate and exercise administrative authority in its territorial waters for the following purposes: regulation of navigation, preservation of marine signals and lighthouses, prevention of shipwreck, regulation of pilotage, protection of submarine cables, regulation of Customs inspection, including the inspection of prohibited imports or exports, supervision of fishing, health control, assistance at sea, and boarding of vessels. All such lists are, of course, merely explanatory, and the riparian State will have the right to employ its legislative and administrative authority in favour of various interests deserving of its protection which may arise in connection with navigation in territorial waters. It therefore seems preferable to give expression to this legal doctrine in the proposed Convention. In this connection, we propose to examine more closely the rights referred to, as doubts have been raised as to their scope.

In the first place, in connection with the endeavour to secure a safe route for navigation, the following rule is to be found in the Barcelona Statute on Freedom of Transit:

Article 2, first sentence: "Subject to the other provisions of this Statute, the measures taken by Contracting States for regulating and forwarding traffic across territory under their sovereignty or authority shall facilitate free transit by rail or waterway on routes in use convenient for international transit."

Cf. Article 10, paragraph 1, of the Statute on the Regime of Navigable Waterways of International Concern: "Each riparian State is bound, on the one hand, to refrain from all measures likely to prejudice the navigability of the waterway or to reduce the facilities for navigation and, on the other hand, to take as rapidly as possible all necessary steps for removing any obstacles and dangers which may occur to navigation."

It would perhaps be desirable to require a similar undertaking in respect of territorial waters; but it is very doubtful whether riparian States would be willing to give it, for, in our view, no such obligation yet exists in general international law.

As regards preoccupations in connection with vessels foundering in territorial waters, mention should be made of certain progressive treaties recently concluded between Finland and other countries.

See BJÖRKSTEN, *op. cit.*, p. 122: "Einige von den Verträgen Finnlands mit fremden Mächten enthalten Bestimmungen betreffend verunglückten Schiffen. Ihnen liegt der Gedanke zu Grunde, das Interesse des Eigentümers zu schützen. Die vollständigsten Vorschriften enthalten Artikel 19 des finnländisch-englischen Handels- und Schifffahrts-Vertrages vom

3. August 1921. Er stellt den Grundsatz der Gleichberechtigung und Meist-Begünstigung auf. Er sieht ein Zusammenwirken der Behörden des Territorial-Staates und des konsularen Vertreters des Flaggen-Staates vor. Geborgene Waren unterliegen keinen Zöllen, soweit sie nicht dem Verbrauch der territoriale Staaten überlassen werden. Ungefähr dieselben Regeln gelten für Finnland und Gross-Britannien auf Grund des Handels-Vertrages vom 15. Dezember 1924, Artikel 16, Absatz 2 ff. In derselben Richtung geht auch Artikel 5 des Schifffahrts-Vertrages mit Schweden vom 26. Mai 1923. Es kann als allgemeine Regel, welche nicht eigentlich eine Rechtsregel, sondern vielmehr eine solche der Völker-Sitte ist, festgestellt werden, dass der Vertreter des Flaggen-Staates intervenieren darf."

It cannot be said, however, that this is already a generally established legal conception.

Pilotage. — In France, a law dated March 27th, 1882, regulates the question of buoyage in territorial waters. As regards signals of distress and signals connected with pilotage, regulations were made in England by the Merchant Shipping Act of 1873, and in Germany by a decree of August 14th, 1876. An Act of Parliament of December 21st, 1913, excludes foreign pilots from British waters.

Article 11 of the Statute on the International Régime of Maritime Ports, first sentence: "Each Contracting State reserves the right to organise and administer pilotage services as it thinks fit".

The Institut de Droit international has the following clause in its seventh article: "Les navires qui traversent les eaux territoriales se conformeront aux règlements spéciaux édictés par l'Etat riverain, dans l'intérêt et pour la sécurité de la navigation et pour la police maritime".

Article 2 of the Storny project of the International Law Association is as follows: "La mer territoriale s'étend depuis le rivage jusqu'au point indispensable, à l'effet de garantir la défense, la neutralité et d'assurer les services de la navigation et de la police maritime côtière en leurs diverses manifestations".

Article 6, paragraph 3, of the American codification project reads: "The American Republics may also enact all laws and regulations which they may deem necessary to assure the observance of measures of hygiene, security, police and Customs, in so far as they are in accordance with the international conventions concluded by them. The said laws and regulations should be communicated to the Pan-American Union".

Submarine cables. — In France, a law of December 20th, 1884, imposes penalties in respect of the damaging of cables in French waters. Numerous other countries have also enacted laws and decrees on this subject. As regards the codification projects, see under *Pilotage*.

Customs inspection. — The rights of Customs inspection are formulated very clearly by M. FAUCHILLE, p. 159: "L'Etat côtier est autorisé à établir dans ses eaux territoriales une surveillance douanière qui entraîne le droit de police sur les navires, la visite et la détention des bâtiments et barques soupçonnées de contrebande, la capture des articles prohibés et leur confiscation, la répression par voies d'amende et de confiscation."

A special codified rule would seem superfluous. National legislations, international practice and the codification projects are all in general agreement with the definition given by M. Fauchille.

See "La Pratique" in M. FAUCHILLE's treatise, *op. cit.*, pp. 159 *seqq.* See also the American project of the American Institute of International Law, Article 11, paragraph 1: "The American Republics may extend their jurisdiction beyond the territorial sea parallel with such sea for an additional distance of . . . marine miles for reasons of safety, and in order to assure the observance of sanitary and Customs regulations".

In connection with the scope of the powers of the Customs police, a controversy of some importance arose last year. After the entry into force of the American prohibitionist legislation, a decision of the United States Supreme Court of April 30th, 1923, recognised the right of Customs officials to seize all alcoholic liquor in American territorial waters, including even alcoholic liquor which it was not proposed to import illegally but which would at the end of a voyage have been unloaded at a port where its importation was not prohibited. The execution of this decision by the American Customs authorities gave rise to protests from various European States—Great Britain, France, the Netherlands, Portugal, Denmark, Italy, etc.

The Statute on the International Régime of Maritime Ports adopted by the General Conference on Communications and Transit gave States power to prohibit the transit of goods of which the importation into the State concerned is prohibited. It seems, however, more than doubtful whether this principle can also apply to territorial waters, for, in the case of land transit, it must be assumed that the State concerned has the right to decide what goods it will accept for transit.

As against this sovereign right of the State there is no recognised right attaching to other States. The legal position is entirely different in territorial waters, for here the vessels of other States have a right of free passage. This right of free passage includes a general right of transport (see Article 7, paragraph 2, of the proposed Convention). The right to transport alcoholic liquor could only be refused if the riparian State could prove the impossibility of maintaining the import prohibition in respect of alcoholic liquor, and such proof would be a matter of great difficulty. In any case, the question arises whether a rule should not be introduced to reconcile the interests concerned, as provided in Article 17 of the Statute on the Régime of Maritime Ports:

"Each Contracting State shall be entitled to take the necessary precautionary measures in respect of the transport of dangerous goods or goods of a similar character, as well as general police measures, including the control of immigrants entering or leaving its territory, it being understood that such measures must not result in any discrimination contrary to the principles of the present Statute."

Supervision of Fishing. — In connection with the right of the riparian State to reserve fishing rights exclusively to its own nationals, it may be asked whether the right of supervision over fishing can be extended so far as to include the power of refusing access to the sea to all foreign fishing-boats whatever. Such a step would, of course, constitute the most effective means of putting down illegal fishing, but it would conflict with the right of free passage which is established

for all vessels. This legal conception is also reflected in the well-known North Sea Fisheries Convention of 1882.

Health Supervision. — See FAUCHILLE, *op. cit.*, p. 161. For the codification projects, see under *Pilotage*.
Ceremonial at Sea. — See FAUCHILLE, *op. cit.*, p. 167.

The right of the riparian State to issue regulations governing the obligations arising out of the boarding of vessels in territorial waters, the obligation to furnish assistance in urgent cases, and the claims which may result, is not disputed. It would undoubtedly be desirable to extend the Conventions of 1910 on the Safety of Life at Sea and on the Boarding of Vessels—which deal with the boarding of vessels and the furnishing of assistance on the high seas—to cover identical or similar circumstances occurring in territorial waters.

Within the limits of the riparian State's rights of legislation and administration, that State should obviously have the legal power to enforce those rights; accordingly, it should be granted not only the right to take necessary measures of constraint but also a power of jurisdiction to deal with offences. This is a general legal conception and finds its specific expression in a right of pursuit which may extend even on to the high seas. Except in an arbitral award rendered by the distinguished Dutch jurist ASSER, the existence and scope of this right of pursuit have never been disputed in international practice.

See TRAVERS, *op. cit.*, III, pp. 248 *sqq.* See also the project of the Institut de Droit international, Article 7, second and following sentences: "L'Etat riverain a le droit de continuer sur la haute mer la poursuite commencée dans la mer territoriale, d'arrêter et de juger le navire qui aurait commis une infraction dans les limites de ses eaux. En cas de capture sur la haute mer, le fait sera toutefois notifié sans délai à l'Etat dont le navire porte le pavillon. La poursuite est interrompue dès que le navire entre dans la mer territoriale de son pays ou d'une tierce Puissance. Le droit de poursuite cesse dès que le navire sera entré dans un port de son pays ou d'une tierce Puissance."

Project of the American Institute of International Law; Article 9: "Merchant vessels which violate the provisions of the present Convention or the laws and regulations of an American Republic in regard to its territorial sea are subject to the jurisdiction of the said Republic. Such Republic has the right to continue, within the zone contiguous to its territorial sea, the pursuit of a vessel commenced within its territorial waters, and to bring the vessel before its Courts".

It would further be desirable to lay down the principle that all the rights exercised by the riparian State over foreign vessels in its territorial waters, and also its rights to levy dues, must be applied without discrimination. No dues must be levied except dues intended solely to defray expenses of supervision and administration. The adoption of this principle should be recommended; it has already found expression in the Conventions on the Regime of Navigable Waterways of International Concern and in the Statute on Freedom of Transit.

Article 3 of the Statute on Freedom of Transit: "Traffic in transit shall not be subject to any special dues in respect of transit (including entry and exit). Nevertheless, on such traffic in transit there may be levied dues intended solely to defray expenses of supervision and administration entailed by such transit. The rate of any such dues must correspond as nearly as possible with the expenses which they are intended to cover, and the dues must be imposed under conditions of equality . . ."

Article 7 of the Statute on the Regime of Navigable Waterways of International Concern: "No dues of any kind may be levied anywhere on the course or at the mouth of a navigable waterway of international concern, other than dues in the nature of payment for services rendered and intended solely to cover in an equitable manner the expenses of maintaining and improving the navigability of the waterway and its approaches or to meet expenditure incurred in the interest of navigation. These dues shall be fixed in accordance with such expenses . . ."

It would be desirable, in accordance with the project of the American Institute of International Law, which provides for the registration with the Pan-American Union of all binding regulations governing navigation in territorial waters, that such regulations should be registered at a central office. Their registration at the International Waters Office would undoubtedly be of great value. One of the duties of the Office would be to publish such regulations.

Accordingly, Article 10 of the Convention should contain the following provisions:

**Regulations.*

"Article 10. — Within its territorial waters, the riparian State shall have the power of legislation and administration for the following purposes: regulation of navigation, preservation of marine signals and lighthouses, prevention of shipwreck, regulation of pilotage, protection of submarine cables, regulation of Customs inspection, including the inspection of prohibited imports and exports, supervision of fisheries health control, assistance at sea, and collisions.

"The riparian State shall have the right to extend its legislative and administrative action to other domains when interests deserving of its protection in territorial waters are affected.

"Within the limits of the riparian State's right of legislation and administration, it shall be granted also the right to employ the necessary means of constraint to enforce its jurisdiction, in order that it may be able to deal with offences.

"The riparian State shall have the right to continue on the high seas the pursuit of a vessel commenced within its territorial waters, and to arrest and bring before its Courts a vessel which has committed an offence within its territorial waters. If, however, the vessel is captured on the high seas, the State whose flag it flies shall be notified immediately. The pursuit shall be interrupted as soon as the vessel enters the territorial waters of its own

country or of a third Power. The right of pursuit is extinguished as soon as the vessel has entered a port of its own country or of a third Power.

"Within the territorial waters no dues of any kind may be levied, except dues intended solely to defray expenses of supervision and administration. Such dues or charges shall be levied under conditions of equality.

"All regulations issued by riparian States regarding their territorial waters shall be registered and published by the International Waters Office."

XIII. RICHES OF THE SEA.

In virtue of its right of dominion over the whole area of its territorial waters, the riparian State possesses for itself and for its nationals the sole right of ownership over the riches of the sea. This right covers the fauna found in the waters, and also everything which may be found above or below the subsoil of the territorial sea (coral-reefs, oil-wells, tin-mines).

As a rule, the most important of the riparian State's rights in respect of the riches of the sea are fishing rights. It may monopolise these or reserve them for its own nationals. Considering international law in this aspect, we may distinguish three groups of States.

1. States which by legislative enactment entirely exclude foreign fishermen from their fisheries.

E.g., France (Law of March 1st, 1898, Decree of September 23rd, 1911); Germany (Article 296 (a) of the Penal Code and Law of February 26th, 1876); Belgium (Law of August 19th, 1891); the Netherlands (Law of October 26th, 1889); Great Britain (Act of August 2nd, 1883); Russia, Spain, Norway, Sweden and Denmark.

Among the treaties which have reserved to nationals the right of fishing in territorial waters mention should be made of those concluded by France with Great Britain, August 2nd, 1839, and November 11th, 1867, and with Spain, February 6th, 1882; by Germany with Great Britain, 1874; by Italy with Mexico, April 6th, 1890, and with Austria-Hungary, December 6th, 1891; and by Denmark with Great Britain, June 24th, 1901. The Convention concluded at The Hague on May 6th, 1882, between Germany, Belgium, Denmark, France, Great Britain and the Netherlands, regarding the supervision of fishing in the North Sea outside territorial waters, lays down that within those waters national fishermen shall enjoy the sole fishing rights along the whole of the coasts of their respective countries and the islands and ice-packs off those coasts; but it adds that the right thus conferred upon them shall in no way limit the recognised right of free movement enjoyed by all fishing vessels voyaging or mooring in the said waters, provided that such vessels observe the special police regulations of the riparian Powers.

In transferring the island of Newfoundland from France to England, the Treaty of Utrecht of March 13th/April 14th, 1713, allowed the French to retain exclusive fishing rights over a portion of the coast of the island; but these rights, after having been confirmed in principle by the Treaties of Paris, February 10th, 1763; Versailles, September 3rd, 1783; Amiens, March 27th, 1802; and Paris, May 30th, 1814, and November 20th, 1815, gave rise to protracted difficulties between the two countries and were abolished by an agreement, dated April 8th, 1904, between France and Great Britain.

On gaining their independence under the name of the United States of America, the British colonies in North America concluded in 1783 a convention with Great Britain allowing the people of the United States to continue to enjoy fishing rights on the coasts of Newfoundland, and Conventions, dated October 20th, 1818, and May 8th, 1871, again regulated the fishing rights of the United States in waters under British sovereignty, notably in Canada. Difficulties quickly arose, however, on this subject between the two countries, and the resulting dispute was settled by an arbitral award of the Hague Court on September 7th, 1910 (see FAUCHILLE, *op. cit.*, p. 163).

2. States which by separate treaties grant to the nationals of the other Contracting States fishing rights in their territorial waters, with or without reciprocity.

A Convention of July 15th/28th, 1907, between Japan and Russia granted to Japanese subjects the right to take fish of every kind, except seals for the fur trade and sea otters, along the Russian coasts in the Sea of Japan, the Sea of Okhotsk and the Behring Sea, and a Treaty of July 14th, 1899, modified on October 5th, 1907, between Denmark and Sweden granted to the subjects of the two countries the right of trawling herring in a certain zone along the Swedish and Danish coasts. By Article 7 of their Treaty of Peace of October 14th, 1920, Finland and Soviet Russia mutually granted to each other's nationals fishing rights and the right of free navigation for fishing vessels in the territorial waters along the seaboard ceded to Finland upon the Arctic Ocean and in those to the north and east of the Rybachi Peninsula remaining under the sovereignty of Russia, as far as Cape Sharapov.

3. States which do not enforce their right to exclude foreign fishermen.

Italy requires foreigners to take out a licence.

Article 1 of the Colombian Law (Law 96 of 1902) lays down that "the Government has power to organise fishing in the waters of the Republic in such manner as it may think best for the national interests".

The legal conception is perfectly clear; but the American project is the only one of the codification projects which expresses it.

Article 6: "The American Republics exercise the right of sovereignty not only over the water but over the bottom and the subsoil of their territorial sea.

"By virtue of that right, each of the said Republics alone can exploit, or permit others to exploit, all the riches existing within that zone."

Cf. also the Storny project, Article 22: "Les droits exclusifs de pêche demeurent soumis aux pratiques et conventions existantes, jusqu'à ce qu'une réglementation adéquate fixe les normes qui correspondent le mieux, tant au droit exclusif des Etats sur leurs côtes qu'à l'exploitation rationnelle et la conservation des espèces utilisables de la faune maritime en dehors de la zone d'exclusivité."

The riparian State has the right to regulate fishing. (See above on the supervision of fishing.) The regulation of fishing on the high seas and the exploitation of other riches of the sea can only be settled by collective agreement; but these are questions of another kind and are being dealt with by a special Sub-Committee.

To express the universally accepted legal conception, we must include the following article in the Convention:

"Riches of the sea, the bottom and the subsoil.

"Article 11. — In virtue of its sovereign rights over the territorial sea, the riparian State shall exercise for itself and for its nationals the sole right of taking possession of the riches of the sea, the bottom and the subsoil."

XIV. WARSHIPS.

The general legal conception is that warships, and State-owned vessels treated on the same footing, occupy a special position in territorial waters. We have already pointed out that they cannot be arbitrarily denied access to foreign territorial waters—that, indeed, they can invoke the right of free passage. On the other hand, owing to the peculiar character of warships, the riparian State can institute special precautionary measures. Dispositions of this kind are by no means exceptional in international practice.

"Quoiqu'on reconnaisse aux navires de guerre le droit d'appliquer la législation de leur pavillon, l'ordonnance néerlandaise du 30 octobre 1909, le décret français du 21 mai 1913 et le règlement équatorien du 8 janvier 1917 ont décidé qu'aucun bâtiment de guerre étranger ne pourra mettre à exécution une sentence de mort dans les eaux territoriales." (FAUCHILLE, *op. cit.*, p. 171.)

The right of the riparian State to take such measures as we have mentioned is beyond dispute. If it is to be recognised that warships have a certain special position in foreign territorial waters, this "ex-territoriality" (as it is often called) must not be understood to mean that the regulations made by the riparian State for its territorial waters are in principle not applicable to warships. Of course, in view of the peculiar character of warships, which constitute a portion of the military force of the State to which they belong, all measures of control, constraint and justice over them are excluded. On the other hand, the riparian State cannot be held bound to tolerate any offences which may be committed against its laws and its interests by foreign vessels. As regards questions concerning ports, the Institut de Droit international, at its session held at The Hague in 1898, proposed in the draft regulations adopted on August 23rd, 1898, the following Article 13:

"Les navires de guerre étrangers admis dans les ports doivent respecter les lois et les règlements locaux, notamment ceux qui concernent la navigation, le stationnement et la police sanitaire. En cas de contravention grave et persistante, le commandant, après avis officieux et courtois resté sans effet, pourrait être invité et, au besoin, contraint à reprendre la mer. Il en serait de même si les autorités locales jugeaient que la présence de son navire est une cause de danger pour la sûreté de l'Etat. Mais, à moins d'extrême urgence, ces mesures rigoureuses ne doivent être employées que sur l'ordre du Gouvernement central du pays."

Adopting the same principles, the French Decree of May 27th, 1913, lays down (Article 8) that: "Les bâtiments de guerre étrangers qui relâchent dans un port ou dans les eaux territoriales sont tenus de respecter les lois fiscales et les lois et règlements de la police sanitaire. Ils sont également tenus de déférer à tous les règlements de port, règlements auxquels sont assujettis les bâtiments de la marine nationale."

This principle might also be applicable to cases of warships committing offences against the laws of the riparian State in its territorial waters. Such measures could not, of course, be taken except in cases of serious and continued offences, or in cases of extreme urgency. Under all other circumstances the diplomatic channel should be used.

The following article expresses a legal conception which is already in existence:

"Warships.

"Article 12. — The exercise by warships of the right of free passage may be subjected by the riparian State to special regulations. Foreign warships when admitted to territorial waters must observe the local laws and regulations, particularly those relating to navigation, anchoring and health control. If a serious and continued offence is committed, the commander of the vessel shall receive a semi-official warning in courteous terms, and if this is without effect he may be requested and, if necessary, compelled, to put to sea. The same dispositions shall apply if the local authorities consider that the presence of the vessel threatens the safety of the State. Except in cases of extreme urgency, however, these stringent measures shall only be taken upon the instructions of the central Government of the country.

"In the case of minor offences, the diplomatic channel shall be used."

XV. THE RIGHT OF JURISDICTION OVER FOREIGN MERCHANT VESSELS IN PORTS.

The mandate conferred upon the Rapporteur and the Sub-Committee by the Committee of Experts for the Progressive Codification of International Law also covers questions relating to the State's right of jurisdiction over foreign merchant vessels in its ports.

This question is really extraneous to the problem of the territorial sea; but there is undeniably a certain analogy between them.

Moreover, the Statute on the Regime of Maritime Ports drawn up at Geneva in 1923 regulated other aspects of the rights connected with maritime ports. The question of the jurisdiction of the State over foreign merchant vessels in its ports was, however, not even touched. If it were regulated in a Convention dealing with the territorial sea, a valuable addition would be made to the Statute on the Regime of Maritime Ports.

In approaching this question of jurisdiction, it must always be remembered that the legal status of maritime ports is different from that of the territorial sea. Even in the Statute on the Regime of Maritime Ports, which ensures the right of common user to a very wide extent, maritime ports are regarded in their geographical aspect as inland waters of the State, and are accordingly given a legal status different from that of the territorial sea.

The riparian State's right of dominion over foreign vessels in its ports is obviously greater than over vessels which are merely passing through the territorial sea. This rule is also relevant in considering how far the riparian State can reserve to itself the jurisdiction over the foreign merchant vessels in its ports. Regarding the matter purely logically, we must in this case also recognise the unlimited jurisdiction of the riparian State. International practice is quite explicit in according to the riparian State a much wider jurisdiction in maritime ports than over vessels passing through the territorial sea. As regards the civil jurisdiction of the riparian State over vessels passing through the territorial sea, we nowhere find it disputed or restricted. (See FAUCHILLE, *op. cit.*, pp. 1082-1088.) The competence of the riparian State as regards measures of civil process and non-contentious jurisdiction in maritime ports is regulated on the same lines.

See FENWICK, *International Law*, p. 195: "Merchant vessels in foreign ports are not exempt from civil suit *in rem* brought by a citizen of the foreign State, nor are the officers or crew of the vessel exempt from civil suit *in personam* or from criminal prosecution. But the jurisdiction of the foreign State does not, according to one precedent, extend so far as to interfere with personal and property rights on board the vessel as regulated by the law of the flag State. In the case of the 'Creole' submitted to arbitration by the United States and Great Britain in 1853, it was held by the arbitrator that the authorities of Nassau, in liberating a number of slaves who had revolted against the officer of the ship and had put in at the port of Nassau, had acted 'in violation of the established Law of Nations' and that the claimants were 'justly entitled to compensation for their losses'."

See draft regulations of the Institut de Droit international, 1898, Article 37: "Les officiers publics, officiers de l'état civil, notaires et autres, requis pour procéder à des actes de leurs fonctions et de leurs ministères sur des navires étrangers ancrés dans un port, doivent s'y rendre; et leurs actes, reçus en la forme et dans les conditions réglementaires d'après la loi locale, ont le même effet et la même valeur que s'ils avaient été faits par des officiers publics à terre, dans l'étendue de leurs circonscriptions locales."

The regulation of the penal jurisdiction of the riparian State is a more complex question, because the dominant *prima-facie* conception of the scope of a riparian State's power of dominion has been the subject of important reservations in practice. These reservations relate to an historical decision of the French Conseil d'Etat, referred to in the following quotation:

"Distinguant entre les faits qui se passent sur ces navires, il a proclamé les solutions suivantes: (1) Le navire étranger admis dans un port français est soumis à la compétence de la juridiction française pour tout ce qui touche aux intérêts de l'Etat, pour les lois de police et pour les délits commis, même à bord, par des gens de l'équipage envers des personnes étrangères à celui-ci; (2) Le navire étranger échappe, au contraire, à la compétence de la juridiction française et est soumis à celle des autorités de son propre pays pour les actes de pure discipline intérieure et pour les délits commis à bord de la part d'un homme de l'équipage envers un autre homme du même équipage, ces délits présentant une analogie avec les faits de discipline intérieure; (3) Toutefois, l'autorité locale a le droit d'intervenir pour les actes commis à bord entre gens de l'équipage, si son secours est réclamé ou si la tranquillité du port est compromise."

It must, however, be recognised that the principle admitted by the Conseil d'Etat has not gained universal acceptance. The British Territorial Waters Jurisdiction Act of 1878, already quoted, is diametrically opposed to it and extends the legal competence of the riparian State in the matter of penal jurisdiction not merely to offences committed on board foreign vessels passing through the territorial sea but also to foreign vessels in maritime ports. This theoretical attitude is weakened in practice by the fact that in every case a request by one of the principal Secretaries of State is a *sine qua non* of criminal prosecution for an offence committed on board a foreign vessel in a British port. The fundamental rule of the British system has been applied in more concrete fashion in the legislation of certain Latin-American countries and in the codification project of the American Institute of International Law.

In international practice, therefore, there is no universally accepted legal conception, though it would undoubtedly be desirable to establish such unanimity by means of a convention. We must therefore decide in favour of one of the three systems in vogue. (For the practice of States, see FAUCHILLE, *op. cit.*, pp. 1027-1057.) The theory of the unlimited competence of the riparian State is more logical, but practical considerations urge the general recognition of the French system.

A foreign vessel in a port generally wishes to leave the port as soon as possible, and not to enter into relations with the authorities of the riparian State except so far as is absolutely necessary in order to fulfil certain official formalities. It does not seem equitable to impose obligations on foreign vessels in this connection as the result of an offence which has had no effects outside the vessel itself. Moreover, the punishment of the offender has been provided for, inasmuch as the captain of the vessel is authorised to take the necessary steps for instituting a criminal prosecution. Most countries still endeavour to preserve their nationals from the criminal jurisdiction of foreign courts; we may mention, by way of example, the rules for the non-extradition of nationals, which are often even embodied in constitutions. All these considerations can be given their due weight if the French system of restricting the penal jurisdiction of the riparian State is followed. The recognition of this principle would entail little alteration in international practice, for, as we have pointed out, it is only a few American States which take a different view in practice.

The action which can be taken by the port authorities with a view to the criminal prosecution of the crew and passengers of a foreign vessel may be very simply defined. Within the limits of the riparian State's criminal jurisdiction in maritime ports, it can take all steps with a view to criminal prosecution which the exercise of that jurisdiction may dictate. In this connection, various writers have dealt with the question of asylum, namely, the question whether the captain of a foreign vessel in a port has the right to receive on board, and to protect from pursuit by the port authorities, refugees who are nationals of the riparian State. It may be asked whether such refugees, when received on board foreign vessels, can be arrested and whether the captain is liable to criminal prosecution. Doctrine and international practice are agreed that no such right of asylum exists for persons wanted by the official authorities of the riparian State.

See FAUCHILLE, *op. cit.*, pp. 1066 *sqq.* This work also contains the 1897 and 1898 projects of the Institut de Droit international, together with an exhaustive account of international practice.

FENWICK, *op. cit.*, pp. 199 *sqq.* "Foreign merchantships, not being exempt, except by comity, from the jurisdiction of the State in whose parts they drop anchor, may not be made an asylum for fugitive, criminal or political refugees. It has been questioned, however, whether a foreign merchantship is so far under the jurisdiction of the State as to give the local authorities the right to enter upon the vessel and arrest a passenger who, as a political refugee, has taken passage upon the vessel in the port of a third State. Calvo relates the case of one Sotelo, a political refugee, who took passage in 1840 on board a French vessel at one Spanish port and was arrested upon the arrival of the vessel at a second Spanish port. In the case of Gomez, a political refugee from Nicaragua, who took passage on board a United States steamship in the harbour of Guatemala in 1888, and whose arrest was sought by the local authorities when the vessel stopped en route at the port of Nicaragua, the Department of State refused to support the action of the captain in declining to deliver the passenger. 'It is clear,' said Secretary Bayard, 'that Mr. Gomez voluntarily entered the jurisdiction of a country whose laws he had violated. Under the circumstances, it was plainly the duty of the captain of the "Honduras" to deliver him up to the local authority upon their request.' In contrast to the ruling in the Gomez case, Secretary Blaine contested, in 1890, the right of the Government of Guatemala to demand the surrender of Barrondja, a political refugee who had taken passage on board a Pacific Mail steamer at a Mexican port, and who was temporarily within the jurisdiction of Guatemala when the vessel called at a port en route. In a later case, involving a political refugee from Honduras, named Bonilla, Secretary Grasham, while admitting the right of the local authorities to demand the surrender of a passenger, instructed the American Minister to protest against the act of the commander of the port in firing upon the vessel whose captain refused to surrender the refugee."

There has been some uncertainty as to political offences. (See FAUCHILLE, *op. cit.*, p. 1070 *sqq.*) So far, no unanimous legal doctrine has been established to the effect that political offenders possess such a right of asylum. (See the *Sarvarkar-Kohler* case in SCHÜCKING, *Das Werk vom Haag*, Vol. 5, pp. 65 *sqq.*)

The following article should therefore be included in the Convention:

"Jurisdiction over foreign merchant vessels in maritime ports.

"Article 13. — In maritime ports foreign merchant vessels shall be subject without restriction to the civil and non-contentious jurisdiction of the riparian State.

"The criminal jurisdiction of the riparian State shall be restricted to the punishment of offences committed on board which are not directed against a member of the crew or against passengers and their property. Its criminal jurisdiction shall further be restricted to cases in which the captain of the vessel has asked the port authorities for assistance and cases in which the peace or public order in the port has been disturbed."

XVI. SETTLEMENT OF DISPUTES.

If the Convention proposed by us were accepted, we should still have to reckon with the possibility of disputes arising in connection with its application and interpretation. Such disputes between States could be regarded in all circumstances as purely legal disputes, which could be settled without exception by an award of a court of arbitration. No State could contend that the jurisdiction of a court of arbitration in disputes arising out of the application or interpretation of this Convention would endanger its independence, its honour or its vital interests. We therefore think it desirable that the Convention itself should provide for the compulsory settlement of all disputes, and we have only to consider how this recommendation can be carried into effect. It might be possible to confer the sole competence on the Permanent Court of International Justice. (See the conventions in which the Permanent Court has been declared exclusively competent to deal with all disputes—SCHÜCKING and WEHBERG, *Die Satzung des Völkerbundes*, 2nd edition, pp. 521–531.) It would, however, we think, be more satisfactory and more liberal to leave the parties to the dispute free to submit it either to the Permanent Court of International Justice or to a special court of arbitration. In accepting this latter method, we should simply

be following the example given by a whole series of international conventions. (These are enumerated in the work mentioned above—SCHÜCKING and WEHBERG, *Die Satzung des Völkerbundes*, 2nd edition, p. 531.)

In such cases the parties to the dispute would have the option of bringing it before the mixed commission which we propose should be attached to the International Waters Office to settle disputes arising out of registration as mentioned above.

Accordingly, Article 14 of the Convention would read as follows:

"Settlement of Disputes.

"Article 14. All disputes arising out of the application or interpretation of this Convention shall be subject to compulsory settlement by the Permanent Court of International Justice or by a court of arbitration constituted by agreement between the parties."

* * *

The Rapporteur trusts that his examination of the question and his proposals will furnish the Sub-Committee with a useful groundwork for discussion. He cannot conclude without expressing his heartiest thanks to his secretary, M. Paul Guggenheim, Doctor of Law, who has afforded him such great and devoted assistance in composing this report.

	General Zone	Fishing	Customs	Neutrality	Jurisdiction	Public Safety
Brazil				3 miles		
Belgium		3 miles	1 myriametre		3 miles	
Chile				5 miles		
Denmark	1 league	1 league and 3 miles				
Spain		6 miles	6 miles	6 miles	6 miles	
United States of America			3 miles	3 miles		
France		3 miles	2 myriametres	6 miles		Radius 1 myriametre
Great Britain		3 miles	3 miles	3 miles	1 marine league	
Greece		3 miles	6 miles			
Italy			5 and 10 kms. 12 miles			Cannon range
Norway		1 league	10 marine leagues			
Netherlands				3 miles		
Portugal		3 miles and 6 miles	6 miles			
Germany		3 miles	3 miles	3 miles		3 miles
Russia	4 miles generally		12 marine miles			
Sweden		1 league	1 league	1 league		
Uruguay				5 miles		

DRAFT CONVENTION.

ARTICLE 1.

The character and extent of the rights of the riparian State.

The State shall have an unlimited right of dominion over the zone which washes its coast, in so far as, under general international law, the rights of common user of the international community or the special rights of any State do not interfere with such right of dominion.

The right of dominion shall include rights over the air above the said sea and the soil and subsoil beneath it.

ARTICLE 2.

Extent of the rights of the riparian State.

The zone of the coastal sea shall extend for six marine miles (60 to the degree of latitude) from low-water mark along the whole of the coast.

The rights of other States which have been exercised by virtue of the common right of user of the high seas or of special treaties shall not be affected. States may exercise their rights of dominion by virtue of usage, and within the limits of such usage, beyond the zone of dominion in the following domains: police measures to prevent the possibility of military exercises being carried out by other States, and measures of Customs and sanitary control. Other rights beyond the zone of dominion may only be accorded to the riparian State by the body mentioned in Article 3 if they are demonstrated to be urgently necessary. Such grant shall in no case include rights of exclusive economic user outside the territorial sea.

ARTICLE 3.

International Waters Office and registration in the International Waters Register.

The States signatory to the Convention undertake to establish an International Waters Office.

The duty of this Office is to compile a register of rights possessed by the different States in the fixed zone of foreign riparian States, or by the riparian States themselves outside the fixed zone.

The registration of a right in the International Waters Register kept by the International Waters Office in favour of any State in a foreign territorial sea shall be in favour of all States, if such right is founded upon common usage.

A time-limit of . . . shall be fixed by the International Waters Office for the submission of all applications for such rights, as also for rights claimed by a riparian State outside its fixed zone by virtue of usage.

The relevant legal instruments must be presented and registered. The onus of proof shall be upon the State applying for registration of a right in its favour. Applications must be communicated to all the States parties to the Convention.

Applications may be opposed within a time-limit to be fixed. If an application is opposed, the question is decided, in the first instance, by a mixed commission of experts and jurists. Appeal lies from decisions of this commission to the Permanent Court of International Justice. All States shall be informed of the registration of a right. The register shall be published.

The same procedure shall apply in cases in which a State claims to have an urgent new need outside the sphere of its dominion over the territorial sea. It must apply to the International Waters Office, which may only grant a right after publication of the application, and provided that it is not opposed. In the event of opposition, the question shall go before a mixed commission, before which the State claiming the right must prove that it cannot otherwise protect the interests affected. In this case also, appeal lies to the Permanent Court of International Justice.

The International Waters Office shall also be responsible for publishing maritime charts showing the zones of the territorial sea.

Bays.

ARTICLE 4.

In the case of bays which are bordered by the territory of a single State, the territorial sea shall follow the sinuosities of the coast, except that it shall be measured from a straight line drawn across the bay at the part nearest to the opening towards the sea, where the distance between the two shores of the bay is 12 marine miles, unless a greater distance has been established by continuous and immemorial usage.

In the case of bays which are bordered by the territory of two or more States, the territorial sea shall follow the sinuosities of the coast.

As regards the recognition of rights which are in contradiction with the tenor of the general rules, the provisions of Article 3 concerning presentation and registration in the International Waters Register shall be applicable. It shall not be possible to acquire such rights in the future.

ARTICLE 5.

Islands.

If there are natural islands, not continuously submerged, situated off a coast, the inner zone of the sea shall be measured from these islands, except in the event of their being so far distant from the mainland that they would not come within the zone of the territorial sea if such zone were measured from the mainland. In such case, the island shall have a special territorial sea for itself.

ARTICLE 6.

Straits.

The regime of straits at present subject to special conventions is reserved.

In straits of which both shores belong to the same State, the sea shall be territorial, even if the distance between the shores exceeds 12 miles, provided that that distance is not exceeded at either entrance to the strait.

Straits not exceeding 12 miles in width whose shores belong to different States shall form part of the territorial sea as far as the middle line.

ARTICLE 7.

Pacific passage.

All vessels without distinction shall have the right of pacific passage through the territorial sea. In the case of submarine vessels, this right shall be subject to the condition of passage on the surface. The right of passage includes the right of sojourn in so far as the latter may be necessary for navigation. For the sojourn of warships, see Article 12.

The right of free passage includes the right of passage for persons and goods independently of the right of access to the foreign mainland.

ARTICLE 8.

Coasting trade.

A riparian State has the right of reserving for its own flag the transport of passengers and goods loaded at one port situated under its authority and unloaded at another port also situated under its authority. A State which does not reserve the above-mentioned transport to its own flag may nevertheless refuse the benefit of equality of treatment with regard to such transport to a co-riparian which does reserve it.

ARTICLE 9.

Jurisdiction.

Vessels of foreign nationalities passing through territorial waters shall not thereby become subject to the civil jurisdiction of the riparian State.

Further, crimes and offences committed on board a foreign vessel passing through territorial waters by persons on board such vessels against persons or things also on board shall, as such, be exempt from the jurisdiction of the riparian State.

Offences, the consequences of which are not confined to the vessel or the persons belonging to it, are subject to the criminal jurisdiction of the riparian State, in so far as they constitute offences against its established law and its tribunals have competence to deal with them.

ARTICLE 10.

Regulations.

Within its territorial waters, the riparian State shall have the power of legislation and administration for the following purposes: regulation of navigation, preservation of marine signals and lighthouses, prevention of shipwreck, regulation of pilotage, protection of submarine cables, regulation of Customs, inspection including the inspection of prohibited imports and exports, supervision of fisheries, health control, assistance at sea and collisions.

The riparian State shall have the right to extend its legislative and administrative action to other domains when interests deserving of its protection in territorial waters are affected.

Within the limits of the riparian State's right of legislation and administration, it shall be granted also the right to employ the necessary means of constraint to enforce its jurisdiction in order that it may be able to deal with offences.

The riparian State shall have the right to continue on the high seas the pursuit of a vessel commenced within its territorial waters and to arrest and bring before its Courts a vessel which has committed an offence within its territorial waters. If, however, the vessel is captured on the high seas, the State whose flag it flies shall be notified immediately. The pursuit shall be interrupted as soon as the vessel enters the territorial waters of its own country or of a third Power. The right of pursuit is extinguished as soon as the vessel has entered a port of its own country or of a third Power.

Within the territorial waters no dues of any kind may be levied, except dues intended solely to defray expenses of supervision and administration. Such dues or charges shall be levied under conditions of equality.

All regulations issued by riparian States regarding their territorial waters shall be registered, and published by the International Waters Office.

ARTICLE 11.

Riches of the sea, the bottom and the subsoil.

In virtue of its sovereign rights over the territorial sea, the riparian State shall exercise for itself and for its nationals the sole right of taking possession of the riches of the sea, the bottom and the subsoil.

ARTICLE 12.

Warships.

The exercise by warships of the right of free passage may be subjected by the riparian State to special regulations. Foreign warships when admitted to territorial waters must observe the local laws and regulations, particularly those relating to navigation, anchoring and health control. If a serious and continued offence is committed, the commander of the vessel shall receive a semi-official warning in courteous terms and, if this is without effect, he may be requested, and, if necessary, compelled, to put to sea. The same dispositions shall apply if the local authorities consider that the presence of the vessel threatens the safety of the State. Except in cases of extreme urgency, however, these stringent measures shall only be taken upon the instructions of the central Government of the country.

In the case of minor offences, the diplomatic channel shall be used.

ARTICLE 13.

Jurisdiction over foreign merchant vessels in maritime ports.

In maritime ports, foreign merchant vessels shall be subject without restriction to the civil and non-contentious jurisdiction of the riparian State.

The criminal jurisdiction of the riparian State shall be restricted to the punishment of offences committed on board which are not directed against a member of the crew or against passengers and their property. Its criminal jurisdiction shall further be restricted to cases in which the captain of the vessel has asked the port authorities for assistance and cases in which the peace or public order in the port has been disturbed.

ARTICLE 14.

Settlement of disputes.

All disputes arising out of the application or interpretation of this Convention shall be subject to compulsory settlement by the Permanent Court of International Justice or by a court of arbitration constituted by agreement between the parties.

(Signed) Dr. Walther SCHÜCKING,

Professor of Public Law, Member of the Permanent Court of Arbitration, Member of the Reichstag, Member of the Institut de Droit international, Corresponding Member of the American Institute of International Law.

II. OBSERVATIONS BY M. BARBOSA DE MAGALHAES.

C. P. D. I. 19. Annex I¹.

[*Translation.*]

I. *Introduction.*

As I was unable to read the excellent report by our colleague Professor Schücking before it was printed, I am venturing to submit now, for the enlightened consideration of the Committee, the observations suggested to me by that report, in order to defend my views, which, although perhaps not differing in essentials from those of the distinguished Rapporteur, nevertheless diverge from his views on certain important points.

In doing this, I propose to take in the same order the problems which are considered and discussed in the report, and solutions for which are proposed in the project accompanying it, but I shall only touch upon those in respect of which I feel that an explanation of my views is necessary.

In the first place, I desire to state that, in my opinion, the question of the territorial sea is one of those which call most urgently for a solution by way of convention, and that such solution is at the same time perfectly feasible, notwithstanding the important divergencies noticeable alike in doctrine, internal legislation, international usage, conventions and treaties.

These divergencies are not fundamental, and, moreover, it is not difficult to discover certain tendencies towards uniformity. Although the establishment of uniformity may encounter certain obstacles, arising out of the economic interests of certain States, it does not, strictly speaking, constitute a political problem.

It should be added that the divergencies with regard to the solution of certain problems are often due to the absence of unanimously accepted and recognised principles of international law and to the resultant diversity in internal legislation and in treaties rather than to the existence of clear-cut opinions which it is sought to maintain at all costs.

II. *The Legal Status of Territorial Waters.*

The eminent Rapporteur, in his short but adequate review of the theories which have been put forward as to the legal status of territorial waters—theories which he agrees with FAUCHILLE in dividing into two general categories—expresses himself in favour of that which is based upon the idea of the dominion of the coastal State over the territorial sea, adding, however, that this dominion must be restricted by certain rights of common user in favour of other States and by the provisions of such treaties as may have been concluded by the coastal State.

In accordance with this idea, he proposes the following text for Article 1 of his project :

“The State shall have an unlimited right of dominion over the zone which washes its coast, in so far as, under general international law, the rights of common user of the international community or the special rights of any State do not interfere with such right of dominion.

“The right of dominion shall include rights over the air above the said sea and the soil and subsoil beneath it.”

I am in agreement with the idea but not with the proposed article.

First, it seems to me that the expression “unlimited right” does not answer to the facts, seeing that there are no unlimited rights, and, further, that it is not in harmony with the rest of the article: this right is so far from being unlimited that it is found necessary to add immediately afterwards that it is subject to the restrictions imposed by the rights of common user of the international community or by the special rights of any State.

The word “unlimited” is, moreover, superfluous from every point of view.

The actual provisions of the project must be referred to in order to ascertain the extent of this right of dominion.

I propose, therefore, the deletion of this word.

I also propose the deletion of the restrictions mentioned in Article 1. I do not mean to suggest by this that these restrictions do not exist, but I consider that it is not necessary to mention them in this generic form in Article 1, and that to do so could only cause difficulty.

Those restrictions which are constituted by the rights of common user of the international community should be clearly and explicitly stated in the draft, and they are in fact to be found there—if not all of them, at any rate the chief ones. If they are not all mentioned there, and if it is considered that any others should be mentioned, the omission should be made good in order to avoid difficulties and controversies in the future, that being the essential object of the draft.

As regards the restrictions arising out of the special rights of any State, it is not necessary either to mention them or to make a reservation in regard to them, for, if they are laid down in conventions or treaties which are binding upon the parties, it is obvious that they are not affected by the general law, that is to say by the convention drawn up as a result of the discussions on the draft.

Consequently, it seems to me that Article 1 would gain much in clarity and simplicity if it were drafted as follows :

“The State shall have a right of dominion over the zone which washes its coast and over the air above the said sea and the soil and subsoil beneath it.”

¹ Not printed separately in English.

III. *The Extent of the Territorial Sea under the Dominion of the Coastal State.*

This is the question which gives rise to the greatest number of divergencies, and which, as the report observes, is the most difficult to solve: it is at the same time the one in respect of which a uniform solution is the most necessary.

It involves various problems, three of a general character and some others of a special character. The general problems are as follows :

(a) Should the extent of the territorial sea always be the same, or should it vary according to the rights and obligations of the coastal State ?

(b) What is this extent to be if it is to be uniform, or, if it is to vary, how many zones must be established and what special rights or obligations must be attached to them ?

(c) From what point must the zone or zones constituting the territorial sea be reckoned ?

There are various special problems, some of which are referred to in detail later in the report.

(a) If the solution of the first of these problems is to be in harmony with the theory of the dominion of the coastal State over the territorial sea, it must consist in the establishment of a uniform limit for the territorial sea, or of a single zone to constitute it.

It is indeed incomprehensible that there should be so great divergencies in connection with this right of dominion as are at present to be found in doctrine, in internal legislation and in treaties.

To establish several zones with successive restrictions on the right of dominion of the coastal State is like building a staircase with a certain number of steps leading from the coast to an extreme point where there would merely be a vestige of dominion.

One can understand that the right of dominion should be subject to certain restrictions, but this is not, strictly speaking, a question of restrictions; it is proposed to limit the right of dominion (which is in any case attenuated by natural circumstances) to a very small number of manifestations, if not to one only.

If this line is followed, the views taken by States will be as numerous and as diverse as those of the publicists and as the solutions adopted in internal legislation and in treaties.

Moreover, inasmuch as States have rights to exercise and obligations to fulfil in the territorial sea, it is not desirable that there should be different areas for the exercise of all or any of the rights and for the fulfilment of all or any of the obligations; there must be correlation. For example, the monopoly of fishing and of the coasting trade for nationals should have as a corollary the obligation to exercise supervision and to preserve order and safety within the same area. It is illogical that a State should have the obligations in respect of a three-mile zone and the rights in respect of a six-mile zone, or *vice versa*.

The draft establishes a general zone of six marine miles; but it also establishes another zone, without any fixed or uniform limit, in the following terms:

"States may exercise their rights of dominion by virtue of usage, and within the limits of such usage, beyond the zone of dominion in the following domains: police measures to prevent the possibility of military exercises being carried out by other States, and measures of Customs and sanitary control."

In this second zone yet other rights may be exercised beyond the zone of dominion and without restriction of area, if they are accorded by the International Waters Office in consideration of proved and urgent necessity.

But, it will be asked, what is the legal character of the right of coastal States in this second zone? Is it still a right of dominion? If so, why is it more restricted than in the first zone? And why is its exercise conditional upon a declaration by the International Waters Office? If it is not a right of dominion, it is desirable to establish its legal character, if only in order that the usage and urgent necessity upon which the coastal States base their claims to it may be appreciated.

Whatever the position may be, it seems to me that the recognition of this right based upon usage, and the consequent existence of two zones, will give rise to difficulties and controversies which it is desirable to avoid; in my opinion, there ought to be only one zone, without prejudice to the power which the International Waters Office might exercise as an exceptional measure, not, as the draft under consideration provides in Articles 2 and 3, to accord rights in consequence of some urgent and sudden necessity, but, as the ALVAREZ draft provides¹, to authorise the coastal States to occupy the area of water necessary for the establishment, for a given period, of installations designed to serve one of the following purposes of general interest, viz.:

- (1) Bases for non-military aircraft;
- (2) Wireless telegraphy stations;
- (3) Submarine-cable stations;
- (4) Lighthouses;
- (5) Scientific research;
- (6) Stations for assisting the victims of shipwreck.

I prefer this provision of the ALVAREZ draft to that of the SCHÜCKING draft, because it is more explicit.

I also prefer that there should be a single zone, not merely for the reasons briefly set forth above, but also because I would suggest that the single zone should be greater in extent.

(b) It is well known that the opinions which have been held and the solutions which have been proposed with regard to the extent of the territorial sea are very varied; this is made clear

¹ Draft for the Regulation of Maritime Communications in Peace-time, submitted to the Stockholm Conference of the International Law Association in 1924.

in the report, both by the text and by the table which follows it; we may accept the statement of M. BOYÉ¹ and M. JOHAN HJORT² that there is no generally acknowledged usage or principle in international law with regard to territorial waters. It may, however, be observed that there are two opinions and solutions which have met with most acceptance: one establishing a fixed limit of three miles, and another establishing the variable limit of gunshot range; moreover, the latter limit has sometimes been assimilated to the former, that is to say, it has been presumed that gunshot range would not exceed three miles.

To-day, owing to improvements in artillery, this variable limit exceeds three, and even six or twelve, miles. In the recent draft conventions the limit is fixed at six miles; it should be noted, however, that some of them, such as the ALVAREZ (1924) and SCHÜCKING drafts, provide for a second zone; another (Captain STORNY's draft) lays it down that "en général" the maximum limit of the territorial sea shall be six miles; another (the draft of the Institut de Droit international) provides that the limit of the territorial sea shall be six miles, but may be extended in time of war as far as gunshot range; while yet another (the 1924 draft of the American Institute of International Law) establishes a supplementary area . . . marine miles in width (the figure is not stated), "for reasons of safety and in order to assure the observance of sanitary and similar regulations".

This shows the tendency towards the extension of the territorial sea—an extension which is fully justified by the conditions of modern life: the greater rapidity of transport, the increase and greater efficacy of the means of action at the disposal of States³, the necessity of employing these means of action in a constantly growing area, especially as regards certain fields of activity such as police measures for purposes of protection and of Customs and sanitary control (SCHÜCKING and ALVAREZ drafts and drafts of the Institut de Droit international), the protection of maritime navigation and scientific research (ALVAREZ draft), the exclusive utilisation of vegetable or mineral products, and, more particularly, the maintenance of exclusive fishing rights⁴.

As regards the last-named category of exclusive rights, the extension of the territorial sea has been demanded with insistence at recent national and international fishery congresses.

The Fishery Congress of 1898, at Bergen, recommended that the limit of the territorial sea should be fixed at ten miles, and for certain purposes at six miles.

At the Congress of the International Marine Association held at Lisbon in 1904, Sir Thomas BARCLAY drew attention to the inadequacy of the three-mile limit; the nations which had interests in the North Sea, with the exception of Great Britain, were unanimous in considering that the territorial sea should extend for eight or ten miles; the Spanish delegate, NAVARRETE, stated that in his country the fishermen in the north and north-east were asking that the territorial sea should extend for twenty miles; the Russian delegate proposed that it should extend for ten miles; and the United States of America suggested eleven miles.

At the Fifth International Fishery Congress, held at Rome in 1911, Alberto CASTANO proposed that the minimum extent of territorial waters should be fifteen miles.

At the National Fishery Congress held at Madrid, in 1916, Odon DE BUREN, who is now Director-General of Fisheries in Spain, urged the necessity of extending the territorial sea to include the whole of the continental shelf.

At the Basque Fishery Congress which was held at St. Sebastian from September 22nd to 25th, 1925, a resolution was passed to the effect that the Spanish and French Governments should come to an agreement to extend the littoral zone of the two countries to a distance of twelve to fifteen miles from the coast with a view to ensuring the mutual observance of the regulations issued by each of the two Governments concerning intensive methods of trawling.

These demands are fully justified by technical considerations.

The maritime species of fish, particularly the edible varieties, are not uniformly distributed throughout the whole sea. Whether they are sedentary or migratory, their biological characteristics demand special conditions which, generally speaking, are only to be found together in proximity to the coast or at a relatively short distance therefrom. These conditions consist principally in the light, the salinity and the temperature of the water, its depth, the abundance and good quality of the plankton and of the vegetable growths suitable for the deposit of the eggs, and yet other considerations. It goes without saying that all this has only been discovered by biologists in comparatively recent times, inasmuch as research work only became intensive in the second half of the nineteenth century, and there is still much that requires verification. What fishermen knew, however, because they had occasion to notice it every day, was that those edible varieties of fish which were to be found quite near the coasts did not inhabit the high seas.

At one time a notion of an essentially geomorphological nature gained credence. It was observed that at a certain distance from the coast—a distance which varied to some extent—the bottom of the sea is marked by a sort of great step, almost always abrupt, which divides it

¹ "Territorial Waters, with Special Reference to Norwegian Legislation", memorandum presented to the Stockholm Conference of the International Law Association in 1924.

² "The Principal Facts concerning Norwegian Waters."

³ FAUCHILLE, after asking the question: "les progrès de la science, et spécialement les progrès de la science aéronautique, ne devront-ils pas avoir nécessairement une influence sur la détermination de la mer territoriale ? ", reproduces passages from the article entitled "L'Aviation sur les eaux territoriales", published by M. Henry COUANNIER, in the *Revue juridique internationale de la Locomotion aérienne*, vol. IV, pp. 252 *et seq.*, and concludes as follows: "Pour être logique jusqu'au bout, c'est donc, d'après M. Henry Couannier, cette portée (celle de la vue d'un avion) qu'il faudrait admettre comme mesure de la zone territoriale; et ainsi la longueur de cette zone devrait être d'environ 15 milles, au lieu de 6."

⁴ It should be mentioned here that the necessity of extending the zone of the territorial sea in case of war has also been recognised (1894 draft of the Institut de Droit international).

Although, according to a statement by the Committee, we are not called upon for the moment to consider the codification of the public international law of war, that aspect of the problem ought not to be forgotten.

into two quite distinct regions. The region extending from this step to the coast-line has been called the "continental shelf". The other, much vaster, which extends beyond this step, is the abysmal region; the rare species of fish found in this region are generally inedible. On the other hand, those which inhabit the continental shelf are for the most part edible.

As has already been observed, the width of the continental shelf is very variable. On the Atlantic coast of the Iberian Peninsula it is small in comparison with that of the continental shelves of France, England and other northern European countries. The following conclusions may be drawn from these facts:

(a) Edible varieties of fish are crowded together, so to speak, near the coasts of the countries whose continental shelf is narrow, whereas they are scattered about the high seas off coasts whose shelf is more extensive;

(b) Consequently fishing is more sought after on narrow shelves because it is more fruitful there than elsewhere.

As long as fishing was more or less restricted and there was an abundant supply of the various species, it was a matter of virtual indifference to the fishermen of each country that foreign fishermen should share the abundance with them; the sea sufficed for all. But now that circumstances have changed, it is felt to be necessary to make corresponding changes in the existing situation and to extend the zone of the territorial waters in order that the exclusive enjoyment of fishing rights may not become merely theoretical in the case of certain States.

The question must also be considered in another aspect, which is extremely important if one of the desiderata of the Committee, namely, the protection of maritime wealth, is to be realised.

Apart from the question of exclusive fishing rights, it is the duty of all coastal States, both in their own interests, in order that they may obtain the greatest possible benefit from these exclusive rights, and in the general interest of world trade, to take the necessary steps for the protection of fish¹.

Admiral ALMEIDA D'ÊÇA, Portuguese delegate to the Seventh International Fishery Congress, which was to have been held at Santander in 1921 but did not take place, said:

"It is a well-known fact that the edible species of fish, whether sedentary or migratory, have their habitat in comparatively shallow water; the great depths are inhabited by abysmal species, which are not edible. It is in shallow water that the conditions necessary for the normal existence of the edible species—temperature, light, plankton and shelter—are all favourable.

"As, of course, the shallow water is to be found near the coasts, the edible species live or swim about there. The reason why species suitable for fishing are to be found on banks remote from the coasts is simply that, in spite of the distance, the depth of the water is not great. In other words, depth is a vital factor in the conditions affecting the edible species.

"Having established this connection between shallow water and the existence of edible species, we can see what has happened and was bound to happen. Sea-fishing is carried on either near the coasts or on banks. This has been the practice from time immemorial and is still the practice; and, as it was assumed that the various species were inexhaustible, fishing was carried on without respite, improvements being continually made in the apparatus employed for catching the greatest possible quantity of fish. The same activity was displayed in rivers; but in this case its destructive effects were recognised more quickly, and consequently, in our own country as elsewhere, restrictive measures are to be found in legislation from the Middle Ages onwards. As regards the sea, however, it is fair to say that until the nineteenth century there was no recognition whatever of the need for protecting species, that is to say, for issuing and enforcing regulations (as to seasons, apparatus, width of mesh, use of harmful substances, dynamite, etc.) to moderate the destructive intensity of fishing. This necessity became increasingly evident as the quest for fish grew more intensive, owing to improvements in apparatus, the growing demand of the markets, better and-transport facilities, and finally the entirely new industry of preserving in airtight receptacles, which, together with the earlier industries of salting and pickling, called for a greater quantity of fish every day. Thus arose the practice of taking all kinds of fish, whether full-grown or quite small, because all were consumed, either fresh or preserved, and the factories were continually calling for more. Ultimately—though it took time—it was realised that some limit should be set to this intensive fishing; and countries then began to lay down regulations for their fishermen, which, it must be admitted, the latter did not, and perhaps do not yet, view with favour. They regard them as vexatious restrictions on their activity, whereas they are really made in their own interests, since the whole object is to avoid exhausting such a profitable source of wealth.

"But—and this is the difficult point—regulations of this kind are almost useless if they are not widely enough applied. Every State can legislate for its own fishermen, and decide what they may or may not do, in its own territorial waters; it can even, up to a certain point, prevent irregular fishing by them outside its territorial waters, by inspecting the apparatus on the boats before they put out to sea and the catch when they bring it back to port. This control, however, can be exercised by the State only over its own nationals; over foreigners it has no power outside the so-called territorial waters. The outer limit of territorial waters, as now recognised, does not, however, coincide with the greatest depth at which edible species

¹ In the Treaties of October 2nd, 1885, and March 27th, 1893, Spain and Portugal mutually agreed that fishing within a limit of six miles should be reserved exclusively to the nationals of each of the two countries and that the use of destructive appliances should be prohibited within a limit of twelve miles.

of fish are to be found. There is no barrier, no wall, separating territorial waters from the high seas, where fishing is free to all. For the edible species the barrier is the drop from the continental shelf; they are not to be found beyond this line; but if the geographical position of the drop does not coincide with the limit of the territorial waters, they are to be found beyond that limit, and are then exposed to all the methods which lead to their extermination and destruction. Whereupon the fishermen of each country quite reasonably say: 'What is the meaning of this? My Government will not let me fish in such-and-such a way within a certain limit or even beyond, while foreigners can fish as they like outside the limit. They take all the fish, and there is nothing left for us.'

"That is the principal and most important reason for considering it necessary to extend the outer limit of the territorial waters of each country for the purposes of fishing. By this method alone can each country really ensure the protection of species."

"It will be seen, therefore, that, in the delimitation of territorial waters from the point of view of fishing, two main factors—the fauna peculiar to each region and its depth—must be taken into consideration. It follows that regulations, if established on a scientific basis, cannot be uniform for all countries. Portugal, as regards the whole of her coast-line, and Spain, as regards part of hers, are the two European countries which need the greatest width of territorial waters, because they have the narrowest continental shelf, beyond which, as has been pointed out, edible species do not live. In northern Europe, Norway is in substantially the same position."¹

Moreover, the work of protecting species will be much more effective if it is done by each State in its own territorial waters than if it is done by some international organisation to which it might be entrusted by convention.

There would thus be this general advantage in increasing the extent of the territorial sea. I therefore propose that a single zone be established for the territorial sea. This solution is, in my opinion, consonant with the circumstances and tendencies of our time, and at the same time simpler and better calculated to avoid complications and disputes; it is free from objection (for it will profit all coastal States alike while in no way affecting the position of non-coastal States) and it offers definite advantages.

I would accordingly word Article 2 of the draft as follows :

"The zone of the coastal sea shall extend for twelve marine miles (60 to the degree of latitude) from low-water mark along the whole of the coast.

"Beyond this zone, riparian States of the sea possessing a navy or merchant marine may occupy such area of the high seas as is necessary for the establishment of permanent or other constructions, provided that these are intended for any of the following public purposes:

- "(1) As bases for non-military aircraft;
- "(2) For wireless stations;
- "(3) For submarine-cable stations;
- "(4) For scientific research;
- "(5) To provide assistance for shipwrecked mariners;
- "(6) For searches for wrecks or treasures."

Immediately following this Article 2, I would have two other articles:

"Article 2 (a). — It is expressly forbidden to fortify the constructions referred to in the preceding article, or to use them even indirectly as bases of supply for warships or war aircraft or for submarines.

"Article 2 (b). — These constructions must be approved in advance by the International Waters Office, and shall be under its immediate control. The Office shall order the immediate demolition of any works set up in contravention of the provisions of the preceding article.

"The State committing such infringement may further be sentenced to a fine to be determined by the Commission."

As a necessary consequence, I would amend Article 3 of the SCHÜCKING draft in accordance with the foregoing exposition.

This wording of Article 2 defines the inner and outer limits of territorial waters, and thus solves the third general problem to which we refer above.

We have still, however, to determine the lateral limits of territorial waters. This is not done in the SCHÜCKING draft, but the problem is touched upon in Section VII ("Common Land Frontiers") of the report.

In describing the two general solutions which could be given to this problem, the Rapporteur is anxious that the matter should not be dealt with in the proposed Convention, and that, as regards existing States, historical rights should be the deciding factor; in the case of a political change in the frontiers between coastal States, he thinks that it would be advisable to establish special rules in each case, the new frontier being determined with due regard for the special geographical circumstances. He thinks it preferable to let the States concerned conclude a special agreement and apply for the decision of an arbitral or other tribunal, rather than to establish an immutable principle.

¹ As águas territoriais e as pescas. Memorandum to the Seventh International Fishery Congress, Santander, 1921, by Vicente ALMRIDA D'EÇA, delegate of the Portuguese Government, p. 11.

As regards the second hypothesis, I share his view, though I feel that, if the lateral limits of the territorial sea were defined in the Convention (as I think they can and should be), the same rules could be applied in certain cases of changes of frontier between two coastal States.

What I do not see, however, is why these rules could not be embodied in the Convention. I think this ought to be done.

Accordingly, I would include in the draft a clause containing a general definition of the lateral limits of the territorial sea in the following terms.

"Article 2 (c). — *The limit between the territorial waters of a State and those of another contiguous State is constituted by a line drawn perpendicular to the coast from the point at which the frontier between the two States meets that coast.*"

I would also introduce another clause covering and regulating the special case in which the frontier between the coastal States is formed by a river.

It is recognised that the line which divides the inland course of a river between two States is not the median line between the two banks, but the line of the "thalweg", *i.e.*, the line of the greatest depth. It is now known that the river does not actually come to an end at its mouth, but continues a little way into the sea, running over an *exterior bed*, which is almost always defined by banks on either side, and which also has its thalweg (*exterior thalweg*).

This line of the greatest depth is the course followed by vessels entering the estuary or leaving it for the sea; in many cases, indeed, it is marked for the use of shipping by buoys or beacons, the cost of which is borne by the two neighbouring States.

The bar is the common property of both States, and, consequently, vessels leaving the river ports of either of them, or entering from the high seas, are entitled to cross the bar, though, as we have pointed out, they have to follow the line of the *exterior thalweg*.

Clearly, therefore, in such a case it is the line of this *exterior thalweg*, and not a straight line drawn from the point where the bar is divided into two, which should form the lateral limit of the territorial waters of the two neighbouring States.

If this were not the case, the bar, though remaining in law under the common dominion of the two States, would cease to be so in fact, because its entrance would be situated in the territorial waters of one of them. This would be a very serious restriction, particularly in case of war, on the rights of the other State, and would conflict with the legal principle that when a right is recognised all action essential for the exercise of that right is in consequence also recognised.

The bar is common property; consequently the course followed by vessels entering and leaving should also be common property.

This is to the advantage of both States, for there is no doubt—indeed, it is a well-known fact—that the line of the *exterior thalweg* may, and sometimes does, shift in course of time, so that either of the two contiguous States might suffer if my solution were not adopted.

I would accordingly add to Article 2 (c) proposed by me above the following clause:

"When the frontier between two contiguous States is formed by a river which touches both of them and is common to both where it reaches the coast, the line of demarcation between the territorial waters of the two States is formed by the line of the exterior thalweg of the river as far as it can be traced, and thereafter by a line perpendicular to the coast as far as the outer limit of the territorial waters."

V. Bays.

As regards bays, I accept Article 4 of the draft, but I think that the latter part of the first paragraph should be amplified to cover cases in which, even in the absence of continuous and immemorial usage, recognition might be given to the absolute necessity for the State concerned to secure its defence and its neutrality and to maintain navigation and maritime police services.

This clause, which is in harmony with the theory which DRAGO, developing and further defining the ideas of Edmund RANDOLPH¹ expounded in his note on Arbitration in connection with the Newfoundland Question in 1910², and also with the views of other authors³, contains its own justification.

To regard as being part of the high seas narrow areas of sea within the limits of territorial waters, and running inland following the broken line of the coast, would involve great difficulties and risks both for the State itself and for the community of nations, owing to the disputes to which such a situation might give rise.

It may even be said that national feeling and the most legitimate interests of the State affected (*e.g.*, Norway) would be deeply wounded.

This disposition is to be found in Article 7 of the draft submitted by Captain STORNY to the Buenos Aires Conference of the International Law Association in 1922, in the following terms:

"L'Etat pourra comprendre dans les limites de sa mer territoriale les estuaires, golfes, baies ou parties de la mer adjacente où un usage continu et séculaire aura consacré sa

¹ In the *Grange* case (Delaware Bay), 1793.

² "Une certaine catégorie de baies, qui peuvent être appelées les baies historiques, forment une classe distincte et à part et sans aucun doute appartiennent au pays riverain, quelles que soient la profondeur de pénétration et la largeur de leur ouverture, quand ce pays a affirmé sa souveraineté sur elles et que des circonstances particulières, telles que la configuration géographique, l'usage immémorial et par-dessus tout les nécessités de la défense justifient une telle prétention."

— *Revue de Droit international public*, vol. XIX, p. 482.

³ Emer DE VATEL, M. DE MARTENS, etc.

jurisdiction ou qui, dans le cas où ces précédents n'existeraient pas, seraient d'une nécessité inéluctable, selon le concept de l'article 2" (in order to secure defence and neutrality and to maintain navigation and maritime police services of all kinds).

In justification of this article, the distinguished author of the draft says:

"Nous considérons cet article comme étant de la plus grande importance; il affirme sous une forme plus concluante la partie finale de l'article 3 du Projet de Définition et Régime de la Mer territoriale, de l'Institut de Droit international. Il contient aussi, évidemment, en synthèse, la doctrine des 'baies historiques', selon la manière dont cet ancien principe fut formulé par le docteur Drago.

"La clause finale de l'article s'explique parfaitement pour les nations nouvelles (américaines, par exemple), dont beaucoup parmi elles possèdent des côtes étendues, encore peu peuplées, et chez lesquelles on ne peut présenter les antécédents d'un domaine séculaire comme chez les nations qui comptent mille années d'existence ou davantage."

I therefore propose to add at the end of paragraph 1 of Article 4:

"... or if recognition is given to the absolute necessity for the State affected to secure its defence and its neutrality and to maintain navigation and maritime police services."

VI. Islands.

I agree with Article 5 of the draft, but I would observe that it does not cover the case of archipelagos of which all the component islands are separated from the mainland by more than twice the width of the territorial sea—unless it was the Rapporteur's idea to apply the same provision to them, which would mean that each of the islands in an archipelago would have its own territorial sea.

If this is meant, it should be made clear in the draft in order to remove all doubt; for it is well known that at least one other solution has been proposed, namely, to regard the islands forming an archipelago as a single unit, and to reckon the limit of the territorial sea from the islands farthest from the centre of the archipelago (ALVAREZ draft, submitted at the Stockholm Conference of the International Law Association in 1924, and draft submitted by the American Institute of International Law to the Governing Council of the Pan-American Union, March 2nd, 1925).

In my opinion, however, this latter solution is preferable, for it takes more account than the former of the necessity for securing the defence and neutrality of the State concerned and maintaining navigation and maritime police services, and at the same time it seems to me more in conformity with international usages.

It seems obvious that the existence of narrow strips of non-territorial water between islands in one and the same archipelago may give rise to serious difficulties, which it would be preferable to avoid.

I therefore propose that the following clause be added to Article 5:

"In the case of archipelagoes the component islands are considered as forming a whole, and the width of the territorial sea shall be measured from the islands most distant from the centre of the archipelago."

VII. Regulations.

To conclude these observations—which for lack of time I can neither develop as I should have wished and as the complexity and importance of the subjects demand, nor extend to other points in the report and draft—I propose to consider Article 10.

Is the list of purposes for which a coastal State can exercise its right of legislation and administration given simply *exempli gratia*, or is it intended to be limitative?

The second paragraph of the article: "The riparian State shall have the right to extend its legislative and administrative action to other domains when interests deserving of its protection in territorial waters are affected"—appears to show that the list merely consists of examples, but that the action of the coastal State for other purposes not included in the list is contingent upon their being deserving of its protection.

But who is to be judge of that? The International Waters Office? No, for no such powers are conferred upon it by Article 3 or Article 10 or any other article. The other States? But if so, how and by what procedure? That would involve a prolongation of the system of arbitrary judgment and of the uncertainties, disputes and conflicts the removal of which is the whole object of the draft. The State itself? But in that case it seems to me neither necessary nor expedient to lay down a restriction which is not really a restriction at all, and which, if it were, would conflict with the coastal State's right of dominion over the territorial sea, as recognised in Article 1.

I therefore propose that Article 10 be drafted in general terms, perhaps as follows:

"Within its territorial waters the riparian State shall have the power of legislation and administration in every field of social activity, subject to the restrictions embodied in the present Convention, and may employ the necessary means of constraint to enforce," etc. (the rest as in the proposed article).

In conclusion, I must express my high appreciation of the report of our colleague Professor SCHÜCKING, which has once more illustrated his immense learning, profound intellect and high judicial spirit.

While the excellence of the report resides in the methodical manner in which it is composed and in the vast quantity of material which it furnishes for the study and discussion of such a difficult and delicate question as that of territorial waters, the accompanying draft is remarkable from the technical juridical point of view.

Lisbon, January 10th, 1926.

(Signed) BARBOSA DE MAGALHAES.

III. OBSERVATIONS BY Mr. WICKERSHAM.

The report of M. Schücking, the distinguished Rapporteur, upon Question (b) submitted by the main Committee to the Sub-Committee composed of M. Schücking, M. de Magalhaes and Mr. Wickersham, reached the last named only a few days before he left New York and he, therefore, was unable to prepare his observations on the same before coming to Geneva. On his arrival he completed his study of the report, and a conference with the distinguished Rapporteur concerning it led the latter to accept a number of modifications suggested by Mr. Wickersham — modifications which are indicated in the revised recommendations attached to the report¹. Later, the observations and suggestions of M. de Magalhaes were received and discussed, and with respect to them the undersigned desires to record certain observations.

I.

M. de Magalhaes' observations on the nature of the jurisdiction of the littoral State over the territorial sea had already been considered by the Rapporteur and Mr. Wickersham and the former had accepted the formula adopted by the Institut de Droit international instead of that contained in his original report.

II.

Concerning the extent of the territorial sea, M. de Magalhaes objected to the limit of three miles embodied in M. Schücking's revised suggestions and he further objected to M. Schücking's recommendation of two zones. He desires the adoption of a single zone of sufficient width to permit the exercise of all the rights in the adjacent waters enjoyed by a littoral State. The undersigned objects to these suggestions for the following reasons:

1. The so-called territorial waters are as much a part of the realm of the littoral State as is its land—subject only to certain rights and usages on the part of vessels of other States which have become a part of the law of nations. Such, for example, is the right of innocent passage of such vessels through these waters, without subjecting themselves to the jurisdiction and laws of the littoral State save for exceptional purposes. Within this belt of water the sovereignty of the littoral State may be fully exercised and any restriction upon it or exception to it must be clearly established by a State claiming the same.

2. But a littoral State frequently may, and in practice often does, for certain particular purposes, exercise a certain jurisdiction beyond the limit of its territorial waters. The right to this jurisdiction depends upon: (a) *recognised usage* or (b) *international convention*.

(a) *By long-continued usage, acquiesced in by other nations.*

Examples of this are furnished through the exercise by the United States of America of the right of visitation of foreign vessels coming to one of her ports, for the enforcement of her revenue, sanitary or pilotage laws, within a distance of four marine leagues from her coast. The right to exercise this power was first asserted by Act of Congress of March 7th, 1799, authorising revenue officers to board incoming vessels "within four leagues of the coast" and examine ships' papers, etc., and punish the master and the ship for unloading or transshipping cargo within that distance. This provision has been embodied in statutes subsequently enacted (U.S. Rev. Stats., Sections 2760-5, 2814-5, 2867-8, 3067).

The exercise of this right and acquiescence in it by other nations, as OPPENHEIM says, establishes a rule of international law (see I. MOORE's Digest, 731; I. OPPENHEIM 340).

Great Britain also by similar Acts (since repealed) authorised similar visitation within four leagues of the coast (*cf.* George II, c. 35) and at a later date, within a distance of eight leagues of her coast (16 and 17 Vict., c. 107; 39 and 40 Vict., c. 363).

These rights depend upon the broad principle of national defence—a principle which led Great Britain to declare, in the British Territorial Waters Jurisdiction Act (41 and 42 Vict., 579 of 1878), that "the rightful jurisdiction of Her Majesty extends to such distance as is necessary for the defence and security of such dominions". This broad declaration is, so far as the undersigned has been able to discover, supported by no modern authority and is no longer maintained by the Government of Great Britain.

The right to pursue a vessel which has committed an offence in territorial waters against the laws of the littoral State, provided the pursuit begins in such waters and continues until it is interrupted by capture, or by the pursued vessel entering its own territorial waters or those of a third State—a right well recognised in the law of nations—is another example of the

¹ See p. 47.

exercise of certain rights in the high seas beyond the territorial sea. This is known as the doctrine of "hot pursuit".

(b) *By international convention.*

In many instances such rights arise out of treaties between two or more States. Such are the rights of pursuit and visitation of vessels suspected of violating or endeavouring to violate the laws of the United States against the importation of intoxicating liquors, embodied in the ten or more treaties recently entered into between the United States and other States to be hereinafter referred to.

The right of visitation, etc., conferred by these treaties it is agreed may be exercised outside the limits of the territorial waters and within a distance from the coast of the United States which may be traversed in one hour by the vessel suspected of the offence. With the high speed of modern vessels, this distance might well be thirty or forty miles.

The foregoing observations are directed to show the impracticability of endeavouring to embrace in a single zone of the waters adjacent to the shores of a State all the rights over vessels in such waters which, by the right of sovereignty, custom or convention, that State may exercise.

III.

As to the width of the territorial sea, so-called, M. Schücking's report demonstrates the lack of agreement among States, some claiming one distance, some another.

But, after a long history of doubt, uncertainty and conflicting contentions on the subject, certain treaties recently have been entered into which, so far as the leading maritime Powers of the world are concerned, adopt finally as a rule a width of three miles.

Such are the liquor treaties between the United States and:

Great Britain, dated January 23rd, 1924;
Germany, dated May 19th, 1924; and
The Netherlands, dated August 1st, 1924;

in each of which is contained the following clause:

"The High Contracting Parties declare that it is their firm intention to uphold the principle that three marine miles, extending from the coastline outwards, and measured from low-water mark, constitute the proper limits of territorial waters."

Similar treaties made between the United States and:

Italy, dated June 3rd, 1924;
Norway, dated May 24th, 1924;
Sweden, dated May 22nd, 1924;
Denmark, dated May 29th, 1924;

contain the following provision:

"The High Contracting Parties respectively retain their rights and claims, without prejudice by reason of this agreement, with respect to the extent of their territorial jurisdiction."

But all of these treaties agree to the exercise by the United States of the same right to pursue, visit, etc., vessels of the nationality of the other Contracting Party outside the limits of the territorial waters and within such distance from the coast of the United States as may be traversed in one hour by the vessel suspected of endeavouring to commit the offence.

In view of the so recent declaration by the United States, Great Britain, Germany and the Netherlands of their "firm intention" to adhere to three miles from the coast as the limit of the territorial sea, the undersigned feels that it is highly inexpedient to suggest to the various States the adoption of a six-mile limit, as suggested by M. de Magalhaes, and in this M. Schücking has agreed and has modified his report accordingly.

IV.

But the treaties recently entered into by various nations with the United States, as above stated, all agree to the exercise by that country of the right of visitation, capture, pursuit, etc., "outside the limit of territorial waters", to an extent measured, not by miles, but by the speed of the foreign vessel.

Under the so-called "Hovering Acts" of the United States, above referred to, the right of visitation, seizure, etc., is exercised within a distance of *four* marine leagues from the coast.

It has been held that, under the laws of Italy, salvage services rendered by a French to a German ship within five miles of the Italian coast are governed by the law of Italy¹.

As to pilotage and towage: the Acts of Congress of the United States authorise officers of the Department of Commerce to board any vessel *within four leagues* of the coast of the United States to enforce its navigation laws. An Act of Great Britain (5 Geo. IV, c. 73) required foreign inbound vessels for Liverpool to take pilot at Pt. Lynes—much more than three miles from the coast².

Respecting fisheries: there are still more varied claims and exercises of right.

The Argentine in 1907 claimed rights up to ten and a-half miles from her coast³.

In point of fact, no fewer than *four* of the maritime States of Europe reject the three-mile limit for fishing protection, while a *fifth* has deviated in part from it⁴.

The inadequacy of the territorial waters jurisdiction for the protection of fisheries is shown by FULTON in Chapter V. Many treaties have been made to remedy this. Obviously the matter can only be adequately dealt with by special agreement. No delimitation of the territorial waters to a limit of three, six or even twelve miles would meet all of these requirements.

OPPENHEIM says:

“Not to be confounded with the territorial maritime belt is the zone of the open sea over which a littoral State extends the operation of its revenue and sanitary laws. The fact is that Great Britain and the United States, as well as other States, possess revenue and sanitary laws which impose certain duties not only on their own but also on such foreign vessels bound for one of their ports as are approaching, but not yet within, their territorial maritime belt. Twiss and Phillimore agree in stating that in strict law these municipal laws have no basis, since every State is by the law of nations prevented from extending its jurisdiction over the open sea, and that it is only the comity of nations which admits tacitly the operation of such municipal laws as long as foreign States do not object, and provided that no measure is taken within the maritime belt of another nation. . . . But I believe that, since municipal laws of the above kind have been in existence for more than a hundred years, and have not been opposed by other States, a *customary rule of the law of nations may be said to exist* which allows littoral States in the interest of their revenue and sanitary laws to impose certain duties on such foreign vessels bound for their ports as are approaching, although not yet within, their territorial maritime belt.”⁵

In the course of his argument before the Behring Sea Arbitral Tribunal in 1893, Sir Charles RUSSELL, afterwards Lord Chief Justice of England, said:

“Take the case of the revenue laws—the Hovering Acts—upon what principle do those Acts rest? Upon the principle that no civilised State will encourage offences against the laws of another State the justice of which laws it recognises. It willingly allows a foreign State to take reasonable measures of prevention within a moderate distance even outside territorial waters; but all these offences, and all offences of the same class and character relating to revenue and to trade, are measures directed against a breach of the law contemplated to be consummated within the territory, to the prevention of an offence against the municipal law within the area to which the municipal law properly extends.”

J. LUSHINGTON said, in the case of the *Annapolis*⁶:

“In revenue, quarantine and pilotage matters, the necessity of the case seems to require a more extended jurisdiction than the three-mile limit.”

The exercise by States beyond the limit of their territorial waters of rights of the character above described can only be sustained by proof of recognised custom or of international convention; whereas within the territorial waters the plenary jurisdiction of the littoral State is presumed and any limitation of that right by custom or treaty must be established. For these reasons, the undersigned is opposed to the adoption of a single zone of territorial waters, extended beyond the three-mile limit, as recommended by M. de Magalhaes.

V.

The distinguished Rapporteur, M. Schücking, while concurring in these views, has included a provision in his proposed Article 2 to which the undersigned cannot agree. This article states

¹ *The Extent of the Marginal Sea*, Henry G. Crocker, p. 598.

² LUSHINGTON, p. 295.

³ *The Sovereignty of the Sea*, Thomas W. FULTON, p. 661.

⁴ *Ibid.*, p. 664.

⁵ OPPENHEIM, *International Law*, Vol. I, p. 340.

⁶ LUSHINGTON, 295. See also KENT, *Commentaries on International Law* (Aldy edition), 1878, pp. 103-104.

that outside the territorial waters States may exercise "administrative rights" depending on usage or international convention, and that included in these are such rights as are necessary to their protection.

This clause goes far beyond anything which is commonly agreed to by States. In the first place, rights of the kind above described, which by long-established usage or convention a State may exercise beyond the limit of its territorial waters, can hardly be included in the description "administration". Secondly, while it may be true, as before remarked, that these rights are founded upon the broad principle of the defence of national interests, it cannot be conceded that a State, independently of long-established and accepted custom or treaty, has the right to exercise any power it may see fit beyond its territorial sea upon the ground that it is necessary to its protection.

VI.

Concerning the lateral limits of the territorial waters, it should be observed that, where the boundary lines of the States run over the land, these lines are described in treaties or other documents. If these lines by the treaty description terminate at the shore-line, they naturally would be prolonged across the width of the territorial sea.

Where the boundary line between States is a stream which empties into the sea, generally such a stream opens out into a bay before it reaches the sea, and the rule of division applicable to bays there applies. If it does not, the boundary line between the States is drawn down the middle of the navigable channel (LAWRENCE, p. 140; CROCKER, p. 279). Sometimes the river mouth becomes a strait. If the strait be more than six miles in width and the land on either side is owned by a different State, the general rule is that the boundary line runs through the middle of the stream. If, on the other hand, the stream be less than six miles in width, the principle of *thalweg* would ordinarily apply, although the rule is not uniform (see HALL, pp. 195-6; LAWRENCE, 140; CROCKER, 281). If the shores of a strait on both sides are owned by one nation but the strait connects waters the opposite banks of which are owned by different Powers, the strait constitutes a maritime highway which may not be closed by the proprietor State (RAYNEVAL, *Institutions du Droit de la Nature*, I, p. 298), e.g., the Baltic, the Dardanelles. As to the embouchures of a river, their banks seldom run parallel to the end, cutting a right angle to the coast. Usually a river spreads at its mouth into a bay or delta in which sometimes there is one, sometimes several, navigable channels into the sea. As to bays, the rule is well settled that the width of the territorial sea is measured seaward from a straight line drawn across the bay in the part nearest the entrance at the first point where the width does not exceed twelve marine miles (Convention of October 20th, 1818, between Great Britain and the United States: FULTON, pp. 628-9, Rules, Institute Int. Law., Article 3).

There appears to be an absence of authority for the principle of *thalweg extérieur* invoked by M. de Magalhaes.

VII.

As to bays: the case of the *Grange* involved the assertion of the jurisdiction of the United States over the Delaware Bay in a question of violation of neutrality. This was largely based upon historical grounds—besides the fact that the United States owned both sides of the bay and the adjacent coast (CROCKER, p. 632-6). The same considerations were asserted respecting Chesapeake Bay in the case of the *Alleghanean* (MOORE, Sub-Arts. V. 4, p. 4332; CROCKER, p. 667). In that case the court used the following language:

"The configuration of Chesapeake Bay, the fact that its headlands are well marked and but twelve miles apart, that it and its tributaries are wholly within our own territory, that the boundary lines of adjacent States wholly encompass it; that from the earliest history of the country it has been claimed to be territorial waters, and that the claim has never been questioned; that it cannot become the pathway from one nation to another..."

Therefore the United States had plenary sovereignty over the bay.

In my opinion, the clause which M. de Magalhaes suggests, added to the first paragraph of M. Schücking's Article 4, would make general a rule which finds support only in special cases and would meet with great opposition.

Subject to the foregoing observations, the undersigned concurs in the revised recommendations suggested by M. Schücking without the modifications recommended by M. de Magalhaes.

Geneva, January 28th, 1926.

(Signed) George W. WICKERSHAM.

IV. DRAFT CONVENTION AMENDED BY M. SCHÜCKING IN CONSEQUENCE OF
THE DISCUSSION IN THE COMMITTEE OF EXPERTS.

[*Translation.*]

ARTICLE 1.

The character and extent of the rights of the riparian State.

The State possesses sovereign rights over the zone which washes its coast, in so far as, under general international law, the rights of common user of the international community or the special rights of any State do not interfere with such sovereign rights.

Such sovereign rights shall include rights over the air above the said sea and the soil and sub-soil beneath it.

ARTICLE 2.

Extent of the rights of the riparian State.

The zone of the coastal sea shall extend for three marine miles (60 to the degree of latitude) from low-water mark along the whole of the coast. Beyond the zone of sovereignty, States may exercise administrative rights on the ground either of custom or of vital necessity. There are included the rights of jurisdiction necessary for their protection. Outside the zone of sovereignty no right of exclusive economic enjoyment may be exercised.

Exclusive rights to fisheries continue to be governed by existing practice and conventions.

ARTICLE 3.

International Waters Office.

(Suppressed.)

ARTICLE 4.

Bays.

In the case of bays which are bordered by the territory of a single State, the territorial sea shall follow the sinuosities of the coast, except that it shall be measured from a straight line drawn across the bay at the part nearest to the opening towards the sea where the distance between the two shores of the bay is ten marine miles, unless a greater distance has been established by continuous and immemorial usage. The waters of such bays are to be assimilated to internal waters.

In the case of bays which are bordered by the territory of two or more States, the territorial sea shall follow the sinuosities of the coast.

ARTICLE 5.

Islands.

If there are natural islands, not continuously submerged, situated off a coast, the inner zone of the sea shall be measured from these islands, except in the event of their being so far distant from the mainland that they would not come within the zone of the territorial sea if such zone were measured from the mainland. In such case, the island shall have a special territorial sea for itself.

In the case of archipelagos, the constituent islands are considered as forming a whole and the width of the territorial sea shall be measured from the islands most distant from the centre of the archipelago.

ARTICLE 6.

Straits.

The regime of straits at present subject to special conventions is reserved. In straits of which both shores belong to the same State, the sea shall be territorial, even if the distance between the shores exceeds ten miles, provided that that distance is not exceeded at either entrance to the strait.

Straits not exceeding ten miles in width whose shores belong to different States shall form part of the territorial sea as far as the middle line.

ARTICLE 7.

Pacific passage.

All vessels without distinction shall have the right of pacific passage through the territorial sea. In the case of submarine vessels, this right shall be subject to the condition of passage on the surface. The right of passage includes the right of sojourn in so far as the latter may be necessary for navigation. For the sojourn of warships, see Article 12.

The right of free passage includes the right of passage for persons and goods independently of the right of access to the foreign mainland.

ARTICLE 8.

Coasting trade.

(Suppressed.)

ARTICLE 9.

Jurisdiction.

Vessels of foreign nationalities passing through territorial waters shall not thereby become, subject to the civil jurisdiction of the riparian State.

Further, crimes and offences committed on board a foreign vessel passing through territorial waters by persons on board such vessels against persons or things also on board shall, as such, be exempt from the jurisdiction of the riparian State.

Offences, the consequences of which are not confined to the vessel or the persons belonging to it, are subject to the criminal jurisdiction of the riparian State, in so far as they constitute offences against its established law and its tribunals have competence to deal with them. As offences the consequences of which are not confined to the vessel or the persons belonging to it shall be considered all offences which disturb the peace or public order in the territorial sea.

ARTICLE 10.

Regulations.

Within its territorial waters, the riparian State shall have full powers of legislation and administration in all domains of public activity, subject to the restrictions imposed by the present Convention, and may employ all measures of constraint necessary to ensure respect for its jurisdiction so as to permit it to deal with offences.

The riparian State shall have the right to continue on the high seas the pursuit of a vessel commenced within its territorial waters and to arrest and bring before its Courts a vessel which has committed an offence within its territorial waters. If, however, the vessel is captured on the high seas, the State whose flag it flies shall be notified immediately. The pursuit shall be interrupted as soon as the vessel enters the territorial waters of its own country or of a third Power. The right of pursuit is extinguished as soon as the vessel has entered a port of its own country or of a third Power.

Within the territorial waters no dues of any kind may be levied, except dues intended solely to defray expenses of supervision and administration. Such dues or charges shall be levied under conditions of equality. Ships which have only entered territorial waters under pressure of *force majeure*, or because they are in distress, shall be exempt from such dues and charges.

ARTICLE 11.

Riches of the sea, the bottom and the subsoil.

In virtue of its sovereign rights over the territorial sea, the riparian State shall exercise for itself and for its nationals the sole right of taking possession of the riches of the sea, the bottom and the subsoil.

As regards fishery rights, reference is made to Article 2, paragraph 2.

ARTICLE 12.

Warships.

The exercise by warships of the right of free passage may be subjected by the riparian State to special regulations. Foreign warships when admitted to territorial waters must observe the local laws and regulations, particularly those relating to navigation, anchoring and health control. If a serious and continued offence is committed, the commander of the vessel shall receive a semi-official warning in courteous terms and, if this is without effect, he may be requested, and, if necessary, compelled, to put to sea. The same dispositions shall apply if the local authorities consider that the presence of the vessel threatens the safety of the State. Except in cases of extreme urgency, however, these stringent measures shall only be taken upon the instructions of the central Government of the country.

In the case of minor offences, the diplomatic channel shall be used.

ARTICLE 13.

Jurisdiction over foreign merchant vessels in maritime ports.

In maritime ports, foreign merchant vessels shall be subject without restriction to the civil and non-contentious jurisdiction of the riparian State.

The criminal jurisdiction of the riparian State shall be restricted to the punishment of offences committed on board which are not directed against a member of the crew or against passengers and their property. Its criminal jurisdiction shall further be restricted to cases in which the captain of the vessel has asked the port authorities for assistance and cases in which the peace or public order in the port has been disturbed.

ARTICLE 14.

Settlement of disputes.

(Suppressed.)

[Translation.]

NOTES ON THE AMENDED DRAFT CONVENTION.

As regards Articles 1 and 2.

The use of the phrase "the State shall have an *unlimited right* of dominion" in the original text is due to a mistake in translation. The text should read "the State possesses sovereign rights". The article deals with the character and extent of the rights of the riparian State. The choice has to be made between two methods. The first method takes as its basis the idea of a dominion of the riparian State over the territorial sea, such dominion having to be restricted by the existence in favour of other States of certain rights of common enjoyment. The other theory maintains in favour of other States of certain rights of common enjoyment. The other theory maintains the domain of the so-called territorial sea. Careful examination of the problem shows that the solution given to this question of principle is not a matter of indifference from the practical point of view. If the riparian State is admitted to possess a right of dominion, one must admit that it has the legal right to extend its dominion in new directions. My colleague on the Sub-Committee, Mr. Wickersham, proposed the expression "the State possesses sovereign rights". M. de Magalhaes, on the other hand, preferred the following definition: "the State has a right of dominion". This difference appears to be rather one of form than one of substance.

Having regard to the present state of the law, fixed limits for the territorial sea can only be found if certain preliminary assumptions are accepted:

1. The necessity of excluding fishery rights. After discussion with Mr. Wickersham, I convinced myself that exclusive rights of fishing as governed by existing practice and conventions ought to be reserved for subsequent special treatment. The notes contained in M. de Magalhaes' observations confirmed me in this view. My colleague has shown the close connection which exists between the geographical condition of the littoral waters and the extension of the fisheries. It is for this reason that a general uniform regulation of all fishery rights could not be applied to territorial waters. Clearly also it would be necessary to preserve all those rights which are essential for the conservation of fishery rights, for example the right to police fisheries. Undoubtedly such a solution is open to criticism, since one simultaneously lays down fixed boundaries and maintains rights outside such boundaries, but the difficulties which arise appear incapable of any other solution.

2. States are in the habit of asserting special rights outside any fixed boundaries to meet various needs which arise unexpectedly. One could, therefore, hardly hope that they would be satisfied with boundaries laid down once and for all. It would even be impossible to secure recognition for such boundaries by taking as the basis for the general sphere of dominion the furthest limit up to which to-day any State exercises some particular right. Hence follows the necessity of allowing two zones, one fixed and the other constituting a zone within which would be recognised only such rights of the riparian State as have hitherto been exercised therein for purely administrative ends. The second boundary proposed in the report would not be laid down once and for all on the side of the high sea; on the contrary it should be elastic so as to take account of possible essential requirements of States. Furthermore, to escape the danger of a tendency of States to establish for themselves a second zone analogous in legal character to the first zone, riparian States ought in such second zone to be limited to the exercise of definite rights, namely, rights of an administrative character. As Mr. Wickersham pointed out to me, however, such administrative rights ought only to be named in the Convention by way of examples, and there should be a general clause in the Convention giving the fullest possibility for the recognition of administrative rights. By permitting no more than the exercise of administrative rights within the second zone, one would exclude rights of economic enjoyment, excepting always fishery rights which are in no way dealt with in the draft. I thought that I was offering a guarantee against arbitrary claims to exercise rights in the second zone by proposing the establishment of an International Waters Office. The members of the Sub-Committee, however, regarded this proposal as a mere suggestion and elaborate discussion of it will not be required.

If the principles indicated above are accepted, namely, the establishment of two zones and the exclusion of fishery rights, we may return to the question of the boundaries to be fixed for the first zone. Even then this question presents some difficulty. Since the treaties recently concluded between the large States, particularly the United States and Great Britain, contain an express acceptance of the limit of three marine miles, I feel obliged to abandon my first proposal of a limit of six miles and return to the three-mile limit. If, notwithstanding the creation of a second zone and the exclusion of fishery rights, those States which hitherto have exercised rights outside the three-mile limit, do not accept that limit, it will still be possible to conclude a Convention on the basis of the three-mile limit, States possessing historical rights over a more extensive zone being permitted to make a reservation on the subject.

As regards Article 3.

After discussion with various members of the Committee, I convinced myself that the moment had not yet come to propose the establishment of an International Waters Office. My colleagues on the Sub-Committee felt, however, that this proposal might be taken into account as a simple suggestion.

As regards Article 4. — Bays.

My original draft contemplated a distance of twelve marine miles between the two sides of a bay, the width of the territorial sea being fixed at six miles. If a width of three miles is taken for the latter, a distance of ten miles may be accepted as regards bays and is justified by the history of the question (for details, see my report, page 13 of the present document). The third paragraph of the original text of the article must be struck out, being closely connected with the establishment of the International Waters Office. For the same reason it is no longer possible to take account of M. de Magalhaes' observations in favour of recognising in the future to the State concerned a right to assure its defence and neutrality, its navigation services and its marine police. In my colleagues' view, the question would be one of admitting new bays which would be assimilated to internal bays. I should have no objection if the International Waters Office were to be created, but without such an office the right asked for by M. de Magalhaes would be, to some extent, dangerous.

As regards Article 9.

The restrictions on jurisdiction here proposed could be the more easily included in a general convention if effect were given to a suggestion made by Mr. Wickersham in the Sub-Committee by which the following provision would be added to paragraph 3:

"As offences the consequences of which are not confined to the vessel or the persons belonging to it shall be considered all offences which disturb the peace or public order in the territorial sea."

(Signed) SCHÜCKING.

[Communicated to the Council,
the Members of the League
and other Governments.]

C. 96. M. 47. 1926. V.
(C. P. D. I. 63.)

Geneva, February 9th, 1926.

LEAGUE OF NATIONS

**Committee of Experts for the Progressive Codification
of International Law.**

**LETTER DATED JANUARY 30th, 1926, FROM THE CHAIRMAN
OF THE COMMITTEE TO THE SECRETARY-GENERAL,
COMMUNICATING TO THE LATTER, FOR TRANSMISSION
TO GOVERNMENTS, THE QUESTIONNAIRES AND REPORTS
ADOPTED BY THE COMMITTEE AT ITS SECOND SESSION
HELD IN JANUARY 1926.**

[*Translation.*]

Geneva, January 30th, 1926.

In accordance with the Council's resolution of December 8th, 1924, taken in execution of the Assembly's resolution of September 22nd, 1924, and in virtue of a decision taken by the Committee of Experts for the Progressive Codification of International Law on January 29th, 1926, I have the honour to communicate to you herewith the questionnaires drawn up by the Committee of Experts at its second session, held at Geneva from January 12th to January 29th, 1926.

These questionnaires are as follows:

1. Nationality.
2. Territorial waters.
3. Diplomatic privileges and immunities.
4. Responsibility of States in respect of injury caused in their territory to the person or property of foreigners.
5. Procedure of international conferences and procedure for the conclusion and drafting of treaties.
6. Piracy.
7. Exploitation of the products of the sea.

The present constitutes the first communication contemplated by the Committee's terms of reference, which are as follows:

(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realisable at the present moment;

(2) After communication of the list by the Secretariat to the Governments of States, whether Members of the League or not, for their opinion, to examine the replies received; and

(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution.

In accordance with these terms of reference, the Committee will be obliged if you will be so good as to request the various Governments to send to you, for transmission to the Committee, their opinion upon the question whether the regulation by international agreement of the subjects treated, both in their general aspects and as regards the specific points mentioned in the questionnaires, is desirable and realisable in the near future.

When it has received the replies from the Governments, the Committee will examine them and will report to the Council on the questions which appear to be "sufficiently ripe" and on "the procedure which might be followed with a view to preparing eventually for conferences for their solution".

Other provisional lists of subjects may subsequently be submitted to the Governments by the Committee. The Committee, however, expresses the hope that it will be possible for the Governments to give their opinion now upon the subjects comprised in the present communication.

For the purpose of continuing its work, the Committee would be glad if the replies could be received by the Secretariat of the League of Nations before October 15th, 1926. Should a Government consider some of the subjects treated in the questionnaires to be more suitable for immediate consideration than others, the Committee would be happy to receive its replies upon such subjects without delay and in advance of the replies upon the other matters.

The Committee desires to add a general observation regarding various subjects treated in the above questionnaires.

In some of the conclusions proposed to the Committee in the reports of its Sub-Committees, submission of disputes to the jurisdiction of the Permanent Court of International Justice was suggested. It is, of course, to be understood that in any case such suggestions would have constituted merely questions submitted by the Committee for examination by the Governments and, eventually, by such conferences as may be called. Even in this form the Committee has not felt that it should deal with the general question whether a clause providing for the obligatory submission of disputes to the Permanent Court of International Justice, of which examples are to be found in various treaties, would or would not be desirable in the instruments which will fall to be drawn up by the contemplated conferences. That course, moreover, would not prejudice the possibility of obtaining advisory opinions from the Court at the request of the Council of the League of Nations.

The Committee has felt that the above question may always be examined as and when it arises, without being particularly mentioned in the questionnaires.

In addition to the subjects mentioned in the above questionnaires, the Committee examined other matters which are dealt with in the following reports:

Report on extradition;

Report on the criminal competence of States in respect of offences committed outside their territory,

After examination, the Committee decided not to include these matters in the provisional list to be submitted to the Governments; it considers it desirable, however, to communicate the reports to them for their information.

The Committee has presented a special report to the Council of the League of Nations on the question of the legal status of Government ships employed in commerce.

The question of the application in international law of the conception of prescription has been placed with other questions upon the agenda for the next session of the Committee.

(Signed) HJ. L. HAMMARSKJÖLD,

Chairman of the Committee of Experts for the
Progressive Codification of International Law.

Genève, le 14 septembre 1926.

SOCIÉTÉ DES NATIONS

**ÉLECTION DES NEUF MEMBRES NON PERMANENTS
DU CONSEIL**

Projet de résolution présenté par la Première Commission.

(Rapporteur : M. MOTTA.)

L'Assemblée, agissant en vertu de l'article 4 du Pacte, décide :

RÉSOLUTION FIXANT LES RÈGLES D'ÉLECTION DES NEUF MEMBRES NON PERMANENTS DU CONSEIL,
LA DURÉE DE LEUR MANDAT ET LES CONDITIONS DE LEUR RÉÉLIGIBILITÉ.

Article I.

Chaque année, au cours de la session ordinaire, l'Assemblée procède à l'élection de trois Membres non permanents du Conseil. Ceux-ci sont élus pour une période commençant immédiatement après leur élection et se terminant le jour où l'assemblée aura procédé aux élections, trois années après.

Si un Membre non permanent cesse de faire partie du Conseil avant l'expiration de son mandat, il sera remplacé au moyen d'une élection complémentaire séparée, à la session suivant la vacance. Le mandat du Membre ainsi élu prendra fin au moment où aurait expiré le mandat du Membre qui est remplacé.

Article II.

Un Membre sortant ne pourra, pendant la période s'écoulant entre l'expiration de son mandat et la troisième élection en session ordinaire qui suivra, être réélu que si, à l'expiration de son mandat ou au cours de cette période de trois années, l'Assemblée, statuant à la majorité des deux tiers des suffrages exprimés, décide préalablement qu'il est rééligible.

L'Assemblée statue séparément sur chaque demande de rééligibilité et au scrutin secret. Le nombre des suffrages exprimés est déterminé par le total des bulletins, déduction faite des bulletins blancs ou nuls.

L'Assemblée ne pourra statuer sur la rééligibilité d'un Membre que sur la demande écrite de ce Membre lui-même. Cette demande devra être remise au président de l'Assemblée, au plus tard la veille du jour fixé pour l'élection; elle sera présentée à l'Assemblée, qui statuera sans renvoi à une commission et sans débat.

Toutefois, le nombre des Membres réélus en conséquence d'une déclaration préalable de rééligibilité sera limité de façon que ne fassent pas partie en même temps du Conseil plus de trois Membres élus dans ces conditions. Si le résultat du scrutin est tel que cette limite de trois se trouve dépassée, ne seront pas considérés comme élus ceux de ces Membres qui, se trouvant dans ces conditions, ont recueilli le moins de voix.

Article III.

Nonobstant les dispositions qui précèdent, l'Assemblée peut, en tout temps, et en statuant à la majorité des deux tiers, décider que, par application de l'article 4 du Pacte, il sera procédé à une nouvelle élection de tous les Membres non permanents du Conseil. En pareil cas, il appartiendra à l'Assemblée de décider des règles applicables à cette nouvelle élection.

Article IV. — Dispositions transitoires.

1. En 1926, les neuf Membres non permanents du Conseil seront élus par l'Assemblée, savoir : trois pour une période de trois années, trois pour une période de deux années, et trois pour une période d'une année. La procédure de ces élections sera fixée par le Bureau de l'Assemblée.

2. Parmi les neuf Membres ainsi élus en 1926, trois au maximum pourront être immédiatement déclarés rééligibles par une décision de l'Assemblée intervenant à la suite d'un vote spécial, secret, distinct pour chaque candidat, et pris à la majorité des deux tiers des suffrages exprimés.

Aussitôt après la proclamation de l'élection, l'Assemblée sera appelée à statuer sur les demandes de rééligibilité qui auront été déposées.

Au cas où l'Assemblée se trouverait saisie de plus de trois demandes de rééligibilité, seront seuls déclarés rééligibles les trois candidats qui, en sus des deux tiers, auront obtenu le plus grand nombre de voix.

3. La qualification de rééligible qui aurait été reconnue par avance en 1926 à un, deux ou trois Membres élus à cette date, ne porte pas atteinte au droit de l'Assemblée d'user, en 1927 et 1928, au profit d'autres Membres non permanents sortant du Conseil à ces dates, de la faculté prévue à l'article II. Toutefois, il est entendu que, si trois Membres se trouvent déjà avoir la qualification de rééligible, l'Assemblée n'usera de cette faculté que dans des cas tout à fait exceptionnels.

LEAGUE OF NATIONS

**ELECTION OF THE NINE NON-PERMANENT MEMBERS
OF THE COUNCIL.**

Draft Resolution proposed by the First Committee.

(*Rapporteur*: M. MOTTA.)

The Assembly, acting in virtue of Article 4 of the Covenant, decides as follows:

**RESOLUTION MAKING RULES DEALING WITH THE ELECTION OF THE NINE NON-PERMANENT MEMBERS
OF THE COUNCIL, THEIR TERM OF OFFICE AND THE CONDITIONS OF RE-ELIGIBILITY.**

Article I.

The Assembly shall each year, in the course of its ordinary session, elect three non-permanent Members of the Council. They shall be elected for a term commencing immediately on their election and ending on the day of the elections held three years later by the Assembly.

Should a non-permanent Member cease to belong to the Council before its term of office expires, its seat shall be filled by a by-election held separately at the session following the occurrence of the vacancy. The term of office of the Member so elected shall end at the date at which the term of the Member whose place it takes would have expired.

Article II.

A retiring Member may not be re-elected during the period between the expiration of its term of office and the third election in ordinary session held thereafter unless the Assembly, either on the expiration of the Member's term of office or in the course of the said period of three years, shall, by a majority of two-thirds of the votes cast, previously have decided that such Member is re-eligible.

The Assembly shall pronounce separately, by secret ballot, upon each request for re-eligibility. The number of votes cast shall be determined by the total number of voting tickets deposited, deducting blank or spoilt votes.

The Assembly may not decide upon the re-eligibility of a Member except upon a request in writing made by the Member itself. The request must be handed to the President of the Assembly not later than the day before the date fixed for the election; it shall be submitted to the Assembly, which shall pronounce upon it without referring it to a committee and without debate.

The number of Members re-elected in consequence of having been previously declared re-eligible shall be restricted so as to prevent the Council from containing at the same time more than three Members thus elected. If the result of the ballot infringes this restriction to three Members, those of the Members affected which have received the smallest number of votes shall not be considered to have been elected.

Article III.

Notwithstanding the above provisions, the Assembly may at any time by a two-thirds majority decide to proceed, in application of Article 4 of the Covenant, to a new election of all the non-permanent Members of the Council. In this case the Assembly shall determine the rules applicable to the new election.

Article IV. — Temporary Provisions.

1. In 1926, the nine non-permanent Members of the Council shall be elected by the Assembly, three for a term of three years, three for a term of two years, and three for a term of one year. The procedure of the election shall be determined by the General Committee of the Assembly.

2. Of the nine Members thus elected in 1926, a maximum of three may be immediately declared re-eligible by a decision of the Assembly taken by a special vote by secret ballot, a separate ballot being held for each Member, and adopted by a majority of two-thirds of the number of votes cast. Immediately after the announcement of the results of the election, the Assembly have before it more than three requests for re-eligibility, the three candidates having received the largest number of votes, in excess of two-thirds of the votes cast, shall alone be declared re-eligible.

3. The according in advance in 1926 to one, two or three Members elected at that date of the quality of re-eligibility shall not affect the Assembly's right to exercise the power given by Article II in the years 1927 and 1928 in favour of other non-permanent Members retiring from the Council in those years. It is, however, understood that, if three Members already possess the quality of re-eligibility, the Assembly will only exercise this power in very exceptional cases.

Genève, le 16 septembre 1926.

SOCIÉTÉ DES NATIONS

NUMÉROTAGE DES ALINÉAS DES ARTICLES DU PACTE

RAPPORT DE LA PREMIÈRE COMMISSION

Rapporteur : l'Honorable J. G. LATHAM.

L'Assemblée a adopté, le 16 septembre 1926, la proposition suivante, présentée par l'Honorable J. G. Latham, délégué de l'Australie :

« La première Commission est invitée à étudier la question de l'utilité qu'il pourrait y avoir à numéroter les alinéas des articles dans les exemplaires du Pacte publiés par la Société des Nations, et à faire rapport à l'Assemblée sur cette question. »

La première Commission approuve à l'unanimité la proposition de M. Latham et, en conséquence, recommande à l'Assemblée d'adopter la résolution suivante :

« L'Assemblée charge le Secrétaire général de faire procéder au numérotage des alinéas des articles du Pacte dans tous les exemplaires qui seront publiés à l'avenir par le Secrétariat. »

LEAGUE OF NATIONS.

**QUESTION OF NUMBERING PARAGRAPHS OF THE ARTICLES
OF THE COVENANT.**

REPORT BY FIRST COMMITTEE.

Rapporteur : The Hon. J. G. LATHAM.

On September 16th, 1926, the Assembly adopted the following proposal made by the Hon. J. G. Latham, delegate of Australia :

“ That the First Committee be requested to consider and to report to the Assembly upon the desirability of numbering the paragraphs of the articles of the Covenant published by the League. ”

The First Committee unanimously approves Mr. Latham's suggestion and accordingly recommends the Assembly to adopt the following resolution :

“ The Assembly instructs the Secretary-General to cause the paragraphs of the articles of the Covenant to be numbered in all future editions published by the Secretariat. ”

Publications of the League of Nations

V. LEGAL

1926, V, 19.

Genève, le 23 septembre 1926.

SOCIÉTÉ DES NATIONS

**Nomination par le Conseil d'une Commission chargée d'examiner
certaines questions relatives
à l'élection des Membres non-permanents du Conseil**

Rapport de la première Commission au sujet du projet de résolution
déposé par M. Hambro, délégué de la Norvège
(Voir document A, 67, 1926.)

Rapporteur : M. ZAHLE.

Le 15 septembre 1926, le projet de résolution suivant a été déposé par M. Hambro, délégué de la Norvège :

« L'Assemblée invite le Conseil à nommer une Commission chargée :

« 1) D'examiner le système du vote unique transférable et le principe de la représentation proportionnelle en général, en ce qui concerne le problème de l'élection des Membres non permanents du Conseil ; et

« 2) De présenter, en temps voulu pour que l'Assemblée, à sa prochaine session ordinaire, puisse en être saisie, un rapport sur la méthode d'élection des Membres non permanents du Conseil. »

Le projet de résolution soumis par M. Hambro a été examiné par la première Commission à sa séance du 23 septembre.

Le délégué de la Norvège à la première Commission a soumis lors de cette séance un projet de résolution modifié et dont le texte adopté par la première Commission est soumis ci-après à l'approbation de l'Assemblée :

« L'Assemblée prie le Conseil de faire étudier par le Secrétariat le système du vote unique transférable ainsi que le principe de la représentation proportionnelle en général, en égard au problème de l'élection des Membres non permanents du Conseil dans l'intention de soumettre cette question à la prochaine session ordinaire de l'Assemblée. »

[Distributed to the Council, the Members of the League and the Delegates at the Seventh Ordinary Session of the Assembly.]

A. 100. 1926.

Geneva, September 23rd, 1926.

LEAGUE OF NATIONS

**Appointment by the Council of a Committee to examine
Certain Questions relating
to the Election of Non-Permanent Members of the Council.**

Report of the First Committee on the Draft Resolution
proposed by M. Hambro, Delegate of Norway.

(See document A. 67. 1926.)

Rapporteur : M. ZAHLE.

On September 15th, 1926, the following draft resolution was proposed by M. Hambro, delegate of Norway :

“ The Assembly requests the Council to appoint a Committee :

“ (1) To study the question of the single transferable vote and the principle of proportional representation in general, as regards the problem of the election of the non-permanent Members of the Council.

“ (2) To report on the method of election of the non-permanent Members in sufficient time to lay the question before the Assembly at its next ordinary session. ”

The draft resolution submitted by M. Hambro was considered by the First Committee at its meeting on September 23rd.

At this meeting, the Norwegian delegate on the First Committee submitted a modified draft resolution the text of which, having been adopted by the First Committee, is herewith submitted for approval by the Assembly :

“ The Assembly requests the Council to instruct the Secretariat to study the system of the single transferable vote and of the principle of proportional representation in general, in connection with the problem of the election of the non-permanent Members of the Council, in order that this question may be laid before the next ordinary session of the Assembly. ”

Geneva, September 24th, 1926.

LEAGUE OF NATIONS

60

INTERPRETATION OF THE PREAMBLE AND ARTICLES
3 AND 4 OF THE COVENANT

Report by the First Committee.

Rapporteur: Professor BARTHÉLEMY.

On September 14th, 1926, the Assembly referred to its First Committee a proposal by the British Delegation, as follows:

"The Assembly requests the Council to appoint a Committee to consider and report what questions are and what are not within the sphere of action of the League within the meaning of the Preamble and Articles 3 and 4 of the Covenant, especially with reference to the questions which are now being dealt with by the organs of the League or are proposed to be so dealt with."

During discussion in the First Committee, the British delegate withdrew his proposal for the appointment of a Committee of the Council, basing his withdrawal on various considerations, more particularly on the desire to avoid the expense which would be incurred by the meeting of this Committee at Geneva outside the sessions of the Assembly.

The British delegate submitted to the First Committee a memorandum setting forth the arguments in support of the other parts of the proposal.

After a full discussion, which maintained a very high level, the First Committee recommends to the Assembly the adoption of the following Resolution:

"The Assembly:

"Having considered with the deepest interest Viscount Cecil's proposal and the memorandum of the British delegation annexed to the present resolution¹;

"Shares the feelings which inspired these two documents;

"Recognises that the League of Nations should avoid dissipating its activity upon subjects which might divert it from its lofty mission of promoting the peace of the world and facilitating co-operation between nations for the peaceful progress of mankind;

"Recommends that each body forming part of the League, before taking into consideration any proposal submitted to it, should satisfy itself that the proposal is in accordance with the objects of the League as indicated by the Covenant and possesses real importance from the point of view of the attainment of those objects;

"Decides that in case of doubt, and if so requested by a member of the body, the question shall be submitted to the Council, in the interval between the sessions of the Assembly, and, during those sessions, to the Committee appointed by the Assembly for legal and constitutional questions.

"The present resolution shall be brought by the Secretary-General to the knowledge of the various bodies forming part of the League."

¹ See Annex.

ANNEX

MEMORANDUM BY THE BRITISH DELEGATION, DATED SEPTEMBER 16TH, 1926, ON VISCOUNT CECIL'S RESOLUTION.¹

In the sixth and seventh ordinary sessions of the Assembly, as well as earlier, questions have been raised as to whether particular proposals did not go beyond the sphere of action of the League. The phrase "sphere of action of the League," as used in Articles 3 and 4 of the Covenant, is nowhere defined, but its meaning may be gathered from various passages in that document.

The wording of Articles 3 and 4 of the Covenant is sufficient to show that a matter may fall within the sphere of action of the League even though it does not affect the peace of the world. Both the Assembly and the Council are authorised at their meetings to deal with any matter "within the sphere of action of the League or affecting the peace of the world". The first phrase would be superfluous if the activities of the League were limited to matters relating to peace and war.

On the other hand, its activities are limited to matters of international concern. Thus, in the Preamble of the Covenant, it is stated to have been agreed to for the purpose of (1) promoting *international co-operation*, and (2) achieving *international peace and security*. Again, Articles 8-17 inclusive consist of various provisions declared to be essential for the maintenance of peace and "the good understanding between nations". No one questions that these are within the sphere of the League.

They deal primarily with armaments, aggression and international disputes which may be likely to lead to a breach of the peace. But it is to be noted that, even in a dispute likely to lead to a rupture, if the matter "is solely within the jurisdiction" of one of the parties, the Council is not to attempt to pronounce upon its merits.

Further, by the Preamble, international co-operation is to be promoted by: first, open diplomacy; secondly, observing international law; and, thirdly, maintaining justice and a scrupulous respect for treaties in the dealings of organised peoples *with one another*. All these presuppose international relations. Diplomacy is only concerned with the relations of Governments. International law only comes into play as between different Governments or their nationals, and the last heading is specifically limited to the dealings of organised peoples with one another.

It is worth noting that this last clause of the Preamble as to maintaining justice in the dealings of organised peoples with one another, though containing two phrases, is again restricted in its operation by Articles 23 and 24 of the Covenant, by which the obligations of Members of the League with regard to a variety of matters which primarily are matters of national concern are to be carried out in conformity with international conventions present or future. This shows that the two phrases of the last clause of the Preamble must be read together and not separately.

The activities of the League may be roughly divided into its political functions and its non-political, the political functions including the administrative duties which have been cast upon the League.

The administrative duties now exercised by the League all originate in special treaty provisions, such as those in connection with the Saar (Treaty of Versailles, Article 49), Mandates (Covenant, Article 22), Minorities (various special treaties and declarations).

All the administrative duties of the League originate in special treaty provisions. Their existence, therefore, throws no light on the question of the correct interpretation of the words "sphere of action of the League".

The political activities of the League (other than its administrative functions) fall, like disarmament, into the category of questions affecting the peace of the world. Any circumstance which threatens to disturb that good understanding between nations upon which peace depends is proclaimed by Article 11 of the Covenant to be a subject which a Member of the League may bring before the Council or the Assembly. It is the element that it may be a potential source of quarrel which is important; as such it may affect the peace of the world. However much a

¹ "The Assembly requests the Council to appoint a committee to consider and report what questions are and what are not within the sphere of action of the League within the meaning of the Preamble and Articles 3 and 4 of the Covenant, especially with reference to the questions which are now being dealt with by the organs of the League or are proposed to be so dealt with."

matter of internal politics might constitute a burning question in a State, the League would have no *locus standi* to take it up unless there was reason to think that it might prejudice and disturb relations with another State. To fall within the province of the League, a political question must be international in the sense of being a potential source of quarrel.

It is in connection with non-political matters that the chief difficulty arises in deciding what is or is not within the proper function of the League.

An examination of the Articles of the Covenant shows that only Articles 23-25 deal with such matters. The earlier Articles 1-7 relate to its organisation. Articles 8-17 relate to the maintenance of peace. Articles 18-21 relate to treaties, *i. e.*, international engagements. Article 22 to administrative work, *viz.*, mandates; and Article 26 to amendments. Only Articles 22-25 remain to cover the social and economic activities of the League, and these articles show the limitations of the League's action in such matters. The subjects covered by Article 23 are primarily national matters. To enable the League to intervene, there must be either a treaty or (under Article 24) an international bureau, and a bureau must of necessity be the creature of a treaty or an agreement. The sphere of the League no doubt comprises the encouragement of States to conclude treaties upon these matters, but actual intervention in national affairs is not compatible with the Covenant until such time as a treaty has been concluded. As no treaty can be concluded without the concurrence of the States which accept it, the League cannot intervene in the national affairs of any such State unless by its own action that State has consented thereto.

In most of the cases covered by Article 23, no progress can be made except by international agreement. This applies to every subject which raises questions of international communication, such as those enumerated in sub-paragraph (c) of Article 23. To this class also belong all the questions dealt with by the Transit Committee. Closely allied to these are the economic questions referred to in sub-paragraph (e) of the same article, which include not only the questions of communication and transit there mentioned but also such matters as tariffs and other commercial barriers. To these must be added a variety of matters dealing with commerce, such as unfair competition, commercial arbitration, etc., which are necessarily international in their character and are therefore rightly to be regulated by treaty. So, too, the conditions and hours of labour in the various countries, though from one point of view they are primarily of national interest, yet by reason of the economic unity of the world, labour conditions in one country have a very direct bearing on labour conditions in another. A more difficult case is perhaps that of health. Epidemics of infectious diseases clearly warrant international regulation by means of a treaty, since their existence in one country constitutes a danger for its neighbours. Beyond that, a more difficult ground is reached. Some matters of hygiene certainly appear national.

Questions of nutrition, housing, even cleanliness, except so far as it is a contributory cause to infectious disease, seem primarily national matters and should so remain. Again, education is evidently normally a national matter, though it may be argued that it is in the interests of peace that the population of the world may be educated in sound moral and religious principles. Certainly text-books which glorify war and ignore the League of Nations may be justly considered to be an international danger. At the other end of the educational scale, no one would maintain that the best method of teaching reading, writing and arithmetic was anything but a matter of national concern; and the same applies to provision for recreation, such as swimming-baths and the like. Morals, too, are normally national rather than international, though deleterious literature and films, since they travel from one country to another, have an international aspect. Further, even in strictly national matters there may be, and often is, an international interest in providing by agreement for the pooling of knowledge and experience. In fighting some intractable disease, for instance, it may be very important that the knowledge of what is being done and the experiences in different countries should be collected and compared, and this is equally true of many other subjects.

In all those matters which are national in their essence but which have a direct bearing on the well-being of populations, international interest may justify efforts to conclude international agreements for improving comparative knowledge but cannot extend to recommendations of changes in national legislation or administration. Many matters, of course, have nothing but a national interest, such as national customs, dress, food, recreations, etc.

Article 25 might at first sight appear to run counter to the principle enunciated above. In reality, it supports it. The Red Cross organisations there referred to are specifically stated to be national organisations. It was the fact that the organisations were national, which necessitated a special article of the Covenant with regard to them. If the League could concern itself with any national organisations, Article 25 would have been unnecessary.

The principle which emerges appears to be fairly clear.

In non-political matters such as those of a social or economic character, the League has no *locus standi* except (1) where a treaty has been concluded, and then of course the observance of the treaty is a matter of international interest; or (2) where the subject-matter has sufficient repercussion outside the frontiers of a particular State to justify consideration of the subject by the League, and in that case the efforts of the League must be directed first to securing the adoption of a suitable treaty. Without such a treaty, action by the League would constitute intervention in national affairs in a manner and to an extent not provided for by the Covenant. Thirdly, the collection and comparison of information with regard to national activities in the various States as to matters of serious interest to humanity in general may be often profitably undertaken by the League.

**CONFÉRENCE DES ÉTATS SIGNATAIRES DU PROTOCOLE
DE SIGNATURE DU STATUT DE LA COUR PERMANENTE
DE JUSTICE INTERNATIONALE**

ACTE FINAL DE LA CONFÉRENCE

**CONFERENCE OF STATES SIGNATORIES OF THE
PROTOCOL OF SIGNATURE OF THE STATUTE OF THE
PERMANENT COURT OF INTERNATIONAL JUSTICE**

FINAL ACT OF THE CONFERENCE

ACTE FINAL

1. La Conférence d'Etats signataires du Protocole de signature du Statut de la Cour permanente de Justice internationale (Protocole du 16 décembre 1920) s'est réunie le 1^{er} septembre 1926, à Genève, au Bureau international du Travail.

2. La réunion de cette Conférence a eu pour origine la lettre du 2 mars 1926, par laquelle le Secrétaire d'Etat des Etats-Unis d'Amérique avait porté à la connaissance du Secrétaire général de la Société des Nations que les Etats-Unis étaient disposés à adhérer au Protocole de signature du 16 décembre 1920, moyennant cependant l'acceptation préalable, par chacun des Etats signataires dudit Protocole, de cinq réserves et conditions ainsi formulées :

« I. That such adherence shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the Treaty of Versailles.

« II. That the United States shall be permitted to participate, through representatives designated for the purpose and upon an equality with the other States Members, respectively, of the Council and Assembly of the League of Nations, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice or for the filling of vacancies.

« III. That the United States will pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

« IV. That the United States may at any time withdraw its adherence to the said Protocol and that the Statute for the Permanent Court of International Justice adjoined to the Protocol shall not be amended without the consent of the United States.

« V. That the Court shall not render any advisory opinion, except publicly after due notice to all States adhering to the Court and to all interested States and after public hearing or opportunity for hearing given to any State concerned; nor shall it, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest. »

La dite lettre a ensuite donné lieu à une résolution du Conseil de la Société des Nations en date du 18 mars 1926, tendant à la convocation d'une Conférence de délégués des Etats signataires, devant se réunir à Genève et à laquelle le Gouvernement des Etats-Unis serait invité à se faire représenter. La Conférence fut chargée de la mission de rechercher la voie par laquelle les gouvernements signataires du Protocole susmentionné pourraient donner satisfaction aux cinq réserves et conditions posées par le Gouvernement des Etats-Unis d'Amérique.

3. Le Gouvernement des Etats-Unis, pour les motifs exposés dans une lettre adressée, le 17 avril 1926, par le Secrétaire d'Etat au Secrétaire général de la Société des Nations, déclina l'invitation de prendre part à la Conférence. Les Etats signataires dont l'énumération suit ont désigné pour leurs délégués :

<i>Union Sud-Africaine :</i>	Mr. J. S. SMIT, Haut Commissaire à Londres.
<i>Albanie :</i>	Son Excellence M. Ilias VRIONI, Envoyé extraordinaire et Ministre plénipotentiaire près Son Excellence le Président de la République française et près Sa Majesté Britannique. Son Excellence M. Djemil DINO, Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté le Roi d'Italie.
<i>Australie :</i>	L'honorable J. G. LATHAM, C.M.G., K.C., Procureur général du Commonwealth d'Australie.
<i>Autriche :</i>	M. le Dr Marc LEITMAIER, Conseiller ministériel.
<i>Belgique :</i>	M. H. ROLIN, Chef de Cabinet du Ministre des Affaires étrangères.
<i>Empire Britannique :</i>	Sir Cecil James Barrington HURST, G.C.M.G., K.C.B., K.C., Conseiller juridique du Foreign Office Britannique.

FINAL ACT

1. The Conference of States signatories of the Protocol of Signature of the Statute of the Permanent Court of International Justice (Protocol of December 16th, 1920) met at the International Labour Office in Geneva on September 1st, 1926.

2. The occasion of this Conference was the letter of March 2nd, 1926, by which the Secretary of State of the United States of America informed the Secretary-General of the League of Nations that the United States was disposed to adhere to the Protocol of Signature of December 16th, 1920, on condition that each of the States signatories of the said Protocol should previously accept five reservations and conditions as follows:

" I. That such adherence shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the Treaty of Versailles.

" II. That the United States shall be permitted to participate through representatives designated for the purpose and upon an equality with the other States, Members, respectively, of the Council and Assembly of the League of Nations, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice or for the filling of vacancies.

" III. That the United States will pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

" IV. That the United States may at any time withdraw its adherence to the said Protocol and that the Statute for the Permanent Court of International Justice adjoined to the Protocol shall not be amended without the consent of the United States.

" V. That the Court shall not render any advisory opinion except publicly after due notice to all States adhering to the Court and to all interested States and after public hearing or opportunity for hearing given to any State, concerned; nor shall it, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest."

This letter gave rise to the resolution of the Council of the League of Nations of March 18th, 1926, suggesting that a Conference of the delegates of the States signatories of the Protocol should be convened at Geneva, in which the Government of the United States was also invited to participate. The Conference was charged with the task of studying the way in which the Governments of the signatories of the Protocol above mentioned might satisfy the five reservations and conditions proposed by the Government of the United States of America.

3. The Government of the United States, for the reasons set forth in a letter of April 17th, 1926, addressed by the Secretary of State of the United States to the Secretary-General of the League of Nations, declined the invitation to take part in the Conference. The signatory States enumerated below designated as their delegates to the Conference:

<i>Union of South Africa:</i>	Mr. J. S. SMIT, High Commissioner in London.
<i>Albania:</i>	His Excellency M. Ilias VRIONI, Envoy Extraordinary and Minister Plenipotentiary accredited to His Excellency the President of the French Republic and to His Britannic Majesty. His Excellency Dr. Djemil DINO, Envoy Extraordinary and Minister Plenipotentiary accredited to His Majesty the King of Italy.
<i>Australia:</i>	The Honourable J. G. LATHAM, C.M.G., K.C., Attorney-General of the Commonwealth of Australia.
<i>Austria:</i>	Dr. Marc LEITMAIER, Ministerial Counsellor.
<i>Belgium:</i>	M. H. ROLIN, Chef de Cabinet of the Minister for Foreign Affairs.
<i>British Empire:</i>	Sir Cecil James Barrington HURST, G.C.M.G., K.C.B., K.C., Legal Adviser to the British Foreign Office.

- Bulgarie:* Son Excellence M. V. MOLLOFF,
Ministre des Finances.
Délégué adjoint: M. Dimitri MIKOFF,
Chargé d'affaires à Berne, Délégué permanent du
Gouvernement bulgare auprès de la Société des Nations.
- Canada:* Le très honorable sir George Eulas FOSTER, G.C.M.G.,
Membre du Conseil privé pour le Canada.
- Chine:* Son Excellence M. CHAO-HSIN CHU,
Envoyé extraordinaire et Ministre plénipotentiaire près
Sa Majesté le Roi d'Italie.
- Danemark:* Son Excellence M. A. DE OLDENBURG,
Envoyé extraordinaire et Ministre plénipotentiaire près
le Conseil Fédéral Suisse, Représentant permanent du
Danemark auprès de la Société des Nations.
- République Dominicaine:* M. Tulio FRANCO FRANCO,
Chargé d'affaires à Paris, Rome et Bruxelles.
- Espagne:* Son Excellence M. Emilio DE PALACIOS,
Ambassadeur près Sa Majesté le Roi des Belges.
- Suppléants:
- M. Ramirez MONTESINOS,
Chef du Cabinet diplomatique du Ministère des Affaires
étrangères.
- M. DE ARENZANA,
Consul à Genève.
- Estonie:* M. A. SCHMIDT,
Directeur des Affaires politiques au Ministère des Affaires
étrangères.
- Finlande:* Son Excellence M. Rafael ERICH,
Ministre plénipotentiaire, Représentant permanent de la
Finlande auprès de la Société des Nations.
- France:* M. Henri FROMAGEOT,
Jurisconsulte du Ministère des Affaires étrangères.
Suppléant: M. le comte CLAUZEL,
Ministre plénipotentiaire, Chef du Service français de la
Société des Nations.
- Grèce:* M. Vassili DENDRAMIS,
Chargé d'affaires de Grèce à Berne, Délégué permanent
de la République Hellénique auprès de la Société des
Nations.
Délégué adjoint: M. Panayotis PIPINELLIS,
Secrétaire au Ministère des Affaires étrangères.
- Hongrie:* M. P. DE HEVESY,
Ministre résident accrédité auprès de la Société des Nations.
- Indes:* Sir William Henry Hoare VINCENT, G.C.I.E., K.C.S.I.,
Membre du Conseil du Secrétaire d'Etat pour l'Inde.
Sir Edward Maynard DES CHAMPS CHAMIER, K.C.I.E.,
Conseiller juridique du Secrétaire d'Etat.
- Etat libre d'Irlande:* Mr. Michael MACWHITE,
Représentant de l'Etat libre d'Irlande auprès de la
Société des Nations.
- Italie:* Son Excellence M. Vittorio SCIALOJA,
Sénateur, Représentant de l'Italie au Conseil de la Société
des Nations.
Suppléant: M. Massimo PILOTTI,
Conseiller de Cour d'appel, à la disposition du Ministère
des Affaires étrangères.
- Japon:* M. Isaburo YOSHIDA,
Conseiller d'Ambassade à Londres.

- Bulgaria:* His Excellency M. V. MOLLOFF,
Minister of Finance.
Substitute: M. Dimitri MIKOFF,
Chargé d'Affaires at Berne, Permanent Representative
of the Bulgarian Government accredited to the League
of Nations.
- Canada:* The Right Honourable Sir George Eulas FOSTER, G.C.M.G.,
Member of the King's Privy Council for Canada.
- China:* His Excellency M. CHAO-HSIN CHU,
Envoy Extraordinary and Minister Plenipotentiary
accredited to His Majesty the King of Italy.
- Denmark:* His Excellency M. A. DE OLDENBURG,
Envoy Extraordinary and Minister Plenipotentiary
accredited to the Swiss Federal Council. Permanent Danish
Representative accredited to the League of Nations.
- Dominican Republic:* M. Tulio FRANCO FRANCO,
Chargé d'Affaires at Paris, Rome and Brussels.
- Spain:* His Excellency M. Emilio DE PALACIOS,
Ambassador accredited to His Majesty the King of the
Belgians.
Substitutes:
M. Ramirez MONTESINOS,
Chef du Cabinet diplomatique at the Ministry for Foreign
Affairs.
M. DE ARENZANA,
Consul at Geneva.
M. A. SCHMIDT,
Director of Political Questions at the Foreign Office.
- Estonia:*
- Finland:* His Excellency M. Rafael ERICH,
Minister Plenipotentiary, Permanent Representative of
Finland accredited to the League of Nations.
- France:* M. Henri FROMAGEOT,
Legal Adviser to the Ministry for Foreign Affairs.
Substitute: M. le Comte CLAUZEL,
Minister Plenipotentiary, Head of the French League of
Nations Service.
- Greece:* M. Vassili DENDRAMIS,
Chargé d'Affaires at Berne, Permanent Representative
of the Greek Republic accredited to the League of
Nations.
Substitute: M. Panayotis PIPINELLIS,
Secretary at the Ministry for Foreign Affairs.
- Hungary:* M. P. DE HEVESY,
Resident Minister accredited to the League of Nations,
- India:* Sir William Henry Hoare VINCENT, G.C.I.E., K.C.S.I.,
Member of the Council of the Secretary of State for India.
Sir Edward Maynard DES CHAMPS CHAMIER, K.C.I.E.,
Legal Adviser to the Secretary of State.
- Irish Free State:* M. Michael MACWHITE,
Representative of the Irish Free State accredited to the
League of Nations.
- Italy:* His Excellency M. Vittorio SCIALOJA,
Senator, Italian Representative on the Council of the
League of Nations.
Substitute: M. Massimo PILOTTI,
Member of the Court of Appeal, attached to the Ministry
for Foreign Affairs.
- Japan:* M. Isaburo YOSHIDA,
Counsellor of Embassy in London,

- Lettonie:* M. Charles DUZMANS (empêché),
Délégué permanent de la Lettonie auprès de la Société
des Nations.
- M. Peter WELPS,
Délégué *ad audiendum*.
- Libéria:* Son Excellence le baron Rodolphe LEHMANN,
Envoyé extraordinaire et Ministre plénipotentiaire de
Libéria près Son Excellence le Président de la République
Française, Délégué permanent auprès de la Société des
Nations.
Délégué adjoint: M. N. OOMS,
Premier secrétaire de Légation.
- Lithuanie:* Son Excellence M. V. SIDZIKAUSKAS,
Envoyé extraordinaire et Ministre plénipotentiaire près
le Président du Reich allemand.
- Luxembourg:* M. Charles VERMAIRE,
Consul à Genève.
- Norvège:* M. le D^r Frede CASTBERG,
Conseiller en droit international au Ministère des Affaires
étrangères.
- Nouvelle-Zélande:* Le très honorable sir Francis Henry Dillon BELL,
G.C.M.G., K.C.,
Membre du Conseil exécutif de la Nouvelle-Zélande.
L'honorable Sir Christopher James PARR, K.C.M.G.,
Haut Commissaire à Londres.
- Panama:* Son Excellence M. Guillermo ANDREVE,
Ancien Ministre de Panama en France et Colombie.
Son Excellence M. le D^r Eusebio A. MORALES,
Ministre de la Trésorerie.
- Pays-Bas:* Le Jonkheer W. J. M. VAN EYSINGA,
Professeur à l'Université de Leyde.
Assisté par le baron F. M. VAN ASBECK,
Professeur à l'Académie de droit de Batavia (Indes Néer-
landaises).
- Perse:* Son Altesse le prince ARFA,
Premier délégué de la Perse auprès de la Société des
Nations.
- Pologne:* M. le professeur comte Michel ROSTWOROWSKI,
Recteur de l'Université des Jagellons à Cracovie.
M. Léon BABINSKI,
Jurisconsulte au Ministère des Affaires étrangères.
Suppléant: M. le D^r Titus KOMARNICKI,
Conseiller ministériel.
- Portugal:* Son Excellence le D^r Auguste DE VASCONCELLOS,
Ministre plénipotentiaire.
- Roumanie:* M. Démètre NEGULESCO,
Juge suppléant à la Cour permanente de Justice inter-
nationale, Membre associé de l'Institut de droit inter-
national, professeur à l'Université de Bucarest.
- Royaume des Serbes, Croates
et Slovènes:* M. le D^r Lazare MARKOVITCH,
Député, ancien Ministre de la Justice.
- Siam:* Son Altesse le prince CHAROON,
Envoyé extraordinaire et Ministre plénipotentiaire près
Son Excellence le Président de la République Française.

- Latvia:* M. Charles DUZMANS (unable to attend).
Permanent Latvian Representative accredited to the League of Nations.
- M. Peter WELPS,
Delegate *ad audiendum*.
- Liberia:* His Excellency Baron Rodolphe LEHMANN,
Envoy Extraordinary and Minister Plenipotentiary accredited to His Excellency the President of the French Republic, Permanent Representative accredited to the League of Nations.
Substitute: M. N. OOMS,
First Secretary of Legation.
- Lithuania:* His Excellency M. V. SIDZIKAUSKAS,
Envoy Extraordinary and Minister Plenipotentiary accredited to the President of the German Reich.
- Luxemburg:* M. Charles VERMAIRE,
Consul at Geneva.
- Norway:* Dr. Frede CASTBERG,
Adviser in International Law to the Ministry for Foreign Affairs.
- New Zealand:* The Right Honourable Sir Francis Henry Dillon BELL,
G.C.M.G., K.C.,
Member of the Executive Council of New Zealand.
The Honourable Sir Christopher James PARR, K.C.M.G.,
High Commissioner in London.
- Panama:* His Excellency M. Guillermo ANDREVE,
Former Minister of Panama in France and Colombia.
His Excellency Dr. Eusebio A. MORALES,
Minister of the Treasury.
- Netherlands:* Jonkheer W. J. M. VAN EYSINGA,
Professor at the University of Leyden.
Assisted by: Baron F. M. VAN ASBECK,
Professor of the Academy of Law at Batavia (Dutch East Indies).
- Persia:* His Highness Prince ARFA,
First Delegate of Persia accredited to the League of Nations.
- Poland:* Professor Count Michel ROSTWOROWSKI,
Rector of the Jagellons University, Cracovia.
M. Léon BABINSKI,
Legal Adviser to the Ministry for Foreign Affairs.
Substitute: Dr. Titus KOMARNICKI,
Ministerial Counsellor.
- Portugal:* His Excellency Dr. Auguste DE VASCONCELLOS,
Minister Plenipotentiary.
- Roumania:* M. Démètre NEGULESCU,
Substitute Judge of the Permanent Court of International Justice, Associate Member of the Institute of International Law, Professor at the University of Bucarest.
- Kingdom of the Serbs, Croats and Slovenes:* Dr. Lazare MARKOVITCH,
Deputy, former Minister of Justice.
- Siam:* His Highness Prince CHAROON,
Envoy Extraordinary and Minister Plenipotentiary accredited to His Excellency the President of the French Republic.

- Suède:* Son Excellence M. le professeur O. UNDEN,
Ancien Ministre des Affaires étrangères, professeur à
l'Université d'Upsal.
Suppléant: M. A. E. M. SJÖBORG,
Envoyé extraordinaire et Ministre plénipotentiaire,
Secrétaire général du Ministère des Affaires étrangères.
- Suisse:* M. Paul DINICHERT,
Ministre plénipotentiaire, Chef de la Division des Affaires
étrangères du Département politique fédéral.
- Tchécoslovaquie:* Son Excellence M. OSUSKY,
Envoyé extraordinaire et Ministre plénipotentiaire
près son Excellence le Président de la République Fran-
çaise, Délégué de la Grèce, de la Pologne, de la Roumanie, du
Royaume des Serbes, Croates et Slovènes et de la Tchéco-
slovaquie à la Commission des réparations.
- Uruguay:* Son Excellence M. le Dr Enrique E. BUERO,
Envoyé extraordinaire et Ministre plénipotentiaire près
le Conseil Fédéral Suisse.
- Venezuela:* Son Excellence M. César ZUMETA,
Envoyé extraordinaire et Ministre plénipotentiaire près
Sa Majesté le Roi d'Italie.
- Son Excellence M. Diogenes ESCALANTE,
Envoyé extraordinaire et Ministre plénipotentiaire près
Sa Majesté Britannique.
- Son Excellence M. Caracciolo PARRA-PÉREZ,
Ancien plénipotentiaire spécial près le Conseil fédéral
suisse, Chargé d'affaires à Berne.

Le 1^{er} septembre 1926, au cours de sa première séance, la Conférence a élu, pour président, le Jonkheer W. J. M. VAN EYSINGA, délégué des Pays-Bas et, pour vice-présidents, Son Excellence M. César ZUMETA, délégué du Venezuela, et le très honorable Sir Francis Henry Dillon BELL, délégué de la Nouvelle-Zélande.

4. Dans une série de réunions, tenues du 1^{er} au 23 septembre 1926, les délégués précités, tout en regrettant de n'avoir pu profiter de l'assistance d'un représentant des Etats-Unis, ont étudié les réserves et conditions des Etats-Unis, constamment inspirés du ferme désir de donner satisfaction, dans la plus large mesure possible, aux réserves des Etats-Unis. La Conférence a été unanime à rendre un cordial hommage à l'intention des Etats-Unis de collaborer au maintien de la Cour permanente de Justice internationale, collaboration qui était attendue avec confiance par les Etats adhérents au Statut de la Cour. Elle s'est pleinement rendu compte de l'effet moral que la participation des Etats-Unis à cette institution de paix et de justice aurait sur le développement du droit international et sur l'organisation progressive de la société mondiale sur les bases du respect du droit et de la solidarité des nations; elle s'est souvenue des précieuses contributions américaines aux progrès de la justice internationale au cours des XIX^e et XX^e siècles, notamment, par l'intervention féconde des délégués des Etats-Unis aux deux Conférences de la Paix de La Haye et, plus récemment, par la part considérable prise par un éminent juriste américain à la préparation du Statut de la Cour.

5. La Conférence a reconnu que l'adhésion des Etats-Unis au Protocole de signature du 16 décembre 1920, dans des conditions spéciales, nécessite une entente entre les Etats-Unis et les signataires du Protocole.

6. La Conférence a formulé les conclusions ci-après, destinées à servir de base aux réponses à adresser à la lettre envoyée par le Secrétaire d'Etat des Etats-Unis à chacun des gouvernements signataires du Protocole du 16 décembre 1920, réponses dans lesquelles les Etats signataires s'exprimeraient sur l'acceptation des réserves et conditions des Etats-Unis:

Réserve I.

Il y a lieu d'accepter que l'adhésion des Etats-Unis au Protocole du 16 décembre 1920 et au Statut y annexé de la Cour permanente de Justice internationale ne soit pas considérée comme impliquant pour les Etats-Unis une relation juridique quelconque avec la Société des Nations ou l'acceptation de leur part d'aucune obligation découlant du Traité de paix de Versailles du 28 juin 1919.

Réserve II.

Il y a lieu d'accepter que les Etats-Unis puissent participer par l'intermédiaire de représentants désignés à cet effet et sur un pied d'égalité avec les autres Etats, Membres de la

- Sweden:* His Excellency Professor O. UNDEN,
Former Minister for Foreign Affairs, Professor at the
University of Upsala.
Substitute: M. A. E. M. SJÖBORG,
Envoy Extraordinary and Minister Plenipotentiary,
Secretary-General of the Ministry for Foreign Affairs.
- Switzerland:* M. Paul DINICHERT,
Minister Plenipotentiary, Head of the Division for Foreign
Affairs in the Federal Political Department.
- Czechoslovakia:* His Excellency M. OSUSKY,
Envoy Extraordinary and Minister Plenipotentiary
accredited to His Excellency the President of the French
Republic, Delegate of Greece, Poland, Roumania, the
Kingdom of the Serbs, Croats and Slovenes, and Czecho-
slovakia at the Reparation Commission.
- Uruguay:* His Excellency Dr. Enrique E. BUERO,
Envoy Extraordinary and Minister Plenipotentiary
accredited to the Swiss Federal Council.
- Venezuela:* His Excellency M. César ZUMETA,
Envoy Extraordinary and Minister Plenipotentiary
accredited to His Majesty the King of Italy.
His Excellency M. Diogenes ESCALANTE,
Envoy Extraordinary and Minister Plenipotentiary
to His Britannic Majesty.
His Excellency M. Caracciolo PARRA-PEREZ,
Former Special Plenipotentiary accredited to the Swiss
Federal Council, Chargé d'Affaires at Berne.

In the course of its first meeting on September 1st, 1926, the Conference elected as President, Jonkheer W. J. M. VAN EYSINGA, delegate of the Netherlands, and as Vice-Presidents, His Excellency M. César ZUMETA, delegate of Venezuela, and the Right Honourable Sir Francis Henry Dillon BELL, delegate of New Zealand.

4. In the course of its sessions, continued from September 1st, 1926, to September 23rd, 1926, the delegates named above, while regretting that they have not had the assistance of a representative of the Government of the United States, have studied the reservations and conditions of the United States with a strong desire to satisfy them in the largest possible measure. The Conference has unanimously welcomed the proposal of the United States to collaborate in the maintenance of the Permanent Court of International Justice; such collaboration has been awaited with confidence by the States which have accepted the Statute of the Court. The Conference has taken full account of the great moral effect which the participation of the United States in the maintenance of this institution of peace and justice would have on the development of international law and on the progressive organisation of world society on the basis of a respect for law and the solidarity of nations. No has it been unmindful of the valuable American contributions to the progress of international justice in the course of the 19th and 20th centuries, notably in the fruitful participation of the delegates of the United States in the two Hague Peace Conferences and more recently in the large part taken by an eminent American jurist in the preparation of the Statute of the Court.

5. The Conference has recognised that adherence to the Protocol of Signature of December 16th, 1920, by the United States under special conditions necessitates an agreement between the United States and the signatories of the Protocol.

6. The Conference has formulated the following conclusions as the basis of the replies to the letter addressed by the Secretary of State of the United States to each of the States signatories of the Protocol of December 16th, 1920, by which the signatory States would declare their views as to the acceptance of the reservations and conditions proposed by the United States:

Reservation I.

It may be agreed that the adherence of the United States to the Protocol of December 16th, 1920, and the Statute of the Permanent Court of International Justice annexed thereto shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the Treaty of Peace of Versailles of June 28th, 1919.

Reservation II.

It may be agreed that the United States may participate, through representatives designated for the purpose and upon an equality with the other States, Members of the

Société des Nations, représentés, soit au Conseil, soit à l'Assemblée, à toutes délibérations du Conseil ou de l'Assemblée, pour élire des juges ou des juges suppléants de la Cour permanente de Justice internationale ainsi que pour pourvoir à des vacances.

Réserve III.

Il y a lieu d'accepter que les Etats-Unis contribuent aux dépenses de la Cour pour une part équitable que le Congrès des Etats-Unis déterminera et inscrira au budget.

Réserve IV.

A. Il y a lieu d'accepter que les Etats-Unis puissent en tout temps retirer leur adhésion audit Protocole du 16 décembre 1920.

En vue d'assurer l'égalité de traitement, il paraît naturel de prévoir pour les Etats signataires, agissant d'accord et, au moins, à la majorité des deux tiers, le droit de retirer de même leur acceptation des conditions spéciales mises par les Etats-Unis à leur adhésion au dit Protocole dans la seconde partie de la quatrième réserve et dans la cinquième réserve. Le *statu quo ante* pourra ainsi être rétabli, si l'on constate que l'arrangement intervenu ne donne pas de résultats satisfaisants.

On peut espérer, néanmoins, qu'il ne sera pas procédé à une dénonciation sans que, préalablement, il ait été tenté de résoudre, par un échange de vues, les difficultés qui se seraient élevées.

B. Il y a lieu d'accepter que le Statut de la Cour permanente de Justice internationale joint au Protocole du 16 décembre 1920 ne soit pas modifié sans le consentement des Etats-Unis.

Réserve V.

A. En matière d'avis consultatifs et, tout d'abord, en ce qui concerne la première partie de la cinquième réserve, le Gouvernement des Etats-Unis aura sans doute pris connaissance, depuis l'envoi de ses lettres aux divers Gouvernements, des articles 73 et 74 du Règlement de la Cour, tels qu'ils ont été amendés, le 31 juillet 1926, par la Cour elle-même (Annexe A). Ces dispositions semblent de nature à donner satisfaction aux Etats-Unis, la Cour ayant statué à ce sujet dans l'exercice des pouvoirs que l'article 30 du Statut lui confère. Au surplus, les Etats signataires pourraient étudier avec les Etats-Unis l'opportunité d'incorporer à ce sujet certaines stipulations de principe dans un protocole d'exécution dont un avant-projet est ci-joint (Annexe B), notamment en ce qui concerne la publicité du prononcé des avis consultatifs.

B. La seconde partie de la cinquième réserve conduit à distinguer, d'une part, les avis consultatifs demandés à l'occasion d'un différend dans lequel les Etats-Unis seraient partie, et, d'autre part, ceux demandés à l'occasion d'un différend où les Etats-Unis ne seraient pas partie, mais dans lequel ils déclareraient être intéressés, de même que d'une question, autre qu'un différend, dans laquelle les Etats-Unis déclareraient être intéressés.

En ce qui concerne les différends dans lesquels les Etats-Unis seraient partie, il suffit, semble-t-il, de se référer à la jurisprudence de la Cour, qui a déjà eu l'occasion de se prononcer dans la matière de différends entre un Membre de la Société des Nations et un non Membre. Cette jurisprudence, telle qu'elle est formulée dans l'avis consultatif n° 5 (Carélie orientale), le 23 juillet 1923, paraît de nature à donner satisfaction au désir des Etats-Unis.

En ce qui concerne les différends où les Etats-Unis ne seraient pas partie, mais où ils déclareraient être intéressés, de même qu'en ce qui concerne les questions autres que des différends et où les Etats-Unis déclareraient être intéressés, la Conférence a cru comprendre que le but poursuivi par les Etats-Unis a été celui de s'assurer l'égalité avec les Etats représentés, soit au Conseil, soit à l'Assemblée de la Société des Nations. Ce principe devrait être accepté. La cinquième réserve paraît, il est vrai, basée sur la présomption que l'adoption par le Conseil ou l'Assemblée d'une requête d'avis consultatif nécessite un vote unanime. Or, cette présomption n'a pas été confirmée jusqu'ici; on ne peut dire avec certitude si, dans quelques cas ou peut-être dans tous une décision de majorité n'est pas suffisante. Quoiqu'il en soit, il y a lieu de garantir aux Etats-Unis une situation d'égalité à cet égard; ainsi, dans tous les cas où un Etat représenté au Conseil ou à l'Assemblée aurait le droit, par son opposition au sein de ces organes, d'empêcher l'adoption d'une proposition tendant à provoquer l'avis consultatif de la Cour, les Etats-Unis jouiraient d'un droit équivalent.

Une grande importance s'attache, pour les Membres de la Société des Nations, aux avis consultatifs donnés par la Cour en vertu du Pacte. La Conférence est persuadée que le Gouvernement des Etats-Unis n'entend pas restreindre la valeur de ces avis, par rapport au fonctionnement de la Société des Nations. Les termes employés dans la cinquième réserve pourraient, cependant, recevoir une interprétation conduisant à une telle restriction. Les Membres de la Société des Nations exerceraient leurs droits, au Conseil et à l'Assemblée, en pleine connaissance des détails de la situation qui a pu provoquer une requête tendant à obtenir un avis consultatif, ainsi qu'en pleine connaissance des responsabilités qui, en vertu du Pacte de la Société des Nations, leur incomberaient, dans le cas où l'on n'aboutirait pas à une solution. Un Etat exempt des obligations et des responsabilités découlant du Pacte se trouverait dans une situation différente. C'est pour cette raison que la procédure à suivre par un Etat non membre de la Société, au point de vue des requêtes tendant à obtenir un avis consultatif, constitue une question

League of Nations, represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice, or for the filling of vacancies.

Reservation III.

* It may be agreed that the United States pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

Reservation IV.

A. It may be agreed that the United States may at any time withdraw its adherence to the Protocol of December 16th, 1920.

In order to assure equality of treatment, it seems natural that the signatory States, acting together and by not less than a majority of two-thirds, should possess the corresponding right to withdraw their acceptance of the special conditions attached by the United States to its adherence to the said Protocol in the second part of the fourth reservation and in the fifth reservation. In this way the *status quo ante* could be re-established if it were found that the arrangement agreed upon was not yielding satisfactory results.

It is to be hoped, nevertheless, that no such withdrawal will be made without an attempt by a previous exchange of views to solve any difficulties which may arise.

B. It may be agreed that the Statute of the Permanent Court of International Justice annexed to the Protocol of December 16th, 1920, shall not be amended without the consent of the United States.

Reservation V.

A. In the matter of advisory opinions, and in the first place as regards the first part of the fifth reservation, the Government of the United States will, no doubt, have become aware, since the despatch of its letters to the various Governments, of the provisions of Articles 73 and 74 of the Rules of Court as amended by the Court on July 31st, 1926 (Annex A). It is believed that these provisions are such as to give satisfaction to the United States, having been made by the Court in exercise of its powers under Article 30 of its Statute. Moreover, the signatory States might study with the United States the possible incorporation of certain stipulations of principle on this subject in a protocol of execution such as is set forth hereafter (Annex B), notably as regards the rendering of advisory opinions in public.

B. The second part of the fifth reservation makes it convenient to distinguish between advisory opinions asked for in the case of a dispute to which the United States is a party and that of advisory opinions asked for in the case of a dispute to which the United States is not a party but in which it claims an interest, or in the case of a question, other than a dispute, in which the United States claims an interest.

As regards disputes to which the United States is a party, it seems sufficient to refer to the jurisprudence of the Court, which has already had occasion to pronounce upon the matter of disputes between a Member of the League of Nations and State a not belonging to the League. This jurisprudence, as formulated in Advisory Opinion No. 5 (Eastern Carelia), given on July 23rd, 1923, seems to meet the desire of the United States.

As regards disputes to which the United States is not a party but in which it claims an interest, and as regards questions, other than disputes, in which the United States claims an interest, the Conference understands the object of the United States to be to assure to itself a position of equality with States represented either on the Council or in the Assembly of the League of Nations. This principle should be agreed to. But the fifth reservation appears to rest upon the presumption that the adoption of a request for an advisory opinion by the Council or Assembly requires a unanimous vote. No such presumption, however, has so far been established. It is therefore impossible to say with certainty whether in some cases, or possibly in all cases, a decision by a majority is not sufficient. In any event the United States should be guaranteed a position of equality in this respect; that is to say, in any case where a State represented on the Council or in the Assembly would possess the right of preventing, by opposition in either of these bodies, the adoption of a proposal to request an advisory opinion from the Court, the United States shall enjoy an equivalent right.

Great importance is attached by the Members of the League of Nations to the value of the advisory opinions which the Court may give as provided for in the Covenant. The Conference is confident that the Government of the United States entertains no desire to diminish the value of such opinions in connection with the functioning of the League of Nations. Yet the terms employed in the fifth reservation are of such a nature as to lend themselves to a possible interpretation which might have that effect. The Members of the League of Nations would exercise their rights in the Council and in the Assembly with full knowledge of the details of the situation which has necessitated a request for an advisory opinion, as well as with full appreciation of the responsibilities which a failure to reach a solution would involve for them under the Covenant of the League of Nations. A State which is exempt from the obligations and responsibilities of the Covenant would occupy a different position. It is for this reason that the procedure to be followed by a non-member State in connection with requests for advisory opinions is a matter of importance and

importante; en conséquence, il est désirable que les modalités dans lesquelles le consentement prévu à la seconde partie de la cinquième réserve sera donné fassent l'objet d'un accord supplémentaire qui garantirait que le règlement pacifique des futurs différends entre les Membres de la Société des Nations n'en serait pas rendu plus difficile.

La Conférence aime à croire que les considérations qui précèdent rencontreront l'agrément des Etats-Unis. Elle constate que l'application de certaines des réserves des Etats-Unis requiert des stipulations appropriées, à intervenir entre les Etats-Unis et les autres Etats signataires du Protocole du 16 décembre 1920, stipulations qui ont été également prévues dans la réponse du Secrétaire d'Etat des Etats-Unis au Secrétaire général de la Société des Nations, en date du 17 avril 1926. Dans cet ordre d'idées, il est souhaitable que les Etats signataires du Protocole du 16 décembre 1920 concluent avec les Etats-Unis un protocole d'exécution, qui, sous réserve de tous échanges de vues ultérieurs que le Gouvernement des Etats-Unis jugerait utiles, pourrait être conçu dans les termes présentés ci-après (annexe B).

Annexe A.

EXTRAIT DU RÈGLEMENT REVISÉ DE LA COUR PERMANENTE DE JUSTICE INTERNATIONALE.

(Les articles 71, 73 et 74, tels qu'ils figurent ci-après, ont été amendés le 31 juillet 1926.)

Article 71.

Les avis consultatifs sont émis après délibération par la Cour en séance plénière. Ils mentionnent le nombre des juges ayant constitué la majorité.

Les juges dissidents peuvent, s'ils le désirent, joindre à l'avis de la Cour soit l'exposé de leur opinion individuelle, soit la constatation de leur dissentiment.

Article 72.

Les questions sur lesquelles l'avis consultatif de la Cour est demandé sont exposées à la Cour par une requête écrite, signée soit par le Président de l'Assemblée ou par le Président du Conseil de la Société des Nations, soit par le Secrétaire général de la Société agissant en vertu d'instructions de l'Assemblée ou du Conseil.

La requête formule, en termes précis, la question sur laquelle l'avis de la Cour est demandé. Il y est joint tout document pouvant servir à élucider la question.

Article 73.

1. Le Greffier notifie immédiatement la requête demandant l'avis consultatif aux Membres de la Société des Nations par l'entremise du Secrétaire général de la Société, ainsi qu'aux Etats admis à ester en justice devant la Cour.

En outre, à tout Membre de la Société, à tout Etat admis à ester devant la Cour, et à toute organisation internationale jugée, par la Cour ou par le Président si elle ne siège pas, susceptible de fournir des renseignements sur la question, le Greffier fait connaître, par communication spéciale et directe, que la Cour est disposée à recevoir des exposés écrits dans un délai à fixer par le Président, ou à entendre des exposés oraux au cours d'une audience publique tenue à cet effet.

Si un des Etats ou des Membres de la Société mentionnés au premier alinéa du présent paragraphe, n'ayant pas été l'objet de la communication spéciale ci-dessus visée, exprime le désir de soumettre un exposé écrit ou d'être entendu, la Cour statue.

2. Les Etats, Membres ou organisations qui ont présenté des exposés écrits ou oraux, sont admis à discuter les exposés faits par d'autres Etats, Membres et organisations, dans les formes, mesures et délais fixés, dans chaque cas d'espèce, par la Cour, ou, si elle ne siège pas, par le Président. A cet effet, le Greffier communique en temps voulu les exposés écrits aux Etats, Membres ou organisations qui en ont eux-mêmes présentés.

Article 74.

L'avis consultatif est lu en audience publique, le Secrétaire général de la Société des Nations et les représentants des Etats, des Membres de la Société et des organisations internationales directement intéressés étant prévenus. Le Greffier prend les mesures nécessaires pour s'assurer que le texte de l'avis consultatif se trouve au siège de la Société entre les mains du Secrétaire général, aux dates et heures fixées pour l'audience à laquelle il en sera donné lecture.

L'avis consultatif est fait en deux exemplaires signés et scellés qui sont déposés dans les archives de la Cour et dans celles du Secrétariat de la Société. Des copies certifiées conformes en sont transmises par le Greffier aux Etats, Membres de la Société ou organisations internationales directement intéressés.

Tout avis consultatif qui serait donné par la Cour, ainsi que la requête à laquelle il répond, sont imprimés dans un recueil spécial publié sous la responsabilité du Greffier.

in consequence it is desirable that the manner in which the consent provided for in the second part of the fifth reservation will be given should form the object of a supplementary agreement which would ensure that the peaceful settlement of future differences between Members of the League of Nations would not be made more difficult.

* The Conference ventures to anticipate that the above conclusions will meet with acceptance by the United States. It observes that the application of some of the reservations of the United States would involve the conclusion of an appropriate agreement between the United States and the other States signatories of the Protocol of December 16th, 1920, as was indeed envisaged by the Secretary of State of the United States in his reply to the Secretary-General of the League of Nations dated April 17th, 1926. To this end, it is desirable that the States signatories of the Protocol of December 16th, 1920, should conclude with the United States a protocol of execution which, subject to such further exchange of views as the Government of the United States may think useful, might be in the form set out below (Annex B).

Annex A.

EXTRACT FROM THE REVISED RULES OF COURT OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

(Articles 71, 73 and 74, as printed herewith, were amended on July 31st, 1926.)

Article 71.

Advisory opinions shall be given after deliberation by the full Court. They shall mention the number of the judges constituting the majority.

Dissenting judges may, if they so desire, attach to the opinion of the Court either an exposition of their individual opinion or the statement of their dissent.

Article 72.

Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request, signed either by the President of the Assembly or the President of the Council of the League of Nations, or by the Secretary-General of the League under instructions from the Assembly or the Council.

The request shall contain an exact statement of the question upon which an opinion is required, and shall be accompanied by all documents likely to throw light upon the question.

Article 73.

1. The Registrar shall forthwith give notice of the request for an advisory opinion to the members of the Court, to the Members of the League of Nations, through the Secretary-General of the League, and to any States entitled to appear before the Court.

The Registrar shall also, by means of a special and direct communication, notify any Member of the League or States admitted to appear before the Court or international organisations considered by the Court (or, should it not be sitting, by the President) as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

Should any State or Member referred to in the first paragraph have failed to receive the communication specified above, such State or Member may express a desire to submit a written statement, or to be heard; and the Court will decide.

2. States, Members and organisations having presented written or oral statements or both shall be admitted to comment on the statements made by other States, Members or organisations, in the form, to the extent and within the time limits which the Court or, should it not be sitting, the President shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to States, Members and organisations having submitted similar statements.

Article 74.

Advisory opinions shall be read in open Court, notice having been given to the Secretary-General of the League of Nations and to the representatives of States, of Members of the League and of international organisations immediately concerned. The Registrar shall take the necessary steps in order to ensure that the text of the advisory opinion is in the hands of the Secretary-General at the seat of the League at the date and hour fixed for the meeting held for the reading of the opinion.

Signed and sealed original copies of advisory opinions shall be placed in the archives of the Court and of the Secretariat of the League. Certified copies thereof shall be transmitted by the Registrar to States, to Members of the League, and to international organisations immediately concerned.

Any advisory opinion which may be given by the Court, and the request in response to which it is given, shall be printed and published in a special collection for which the Registrar shall be responsible.

Annexe B.

AVANT-PROJET DE PROTOCOLE.

Les Etats signataires du Protocole de signature du Statut de la Cour permanente de Justice internationale du 16 décembre 1920, et les Etats-Unis d'Amérique, représentés par les soussignés dûment autorisés, sont convenus des dispositions suivantes relativement à l'adhésion des Etats-Unis d'Amérique audit Protocole sous condition des cinq réserves formulées par les Etats-Unis.

Article premier.

Les Etats-Unis sont admis à participer, par le moyen de délégués qu'ils désigneront à cet effet et sur un pied d'égalité avec les Etats signataires, Membres de la Société des Nations, représentés, soit au Conseil, soit à l'Assemblée, à toutes élections de juges ou de juges suppléants de la Cour permanente de Justice internationale visées au Statut de la Cour. Leur voix sera comptée dans le calcul de la majorité absolue requise dans le Statut.

Article 2.

Aucune modification du Statut joint au Protocole du 16 décembre 1920 ne pourra avoir lieu sans l'acceptation de tous les Etats contractants.

Article 3.

La Cour prononcera ses avis consultatifs en séance publique.

Article 4.

Les modalités selon lesquelles le consentement prévu à la seconde partie de la cinquième réserve sera donné, formeront l'objet d'un accord à conclure par le Gouvernement des Etats-Unis avec le Conseil de la Société des Nations.

Les Etats signataires du Protocole du 16 décembre 1920 seront informés dès que l'accord prévu à l'alinéa précédent sera intervenu.

Dans le cas où les Etats-Unis s'opposeraient à ce qu'un avis consultatif soit, à la demande du Conseil ou de l'Assemblée, donné par la Cour, relativement à un différend dans lequel les Etats-Unis ne seraient pas partie ou relativement à une question autre qu'un différend entre Etats, la Cour attachera à cette opposition la même valeur que celle qui doit être attachée à un vote émis par un Etat Membre de la Société des Nations, au sein de l'Assemblée ou au Conseil, pour s'opposer à la requête.

Article 5.

Sous réserve de ce qui sera dit à l'article 7 ci-après, les dispositions du présent Protocole auront la même force et valeur que les dispositions du Statut joint au Protocole du 16 décembre 1920.

Article 6.

Le présent Protocole sera ratifié. Chaque Etat adressera l'instrument de sa ratification au Secrétaire général de la Société des Nations, par les soins duquel il en sera donné avis à tous les autres Etats signataires. Les instruments de ratification seront déposés dans les archives du Secrétariat de la Société des Nations.

Le présent Protocole entrera en vigueur dès que tous les Etats ayant ratifié le Protocole du 16 décembre 1920, y compris les Etats-Unis, auront déposé leur ratification.

Article 7.

Les Etats-Unis pourront, en tout temps, notifier au Secrétaire général de la Société des Nations qu'ils retirent leur adhésion au Protocole du 16 décembre 1920. Le Secrétaire général donnera immédiatement communication de cette notification à tous les autres Etats signataires du Protocole.

En pareil cas, le présent Protocole sera considéré comme ayant cessé d'être en vigueur dès réception par le Secrétaire général de la notification des Etats-Unis.

De leur côté, chacun des autres Etats contractants pourra en tout temps notifier au Secrétaire général de la Société des Nations qu'il désire retirer son acceptation des conditions spéciales mises par les Etats-Unis à leur adhésion au Protocole du 16 décembre 1920, dans la seconde partie de la quatrième réserve et dans la cinquième réserve. Le Secrétaire général donnera immédiatement communication de cette notification à tous les Etats signataires du présent Protocole. Le présent Protocole sera considéré comme ayant cessé d'être en vigueur dès que, dans un espace de temps ne dépassant pas une année à compter de la réception de la notification susdite, au moins deux tiers des Etats contractants, autres que les Etats-Unis, auront notifié au Secrétaire général de la Société des Nations qu'ils désirent retirer l'acceptation sus-visée.

Article 8.

Le présent Protocole restera ouvert à la signature des Etats qui signeront ultérieurement le Protocole de signature du 16 décembre 1920.

FAIT à le 19... en un seul exemplaire, dont les textes français et anglais feront également foi.

7. La Conférence recommande à tous les Etats signataires du Protocole du 16 décembre 1920 d'adopter les conclusions ci-dessus énoncées et d'envoyer leur réponse dans un délai aussi rapproché que possible. Elle charge son président de transmettre aux Gouvernements des dits Etats un modèle de lettre de réponse au Secrétaire d'Etat des Etats-Unis.

Annex B.

PRELIMINARY DRAFT OF A PROTOCOL.

The States signatories of the Protocol of Signature of the Permanent Court of International Justice, dated December 16th, 1920, and the United States of America, through the undersigned duly authorised representatives, have agreed upon the following provisions regarding the adherence by the United States of America to the said Protocol, subject to the five reservations formulated by the United States.

Article 1.

The United States shall be admitted to participate, through representatives designated for the purpose and upon an equality with the signatory States, Members of the League of Nations, represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice, provided for in the Statute of the Court. The vote of the United States shall be counted in determining the absolute majority of votes required by the Statute.

Article 2.

No amendment of the Statute annexed to the Protocol of December 16th, 1920, may be made without the consent of all the Contracting States.

Article 3.

The Court shall render advisory opinions in public session.

Article 4.

The manner in which the consent provided for in the second part of the fifth reservation is to be given, will be the subject of an understanding to be reached by the Government of the United States with the Council of the League of Nations.

The States signatories of the Protocol of December 16th, 1920, will be informed as soon as the understanding contemplated by the preceding paragraph has been reached.

Should the United States offer objection to an advisory opinion being given by the Court, at the request of the Council or the Assembly, concerning a dispute to which the United States is not a party or concerning a question other than a dispute between States, the Court will attribute to such objection the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations either in the Assembly or in the Council.

Article 5.

Subject to the provisions of Article 7 below, the provisions of the present Protocol shall have the same force and effect as the provisions of the Statute annexed to the Protocol of December 16th, 1920.

Article 6.

The present Protocol shall be ratified. Each State shall forward the instrument of ratification to the Secretary-General of the League of Nations, who shall inform all the other signatory States. The instruments of ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The present Protocol shall come into force as soon as all the States which have ratified the Protocol of December 16th, 1920, including the United States, have deposited their ratifications.

Article 7.

The United States may at any time notify the Secretary-General of the League of Nations that it withdraws its adherence to the Protocol of December 16th, 1920. The Secretary-General shall immediately communicate this notification to all the other States signatories of the Protocol.

In such case the present Protocol shall cease to be in force as from the receipt by the Secretary-General of the notification by the United States.

On their part, each of the Contracting States may at any time notify the Secretary-General of the League of Nations that it desires to withdraw its acceptance of the special conditions attached by the United States to its adherence to the Protocol of December 16th, 1920, in the second part of its fourth reservation and in its fifth reservation. The Secretary-General shall immediately give communication of this notification to each of the States signatories of the present Protocol. The present Protocol shall be considered as ceasing to be in force if and when, within one year from the receipt of the said notification, not less than two-thirds of the Contracting States other than the United States shall have notified the Secretary-General of the League of Nations that they desire to withdraw the above-mentioned acceptance.

Article 8.

The present Protocol shall remain open for signature by any State which may in the future sign the Protocol of Signature of December 16th, 1920.

Done at the day of, 19.., in a single copy, of which the French and English texts shall both be authoritative.

7. The Conference recommends to all the States signatories of the Protocol of December 16th, 1920, that they should adopt the above conclusions and despatch their replies as soon as possible. It directs its President to transmit to the Governments of the said States a draft letter of reply to the Secretary of State of the United States.

En foi de quoi, les délégués ont signé le présent Acte.

FAIT à Genève, le vingt-trois septembre mil neuf cent vingt-six, en un seul exemplaire, dont les textes français et anglais feront également foi et qui sera déposé dans les archives de la Société des Nations. Des copies, certifiées conformes, en seront délivrées à tous les Etats signataires du Protocole du 16 décembre 1920, ainsi qu'au Conseil de la Société des Nations, qui a convoqué la Conférence.

In faith of which the Delegates have signed the present Act.

DONE at Geneva, the twenty third day of September nineteen hundred and twenty-six, in a single copy, of which, the French and English texts shall both be authoritative, and which shall remain deposited in the archives of the League of Nations. A certified copy shall be sent to each of the States signatories of the Protocol of December 16th, 1920, as well as to the Council of the League of Nations, which convoked the Conference.

UNION SUD-AFRICAINE

UNION OF SOUTH AFRICA

ALBANIE

ALBANIA

D. DINO

AUSTRALIE

AUSTRALIA

J. G. LATHAM

AUTRICHE

AUSTRIA

D^r M. LEITMAIER

BELGIQUE

BELGIUM

Henri ROLIN

EMPIRE BRITANNIQUE

BRITISH EMPIRE

Cecil J. B. HURST

BULGARIE

BULGARIA

WL. MOLLOFF

CANADA

CANADA

George Eulas FOSTER

CHINE

CHINA

DANEMARK

DENMARK

A. OLDENBURG.

RÉPUBLIQUE DOMINICAINE

DOMINICAN REPUBLIC

Il est entendu que mon gouvernement se réserve le droit d'accepter, purement et simplement, les réserves des Etats-Unis d'Amérique, si bon lui semble.

D^r FRANCO

ESPAGNE

SPAIN

Juan de ARENZANA

ESTHONIE

ESTHONIA

A. SCHMIDT.

FINLANDE

FINLAND

Rafaël ERICH.

FRANCE

FRANCE

Henri FROMAGEOT

GRÈCE

GREECE

Vassili DENDRAMIS

HONGRIE

HUNGARY

Paul de HEVESY

INDE

INDIA

W. H. VINCENT

ÉTAT LIBRE D'IRLANDE

IRISH FREE STATE

M. MacWHITE

ITALIE

ITALY

Massimo PILOTTI

JAPON

JAPAN

Isaburo YOSHIDA

LETTONIE

LATVIA

LIBÉRIA

LIBERIA

LITHUANIE

LITHUANIA

Venceslas SIDZIKAUSKAS

LUXEMBOURG

LUXEMBURG

Ch. G. VERMAIRE

NORVÈGE

NORWAY

Frède CASTBERG

NOUVELLE-ZÉLANDE

NEW ZEALAND

F. H. D. BELL
C. J. PARR

PANAMA

PANAMA

Eusebio A. MORALES

PAYS-BAS

NETHERLANDS

v. EYSINGA.

PERSE

PERSIA

P^{ca} ARFA

POLOGNE

POLAND

Michel ROSTWOROWSKI
Leon BABINSKI.

PORTUGAL

PORTUGAL

Augusto de VASCONCELLOS

ROUMANIE

ROUMANIA

Demetre NEGULESCO

ROYAUME DES SERBES, CROATES
ET SLOVÈNES

KINGDOM OF THE SERBS, CROATS
AND SLOVENES

D^r Lazare MARCOVITCH

SIAM

SIAM

CHAROON

SUÈDE

SWEDEN

Erik SJÖBORG

SUISSE

SWITZERLAND

Paul DINICHERT,

TCHÉCOSLOVAQUIE

CZECHOSLOVAKIA

Stefan OSUSKY

URUGUAY

URUGUAY

VENEZUELA

VENEZUELA

C. ZUMETA
Diógenes ESCALANTE.
C. PARRA-PÉREZ

Copie certifiée conforme de l'original de l'Acte Final déposé dans les archives de la Société des Nations, conformément aux dispositions prévues *in fine* dans ledit Acte.

Certified true copy of the original Final Act deposited, in accordance with the concluding provision thereof, in the archives of the League of Nations.

*Pour le Secrétaire général,
Le Directeur p.i. de la
Section Juridique:*

*For the Secretary-General,
The Acting Director of the
Legal Section:*

Genève, le 4 octobre 1926.

**Conférence des Etats signataires
du Protocole de signature du Statut de la Cour
permanente de Justice internationale**

**RAPPORT DE M. PILOTTI,
Rapporteur**

présenté à la Conférence le 23 septembre 1926.

Geneva, October 4th, 1926.

**Conference of States Signatories of the Protocol
of Signature of the Statute
of the Permanent Court of International Justice**

**REPORT BY M. PILOTTI,
Rapporteur**

Presented to the Conference on September 23rd, 1926.

Publications de la Société des Nations
V. QUESTIONS JURIDIQUES
1926. V, 25.

Genève, 4 octobre 1926.

CONFÉRENCE DES ÉTATS SIGNATAIRES DU PROTOCOLE DE SIGNATURE DU STATUT DE LA COUR PERMANENTE DE JUSTICE INTERNATIONALE

RAPPORT DE M. PILOTTI, Rapporteur

présenté à la Conférence le 23 septembre 1926.

1. Par sa résolution du 3 septembre 1926, la Conférence a désigné un Comité composé du président, des vice-présidents et de onze délégués, et l'a chargé d'étudier — en s'inspirant des résultats de la discussion générale — les décisions qu'il y aurait lieu d'adopter.

Le Comité m'a donné mandat de soumettre à la Conférence le résultat de ses travaux, et d'expliquer les propositions concrètes qu'il a l'honneur de présenter.

Ces propositions sont formulées dans le projet d'acte final qui a été distribué hier à tous les délégués.

2. Il a semblé au Comité que les conclusions de la Conférence devraient revêtir la forme d'un Acte final, signé par les délégués, dont des copies seraient adressées à tous les Etats signataires du Protocole du 16 décembre 1920, concernant la Cour permanente de Justice internationale, et au Conseil de la Société des Nations, qui a convoqué la Conférence. Cette forme a évidemment plus de solennité qu'une simple résolution insérée au procès-verbal de clôture, et elle est susceptible de mieux faire ressortir le caractère d'un accord entre les Etats représentés à la Conférence, que doivent présenter les conclusions adoptées.

Dans l'idée du Comité, les conclusions, telles qu'on les a incorporées dans le projet d'Acte final, sont destinées à servir de base à la lettre diplomatique que chacun des gouvernements des Etats signataires du Protocole du 16 décembre 1920 aura à adresser au Gouvernement des Etats-Unis, en réponse à la lettre de celui-ci, communiquant la proposition des Etats-Unis d'adhérer sous certaines réserves audit Protocole et au Statut de la Cour. On voit par là que le Comité a écarté l'idée d'une réponse collective des Etats signataires aux Etats-Unis. Il a estimé qu'étant adressées individuellement à chacun des Etats signataires, les lettres du Gouvernement des Etats-Unis appellent des réponses individuelles. Mais il va de soi que, les Etats signataires s'étant concertés entre eux au moyen de cette Conférence, leurs réponses, qui seront le résultat d'un commun accord, gagneraient à être autant que possible identiques. Dans cet ordre d'idées, le Comité propose que la Conférence non seulement recommande aux divers gouvernements d'accepter ses conclusions comme base de la réponse aux Etats-Unis, mais aussi qu'elle charge son président de soumettre auxdits gouvernements un texte où les conclusions seraient intégralement reproduites et qui pourrait être adopté pour la rédaction de la note.

3. Il convient maintenant d'exposer les principes qui ont inspiré le Comité en ce qui concerne le fond de la réponse à donner à l'offre des Etats-Unis. Tout d'abord, le Comité a estimé que le désir unanime de la Conférence était d'accepter cette offre, en donnant satisfaction, dans la plus large mesure possible, aux réserves des Etats-Unis. L'institution d'une Cour permanente de Justice internationale marque à elle seule, indépendamment même de l'existence de la Société des Nations, un tel progrès dans le développement des relations pacifiques entre les Etats, qu'il y a lieu de la rendre plus féconde par tous les efforts.

Or, plus grand est le nombre des Etats qui adhèrent à la Cour et plus l'importance de cette dernière est appelée à augmenter. L'intérêt des Etats qui ont fondé la Cour est que tous les autres Etats du monde acceptent d'y participer, au cas même où ils estimeraient ne pas pouvoir entrer dans la Société des Nations. En particulier, la possibilité de l'adhésion des Etats-Unis d'Amérique, en tant qu'Etat mentionné au Pacte de la Société des Nations, avait été prévue dans le Protocole de signature du Statut de la Cour, de telle sorte qu'il semble tout à fait naturel qu'en présence d'une proposition des Etats-Unis tendant à réaliser pareille adhésion de leur part, même sous une forme conditionnelle, une attitude favorable soit prise par les Etats signataires du Protocole.

D'un autre côté, le caractère conditionnel de la proposition est suffisamment expliqué par le fait que les Etats-Unis sont étrangers à la Société des Nations et désirent sauvegarder une telle situation. Il faut s'en rendre compte et tâcher de concilier le fonctionnement du Pacte avec l'intérêt d'élargir le nombre des Etats adhérents à la Cour et avec les exigences de la situation des Etats-Unis.

4. Ceci posé, le Comité a reconnu qu'une réponse pure et simple d'acceptation s'imposait avant tout pour les trois premières réserves, concernant le maintien de la qualité des Etats-Unis de Puissance étrangère au Pacte de la Société des Nations et au Traité de Paix de Versailles, leur participation aux futures élections de juges ou de juges suppléants, leur contribution aux dépenses de la Cour.

5. De même, le Comité a reconnu que les deux points formant l'objet de la quatrième réserve devaient être acceptés; à savoir la faculté, pour les Etats-Unis, de retirer à l'avenir leur adhésion,

Geneva, October 4th, 1926

CONFERENCE OF STATES SIGNATORIES OF THE PROTOCOL
OF SIGNATURE OF THE STATUTE
* OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

REPORT BY M. PILOTTI, Rapporteur

Presented to the Conference on September 23rd, 1926.

[Translation.]

1. By its resolution of September 3rd, 1926, the Conference appointed a Committee, consisting of the Chairman and Vice-Chairmen and eleven delegates, to consider on the basis of the results of the general discussion the decisions which it would be desirable to adopt.

The Committee has instructed me to lay before the Conference the result of its discussions and to explain the concrete proposals which it has the honour to submit.

These proposals are embodied in the draft of Final Act which was distributed yesterday to all the delegates.

2. It has seemed to the Committee that the conclusions of the Conference should take the form of a Final Act signed by the delegates, copies of this Act being forwarded to all States signatories of the Protocol of December 16th, 1920, concerning the Permanent Court of International Justice, and to the Council of the League which convoked the Conference. This would certainly carry greater weight than a simple resolution inserted in the Minutes of the closing meeting, and would be better calculated to emphasise the character of an agreement between the States represented at the Conference which its conclusions are intended to assume.

In the opinion of the Committee, these conclusions, as embodied in the draft Final Act, should serve as a basis for the diplomatic letter which the Government of each State signatory of the Protocol of December 16th, 1920, will subsequently send to the Government of the United States of America, in reply to the latter's letter communicating the United States' proposal to accede, subject to certain reservations, to the Protocol and the Statute of the Court.

It will be seen that the Committee has abandoned the idea of a collective reply from the signatory States to the United States. The Committee has come to the conclusion that, since the letters from the Government of the United States were addressed individually to each of the signatory States, these letters call for individual replies; but, naturally, since the signatory States have adopted a common course of action by means of this Conference, their replies, which will be the result of a common agreement, should be as similar as possible. The Committee therefore proposes that the Conference should not merely recommend the various Governments to accept its conclusions as the basis of their replies to the United States of America but should also instruct its President to submit to those Governments a text reproducing its conclusions in their entirety, which could be utilised for the purposes of the individual replies.

3. It will now be desirable to explain the principles by which the Committee has been guided with regard to the substance of the reply to be given to the United States' offer. In the first place, the Committee felt that it was the unanimous wish of the Conference to accept the offer by satisfying the United States' reservations as far as possible. The very creation of a Permanent Court of International Justice constitutes in itself and irrespective of the existence of the League of Nations so great a progress in the development of peaceful relations between States that every effort should be made to render that act fruitful of still further results.

The greater the number of States which have acceded to the Court the greater will be the Court's authority. It is to the interest of the States which founded the Court that all the other States of the world should agree to become parties thereto, even if they feel unable to become Members of the League of Nations. In particular, the possibility of the accession of the United States of America, as a State mentioned in the Covenant of the League of Nations, was provided for in the Protocol of Signature of the Statute of the Court. It therefore seems quite natural that the States signatories of the Protocol, in presence of a proposal — even a conditional proposal — by the United States of America to accede to the Court, should adopt a favourable attitude.

On the other hand, the conditional character of the proposal is sufficiently explained by the fact that the United States of America is not a Member of the League of Nations and does not desire to change its attitude. This fact must be taken into account and an endeavour must be made to reconcile the working of the Covenant with the important object of increasing the number of States which have acceded to the Court and with the requirements of the position of the United States.

4. This having been admitted, the Committee recognised that it would be desirable simply to agree to the first three reservations, namely, those concerning the maintenance of the status of the United States of America as a Power which is not a party to the Covenant of the League of Nations and the Treaty of Peace of Versailles, its participation in future elections of judges and deputy-judges, and its contribution to the expenses of the Court.

5. Likewise, the Committee recognised that the two points forming the subject of the fourth reservation should be accepted, namely, the right of the United States of America to withdraw

et la nécessité de leur consentement pour toute modification éventuelle du Statut, ce dernier ayant été approuvé en 1920 par un accord unanime des Etats signataires, et ne pouvant être modifié que par un autre accord unanime. Mais la faculté de retirer l'adhésion constitue évidemment une garantie que les Etats-Unis entendent s'assurer pour l'hypothèse non souhaitable où le fonctionnement pratique de la Cour avec leur participation ne serait pas de nature à satisfaire aux exigences de leur situation. Or, déjà dans la discussion générale de la Conférence en séance plénière, l'idée avait été émise qu'il serait naturel de prévoir une faculté analogue pour les autres Etats signataires. Le Comité a cru exprimer cette idée dans la première partie de la réponse qu'il préconise au sujet de la quatrième réserve; mais il s'est préoccupé de donner à l'exercice d'une pareille faculté le caractère d'une décision collective, prise à une majorité suffisamment forte pour qu'elle puisse avoir été inspirée uniquement par la constatation objective d'une sérieuse difficulté de fonctionnement: en l'occurrence, une majorité des deux tiers.

En outre, le Comité a cru devoir formuler l'espoir qu'aussi bien de la part des Etats-Unis que des autres Etats signataires, le droit de dénonciation ne soit pas exercé sans que préalablement il y ait eu un échange de vues sur les difficultés éventuelles et, le cas échéant, sur les moyens d'y remédier.

6. Relativement à cette partie de la cinquième réserve qui vise la publicité dans les arrêts de la Cour en matière d'avis consultatif et le droit de chaque Etat adhérent de faire entendre son point de vue avant que la Cour se prononce en cette matière, le Comité a estimé que toute satisfaction est donnée à la demande des Etats-Unis dans les dispositions du Règlement de la Cour qui concernent la procédure consultative, telles qu'elles ont été récemment amendées. Il propose toutefois que, si les Etats-Unis le jugent utile, des stipulations à ce sujet interviennent entre eux et les autres Etats signataires.

7. La seconde partie de la cinquième réserve a formé l'objet d'une étude longuement approfondie au sein du Comité, étant donné l'importance essentielle qui s'y rattache. Dans la discussion générale au sein de la Conférence, plusieurs orateurs avaient attiré l'attention de celle-ci sur les travaux préparatoires de la résolution du Sénat des Etats-Unis qui a décidé l'adhésion conditionnelle à la Cour. Il a été remarqué, d'une part, que dans les débats du Sénat, on avait fait état de l'opinion exprimée par la Cour dans son avis consultatif N° 5 (Carélie orientale), selon laquelle un avis portant sur le fond d'un différend entre un Etat membre de la Société des Nations et une Puissance étrangère à la Société ne pourrait être rendu sans le consentement de cette Puissance. Il a été, d'autre part, observé que l'idée dominante, dans ces mêmes débats, paraissait avoir été d'assurer aux Etats-Unis l'égalité avec tout Etat membre de la Société appelé à se prononcer, en tant que représenté au Conseil ou à l'Assemblée, au sujet d'une requête d'avis consultatif qu'on proposerait, respectivement au sein du Conseil ou au sein de l'Assemblée, d'adresser à la Cour. Le Comité a tenu compte de ces observations en introduisant, dans la réponse qu'il envisage pour cette partie de la cinquième réserve, une distinction entre les différends dans lesquels les Etats-Unis seraient partie, et les différends dans lesquels ils ne seraient pas partie, ou les questions autres que des différends. Il a estimé que, pour la première hypothèse, la réponse peut se borner à une référence à la jurisprudence de la Cour telle qu'elle est consacrée dans l'avis de la Carélie orientale.

Pour la seconde hypothèse, la réponse ne peut consister que dans la déclaration, de la part des Etats signataires, qu'ils reconnaissent aux Etats-Unis l'égalité avec les Etats membres de la Société des Nations, représentés soit au Conseil, soit à l'Assemblée. Le principe d'égalité comporte la conséquence que l'opposition des Etats-Unis à l'adoption, par le Conseil ou l'Assemblée, d'une requête d'avis consultatif aurait exactement la même valeur qu'aurait une voix émise pour s'opposer à la requête, par un Etat représenté, soit au Conseil, soit à l'Assemblée. Cette valeur serait celle d'un empêchement absolu au seul cas où la requête devrait être approuvée par un vote unanime. Il semble bien que la nécessité d'un vote unanime du Conseil ou de l'Assemblée pour demander un avis à la Cour ait été considérée aux Etats-Unis comme certaine; mais le Comité n'a pas cru que pareille certitude soit démontrée, aucun précédent n'ayant été établi à ce sujet jusqu'ici.

8. Le Comité a dû se poser la question pratique des modalités que les Etats-Unis auraient à suivre pour exprimer leur manière de voir au sujet de l'adoption d'une requête d'avis consultatif. Il est évident qu'il y a une différence entre la situation d'un Etat étranger à la Société des Nations et celle d'un Etat membre de la Société qui émet sa voix au sein du Conseil ou de l'Assemblée, après avoir apprécié l'ensemble des circonstances, et s'être rendu compte de l'importance que présente la recherche d'une solution au point de vue de l'application du Pacte, et des conséquences qui pourraient se produire au cas où le résultat de cette recherche serait négatif.

C'est là une question qui doit être envisagée dans la réponse à la cinquième réserve. Le Comité estime qu'elle devrait être étudiée, en vue d'arriver, d'un commun accord, à un *modus operandi*, entre le Gouvernement des Etats-Unis et le Conseil de la Société des Nations, organe spécialement désigné par ses attributions pour veiller au bon fonctionnement de la Société.

9. Le Comité a cru qu'il y aurait avantage à accompagner les réponses aux cinq réserves d'une esquisse de convention dans laquelle seraient arrêtées les stipulations particulières que requiert l'adhésion des Etats-Unis au Protocole du 16 décembre 1920. Le Comité n'a pas estimé que cette adhésion justifiait des modifications ou des adjonctions au Statut de la Cour. Elle semble, au contraire, devoir donner lieu à un accord spécial à conclure entre les Etats signataires du Protocole du 16 décembre 1920, d'une part, et les Etats-Unis, de l'autre. Il est bien entendu que ces stipulations devraient avoir la même valeur que celles du Statut.

Dans cet ordre d'idées, le Comité a préparé un avant-projet de protocole d'exécution, à soumettre au Gouvernement des Etats-Unis, en même temps que les réponses. L'avant-projet vise: la participation des représentants des Etats-Unis aux opérations du Conseil et de l'Assemblée

its accession in the future and the necessity of its consent to any modification of the Statute, the Statute having been approved in 1920 by a unanimous agreement of the signatory States and being only susceptible of modification by another unanimous agreement. The right, however, to withdraw its accession is obviously in the nature of a guarantee which the United States of America desires to obtain in case the working of the Court with its participation should, in practice, prove to be not such as to satisfy the exigencies of the position of the United States of America. In the general discussion in plenary session of the Conference, it was suggested that it would be natural to give a similar right to the other signatory States. The Committee has endeavoured to express this idea in the first part of the reply which it recommends in regard to the fourth reservation. It has, however, been anxious to invest the exercise of such a right with the character of a collective decision taken by a sufficiently large majority to ensure that it is inspired exclusively by objective considerations arising from the discovery of some serious practical difficulty. The majority, in fact, proposed is two-thirds.

Further, the Committee has felt it right to express the hope that the right of denunciation will not be exercised, either by the United States or by the other signatory States, without an exchange of views first taking place with regard to such difficulties as may have arisen and, possibly, as to the means of overcoming them.

6. As regards the part of the fifth reservation which relates to publicity for the Court's decisions in the matter of advisory opinions, and the right of each adhering State to express its point of view before the Court takes its decision, the Committee has thought that full satisfaction is given to the demand of the United States of America by the provisions of the Rules of Court relating to advisory procedure as recently amended. It nevertheless proposes that, if the United States of America considers it desirable, an agreement shall be concluded on this subject between the United States of America and the other signatory States.

7. The second part of the fifth reservation, owing to its great importance, formed the subject of long and careful examination by the Committee. In the general discussion at the Conference, several speakers had drawn the attention of their colleagues to the proceedings preparatory to the adoption by the Senate of the United States of America of the resolution by which conditional accession to the Court was agreed to. It was pointed out, on the one hand, that, in the discussions of the Senate, attention was directed to the view expressed by the Court in its advisory opinion No. 5 (Eastern Carelia), to the effect that an opinion dealing with the substance of a dispute between a State Member of the League of Nations and a Power not belonging of the League could not be given without the consent of the said Power. It was noted, on the other hand, that the main idea in these discussions appeared to be to ensure for the United States of America equality with any State Member of the League which has, in the capacity of a Member of the Council or of the Assembly, to pronounce upon a proposal made in the Council or the Assembly to submit a request to the Court for an advisory opinion. The Committee has taken these observations into account and has drawn a distinction, in the reply which it proposes with regard to this part of the fifth reservation, between disputes to which the United States of America is a party and disputes to which it is not a party, together with questions other than disputes. It considers that, as regards the first case, the reply can be limited to a reference to the jurisprudence of the Court, as laid down in the opinion concerning Eastern Carelia.

As regards the second case, the reply can only consist in a declaration by the signatory States recognising the United States of America as enjoying equality with the States Members of the League represented in the Council or the Assembly. It follows from the principle of equality that opposition by the United States of America to the adoption by the Council or the Assembly of a request for an advisory opinion would have exactly the same effect as a negative vote by a State represented in the Council or Assembly. Its effect would only be that of an absolute veto if the request had to be approved by a unanimous vote. In the United States of America it seems to have been regarded as certain that a decision of the Council or Assembly asking the Court for an opinion requires to be unanimous; but the Committee does not consider that there is, in fact, certainty on this point, since no precedent exists in the matter.

8. The Committee has had to consider the practical question of the procedure which the United States of America would have to follow in order to express its view on the adoption of a request for an advisory opinion. There is an obvious difference between the position of a State which is not a Member of the League and that of a State Member which gives its vote in the Council or Assembly after considering all the circumstances and after realising the importance of finding a solution, for the sake of the application of the Covenant, and the consequences which might result if no solution could be found.

This is a question which must be dealt with in the reply to the fifth reservation. The Committee considers that it should be studied in order that a *modus operandi* satisfactory to both sides may be arrived at between the Government of the United States and the Council of the League of Nations, the nature of whose functions makes it particularly well qualified to watch over the proper working of the League.

9. The Committee considers that it would be advantageous to accompany the replies to the five reservations with the outline of a convention containing the special clauses required by the accession of the United States of America to the Protocol of December 16th, 1920. The Committee does not consider that this accession warrants any amendments or additions to the Statute of the Court. On the contrary, it seems more proper that a special agreement should be concluded between the States signatories of the Protocol of December 16th, 1920, on the one hand, and the United States of America on the other. Its provisions ought, of course, to have the same force and effect as those of the Statute.

concernant l'élection des juges; la nécessité du concours de tous les Etats contractants pour modifier le Statut de la Cour; la publicité du prononcé des avis consultatifs; l'accord à conclure entre les Etats-Unis et le Conseil de la Société des Nations au sujet des modalités selon lesquelles le consentement prévu à la cinquième réserve serait donné; l'attribution à l'opposition éventuelle des Etats-Unis à une requête d'avis consultatif d'une valeur égale à celle qu'aurait une voix contraire à la requête émise au sein du Conseil ou de l'Assemblée; les conditions de l'entrée en vigueur du protocole et, enfin, l'exercice de la faculté de dénonciation tant de la part des Etats-Unis que de celle des autres Etats signataires.

10. Tel est le résultat de la minutieuse étude à laquelle s'est livré votre Comité. Pour le résumer, on peut dire qu'au moins, en principe, toutes les réserves devraient être acceptées. Au nom du Comité, j'ai l'honneur de formuler l'espoir que la Conférence pourra se rallier à ce résultat. Qu'il me soit permis, en outre, d'exprimer le vœu que la grande république américaine puisse trouver dans nos conclusions le reflet de l'esprit de bonne volonté et de bonne foi qui nous a animés dans la recherche de formules juridiques équitables propres à rencontrer sa proposition. Nous aurons satisfait par là même au vif désir de tous les Etats membres de la Société des Nations, qui, respectant les motifs pour lesquels les Etats-Unis ont estimé ne pas pouvoir accéder à la Société, souhaitent de voir leur participation venir accroître encore la haute autorité de la Cour permanente appelée à constituer, pour la communauté internationale tout entière, une garantie de paix par la justice.

With this object, the Committee has prepared a preliminary draft protocol of execution, to be submitted to the Government of the United States together with the replies. The draft deals with the participation of United States representatives in the proceedings of the Council and the Assembly in connection with the election of judges; the requirement of the consent of all the contracting States to any amendment of the Statute of the Court; the public rendering of advisory opinions; the understanding to be reached between the United States of America and the Council of the League as regards the procedure for giving the consent mentioned in the fifth reservation; the attribution to opposition by the United States of America to a request for an advisory opinion of the same force and effect as would attach to a negative vote given in the Council or Assembly; the conditions of the entry into force of the Protocol; and, lastly, the exercise of the right of denunciation by the United States of America or by the other signatory States.

10. Such is the result of the exhaustive investigations to which the Committee has proceeded. It may be summarised as meaning that, in principle at least, all the reservations should be accepted. In the Committee's name, I have the honour to express the hope that the Conference may accept our conclusions. I should like, further, to express the hope that the great American Republic may find in those conclusions a reflection of the spirit of good will and good faith which has animated us in our task of seeking equitable legal forms which could meet its proposal. In that case we shall have satisfied the ardent desire of all the States Members of the League of Nations, which, while respecting the motives which have led the United States of America to feel that it cannot join the League, are anxious to see it take part in the work, and still further enhance the high authority, of the Permanent Court, which has been established as a guarantee of peace through justice for the entire community of nations.

Genève, le 17 septembre 1927.

SOCIÉTÉ DES NATIONS

INSTITUTION D'UN TRIBUNAL ADMINISTRATIF

RAPPORT DE LA QUATRIÈME COMMISSION A L'ASSEMBLÉE

Rapporteur : Son Excellence M. César ZUMETA (Venezuela).

La quatrième Commission a confié à une sous-commission¹, que j'ai eu l'honneur de présider, l'étude de la question de l'institution d'un tribunal administratif. La sous-commission en a fait l'objet d'un rapport (document A.IV/5.1927).

La Commission, après avoir pris connaissance des vues émises de part et d'autre au sein de la sous-commission, est arrivée, de même que cette dernière, à la conclusion qu'il convient de proposer l'établissement de pareil tribunal à titre d'expérience, l'Assemblée se réservant de se prononcer à nouveau dans la suite.

La quatrième Commission estime qu'il y a lieu d'adopter à cet effet le projet de statut (document A.6.1927.X) soumis par la Commission de contrôle. Elle ne voit à y apporter qu'un léger amendement de forme, tendant à ce que, pour éviter toute équivoque, l'article II, alinéa 2, de ce projet de statut mentionne expressément les articles du Statut du personnel du Bureau international du Travail visés, dans la forme actuelle, par les mots « aux articles correspondants ».

La quatrième Commission croit, en conséquence, pouvoir proposer à l'Assemblée l'adoption d'une résolution conçue dans le sens ci-après :

« Sous réserve de l'amendement de forme suggéré par sa quatrième Commission, l'Assemblée adopte le statut ci-joint, établissant un tribunal administratif de la Société des Nations.

« Toutefois, l'Assemblée de 1931 examinera, sur la base de l'expérience faite, s'il y a lieu d'abroger ou de modifier ledit statut.

« La résolution de l'Assemblée, en date du 17 décembre 1920, donnant à certains fonctionnaires, en cas de renvoi, le droit de faire appel au Conseil ou au Conseil d'administration du Bureau international du Travail, est abrogée à partir du 1^{er} janvier 1928. »

¹ Cette sous-commission comprenait, outre M. ZUMETA, président, Mgr KAAS, sir C. P. RAMASWAMI AYYAR, le général Gabriel TANZOS (suppléant, M. BARANYAI), M. CESARE TUMEDI.

Geneva, September, 17th 1927.

LEAGUE OF NATIONS

ESTABLISHMENT OF AN ADMINISTRATIVE TRIBUNAL

REPORT BY THE FOURTH COMMITTEE TO THE ASSEMBLY

Rapporteur: H.E. M. César ZUMETA (Venezuela).

The Fourth Committee appointed a Sub-Committee¹, of which I had the honour to be chairman, to consider the question of the establishment of an Administrative Tribunal. This question was dealt with by the Sub-Committee in a report (document A.IV/5.1927).

The Committee, after noting the views exposed in the Sub-Committee, came to the same conclusion as the latter, namely, that the establishment of such a tribunal should be recommended as an experiment, subject to the Assembly's right to reconsider the whole matter subsequently.

The Fourth Committee is of opinion that the draft Statute (document A.6.1927.X) submitted by the Supervisory Commission should therefore be adopted. It would merely propose a slight amendment of form, viz., that, to avoid any ambiguity, Article II, paragraph 2, of the Draft Statute should mention expressly the articles of the Staff Regulations of the International Labour Office referred to in the existing text by the words "the *corresponding* Articles".

The Fourth Committee therefore recommends that the Assembly adopt a resolution on the following lines:

"Subject to the amendment of form suggested by the Fourth Committee, the Assembly adopts the annexed Statute establishing a League of Nations Administrative Tribunal.

"The Assembly of 1931, however, will consider in the light of the experience gained whether there is reason to abrogate or amend the said Statute.

"The Assembly's resolution of December 17th, 1920, giving to certain officials in case of dismissal a right of appeal to the Council or to the Governing Body of the International Labour Office is abrogated as from January 1st, 1928."

¹ This Sub-Committee consisted of M. ZUMETA, Chairman, Mgr. KAAS, Sir C. P. Ramaswami AYYAR, General Gabriel TANCOS (deputy), M. BARANYAI and M. Cesare TUMEDDI

Geneva, 22nd September, 1927.

LEAGUE OF NATIONS

**ACCESSIONS TO INTERNATIONAL AGREEMENTS
GIVEN SUBJECT TO RATIFICATION**

**REPORT SUBMITTED BY THE FIRST COMMITTEE
TO THE ASSEMBLY.**

Rapporteur: M. MOTTA (Switzerland).

The Assembly has asked the opinion of the First Committee on the question which was submitted to it by the Council in consequence of the report of the Polish delegate which it adopted on March 8th, 1927, dealing with accessions to international agreements given subject to ratification.

The First Committee appointed a Sub-Committee composed of M. MOTTA (Switzerland), His Highness Mohammad Ali Khan FOROUGHÍ (Persia), Count ROSTWOROWSKI (Poland) M. GUERRERO (Salvador) and Mr. SKELTON (Canada).

The Sub-Committee adopted the following report, to which the First Committee gave its approval, on September 21 st. The First Committee recommends the Assembly to adopt the resolution proposed in this Report.

REPORT OF THE SUB-COMMITTEE.

Rapporteur: M. MOTTA (Switzerland),

The Sub-Committee appointed by the First Committee to study the question of accessions to international agreements given subject to ratification met at the Secretariat of the League of Nations at 10 a.m. on the 16th of this month. It elected me as Chairman and at the same time asked me to submit its report.

The Sub-Committee considered the consequences involved by an accession to an international agreement given subject to ratification, a question submitted to the Assembly as a result of the Council's adoption last March of a report by the Polish delegate.

The Sub-Committee made a distinction in particular between accession pure and simple, as understood in the established practice, and exercising its full effects as soon as notified, and accession given subject to ratification, which is a more recent practice.

While considering that the former practice should in any case be maintained, the Sub-Committee observed, nevertheless, that the new practice offered advantages in certain cases. There are, in fact, Governments which, having been unable to sign an agreement within the time-limit fixed, would nevertheless be glad to accede thereto subject to ratification.

The list submitted to the Sub-Committee by the Secretariat shows that this procedure is nearly always followed by the same Members of the League and that several of them have followed up their accession by ratification.

In view of those facts, the Sub-Committee came to the conclusion that the procedure of accession given subject to ratification should be accepted, but that the practice should not be either encouraged or discouraged. So as to enable the States parties to an international agreement to know with what Governments they are pledged, it is necessary to establish a system precluding all doubt as to the scope of the undertaking entered into by an acceding State.

The Sub-Committee would therefore advise the First Committee to take the line that the obligation should be presumed to be final when a State does not, when notifying accession, expressly mention that it is subject to ratification.

The Sub-Committee also studied the effect which the new practice might have on the League's publications, and it came to the conclusion that it would be advisable to introduce

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in the accessions column of the list published by the Secretariat a subdivision clearly showing which accessions are final and which are still subject to ratification.

In view of the foregoing, the Sub-Committee recommends the First Committee to propose to the Assembly a resolution on the following lines :

Draft Resolution.

"The procedure of accession to international agreements given subject to ratification is an admissible one which the League should neither discourage nor encourage.

"Nevertheless, if a State gives its accession, it should know that, if it does not expressly mention that this accession is subject to ratification, it shall be deemed to have undertaken a final obligation. If it desires to prevent this consequence, it must expressly declare at the time of accession that the accession is given subject to ratification."

Geneva, 23rd September, 1927.

LEAGUE OF NATIONS.

PROGRESSIVE CODIFICATION OF INTERNATIONAL LAW

REPORT OF THE FIRST COMMITTEE TO THE ASSEMBLY

Rapporteur : M. POLITIS (Greece).

The First Committee appointed a Sub-Committee to study the various questions referred to the Committee by the Assembly in connection with the work of the Committee of Experts for the Progressive Codification of International Law.

The Sub-Committee was composed of M. ROLIN (Belgium), Sir Cecil HURST (British Empire), M. POLITIS (Greece), Dr. LIMBURG (Netherlands), Dr. CABALLERO (Paraguay), Count ROSTWOROWSKI (Poland), M. GUERRERO (Salvador) and M. LÖFGREN (Sweden).

The Sub-Committee adopted a report which was approved, with slight modifications, by the First Committee on September 23rd, 1927.

The First Committee submits this report to the Assembly and recommends the adoption by the Assembly of the resolution proposed therein.

**REPORT SUBMITTED TO THE FIRST COMMITTEE ON BEHALF
OF THE SUB-COMMITTEE.**

Rapporteur : M. POLITIS (Greece).

Your Sub-Committee has very carefully examined the documents forwarded by the Council to the Assembly, and it has reached the following conclusions, which it has the honour to submit for your approval.

The Committee of Experts appointed by the Council in pursuance of the Assembly resolution of September 22nd, 1924, for the progressive codification of international law, having completed the first stage of its discussions, submitted a report to the Council on April 2nd, 1927. In its annual sessions of 1925-27, it has performed the mission entrusted to it with a zeal, conscientiousness and ability which deserve unqualified praise. The Assembly will no doubt wish to associate itself with the tribute of thanks already paid by the Council to the distinguished Chairman, and the Rapporteurs and members of the Committee.

The Committee recommended to the Council five subjects of international law which, in some of their aspects, are, in its opinion, now ripe for regulation by international action, and stated what it considered to be the most appropriate method for carrying out the preliminary work. It mentioned also two other subjects of a more particular character for which it suggested a special procedure.

On the report of the Polish representative, M. Zaleski, the Council expressed a number of highly interesting opinions on the Committee's conclusions.

It is for the Assembly to decide what action should be taken in respect of the Committee's proposals and the suggestions which the Council has made regarding them.

I. QUESTIONS WHICH NOW APPEAR RIPE FOR REGULATION BY INTERNATIONAL AGREEMENT.

The five questions which now seem to the Committee of Experts to be ripe for codification are the following :

- (1) Nationality ;
- (2) Territorial Waters ;
- (3) Diplomatic Privileges and Immunities ;
- (4) The Responsibility of States for Damage done in their Territories to the Person or Property of Foreigners ;
- (5) Piracy.

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Of these five questions, the Council took the view that only three should be dealt with at present, the question of diplomatic privileges and immunities and that of piracy being left on one side. Neither of these two questions, on which the conclusion of a universal agreement seems somewhat difficult at the present time, is important enough to warrant its insertion in the agenda of the proposed Conference.

Your Sub-Committee was unanimous in concurring with this view, for it is essential to the success of the work in hand that the agenda of the First Codification Conference should not be unnecessarily overburdened.

The Sub-Committee was further in agreement with the Council's suggestion as to the two particular questions which the Committee proposed should be governed by a special procedure, viz. : (1) the question of the procedure of international conferences and procedure for the conclusion and drafting of treaties ; and (2) the question of the exploitation of the products of the sea.

As regards the first question, the Sub-Committee is of opinion that the Assembly should ask the Council to instruct the Secretary-General to have the question investigated by his services. To this end, all available precedents on the subject would be collected, the Governments being asked to give information as to their own practice, which they would no doubt be prepared to do ; and research by and discussion with individual specialists in the various countries should be encouraged by giving as much publicity as may prove possible to the results of the enquiry.

As to the second question, the Sub-Committee wholly concurs in the recommendations of the Committee of Experts and of the Council. There is no doubt that marine fauna is exposed to the risk of early extermination by exploitation which is opposed to economic principles. International protection would fill a real need and at the same time meet the wish of all the Governments concerned. It would be well worth while to establish such protection by means of an international agreement framed by a conference of experts. At the same time, it is quite certain that, at the present stage, there can be no thought of immediately convening such a conference, and we must be content for the present to pave the way for it. For that purpose, it would be well to refer the question to the Economic Committee of the League for investigation, suggesting that it should seek the co-operation of the International Council at Copenhagen and of any other body particularly concerned in the matter. This done, the Economic Committee would report to the Council, indicating how far it was possible to convene a conference. In addition, the Assembly might pass a resolution urging that this investigation should be carried out as expeditiously as possible so that the meeting of the conference need not be too long delayed.

It has been asked whether it would be possible to propose that further questions in addition to those mentioned above might be added to the programme of the First Codification Conference. What will be said below regarding the necessity of careful and methodical preparation for the Conference will show how difficult it would be to allow such a possibility. At the Conference no right of initiative can be admitted. It will not even be possible for new questions to be put on the programme during the preparatory work. To do so would disorganise the whole scheme. Exercise of such an initiative can only be conceived in the form of submitting to preliminary enquiry new questions the examination of which would be reserved for a subsequent conference.

* * *

II. THE FIRST CODIFICATION CONFERENCE.

As the number of subjects now ripe for codification is limited to the three questions already stated, your Sub-Committee, following the example of the Committee of Experts and the Council, debated whether these questions ought to be dealt with separately at several conferences, or simultaneously at a single conference, which might be subdivided into different sections. It was of the unanimous opinion that the second alternative was, for more than one reason, the better. Not only did it present the advantage of a great saving of time and money but it would also go further towards satisfying the interest taken by public opinion in the problem of codification.

It should be observed, however, that, if it proved impossible for the Conference to finish its work within the space of time which the Governments participating were able to devote to it, arrangements would have to be made to enable it to hold successive sessions at fixed intervals until it had completed its programme.

It remains to consider the date, place and manner of convocation of the Conference.

(a) *Date of the Conference.*

The date depends essentially on the preparation necessary for framing the agenda of the Conference, a matter which we shall discuss presently. It is impossible to foresee at all exactly how long this will take. All that can be said is that it is highly desirable that the preparatory work should be performed as rapidly as possible so that the Conference may meet some time in 1929. It is to be hoped that the work will have reached a sufficiently advanced stage for the ninth session of the Assembly to fix the date for which the Conference can be summoned.

(b) *Place of the Conference.*

For the place of the Conference, the Sub-Committee, in accordance with the suggestion made in the Committee, proposes the capital of the Netherlands. This choice is good for many reasons.

The Hague, on account of its atmosphere of serenity, so precious to all who have stayed there, is the ideal place for an assembly met to co-operate in a difficult task, the success of which calls in a high degree for calm and reflection; further, the First Codification Conference might rally more States if it met at The Hague than in any other town; The Hague was the seat of the two Peace Conferences to the heritage of which the League of Nations may be said to have succeeded; to convene the First Codification Conference at The Hague would demonstrate the continuity of the effort — an effort to-day rendered more systematic by the good offices of the League — to invest international law with a little more precision and stability; lastly, the choice of The Hague would be a compliment to the Netherlands Government, which, through its repeated initiatives in connection with the codification of international public and private law, has never failed to render valuable service to the cause of international understanding.

From the statements of the Netherlands representative at the Council, we may venture to hope that, if the Assembly accepts the proposed choice, the Netherlands Government would willingly accede to the Council's request and extend its hospitality to the First Codification Conference.

(c) *The method of Convocation of the Conference.*

Your Sub-Committee is unanimously of opinion that the convocation and preparation of the First Codification Conference should be left entirely to the League of Nations. When this point was discussed in the Committee, it was forcibly shown that any other course would be interpreted by a section of public opinion as a real blow to the prestige of the League.

* * *

III. PREPARATION OF THE CONFERENCE.

Knowledge of the nature of the work to be undertaken, added to the experience gained from certain important conferences in the past, lead to the conviction that, in order to ensure the success of the First Conference on Codification, it is absolutely essential that the programme and organisation should be carefully and methodically prepared. This is all the more necessary as the coming Conference is to be the first of a long series of similar Conferences and will establish a tradition which, if it is to be fruitful, must be based on solid and unassailable foundations.

The preparatory work will be specially heavy. It will demand from those who undertake it great sacrifices of time and considerable theoretical and practical knowledge. It must for this reason be entrusted to the Secretariat of the League assisted by a special organisation. Your Sub-Committee is of opinion that this organisation should be a Committee limited to five persons, possessed of a wide knowledge of international practice, legal precedents and scientific data relating to the problems to be resolved. They should be appointed by the Council.

This special organisation must above all make use of the work of the Committee of Experts, taking into account at the same time the resolutions which have already been adopted or are in process of being framed by such learned associations of international law as the Institute of International Law, the International Law Association and other similar bodies. Where necessary, it could apply directly to these bodies and request them to devote the work of their next session to the questions which will be dealt with by the First Conference on Codification. Lastly, in order to ensure the universality of international law, it should take into account the extensive and remarkable effort at codification made during recent years by the Pan-American Union.

After this preliminary work, which would be in the nature of a general survey of the subjects to be dealt with, the Committee would have to undertake an enquiry, approaching the Governments of the States Members and non-Members through the Secretariat, according to the following plan:

It would first of all draw up a schedule for each of the questions coming within the scope of the programme of the Conference, indicating the various points which were suitable for being examined with a view to reaching agreement thereon. These points should be detailed as fully as possible so as to make them perfectly clear and facilitate the replies. The States would be invited to furnish information on each point from the following three points of view:

- (a) The state of their positive law, internal and international, with, as far as possible, circumstantial details as to the bibliography and jurisprudence;
- (b) Information derived from their own practice at home and abroad;
- (c) Their wishes as regards possible additions to the rules in force and the manner of making good present deficiencies in international law.

In drawing up the schedules, the Committee should follow as far as possible the precedent offered by the minute and methodical preparation for the London Naval Conference of 1908-1909.

The schedules would then be sent through the Secretary-General to the different Governments, with an invitation to reply within a reasonable time, which might be fixed at six months.

If, after examining the replies from the Governments, the Committee considered that it would be useful to make further enquiries of some of them, it would state in a fresh schedule the precise points upon which further particulars were desired. This schedule would again be sent to the Governments concerned through the Secretary-General.

At the end of its enquiry, the Committee would be in a position, after comparing the information sent by the various Governments, to establish the points on which there was agreement or any degree of divergency, in respect of each aspect of the questions to be dealt with. The result of this comparative study of each single aspect should be embodied in a report, the conclusions of which might serve as detailed bases of discussion for the Conference.

In his report to the Assembly in 1928, the Secretary-General should give full information concerning the progress made by the Committee.

When the Committee's work was finished and the bases of discussion for each item on the Conference's programme had been fixed, it would remain for the Council to decide the date of meeting and the form of the invitations.

In your Sub-Committee's opinion, the Council, in sending the invitations, should not confine itself merely to enclosing the reports and bases of discussion prepared by the Preparatory Committee. The lessons taught by the experience of the Second Hague Conference and your Sub-Committee's anxiety to ensure the complete success of the First Codification Conference lead it to think that the Council should also send the Governments invited to the Conference a draft set of regulations for the work, and that it would be highly desirable that, in this document, a number of general rules should be indicated with precision in order to make clear the spirit in which the work of the Conference would be conducted and also the scope of the decisions it would be called upon to take.

Your Sub-Committee considers that these rules should include the four following :

(a) *Rule of Unanimous Vote or Majority.*

Although it is desirable that the Conference's decisions should be unanimous, and every effort should be made to attain this result, it must be clearly understood that, where unanimity is impossible, the majority of the participating States, if disposed to accept as among themselves a rule to which some other States are not prepared to consent, cannot be prevented from doing so by the mere opposition of the minority.

(b) *Rule of the Scope of the Engagements entered into.*

In such matters as may lend themselves to this, it would be useful to provide for the possibility of concluding two kinds of convention: a very comprehensive convention on the general rules of the subject, likely to be accepted by all States; and a more restricted convention, which, while keeping within the framework of the other convention, would include special rules binding only upon such States as might be prepared to accept them.

(c) *Rule of the Flexibility of the Conventions.*

As these agreements are meant to define and fix the law, it is not to be supposed that they could be concluded for limited periods or with the option of denunciation. They must be permanent. But, with the double object of facilitating their acceptance by all States and of making it possible to adapt the rules laid down to the changing needs of life, it would be desirable to provide an organised system of revision, such as follows :

Any convention drawn up by the Conference would be subject to revision after the expiration of an initial period of ten years if a request to that effect was received from a certain number of signatory States. In that case, it would be for the Council of the League to summon a conference at the earliest possible opportunity to consider what amendments were to be made in the convention the revision of which had been demanded.

(d) *Rule of the Spirit of the Codification.*

Codification of international law can be imagined in several forms. It might be a mere registration of the law in force. It might be something more if, instead of merely recording the rules already in existence, an attempt were made to adapt them to practical needs. Lastly, it might be an entirely original work designed to make good the present deficiencies in the law or to replace the old rules by new. Although it is very difficult to lay down strictly beforehand in what spirit the work of the First Codification Conference should be conducted, it can be stated that while, in order to lead to useful results, the Conference must refrain from making too many innovations, it cannot limit itself to the mere registration of the existing law. It must, as far as possible, adapt the rules to contemporary conditions of international life. It is in order to avoid any misunderstanding on this matter that the States which are to take part in the Conference should be apprised of the spirit in which the work of codification is to be undertaken.

IV. FUTURE OF CODIFICATION.

It was proposed to the Committee that a permanent organisation for codification should be formed, by constituting a permanent legal committee and perhaps enlarging the Legal Section of the Secretariat. Your Sub-Committee is unanimous in thinking that these plans are, to say the least, somewhat premature. The experience of the Preparatory Committee and the proposals which it may formulate next year should first be awaited.

As regards the continuation of the work of the Committee of Experts, your Sub-Committee endorses the opinion expressed in M. Zaleski's report, which represents the views of the Committee itself. The Committee should hold the session which it contemplates for the purpose of completing the work it has already taken in hand, so soon as funds are available; but it would be premature to ask it at present to carry its enquiries further. It would be better to await the results of the work which it has already accomplished.

V. CONCLUSION.

As conclusion to the above observations, your Sub-Committee proposes that you should adopt and submit to the Assembly the following draft resolution:

" The Assembly :

" Having considered the documents transmitted to it by the Council in conformity with its resolution of June 13th, 1927, and the report of the First Committee on the measures to be taken as a result of the work of the Committee of Experts for the Progressive Codification of International Law.

" Considering that it is material for the progress of justice and the maintenance of peace to define, improve and develop international law ;

" Convinced that it is therefore the duty of the League to make every effort to contribute to the progressive codification of international law ;

" Observing that, on the basis of the work of the Committee of Experts, to which it pays a sincere tribute, systematic preparations can be made for a First Codification Conference, the holding of which in 1929 can already be contemplated :

" Decides :

" (1) To submit the following questions for examination by a First Conference :

" (a) Nationality ;

" (b) Territorial Waters ; and

" (c) Responsibility of States for Damage done in their Territory to the Persons or Property of Foreigners ;

" (2) To request the Council to instruct the Secretariat to cause its services to study, on the lines indicated in the First Committee's report, the question of the Procedure of International Conferences and Procedure for the Conclusion and Drafting of Treaties ;

" (3) To instruct the Economic Committee of the League to study, in collaboration with the International Council at Copenhagen and any other organisation specially interested in this matter, the question whether and in what terms, for what species and in what areas, international protection of marine fauna could be established. The Committee will report to the Council the results of its enquiry indicating whether a Conference of Experts should be convened for such purpose at an early date.

" (4) To ask the Council to make arrangements with the Netherlands Government with a view to choosing The Hague as the meeting place of the First Codification Conference, and to summon the Conference as soon as the preparations for it are sufficiently advanced ;

" (5) To entrust the Council with the task of appointing, at the earliest possible date, a preparatory committee, composed of five persons possessing a wide knowledge of international practice, legal precedents, and scientific data relating to the questions coming within the scope of the First Codification Conference, this Committee being instructed to prepare a report comprising sufficiently detailed bases of discussion on each question, in accordance with the indications contained in the report of the First Committee ;

“(6) To recommend the Council to attach to the invitations draft regulations for the Conference, indicating a number of general rules which should govern the discussions, more particularly as regards :

“(a) The possibility, if occasion should arise, of the States represented at the Conference adopting amongst themselves rules accepted by a majority vote ;

“(b) The possibility of drawing up, in respect of such subjects as may lend themselves thereto, a comprehensive convention and, within the framework of that convention, other more restricted conventions ;

“(c) The organisation of a system for the subsequent revision of the agreements entered into : and

“(d) The spirit of the codification, which should not confine itself to the mere registration of the existing rules but should aim at adapting them as far as possible to contemporary conditions of international life ;

“(7) To ask the Committee of Experts at its next session to complete the work it has already begun.”

Geneva, September 23rd, 1927.

LEAGUE OF NATIONS.

**Proposal by the Delegation of Paraguay
for the Preparation of a General and Comprehensive
Plan of Codification of International Law.**

**REPORT SUBMITTED BY THE FIRST COMMITTEE
TO THE ASSEMBLY.**

The First Committee referred the proposal of the delegation of Paraguay to the Sub-Committee which it had appointed to report on the various questions arising out of the work of the Committee of Experts for the Progressive Codification of International Law. The Sub-Committee consisted of M. ROLIN (Belgium), Sir Cecil HURST (British Empire), M. POLITIS (Greece), Dr. LIMBURG (Netherlands), Dr. CABALLERO (Paraguay), Count ROSTWOROWSKI (Poland), M. GUERRERO (Salvador) and M. LÖFGREN (Sweden).

The Sub-Committee adopted a report which was approved with slight modifications by the First Committee on September 23rd, 1927. The First Committee submits this report to the Assembly and recommends the latter to adopt the resolution contained therein.

REPORT OF THE SUB-COMMITTEE.

Rapporteur : Dr. CABALLERO (Paraguay).

The First Committee has asked the Sub-Committee to present a report on the proposal submitted by the delegation of Paraguay at the plenary meeting of the Assembly on September 10th, 1927, inviting the Council to entrust the Committee of Experts with the preparation of a general and comprehensive plan of codification of international law, paying due regard, as far as possible, to the work of codification which is being carried on in America.

It is unnecessary to mention the considerations which led the delegation of Paraguay to submit this proposal, as they were explained in detail both in the Assembly and at the meeting of the First Committee on September 16th, 1927.

The proposal was referred to the Sub-Committee of the First Committee, for consideration in the light of the results already obtained by the Committee of Experts for the Progressive Codification of International Law, and bearing in mind the views and opinions expressed by the First Committee.

The Sub-Committee considers that the proposal of the delegation of Paraguay is of the highest interest for the attainment of unity and universality in international law.

It is of opinion that it would be advisable to consider the possibility of framing a general draft plan of codification, with special reference to nomenclature, and the systematic classification of subjects, with a view to their progressive codification as and when they are considered sufficiently ripe.

In carrying out this task, regard should be had, as far as possible, both from the scientific and practical standpoints, to the advance of theory, to the work already accomplished by learned bodies and to the vast and remarkable efforts at codification which are being carried on in America.

The task might be entrusted to a special Committee chosen by the Council; the members of this Committee should not merely possess individually the required qualifications, but should also represent the main forms of civilisation and the principal legal systems of the world. The Sub-Committee, however, considered that it would be premature to appoint any special organ for the purpose at the present time. It is preferable to wait until the Assembly is in a position to draw up the future programme of work for the Committee of Experts. It would be sufficient for the moment to invite the Committee of Experts to consider at its next session the conditions under which the problem might be investigated and to present a report to the Council, which would communicate these suggestions to the Assembly.

The Sub-Committee has accordingly the honour to propose that the following draft resolution be submitted to the Assembly for its approval :

Draft resolution

“ The Assembly,

“ Having taken note of the First Committee's report on the proposal of the delegation of Paraguay for the preparation of a general and comprehensive plan of codification of international law,

“ Desires to place on record the importance which it attaches to the spirit underlying the proposal of the delegation of Paraguay ;

“ Requests the Council to invite the Committee of Experts to consider at its next session under what conditions the work referred to in the said proposal could be undertaken ;

“ And will decide later upon the course to be adopted after taking note of the suggestions of the Committee of Experts and the opinion of the Council in regard thereto. ”
