

LEAGUE OF NATIONS

**PROTECTION OF LINGUISTIC,
RACIAL OR RELIGIOUS MINORITIES
BY THE LEAGUE OF NATIONS.**

**Resolutions and Extracts from the Minutes of the Council
Resolutions and Reports adopted by the Assembly,**

relating to the

**Procedure to be followed in Questions concerning
the Protection of Minorities.**

Geneva, January 1929.

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Series of League of Nations Publications

**I.B. MINORITIES
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NOTE BY THE SECRETARIAT.

The provisions contained in the various international instruments at present in force relating to the protection of linguistic, racial or religious minorities by the League of Nations, have been assembled in document C.L.110.1927.I. (Annex), published in August 1925. The acts by which these provisions were placed under the guarantee of the League of Nations bear the

Albania	February 17th, 1922 ¹ .
Austria	October 27th, 1920.
Bulgaria	October 27th, 1920.
Czechoslovakia	November 29th, 1920.
Estonia	September 17th, 1923.
Finland (Aaland Islands)	June 27th, 1921.
Germany (see Upper Silesia)	
Greece	September 26th, 1924.
Hungary	August 30th, 1921.
Latvia	September 1st, 1923.
Lithuania	December 11th, 1923.
Memel ²	
Poland	February 13th, 1920.
Roumania	August 30th, 1921.
Serbs, Croats and Slovenes	
(Kingdom of)	November 29th, 1920.
Silesia (Upper)	July 20th, 1922.
Turkey	September 26th, 1924.

¹ Albanian Declaration of October 2nd, 1921. By a resolution adopted by the Council on the same date, this Declaration was placed under the guarantee of the League as from the date of ratification by the Albanian Government. Ratification took place on February 17th, 1922.

² Article 11 of the Convention relative to Memel Territory and Articles 26 and 27 of Annex 1 (Statute of Memel Territory), signed at Paris on May 8th, 1924, which came into force, as regards Lithuania, in accordance with the transitory provision of the Convention consequent upon ratification by the Lithuanian Government. The instrument of ratification was deposited at Paris on September 27th, 1924.

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PART I.

TEXT OF THE COUNCIL RESOLUTIONS

1. REPORT PRESENTED BY M. TITTONI AND ADOPTED BY THE COUNCIL OF THE LEAGUE OF NATIONS ON OCTOBER 22ND, 1920.¹

The Council of the League of Nations has thought it advisable to determine the nature and limits of the guarantees with regard to the protection of minorities provided for by the different Treaties.

The stipulations of the Treaties with regard to Minorities are generally defined in the following terms :

“ The country concerned agrees that the stipulations in the foregoing articles, so far as they affect persons belonging to racial, linguistic or religious minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. ”

The stipulations with regard to minorities declare further that the country concerned “ agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances. ”

The countries concerned have further agreed that any difference of opinion as to questions of law or fact arising out of these Articles between the Government concerned and any one of the Powers a Member of the Council of the League of Nations shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations, which dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice.

Up to the present time, international law has entrusted to the Great Powers the guarantee for the execution of similar provisions. The Treaties of Peace have introduced a new system ; they have appealed to the League of Nations.

The Council and the Permanent Court of International Justice are the two organs of the League charged with the practical execution of the guarantee.

It may be advisable at the outset to define clearly the exact meaning of the term “ guarantee of the League of Nations ”. It seems clear that this stipulation means, above all, that the provisions for the protection of minorities are inviolable, that is to say, they cannot be modified in the sense of violating in any way rights actually recognised and without the approval of the majority of the Council of the League of Nations. Secondly, this stipulation means that the League must ascertain that the provisions for the protection of minorities are always observed.

The Council must take action in the event of any infraction, or danger of infraction, of any of the obligations with regard to the minorities in question. The Treaties in this respect are quite clear. They indicate the procedure that should be followed.

The right of calling attention to any infraction or danger of infraction is reserved to the Members of the Council.

This is, in a way, a right and a duty of the Powers represented on the Council. By this right, they are in fact asked to take a special interest in the protection of minorities.

Evidently, this right does not in any way exclude the right of the minorities themselves, or even of States not represented on the Council, to call the attention of the League of Nations to any infraction or danger of infraction. But this act must retain the nature of a petition, or a report pure and simple ; it cannot have the legal effect of putting the matter before the Council and calling upon it to intervene.

¹ See page 9.

Consequently, when a petition with regard to the question of minorities is addressed to the League of Nations, the Secretary-General should communicate it, without comment, to the Members of the Council for information. This communication does not yet constitute a judicial act of the League or of its organs. The competence of the Council to deal with the question arises only when one of its Members draws its attention to the infraction or danger of infraction which is the subject of the petition or report.

The State interested, if it is a Member of the League, is informed at the same time as the Council of the subject of the petition. As a matter of fact, the Secretary-General has for some time adopted the procedure of forwarding immediately to all the Members of the League any document forwarded for the information of Members of the Council. This information, which may give the State concerned an opportunity of submitting to the Members of the Council such remarks as it may consider desirable, does not, however, partake of the nature of a request of the League for information with regard to the subject of the petition, nor yet does it imply, with regard to the State concerned, the obligation of furnishing evidence in its defence.

Any cases where, as the result of the petition, the intervention of the League seems to be urgently necessary, the Secretary-General may also adopt the above procedure, but, in view of the urgency of the case, he will forward the petition in question to the Members of the Council, as soon as possible (by telegraph if he thinks it advisable).

Each Power represented on the Council may demand that an urgent Council meeting be summoned in accordance with the provisions of the regulations in force.

This precaution will have the object of preventing any sudden act of oppression of minorities.

If the Council approves of the interpretation that I have had the honour to develop, it might adopt the following resolution :

“ The Council invites its Members to draw the very special attention of their Governments to the conclusions arrived at in the present report.”

2. RESOLUTION ADOPTED BY THE COUNCIL ON OCTOBER 25TH, 1920.¹

For a definition of the conditions under which the Council shall exercise the powers granted to it by the Covenant and by various Treaties for the Protection of Minorities, the Council approved a resolution which will be inserted in its Rules of Procedure :

“ With a view to assisting Members of the Council in the exercise of their rights and duties as regards the protection of minorities, it is desirable that the President and two Members appointed by him in each case should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the Treaties for the Protection of Minorities. This enquiry would be held as soon as the petition or communication in question had been brought to the notice of the Members of the Council.”

3. RESOLUTION ADOPTED BY THE COUNCIL ON JUNE 27TH, 1921.²

With reference to M. Tittoni's report, adopted on October 22nd, 1920, at Brussels, the Council of the League of Nations resolves that :

“ All petitions concerning the protection of minorities under the provisions of the Treaties from petitioners other than Members of the League of Nations shall be immediately communicated to the State concerned.

¹ See page 11.

² See page 12.

" The State concerned shall be bound to inform the Secretary-General, within three weeks of the date upon which its representative accredited to the Secretariat of the League of Nations received the text of the petition in question, whether it intends to make any comments on the subject.

" Should the State concerned not reply within the period of three weeks, or should it state that it does not propose to make any comments, the petition in question shall be communicated to the Members of the League of Nations in accordance with the procedure laid down in M. Tittoni's report.

" Should the State concerned announce that it wishes to submit comments, a period of two months, dating from the day on which its representative accredited to the Secretariat of the League receives the text of the petition, shall be granted to it for this purpose. The Secretary-General, on receipt of the comments, shall communicate the petition, together with the comments, to the Members of the League of Nations.

" In exceptional and extremely urgent cases, the Secretary-General shall, before communicating the petition to the Members of the League of Nations, inform the representative accredited to the Secretariat of the League of Nations by the State concerned.

" This decision shall come into immediate effect for all matters affecting Poland and Czechoslovakia.

" With regard to other States which have accepted the Treaty provisions relating to the protection of minorities, the Council authorises the Secretary-General to inform them of the decision taken in the case of Czechoslovakia and Poland and to ask them to state whether they wish the same procedure to be made applicable to them."

4. RESOLUTION ADOPTED BY THE COUNCIL ON SEPTEMBER 5TH, 1923.¹

With reference to the previous resolutions relating to the procedure to be followed with regard to the protection of minorities, dated October 22nd and 25th, 1920, and June 27th, 1921, the Council of the League of Nations decides that :

1. In order that they may be submitted to the procedure established by the Council resolutions dated October 22nd and 25th, 1920, and June 27th, 1921, petitions addressed to the League of Nations concerning the protection of minorities :

- (a) Must have in view the protection of minorities in accordance with the Treaties ;
- (b) In particular, must not be submitted in the form of a request for the severance of political relations between the minority in question and State of which it forms a part ;
- (c) Must not emanate from an anonymous or unauthenticated source ;
- (d) Must abstain from violent language ;
- (e) Must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

If the interested State raises for any reason an objection against the acceptance of a petition, the Secretary-General shall submit the question of acceptance to the President of the Council, who may invite two other Members of the Council to assist him in the consideration of this question. If the State concerned so requests, this question of procedure shall be included in the agenda of the Council.

2. The extension of the period of two months, fixed by the resolution of June 27th, 1921, for observations by the Government concerned on the subject of the petitions may be authorised by the President of the Council if the State concerned so requests and if the circumstances appear to make such a course necessary and feasible.

¹ See page 15.

3. The communication, in accordance with the resolution of June 27th, 1921, to the Members of the League of petitions and of observations (should there be any) by the Government concerned shall be restricted to the Members of the Council. Communications may be made to other Members of the League or to the general public at the request of the State concerned, or by virtue of a resolution to this effect passed by the Council after the matter has been duly submitted to it.

4. The consideration of petitions and observations (should there be any) of the Governments concerned by the President and two other Members of the Council, in accordance with the resolution of October 25th, 1920, shall be undertaken with the sole object of determining whether one or more Members of the Council should draw the attention of the Council to an infraction or danger of an infraction of the clauses of the Treaties for the Protection of Minorities. The right reserved to all Members of the Council of drawing its attention to an infraction or danger of infraction remains unaffected.

5. The present resolution shall be communicated to the Governments which have signed treaties or made declarations concerning the protection of minorities.

5. RESOLUTION ADOPTED BY THE COUNCIL ON JUNE 10TH, 1925.¹

The Council of the League of Nations,

Considering that, by the resolution of October 25th, 1920, it was decided, with a view to assisting Members of the Council in the exercise of their rights and duties as regards the protection of minorities, that it is desirable that the President and two Members appointed by him in each case should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the Treaties for the Protection of Minorities, and that this enquiry should be held as soon as the petition or communication in question has been brought to the notice of the Members of the Council,

Decides :

I. If the Acting President of the Council is :

the representative of the State of which the persons belonging to the minority in question are subjects, or

the representative of a neighbouring State of the State to which the persons belonging to the minority in question are subject, or,

the representative of a State the majority of whose population belong from the ethnical point of view to the same people as the persons belonging to the minority in question,

that the duty which falls upon the President of the Council in accordance with the terms of the resolution of October 25th, 1920, shall be performed by the Member of the Council who exercised the duties of President immediately before the Acting President, and who is not in the same position.

II. The President of the Council, in appointing two of his colleagues in conformity with the resolution of October 25th, 1920, shall not appoint either the representative of the State to which the persons belonging to the minority in question are subject or the representative of a State neighbouring the State to which these persons are subject, or the representative of a State a majority of whose population belong from the ethnical point of view to the same people as the persons in question.

¹ See page 27.

PART II.

EXTRACTS FROM THE MINUTES OF THE COUNCIL.

1. DISCUSSION CONCERNING THE RESOLUTION OF OCTOBER 22ND, 1920, (TITTONI REPORT).

EXTRACT FROM THE MINUTES OF THE TENTH SESSION OF THE COUNCIL —
MEETING HELD ON OCTOBER 22ND, 1920.

M. TITTONI read a report on the protection of minorities.

Mr. BALFOUR considered that the Covenant and the Treaties which provided for the Protection of Minorities laid a thankless and difficult task upon the Members of the Council. If it were necessary to protect a minority, one of the Members of the Council would have to take upon itself the duty of accusing the State which had not fulfilled its undertakings.

M. TITTONI remarked that the Council possessed great freedom of action. If, after examination, it decided to consider the complaint of a minority, it might institute an investigation, or itself make suggestions, or refer the matter to the Permanent Court. As a matter of fact, except in the case of the Jews, minorities are always related to a State which willingly place the cause before the Council of peoples who considered themselves oppressed. The task laid upon the Council was far from being a pleasant one, but the Council could scarcely refuse to accept it.

Mr. BALFOUR asked if the Council had not a legal right to refuse to accept the guarantee for the protection of minorities, and if it could not consequently make reservations with regard to the procedure to be followed by the Council in providing for their protection.

The general opinion of the Council was that it could, legally, refuse to guarantee the rights of minorities, but that in practice this was impossible, and could only have the most deplorable consequences, as the Treaties had been accepted by the parties concerned with the utmost difficulty and it was necessary to avoid further reducing their authority.

Mr. BALFOUR asked that his remarks should be inserted in the Minutes.

The report and resolution submitted by M. Tittoni were adopted.

Annex ¹.

THE GUARANTEE OF THE LEAGUE OF NATIONS IN RESPECT OF THE MINORITIES CLAUSES OF CERTAIN TREATIES.

Report, presented by the Italian Representative, M. Tittoni, and adopted by the Council of the League of Nations Meeting in Brussels on October 22nd, 1920.

The Council of the League of Nations has thought it advisable to determine the nature and limits of the guarantees with regard to the protection of minorities provided for by the different Treaties.

¹ Annex 115 to the Minutes of the Tenth Session of the Council.

The stipulations of the Treaties with regard to Minorities are generally defined in the following terms :

“ The country concerned agrees that the stipulations in the foregoing articles, so far as they affect persons belonging to racial, linguistic or religious minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations.”

The stipulations with regard to minorities declare further that the country concerned “ agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.”

The countries concerned have further agreed that any difference of opinion as to questions of law or fact arising out of these Articles between the Government concerned and any one of the Powers a Member of the Council of the League of Nations shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations, which dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice.

Up to the present time, international law has entrusted to the Great Powers the guarantee for the execution of similar provisions. The Treaties of Peace have introduced a new system : they have appealed to the League of Nations.

The Council and the Permanent Court of International Justice are the two organs of the League charged with the practical execution of the guarantee.

It may be advisable at the outset to define clearly the exact meaning of the term “ guarantee of the League of Nations ”. It seems clear that this stipulation means, above all, that the provisions for the protection of minorities are inviolable, that is to say, they cannot be modified in the sense of violating in any way rights actually recognised and without the approval of the majority of the Council of the League of Nations. Secondly, this stipulation means that the League must ascertain that the provisions for the protection of minorities are always observed.

The Council must take action in the event of any infraction, or danger of infraction, of any of the obligations with regard to the minorities in question. The Treaties in this respect are quite clear. They indicate the procedure that should be followed.

The right of calling attention to any infraction or danger of infraction is reserved to the Members of the Council.

This is, in a way, a right and a duty of the Powers represented on the Council. By this right, they are in fact asked to take a special interest in the protection of minorities.

Evidently, this right does not in any way exclude the right of the minorities themselves, or even of States not represented on the Council, to call the attention of the League of Nations to any infraction or danger of infraction. But this act must retain the nature of a petition, or a report pure and simple ; it cannot have the legal effect of putting the matter before the Council and calling upon it to intervene.

Consequently, when a petition with regard to the question of minorities is addressed to the League of Nations, the Secretary-General should communicate it, without comment, to the Members of the Council for information. This communication does not yet constitute a judicial act of the League or of its organs. The competence of the Council to deal with the question arises only when one of its Members draws its attention to the infraction or the danger of infraction which is the subject of the petition or report.

The State interested, if it is a Member of the League, is informed at the same time as the Council of the subject of the petition. As a matter of fact, the Secretary-General has for some time adopted the procedure of forwarding immediately to all the Members of the League any document forwarded for the information of Members of the Council. This information, which may give the State concerned an opportunity of submitting to the Members of the Council such remarks as it may consider desirable, does not, however, partake of the nature of a request of the League for information with regard to the subject of the petition, nor yet does it imply, with regard to the State concerned, the obligation of furnishing evidence in its defence.

Any cases where, as the result of the petition, the intervention of the League seems to be urgently necessary, the Secretary-General may also adopt the above procedure, but, in view of the urgency of the case, he will forward the petition in question to the Members of the Council, as soon as possible (by telegraph if he thinks it advisable).

Each Power represented on the Council may demand that an urgent Council meeting be summoned in accordance with the provisions of the regulations in force.

This precaution will have the object of preventing any sudden act of oppression of minorities.

If the Council approves of the interpretation which I have had the honour to develop, it might adopt the following resolution :

“The Council invites its Members to draw the very special attention of their Governments to the conclusions arrived at in the present report.”

2. DISCUSSION CONCERNING THE RESOLUTION OF OCTOBER 25TH, 1920 (COMMITTEE OF THREE).

EXTRACT FROM THE MINUTES OF THE TENTH SESSION OF THE COUNCIL — MEETING HELD
ON OCTOBER 23RD, 1920.

M. HYMANS said that he had been much impressed by the observations made at a previous meeting by Mr. Balfour on the invidious position of a Member of the Council charging another Power with an infraction of the Minorities Treaties. He wondered whether a procedure could not be devised such that no Member of the Council need take action unless there was a strong movement of public opinion in favour of dealing with the matter. He suggested that all petitions addressed to the League notifying an infraction or danger of infraction of the rights of minorities should be communicated to all the Members of the Council and that the Council should then at its discretion submit such petitions to a Committee of three of its Members, who would examine them and report to the Council at its next session.

M. TITTONI pointed out that, if this procedure were adopted, it must not interfere with the right of any one Member of the Council to take the initiative if he so desired. The Secretary-General added that the petitions in question must in any case be sent to all Members of the League.

Mr. BALFOUR observed that the Council was free to decide the way in which it should fulfil its obligations to deal with these petitions, and submitted that the regulations suggested by M. Hymans left untouched the principles defined in the Treaties.

It was agreed that the suggestions of M. Hymans should be adopted as a rule of procedure of the Council and that the legal advisers of the Council should find a formula whereby this procedure might be reconciled with the text of the Treaties.

EXTRACT FROM THE MINUTES OF THE TENTH SESSION OF THE COUNCIL — MEETING HELD
ON OCTOBER 25TH, 1920.

For a definition of the conditions under which the Council shall exercise the powers granted to it by the Covenant and by various Treaties for the Protection of Minorities, the Council approved a resolution which will be inserted in its Rules of Procedure :

“With a view to assisting Members of the Council in the exercise of their rights and duties as regards the protection of minorities, it is desirable that the President and

two Members appointed by him in each case should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the Treaties for the Protection of Minorities. This enquiry would be held as soon as the petition or communication in question had been brought to the notice of the Members of the Council ”.

3. DISCUSSION CONCERNING THE RESOLUTION OF JUNE 27TH, 1921
(COMMUNICATION OF PETITIONS TO INTERESTED GOVERNMENTS).

EXTRACT FROM THE MINUTES OF THE THIRTEENTH SESSION OF THE COUNCIL — MEETING
HELD ON JUNE 27TH, 1921.

The representatives of Czechoslovakia and Poland took their seats at the Council table.

A report by the Secretary-General was read on the protection of minorities (Annex 222). This report referred to a letter which had been received from the Governments of Czechoslovakia and Poland (Annex 222a).

M. ASKENAZY said that he was glad that he had reached an agreement on this question with the representative of Czechoslovakia. He observed that a question of principle was at stake : the right of any person suffering injustice to appeal to the League of Nations must be safeguarded, but, on the other hand, measures must be taken to prevent the abuse of this right.

The report was adopted.

The representatives of Czechoslovakia and Poland withdrew.

Annex 1¹.

REPORT BY THE SECRETARY-GENERAL, AND RESOLUTION ADOPTED BY THE COUNCIL
ON JUNE 27TH, 1921.

The Secretary-General has had the honour of submitting to the Council for its consideration, a note from M. Askenazy, Polish representative, attached to the League of Nations, dated June 3rd, 1921, and a note from the Foreign Minister of the Czechoslovak Republic, dated June 4th, 1921.

These two notes contain proposals for the amendment of the procedure laid down for minority questions in M. Tittoni's report, which was adopted by the Council on October 22nd, 1920, at Brussels.

The procedure laid down in M. Tittoni's report was as follows :

“ When a petition with regard to the question of minorities is addressed to the League of Nations, the Secretary-General should communicate it, without comment, to the Members of the Council for information. This communication does not yet constitute a judicial act of the League, or of its organs. The competence of the Council to deal with the question arises only when one of its members draws its attention to the infraction, or the danger of infraction, which is the subject of the petition or report.

“ The State interested, if it is a Member of the League, is informed at the same time as the Council of the subject of the petition. As a matter of fact, the Secretariat-General has for some time adopted the procedure of forwarding immediately to all the Members of the League any document forwarded for the information of the Members of the Council.

¹ Annex 222 to the Minutes of the Thirteenth Session of the Council.

This information, which may give the State concerned an opportunity of submitting to the Members of the Council such remarks as it may consider desirable, does not, however, partake of the nature of a request of the League for information with regard to the subject of the petition, nor yet does it imply, with regard to the State concerned, the obligation of furnishing evidence in its defence."

The amendments to this procedure, proposed in the Polish and Czechoslovak notes, are almost identical. For this reason, the Secretariat decided that it was desirable to invite the representatives of these two Governments to meet at the offices of the Secretariat in order to try to prepare a joint proposal. This meeting has taken place, and the representatives of the two Governments concerned have announced that they recommend the adoption of the following draft resolution. The Secretariat also supports this proposal.

Resolution:

"With reference to M. Tittoni's report, adopted on October 22nd, 1920, at Brussels, the Council of the League of Nations resolves that :

"All petitions concerning the protection of minorities under the provisions of the Treaties from petitioners other than Members of the League of Nations shall be immediately communicated to the State concerned. The State concerned shall be bound to inform the Secretary-General, within three weeks of the date upon which its representative accredited to the Secretariat of the League of Nations received the text of the petition in question, whether it intends to make any comments on the subject. Should the State concerned not reply within the period of three weeks, or should it state that it does not propose to make any comments, the petition in question shall be communicated to the Members of the League of Nations in accordance with the procedure laid down in M. Tittoni's report.

"Should the State concerned announce that it wishes to submit comments, a period of two months, dating from the day on which its representative accredited to the Secretariat of the League receives the text of the petition, shall be granted to it for this purpose: The Secretary-General, on receipt of the comments, shall communicate the petition, together with the comments, to the Members of the League of Nations.

"In exceptional and extremely urgent cases, the Secretary-General shall, before communicating the petition to the Members of the League of Nations, inform the representative accredited to the Secretariat of the League of Nations by the State concerned.

"This decision shall come into immediate effect for all matters affecting Poland and Czechoslovakia.

"With regard to other States which have accepted the Treaty provisions relating to the Protection of Minorities, the Council authorises the Secretary-General to inform them of the decision taken in the case of Czechoslovakia and Poland and to ask them to state whether they wish the same procedure to be made applicable to them."

Annex 2¹.

**LETTER FROM THE MINISTRY OF FOREIGN AFFAIRS OF THE CZECHOSLOVAK REPUBLIC
TO THE SECRETARY-GENERAL.**

Prague, June 4th, 1921.

The Permanent Secretariat of the League of Nations has communicated to all the Members of the League the memorandum of the President of the "Austrian Association for a League of Nations" (Council Document No. F.6) with regard to the protection of minorities in Austria and in Czechoslovakia. In this memorandum, the Czechoslovak Republic and its President are attacked in the most violent manner by a private organisation.

¹ Annex 222a to the Minutes of the Thirteenth Session of the Council.

The Government of the Czechoslovak Republic considers that it is beneath its dignity to enter into a controversy, as, in its opinion, this memorandum is obviously inspired by a hatred of everything not German.

I am convinced that, when it communicated this memorandum to all the States Members of the League for their information, the Minorities Section of the Permanent Secretariat acted in strict conformity with the instructions contained in M. Tittoni's report, approved by the Council at Brussels on October 22nd, 1920. Nevertheless, in view of the fact that there is nothing to prevent the repetition of such an occurrence, I have the honour on behalf of the Czechoslovak Republic to beg Your Excellency to be so good as to submit the following proposal for the decision of the Council of the League of Nations :

“ The Council of the League of Nations adopts the following amendment to M. Tittoni's report which was approved at Brussels on October 22nd, 1920 :

“ The Permanent Secretariat of the League of Nations is instructed immediately to transmit petitions emanating from private bodies and affecting the honour or interests of one or more Members of the League of Nations, to the Government concerned in order that it may have an opportunity of expressing its opinion on the matter within a period of two months before the petition is circulated, in accordance with the instructions contained in M. Tittoni's report. In exceptional and extremely urgent cases, the Secretary-General shall, before circulating the petition, at any rate inform the delegate accredited to the League of Nations by the State concerned.”

For the Minister for Foreign Affairs
of the Czechoslovak Republic :

(Signed) Dr. V. GIRSA,

Minister Plenipotentiary.

Annex 3¹.

LETTER FROM [THE POLISH REPRESENTATIVE TO THE LEAGUE OF NATIONS TO THE SECRETARY-GENERAL.

Geneva, June 3rd, 1921.

The report on the guarantee of the League of Nations in respect of the minorities clauses of certain Treaties submitted by M. Tittoni and adopted by the Council at its meeting at Brussels on October 22nd, 1920, recognises “ the procedure of forwarding immediately to all the Members of the League any document forwarded for the information of Members of the Council ”.

In accordance with this resolution, the Secretariat has forwarded to the Members of the League a number of petitions submitted by individuals or bodies whose authority appears open to question.

This procedure, although doubtless based on a justifiable desire to afford to those who believe themselves injured an opportunity of stating their case, possesses one very great disadvantage : it lays before the Members of the League one-sided information, which is often unreliable or biased, while the State concerned — *i.e.*, the State against whom the petition is directed — has no opportunity of stating its case at the same time as its opponents.

The possibility of subsequently refuting the accusations made against them afforded to the States concerned does not always compensate for the injury suffered from this procedure.

¹ Annex 222a to the Minutes of the Thirteenth Session of the Council.

I have therefore the honour to submit for the Council's approval, the following interpretation of the resolution of October 22nd :

" All petitions emanating from sources other than Members of the League of Nations shall be previously examined by the Secretary-General, who, on his own authority, shall decide that no action shall be taken with regard to petitions signed by persons whose authority is open to question.

" The Secretary-General shall forward to the State concerned petitions which he considers worthy of consideration.

" The State concerned shall be bound to inform the Secretary-General, within three weeks of the date on which it receives the text of the petition, whether it intends to furnish any explanations.

" Should the State concerned not reply within the period of three weeks, or should it state that it does not propose to furnish any explanations, the petition in question shall be communicated to the Members of the League of Nations, in accordance with the procedure already adopted by the Secretariat-General.

" Should the State concerned declare that it wishes to furnish explanations on this subject, a period of two months, dating from the day on which it receives the text of the petition, shall be granted for this purpose. On receipt of the explanations, the Secretary-General shall either communicate the petition, together with the explanations, to the Members of the League of Nations or shall refrain from so doing if the State concerned expresses a wish to that effect and if, in the light of the explanations given, he considers that the petition is not worthy of consideration. "

(Signed) S. ASKENAZY.

4. DISCUSSION CONCERNING THE RESOLUTION OF SEPTEMBER 5TH, 1923 (RIO-BRANCO REPORT).

EXTRACT FROM THE MINUTES OF THE TWENTY-SIXTH SESSION OF THE COUNCIL — MEETING
HELD ON SEPTEMBER 5TH, 1923.

M. Skirmunt, representative of Poland, and M. Beneš, representative of Czechoslovakia, took their seats at the Council table.

M. DE RIO-BRANCO submitted his report to the Council.¹
The resolutions at the end of the report were read.

M. SKIRMUNT, representative of Poland, recalled the fact that the Polish Government had submitted two notes to the Council.² The suggestions contained in the first of these had all been more or less adopted by the Rapporteur and were embodied in his draft resolution.

The same did not apply, however, to the suggestions made in the second note, which, M. Skirmunt admitted, had been presented rather late, at the end of August, with the result that perhaps it had been somewhat difficult to investigate them thoroughly. He did not insist, therefore, on their being examined to-day. He only wished to say a few words of explanation.

The Polish Government considered, first of all, that, as regarded the procedure to be adopted in dealing with problems relating to the protection of minorities, the best system would be one which would render their solution easy without immediate recourse to international intervention. Such intervention should only take place in cases where no equitable solution giving satisfaction to the legitimate claims of minorities could be found without it. On the basis of these general considerations, the Polish Government had suggested that petitions coming from the interior of a country should first pass through the hands of the Government concerned. In this way, the matter might perhaps be settled.

¹ See page 20.

² See *Official Journal*, May 1923, page 480; September 1923, page 1071.

The second suggestion was the following: petitions presented by international organisations which constituted an interference in the internal affairs of a country should be set aside as not being of a nature to put the procedure into action, although it was certain that Members of the Council were entitled to obtain the necessary information from any source, including communications from international associations.

Since the despatch of the second Polish note, M. Skirmunt had found examples which not only proved the utility of the modifications of the procedure proposed in this note, but which even seemed to show the need for establishing clearly that, apart from the Council of the League of Nations, no foreign interference in the minorities questions of a State could be tolerated.

He would like to quote as an example a passage in a note from the German Government recently presented to the Permanent Court of International Justice at The Hague in connection with the question of German colonists in Poland. The following statement had been made by the German Government in this note (Chapter II, page 17):

“ Although the German Government does not consider that it is called upon to take up a definite position in the memorandum itself as regards this question of competence, it nevertheless considers that it must assert its right and its interest in the carrying-out of the protection of minorities guaranteed to Germany by Article 93, paragraph 1, of the Treaty of Versailles. ”

It was obvious that the provisions of Article 93 of the Treaty of Versailles had been carried out by the signatories of the Minorities Treaties. It was now the Minorities Treaties which were in force and which alone should be taken into consideration in matters concerning the protection of minorities. Germany had gained no rights through being a signatory of the Treaty of Versailles; it was a claim which had to be set aside absolutely, and the Polish Government protested in a note presented to the Permanent Court of International Justice.

M. Skirmunt drew attention to this matter as an example indicating that these questions were very serious and would have to be closely examined in the near future.

If the idea of the League of Nations were considered to be the establishment of a new order in Europe, and if the Minorities Treaties were to be considered as tending to stabilise and to fortify this new order, the question of minorities had to be considered with a view to the protection of these minorities when their rights were infringed; this view was accepted by Poland and by a certain number of other Powers. But, if this question were treated in a clumsy manner, the result might be, not to stabilise the new order, but to exercise a dissociating and destructive influence, which was certainly not the intention of the League of Nations or of its Council.

In conclusion, M. Skirmunt asked the Council to recognise that the questions raised in the last Polish note were deserving of examination in the not-too-distant future.

M. DE RIO-BRANCO said that, like the Polish representative, he considered that there was nothing in the resolution before the Council which precluded a subsequent examination of the questions with which M. Skirmunt had just dealt. Personally, as Rapporteur, M. de Rio Branco would be glad to continue the investigation of these questions in the light of any subsequent observations which the Polish Government might wish to make.

M. BENEŠ, representative of Czechoslovakia, was in complete agreement with the resolution proposed in the report. Like the representative of the Polish Government, he had submitted a note to the Council of the League of Nations in the name of his Government.¹ He considered that the provisions of the resolution would be of great assistance in settling several difficult questions and in regulating, as it were, the whole treatment of questions concerning the protection of minorities.

As regarded the statements made by the Polish representative, they appeared to him to contain points of interest for Czechoslovakia and for all the States which had signed the Minorities Treaties; he also considered that the Council of the League of Nations and its Rapporteur might examine them with advantage, with a view to subsequent discussion and negotiation.

¹ See *Official Journal*, July 1923, page 717.

Lord Robert CECIL said that he had not the slightest objection to the suggestion made by the representative of Poland and supported by the representative of Czechoslovakia ; the proposals made in the second Polish note should be regarded as serious suggestions. He agreed also with the representative of Poland that there were two sides to this question. It was important that the rights of the minorities should be preserved and that there should not be a recrudescence of ill-treatment of minorities, which was a danger to the peace of the world. Minorities, however, should recognise that they were part of the States in which they lived, and they should do their utmost to co-operate with the Government in order to preserve the stability and good government of the State.

Paragraph 3 of the draft resolution before the Council proposed that petitions should only be communicated to the Council and not to the Members of the League. He was a little apprehensive of appearing to take away the rights of the Members of the League without first communicating with them. As M. Hymans, the Chairman of the Sixth Committee of the Assembly, was present, Lord Robert Cecil wondered whether it would not be possible to consult the Sixth Committee regarding the proposal before the Council. It seemed to him awkward for the Council to say : " In the past we communicated certain documents to all Members of the League ; now we are going to communicate them only to the Members of the Council ".

M. COLBAN, Director of the Minorities Section of the Secretariat, observed that the right to bring before the Council matters which might be regarded as constituting infractions of the stipulations relating to minorities belonged to Members of the Council exclusively.

In 1920, when the Council was dealing with questions of procedure, the usual practice of the Secretariat was to send to all Members of the League all documents circulated to Members of the Council. In his report of October 22nd, 1920, M. Tittoni had stated clearly that petitions and other similar documents should be communicated without comment to the Members of the Council and, at the same time, to all the Members of the League. In this way, the State concerned, if a Member of the League, would receive notification of the petition and would be in a position to forward to the Council any observations it might desire to make.

Subsequently, on June 27th, 1921, the Council altered its procedure, deciding that petitions regarding the protection of minorities emanating from petitioners other than Members of the League would be communicated to the State concerned before being circulated to the Members of the Council and of the League. It therefore did not seem necessary to continue to distribute petitions to all Members of the League in order that the interested Government might be informed of them.

In his report, the Brazilian representative had defined the object of communicating minorities petitions, namely : to afford the Members of the Council an opportunity of deciding whether it was desirable for them to refer the matter to the Council in conformity with the treaties. This purpose would still be fulfilled, even if the distribution of documents were restricted to the Members of the Council.

There were, it was true, other arguments which merited consideration. It was sometimes a matter of great difficulty for the Secretary-General, when deciding whether a petition was acceptable or no, to determine if any specific petition deserved examination by the Council. The work of the Secretariat would be greatly facilitated if the distribution were restricted to the Members of the Council alone. Cases might also arise in which the Government concerned would be less inclined to give the Council its whole hearted assistance if certain petitions were distributed to fifty-two Governments. The Assembly had very properly laid stress, the year before, on the advantage of semi-official and friendly co-operation between the Council and the States concerned.

Another argument, to which great importance must obviously be attached, was that any possibility of malicious propaganda must be avoided. It was evident that, whatever the care taken by the Secretariat, there would always be a possibility that Members of the Council would receive petitions, accompanied by the observations of the Government concerned, which were not in all respects in conformity with the rules laid down, or which advanced an opinion which was not expressed in clear terms, or which might throw discredit on some State if the document in question were published or commented on by the Press.

Accordingly, from all points of view — the constitutional, technical and political points of view — there were good reasons for confining the distribution of petitions to the Members of

the Council. It was within the Council's province to decide in what manner the Assembly would be notified of this new procedure.

M. BENEŠ pointed out that the proposal submitted by the Polish and Czechoslovak Governments to restrict the distribution of petitions was the result of three years' experience, during which the Council and the parties concerned had been able to form an opinion. At the beginning of the League's existence, there were no traditions governing this procedure. No procedure had been laid down in the Minorities Treaties and the Treaties of Peace in general ; it had grown up gradually.

The procedure discussed last year in the Sixth Committee of the Assembly and agreed to by the members of the Committee had been adopted, to the satisfaction of all concerned. He noted that last year's debates were now producing very important results. Peaceful conditions had been established in all countries and minorities and nationals were working together in greater harmony. This circumstance should cause the greatest satisfaction.

The Czechoslovak Government had felt bound to submit its proposal in order to prevent the use of petitions, not for promoting peaceful conditions, but rather — as had too often been the case — for purposes of propaganda. He added that the Czechoslovak proposal continued to safeguard the right of the Council and all interested parties to communicate these petitions to all Members of the League ; but he thought it would be preferable that such distribution should not take place quite automatically, so that the Members of the Council might be in a position to consider whether such communication was necessary or useful.

M. Beneš referred, by way of example, to the fact that a number of petitions, which were practically propaganda against the Czechoslovak Government, had been communicated to the latter, in conformity with the procedure adopted hitherto, before they had been submitted to the Members of the Council. The Czechoslovak Government had been forced to reply in order to avoid creating a bad impression, but this had resulted in the creation of a large amount of work and the expenditure of much unnecessary energy. These were the reasons which had induced the Czechoslovak Government to submit its proposal and which led it to desire that petitions should be examined by the Members of the Council in the first place. This would not prevent documents being distributed to all the Members of the League when necessary.

Lord Robert Cecil, moreover, had suggested that explanations should be given on this subject either to the Assembly or to the Sixth Committee. He entirely agreed with this proposal.

The question of communicating petitions had, moreover, been raised last year in the Sixth Committee and attention had then been drawn particularly to the right of Members of the League of Nations to have these documents communicated to them. It was pointed out that, in practice, this procedure had been adopted in the interests of the Council, of the Secretariat and of the States concerned.

M. HYMANS proposed that the Minutes of the present meeting should be sent to the Sixth Committee of the Assembly, which would thus be informed of the observations made by the various speakers.

The SECRETARY-GENERAL reminded the Council that the question of minorities was not on the agenda of the Assembly ; the Minutes of the meeting would, however, be communicated automatically to all the States Members and to all delegations present at Geneva. Therefore, any Member of the League desiring to raise the question could bring it before the Sixth Committee.

Lord Robert CECIL thought that this procedure would do. M. Beneš had rightly said that a most admirable and useful discussion had taken place in the Sixth Committee of the Assembly last year. He was glad to hear that it had been of great service to the various States. He was anxious to maintain the good understanding which had been obtained and to avoid giving rise to any possible misunderstanding regarding this matter. For this reason, he wanted it, in some way or another, to be explained to the Assembly that it was not the desire of the Council to do anything that was contrary to the interest of any Member of the League without a full explanation and without giving the Members of the League an opportunity of making any observations which they desired.

It might be sufficient to distribute the Minutes, but he thought that something a little more formal would be desirable, such as a communication to the Sixth Committee.

M. HYMANS said that, as Chairman of the Sixth Committee, he would be in a position to transmit a communication to the Committee, after which supplementary explanations might be given if required.

M. BENEŠ said that he entirely agreed with this proposal, which he thought would be likely to produce good results. He pointed out, moreover, that the question had been raised in the Council some time ago and that the Council might have taken a decision in the matter two or three months previously. It was quite by chance that the question had been laid before it during the Assembly.

The following Resolution, submitted by the rapporteur, was adopted by the Council, after two drafting amendments, proposed by Lord Robert CECIL and M. HANOTAUX respectively, had been inserted :

“ With reference to the previous resolutions relating to the procedure to be followed with regard to the protection of minorities dated October 22nd and 25th, 1920, and June 27th, 1921, the Council of the League of Nations decides that :

“ (1) In order that they may be submitted to the procedure established by the Council resolutions dated October 22nd and 25th, 1920, and June 27th, 1921, petitions addressed to the League of Nations concerning the protection of minorities :

“ (a) Must have in view the protection of minorities in accordance with the treaties ;

“ (b) In particular, must not be submitted in the form of a request for the severance of political relations between the minority in question and the State of which it forms a part ;

“ (c) Must not emanate from an anonymous or unauthenticated source ;

“ (d) Must abstain from violent language ;

“ (e) Must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

“ If the interested State raises for any reason an objection against the acceptance of a petition, the Secretary-General shall submit the question of acceptance to the President of the Council, who may invite two other members of the Council to assist him in the consideration of this question. If the State concerned so requests, this question of procedure shall be included in the agenda of the Council.

“ (2) The extension of the period of two months fixed by the resolution of June 27th, 1921, for observations by the Government concerned on the subject of the petitions may be authorised by the President of the Council if the State concerned so requests and if the circumstances appear to make such a course necessary and feasible.

“ (3) The communication, in accordance with the resolution of June 27th, 1921, to the Members of the League of petitions and of observations (should there be any) by the Government concerned shall be restricted to the Members of the Council. Communications may be made to other Members of the League or to the general public at the request of the State concerned, or by virtue of a resolution to this effect passed by the Council after the matter has been duly submitted to it.

“ (4) The consideration of petitions and observations (should there be any) of the Governments concerned by the President and two other members of the Council, in accordance with the resolution of October 25th, 1920, shall be undertaken with the sole object of determining whether one or more Members of the Council should draw the attention of the Council to an infraction, or danger of an infraction, of the clauses of the treaties for the protection of minorities. The right reserved to all Members of the Council of drawing its attention to an infraction or danger of infraction remains unaffected.

“ (5) The present resolution shall be communicated to the Governments which have signed treaties or made declarations concerning the protection of minorities.”

Annex¹.

REPORT BY M. DE RIO-BRANCO, AND RESOLUTIONS ADOPTED BY THE COUNCIL
ON SEPTEMBER 5TH, 1923.

I.

On January 16th, 1923, the Polish representative communicated to the League of Nations a memorandum containing certain observations in regard to the principles governing the protection of minorities by the Council and to the rules of procedure established for this purpose².

On April 5th, 1923, the Czechoslovak Minister for Foreign Affairs communicated to the League a note also making certain observations on the resolutions of the Council relative to the procedure to be followed in regard to the protection of minorities³.

On August 22nd, 1923, the Polish representative addressed a further note to the League supplementing his note of January 16th and dealing with the acceptance of minority petitions⁴.

II.

It may be advisable to recall briefly the procedure at present in force as regards the protection of minorities by the League of Nations.

The different treaties which include clauses dealing with the protection of minorities all contain provisions which are generally in the following terms:

The country concerned agrees that the stipulations in the articles in question, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. The country concerned also agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations and that the Council may thereupon take such action and give such instructions as it may deem proper and effective in the circumstances. The country concerned further agrees that any difference of opinion as to questions of law or fact arising out of these articles between the Government concerned and any one of the Powers Member of the Council of the League of Nations shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations, which dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final.

The Council has, moreover, established certain rules in the following resolutions on the procedure to be followed.

(1) The report of M. Tittoni approved by the Council on October 22nd, 1920. — This report first lays down that the guarantee of the League of Nations means, in the first place, that the provisions of the treaties in regard to minorities are inviolable, and, secondly, that the League of Nations must ascertain that these provisions are always observed. The report then emphasises the provisions of the treaties that the right of calling the attention of the Council to any infraction or danger of infraction of the clauses of the treaties is reserved to the Members of the Council, who, in virtue of this fact, are asked to take a special interest in the protection of minorities. The report further points out that the right of initiative of the Members of the Council does not in any way exclude the right of the minorities themselves,

¹ Annex 558 to the Minutes of the Twenty-sixth Session of the Council.

² See *Official Journal*, May 1923, pages 480-483.

³ See *Official Journal*, July 1923, pages 717 and 718.

⁴ See *Official Journal*, September 1923, pages 1071 and 1072.

or even of States not represented on the Council, to call the attention of the League of Nations to any infraction or danger of infraction, but this act must retain the nature of a petition or a report pure and simple, and it cannot have the legal effect of putting the matter before the Council. When a petition concerning minorities is addressed to the League, the Secretary-General should communicate it without comment to the Members of the Council for information. The State interested, if it is a Member of the League, shall be informed at the same time as the Council of the subject of the petition, since any document forwarded for the information of Members of the Council is, in principle, forwarded immediately to all the Members of the League. In this way, the State concerned has an opportunity of submitting to the Members of the Council such remarks as it may consider desirable.

(2) The Council resolution of October 25th, 1920, provides that the President of the Council and two Members of the Council appointed by him in each case should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the Treaties for the protection of minorities, and that this enquiry should be held as soon as the petition or communication in question has been brought to the notice of the Members of the Council.

(3) The Council resolution of June 27th, 1921. — According to the terms of this resolution, which takes the form of an amendment to the resolution mentioned above of October 22nd, 1920, and which was based on proposals submitted simultaneously by Poland and Czechoslovakia, all petitions concerning the protection of minorities, under the provisions of the treaties, from petitioners other than Members of the League of Nations shall be immediately communicated to the State concerned before being brought to the notice of the Members of the League. The State concerned shall have a time-limit of three weeks to inform the Secretariat whether it intends to make any comments. Should the reply be in the affirmative, it shall have a period of two months in which to submit its observations, which shall be communicated, together with the petition, to the Members of the Council and to the Members of the League.

In exceptional and extremely urgent cases, the Secretary-General may communicate the petition in question to the Members of the Council with the shortest possible delay (by telegraph if he considers it necessary). Before making this communication, the Secretary-General must inform the representative accredited to the Secretariat of the League of Nations by the State concerned.

All the States concerned adhered to this resolution.

In regard to the acceptance of petitions, a certain degree of control is exercised by the Secretariat (see document C.517.M.366.1921). The rules established for this purpose provide that such petitions must fulfil the following conditions:

(a) They must have in view the protection of minorities in accordance with the treaties.

(b) In particular, they must not be submitted in the form of a request for the severance of political relations between the minority in question and the State of which it forms part.

(c) They must not emanate from an anonymous or unauthenticated source.

(d) They must abstain from violent language.

III.

The memorandum of the Polish delegate dated January 16th, 1923, states that the Polish Government considers that, in view of their origin, the minorities treaties should only be applied in a restricted and not an extended sense, and within the same limits as would have been the case had they been applicable to the Great Powers and the original Members of the League of Nations.

In the opinion of the Polish Government, the essential purpose of the protection of minorities is to secure for them a normal existence within the limits of the States to which they belong. This object cannot be attained by means which are prejudicial to the

consolidation of these States, but only by the natural application, within each State, of the principles of freedom and equality in the political, economic, social and legal spheres. For this normal method it is impossible to substitute any intervention or pressure from outside ; it can only hinder the free development of relations between the majority and the minority.

The minorities treaties have created an entirely new position. It was inevitable that the new system should present disadvantages at first. One of these disadvantages was the printing and distribution to all the Members of the League of documents which were addressed to the League by persons claiming to speak on behalf of various minorities. This procedure was in contradiction with the provisions contained in the minorities treaties, which provide for the exercise of initiative in minorities questions exclusively by "any Member of the Council of the League of Nations". The Polish Government, desiring to remedy defects in procedure, suggested, in a note dated June 3rd, 1921, certain modifications, which were approved in substance by the Council in a resolution adopted on June 27th, 1921. This resolution thus represents the first step towards an improvement in the methods to be followed in regard to petitions from minorities.

The Polish memorandum next deals with the constitution of a special committee, consisting of the President and two members of the Council, established by the resolution of October 25th, 1920, and states that the procedure by means of the Committee of Three would seem in a sense to relieve a State Member of the Council from part of the individual responsibility which must be the corollary of its right of initiative in regard to bringing minorities questions before the Council, by dividing the responsibility between three Members. This procedure, in the view of the Polish Government, considerably weakens the value of the express guarantee given by the treaties to the State concerned. In consequence, the Polish Government is of the opinion that :

" With reference to the Council's resolution dated June 27th, 1921, it should be decided that no petition from a minority may be communicated to the Members of the League of Nations except in virtue of an express resolution adopted by the Council to that effect at the request of one of its Members ;

" That the investigations, the grounds of judgment and the findings of the Committee of Three should be regarded purely as internal routine work, information for the use of the Council and the Secretariat of the League of Nations, and should not constitute a legal action carrying the right of initiative within the meaning of Article 12, paragraph 2, of the Treaty ;

" That the procedure laid down in Article 12, paragraph 2, aforesaid should be exactly and strictly observed in every individual case ; and

" That, consequently, no question connected with the protection of minorities should be laid before the Council of the League of Nations except on the deliberate and the spontaneous motion of a State Member of the Council of the League of Nations, without prejudice, however, to the right of any other State Member of the Council to associate itself individually with such motion. "

IV.

I will now deal with the various proposals made by the Polish Government.

The first question is whether it is possible to modify the procedure hitherto employed in such a way that the petitions of minorities, after submission to the Governments concerned, should be communicated to the Members of the Council only, and not to all the other Members of the League, unless the matter be laid before the Council in conformity with the rules in force, or unless the Council adopt an express resolution to this effect, or unless the Government concerned expressly request it.

In deciding whether such restricted circulation should be adopted, the Council should, above all, bear in mind what is the object of communicating minorities petitions. Its object is simply to supply information to the Members of the Council in order to enable them to exercise the right of initiative reserved to them by the clauses of the minorities treaties. This would be attained by restricting the circulation to the Members of the Council only.

When the procedure of circulating minorities petitions to all Members of the League was approved by the adoption of M. Tittoni's report on October 22nd, 1920, the practice then established was that all documents communicated to the Members of the Council for information were simultaneously communicated to all the Members of the League. Since that time this practice has not been strictly observed.

Circulation of the petitions to all the Members of the League allowed the State concerned to submit any observations it desired in regard to a petition which would not have come to its notice if it had been communicated only to the Members of the Council. According to the procedure instituted by the resolution of June 27th, 1921, the petition is now brought to the notice of the States concerned even before it is circulated to the Members of the Council.

The clauses of the minorities Treaties have been placed under the guarantee of the League of Nations. From the outset, therefore, all the Members of the League were interested in gaining some insight into the problem of the protection of minorities and in following in detail the development of this question. The rules of procedure have now been established, and the third Assembly held a thorough discussion on the general problem of the protection of minorities by the League of Nations. It might therefore well be left to the Members of the Council alone to take note of the concrete questions raised by the petitions.

Many of the petitions are of so little interest, especially after the Government concerned has submitted its observations, that they are hardly worth bringing to the notice of all the Members of the League.

If the petitions were circulated only to the Members of the Council, it would become impossible to use the system of petitions for the purpose of malicious propaganda against a State Member of the League.

I agree with the second paragraph of the Polish proposal that examination of petitions by the President and two Members of the Council, in virtue of the resolution of October 25th, 1920, should not constitute a legal action which would automatically bring before the Council a question of the infraction of a clause of the treaty. By that resolution the Council merely intended that, whenever a concrete minorities question came to the notice of the Members of the Council, it should be submitted to a detailed examination by at least three of its Members. In order to bring a question of an infraction or a danger of infraction of a clause of a minorities treaty before the Council, a further act is necessary, such as a report or an official communication to the Council by one or several of its Members acting in virtue of their right of initiative in accordance with the treaty.

Lastly, as regards the proposals of the Polish Government concerning the application of Article 12, paragraph 2, of the Polish Treaty (and of the similar clauses in the other minorities treaties), I would point out that the treaties contain no indication in regard to the manner in which a Member of the Council should bring an infraction before the Council. Each State represented on the Council is free to decide in what manner and under what conditions it will draw the attention of the Council, either on its own account or in conjunction with other Members of the Council, to an infraction of a clause in a minorities treaty. It would hardly be advisable for the Council to limit the rights of the Governments represented on the Council by drawing up rules of procedure or by imposing formalities not contained in the treaties.

V.

The Czechoslovak note dated April 5th, 1923, may be summarised as follows :

(1) The Czechoslovak Government first draws attention to the fact that, under the terms of the minorities treaties, persons belonging to racial, religious or linguistic minorities are not regarded as legal persons. Although the Tittoni report says that the right of Members of the Council to call attention to any infraction does not in any way exclude the right "of the minorities themselves" to forward to the League of Nations petitions or reports, the Czechoslovak Government understands the expression "minorities themselves" to be a mere abbreviation of the words which occur in the treaty: "Persons belonging to racial, religious or linguistic minorities". The Czechoslovak Government, moreover, is of opinion that, in principle, the right to address to the League of Nations petitions or reports regarding the protection of minorities is held by all, and is not merely a privilege of minorities. The minorities treaties did not create organisations possessing the right to speak and act on behalf of the "minorities", but placed their protection in the hands of the Members of the Council.

I am in agreement with the Czechoslovak Government on this point. I have already stated that the purpose of the communication to the Members of the Council is to furnish them with information to enable them to exercise the right of initiative accorded them by the treaties. I have therefore no hesitation in stating that the petitions should not be considered as pleas in the name of a minority regarded as a legal person, but merely as a source of information for the Members of the Council. It follows that, in principle, the minorities petitions may emanate from any source without other restrictions than those which the Council itself may see fit to impose.

(2) The submission of petitions to the League of Nations, their transmission to the Members of the Council and consideration by the "Committee of Three" do not in the opinion of the Czechoslovak Government, constitute a legal act. This procedure is only a kind of information service for the use of the Members of the Council. As the petitions are not charges in the technical sense of the word, the observations submitted by the Governments interested are not replies but merely reports.

The point of view held by the Czechoslovak Government corresponds entirely with the opinion which I have already expressed in the present report, and is based on previous decisions of the Council.

(3) With regard to the period of two months fixed by the Council's resolution dated June 27th, 1921, for the submission by the Governments concerned of their observations on the petitions which have been communicated to them, the Czechoslovak Government suggests that the President of the Council should be authorised to grant an extension of this period should the circumstances appear to make such a course necessary and feasible.

I think that the Council will agree to accept this proposal. Cases have already arisen in which the Government has been obliged to request for an extension of time-limit owing to the technical difficulties arising in carrying out the local enquiries rendered necessary by the petitions. In such cases, the Secretary-General has submitted the request for extension to the President of the Council of the League of Nations.

(4) As the protection of minorities is entrusted to the Members of the Council alone, the Czechoslovak Government considers that the petitions and reports and also observations from the States concerned should only be communicated to the Members of the Council. They should only be communicated to the Members of the League either on a definite application being made by the State concerned or in pursuance of a decision taken by the Council under the following clause in the minorities treaties :

"The Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances."

In my remarks on the Polish note I have already dealt with this question and I have proposed that the Council should accept the proposal of the Polish Government, which agrees with that made by the Czechoslovak Government.

(5) The Czechoslovak Government considers that as, for diverse reasons, the petitions and reports do not in all cases merit consideration by the Members of the Council or by the State concerned, the Secretary-General might reject at once petitions of the following kinds :

(a) Those which are only drawn up for propaganda purposes, that is to say, which are not really important, and which do not make detailed statements or only contain information or refer to facts which have already been examined by the Members of the Council ;

(b) Petitions which lie outside the scope of the minorities treaties ;

(c) Petitions which are incompatible with the dignity of the State.

At the beginning of my report, I mentioned the control which at the present time is exercised by the Secretariat in this matter. This control does not, in reality, seem to me to differ greatly from that proposed by the Czechoslovak Government. It is true that the wording of the formula used by the Czechoslovak Government is wider, but, in order to furnish the Secretary-General with sufficiently clear criteria for considering the acceptance of the

petitions, it should in practice be applied approximately in the same manner as the regulations at present in force. I should be inclined to propose that the regulations in force should be retained and that the following fresh clause should be added :

“Petitions should contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.”

It might also be possible to lay down that, if a Government raises objections, for any reason, against the acceptance of a petition, the Secretary-General should submit this question of acceptance to the President of the Council, who may invite two other Members of the Council to assist him in considering the question. If the Government concerned so requests, this question of procedure might be included in the agenda of the Council.

VI.

The new Polish note dated August 22nd, 1923, raises the question as to who is entitled to address petitions to the League of Nations.

The Polish Government makes a distinction between petitions submitted by persons belonging to minorities in the State itself and petitions submitted by international organisations.

A. — With regard to the first group, the Polish Government is of opinion that the regulation adopted by the Council concerning the petitions submitted by the Swedish population of the Aland Islands and by the minorities in Upper Silesia should be applied and that all individual or collective petitions submitted to the League of Nations by persons belonging to racial, religious or linguistic minorities of a State signatory to the minorities treaties should be submitted to the League through the Government of the State interested. The Government would forward, together with the petitions, any observations it desired. In cases where petitions are received by the Secretariat of the League of Nations through any other channel than that of the Government concerned, they should be returned to the signatories with the request to submit them through the Government.

The Polish Government considers that this system presents certain advantages.

(1) Any action taken by the local administrative authority by which persons belonging to minorities might regard the rights guaranteed to them by the treaties as being infringed will be immediately made known to the local authority, which would thus be enabled to satisfy, without delay, the legitimate grievances of the persons concerned.

I am inclined to think that this might equally well be done under the system actually in force. The minorities petitions are, indeed, communicated directly to the Governments before being submitted to the Members of the Council: the Government has therefore an opportunity of making enquiries from the local authorities and of remedying grievances, if they exist.

(2) Minorities would have an assurance that the central authority would not fail to consider their position and would not seek to obtain support from any foreign Government but would take up a loyal attitude to their State.

With regard to this point, I entirely agree that our object should be to prevent any appeal by the minorities to any particular foreign State. It is precisely for this reason that treaties have placed the clauses for the protection of minorities under the guarantee of the League of Nations. But, for the same reason, I hesitate to recommend fresh restrictions in procedure in the matter of the protection of minorities. If the channel of recourse to the League of Nations is rendered needlessly difficult, the danger that minorities may appeal directly to a neighbouring State is increased. The third Assembly, moreover, passed a resolution relating to the duties incumbent on persons belonging to minorities to co-operate as loyal citizens of the nations to which they belong.

(3) The Polish Government is also of opinion that, by adopting this procedure, the number of petitions forwarded to the Council would be reduced to a minimum, in view of the fact that every Government could directly satisfy the reasonable demands of petitioners.

Experience shows, however, that, even in the particularly difficult period of transition after the war, the number of petitions has been singularly limited, and I scarcely see the necessity of introducing fresh restrictive clauses on this subject.

The two cases to which the Polish Government refers, namely, that of the Aland Islands and that of Upper Silesia, are special cases. The *Landsting* (local Assembly) of the Aland Islands is provided with power to submit a complaint in the name of the population. In this case, therefore, there is an important organ for representing the minority. A special machinery also exists in Upper Silesia; there are minority offices to which persons belonging to minorities may appeal, and there is also the Chairman of the Mixed Commission. Article 147, moreover, of the Convention on Upper Silesia lays down that the petition may be addressed directly to the Council of the League by persons belonging to the minorities.

B. — With regard to the other group of petitions, that is to say, those presented by international organisations, the Polish note makes the following statement: "Petitions of this kind constitute an unwarrantable interference by third parties in the internal affairs of a sovereign and independent State. The treaties have merely established relations between the State concerned and the States Members of the Council. They have created for the State concerned certain obligations towards minorities which are the only persons who benefit thereby, and who alone are entitled to insist on the carrying out of those obligations within the limits of the procedure in conformity with the provisions of the treaties. Any intervention of a State Member of the Council under the terms of Article 12 of the treaty (Polish) must necessarily be based on a corresponding request received from the minority itself. But any interference by other bodies, whatever their character may be, must be excluded at the outset and cannot become the starting-point of any procedure. The communications received from international organisations concerning the protection of minorities cannot be regarded as constituting anything more than subsidiary documents of an informatory character when compared with petitions addressed by the minorities."

There would undoubtedly be much to be said in favour of the argument used by the Polish Government against intervention by great international but irresponsible organisations in the affairs of the State, acting perhaps in opposition to the true interests of the minorities in question, if these organisations could directly bring a question before the Council, but, as I have emphasised several times, such communications retain the character of reports or petitions pure and simple and cannot give rise to any legal action unless a Member of the Council decides to lay them before the Council. I have already explained that, as these petitions are merely sources of information for the Members of the Council, they may in principle emanate from any source whatever without other restrictions than those which the Council itself may see fit to impose. I have also emphasised the possible danger of framing too restrictive regulations on this subject.

I have the honour to submit to the Council the following resolution:

"With reference to the previous resolutions relating to the procedure to be followed with regard to the protection of minorities dated October 22nd and 25th, 1920, and June 27th, 1921, the Council of the League of Nations decides that:

"(1) In order that they may be submitted to the procedure established by the Council resolutions dated October 22nd and 25th, 1920, and June 27th, 1921, petitions addressed to the League of Nations concerning the protection of minorities:

"(a) Must have in view the protection of minorities in accordance with the treaties;

"(b) In particular, must not be submitted in the form of a request for the severance of political relations between the minority in question and the State of which it forms a part;

"(c) Must not emanate from an anonymous or unauthenticated source;

"(d) Must abstain from violent language;

"(e) Must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

" If the interested State raises for any reason an objection against the acceptance of a petition, the Secretary General shall submit the question of acceptance to the President of the Council, who may invite two other Members of the Council to assist him in the consideration of this question. If the State concerned so requests, this question of procedure shall be included in the agenda of the Council.

" (2) The extension of the period of two months fixed by the resolution of June 27th, 1921, for observations by the Government concerned on the subject of the petitions may be authorised by the President of the Council if the State concerned so requests and if the circumstances appear to make such a course necessary and feasible.

" (3) The communication, in accordance with the resolution of June 27th, 1921, to the Members of the League of petitions and of observations (should there be any) by the Government concerned shall be restricted to the Members of the Council. Communications may be made to other Members of the League or to the general public at the request of the State concerned or by virtue of a resolution to this effect passed by the Council after the matter has been duly submitted to it.

" (4) The consideration of petitions and observations (should there be any) of the Governments concerned by the President and two other Members of the Council, in accordance with the resolution of October 25th, 1920, shall be undertaken with the sole object of determining whether one or more Members of the Council should draw the attention of the Council to an infraction or danger of an infraction of the clauses of the treaties for the protection of minorities. The right reserved to all Members of the Council of drawing its attention to an infraction or danger of infraction remains unaffected.

" (5) The present resolution shall be communicated to the Governments which have signed treaties or made declarations concerning the protection of minorities."

50. DISCUSSION CONCERNING THE RESOLUTION OF JUNE 10TH, 1925, (COMPOSITION OF COMMITTEES OF THREE).

EXTRACT FROM THE MINUTES OF THE THIRTY-FOURTH SESSION OF THE COUNCIL — MEETING
HELD ON JUNE 10TH, 1925.

M. DE MELLO-FRANCO read the following report and draft resolution :

" The Council of the League of Nations adopted on October 25th, 1920, a resolution according to which any petition or communication regarding an infraction or danger of infraction of one of the clauses of the Treaties for the protection of racial, linguistic or religious minorities should, after being brought to the notice of the Members of the Council, be considered as soon as possible by the President and two other members of the Council appointed by him.

" In accordance with the resolution of the Council of June 27th, 1921, petitions emanating from a source other than from a Member of the League of Nations are not ordinarily communicated to the Members of the Council until the Government of the country to which the persons of the minority in question belong has had an opportunity to present its observations.

" The resolution of the Council of September 5th, 1923, emphasised that the consideration of a minorities petition and any observations thereon presented by the Government in question, in accordance with the resolution of October 25th, 1920, is undertaken with the sole object of determining whether there is reason or not for one or more members of the Council to exercise the right accorded in the Minorities Treaty to draw the attention of the Council to the infraction or danger of infraction stated in the petition.

" The system of procedure established by these different resolutions of the Council provides for as careful an examination as possible of minorities questions by certain members of the Council, while reserving to the other members the right of initiative conferred upon them by the Treaties. In practice, 'the Minorities Committee' has become a normal body for dealing with that part of the work of the League of Nations which concerns the protection of minorities. This makes the appointment of the members of the Council under the above resolution of very considerable importance. For this reason, it seems to me that the Council should take note of, and confirm formally, certain practices which have gradually developed in this matter.

" In practice, the Acting-President of the Council, when appointing two of his colleagues in accordance with the resolution of October 25th, 1920, has usually been guided by the following principle, which I consider should always be applied: namely, the Government to be entrusted with the duty laid down in the resolution of October 25th, 1920, should not be a Government of a State neighbouring that of which the persons belonging to the minority in question are subjects, nor the Government of a State the majority of whose subjects belong from the ethnical point of view to the same people as the minority in question. It goes without saying that the Government against whom the minorities petition is directed, if represented on the Council, should not be included in the three members appointed to consider the matter.

" I venture to submit to you the following draft resolution, which, I believe, will help the President of the Council in his very delicate and important task in dealing with this matter, without affecting in any way the terms of the treaties:

" The Council of the League of Nations,

" Considering that by the resolution of October 25th, 1920, it was decided, with a view to assisting members of the Council in the exercise of their rights and duties as regards the protection of minorities, that it is desirable that the President and two members appointed by him in each case should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the Treaties for the protection of minorities, and that this enquiry should be held as soon as the petition or communication in question has been brought to the notice of the members of the Council,

" Decides:

" I. If the Acting President of the Council is the representative of the State of which the persons belonging to the minority in question are subjects, or,

" The representative of a neighbouring State of the State of which the persons belonging to the minority in question are subjects, or,

" The representative of a State the majority of the population of which belongs from the ethnical point of view to the same people as the persons belonging to the minority in question,

" The duty which falls upon the President of the Council in accordance with the terms of the resolution of October 25th, 1920, shall be performed by the member of the Council who exercised the duties of President immediately before the Acting President and who is not in the same position.

" II. The President of the Council, in appointing two of his colleagues in conformity with the resolution of October 25th, 1920, shall not appoint either the representative of the State to which the persons belonging to the minority in question are subject, or the representative of a State neighbouring the State to which these persons are subject, or the representative of a State a majority of whose population belong from the ethnical point of view to the same people as the persons in question."

The resolution was adopted.

6. DISCUSSION CONCERNING THE RESOLUTION ADOPTED BY THE ASSEMBLY
AT ITS SIXTH ORDINARY SESSION.

EXTRACT FROM THE MINUTES OF THE THIRTY-SEVENTH SESSION OF THE COUNCIL —
MEETING HELD ON DECEMBER 9TH, 1925.

M. DE MELLO-FRANCO read the following report :

I.

“ On September 22nd, 1925, the Assembly, at its sixth ordinary session, adopted the following resolution :

“ ‘ The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly, dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report) ¹. The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925, the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection.’

“ By the proposal mentioned in this resolution the Lithuanian representative had requested the Assembly ‘ to set up a special Committee to prepare a draft General Convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to Minorities ’.

“ This proposal was referred to the Sixth Committee of the Assembly, which discussed it on September 16th, 1925, many delegates taking part in the discussion. The Committee’s report summarises the discussion as follows :

“ ‘ On the one hand, the attention of the Committee was drawn to the fact that the Treaties and Declarations for the Protection of Minorities of Race, Language or Religion are only the concern of certain States, while other States are exempt from such obligations and this would not be in conformity with the principle of equality between States. On the other hand, several delegates pointed out that this way of looking at the question was not correct, since the special position of States bound by certain treaties or declarations was the result of special circumstances prevailing in those States.’

“ In view of this difference of opinion, the suggestion was made that the Committee should recommend the Assembly to refer the discussion of the Committee on the Lithuanian proposal to the Council. In view of this suggestion, the Lithuanian representative stated that he withdrew his proposal, and the Assembly decided, in accordance with the Committee’s suggestion, to request the Secretary-General to send us the Minutes in question. The Secretary-General complied with this request by circulating to us document C.610.1925.I. ².

“ I do not think that I am called upon to submit proposals to the Council on this question. I would only suggest that the Council take note of the Assembly’s communication.

II.

“ The discussion which took place in the Sixth Committee of the Assembly was raised by the Lithuanian proposal, but it also led to an exchange of views on the procedure followed by the Council and the Secretariat for dealing with concrete questions relating to the protection of minorities. On this matter, the Committee’s report contains the following passage :

“ ‘ The Committee discussed paragraph VI of Chapter 7 of the Supplementary Report to the Assembly on the Work of the Council, on the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly. Several speakers paid a tribute to the work accomplished by the Council in the execution of its delicate duties and

¹ See page 37.

² See page 41.

emphasised the merits of the procedure at present in force; some suggestions were made that this procedure might be improved, but it was pointed out that, whatever was done, the provisions of the Minority Treaties must be respected. At the end of the discussion, it was proposed that the Committee should recommend the Assembly to give its formal approval to the above-mentioned part of the report, and this proposal was favourably received by various speakers.'

" The Assembly resolution is in conformity with this recommendation.

" I consider that the Council should also take note of that part of the Assembly resolution which approves the present procedure in respect of the protection of minorities. Various suggestions for still further improving this procedure were discussed both at plenary meetings of the Assembly and in Committee. These discussions are reported in document C.610.1925.I.¹ I do not think that they call for any action by the Council at the present time.

" Draft Resolution :

" 'The Council takes note of the Assembly resolution of September 22nd, 1925, regarding the protection of minorities.' "

As Rapporteur, M. de Mello-Franco felt it his duty to submit the following expression of his personal views :

Declaration of M. de Mello-Franco.

The report which I have had the honour to submit to my colleagues on the Council is, properly speaking, the result of the contrast between the various currents of opinion shown during the discussion which took place last September on the problem of the minorities in the Sixth Committee of the Assembly, a discussion which was followed with interest by the whole Assembly.

The difference then shown between the ways in which some States approached certain aspects of this problem cannot fail to appear also in the Council, at least for the moment. It is obviously not the duty of the Rapporteur to increase the divergencies of view which have not yet been removed either by the protective action of the League of Nations or by the results already achieved in the construction of a new status of minorities based on high principles capable of assuring the inviolability of the person. The establishment of this status is gradually progressing, thanks not only to the help of persons engaged in the study of the new international law and to the sound policy pursued by a number of contemporary statesmen, but also, it must be said, to the conscientious and considered work of the Council of the League of Nations.

The new rights of minorities originate from Articles 86 and 93 of the Treaty of Versailles, which are the source of the Treaties of June 28th and September 10th, 1919, the first concluded between Poland and the Principal Allied and Associated Powers and the second between those Powers and Czechoslovakia. The other treaties concerning minorities were signed by the Central and Eastern European States concerned in 1919 and 1920 and placed under the guarantee of the League of Nations in the same way as the first two treaties. In 1921, when Finland and Albania were admitted to the League of Nations, they signed declarations which included the provisions of the Minority Treaties. Lithuania in 1922 and Latvia and Estonia in 1923 undertook similar engagements before the Council with regard to this question. The protection of Turkish minorities in Greece and of Greek minorities in Turkey was assured by Articles 37 to 45 of the Treaty of Peace of Lausanne of July 24th, 1923, and by the Protocol of the same date signed between the Principal Allied and Associated Powers and Greece.

These international acts form the legal structure of the status of minorities placed under the guarantee of the League of Nations. The provisions governing this status constitute obligations of international interest which the signatory States can only modify with the consent of the majority of the Council of the League of Nations. Further, the signatory States have agreed that any Member of the Council has the right to draw the attention of the Council to any infraction or danger of infraction of any one of these obligations. Such is the rigid structure of the texts.

With a view to the accurate application of this status, it was indispensable to establish a method of procedure the system of which might very well be compared to that of the organic decrees in the field of constitutional law, where these decrees are indispensable for the execution of certain of the principles forming the kernel of each constitution.

¹ See page 41.

This legal growth, however indispensable for the application and development of any constitution, can only grow with difficulty and can only extend slowly under the expert care which is the result of experience. This difficulty, familiar to those whose work it is to adjust constitutions still without that body of legal regulations which tradition and political custom can alone give to them, is increased in the case of minorities by the extreme complexity of international problems, at the basis of which there is often a conflict of aspirations, due to historical causes or sometimes to material interests, upon which members of the international community find it difficult to agree. Further, in dealing with the problem of establishing provisions laying down a procedure for the examination of the infraction of any measures protecting minorities, it is impossible to ignore the inviolability of treaties, just as, when drafting a law in a State, it is impossible to ignore the inviolability of the constitution of that State or its fundamental charter.

The Council was called upon to create a procedure to ensure the faithful execution of the obligations concerning the protection of minorities. Its first resolution on this point arose from the report submitted for its examination in 1920 by the distinguished delegate for Italy, M. Tittoni.

Following this resolution, which was adopted on October 22nd, 1920, came the resolution of October 25th, 1920, which set up the Committee called the Committee of Three, and the resolution of June 27th, 1921, which was adopted after proposals made by two States — Poland and Czechoslovakia — which had signed treaties for the protection of minorities. This third resolution made it compulsory to communicate previously to the State concerned any request concerning the protection of minorities coming from a source other than a Member of the League of Nations.

On September 5th, 1923, the Council adopted a fourth resolution based on suggestions put forward by the Governments of Poland and Czechoslovakia. This resolution stipulated that, to be dealt with in accordance with the procedure established by the preceding resolutions of the Council, petitions concerning minorities must not infringe the following rules :

- (a) They must conform to the object of the treaties ;
- (b) They must respect the inviolability of the State of which the minority in question forms part ;
- (c) They must show clearly the source from which the petition proceeds, anonymous petitions being entirely prohibited ;
- (d) Violent language must not be used in their drafting ;
- (e) They must contain new facts or facts which have not been included in any petition recently submitted.

Finally, in its resolution of June 10th, 1925, the Council, recognising that the Minorities Committee, composed of some of its members, had become the normal body to be consulted in the procedure for the protection of minorities, consolidated in a definite text the practice which had been established and gradually brought to perfection, with a view to making it possible for the League of Nations to act in this difficult question, which, in conformity with the Treaties, was within the sphere of its competence.

This is the present state of the question.

The Lithuanian delegate in the Sixth Committee of the last Assembly practically repeated the objections which the representatives of certain States had made at the Peace Conference at its plenary meeting on May 31st, 1919, to the acceptance of obligations concerning the protection of minorities. These representatives had then declared that their States were ready to assume such obligations if all the States Members of the League of Nations gave the same undertakings. Their objections, which were refuted by President Wilson and M. Clemenceau, nevertheless deserve to be once more examined. This is what I propose to do summarily, without desiring to give to my statement an argumentative character : its only object is to pay a tribute to the delegates who have lately defended the conception of a general treaty for the protection of minorities to be concluded among all States Members of the League of Nations.

The delegate for Lithuania stated that he wished to draw attention to the inequality which existed from a legal point of view between the international obligations of the various Members of the League of Nations. In view of this inequality, he proposed the appointment of a

committee whose duty it would be to draw up general rules for the protection of minorities which would be compulsory for all countries and be included in a Convention acceptable to all of them.

Is it possible to carry out in practice the desire expressed in the proposal of the Lithuanian delegate ?

If the history of the treaties prior to the Treaty of Versailles be examined with regard to the question of minorities, it is easy to see that the origin of the protection of religious minorities is to be found in international documents far older than the Treaty of Versailles. The first treaty, however, which stipulated expressly that in any country a class of subjects should not be recognised to be inferior to other classes, not only for religious *but also for racial reasons*, was the Treaty of Paris of March 30th, 1856, concluded after the Crimean War. From that date, the question of racial or religious minorities received greater attention from Governments. It should be noted, however, that the question was only raised on certain historic occasions, such as that of the incorporation of the territory of one State with that of another, or that of territorial reconstructions resulting from a war, or that of the constitution of new States, or that which resulted from struggles on the part of certain States against the oppression of other States. Examples of this were the Treaty of Berlin on July 13th, 1878, which imposed religious toleration on newly created States and on autonomous principalities (Bulgaria, Serbia and Roumania) as an indispensable condition to an international recognition of their existence, and the Treaty of Vienna (May 31st, 1815), between the Netherlands, Great Britain, Russia, Prussia and Austria, regarding the reunion of Belgium with Holland.

One of the differences which certain international writers consider as fundamental between these treaties and those concluded after the Great War consists in the fact that the first category of treaties is confined to affording protection to individuals considered separately, while the second category grants protection to minorities, regarding them as collective groups or organised units, a conception which is, however, open to question.

The Lithuanian delegate desires a definition stating more exactly what should be understood by a minority, and I recognise that a profound and historical investigation of this question by experts — legal, historical and social — would be of interest and value. I do not think, however, that this definition should be based only on the characteristic and distinguishing features of race, language and religion.

A minority as defined by the treaties assuring its protection is not only a racial group incorporated in the body of a nation of which the majority forms a different racial unit. There is also a psychological, social and historical attribute, constituting perhaps, for the purposes of the definition which we are seeking, its principal differential characteristic. The mere co-existence of groups of persons forming collective entities, racially different, in the territory and under the jurisdiction of a State is not sufficient to create the obligation to recognise the existence in that State, side by side with the majority of its population, of a minority requiring a protection entrusted to the League of Nations.

In order that a minority, according to the meaning of the present Treaties, should exist, it must be the product of struggles, going back for centuries or perhaps for shorter periods, between certain nationalities, and of the transference of certain territories from one sovereignty to another through successive historic phases.

These factors, however, are not constant in all the States Members of the League of Nations. In the countries of the American continent, they do not exist at all and they have not a sufficiently objective character to enable the social fact in question to be described.

How is it possible, therefore, to obtain the adhesion of all States to the general convention proposed by the Lithuanian delegation ?

There is no need for me to give here the history even in its broad lines of the nineteen American nations belonging to the League of Nations, or of the framework of their legal structure, in order to show that in America there are no distinctive characteristics in respect of race, language and religion between the elements forming each of the peoples of that continent. Uniformity of language throughout the territory of each American State, complete religious tolerance, combined with a completely natural assimilation of emigrants by the principal mass of the population of each of these States, have produced in them national organisations of which the collective unity is complete. This means that the existence of minorities in the sense of persons with a right to the protection of the League of Nations is impossible.

In America, the important cases of the incorporation of territories, subsequent to the independence of the old colonies and the constitution of the present States, are few in number and well known. Mention may be made of Louisiana, Texas, Arizona and New Mexico, all of which are members of the North-American Union. By the treaties, however, which regularised this incorporation, the inhabitants of the annexed territories immediately acquired, in conformity with the principles of the Federal Constitution, the enjoyment of the rights, of liberties, advantages and prerogatives conferred on North-American citizens without any distinction.

With the exception of these somewhat rare cases of collective nationalisation applied to whole populations, the acquisition of nationality is an individual act in America and is carried out in conformity with the common law, the full equality of rights being guaranteed to the persons naturalised, just as it is guaranteed to persons born citizens of the State.

In brief, a general treaty for the protection of minorities, such as was proposed by the head of the Lithuanian delegation, M. Galvanauskas, would be without meaning for all the American States, nineteen of which are Members of the League of Nations. The adhesion of all these States would be impossible, just as it would be impossible for most of the non-American States to adhere to it. The following observation made by the Dutch Senator, Baron Wittert van Hoogland, is particularly happy :

“ The introduction into the laws of all countries of provisions protecting minorities would be enough to cause them to spring up where they were least expected, to provoke unrest among them, to cause them to pose as having been sacrificed, and generally to create an artificial agitation of which no one had up to that moment dreamed. It would be rather like the imaginary illnesses from which so many people think themselves suffering the moment they read a book on popular medicine.”

With regard to the suggestions which were made by the delegate of Hungary, Count Apponyi, at the sixth ordinary session of the Assembly, in support of the amendment to the present Regulations for the Procedure followed by the Council in the Examination of Petitions concerning Minorities, I am only too ready to recognise their importance, not only on account of their intrinsic importance, but also because of the authority of the distinguished statesman who put them forward. I should like, however, to make certain observations with regard to them.

According to the thesis of the Hungarian delegate, it is not sufficient to accord to persons belonging to a minority, with a view to ensuring them their protection, the right to forward petitions to the Council of the League of Nations.

According to other views, it is necessary also to recognise their right to organise themselves, even their right to autonomy — a right which might go so far as to enable them to constitute a kind of federation of minorities, with all the characteristics of a legal entity as admitted in international law and with the option of coming forward *de jure proprio* as an international party before the Council in the ordinary course of the procedure which enables the Council in each case to take a decision on the complaint against an infraction of any clause of the protecting Treaties.

The suggestion of the Hungarian delegate contemplates the institution of an entire procedure, with a hearing of evidence on both sides, as between the interested State and the representative of the minority concerned, the method and the rules to be followed being similar to those of the procedure in use for disputes between private persons in the ordinary courts.

I do not think that this conception can be carried into effect without giving rise to dangers which would threaten the moral ends towards which the system of protection instituted by the Minorities Treaties is tending.

It seems to me obvious that those who conceived this system of protection did not dream of creating within certain States a group of inhabitants who would regard themselves as permanently foreign to the general organisation of the country. On the contrary, they wished the elements of the population contained in such a group to enjoy a status of legal protection which might ensure respect for the inviolability of the person under all its aspects and which might gradually prepare the way for conditions necessary for the establishment of a complete national unity.

M. Blociszewski put forward on this subject, in the *Revue de Sciences politiques* of January-March 1922, considerations which are worthy of study. We must, he said, avoid creating a State within a State. We must prevent the minority from transforming itself into a privileged caste and taking definite form as a foreign group instead of becoming fused in the society in which it lives. If we take the exaggerated conception of the autonomy of minorities to the last extreme, these minorities will become disruptive elements in the State and a source of national disorganisation.

This fear is shared by others, as may be seen from the "Treatise on Public International Law" of Paul FAUCHILLE, Vol. I, page 806 :

"The decision has been taken, not only to protect, as before, *individuals considered separately*, but to a certain extent to attribute rights to *minorities regarded as collective entities*. There is thus formulated for the first time the rights of minorities as such as organised unities. We no longer confine ourselves to considering that the rights of minorities are individual rights. The minority is regarded as a whole, and this minority is recognised, in a sense, to have a right of organisation or autonomy. This is a solution which perhaps is not without certain dangers ; for, if equality of treatment of all the inhabitants of a country is an element of political and social peace, the recognition of rights belonging to minorities as separate entities, by increasing their coherence and developing among them a sense of their own strength, may provoke them to separate themselves from the State of which they form part ; and, in view of the right of peoples to dispose of themselves, the recognition of the rights of these minorities runs the risk of leading to the disruption of States."

It is advisable to avoid these dangers, but it is also a necessary duty to protect racial or religious minorities against oppression or the consequences of prejudice and disguised ill-will to which they may be exposed. If all the States are loyally inspired by the principles of the resolution adopted by the third ordinary session of the Assembly on the proposal of Professor Gilbert Murray, representative of South Africa, I think that the minorities will everywhere receive the same treatment of justice and toleration that is required by the Treaties, and which the permanent action of the Council seeks to secure for them.

In order to attain the desired ideal, it would suffice that the Governments should never depart from the rules of good faith, and that the League of Nations should exercise its legitimate supervision ; also that the persons belonging to the minorities should willingly fulfil their duty to co-operate, as loyal citizens, with the State whose nationals they have become

There is still another suggestion of the Hungarian delegate which it is necessary to examine. The Hungarian delegate made proposals in favour of an automatic resort to the Permanent Court of International Justice whenever a question of law arose in a concrete case of complaint against the infraction or danger of infraction of the provisions of the Minorities Treaties.

This problem has been the subject of discussion in the Press, in the Assembly of the League of Nations and in Inter-Parliamentary Conferences. Recently, on October 13th last, the Dutch Senator, Baron Wittert van Hoogland, examined the proposal in a speech which he made at Ottawa in Canada. The intervention of the Permanent Court of International Justice in such cases should not, he urged, depend on the will and pleasure of the Members of the Council of the League of Nations, and he added :

"More especially owing to the fact that the Members of the Council are delegates of the Governments of States represented on the Council of the League of Nations, and that these Members for this reason look at matters from a political point of view, each decision to intervene in a minorities question will necessarily by its nature have the character of a political act influenced by factors hostile to another State, since the reference of a question in dispute to the Permanent Court of International Justice at the request of one of the States represented on the Council implies a complaint coming directly from one State against another State. The Members of the Council will, for this reason, endeavour as far as possible to put on one side complaints which are addressed to them. It is accordingly indispensable for the procedure at present followed to be revised, and for the Council to be obliged to submit to the judgment of the Permanent Court of International

Justice all the legal disputes which are brought to its notice, not only at the request of one of the States represented on the Council, but also at the request of a State not represented on the Council.”

The Senator Baron Wittert van Hoogland in these words justifies the suggestion presented to the Assembly at its sixth ordinary session by the delegate for Hungary. If the question at issue were a principle to be established *jus constituendo*, I would associate myself with the proposal, not for the reasons given by the Dutch Senator, but because the proposal, besides referring the solution of certain purely legal cases arising out of the protection of minorities to a judicial competence, is more in conformity than the present procedure with the principle of equality between the Members of the League of Nations, both as regards the execution of their duties and as regards the exercise of their rights, both of which result from their character as Members of the League. It would be more in conformity with this principle of equality if the right “to draw the attention of the Council to any infraction of any one of the obligations placed under the guarantee of the League of Nations”, instead of being accorded only to the States represented on the Council, were also exercised by any one of the other States Members of the League of Nations, and if the right which only the Principal Allied and Associated Powers and those represented on the Council had of resorting to the Permanent Court of International Justice in the event of a difference of opinion on questions of law and fact concerning these obligations were also conferred on any other Member of the League of Nations; but, in the law as at present constituted, *jus constitutus*, the law established by the Treaties in force, placed under the guarantee of the League of Nations, the twofold extension of which we have just been speaking is impossible, in view of the fact that, in the first as in the second case, all the treaties restrict the exercise of these two options or the use of the prerogatives mentioned above to the Members of the Council.

The texts in question are formal. Such is their clarity that there is no ground for submitting them to any sort of interpretation — *interpretatio cessat in claris*.

The question, therefore, is not merely, as it seems to the Dutch Senator, one of reforming the procedure hitherto followed, but in reality of reforming the existing treaties.

There is also a question which it is necessary to examine, and which shall be the last: the question of rendering automatically compulsory the examination by the Council of certain petitions without a preliminary examination by the Committee of Three to verify whether the petition is admissible or not.

Count Apponyi formulated this suggestion in the following terms:

“The first amendment which I should like to introduce into the Regulations of the Council would be as follows: that petitions from a certain source, petitions which come from the head organisations of Churches or of educational or economic institutions of the various countries, may and should be regarded as petitions which the Council should take up without further examination.”

Count Apponyi, in justification of this proposal, added:

“It seems to me that the rejection pure and simple without examination of petitions coming from such sources would constitute to some extent an offence in the eyes of the minorities concerned, and would disturb to an important degree the tranquillity of their minds and the conviction that their cause was being taken seriously, a conviction which is almost as valuable and as important as the justice to the decisions themselves.”

First, it would be well to observe that the case of a rejection pure and simple without any examination of a petition never arises. Next, if we refer to the strict letter of the Treaties in force, we shall see that it would not be easy to bring the formula suggested by the Hungarian delegate within its terms. In conformity with this formula, the head organisations of the Churches and educational and economic institutions of the countries which have accepted the obligations laid down in the Minorities Treaties would have the right to draw the attention of the Council to any infraction or danger of infraction of any one of the obligations of international interest concerning race, language or religion, and the Council would be obliged automatically to receive without further examination petitions coming from these organisations and institutions.

We have seen above, however, that all existing treaties without exception grant only to the Members of the Council of the League of Nations "the right of drawing the attention of the Council to the infraction or danger of infraction of any of these obligations".

I may be permitted to remind you here, as a peculiarly significant precedent, of what happened at the time of the declaration which the Government of Albania made in regard to the protection of minorities. The declaration is given in the report submitted to the Council by the British representative and approved by the resolution of the Council of October 2nd, 1921. At the moment when this question was under examination by the Council, the Greek Government proposed, in a letter from its permanent representative at Geneva, dated February 8th, 1921, that the right to inform the Council of any infraction or danger of infraction of any one of the obligations assumed by Albania should not be regarded as an exclusive right of the Members of the Council as provided for in the other Minorities Treaties, but that this right should also be accorded to Greece in view of the special interest which she had in the protection of the rights of the Greek minority in Albania. The British delegate, in his report, which was approved by the Council on October 2nd, 1921, said :

"With regard to the second item above mentioned — namely, the Greek claim to be admitted to raise a minorities question in the Council of the League of Nations — I have felt that it would not be desirable to make any provision to this effect which would mark a departure from the general principles adopted in all the Minorities Treaties."

If the Treaties have not granted even to the States Members of the League of Nations which do not sit on the Council the right to draw the attention of the Council to an infraction or danger of infraction of the provisions of the Minorities Treaties, how could one in any way admit the possibility of granting, by means of an interpretation of the clauses of these treaties, a similar right to Churches or educational or economic institutions, however great the respect which may be due to them.

The contradiction between the letter of the Treaties and the Hungarian suggestion appears to me to be insuperable. Further, if we consider the practical side of the question, it will be seen that it would not be wise in the interests of the minorities themselves for the petitions under discussion to be automatically submitted to examination by the Council and made the subject of debate in that body before a thorough study of the circumstances to which attention is drawn and the documents on which the petitions are usually based. Senator Wittert van Hoogland virtually recognised this fact himself when he proposed at the last meeting of the Inter-Parliamentary Conference that the Conference should suggest to the Council the institution of a permanent Minorities Commission which should be entrusted "with preparing and sifting the work of the Council of the League of Nations by making an investigation into any claims presented by freely checking the facts which were alleged before these matters were taken up by the Council itself".

The duties which would be entrusted to this Commission would be the same as those which, in conformity with the procedure of the Council, are at present performed by the Committee of Three, with the effective assistance of the Minorities Section directed by an expert whose capacity both intellectually and morally is universally recognised.

It seemed to me that it was my duty to make this public declaration. I desired in this way to pay a tribute to the distinguished men who, representing their States at the last Assembly, discussed on so high a level the delicate and complex problem of minorities. Certainly one of the most important tasks of the League of Nations is the task raised by this problem, the impartial and calm solution of which is one of the conditions indispensable to agreement between the peoples and the strengthening of peace between the nations.

The PRESIDENT thanked M. de Mello-Franco for the very important statement which he had made.

Sir Austen CHAMBERLAIN said he would add a word, as one who had sat on several committees of enquiry. The Council owed a debt of gratitude to the Brazilian representative for the very interesting historical survey which he had undertaken and for his examination of the different proposals which had been made. He would particularly draw attention to the definition which M. de Mello-Franco had given of the purpose of the Minorities Treaties. It was certainly not the intention of those who had devised this system, as M. de Mello-Franco had

remarked, to establish in the midst of nations a community which would remain permanently estranged from the national life. The object of the Minority Treaties, and of the Council in discharging its duties under them, was, as M. de Mello-Franco had said, to secure for the minorities that measure of protection and justice which would gradually prepare them to be merged in the national community to which they belonged.

Dr. BENEŠ said he would like to join his colleagues in the tribute paid to M. de Mello-Franco for his declaration. He had himself followed this question of minorities from the outset. After the war, he had taken part in the discussions at the Paris Conference to which M. de Mello-Franco had alluded, when the question had arisen of signing the Minorities Treaty. The account given by M. de Mello-Franco of this event corresponded exactly with the reality. M. Beneš had also attended all the Assemblies and the discussions concerning minorities questions. Here, again, he would like to state that the declaration of the representative of Brazil gave an exact idea of the development of the discussions which had taken place during the successive Assemblies of the League of Nations. Finally, he had recently had occasion in London to attend a conference on the question of minorities, and he had reached the same conclusions as M. de Mello-Franco. Nations possessing minorities must respect the rights of these minorities, but minorities must realise that, if they went too far, the consequences might be deplorable and quite contrary to the wishes of those who had produced the Minorities Treaties.

M. HYMANS said he had also taken part in the discussions which had been held at the last ordinary session of the Assembly, particularly in the Sixth Committee. He had been present at the discussions which had taken place on the Lithuanian proposal. The ideas put forward by M. de Mello-Franco were exactly in agreement with his own. He had ventured to observe in the Sixth Committee that, if it were proposed to generalise for all States the system of the protection of minorities, such a policy, instead of ensuring the peace of the world, would create internal conflicts in a great number of countries in addition to the international conflicts which could not fail to arise.

He associated himself with the conclusions of the Rapporteur.

The Council took note of the Assembly resolution of September 22nd, 1925, regarding the protection of minorities.

Annex 1¹.

PARAGRAPH VI OF CHAPTER 7 OF THE SUPPLEMENTARY REPORT OF THE COUNCIL TO THE ASSEMBLY AT ITS SIXTH ORDINARY SESSION.

Questions of Procedure.

(1) M. de Mello-Franco, representative of Brazil, submitted to the Council on June 10th, 1925, the following report :

“ The Council of the League of Nations adopted on October 25th, 1920, a resolution according to which any petition or communication regarding an infraction or danger of infraction of one of the clauses of the Treaties for the protection of racial, linguistic or religious minorities should, after being brought to the notice of the Members of the Council, be considered as soon as possible by the President and two other members of the Council appointed by him.

“ In accordance with the resolution of the Council of June 27th, 1921, petitions emanating from a source other than from a Member of the League of Nations are not ordinarily communicated to the Members of the Council until the Government of the country to which the persons of the minority in question belong has had an opportunity to present its observations.

¹ Annex 828a to the Minutes of the Thirty-seventh Session of the Council.

" The resolution of the Council of September 5th, 1923, emphasised that the consideration of a minorities petition and any observations thereon presented by the Government in question, in accordance with the resolution of October 25th, 1920, is undertaken with the sole object of determining whether there is reason or not for one or more members of the Council to exercise the right accorded in the Minorities Treaty to draw the attention of the Council to the infraction or danger of infraction stated in the petition.

" The system of procedure established by these different resolutions of the Council provides for as careful an examination as possible of minorities questions by certain members of the Council, while reserving to the other members the right of initiative conferred upon them by the Treaties. In practice, the Minorities Committee has become a normal body for dealing with that part of the work of the League of Nations which concerns the protection of minorities. This makes the appointment of the members of the Council under the above resolution of very considerable importance. For this reason, it seems to me that the Council should take note of, and confirm formally, certain practices which have gradually developed in this matter.

" In practice, the Acting-President of the Council, when appointing two of his colleagues in accordance with the resolution of October 25th, 1920, has usually been guided by the following principle, which I consider should always be applied: namely, the Government to be entrusted with the duty laid down in the resolution of October 25th, 1920, should not be a Government of a State neighbouring that of which the persons belonging to the minority in question are subjects, nor the Government of a State the majority of whose subjects belong from the ethnical point of view to the same people as the minority in question. It goes without saying that the Government against whom the minorities petition is directed, if represented on the Council, should not be included in the three members appointed to consider the matter.

" I venture to submit to you the following draft resolution, which, I believe, will help the President of the Council in his very delicate and important task in dealing with this matter, without affecting in any way the terms of the treaties:

" " The Council of the League of Nations,

" " Considering that by the resolution of October 25th, 1920, it was decided, with a view to assisting members of the Council in the exercise of their rights and duties as regards the protection of minorities, that it is desirable that the President and two members appointed by him in each case should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the Treaties for the protection of minorities, and that this enquiry should be held as soon as the petition or communication in question has been brought to the notice of the members of the Council,

" " Decides:

" " I. If the Acting President of the Council is the representative of the State of which the persons belonging to the minority in question are subjects, or,

" " The representative of a neighbouring State of the State of which the persons belonging to the minority in question are subjects, or,

" " The representative of a State the majority of the population of which belongs from the ethnical point of view to the same people as the persons belonging to the minority in question.

" " The duty which falls upon the President of the Council in accordance with the terms of the resolution of October 25th, 1920, shall be performed by the member of the Council who exercised the duties of President immediately before the Acting-President and who is not in the same position.

" " II. The President of the Council, in appointing two of his colleagues in conformity with the resolution of October 25th, 1920, shall not appoint either the representative of the State to which the persons belonging to the minority in question are subject, or the representative of a State neighbouring the State to which these persons are subject, or the representative of a State a majority of whose population belong from the ethnical point of view to the same people as the persons in question. "

This draft resolution was unanimously adopted by the Council.

(2) The object of the examination of a minorities petition by the President and two other members of the Council, as emphasised in the resolution of the Council of September 5th, 1923, and in the report of M. de Mello-Franco of June 10th, 1925, is to establish whether it is advisable or not for them to exercise the right conferred upon them by the Minorities Treaties of drawing the attention of the Council to the infraction or danger of an infraction which is the subject of the petition, while reserving to other members of the Council the right of initiative which belongs to them under the Treaties.

(3) It is the duty of each member of the Council to take a special interest in the protection of minorities, as M. Tittoni pointed out in his report of October 22nd, 1920. It is the duty of the three members of the Council who, under the resolution of October 25th, 1920, are entrusted in a special way with the examination of any communication to the League of Nations concerning an infraction of a clause of the Minorities Treaties to conduct this examination as, in a sense, the mandatories of all their colleagues on the Council and in an objective spirit. For this reason it is important that the Committee should be constituted in such a way as to guarantee its independence and its disinterestedness. All the members of the Council receive the document for the examination of which the Minorities Committee is set up, and can, if they take a special interest in the matter, inform themselves through the Secretariat of the treatment of the petition in the Committee, and, if necessary, submit to the Committee their own observations, either formally or informally.

(4) A Minorities Committee is set up for each petition. After the communication of the petition to the Council, with the observations, if any, of the interested Government, the Director of the Minorities Section addresses a letter, accompanied by a copy of the document in question, to the Acting President of the Council, reminding him that it is his duty to appoint two of his colleagues in order to proceed without delay to an examination of the document. As soon as the President has sent his reply, the Director of the Minorities Section gets into touch with the two other members of the Council.

The Minorities Section, in some cases in collaboration with the Legal Section, prepares for the use of the three members of the Committee a written statement on the questions of fact and law raised by the petition and by the observations of the interested Government. Further, the Minorities Section is at the disposal of the members of the Committee and of the other members of the Council to procure for them any supplementary information which they may wish to receive.

The meetings of the Minorities Committee, or more correctly of the various minorities committees, which are simultaneously at work, generally take place during the sessions of the Council. Of late, some meetings have also taken place between the sessions of the Council owing to the difficulty of finding in all cases during the sessions of the Council the time necessary for the discussion of these matters, which are sometimes extremely detailed and prolonged, and which always have a delicate side to them and require the most conscientious preparation both by the Secretariat and by the members of the Council.

The examination of a case by the Minorities Committee is not, of course, restricted to the formal meetings of the Committee. It is the duty of each member of the Committee, as well as of the Secretariat, to proceed to this examination without delay after the communication to the Council of the document relating to the case. The Secretariat begins an examination of the case without waiting for the distribution of this document. The discussion is accordingly, from the first meeting of the three members of the Committee, except perhaps in cases of extreme urgency, based on a very considerable amount of preparatory work.

The meetings of the Committee are held in private, and no formal Minutes are kept. Each Committee is free to adopt its own procedure.

(5) It results from the object of the work undertaken by a Minorities Committee that its members are free to form the best opinion they can of all the factors in the case which they are asked to examine. They may take into consideration the greater or less importance of the case, and its more or less general significance. They may take into account the attitude more or less conciliatory of the interested Government towards the requests of the minority as well as the attitude more or less loyal of the persons belonging to the minority. They may form the opinion, in a particular case, that the petitioner should have resorted to the administrative or judicial authorities of the country before addressing the League of Nations. In the Minorities Committees all these factors are continually discussed and taken into consideration.

The members of the Committee may, moreover, enter into correspondence with the interested Government with a view to removing doubts or misunderstandings or making friendly suggestions to the Government to induce it to modify its attitude on a point which, failing such a solution, would appear to the members of the Committee to be a case which should be brought to the attention of the Council. Before deciding whether it should or should not draw the attention of the Council to a matter which is the subject of a petition, the members of a Committee have in many cases asked the interested Government for supplementary information either in general terms or by putting definite questions. In some cases, such requests have been accompanied by other suggestions, as, for example, that the interested Government should postpone taking any steps, which might have the effect of creating a *fait accompli* before the Committee was in a position to take a decision on the question of substance, or that the Government should present to the Council a special report on its intentions in the matter.

The members of the Committee have, in certain cases, made personal representations to the representative of the interested Government, with the object of drawing friendly attention to the advisability of putting an end to the difficulties with which the minority is concerned. In the majority of cases the Committee addresses the Government in question through the Director of the Minorities Section of the Secretariat, either by writing or verbally, either formally or informally.

The Committee often does not reach a final decision, even after having received all the supplementary information which it may desire. The case may be regarded rather as a link in a long chain than as an independent affair, and the members of the Committee sometimes consider that such a case, although of secondary importance in itself, may be of a character to be brought before the Council, if other similar cases should arise. The Committee, in these circumstances, invites the Minorities Section to follow the case for a certain period of time, and to notify it if there should arise any fact which would appear to justify a further discussion between its members.

The elasticity of the procedure of the Minorities Committee enables its members to take account of the circumstances special to each case, and to apply the first resolution of the third Assembly on the utility of informal and friendly communications between the League and the interested Governments as the best means of encouraging in ordinary cases good relations between the Governments and their minorities. The Minorities Committee has also invariably kept in mind the other resolutions of the third Assembly. The question, for example, whether a particular case should or should not be referred to the Permanent Court of International Justice has often been examined by the Minorities Committees.

(6) The above explanations concerning the work of the Minorities Committee will show, as M. de Mello-Franco stated in his report of June 10th, 1925, that "in practice the Minorities Committee has become a normal body for dealing with that part of the work of the League of Nations which concerns the protection of minorities".

The Minorities Committee was set up essentially in the interests of the minorities, and in order that the minorities might have direct recourse to the League of Nations.

The Treaties merely indicated that it is the duty of the members of the Council to watch over the execution of the clauses established in favour of the minorities. From the beginning of the existence of the League, however, the members of the Council have realised that, however keen their desire to conform with the spirit of the Minorities Treaties, it is in practice extremely difficult to keep directly in touch with the way in which these treaties are applied. Moreover, there are certain difficulties in the way of minorities addressing petitions directly to any particular individual member of the Council. A direct address of this character would have the same disadvantages as the old system of the protection of minorities by means of the intervention of the great Powers, an intervention which might be made with purely political ends. The covering letter of the President of the Peace Conference to the first signatory of a Minorities Treaty emphasised that one of the essential reasons for the system of Minorities Treaties was to avoid in future the interference of a State in the internal affairs of another State, history having shown the danger of such a policy. Direct resort of the minorities to a foreign Power might, moreover, easily be interpreted by the Government responsible for the minorities as an action contrary to the obligation contracted by the minorities to conduct themselves as loyal citizens of the country of which they are now the nationals.

The system of petitions addressed directly to the League of Nations by minorities meets these various difficulties. The Council recognised the system when it adopted the report of M. Tittoni in October 22nd, 1920, which indicated to the minorities the method of petitions as being an excellent means of rendering effective the protection accorded to them by the League. The Council, at the same time, wished to guarantee the minorities that their petitions would be seriously considered, and by its resolution of the 25th of the same month it set up the Minorities Committee. The Council has thus placed at the disposal of the minorities a special body which enables them to state their claims without infringing in any way either the letter or spirit of the treaties. Since then, in the interests of the minorities themselves, the work of the League of Nations has defined and strengthened the procedure of the Minorities Committee or, as it is often called, "the Committee of Three". As a result of five years' experience, this procedure has developed, as is shown both by the resolutions of the Council to which reference has been made and by the increasing body of work which the Committee is asked to undertake.

Annex 2¹.

RESOLUTION ADOPTED BY THE ASSEMBLY AT ITS SIXTH ORDINARY SESSION.

Note by the Secretary-General :

At its meeting on September 22nd, 1925, the Assembly of the League of Nations, at its sixth ordinary session, adopted the following resolution :

" The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly, dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report), The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925, the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection."

In accordance with this resolution, the Secretary-General has the honour to communicate to the Council those parts of the Minutes of the fourth and fifth meetings of the Sixth Committee of the Assembly, held on September 16th and 21st, 1925, respectively, which relate to the question of the protection of minorities.

A copy of the Sixth Committee's report and extracts from the discussions which took place in the Assembly on September 14th and 22nd, 1925, are annexed to this document to assist the Council in the study of this matter.

The Council may perhaps desire to consider this question during its next session.

EXTRACT FROM THE MINUTES OF THE FOURTH MEETING OF THE SIXTH COMMITTEE
OF THE SIXTH ASSEMBLY.

Held on Wednesday, September 16th, 1925, at 3.30 p. m.

Dr. J. Gustavo GUERRERO (Salvador) in the Chair.

The CHAIRMAN said that the Assembly had referred to the Sixth Committee the following draft resolution presented by the Lithuanian delegation :

" The Lithuanian delegation proposes that the Sixth Assembly of the League should set up a special committee to prepare a draft general convention to include all the States Members of the League of Nations, and setting forth their common rights and duties in regard to minorities."

¹ Annex 828 to the Minutes of the Thirty-seventh Session of the Council.

M. GALVANAUSKAS (Lithuania) pointed out that the Lithuanian delegation, in submitting its proposal, desired to bring about some improvement in the existing system for the protection of minorities. He thought the existing system was one which was abnormal from various points of view. The first point to which he wished to draw attention was the legal inequality which existed regarding the international obligations of different Members of the League of Nations. This inequality gave rise to difficulties both of a political and moral character — first, because the countries were divided into two groups, one of which had certain obligations to which the other was not subject, and, secondly, because public opinion, as the recent Inter-Parliamentary Conference proved, desired the establishment of general rules on this subject which should be binding without any distinction upon all States Members of the League of Nations. The Lithuanian delegation had therefore felt it incumbent upon it to make a proposal on this subject and to suggest that a committee should be formed to elaborate the general rules to be binding upon all countries.

One object to be gained in this way would be to secure a better definition of what constitutes a minority. The present definition referring to racial, religious and linguistic minorities was far too vague and ought to be better defined. Further, the question of minorities was often mixed up with territorial questions. Again, it was necessary to draw a distinction between different kinds of minorities. There might, for instance, be an original population which had been living in a country for many centuries, alongside of which would be found a population which had immigrated at different times. If the latter enjoyed there all the rights and duties of citizens, it seemed only equitable that they should accept all the obligations of citizenship, and it would not be just for them to claim to have the rights of minorities in the same way as if they were part of the aboriginal population. M. Galvanuskas thought this was a point which needed closer attention, and considered it desirable that a committee should examine these questions thoroughly and review the whole situation in order to pave the way for a general convention.

As regards petitions, he was of opinion that it was necessary to have a more exact procedure for dealing with these. It was desirable to establish a procedure which would afford adequate guarantees that petitions received from minorities were properly examined. This had always been done in the past under the procedure which the Council had adopted experimentally, but, now that that experiment had borne good fruit, he felt sure, in the light of the experience gained, that it would be possible to evolve some more definite and stereotyped procedure. It was not only a question of guaranteeing the rights of minorities, there was also another aspect of it, it being desirable to put a stop to certain abuses by which it might happen that a neighbouring State might wish to take advantage of the existence of a minority of its own race in another State and use them as a form of explosive powder for causing disturbances. Thus, there were two aspects of the question — the rights of minorities and the duties of minorities.

For the reasons explained, the Lithuanian delegate contended that it was desirable to have a general convention acceptable to all. As regards the part played by Lithuania in regard to this question, he wished to point out that it was in no way an individual one. They had accepted obligations in regard to minorities and were executing them punctually. At the same time, there was a wider aspect of the question. If it remained unsolved, they realised that it might lead to conflicts, and whilst the great Powers might engage in wars without imperilling their existence, the smaller States might lose their very existence in a war and were, therefore, more deeply interested in eradicating every cause of friction.

Dr. BENEŠ (Czechoslovakia) wished to say nothing for the present as to the merits of the proposal. Before doing so, he would first of all like to draw the attention of his colleagues to certain preliminary questions which were related to it.

In the first place, States which had signed Minorities Treaties, with the execution of which the Council had been entrusted, had assumed obligations to their co-signatories and to the Members of the League. To say, therefore, that minorities ought to be heard was not a very correct way of putting the matter.

In the treaties, minorities had never been regarded as juridical persons, and to assume an obligation to consult them would entirely change the legal basis of the treaties and even of the protection of these minorities by the Council. The result would be that the treaties themselves would have to be revised and the signatory States might be compelled to assume

new burdens. This would appear to be a serious consideration, for all questions concerning minorities had a delicate political aspect.

The proposal had also been put forward of submitting disputes to the Permanent Court of International Justice. In this connection, he would state that the question was settled in the Minorities Treaties and that any extension of the procedure in the direction suggested would affect the basis of the treaties and the rights of the Council, since the decision adopted would have to be of a general character.

A report by the Council on the procedure before it had been submitted to the Committee. He had had an opportunity of realising the solicitude and fairness of the Members of the Council. He thought that the Committee and M. Colban, the Director of the Minorities Section of the Secretariat, would agree that the Council, in laying down this procedure, had gone beyond the Minorities Treaties, for the precedents which had been established were not prescribed in those treaties. Nevertheless, such was their practical value and so solid were the guarantees which they afforded that the States signing the Minorities Treaties had readily accepted them, and for that reason the Council had recently adopted M. de Mello-Franco's proposal sanctioning the procedure adopted.

On behalf of the Czechoslovak delegation, the speaker therefore accepted the part of the Secretary-General's report relating to minorities.

M. KOZICKI (Poland) desired to make a statement on this question, on behalf of Poland, to the effect that his country was entirely satisfied with that portion of the Secretary-General's report which referred to the question of minorities. As regards the resolution proposed by M. Galvanuskas, it could be regarded from two points of view — first, from the point of view of the principles governing the League of Nations and, secondly, from the point of view of the procedure suggested for the protection of minorities. As regards the first point, the question of principle, it could be summed up as liberty, equality and fraternity. The liberty of the peoples Members of the League of Nations was guaranteed by the treaties; fraternity was ensured by the Protocol, and the question of equality remained to be settled.

He considered that after the war considerable progress had been made in the protection of minorities. He thought that there was no reason why further progress should not be made in the examination of this question and more efficient steps taken towards the realisation of the principle of equality. For that reason, he was entirely in favour of the principle contained in the resolution proposed by the Lithuanian delegate, but he did not wish to make a definite statement for the time being with regard to the realisation of that principle.

M. DE JOUVENEL (France) said he thought that M. Galvanuskas' proposal raised the question of courtesy as well as of procedure. He could readily understand that States which had signed Minorities Treaties should think it unreasonable that others had not done so. He was quite ready to present the excuses of his country. France had not signed any such treaties because she had no minorities. To find minorities in France, they would have to be created in imagination. At present, there was a controversy going on as to whether Breton was a dialect or a language. This controversy did no harm to anyone, but, should the Assembly adopt a proposal such as that under discussion, an ambitious provincial politician or a briefless country barrister would be able to bring the question before the League of Nations. The Council would certainly be more embarrassed by the matter than France herself, for it would be difficult to take the petition seriously, and this might perhaps lead it to overlook claims which were better founded.

If the British representative had not been present, he might also have conveyed the excuses of the British Empire to the Committee. Take the case of some ill-humoured Welshman posing before the League of Nations as the champion of Wales. Would the League of Nations in such a case play its appointed part? For its duty was not to stir up domestic strife but to remove the causes of external disputes.

Under these circumstances, the speaker did not see how his country could sign a Minorities Convention. He recognised, however, the importance of the question raised by M. Galvanuskas.

When the latter demanded a satisfactory definition of minorities and when, to ensure their protection, he asked that precise rules should be drawn up which would conform, as Dr. Beneš had stated, to the terms of the existing treaties, the speaker fully agreed with him.

He also agreed with him if he desired the establishment, in accordance with the spirit of the League of Nations, of a procedure which would give full security both to the minorities themselves and to the State which ruled over them.

In his opinion, the more practical course was not to collect a large number of signatures but to lay down a general procedure which would be guaranteed by all States Members of the League. If all the States signed a general convention, they would all share a special interest in relaxing the obligations in regard to minorities. It was not a bad thing that there should still be impartial States which considered the protection of minorities from the general humanitarian standpoint.

The speaker accordingly proposed that the committee which M. Galvanauskas had suggested should be appointed but that its immediate duty should be to prepare a definition of minorities and draw up general rules, in accordance with the treaties, by which a general procedure could be defined which would be of use both to the minorities themselves and also to those countries which had minorities within their boundaries.

Viscount CECIL (British Empire) recalled the fact that the Act of Berlin had laid down certain general principles in virtue of which the signatory States agreed to guarantee some measure of protection to minorities, and that the various States had observed these principles. At the Conference held at Paris in 1919, the new States and those which had gained a certain increase of territory had been requested to sign the Minorities Treaties, in virtue of which protection was assured to racial, linguistic and religious minorities.

He was not afraid of the obstreperous Welshman, because he did not exist, but the proposal to extend the suggested procedure to the whole world and to make the League of Nations responsible for supervising its application would impose a crushing burden on the League.

The Minorities Treaties were founded upon broad and general principles. The report submitted to the Committee contained an important clause to the effect that a petition emanating from a minority would not be considered by the Council if it was not introduced by one of the Council Members. All those who had read the report which had been submitted to the Council on this question would be aware of the praiseworthy efforts which had been made to enable minorities to avail themselves of this proviso. A Committee of three members had been appointed to examine all the petitions and take such action as these required. This procedure had been recognised as very practical and had been finally approved by a decision of the Council. To give every guarantee of fairness, it had been stipulated that the members of this Committee should be chosen from among the States which were not directly concerned in the question.

Count Apponyi had laid before the Assembly the three following suggestions for the improvement of the existing procedure :

(1) That petitions from minorities emanating from responsible sources should be submitted direct to the Council. This procedure was not a practical one and, moreover, it was contrary to the provisions of the treaties.

(2) That the parties ought to have the right of being heard. This stipulation seemed superfluous, as it was understood that, before submitting a report to the Council, the Committee would have collected all the information it judged necessary in order to pronounce upon the case with a full knowledge of the facts. Moreover, under the existing treaties, the parties did not possess the right of being heard.

(3) That in cases in which a juridical question was raised, the matter should be laid before the Permanent Court of International Justice. It seemed wiser to leave it to the Council to decide in what cases the matter should be laid before the Hague Court.

In conclusion, Viscount Cecil said that, in a matter as delicate as that of minorities, prudence required that innovations should be avoided and that the prerogatives of the Council should be left intact. Personally, he did not wish to curtail the Council's powers or lessen its responsibility towards the League of Nations and towards the public opinion of the world.

M. DENDRAMIS (Greece) observed that the Lithuanian delegate had put two questions. He had asked whether it would be possible to extend the existing Minorities Treaties to all the States Members of the League of Nations, and he had also asked how the term " minorities " should be defined.

M. Dendramis proposed to answer the first question later.

As regards the second, the answer was contained in Minorities Treaties, as they gave a definition of the word " minority ". A perusal of the treaties showed that the minorities concerned were racial, linguistic and religious minorities. The authors of the treaties had not intended to create groups of citizens who would collectively enjoy special rights and privileges ; they had intended to establish equality of treatment between all the nationals of a State. If privileges were granted to the minority in any country, inequality would be created between this minority and the majority ; the latter would be oppressed by the minority and it would then be the majorities question which would have to engage the attention of the League of Nations.

As regards procedure, the Secretariat of the League and the Council had reached the conclusion that the rights of minorities must be safeguarded, provided that their protection did not become a source of political disturbance, and the Greek delegation gave its approval to this part of the report.

M. COMNÈNE (Roumania) said that, during the speeches of his distinguished colleagues Viscount Cecil and M. de Jouvenel, his neighbour, an expert, had placed before him an ethnographical map covered with patches of many colours representing, as he explained, human beings sometimes, not always, but often, who used a language other than that of the majority and who had not the same racial origin or religious creed as the majority. This expert had added that scholars asserted that their " facial angle " was different, which proved that they belonged to another race. M. Comnène had observed that these beings bore a striking resemblance to what was known as minorities. " Yes ", the expert had answered " but minorities only exist when there is a treaty ".

The question before the Committee was not new. It had been raised for the first time long before the Congress of Berlin. As a matter of fact, it had arisen in the past every time a great Power took a keen interest in what was going on in a country of lesser importance. Each time a big country bordering on Roumania wished to extend its territorial, economic or political ambitions, it invoked certain legal principles which bore a striking resemblance to those which came up in this question of minorities. That was why he said that the question was not new.

At the Peace Conference in 1919, the Roumanian delegates had not protested against the Minorities Treaties themselves but against the fact that they implied the establishment of two categories of countries — countries of the first class, which, in spite of having certain small groups of minorities, were placed under no obligations ; and countries of the second class, which had been obliged to assume extremely onerous obligations.

The Roumanian delegation, and the Polish delegation through M. Paderewski, had asked that the rights of minorities should be recognised in their respective countries, but at the same time desired that the same should apply to all the countries of the world.

Their request had not been granted. He thought, however, that this idea which they had put forward was beginning to gain ground and to obtain the support of public opinion ; it had been favourably received at the various international congresses.

M. Comnène said that, in any case, he questioned whether M. Galvanuskas' proposal was really so rash or so reckless as had been suggested. The Committee was not asked to proclaim the existence of minorities in a whole series of States. It was merely asked to appoint a committee to examine the whole question and to prepare a draft general convention. The States which did not contain any minorities would not be in any way inconvenienced by such a proceeding. Therefore, on behalf of the Roumanian delegation, he desired to support M. Galvanuskas' proposal and he asked that the proposed committee should be appointed. He considered that, by the means proposed, a solution would be obtained which would be satisfactory not only to public opinion but also to the sentiments of justice and equity which lay at the root of the whole of the work of the League of Nations, and in conformity with the democratic principles which demand that all States Members of the League of Nations, whether great or small, should be equal.

M. CIPPICO (Italy) agreed with Viscount Cecil that no new body should be set up within the League of Nations for the protection of minorities.

This question of minorities was no new one: it was part of European public law, which enjoined States to accept certain principles, such as equality, justice, etc.

These principles had been clearly defined at the First Assembly of the League of Nations, and they formed part of the basis of the constitution of States. It was therefore superfluous to set up new machinery for this purpose within the League of Nations.

M. HYMANS (Belgium) said that, as a member of the Council, he had followed from the very outset all the discussions regarding the question of minorities. In to-day's discussion two questions had been raised, one of principle and one of procedure.

As regards the question of principle, M. Hymans recalled the history of the minorities regime. The Peace Conference, which had created new States, modified the frontiers of certain States, and assigned to certain countries populations previously belonging to other States, had desired to provide for the protection of the minorities; the Treaty of Versailles, moreover, contained certain stipulations with this end in view.

It had been asserted that a distinction had been made between certain States and that some countries were placed by the treaties in a position of inferiority. This was not the case.

The treaties concluded to safeguard the protection of minorities were special treaties which did not concern every country. M. Galvanauskas proposed a new regime which did not figure in any treaty. He wished a universal regime to be set up for minorities. This proposal was rather a dangerous one. Indeed, the institution of a system of this kind, instead of safeguarding peace, might easily become a permanent cause of internal conflicts and disputes in the first place and subsequently might lead to international conflicts.

As regards the question of procedure, M. Hymans drew the attention of the members of the Committee to M. de Mello-Franco's report. A perusal of this report showed that the Council had been continually improving its procedure, and M. de Mello-Franco's recent proposals were aimed at making this procedure more elastic and more effective. Indeed, the greatest prudence was required in dealing with these minorities questions, as they were matters between a minority group on the one hand and a sovereign State on the other.

Count Apponyi, in his speech before the Assembly, had suggested that the parties might be summoned to appear before the Council and that a kind of trial might be organised. This method did not commend itself, and it would be difficult in each discussion to bring into the witness-box of the Council the Prime Minister of a State and the representative of the minority group.

The Council could only solve these questions of minorities by the exercise of the most consummate skill, tact and political insight.

Reference had also been made to the Court of International Justice. The Council had often asked for its opinion in order to settle various legal points previous to the discussion on the merits of a given case. Perhaps the procedure of the Council was not perfect, however, and it was possible that improvements could still be made. If any interesting suggestions were put forward, the Council would give them its serious attention.

In conclusion, M. Hymans expressed the hope that progress would be made in this matter without setting up any new body within the League of Nations.

Dr. TCHEOU-WEI (China) reminded the Committee that, at the Third Assembly, he had made an appeal, in the name of Chinese philosophy, to the conciliatory spirit of the Members of the League. He regretted to observe that no agreement had been reached, notwithstanding the annual assertions of the Council.

The Chinese delegation would not have asked to speak if the Lithuanian proposal had not raised a question of principle. Dr. Tcheou-Wei considered, indeed, that this question of minorities only concerned European States. But the proposal for a world convention raised not only the question of nationalities but that of races, and consequently directly concerned China.

The Lithuanian delegate apparently alluded to the question of religions. Hitherto, seen from a Chinese standpoint, the whole of Europe had belonged to the Christian religion. M. Galvanauskas therefore apparently extended his solicitude to Eastern religions and Dr. Tcheou-Wei therefore welcomed his proposal in the name of racial equality.

Outside Europe, in other continents, the question of minorities appeared, moreover, in an altogether different light. In fact, it might be said that it was more a question of majorities placed under the domination of minorities. The Chinese delegation therefore asked the Lithuanian delegation to accept the following amendment. Complete the last clause as follows :

“ . . . setting forth their common rights and duties in regard to minorities and to the majorities under the domination of the minorities.”

If the Lithuanian delegation accepted this amendment, the Chinese delegation would agree to the proposal, but if M. Galvanauskas insisted on his text, Dr. Tcheou-Wei would be obliged to consider the Lithuanian proposal premature.

M. GALVANAUSKAS, in reply to M. de Jouvenel, asked why, if the question was one of courtesy, France, who was renowned for her courtesy, did not accept the proposal ? M. de Jouvenel had said that there were no minorities in France, and in actual fact there were not, but, legally speaking, there might be minorities, for instance, in the matter of religion. If M. de Jouvenel replied that France had given proof of a liberal spirit in this matter, then, having set the example, she would have a further reason for signing a convention. M. de Jouvenel had said that he was afraid of giving a pretext for unfounded complaints from a Breton barrister or from a provincial politician in search of popularity. But, failing these, did M. de Jouvenel think that there were no lawyers in other countries capable of bringing these questions before the League ?

Besides, it was not merely a question of courtesy but of transferring to the field of international law a part of a question of domestic common law.

Viscount Cecil's only objection to the Lithuanian proposal was that it was too daring. The objection was very natural ; Lithuania was a young nation, England a nation with a long history. But Viscount Cecil had not offered any argument on the substance of the proposition. All the rest of Viscount Cecil's speech had been concerned with the procedure of the Council, but M. Galvanauskas was not asking for any modification in that procedure.

One objection brought against the Lithuanian proposal was that it extended to all States. But it was generally agreed that the machinery for settling these questions — namely, the Council — was working excellently. If that was so, why not give it some work to do ? It would not break down on that account.

The Italian representative has asserted that new machinery was being proposed for the supervision of minorities. This was not so ; the Council retained its right of supervision. All that was asked for was a minimum of international conscience concerning the question of minorities.

M. Hymans had explained why certain precautions had been taken with regard to new or reconstructed States. It was a matter of prudence. But there were States which had entered the League subsequently, and they had made declarations concerning minorities. All that was proposed was to generalise this procedure.

If other States desired to enter the League, the question would arise whether those States contained minorities. If they denied it, how would the question be settled ?

The Chinese delegate had asked whether the Lithuanian proposal was designed to protect majorities. It was not. Moreover, the past record of the League of Nations proved that, if need be, it would take up the defence of majorities against minorities. The aim of the Lithuanian proposal was more modest.

M. Galvanauskas, therefore, maintained his proposal.

Dr. BENEŠ said that two conflicting points of view were before the Committee : that of M. Galvanauskas and that of M. Hymans. He would ask the Committee's permission to propose a compromise which might satisfy everybody.

Certain delegates had expressed the desire that the Minorities Treaties should be supplemented by further obligations. He would observe that this request was contrary to the provisions of the treaties.

Further, M. Galvanauskas desired that the rights of minorities should be a matter of common law applicable to all minorities throughout the world.

Dr. Beneš thought it advisable to call the Committee's attention to the difficulties which the Secretariat and the Council of the League had encountered in dealing with this question of minorities. Negotiations had been undertaken and pursued, and, in order to remove any anxiety, he wished, and he was sure that the Committee would agree with him, to acknowledge the untiring work, the zeal and the efficiency of the Section which had conducted these negotiations under the able guidance of M. Colban.

From the point of view of minorities, there were in the world three categories of States :

Those which had minority treaties ;
Those which had minorities but no treaties ;
Those which had neither minorities nor treaties.

It had been observed that the States which had treaties sometimes found themselves in a difficult position. It was important to realise that minority questions involved very important political problems. The question was extremely complex. Countries which had signed treaties wished to fulfil their obligations, but they found themselves sometimes faced with the difficulties he had indicated.

In conclusion, M. Beneš proposed that the Committee should adopt the following resolution :

" The Committee approves that part of the report which relates to procedure for the protection of minorities, and refers the debate on the Lithuanian proposal to the Council of the League of Nations."

M. GALVANAUSKAS (Lithuania) and M. COMNÈNE (Roumania) agreed to Dr. Beneš proposal.

The CHAIRMAN asked M. Galvanauskas if he would withdraw his proposal.

M. GALVANAUSKAS replied that he would leave the matter entirely to the discretion of the Council.

Viscount CECIL said that, for his part, he could not give a vote which would imply approval of M. Galvanauskas' proposal.

M. DE JOUVENEL said that he could not vote for M. Beneš proposal unless M. Galvanauskas withdrew his.

M. GALVANAUSKAS replied that Dr. Beneš' proposal replaced his, but that he saw no need to withdraw it since the Council was free to deal with his proposal as it thought fit.

M. HYMANS pointed out that maintenance of M. Galvanauskas' proposal might give rise to a misapprehension, since it would appear that the Committee was referring his proposal to the Council.

M. GALVANAUSKAS withdrew his proposal.

The CHAIRMAN read the following proposal submitted by Dr. Beneš :

" The Committee approves that part of the general report to the Assembly which relates to procedure for the protection of minorities, and refers the debate on the Lithuanian proposal to the Council of the League of Nations."

M. HYMANS observed that, M. Galvanauskas' proposal having been withdrawn, the text needed modification.

M. DE JOUVENEL proposed the following text :

" The Committee approves the report on procedure and communicates to the Council the exchange of views which has taken place in order that it may make any further improvements in this procedure that it considers possible."

M. GALVANAUSKAS said that the question had been discussed exhaustively and not merely from the point of view of procedure. He was content, however, to leave the matter to the discretion of the Council.

M. COMNÈNE said that the Committee had to consider a proposal by M. Galvanauskas amended by Dr. Beneš and not a question of a change of procedure. Any discussion on procedure at the moment would be premature and dangerous, and the only item on the agenda of the Sixth Committee was the question raised by the Lithuanian delegation.

Viscount CECIL proposed to the Committee the adoption of the following draft resolution :

“ The Committee approves that part of the Council's report which relates to minorities, and, the Lithuanian representative having withdrawn his proposal, the Committee communicates to the Council the debate which has taken place in this connection. ”

Dr. BENEŠ, M. DE JOUVENEL, M. GALVANAUSKAS and M. COMNÈNE said that they accepted Viscount Cecil's proposal.

The CHAIRMAN put Viscount Cecil's proposal to the vote.

The proposal was adopted.

On the proposal of Dr. NANSEN (Norway), which was unanimously adopted, the Committee appointed Count VAN LYNDEN VAN SANDENBURG (Netherlands) Rapporteur.

EXTRACT FROM THE MINUTES OF THE FIFTH MEETING OF THE SIXTH COMMITTEE
OF THE SIXTH ORDINARY SESSION OF THE ASSEMBLY.

Held on Monday, September 21st, 1925, at 3.30 p.m.

Dr. J. Gustavo GUERRERO (Salvador) in the Chair.

Count VAN LYNDEN VAN SANDENBURG (Netherlands) read the following report and draft resolution :

“ The Assembly, by its decision of September 15th, referred to the Sixth Committee the following proposal submitted on September 14th, 1925, by M. Galvanauskas, Lithuanian delegate :

“ ‘ The Lithuanian delegation proposes that the Sixth Assembly of the League should set up a special committee to prepare a draft general convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to minorities. ’ ”

“ The Sixth Committee fully discussed this very important question at its meeting on September 16th, many delegates taking part in the discussion. On the one hand, the attention of the Committee was drawn to the fact that the treaties and declarations for the protection of minorities of race, language or religion are only the concern of certain States, while other States are exempt from such obligations, and this would not be in conformity with the principle of equality between States. On the other hand, several delegates pointed out that this way of looking at the question was not correct, since the special position of States bound by certain treaties or declarations was the result of special circumstances prevailing in those States.

“ During the discussion, the question also arose of the procedure followed by the Council and the Secretariat for dealing with concrete questions relating to the protection of minorities. In this connection, the Committee discussed paragraph VI of Chapter 7 of the Supplementary Report to the Assembly on the Work of the Council, on the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly. Several speakers paid a tribute to the work accomplished by the Council in the execution of its delicate duties and emphasised the merits of the procedure at present in force ; some suggestions were made that this procedure might be improved, but it was pointed out that, whatever was done, the provisions of the Minority Treaties must be respected.

“ At the end of the discussion, it was proposed that the Committee should recommend the Assembly to give its formal approval to the above-mentioned part of the report, and this proposal was favourably received by various speakers.

“ Dr. Beneš, the Czechoslovak representative, proposed that, in view of the difference of opinion mentioned above, the Committee might unanimously recommend that the Assembly should refer the discussions of the Committee on the Lithuanian proposal to the Council of the League.

“ In view of this proposal, M. Galvanauskas, Lithuanian representative, stated that he withdrew his proposal. In order to bring Dr. Beneš' proposal into line with the situation thus created, Viscount Cecil, representative of the British Empire, proposed that the Committee should adopt the following resolution :

“ ‘ The Committee approves that part of the Council's report which relates to minorities and, the Lithuanian representative having withdrawn his proposal, the Committee communicates to the Council the debate which has taken place in this connection.’

“ Viscount Cecil's proposal was approved by the Committee.

“ The Sixth Committee has decided to submit the following draft resolution to the Assembly for approval :

“ ‘ The Assembly takes note of the Sixth Committee's report with regard to the protection of minorities and adopts the following resolution :

“ ‘ ‘ The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly, dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report). The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925, the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection.’ ’ ’

M. GALVANAUSKAS (Lithuania) after thanking Count van Lynden van Sandenburg for his able report, explained why he had decided to withdraw his proposal. In his opinion the question was not yet ripe in the minds of the representatives of various countries. His proposal had given rise chiefly to apprehensions, and the objections which had been raised were all of a sentimental nature.

Without going fully into the question of the inequality between the States Members of the League, he emphasised the point that minorities were subject to unequal treatment. Some were protected by the international conventions, others were not, and this fact was the first cause of inequality. In the same way, the procedure for admission to the League of Nations was not the same for all countries. Up to the present, in order to become a Member of the League, a State had to undertake obligations with regard to the minorities in its territory. What would be the procedure in future ? If a country wished to become a Member of the League, would it be sufficient for it merely to state that it had no minorities ? On the contrary, it would seem logical, in view of the precedents created, to subject the future Member of the League to the same obligations.

Another question of no less importance was the definition of minorities. Could immigrants form a minority or not ? He did not think so, because they entered the country of their own free will, and, by assuming the nationality of the country, undertook to conform to its internal legislation. Distinction should, therefore, be drawn between immigrants and original inhabitants who, having been transferred by treaty from one nationality to another, might constitute what was known as a minority.

Count Apponyi's proposal to make minorities legal entities from the international point of view would appear to be inadmissible, at any rate at the present time, because international law at present only recognised States as legal entities. Count Apponyi's proposal would disorganise the whole of international life.

In conclusion, the speaker defined the fundamental reason for his proposal, namely, that as the question of minorities had often formed the pretext for war, means must be found to settle this question in order to increase international security, which was of still greater importance for the small States than for the large ones.

The CHAIRMAN pointed out that the discussion on the fundamental principle of the question had been closed at the previous meeting.

Viscount CECIL (British Empire), in view of the Chairman's remarks, renounced his intention of replying to M. Galvanuskas, with whom he could not agree either in regard to his manner of presenting his opponent's arguments or of re-stating his own.

M. VEVERKA (Czechoslovakia) proposed that the last lines of the fourth paragraph of the report should be worded as follows :

"Some suggestions were made that this procedure might be improved, but it was pointed out that, whatever was done, the provisions of the Minority Treaties must be respected."

Count VAN LYNDEN VAN SANDENBURG (Netherlands), Rapporteur, accepted M. Veverka's wording.

The report with this amendment was adopted.

EXTRACT FROM THE VERBATIM RECORD OF THE SIXTH ORDINARY SESSION OF THE ASSEMBLY
OF THE LEAGUE OF NATIONS.

Tenth Plenary Meeting, held on Monday, September 14th, 1925.

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Count APPONYI (Hungary) :
.....

Let us now review, as briefly as possible, the question of minorities. I will say, in the first place, that this year, as last year, this is still a burning question. In the few words I said on this subject at the last Assembly I did not mention any particular case or make any specific accusation. This year my procedure will be the same. Indeed, to act otherwise would be quite useless, as it would merely poison an atmosphere which it is our duty to keep as pure as possible and free from any spirit of antagonism or criticism.

If, in the matter of minorities, the work of the League and the Council has not yet produced the results for which we had hoped, if it has not yet succeeded in fully reassuring the 40 million citizens who compose these minorities, it is not due to lack of good will or capacity on the part of the eminent members of the Council. I think it is due rather to defects in procedure, and, since the Council has been kind enough to submit to us a report setting out and enumerating all the changes in procedure which have been made since it first considered the question, I think we are well within our rights in offering a few observations on this subject.

To be brief, it appears to me that the Council's procedure needs to be amended on three points. It is not I who have invented these points; the International Federation of League of Nations Societies has defined them in a resolution which was unanimously adopted by representatives of public opinion in almost all the countries of Europe.

The first amendment, the first usage, the new provision which I should like to see introduced into the Council's regulations with regard to minorities would be this: When petitions emanate from certain sources, from supreme ecclesiastical organisations or the cultural and economic institutions of the different countries, they could and should be considered as documents to be laid before the Council without further examination. There is no need to explain in detail the reasons for this suggestion. It seems to me that simply to reject such petitions, without further examination would be regarded by the minorities in question as a kind of insult; it would disturb — even seriously disturb — their sense of security and might shake their belief that their cause was receiving serious consideration, a matter as relevant and almost as important as the justice of the decisions themselves.

The second recommendation which I venture to make is this: that at all stages of the procedure representatives of petitioners should have the right to be heard and should be allowed to state their case and reply to objections, as in an ordinary lawsuit.

You may perhaps reply that the Council is always free to hear these representatives whenever it thinks fit, and I am sure the Council makes use of this right whenever such a course appears necessary. In such a case, however, the Council exercises discretionary powers, and the use of discretionary powers only inspires confidence amongst the limited number of those who know the persons to whom the discretionary power has been granted. The great mass of the people concerned can only have confidence when there is a fixed legal rule determining and defining their rights.

The third observation I should like to make is this: Whenever a point of law is raised at the request of one of the parties, reference to the Permanent Court of International Justice for an advisory opinion should be obligatory. This does not imply lack of confidence. I am bound to reiterate this point, because last year a similar expression of opinion offended certain susceptibilities. I am not proposing a vote of no confidence. I am not criticising the distinguished members of the Council. I am merely enunciating a principle which is recognised by the whole world. The settlement of points of law is work not for political assemblies but for courts of law. It is work for the courts specially set up to decide litigious questions.

I should like to offer one further observation of a general nature.

I have said that there can be no question of a vote of no confidence. Similarly, to press the question of the fate of minorities does not imply any hostile feeling towards those countries which have large minorities.

On the contrary, I think it is as much to their interest — from the point of view of national consolidation — as it is to the interest of peace and tranquillity in general that minorities should not only enjoy all the rights which treaties accord them but should also be assured that in case of dispute these questions will be judged from a legal and not a political angle. In these matters the psychological aspect of the question is as important as the decision itself.

M. GALVANAUSKAS (Lithuania):

Mr. President, ladies and gentlemen. — I have no intention of examining in detail the various features of the remarkable work accomplished by the League during the past year. I will merely draw your special attention to one of the most important questions of the day: the protection of minorities.

The present system, despite the splendid services it has rendered to humanity, suffers from a defect which it would be extremely dangerous to ignore any longer. This system limits the sovereignty of a certain number of States, whilst justice demands that the noble cause of the protection of minorities should confer the same rights upon, and require the same duties on the part of, all the Members of the League.

The question of minorities is a question of domestic public law submitted to the control and guarantee of the League. Though Lithuania entirely agrees that this branch of domestic public law needs such control and guarantee, she is also firmly convinced that neither is permissible unless exercised in the case of all the States Members of the League.

The inequality in the position of the different Members of the League in this respect is a drawback both from the political and the moral points of view. Moral unity among Members of the League is impossible so long as the sovereignty of some is restricted by higher interests, whilst others are under no such restraint.

That is why it appears to me desirable that the League should make a general statement regarding the protection of minorities, imposing the same rights and duties upon all the States Members of the League in respect of their racial, religious and linguistic minorities.

In making this proposal I believe that I am voicing the public opinion of the world. First of all I will remind you of the resolution passed by the Third Assembly on September 21st, 1922. It states:

“The Assembly expresses the hope that the States which are not bound by any legal obligations to the League with respect to minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the treaties and by the regular action of the Council.”

This is a first step along the path I recommend ; but the public opinion of the world is no longer satisfied with a recommendation. It demands *vincula juris* from all.

The Twenty-first Conference of the Inter-Parliamentary Union, which met at Copenhagen in 1923, has already prepared a declaration of the rights and duties of minorities. I will read you Resolution No. 1, annexed to this Declaration :

“ In view of the desirability of bringing about the adoption, as principles recognised by international law and by the constitutional law of States with a representative system of government, of the fundamental rights and duties of minorities of race or religion,

“ The Twenty-first Inter-Parliamentary Conference asks the groups to lay before their respective Governments the accompanying Declaration of the rights and duties of minorities,

“ And requests the Inter-Parliamentary Bureau to transmit the said Declaration to the League of Nations with a view to the drafting of a general convention between the States on the basis of the principles set forth in the Declaration.”

I propose that we should give due recognition to the spirit of universality manifested in this resolution and that a special committee be appointed to draft a general convention for all Members of the League, laying down their common rights and duties towards minorities. The Lithuanian delegation has therefore the honour to propose that the Sixth Assembly of the League should set up a special committee to prepare a draft general convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to minorities.

After so many remarkable speeches it is difficult for me to add anything new on the question of international peace. No institution, indeed, is better qualified than the League to do this work. The guarantees demanded by the small nations are not peculiar to this or that Latin or Anglo-Saxon idea. The small nations will always support any attempt to achieve a just peace. I emphasise the word “ just ”. Without justice there can never be moral disarmament, and consequently there can never be a durable peace.

Justice must be the basis of moral peace. Nothing can prevail against justice. Nothing in comparison with justice is immovable or immutable. Our ideal should be not peace alone but peace based upon justice.

EXTRACT FROM THE VERBATIM RECORD OF THE SIXTH ORDINARY SESSION OF THE ASSEMBLY OF THE LEAGUE OF NATIONS.

Fourteenth Plenary Meeting, held on Tuesday, September 22nd, 1925.

THE PRESIDENT :

The next item on the agenda is the discussion of the report of the Sixth Committee on the protection of minorities.

(At the invitation of the President, Count van Lynden van Sandenburg (Netherlands), Rapporteur, and M. Guerrero (Salvador), Chairman of the Committee, took their places on the platform.)

THE PRESIDENT :

The Rapporteur will address the Assembly.

Count VAN LYNDEN VAN SANDENBURG (Netherlands), Rapporteur :

Translation : Mr. President, ladies and gentlemen. — Under the Peace Treaties of Versailles, St. Germain, Trianon and Neuilly, Czechoslovakia, Poland, Roumania and the Kingdom of

the Serbs, Croats and Slovenes, and under the Treaty of Lausanne, Greece, all agreed to conclude treaties containing such provisions as the Principal Allied and Associated Powers might consider necessary to protect the interests of racial, religious and linguistic minorities.

In virtue of this undertaking, special "Minority Treaties" were concluded between the Principal Allied and Associated Powers and each of the above-mentioned five States, the Hungary, Bulgaria provisions of these treaties being guaranteed by the League of Nations.

Under the Peace Treaties of St. Germain, Trianon Neuilly, and Lausanne, Austria, and Turkey agreed to similar provisions.

There are, in addition, special conventions which contain provisions relating to the protection of certain minorities, as, for example, the Treaty concluded between Poland and the Free City of Danzig on November 9th, 1920, the Germano-Polish Convention of May 15th, 1922, relating to Upper Silesia, and the Convention of May 8th, 1924, concerning Memel.

The question of minorities was dealt with by the first Assembly of the League, more particularly in connection with the admission of new States, and the following resolution was adopted :

"In the event of Albania and the Baltic and Caucasian States being admitted to the League, the Assembly requests that they should take the necessary measures to enforce the principles of the Minorities Treaties and that they should arrange with the Council the details required to carry this object into effect."

In conformity with this resolution, Albania, Estonia, Latvia and Lithuania, which were admitted as Members of the League by the first and second Assemblies, made declarations before the Council concerning the protection of the minorities in their respective countries.

Finland, after having granted the inhabitants of the Aland Islands local autonomy, in virtue of a Law of May 7th, 1920, gave guarantees, in its declaration to the Council on June 27th, 1921, that this law should be amended, and undertook to inform the Council of the application of the guarantees. In a resolution dated October 2nd, 1921, the Council took note of the information relating to the position of racial, religious and linguistic minorities in Finland furnished by the Finnish representative.

The question came before the third Assembly in virtue of proposals submitted by Professor Gilbert Murray (delegate of South Africa) and Dr. Walters (delegate of Latvia), and a resolution was adopted, paragraph 4 of which reads as follows :

"The Assembly expresses the hope that the States which are not bound by any legal obligations to the League with respect to minorities will nevertheless observe, in the treatment of their own racial, religious or linguistic minorities, at least as high a standard of justice and toleration as is required by any of the treaties and by the regular action of the Council."

Finally, the fourth Assembly dealt with the matter and passed a resolution providing that :

"In accordance with the resolution of the Council dated September 5th, 1923, the communication of minorities petitions shall be restricted to the Members of the Council. By virtue, however, of paragraph V of the Assembly resolution dated September 21st, 1922, the Government of any Member of the League can request the Secretariat to communicate to it any petition (together with the observations of the Government concerned) which have been communicated to the Council."

The Lithuanian delegation submitted to the present Assembly the following proposal, which was referred to your Sixth Committee :

"The Lithuanian delegation proposes that the Sixth Assembly of the League should set up a special committee to prepare a draft general convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to minorities."

In view of the divergence of opinion which arose in the Sixth Committee when the matter was discussed, it was decided, after M. Galvanauskas had withdrawn the Lithuanian proposal,

that a draft resolution should be submitted to the Assembly requesting the Secretary-General to communicate to the Council the discussion which took place in the Sixth Committee in this connection.

The Committee also took note of the part of the Report on the Work of the Council which concerns the procedure followed by the Council in minority questions. This procedure has already been frequently discussed by the Council and the Assembly. Resolutions on the subject were adopted by the Council on October 22nd, 1920, June 27th, 1921, and September 5th, 1923., and the question was dealt with by the Second and Third Assemblies. Quite recently, with the object of amending this procedure and facilitating the very difficult and important task of the President of the Council, without, however, modifying the terms of the treaties, the Council considered the matter afresh and decided, in accordance with the conclusions of the report submitted by the representative of Brazil, to adopt the rules which are to be found on pages 18 to 20 of the Supplementary Report on the Work of the Council.

Among these rules, I would mention the following, which relate to the constitution of the "Committee of Three":

"Any petition submitted and which may be accepted under the terms of the Council resolution of September 5th, 1923, is examined by the President of the Council and by two members appointed by him in each case, neither of whom shall be the representative of the State to which the persons belonging to the minority in question are subject, or the representative of a State neighbouring on that State, or the representative of a State a majority of whose population belongs, from the ethnical point of view, to the same people as the persons in question."

If these conditions apply to the President of the Council, the latter will be replaced by the member of the Council who exercised the duties of President immediately before the Acting President provided he is not in the same position.

The sole object of the examination of a minority petition by this Committee is to establish whether it is advisable or not for members of the Committee to exercise the right of drawing the attention of the Council to the infraction or danger of an infraction which is the subject of the petition, while reserving to other members of the Council the right of initiative recognised under the treaties.

The Committee's resolution adds, therefore, that all the members of the Council shall receive the document for the examination of which the Committee is set up and can, if they take a special interest in the matter, inform themselves, through the Secretariat, of the treatment of the petition in the Committee, and, if necessary, submit to the Committee their own observations.

The Sixth Committee proposes that you should approve that part of the Report on the Work of the Council which relates to this procedure and should consequently adopt the following resolution:

"The Assembly takes note of the Sixth Committee's report with regard to the protection of minorities and adopts the following resolution:

"The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report). The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925, the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection."

The PRESIDENT:

Count Apponyi, delegate of Hungary, will address the Assembly.

Count APPONYI (Hungary):

Ladies and gentlemen. — The Hungarian delegation regrets that it is unable to support the conclusions of the report just submitted to you, which expresses unqualified approval of the work of the Council and Secretariat in the matter of minorities.

I simply desire to make this declaration. There is no need for me to revert to the suggestions I made when I addressed the Assembly a few days ago. I said then that I had no intention of criticising or calling into question the competence of those eminent persons who constitute the Council ; I stated that I had found defects in the procedure, and I made suggestions for its amendment.

They were simply suggestions and not proposals, because it seemed to me that the Assembly was not qualified to dictate to the Council its method of procedure. Under our Rules of Procedure and under the terms of the Covenant, the Council is autonomous, within the limits of its specific powers. What I desired, and what I still urge, is that the Council should consider my suggestions with a view to their being incorporated in the Rules of Procedure.

Until those suggestions are taken into account, the Hungarian delegation cannot express its formal and unqualified approval of the work of the Council and of the Secretariat in the matter of minorities.

I was unfortunately obliged to be absent from Geneva for some days and was unable to take part in the discussions of the Sixth Committee, where my suggestions were the subject of criticism to which I cannot reply here.

The only point I desire to mention is this : one objection advanced against my proposals was that their acceptance would necessitate the amendment of the Minorities Treaties. I do not think that this is so, and I am prepared to prove it whenever there is an opportunity of reopening our discussion. I simply desire to-day to inform you that, in view of the reasons I have just given, the Hungarian delegation greatly regrets that it cannot accept the conclusions of the report submitted on the question of minorities.

I do not ask for a vote by roll-call, but if such a vote were taken, Hungary would be obliged to abstain from voting. The Hungarian delegation reserves the right to raise the question again at the next Assembly.

THE PRESIDENT :

M. Hymans, delegate of Belgium, will address the Assembly.

M. HYMANS (Belgium) :

Ladies and gentlemen. — I do not propose to speak on the protection of minorities in connection with Count Apponyi's remarks. The delegate of Hungary himself did not desire, at the time when the report was examined, to reopen the discussion he raised some days ago.

I merely wish to inform him that the Sixth Committee, which dealt at some length with the Council's work in regard to minorities, examined every aspect of the question, and, in fact, discussed some of the suggestions he made in the Assembly.

The Committee proposed to communicate to the Council the minutes of its discussions on the question ; in this way the Council will be informed of Count Apponyi's views.

The Council, as the Assembly is aware, recently took various measures with a view to improving the procedure for the examination of minorities questions, and I can assure Count Apponyi that it will constantly bear the question in mind and is quite prepared to receive suggestions for the improvement of the present procedure.

The Assembly will feel, I think, that these few words of mine have served some purpose if they have shown Count Apponyi that the Council is only too ready to consider suggestions for the improvement of this intricate and highly important procedure.

M. Henry DE JOUVENEL (France) :

I desire to inform the Assembly that in the Sixth Committee, on which every country is represented, the Report on the Work of the Council was unanimously and unreservedly accepted.

THE PRESIDENT :

If no one else wishes to speak, I will now put to the vote the resolution submitted by the Sixth Committee which reads as follows :

“ The Assembly takes note of the Sixth Committee's report with regard to the protection of minorities and adopts the following resolution :

“ The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report). The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925, the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection.”

The resolution was adopted.

7. DISCUSSION CONCERNING THE PROCEDURE TO BE ADOPTED IN REPLYING TO PETITIONS.

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

A. *Present Practice with Regard to Replies sent to Private Petitioners in the Matter of Protection of Minorities.*

M. DE MELLO-FRANCO read the following report :

“ At the meeting of the Council on March 17th, 1926, the question was raised of the procedure at present adopted in replying to private petitioners both in the matter of the protection of minorities and in regard to mandated territories. The Secretary-General has given us in the document C.312(1).M.118.1926.I¹ information concerning minorities petitions. I think that the Council will join me in thanking the Secretary-General for the very clear statement contained in this document. The matter does not seem to call for further action by the Council.”

The Council adopted the report.

Annex¹.

NOTE BY THE SECRETARY-GENERAL CONCERNING THE PRESENT PRACTICE WITH REGARD TO REPLIES SENT TO PRIVATE PETITIONERS IN THE MATTER OF PROTECTION OF MINORITIES.

I. The Secretary-General has the honour to circulate to the Council the following account of the present practice with regard to replies sent to petitioners to the League of Nations in matters concerning minorities protection.

II. The Secretariat acknowledges receipt of minorities petitions if sufficient address is given. This acknowledgment of receipt is usually of an entirely formal character, and only states the fact that the petition has been received.

III. As soon as a minorities petition is received in the Secretariat, it is examined in order to ascertain whether it fulfils the conditions laid down in the Council resolution of September 5th, 1923, and whether consequently it shall be dealt with under the ordinary minorities procedure. If the petition is found receivable, the acknowledgment of receipt does not mention this fact. Should the petitioner address in writing a formal question to the Secretariat as to whether the petition has been found receivable, or as to what action is taken on it, he is

¹ Annex 885 to the Minutes of the Fortieth Session of the Council.

informed that it is being dealt with in conformity with the procedure adopted by the Council for such cases. But it is not expressly stated that the petition has been found receivable. The Secretariat is disinclined to give the petitioner definite and official information to that effect. The reasons for this reserved attitude towards the petitioner in the question of the receivability of his petition are twofold :

(a) In principle, everybody is free to petition the League in minorities matters. But the petitioner, according to the Minorities Treaties and the procedure in force, is not a party to a lawsuit between himself and the interested Government. His petition is only a source of information for the Members of the Council, to enable them to exercise their rights and duties under the Treaties.

(b) The decision by the Secretariat to the effect that a petition is receivable is not final, but can be contested by the interested Government, and the question as to its receivability then goes before the President of the Council, who may consult with two of its other Members. This question of receivability may eventually go before the full Council at the request of the interested Government.

IV. When minorities petitions are not found receivable by the Secretariat, each case is considered upon its merits. In principle, it would be sufficient to send a formal acknowledgment of receipt and to take no further action. That is what is ordinarily done when the Secretariat can take it for granted that the petitioner is aware of the conditions to be fulfilled if the petition is to be receivable and nevertheless does not comply with them. In cases in which it may be considered that the petitioner, while perhaps aware of these conditions, is not aware of the fact that his case is presented in such a way as not to conform to the conditions, the Secretariat tries to draw the petitioner's attention to points which he has not made clear. However, the Secretariat is obliged to exercise the greatest care in this matter, as it has no authority to give advice to petitioners as to how to present their case. For this reason, the reply of the Secretariat points out that such-and-such fact, which is essential in order to bring the matter within the scope of the Minorities Treaty, is not made clear in the petition. Should the petition come from a petitioner who seems to be unaware of the conditions laid down by the Council for petitions being considered receivable, the Secretariat, in acknowledging receipt, has in some cases stated in quite a general way that the petition does not seem to fulfil these conditions. In certain cases, a copy of the Council resolution of September 5th, 1923, which lays down these conditions, has been forwarded to the petitioner for his guidance. Moreover, anybody can, by writing to the Secretariat, obtain information as to the rules of procedure laid down by the Council. The pamphlet issued by the Information Section of the Secretariat on the minorities problem gives detailed information of the conditions under which a petition is considered receivable.

V. When a petition is considered receivable by the Secretariat, it is communicated to the interested Government for observations and, together with any observations received, is circulated to all the Members of the Council for information. Under the Council resolution of September 5th, 1923, the petition and the observations of the Government concerned are communicated to the Members of the Council only, and are not made public. The Members of the League not represented on the Council may, however, under the resolution of the fourth ordinary session of the Assembly dated September 26th, 1923, request the Secretariat to communicate to them petitions, communicated to the Council, together with the observations of the Government concerned. The Council, under the resolution of September 5th, 1923, may, after the matter has been duly submitted to it, direct that the documents shall be communicated to the general public. In practice, it has been considered that, when a minorities question has been brought before the Council through the initiative of one or more of its Members, all the documents relating to that case are accessible to the public. But, if this is not done, the petitioner will not be informed of the contents of the observations of the interested Government on his petition. Many petitioners, for example Parliamentary deputies, can of course normally obtain from their own Government a copy of the Council document containing that Government's observations.

VI. When a petition and any observations on it of the Government concerned have been communicated to the Members of the Council, the President calls upon two of his colleagues

to examine the documents with him in Committee. A detailed explanation of the position of the work of the Minorities Committees is given in the Supplementary Report to the sixth ordinary session of the Assembly. The Minorities Committees do not inform the petitioners of the contents of the observations of the Government concerned, and do not enter into any discussion with them. The reason for this is the same as the reason for the Secretariat's attitude described under III (a) above: namely, that the petitioner is not a party to a lawsuit between himself and the interested Government. A Minorities Committee may instruct the Secretariat to ascertain certain facts from any source, but this does not involve communication to the petitioner of the observations of the interested Government, and in practice the Minorities Committees as a rule refrain from entering into any correspondence with the petitioners.

VII. The Minorities Committee may terminate its work in two ways:

(1) The question is referred to the Council. In that case the petitioners will have the same opportunity as the general public of seeing the Committee's report and all the documents submitted to the Council, including the observations of the Government concerned.

(2) The question is not referred to the Council. (As shown in the Supplementary Report to the sixth ordinary session of the Assembly, this does not, of course, mean that the Committee has confined itself to an entirely negative attitude.) In this case the Committee does not normally make any report to the Council. In 1922 there were four cases in which the Minorities Committees made reports to the Council on the negative result of their examination of a minorities petition and of the observations of the interested Government (documents C.197.M.109.1922.I, C.210.M.114.1922.I, C.478.1922.I and C.479.1922.I.) In none of these cases was the opinion of the interested Government asked before the report was addressed to the Council. The reports were not inserted in the *Official Journal*. Recently, minutes were drawn up by a Minorities Committee and, in agreement with the representative of the interested Government, are being inserted in the *Official Journal*. In no other case has the termination of the work of a Minorities Committee given rise to a communication to the Council or to the general public and, where no such communication has been made, the Secretariat does not consider itself authorised to take the initiative of informing the petitioner of the result of his petition. If a petitioner were to request such information, the normal reply would be that no Member of the Council had so far taken the initiative of bringing the question raised in the petition to the attention of the Council under the Minorities Treaty.

8. RECEIVABILITY OF PETITIONS CONCERNING PERSONS RESIDENT IN A STATE, BUT NOT BELONGING TO A MINORITY OF RACE, LANGUAGE OR RELIGION.

EXTRACT FROM THE MINUTES OF THE FIFTIETH SESSION OF THE COUNCIL — MEETING HELD ON JUNE 6TH, 1928.

M. URRUTIA read the following report¹:

"On November 14th, 1917, the Secretary-General received a petition, dated November 2nd, 1927, signed by twenty-one persons of Ukrainian origin, living in Lithuania. The signatories of this petition state that they are Ukrainians from Kieff, who have been living since 1910 and 1912 in the Suwalki district in Lithuania, where they have purchased land.

¹ Document C.265.1928.I.

When Lithuania became independent, they state that they agreed to the request of the local police that they should become Lithuanian citizens and since then they have considered themselves as such. The Lithuanian Government, however, declared shortly afterwards that they were foreigners and that the Lithuanian Republic was going to take possession of their land. This was done in spite of the repeated protests of the interested parties. The petitioners declare that, as their land and their houses have been divided amongst Lithuanians, they themselves are in a state of absolute poverty and destitution.

" They affirm that Lithuanians who purchased land under the same conditions as they have met with no difficulties from the Lithuanian Government. They add that the measures of which they complain have been applied to them because they are Ukrainians.

" On December 3rd, 1927, the Secretary-General, who considered that this petition fulfilled the conditions of receivability laid down in the Council resolution of September 5th, 1923, concerning Minorities petitions, forwarded it to the Lithuanian Government for its observations. The Lithuanian Government contested the receivability of this petition, and the Secretary General, in conformity with the provisions of Section I, paragraph 2, of the resolution of September 5th, 1923, submitted the question of receivability to me as Acting President of the Council.

" After examining the documents on this question circulated to the Members of the Council in document C.202.1928.I, I came to the conclusion that the petition should not be considered as non-receivable for the reasons given by the Lithuanian Government.

" Having been informed by the Secretary-General of this decision, the Lithuanian Government, in a letter dated April 25th, 1928,¹ relying upon section 1, paragraph 2, of the Council resolution of September 5th, 1923, requested the inclusion in the Council agenda of

" ' the question of the receivability of petitions concerning persons resident in a State but not belonging to a minority of race, language or religion '.

" Paragraph 2, which is referred to, reads as follows :

" ' If the interested State raises for any reason an objection against the acceptance of a petition, the Secretary-General shall submit the question of acceptance to the President of the Council, who may invite two other members of the Council to assist him in the consideration of this question. *If the State concerned so requests, this question of procedure shall be included in the agenda of the Council.* '

" It seemed to me that, as the question raised in the letter of April 25th, 1928, was raised explicitly in virtue of this paragraph, as a matter concerning minority rights and in connection with an actual petition, it was to be regarded as relating to the receivability of that petition within the meaning of the clause cited. A more general interpretation would have deprived the request of any real meaning, by presuming that the intention was to raise a question concerned with the protection of minorities in terms explicitly excluding that matter.

" In my view, therefore, the Council is called upon to decide whether the petition of November 2nd, 1927, is receivable.

" As the resolution of September 5th, 1923, states, this question is one of procedure. We are not required to take a decision on the substance of the matter, on the existence of a breach, or threat of a breach, of obligations towards minorities. What we are required to do is to settle a preliminary point, of a superficial character, namely, whether the petition presents a strong enough *prima-facie* case to be communicated to the Members of the Council individually, as a purely informative measure, so that they may judge whether they ought to bring the affair itself before the Council. It will be seen that we are a long way from the consideration by the Council of the validity of the complaints in the petition.

¹ Document C.202.1928.I, page 19.

" According to the resolution of September 5th, 1923, receivability depends on specific conditions. If they are to be receivable, petitions :

- " (1) Must have in view the protection of minorities in accordance with the treaties ;
- " (2) In particular, must not be submitted in the form of a request for the severance of political relations between the minority in question and the State of which it forms a part ;
- " (3) Must not emanate from an anonymous or unauthenticated source ;
- " (4) Must abstain from violent language ;
- " (5) Must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

" As I have already observed, the Secretary-General and, after him, the President of the Council, reached the conclusion that the petition of November 2nd, 1927, satisfied all these conditions.

" The Lithuanian Government, however, while raising no objection in regard to the other conditions, seems to maintain (letter of January 24th, 1928, document C.202.1928.I, page 9) that in this case the first condition is not satisfied — in other words, that the question of the protection of minorities does not arise.

" I do not feel able to agree to this view. We have before us a petition in which it is alleged that a group of persons of Ukrainian origin, regarding themselves as Lithuanian citizens, have been deprived of and expelled from their lands, thus suffering treatment which is not inflicted on the Lithuanian majority. The Government concerned has not, moreover, questioned, in its observations, the Lithuanian nationality of these persons.

" Further, the Declaration of May 12th, 1922, which is applicable here, requires the Lithuanian State to treat all its nationals on a footing of equality, and safeguards this obligation by the guarantee of the League of Nations, so far as it concerns racial, religious or linguistic minorities.

" There is no doubt, therefore, that the petition does concern the protection of minorities. I do not see how we can share the view expressed in the Lithuanian Government's letter of January 24th, 1928¹, that a minority must have the two following characteristics : '(1) It must belong to the country permanently, i.e., by origin ; (2) it must be sufficiently numerous to constitute an appreciable percentage of the country's population'. The condition of origin is not laid down in the Declaration of May 1922, which is expressed in general terms without any discrimination of this kind ; it does not distinguish between citizens by origin and persons who have become citizens, for example, by marriage or naturalisation. Again, the Declaration lays down no rule regarding the numbers of those concerned : minority protection is expressly granted to 'all Lithuanian nationals' (Article 4, paragraph 1) and to 'any Lithuanian national' (Article 4, paragraph 3) ; it is also stipulated (Article 4, paragraph 2) that, 'differences of religion, creed or confession will not prejudice any Lithuanian national'. Further, when importance is attached in the Declaration to the number of the beneficiaries, this is formally stated, as in Articles 6 and 7, which deal with the allotment of public funds for educational purposes.

" I therefore feel that I may express once more the conviction that the petition should be considered as satisfying the five conditions for receivability laid down in the resolution of September 5th, 1923. This conclusion does not, of course, in any way prejudice the settlement of the substance of the question, on which the Council might have to take a decision if in due course the matter be brought before it in proper form.

" I beg to propose to my colleagues that we should not continue the examination of the question until the Lithuanian representative has given, if he so desires, more detailed explanations of his Government's views."

M. Urrutia continued as follows : Objections have been made by the Lithuanian Government to my decision, taken when Acting President of the Council, regarding the receivability of this petition. Perhaps it would have been better if the Rapporteur on

¹ Document C.202.1928.I, page 9.

this question had not been the former President of the Council. Nevertheless, as the matter is a purely superficial one, I do not think it my duty to refuse to submit the report which I was asked to prepare.

M. VOLDEMARAS. — The question raised in the request before the Council is of general interest. The Lithuanian Government only learned of the existence of a Ukrainian minority in Lithuania when it received the request forwarded by the Secretariat of the League. A census carried out a few years ago did not show the presence of a single Ukrainian in Lithuania. Suddenly, however, not only is a Ukrainian minority said to exist in Lithuania but that minority alleges that its rights have been violated.

The first question which arises is whether one and the same person can claim one nationality to-day, another to-morrow and a third the day after. The case seems to me to be of little practical importance in itself, but it raises a question of principle. The petitioners who now allege that they are Ukrainians formerly said they were of Russian nationality. Some years ago, they negotiated with the representatives of the Soviet Government with the object of inducing that Government to safeguard their interests. When they found that their negotiations were not successful, they then declared that they were Ukrainians.

The question, therefore, is whether it is possible to change ones nationality as easily as one changes one's religious convictions, etc.

Consequently, since minority questions fall within the domain of public law, how many persons are necessary to constitute a minority? Is twenty enough, as in the present case? Must there be a hundred or a larger number? Some Lithuanian workmen emigrated to France some years ago. Can they maintain that they are a minority and claim the protection afforded by the rules of public law? In any case, they are far more numerous than the petitioners with whom we are now dealing.

The Rapporteur several times referred to the formal undertaking of the Lithuanian Government to treat all its subjects on a footing of equality. The petitioners, however, state that they are not Lithuanian nationals.

The law concerning nationality was promulgated immediately after the proclamation of Lithuania's independence. This law contains a provision according to which any person who has lived in Lithuania for at least ten years before the war may be considered *de jure* as a Lithuanian national. The petitioners, however, themselves claim that they have been settled in Lithuania since 1910 and 1912, that is to say, four and two years before the war respectively. They have not, therefore, fulfilled a condition which is indispensable if they are to be considered Lithuanian citizens. They have been dealt with under our internal legislation as nationals of a country not yet determined, for they have not opted for Russian nationality. They can, therefore, only obtain the Nansen passport, which has been specially drawn up by the League of Nations for persons in their position.

In view of the fact that their petition shows that they are not Lithuanian nationals, the obligations assumed by Lithuania regarding the rights of minorities do not apply to their case. It is for this reason that the Lithuanian Government does not consider their request to be receivable.

Nevertheless, as the case has given rise to a question of principle which it might be useful to settle, the Lithuanian Government has no objection to the appointment of a Committee of jurists to determine what in the future shall constitute minorities. The request before the Council therefore may make it possible to solve a problem which may well be of real interest in the future.

M. UREUTIA. — The interesting observations just made by the representative of Lithuania have confirmed me in my view that the request in question cannot be declared irreceivable since it is precisely concerning the substance of the question that the representative of Lithuania has made his observations. Further, this request itself has given M. Voldemaras an opportunity of raising certain questions of principle which, I agree, are of great importance and should be investigated.

Let me remind the representative of Lithuania of the object of the Committees of the Council dealing with minority questions. As soon as a question is submitted, if it is not declared irreceivable it is forwarded to a Committee of the Council.

The following resolution was adopted by the Council on October 25th, 1920, to regulate questions of minorities :

“ With a view to assisting Members of the Council in the exercise of their rights and duties as regards the protection of minorities, it is desirable that the President and two members appointed by him in each case should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the treaties for the protection of minorities. This enquiry would be held as soon as the petition or communication in question had been brought to the notice of the Members of the Council. ”

The only object of the examination made by the Committees of the Council is to help members of the Council in the exercise of their rights and duties in regard to questions of minorities. If a Committee of the Council takes the view that a petition is justified and that it has been submitted in due and proper form, it lays before the members of the Council all the information necessary for the future exercise of their rights.

In these circumstances, I think it will be necessary for a Council Committee to study this petition. It is only after this has been done that the questions of principle which it raises can be settled. It will be very difficult for the Council, in my view, to state that this question cannot be examined by a Committee of the Council. The observations just made by the representative of Lithuania cannot possibly lead me to adopt an opposite view.

The representative of Lithuania has proposed the establishment of a Committee of jurists to study the most important question, namely, what ethnical groups can be considered to constitute a minority, and the further question concerning the possible application of the provisions of the minorities treaties. I see no objection to the appointment of such a Committee to study these definite questions. In so far as the petition which is before us is concerned, however, which the Acting President of the Council has stated to be receivable, I hope that the representative of Lithuania, after the explanations which I have just given, will be willing to recognise that there can be no objection to the proposal that a Committee composed of three of our colleagues — a Committee to which I should not belong because it will have to be composed of the new President of the Council and two other members — should study the question in complete freedom and independence. This Committee might examine the question whether it would be opportune to appoint a Committee of jurists to study the very important legal questions raised by the Lithuanian representative.

M. VOLDEMARAS. — I regret to be unable to share the views of the Rapporteur, who proposes that a Committee composed of three members of the Council should be instructed to examine this petition. In conformity with current procedure, this proposal would settle the question whether the petition is receivable, and the objection made by the Lithuanian Government would, by this fact, be automatically withdrawn. The Lithuanian Government, however, cannot agree that persons who have never been Ukrainians should now state that they constitute a new minority in Lithuania. It cannot admit that to-morrow, for example, a Kirghiz or some other minority might set themselves up in Lithuania and forward a petition to the Council of the League. The following preliminary question arises : In virtue of what rules can a national minority ask the Council to protect and defend its interests ? The Lithuanian Government does not desire to prejudice the reply to this question, and it is for this reason that my Government proposes that it should be examined, not by a Committee of three members of the Council, but by a Committee of jurists constituted especially for the purpose.

Moreover, this petition comes from persons who themselves state that they are not Lithuanian nationals. The undertaking, however, which we have assumed only affects Lithuanian nationals. If the receivability of the petition be admitted, a Committee would have to examine whether it was well-founded, and would have to state whether the lands belonging to the petitioners had been expropriated in virtue of the Agrarian Law because they constituted a minority recognised as such in Lithuania, or whether, in view of the fact that the petitioners are not Lithuanian nationals, they constitute a minority enjoying or not enjoying special rights. It is for this reason that the Lithuanian Government regrets that it must maintain its position in so far as the question of the receivability of the petition is concerned, though it is ready to agree to the appointment of a special Committee of jurists.

M. PROCOPÉ. — If I have properly understood the arguments of the representative of Lithuania, he contests the receivability of this petition because, in his view, no Ukrainian minority exists in Lithuania.

I wonder if this argument can be taken into consideration, and whether the petition should be declared to be irreceivable. I am disposed to reply that the petition is receivable, and in this to follow M. Urrutia, with whose conclusions I agree.

I would like, however, to make a few observations. In my view, a distinction should be made in this case between questions of form and questions of substance. The resolution of September 5th, 1923, laid down certain standards for judging the receivability of minority petitions. These standards dealt in their essence with questions of form and not with questions of substance. This resolution requires the petition to fulfil certain conditions affecting its basis, its form and its general tenor. The essential condition is that the object of the petition shall be the protection of a minority in conformity with a treaty, that is to say, that the petitioners shall invoke the provisions of a treaty or of an international obligation as a basis for their petition. The question whether this obligation or this treaty is really applicable in the present case constitutes a question of principle which it is not for us to examine when we are considering the receivability of the petition. We have merely to confine ourselves to noting that, in the present case, the petition is based on a treaty and on an international obligation, both of which exist. This seems to me to be obvious from the report of M. Urrutia, which refers to the declaration of May 12th, 1922, compelling the Lithuanian State to treat all its nationals on a footing of equality and attaching the guarantee of the League of Nations to this obligation.

The argument submitted by M. Voldemaras to the effect that no Ukrainian minority exists in Lithuania is an argument affecting the question of substance. A single petitioner can obviously submit a minority petition if he alleges that he represents a minority. The question whether he really represents that minority or whether it really exists is a question of substance which cannot, generally speaking, be settled without examining the whole petition. In any case, the above question is in no way connected with the formal conditions laid down in the resolution of September 5th, 1923. I think that the fact that a petition is declared receivable does not settle the question whether an ethnical, religious or linguistic minority has in fact submitted the petition.

With this reservation, I willingly accept the proposal of M. Urrutia. I see no objection to the appointment of a Committee of jurists, but, in my view, the question of receivability is perfectly clear at this moment. The question of substance whether these twenty-one Ukrainians do, or do not, constitute a minority will have to be settled afterwards.

M. URRUTIA. — I think that the opposition made by the representative of Lithuania to my proposal was due to a misunderstanding. He appears to think that, if the Council declares the petition to be receivable, this will involve the recognition of the existence of a Ukrainian minority in Lithuania. Such, however, is not the case. The Committee of Three preserves its full and entire freedom to state that a Ukrainian minority does not exist in Lithuania. This is one of the points which this Committee will have to examine.

In these circumstances, what will the decision of the Council imply? It will imply that this petition will be studied as usual by a Committee of the Council which will be perfectly free to examine the substance of the questions involved and the form in which the petition has been presented. I do not think, therefore, that the fears of the representative of Lithuania in this respect are justified.

M. VOLDEMARAS. — Once more I much regret that I am not convinced by what has been said.

If we were discussing a question of internal or civil law or even penal law, and if the same point of view as has now been proposed were adopted, we should find ourselves in the following position: A person states, and signs the statement — whether by a false name or not — that someone has committed a crime or a misdemeanour. The examining magistrate receives this statement and asks the accused person to appear before the court. He then says: "Now disprove your guilt". The person bringing the accusation, however, does not exist. He is imaginary. The examining magistrate then says: "That does not matter; it is for the court to say whether the person exists or not; meanwhile, disprove your guilt".

Herein lies the whole difficulty. To declare such a petition as the present one to be receivable means that the Government is required to appear at the bar of the League of Nations

not only as a private person but also in its public capacity, only to find that the petitioner does not exist. Such a procedure is entirely opposed to the procedure followed in penal and civil matters according to the generally recognised legal practice. It is for the plaintiffs to prove that they actually exist and that they are really Ukrainians. It is not for the Lithuanian Government to prove that they do not exist.

If any other procedure were followed, a somewhat dangerous precedent would be created ; for anyone could state (in the present case about twenty persons have signed the petition — there might have been thirty, perhaps) that they constituted a minority and could bring us before an international court.

In this matter you must be careful not to confuse the form with the substance. The form must be observed, as in the case of penal or civil procedure, but no more and no less. If it is admitted that anybody, at any time, can claim the treatment granted to minorities, a Government will find itself in a far worse position than will a private person.

Further, what is the substance involved in the petition ? It raises a question of civil law and the plaintiffs allege that their civil rights have been violated. All codes of procedure throughout the world contain an article providing that any disputes concerning questions of civil law must be dealt with by the civil courts. In this instance, the plaintiffs are not appealing to the civil court but to an institution — the League of Nations — which is of great political and international importance. They ask it to defend their civil rights and not their political rights. They do not say that they are subjected to persecution on account of their religion, but that their land has been taken away from them. This is a case in which they contest a matter of civil law. The Government is in a position to realise from the petition that the matter concerns civil and not public law. It is for this reason that the Lithuanian Government considers that the petition should be declared irreceivable.

M. PAUL-BONCOUR. — I think we must try to find a way out, but it is going to be difficult. From the explanations of the Rapporteur it appears clear that, by the terms of the present regulations, the receivability — and the receivability only — of the petition cannot be contested. M. Voldemaras has just laid before us a number of arguments which, in my view, must be examined.

In order to conciliate both points of view, could we not say that, according to the terms of the present regulations, the petition is not irreceivable, and at the same time could we not appoint a Committee of jurists to study the point raised by M. Voldemaras ?

M. VOLDEMARAS. — Whether a Committee of jurists or of members of the Council be appointed is a matter of indifference to us provided that it is not an ordinary Committee of the Council dealing with a minorities question.

The PRESIDENT. — If I properly understood the Rapporteur, he asks that the petition be declared receivable. This proposal is in conformity with the regulations, as has been shown by M. Paul-Boncour. Once the receivability of the petition is recognised, the matter will be referred to a Committee of Three — the President and two members of the Council — who will study the substance of the question.

The Rapporteur, supported by M. Paul Boncour, proposes that a Committee of jurists should be appointed to consider the concrete points of procedure raised by M. Voldemaras.

If no one objects, I propose that we adopt the report of M. Urrutia, recognising the receivability of the petition, and appoint a Committee of jurists to study in detail the various points raised by M. Voldemaras.

M. SCIALOJA. — I think that one point is not very clear. Receivability has several aspects. It can be limited solely to the form of the petition. In this case the petition is receivable, as the Rapporteur has noted. The question, however, of the capacity of the person to present the petition is also a question of receivability. If, for example, I, an Italian, who am known by everybody to be an Italian, submitted as a Siamese a petition against the Government of Siam, you would not doubt for a moment that my petition was irreceivable. It is, therefore, the weight of the evidence which must lead us to determine whether this question is worthy or not of examination. This is a preliminary question, since it is not concerned with the substance of the matter, and a more general conception of receivability would include these preliminary questions.

I do not think, therefore, that it would be prudent to decide, and so create a precedent which might be cited in other cases, that the question of receivability is not involved when the status of the petitioner is being considered. If, as in this case, the status of the petitioner is in doubt, the Council must of necessity determine that status before examining the substance of the petition. I, personally, consider that this question is also a question of receivability. I do not necessarily wish, therefore, that receivability should be denied in the present case, though I quite agree that we ought to examine the point. After having recognised that the petitioner possesses the necessary status, we can then examine the substance of the petition. This may seem to be legal pedantry, but I always fear that when a decision is taken it may become a definite law and thus constitute a precedent which might hamper us in other cases.

The present question concerns the greater or less amount of evidence which can be adduced as to the status of the petitioner.

M. VILLEGAS reminded the Council that, recently, a Committee of Three for a minorities question had accepted the receivability of a petition. The Government concerned, however, had raised objections on this question of receivability, and the Committee had therefore asked for the opinion of the Legal Adviser of the League of Nations. The Committee of Three had accordingly to begin with the study of this question of receivability.

M. URRUTIA asked whether the observations of M. Scialoja implied an amendment of his proposal.

M. SCIALOJA said that they did not imply an amendment from the practical point of view.

The PRESIDENT put to the vote the proposal that the petition was receivable.

The proposal was adopted.

The PRESIDENT further put to the vote the proposal of the Rapporteur, supported by M. Paul-Boncour, that the concrete points of procedure raised by the representative of Lithuania should be submitted to a Committee of jurists for examination.

This proposal was approved.

EXTRACT FROM THE MINUTES OF THE FIFTIETH SESSION OF THE COUNCIL — MEETING HELD ON
JUNE 9TH, 1928.

The PRESIDENT said that, at its meeting of June 6th, 1928, the Council had examined the question raised by the Lithuanian Government concerning the receivability of petitions from minorities. He would remind members of the Council that its decision of June 6th contained two parts :

1. The Council had decided that the petition in question, which had given rise to certain general observations on the part of the Lithuanian Government, should be considered as receivable.

This decision implied that the subject of the petition in question would be examined by a Committee composed of the Acting President of the Council and two other members appointed by him in conformity with the resolutions of the Council dated October 25th, 1920, and September 5th, 1923, paragraph 4.

2. The Council had also decided that the concrete point of procedure raised by the representative of Lithuania would be examined by a Committee of jurists.

The President asked the representatives of Germany, France, Italy, the Netherlands and Roumania each to appoint a jurist to be a member of this Committee. The Secretary-General would appoint a member of the Secretariat to act as Secretary.

It would be desirable for the Council to examine the Committee of jurists' report on this matter during its session in September 1928.

The proposal of the President was adopted.

EXTRACT FROM THE MINUTES OF THE FIFTY-FIRST SESSION OF THE COUNCIL — MEETING HELD ON SEPTEMBER 8th, 1928.

M. URRUTIA, Rapporteur, read the following report¹:

“By its resolutions of June 6th and 9th, 1928, the Council referred to a Committee of jurists, ‘the concrete point of procedure raised by the representative of Lithuania’ as regards the protection of minorities.

“This Committee, which consisted of MM. Djuvara, François, Fromageot, Gaus and Pilotti, has since formulated an opinion.

“The Council have been informed of this opinion in document C.472.1928.I, and I need only propose that they should take note of it.”

He then read the following opinion of the Committee of Jurists:

“In judging of the receivability of a petition which requests the League of Nations for protection against the Government of a State bound by the special obligations of a Minorities Treaty, it is not the truth or falsehood of the allegations contained in the petition which should be examined, but only the manner of their presentation and their pertinence in the light of the conditions laid down in the resolution of September 5th, 1923.

“In the case of the petition which was the subject of the Council's decision of June 6th and 9th, 1928, it does not appear that, from the point of view of receivability, the objections raised by the Lithuanian Government, including those concerning the truth of the allegations, were such as to require that this petition should not be received.”

The Council noted the opinion of the Committee of Jurists.

9. REQUEST BY THE ALBANIAN GOVERNMENT UNDER ARTICLE 11 OF THE COVENANT CONCERNING QUESTIONS OF THE PROPERTIES OF THE ALBANIANS IN GREECE AND OF THE ALBANIAN MINORITY IN GREECE.

EXTRACT FROM THE MINUTES OF THE FIFTIETH SESSION OF THE COUNCIL — MEETING HELD ON JUNE, 9TH, 1928.

M. Mehdi Frasherri, representative of Albania, and M. Politis, representative of Greece came to the Council table.

M. ZALESKI, Rapporteur, read the following report² and draft resolution:

“Monsieur Adatci, Sir Austen Chamberlain and I have closely examined the Albanian request presented in document C.200.1928.VII, dated May 9th, 1928, as well as the arguments

¹ Document C.473.1928.I.

² Document C.314.1928.VII.

put forward by the representatives of Albania and Greece at the meeting of the Council on June 5th. As a result of this examination I have the honour to submit the following considerations to the Council.

“As regards the question of the properties of Albanian citizens in Greece, direct negotiation between the parties, conducted in a spirit of conciliation, would seem to constitute the most suitable means of reaching a solution. We feel sure that the Council will wish that the interested parties will reach a friendly agreement.

“The communication of the Albanian Government deals also, on the basis of Article 11 of the Covenant, with the situation of the Albanian minority in Greece and puts forward certain complaints concerning the treatment of that minority by the Greek Government.

“We are unanimous in considering that the system of the protection of minorities instituted by the treaties, while having as its principal object the protection of the minority itself, is also intended not only to prevent that questions concerning the protection of minorities should acquire the character of a dispute between nations but to ensure that States with a minority within their borders should be protected from the danger of interference by other Powers in their internal affairs.

“The authors of the Minorities Treaties had this danger clearly in view. They gave to members of the Council the right to call the Council's attention to any infraction or any danger of infraction of the provisions of the Minorities Treaties.

“This, however, does not prevent, under the rules in force, a State not represented on the Council from presenting a petition on the subject of the treatment of a minority.

“The protection of minorities is an international affair, but one of the essential objects of the system established by the treaties and of the procedure laid down by the Council is that, whilst bearing this international character, a case of the protection of minorities should not become a dispute between neighbouring States. Once the matter is before the Council, it becomes an affair between the Council and the State to which the minority belongs nationally, not a question between that State and the State with which the minority is racially connected.

“One of the main objects of the system of the protection of minorities would be frustrated, and an important purpose of the Minorities Treaties themselves would be defeated, if the Council consented to accept as normal an appeal based on Article 11 in lieu of the minority procedure.

“Article 11 should only be invoked in grave cases which produce a feeling that facts exist which might effectively menace the maintenance of peace between the nations. In normal cases, on the other hand, an appeal to Article 11 would create the very dangers which the Minorities Treaties were intended to avert.

“For the reasons given above, it would seem that the Council should abstain from taking into consideration the question raised by the Albanian Government concerning the situation of the Albanian minority in Greece. It should also be pointed out that some of the complaints which have been made are at present in course of being examined under the ordinary procedure as the result of petitions addressed to the League of Nations.

“Resolution :

“ ‘The Council adopts the report of its Rapporteur.’ ”

M. Mehdi FRASHERI, representative of Albania. — I think it my duty, in the first place warmly to thank M. Adatci, Sir Austen Chamberlain and M. Zaleski for their careful consideration of the Albanian request. I feel that I must, very respectfully, take this opportunity to raise a point that concerns small nationalities.

Each time that I come to Geneva in order to represent my little fatherland, Albania, which is so dear to me, I see, on either side, delegates of the small nations who have in their dossiers long lists of complaints against stronger neighbours. This is not due to chance ; people do not cry for nothing, and if the small nations cry louder, it is because they feel pain more than the others. According to the physiologists, there are in the human body, side by side with the large organs, smaller organs which are sometimes microscopic but which, nevertheless, when injured, cause the greatest pain. It would seem from this that nature, in her absolute and immense wisdom, has intended to warn in this way the organism as a whole and especially the brain, in order that measures may be taken for a cure.

When small peoples who have been injured in some way ask for reparation, they do not do so in the name of religious charity or of a philosophic or moral ideal; they do so on behalf of the international community. The health of an organism requires organic balance — in other words, as complete harmony as possible between the various organs. Nature seems to have taken the most minute precautions for safeguarding these small organs, in order that the organism as a whole may not suffer. In the same way, sociology proves the utility and the necessity of the existence of small peoples. There can be no doubt that, in this world, variety is indispensable to the symmetry and the harmony of all fine things.

Justice is not merely a moral ideal; it is indispensable to the general interests of the community. Accordingly, it goes without saying that international justice is an essential condition of existence and especially of the prosperity of humanity as a whole. Herbert Spencer, seeking the basis of morals, shows in a masterly manner that virtue is indispensable to the interests of all, and that injustice is reprobated because it injures the common interests.

Let us revert now to the two questions contained in the Albanian request. That of the Albanian minorities in Greece is to be subjected to the normal procedure and we believe that the competent organs will carefully consider it. What is of importance in this matter is not the procedure but the substance. The League of Nations is a living organism, an organism, it may be said, in full growth; it proceeds from one experience to another; it establishes precedents advantageous to the welfare of the peoples.

As to the question of the Albanian properties in Greece, the Council suggests direct negotiations between the two parties, and it considers that this procedure is most likely to lead to a solution.

Allow me to give, very briefly, some explanations. This dispute between Greece and Albania dates from 1923. Albania, considering Greece as an elder sister, has, in the course of these five years and before resorting to the League, approached on several occasions the Greek Government. It is now the turn of Greece to show its generosity. By acting in this manner, it can rest assured of finding sincere and frank friendship on the part of its neighbour. As regards Albania, its Government will endeavour fully to merit the sympathy that the League has shown to it on several occasions.

M. POLITIS, representative of Greece. — I wish warmly to associate myself with the expression of thanks addressed by the representative of Albania to the distinguished persons who formed the Committee of Three. The care with which they have examined the Albanian request, and the views which I had the honour to put forward, oblige me to express my warm gratitude to these members of the Council.

As a whole, the report has upheld the essential part of the view which I outlined the other day, and in this sense I accept it, in the name of my Government. The Three Rapporteurs have unanimously considered that the request of the Albanian Government cannot be based on Article 11, paragraph 2, of the Covenant.

As regards the question of Albanian property in Greece, the report makes an appeal to a spirit of conciliation. I shall never remain deaf to such appeal, and I intend to ask my Government to reply as generously as possible to it. I must, however, say quite frankly that my Government cannot abandon the legal view by which it maintains that, in accordance with present international law, no State has any obligation to grant to foreigners in connection with a question such as that with which we are now dealing better treatment than that which it grants to its nationals by the terms of a general law. If I properly understand the report, it is not on the basis of law that we are asked to begin negotiations with Albania, it is on a basis of friendship. In that purely friendly spirit the Council can rest assured that the Greek Government will once more respond to its appeal.

As far as the question of minorities is concerned, I have only one short material observation to make. I see that in the last three lines of the report there is a slight omission. The passage refers to the complaints which have already been made the object of petitions, and which are being examined by special Committees of the Council. In order that the whole position of affairs may be completely stated, it should be recalled that some of these complaints have already been decisively dealt with in the sense that the Committee concerned did not think it to be its duty to take account of them.

As far as the rest of the report is concerned, while I thank the Rapporteurs for the care with which they have drawn it up, may I, both as a friend of the League and as its devoted

servant, congratulate them sincerely on having so definitely and decisively confirmed the legal practice followed by the League of Nations in regard to the whole question of minorities.

The other day I had the honour to remind the Council that in 1921 it had rejected a request of the Greek Government asking to be granted the right to lay before the Council questions of interest to the Greek minorities in Albania. I would like to add to-day that the Albanian Government on that occasion forwarded a letter dated June 21st, 1921, to be found in the Minutes of the fourteenth session of the Council, page 159, where it is categorically stated that it would never agree to any kind of open or disguised intervention on the part of Greece in the internal affairs of Albania.

Strengthened by the unanimous view of the three Rapporteurs, and also by the fact that the Council will, I think, adopt their report, the Greek Government states, and no less categorically, that it will never agree to any open or disguised intervention on the part of Albania in the internal affairs of Greece.

This said, may I, in conclusion, express the hope, which I think is well founded, that after this question has been settled, the list of cases in which recourse is had to the Council from one side or another, will be closed. May I express the hope that between these two countries which are neighbours, and which are bound by so many close bonds of race and history, the most friendly relations may be established, not only neighbourly relations but also relations of confident friendship and practical co-operation.

I said the other day that, from the very beginning, my Government has done its utmost to follow such a policy in its relations with Albania and will continue to do so in the future. I sincerely hope that the Albanian Government, inspired by the same feelings, will place no obstacle in the way, but, on the contrary, afford the necessary facilities for the development of this policy of confidence and friendship.

Dr. VON SCHUBERT. — I agree with the solution proposed by the Committee of Three in so far as the Greco-Albanian case with which we are dealing is concerned. While the report emphasises, on the one hand, that recourse to Article 11 as a substitute for the application of the minorities procedure should not become the general rule, it states, on the other hand, that in grave cases Article 11 can be applied to questions of minorities. The question of principle has, therefore, in my view, been satisfactorily settled.

I could confine myself to these observations had it not been for the fact that the representative of the Greek Government in his speech last Tuesday presented certain general observations which, in my view, ought to be examined by the Council, since it is now dealing with the question.

At the end of his speech, after having referred to the request of the Albanian Government concerning the treatment of Albanian minorities in Greece, he made certain observations regarding the general development of the problem of minorities as a whole, and he criticised this development somewhat severely. He even said that the greatest danger to the peace of the world would arise if the present situation were not remedied.

I must confess that these remarks surprise me somewhat. They might almost give the impression that the Council's duty at the moment is less to protect minorities than to oppose any tendency to safeguard the rights of these minorities. I note with satisfaction that such a view has not been expressed in the report before us. If it had been otherwise, I could not have accepted the report since I cannot admit that such a conception is correct. Even though emphasis has been laid on several occasions — and once more in the report — on the fact that the problem of minorities is an international one, it is obvious that this should not mean that the importance of the rights of minorities are lessened, but, on the contrary, it should throw into sharp relief the serious and sacred character of those rights.

This is no question of simple contractual stipulations between two States, stipulations which may be modified when the two parties so wish. It is a question of an international institution of the highest character. Nobody will deny that this institution may, like all human institutions, one day encounter difficulties, and I should be the last person to defend the tendencies that would make the rights of minorities the basis for all kinds of pettiness, which, moreover, has never, within my knowledge, occurred. I do not, therefore, see any serious danger from this source. On the other hand, there would be a serious danger, if the idea of which I have just spoken were to spread. If the rights of minorities are applied by all concerned in the spirit which established those rights, we may be sure that, far from setting

up barriers between the States concerned, those rights may well constitute a bond between them.

My motive in offering these few observations was not a belief that it is necessary to remind the members of the Council of the important task laid upon them by the Minorities Treaties. I have not the slightest doubt that the Council fully realises the importance of this task. I only wished not to leave unanswered the observations of M. Politis.

Sir Austen CHAMBERLAIN. — Mr. President, — The supervision of the Minorities Treaties and the consideration of the petitions which are made in pursuance of them is one of the most important, but at the same time one of the most delicate, tasks that the League and this Council have to perform.

The right of petition is not confined, as we have noted in this report, to the minority. A State Member of this Council can at any time bring a minority question directly before the Council, if, in its capacity as a Member of the Council, it feels it its duty so to do, and a State which is not a Member of the Council has also the right to present a petition upon a minority question. As regards any ordinary minority case, therefore, there is without appeal to Article 11, ample means of access to his high tribunal, and just because these questions are so delicate and may so profoundly affect international relations I think it is — as noted in our report — of the greatest importance that, in normal cases, the normal procedure should be followed and that only in cases of real and profound gravity should we have recourse to Article 11 of the Covenant.

I feel sure that if the Council approves the views expressed in the report of the Committee as to the course which, in such cases, it is desirable to take, we shall have served the interests of peace and we shall have helped to solve some future cases which, if they were brought to us under Article 11, might assume a quite unnecessary gravity and cause us quite unnecessary embarrassment.

I should like to add one word about the reception which our report has received from the representative of Albania and the representative of Greece.

I venture to express to them my warm appreciation of the spirit of goodwill and of conciliation in which they have accepted the report and promised to undertake the direct negotiations which we have suggested. If the same goodwill presides, as I am sure it will, at those conversations as has been shown at the Council table to-day, I do not doubt that not only the present difficulty will be settled but that those happier relations between two kindred and neighbour countries, which both representatives so earnestly desire, will be assisted by the result of their work.

The resolution was adopted.

M. Politis and M. Mehdi Frasheri withdrew

APPENDIX.

APPLICATION OF PART III, DIVISION III (RIGHT OF PETITION AND METHODS OF APPEAL) OF THE GERMANO-POLISH CONVENTION OF MAY 15TH, 1922, RELATING TO UPPER SILESIA.

EXTRACT FROM THE MINUTES OF THE FIFTY-FIRST SESSION OF THE COUNCIL—
MEETING HELD ON SEPTEMBER 8TH, 1928.

PROTECTION OF MINORITIES IN POLISH UPPER SILESIA: PETITIONS ADDRESSED TO THE COUNCIL IN VIRTUE OF ARTICLE 147 OF THE GERMANO-POLISH CONVENTION OF MAY 15TH, 1922, CONCERNING UPPER SILESIA.

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- (c) *Petition, dated August 3rd, 1928, from the Deutscher Volksbund of Polish Upper Silesia, relating to the forwarding to the Council of an Appeal lodged on June 4th, 1928, under Articles 149 and 157 of the Geneva Convention.*

M. URRUTIA read the following report and draft resolution¹:

I.

" The Council has before it a petition dated August 3rd, 1928, addressed to it direct by the Deutscher Volksbund of Polish Silesia in virtue of Article 147 of the Geneva Convention, and relating to the Polish Government's failure to forward to the Council an appeal lodged by the petitioners under Articles 149 and 157 of that Convention.² According to the petition, the Deutscher Volksbund, on behalf of the Krolewska Hucka Spółka Pieczy (Krolewska Huta Benevolent Society), had lodged a petition under Article 149 of the Geneva Convention on the ground of infringement by the Polish authorities of Articles 75, 81 and 98 of that Convention. In accordance with the procedure laid down in Article 149, the President of the Mixed Commission for Upper Silesia gave an opinion on the case on March 29th, 1928, and, since the action taken thereupon by the administrative authorities failed to satisfy the petitioners, the latter, on June 4th, 1928, lodged an appeal with the Council of the League of Nations under Articles 149 and 157 of the Geneva Convention.

" The Polish Government submitted its observations in a note dated August 20th, 1928. It is of opinion that the provisions of the Geneva Convention concerning the forwarding of appeals lodged under Articles 149 and 157 of the Geneva Convention are framed in a manner that allows the signatory Governments to examine, at each stage of the transmission, all possible methods of settling the question in accordance with the wishes of the minority. The Polish Government cannot, therefore, consent to a purely formal and, as it were, automatic transmission of appeals. The Polish Government further suggests that the principles of the procedure laid down by the Council for minority petitions, as defined in the Secretary-General's report to the sixth Assembly, should be applied, by analogy, to petitions presented under Article 147 of the Geneva Convention.

¹ Document C.468.1928.I.

² The petition and the Polish Government's observations thereon were communicated to the Members of the Council in document C.402.1928.I.

"As regards the actual question dealt with in the appeal lodged by the Deutscher Volksbund on June 4th, 1928, the Government states in its observations that this question is being re-examined by the competent central authorities, and that the Government is accordingly unable to offer any observations upon it. The petitioners, however, have now addressed to the Secretary-General a letter, dated August 23rd, 1928, asking, in consequence of a communication received from the Minorities Office on August 18th, that the Council should suspend consideration of the petition before us. In these circumstances, I think I may reasonably propose that the Council defer consideration of the actual question dealt with in the petition from the Deutscher Volksbund dated August 3rd, 1928.

II.

"I will, however, ask the Council to allow me to make a few suggestions in connection with two more general points relating to the application of certain provisions in the Geneva Convention to which reference has been made in the case now before us. I allude, in the first place, to the forwarding to the Council, by the Government concerned, of appeals lodged by the minority under Articles 149 and 157 of the Convention; and, secondly, to the procedure applicable to petitions addressed direct to the Council under Article 147 of the Convention.

"1. Article 157 of the Geneva Convention, which provides for the forwarding to the Council, by the Government concerned, of appeals lodged by the minority under Article 149, reads as follows:

" 'The appeal to the Council of the League of Nations provided for in Article 149 shall be addressed to the Minorities Office. The latter shall arrange for its transmission to the Council by the Government.'

"I would recommend the Council to accept the interpretation of this article given by the Polish Government, namely, that the transmission of appeals therein provided for should not be purely formal and automatic, but that at each stage of the procedure the Government should have an opportunity of settling the question in accordance with the wishes of the minority. On the other hand, as I pointed out in the report adopted by the Council on March 7th, 1928, concerning the school at Biertułtowy, in Polish Upper Silesia, it is highly important for the efficient operation of the system of minority protection instituted in Upper Silesia by the Geneva Convention that appeals from the minority under Articles 149 and 157 of the Convention should be forwarded to the Council without delay by the Government concerned. Indeed, I think it would be most desirable for the Council to go so far as to specify the period within which such appeals should as a rule be forwarded by the Governments, provided always that, in exceptional cases, the Government might ask for an extension of the period — to be granted at the discretion of the President of the Council — for not more than one month. I suggest that the period in question should be two months. Furthermore, it would seem reasonable that when, on any question, an appeal has been lodged under Articles 149 and 157 of the Convention, it should not be permissible to address a petition on the same question direct to the Council under Article 147 of the Convention unless the Government concerned, having failed to settle the question in accordance with the wishes of the minority, has neglected to forward the appeal to the Council within the period prescribed.

"2. According to the procedure at present in force, petitions addressed direct to the Council under Article 147 of the Geneva Convention, are placed on the agenda of the next session of the Council following their receipt by the Secretariat. In several cases petitions received by the Secretariat a few weeks, or even a few days, before the opening of a session of the Council have been placed on the Council's agenda and communicated to its Members almost at the same time as they were transmitted to the Government concerned, and in any case without that Government's being given reasonable time to submit its observations to the Council. I am sure the Council will realise the disadvantages of this method, which is wholly inconsistent with one of the principles of the normal procedure in regard to the protection of minorities — that, except in urgent cases, the Government concerned should be given reasonable time to submit its observations so that they may be communicated to the Members of the Council simultaneously with the petition.

"To obviate these disadvantages, the Polish Government suggested in its note of August 20th, 1928, that the principles of the normal procedure in regard to the protection of minorities

should be applied to petitions addressed to the Council under Article 147 of the Geneva Convention. One of the fundamental principles of this procedure — that to which I have just referred — should, I think, apply also to these petitions. I consider that a time-limit should be laid down for the period which may elapse between the date on which a petition lodged under Article 147 of the Geneva Convention is communicated to the Government concerned and the date on which it is distributed to the Members of the Council and placed on the agenda. In this case it would seem reasonable to lay down the same period — two months — as has been fixed by the Council for the normal procedure, provided always that the Government concerned has the option of asking for an extension — to be granted at the discretion of the President of the Council — of not more than one month. In extremely urgent cases, of course, this time-limit would not operate; the petition would be communicated to the Members of the Council and the question placed on the agenda at the same time as the petition was forwarded to the Government concerned. The same rule would apply in the case of petitions relating to questions which have been the subject of appeals under Articles 149 and 157 where such appeals have not been forwarded to the Council either within the prescribed period of two months or, in case of extension, within the period fixed by the President of the Council.

III.

“ Having regard to the foregoing considerations, I propose that the Council adopt the following resolution :

“ 1. The transmission provided for in Article 157 of the Geneva Convention relating to Upper Silesia of appeals lodged by the minority under Article 149 of that Convention shall be made within two months from the date on which the appeal is lodged with the Minorities Office. This period may be extended by the President of the Council at the request of the Government concerned, such extension not to exceed one month.

“ 2. When a question has been the subject of an appeal under Articles 149 and 157 of the Convention, no petition on the question may be addressed direct to the Council under Article 147 unless the Government concerned has failed to settle the question in accordance with the wishes of the minority and has neglected to forward the appeal to the Council within the prescribed period of two months. In this case the petition shall be circulated to the Members of the Council and the questions placed on the agenda at the same time as the petition is communicated to the Government concerned.

“ 3. Petitions addressed direct to the Council by the minority under Article 147 of the Geneva Convention shall be communicated by the Secretary-General to the Government concerned for any observations it may wish to make, as soon as they are received by the Secretariat. The Governments concerned shall be given a period of two months from the date on which the petition is transmitted to them in which to send their observations to the Secretariat. The petitions shall be communicated to the Members of the Council and the questions to which they relate shall be placed on the agenda of the Council as soon as the observations of the Government concerned are received by the Secretariat; should these observations not be received within the period prescribed, the petition shall be communicated to the Members of the Council and the question placed on the agenda on the expiry of the time-limit. The time-limit may be extended by the Acting President of the Council at the request of the Government concerned, such extension not to exceed one month. In extremely urgent cases the Secretary-General shall communicate the petition to the Members of the Council as soon as it is received by the Secretariat, and shall arrange for the question to be placed on the agenda of the next session of the Council. At the same time he shall forward the petition to the Government concerned for its observations.”

The draft resolutions were adopted.

PART III.

RESOLUTIONS AND REPORTS ADOPTED BY THE ASSEMBLY.

A.163.1921.

1. REPORT PRESENTED TO THE ASSEMBLY AT ITS SECOND ORDINARY SESSION
BY THE FIRST COMMITTEE ON PROFESSOR GILBERT MURRAY'S MOTION OF
SEPTEMBER 12TH, 1921.

Adopted by the Assembly on October 4th, 1921.

Chairman : M. V. SCIALOJA.

General Rapporteur : M. Herluf ZAHLE.

Sub-Committee Rapporteur : M. FREIRE d'ANDRADE.

The Assembly, on September 15th, 1921, referred to the First Committee a motion submitted to the Assembly on September 12th by Professor Gilbert Murray, delegate for South Africa. This motion was worded as follows :

“ That, in order effectively to carry out the duties of the League in guaranteeing the protection of minorities, the Council be invited to form a permanent Commission to consider and report upon complaints addressed to the League on this matter, and, where necessary, to make enquiries on the spot.”

The Committee heard on September 28th the report of the Sub-Committee which had considered the procedure at present in force as regards the protection of minorities by the League of Nations. The Committee took special note of a resolution adopted by the Council on October 25th, 1920, at Brussels.

This resolution was worded as follows :

“ For a definition of the conditions under which the Council shall exercise the power granted to it by the Covenant and by various Treaties for the Protection of Minorities, the Council approves a resolution which will be inserted in its Rules of Procedure :

“ With a view to assisting Members of the Council in the exercise of their rights and duties as regards the protection of minorities, it is desirable that the President and two Members, appointed by him in each case, should proceed to consider any petition or communication addressed to the League of Nations with regard to an infraction or danger of infraction of the clauses of the Treaties for the Protection of Minorities. This enquiry would be held as soon as the petition or communication in question had been brought to the notice of the Members of the Council. ”

The Committee took note of the fact that, so far, no petition had been brought before the Council by the Committees provided for in the resolution dated October 25th, 1920. The Committee, however, is of opinion that the procedure provided for by the resolution is capable of giving satisfactory results and that, in a general way, it meets the desire expressed in Professor Gilbert Murray's motion.

Professor Murray stated that he shared this opinion and withdrew his proposal.

The Committee expresses its appreciation of the manner in which the Council, by its resolution of October 25th, 1920, anticipated and solved the questions raised by Professor Murray's motion.

The Committee expresses its satisfaction at the steps taken by Mr. Murray in this matter, which make it possible for the Assembly to take note of the action already undertaken by the Council.

2. REPORT PRESENTED TO THE ASSEMBLY AT ITS THIRD ORDINARY SESSION
BY THE SIXTH COMMITTEE.

Adopted by the Assembly on September 21st, 1922.

President : M. le Jonkheer LOUDON.

Rapporteur : M. MOTTA.

The Assembly, in a decision dated September 9th, 1922, referred to the Sixth Committee the proposals expressed in the general discussion on the work of the Council concerning the question of the protection of minorities :

1. The proposal submitted by the delegate for South Africa, Professor Gilbert Murray, which runs as follows :

“ That the questions dealt with in Chapter 9, Sections A, B, C and D of the General Report to the Assembly on the Work of the Council be referred to a Committee of the Assembly, with the request to report thereon to the Assembly in order that the latter may have an opportunity of expressing its considered view on these questions.”

2. The proposal submitted by the delegate for Latvia, Dr. Walters. This proposal which enlarges the scope of the preceding one, is as follows :

“ That the questions dealt with in Chapter 9, Sections A, B, C and D of the General Report to the Assembly on the Work of the Council, as well as the general questions arising out of the protection of minorities for all the Members of the League of Nations, be referred to a Committee of the Assembly, with the request to report thereon to the Assembly in order that the latter may have an opportunity of expressing its considered view on these questions, and of laying down the main lines for the general protection of minorities in the States Members of the League of Nations.”

The Sixth Committee discussed the important question of the protection of minorities at five meetings. At the first meeting, Professor Gilbert MURRAY, the South African delegate, submitted draft resolutions drawn up after protracted research and many conversations with important persons from various countries and milieux.

These draft resolutions run as follows :

“ 1. While in cases of grave infraction of the Treaties it is necessary that the Council retain its full power of direct action, the Committee recognises that in ordinary circumstances the League can best promote good relations between the various signatory Governments and the minorities under their sovereignty by benevolent and informal communications with the said Government. For this purpose the Committee suggests that the Council might reasonably require to have a larger staff at its disposal.

“ 2. In case of disputes as to the interpretation of the Treaties or of their application in particular cases or as to any matter of fact on which such application depends, the Committee recommends that recourse should be had without delay to the decision of the International Court.

“ 3. In some localities of mixed population, the Committee believes that the protection of minorities cannot be securely attained except by the appointment of resident agents of the League to report impartially on the behaviour of both, or all, sections of the population.

“ 4. While the Committee recognises the primary right of the minorities to be protected by the League from oppression, it also emphasises the duty incumbent in the persons belonging to minorities to co-operate as loyal fellow-citizens with the nation to which they now belong.

“ 5. The Committee expresses the hope that those States which are not bound by any legal obligation to the League with respect to minorities will nevertheless observe in the treatment of their own minorities at least as high a standard of justice and toleration as is required by any of the treaties.”

Although the Committee did not give its unanimous approval to all the points in the proposals submitted by the South African representative, they provided an extremely useful basis for the whole discussion. Many delegates then took part in an exhaustive discussion on the subject, during which the Estonian, Finnish, Latvian, and Czechoslovak delegates submitted special proposals. The Committee unanimously agreed to adopt the following declarations :

“ 1. While in cases of grave infraction of the Minorities Treaties it is necessary that the Council should retain its full power of direct action, the Committee recognises that in ordinary circumstances the League can best promote good relations between the various signatory Governments of Minorities Treaties and persons belonging to racial, religious or linguistic minorities placed under their sovereignty by benevolent and informal communications with those Governments. For this purpose, the Committee suggests that the Council might require to have a larger secretarial staff at its disposal.

“ 2. In case of difference of opinion as to questions of law or fact arising out of the provisions of the Minorities Treaties, between the Government concerned and one of the States Members of the Council of the League of Nations, the Committee recommends that the Members of the Council appeal without unnecessary delay to the Permanent Court of International Justice for a decision in accordance with the Minorities Treaties, it being understood that the other methods of conciliation provided for by the Covenant may always be employed.

“ 3. While the Committee recognises the primary right of the minorities to be protected by the League from oppression, it also emphasises the duty incumbent upon persons belonging to racial, religious or linguistic minorities to co-operate as loyal fellow-citizens with the nations to which they now belong.

“ 4. The Committee expresses the hope that the States which are not bound by any legal obligations to the League with respect to minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the Treaties and by the regular action of the Council.

“ 5. The Secretariat-General, which has the duty to collect information concerning the manner in which the Minorities Treaties are carried out, should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to racial, linguistic or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire.”

Professor Murray, representative of South Africa, further pointed out that in certain localities of mixed population, where conflicts were frequent and serious, order had frequently been maintained and tranquillity restored by the mere presence of consuls or other representatives of foreign Governments, who could impartially report on events and bring to bear the influence of a wider public opinion. He observed that cases might arise in which the presence of resident representatives of the League might have an even more beneficent effect in view of the disinterestedness and the moral prestige possessed by the League, and suggested that the Council might well consider the desirability in suitable cases of employing such representatives, with the consent of the Government concerned, to allay public excitement and gradually restore tranquillity in disturbed districts.

The Committee felt the force of these observations and wished to place them on record, but considering the variety of possible contingencies which may have to be met, and the wide discretion in the hands of the Council for meeting them, thought best not to embody the proposals in a definite resolution.

Dr. Walters, Latvian representative, told the Committee that the Latvian delegation had hoped, by means of its draft resolution mentioned above, to give rise to a thorough investigation, by the Sixth Committee, of the minorities question, both as regards its general aspects and as regards its details. He hoped that the Committee's discussions might lead to the creation of a system of legislation for minorities founded on the same basis in all countries.

The Finnish delegate then proposed that the Assembly should request the Council to appoint a committee to investigate the question of the protection of minorities in general and to submit a report to the next Assembly. This proposal was supported by the Estonian delegate, but was withdrawn owing to the consideration that the resolutions already adopted by the Committee and mentioned above provide for a searching enquiry by the Council and the Secretariat into minorities questions, and also that the establishment of a special committee would involve considerable expense.

The Committee has the honour to submit the following *draft resolution* to the Assembly :

“ The Assembly approves the report of the Sixth Committee with regard to the protection of minorities and accordingly takes the following resolutions :

“ 1. While in cases of grave infraction of the Minorities Treaties it is necessary that the Council should retain its full power of direct action, the Assembly recognises that in ordinary circumstances the League can best promote good relations between the various signatory Governments and persons belonging to racial, religious or linguistic minorities placed under their sovereignty by benevolent and informal communications with those Governments. For this purpose, the Assembly suggests that the Council might require to have a larger secretariat staff at its disposal.

“ 2. In case of difference of opinion as to questions of law or fact arising out of the provisions of the Minorities Treaties, between the Government concerned and one of the States Members of the Council of the League of Nations, the Assembly recommends that the Members of the Council appeal without unnecessary delay to the Permanent Court of International Justice for a decision in accordance with the Minorities Treaties, it being understood that the other methods of conciliation provided for by the Covenant may always be employed.

“ 3. While the Assembly recognises the primary right of the minorities to be protected by the League from oppression, it also emphasises the duty incumbent upon persons belonging to racial, religious or linguistic minorities to co-operate as loyal fellow-citizens with the nations to which they now belong.

“ 4. The Assembly expresses the hope that the States which are not bound by any legal obligations to the League with respect to Minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the Treaties and by the regular action of the Council.

“ 5. The Secretariat-General, which has the duty to collect information concerning the manner in which the Minorities Treaties are carried out, should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to racial, linguistic or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire.”

A.98.1923.I.

3. REPORT SUBMITTED TO THE ASSEMBLY AT ITS FOURTH ORDINARY SESSION BY THE SIXTH COMMITTEE.

Rapporteur : Professor GILBERT MURRAY (South Africa).

At its meeting on September 22nd, 1923, the Assembly adopted a Resolution which I had submitted to it and which was worded as follows :

“ The Assembly refers to the Sixth Committee, for consideration, the question of the procedure in dealing with the protection of minorities mentioned in paragraph IV of Chapter 8 of the Supplementary Report on the work of the Council and the Secretariat.”

The Sixth Committee considered this question at its meeting on September 25th. The Committee was good enough to invite me to be present on that occasion. I drew the Committee's attention to the proposals concerning the procedure to be followed in matters regarding the protection of minorities, which are contained in the Notes addressed to the League of Nations by the Polish and Czechoslovak Governments; these Notes are mentioned in the Supplementary Report on the work of the Council and of the Secretariat.

At its meeting on September 5th, 1923, the Council, after having considered these proposals, defined various points and modified to some extent the method of procedure in force until now.

An interesting discussion took place in the Sixth Committee, in which the representatives of Poland, Roumania, Bulgaria, Latvia, Estonia and Hungary took part, as did also the Chairman, M. Hymans, who, in his capacity as a Member of the Council, was good enough to furnish certain information regarding the scope of the resolution of the Council.

The Committee did not discuss the various clauses of the Council resolution of September 5th, but confined itself to the consideration of one particular point, namely, the clause of the resolution according to which the communication to the Members of the League of minorities petitions and observations (should there be any) by the Government concerned, in conformity with the resolution dated June 27th, 1921, shall be restricted to the Members of the Council.

In this connection the Committee desired to recall the resolution adopted by the Third Assembly on September 21st, 1922, paragraph 5, which is worded as follows :

"The Secretariat, which has the duty of collecting information concerning the manner in which the Minorities Treaties are carried out, should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to the racial, linguistic, or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire."

The Committee unanimously agreed that this resolution was applicable to the minorities petitions which, under the terms of the Council resolution of September 5th, 1923, shall be communicated to the Members of the Council. The Committee therefore decided to recommend to the Assembly to adopt the following resolution :

"Under the Resolution of the Council, dated September 5th, 1923, the communication of minorities petitions shall be restricted to the Members of the Council. However, by virtue of paragraph 5 of the Assembly Resolution, dated September 21st, 1922, any Government Member of the League can make a request to the Secretariat for petitions (with the observations of the Government concerned) which have been communicated to the Council to be communicated also to that Government."¹

A.88.1925.I.

4. REPORT AND RESOLUTION SUBMITTED TO THE ASSEMBLY AT ITS SIXTH ORDINARY SESSION BY THE SIXTH COMMITTEE.

Rapporteur : Count VAN LYNDEN VAN SANDENBURG (Netherlands).

The Assembly, by its decision of September 15th, referred to the Sixth Committee the following proposal submitted on September 14th, 1925, by M. Galvanauskas, Lithuanian delegate :

"The Lithuanian delegation proposes that the Sixth Assembly of the League should set up a special Committee to prepare a draft general Convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to Minorities."

¹ This Resolution was adopted by the Assembly at its meeting on September 26th, 1923.

The Sixth Committee fully discussed this very important question at its meeting on September 16th, many delegates taking part in the discussion. On the one hand, the attention of the Committee was drawn to the fact that the treaties and declarations for the protection of minorities of race, language or religion are only the concern of certain States, while other States are exempt from such obligations, and this would not be in conformity with the principle of equality between States. On the other hand, several delegates pointed out that this way of looking at the question was not correct, since the special position of States bound by certain treaties or declarations was the result of special circumstances prevailing in those States.

During the discussion, the question also arose of the procedure followed by the Council and the Secretariat for dealing with concrete questions relating to the protection of minorities. In this connection, the Committee discussed paragraph VI of Chapter 7 of the Supplementary Report to the Assembly on the Work of the Council, on the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly. Several speakers paid a tribute to the work accomplished by the Council in the execution of its delicate duties and emphasised the merits of the procedure at present in force ; some suggestions were made that this procedure might be improved, but it was pointed out that, whatever was done, the provisions of the Minorities Treaties must be respected.

At the end of the discussion, it was proposed that the Committee should recommend the Assembly to give its formal approval to the above-mentioned part of the report, and this proposal was favourably received by various speakers.

M. Beneš, the Czechoslovak representative, proposed that, in view of the difference of opinion mentioned above, the Committee might unanimously recommend that the Assembly should refer the discussions of the Committee on the Lithuanian proposal to the Council of the League.

In view of this proposal, M. Galvanauskas, Lithuanian representative, stated that he withdrew his proposal. In order to bring M. Beneš' proposal into line with the situation thus created, Viscount Cecil, representative of the British Empire, proposed that the Committee should adopt the following resolution :

" The Committee approves that part of the Council's report which relates to minorities and, the Lithuanian representative having withdrawn his proposal, the Committee communicates to the Council the debate which has taken place in this connection."

Viscount Cecil's proposal was approved by the Committee.

The Sixth Committee has decided to submit the following draft resolution to the Assembly for approval :

" The Assembly takes note of the Sixth Committee's report with regard to protection of minorities and adopts the following resolution :

" The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly, dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report). The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925 the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection."

This resolution was adopted by the Assembly on September 22nd, 1925.

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