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INTERNATIONAL ^{629.1}
CONTROL ₃₄₁ of
AVIATION

By KENNETH W. COLEGROVE

*Professor of Political Science,
Northwestern University*



WORLD PEACE FOUNDATION
BOSTON, MASSACHUSETTS
1930

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INTERNATIONAL CONTROL OF AVIATION

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I. THE PROBLEM OF INTERNATIONAL AVIATION

GREAT mechanical inventions promote world-wide communication and make modern life rich and varied.

At the same time they add to the complexity of international relations. The last several centuries have witnessed a struggle for freedom of the seas. In recent years, the railroad, the telegraph and telephone, wireless telegraphy, the submarine, the dirigible and the airplane have increased the necessity for universal cooperation and regulation. Finally, to-day there has appeared a new international competition, a rivalry for the control of air routes, quite as energetic as the great struggle to control the seas.

While the development of commercial aviation is a matter of only the last few years, nevertheless a notable amount of conventional law and international machinery has appeared, and there are indications that this development will go even further. It has been deemed that the dangerous elements of commercial rivalry can be largely eliminated and the growth of foreign traffic promoted by a timely enhancement of interstate cooperation in the régime of the air.

The new problem of international regulation may be studied in three phases. One phase concerns the regulation of aircraft in the course of interstate journeys. The second includes the diplomatic questions that arise from the development of air-

lines and manufacture of aircraft by governments as a means of promoting their trade, colonial expansion and national defense. A third phase concerns the regulation and limitation of aircraft as a weapon of war.

ORIGIN OF AIRCRAFT REGULATION

The first phase, regulation of international air traffic, takes its origin from the diversity of national laws. An airplane owned by British subjects and registered under British laws, while it is flying over British territory, is amenable to British rules regarding airworthiness, pilot licenses and other matters. But when this airplane crosses the English Channel and enters French jurisdiction it is amenable to French law. The air rules of France may not coincide with the rules of Great Britain, and this dissimilarity may be the source of endless inconvenience.

In the realm of air law, national legislation preceded international legislation. Indeed, national regulation began at an early stage in the history of aviation—an art which has been particularly subject to what Emerson calls the human passion for laws. It seems as if legislators feared a sinister element in the navigation of the air, born of ancient superstition, and sought to safeguard the people from some diabolical power attacking the human race from the heavens. In 1782, after centuries of speculation as to the ability of man to fly, the brothers Montgolfier, at Avignon, proved that a silk bag, laboriously filled with hot air made by a fire of sticks, would rise in the sky and float with the wind. A year later, a French physicist substituted for hot air "inflammable air" or the newly discovered hydrogen, made in crude fashion by pouring a quarter of a ton of sulphuric acid on half a ton of iron filings. This contraption, after being launched from the Champs de Mars, rose a thousand feet and was carried out of sight: finally, it fell 15 miles from Paris, much to the consternation of peasants who attacked the fearful demon with pitchforks, and dragged it from the end of a

horse's tail until naught but shreds remained. Another year later, the first experiment of carrying passengers by balloon was successfully carried out in the Bois de Boulogne. Legislation almost immediately followed. In 1784, the lieutenant-general of police in Paris published a decree forbidding balloon ascents without police authorization.¹ In 1819, the prefect of the Seine prohibited the use of balloons filled with hot air, required that all balloons be equipped with parachutes, and forbade all ascents until after the farmers' crops were harvested. Similar early legislation is to be found among the police decrees of other states, both in Europe and America.

In like manner, police regulations promptly followed the development of the airplane, and even preceded it. The long contest to conquer the air with an aerial screw, which began with Leonardo da Vinci, saw realization in 1903 with the experiment of the Wright brothers at Kitty Hawk. By 1909, the airplane driven by motor had advanced so far that Blériot was able to fly across the English Channel; and in 1919, Alcock and Brown, in a Vimy bomber, spanned the Atlantic. Meanwhile, in nearly all countries where air navigation developed, the airplane was not only subject to many of the regulations concerning balloons, but also to special legislation regarding licenses to fly and damages for injuries inflicted by accidents.

It is not to be assumed that the national legislation was unnecessary or unduly restrictive. The public is entitled to protection against ignorant, careless or wilful pilots and aircraft owners whose actions might bring destruction of life and property. Few will deny the wisdom of the state in requiring aircraft to be inspected in order to test their airworthiness, to be registered in order to establish their ownership and insure the responsibility thereof, and to require pilots to be examined and licensed in order to guard citizens

¹ Compare *Abonnement des Édits et Arrêts pour la Ville de Paris et Toutes les Provinces et Villes du Royaume, Franc de Port* (Paris, 1885).

from the danger of inexperienced and negligent pilots. But in the fifty-odd countries having legislation on aviation great diversity of regulations soon appeared—a diversity which became inconvenient as soon as airplanes crossed the boundary lines of their native states.

THE MOVEMENT FOR INTERNATIONAL CODIFICATION

Even before the invention of the motor-driven airplane, while balloons were the only means of air traffic, the question of international codification of aerial law engaged the attention of farseeing jurists. In general, it may be said that the jurists have emphasized the fact that national legislation should not retard the development of the marvelous invention of flying, nor lay down hide-bound rules that hinder progress toward international uniformity where similarity of rules is necessary or desirable. In the admirable words of Professor Garner,¹

Everyone will admit that the usage of the air as a means of traffic ought to be regulated not only to assure liberty of movement for all nations, but also to protect the subjacent states and their inhabitants from the dangers to which they are exposed by the flight of aircraft or by the landing of aircraft on their territory. It is also admitted that this regulation should be international as well as national. Everyone agrees that there is a considerable field which should be left to the regulation of the different states, governed by the traditions of these states and by local conditions. In brief, the task is two-fold. It is necessary to have an international code limited to general principles and to the points upon which a uniformity of legislation is desirable in the interest of international navigation. On the other hand, each state should have a national code regulating the points where uniformity of legislation is not essential. The rules of the national codes should include and conform with the rules of the international code, as well as extend and complete them.

¹ James W. Garner, "La Réglementation Internationale de la Navigation Aérienne" in *Revue de droit international et de législation comparée* (1923), 3rd ser., IV, p. 356.

In the various attempts to formulate an international code for air navigation many problems have arisen. Three of them which have offered peculiar difficulties include: (1) the extent of the control of a state over the air above its territory, (2) the definition of nationality as applied to aircraft, and (3) the dividing line between an international code and national codes.

The first problem has long attracted the serious consideration of jurists and statesmen. It is intimately related to the question of freedom of aerial traffic. On the one hand, there are jurists who like to hold that the atmosphere is a sort of fourth dimension, an oceanic envelope surrounding the earth, that nations border its earthly limit in the same way as they border the sea, that the air should be treated legally as the sea, and that no nation has jurisdiction over the atmosphere just as no nation has authority over the high seas. The conclusion of this theory is that the same freedom of the seas should extend to the air, and that aerial navigation should be unhampered.¹ On the other hand, the sweeping assertion of state sovereignty rests upon Roman law, as stated by the glossators: *Qui dominus est soli dominus est cæli et inferorum*. This refers not only to private property rights, but also, in the modern application, to the sovereignty of the state; it means that the state has absolute jurisdiction over the soil, and everything beneath it and all above it.

French jurists have taken the lead in the assertion of freedom of the air. At the sessions of the Institut de Droit International in 1906 and 1910, the doctrine of Fauchille—"the air is free; states have, in time of peace and in time of war, only the rights necessary for their self-preservation"—was adopted in preference to the Westlake resolution asserting complete state sovereignty.² In 1910, the International Con-

¹ Compare Paul Fauchille, *Domaine Aérien et le Régime Juridique des Aéronefs* (Paris, 1901), p. 11-15; and *Traité de Droit International Public* (Paris, 1923-1925), vol. i, sec. 531; André Henry-Collanin, *Éléments Créateurs du Droit Aérien* (Paris, 1929), p. 101-145.

² See below p. 42.

ference on Aerial Navigation at Paris with 18 Governments participating broke up because of an impasse between the French and the British, the latter resisting all efforts to open its borders indiscriminately to the aircraft of every nation.¹ The British aerial navigation acts of 1911 and 1913 placed foreign aircraft under the strictest supervision, conferring power on a secretary of state to exclude at his discretion all foreign aircraft.

There is little doubt that the British contention of absolute sovereignty is more in conformity with the present status of international development. This concept was positively asserted in the first international code for aerial law actually adopted, the air navigation convention of 1919, which provides in its first article: "The high contracting parties recognize that every power has complete and exclusive jurisdiction over the air space above its territory." It is probably not an exaggeration to say that no article of this convention is less liable to amendment in the near future than the one giving complete recognition to the absolute jurisdiction of the subjacent state over the atmosphere.

The second problem of international codification concerns the nationality of aircraft. Human experience has shown the necessity for registering the nationality of ships that sail the seas. Likewise it appears reasonable to insist that aircraft should be registered under a flag. But, what is to be the proper rule for nationality of aircraft? Should the nationality of the proprietor determine the nationality of the aircraft? What if the aircraft is owned by several proprietors of different nationality? What if the pilot is of different nationality than the owner? Long arguments have ensued over these questions. The convention of 1919 made nationality dependent neither upon the pilot nor upon the owners. According to Art. 6 of the convention, aircraft possess the nationality of the state on the register of which they are entered, and no aircraft can be registered by a state unless it

¹ See below, p. 48.

is wholly owned by nationals of that state, or if owned by a company, unless a large percentage of its directors have the same nationality.

In the third place, the movement toward international control has been confronted with the problem of determining what questions properly belong to international regulation and what should be left to the individual states. There is little objection to including in an international code the subjects of state jurisdiction, nationality of aircraft, admission to air navigation above foreign territory, general rules for avoiding collisions, for establishing signals and marks of identity, and legislation on responsibility of shipping companies. It is generally admitted that the registration of machines, inspection of machines for airworthiness, licenses for pilots, landing regulations and customs control should be left to national codes.

On the other hand, we may ask whether quarantine is a proper subject for international regulation or whether it should belong exclusively to the national domain? The airplane has made possible the rapid dissemination of disease. In 1929 an airplane from Africa landing in a French town brought a case of rabies. Humane considerations would seem to dictate a wide national authority to protect a community against the inroad of foreign ailments. But, on the other hand, an obstreperous state can use the quarantine to block international traffic completely. In the past few years the problem of quarantine has been one of the most difficult questions confronting the international control of the air.

The first international code of aerial law, the convention of 1919, and the Pan American convention of 1928 contain only a minimum of regulated subjects. It is expected that the future will see the scope of international regulation considerably widened.

INTERNATIONAL RIVALRIES

The second general phase of the problem of international control of aviation is concerned with the nationalistic rival-

ries of the "great powers" for supremacy in the air. The Great War demonstrated the effectiveness of the airplane and the dirigible as weapons of war. Indeed, a commonly expressed opinion at its close was that the control of the air would supplant sea-power. Hence, the rigid restrictions as to aviation which were laid upon Germany in the treaty of Versailles. Hence, the promotion of aviation as a means of national defense. Hence, also, the large subsidies granted by governments to their air companies.

Military advisers have pointed out that it is to the interest of a nation not only to maintain a large fleet of military planes but also to foster commercial aviation. Commercial equipment, if necessary, can be converted in part to military purposes. Factories which manufacture planes and motors in time of peace find it not difficult to make military planes in time of war. Pilots of commercial planes are already partly prepared for military service. Furthermore, it is to the military interest of every country to foster air-lines across foreign lands. In case of overseas possessions, these lines help to draw closer the bonds of imperial rule. At the same time, pilots who traverse foreign territory acquire experience in flying over courses that they may be compelled to pursue in time of war. Every national pilot who flies a commercial plane over another country in time of peace learns the lay of the land and the peculiarities of the winds; by his experience he adds to the offensive and defensive resources of his country in case of war with the other.

The airplane is also an empire-builder. Imperial progress has always demanded roads. Rome built its magnificent stone highways traversing Europe, Africa and Asia. Great Britain used the seas. To-day, France, Great Britain and Italy are deliberately promoting aviation as a means of uniting colonial possessions with the métropole. At the same time, the extension of airways to foreign lands enhances political prestige and advances commercial interests.

In the last ten years, France, Great Britain, Italy, Belgium

and the Netherlands have inaugurated colonial lines that reach to many of their overseas possessions, but are maintained at a loss. Operating costs are more than the revenue from passengers, mail and freight. Nevertheless, their existence is defended as sound policy. An analogy can be found in the enormous railroad lines constructed 70 years ago across the American continent, one of which was described in picturesque language as only two streaks of rust and a debt of millions. These railroads were built with government aid and reached far beyond the agricultural frontier. Nevertheless, they soon brought a tide of new farmers, promoters, miners and sportsmen who turned the desert into a profitable land. In the same way it is expected that the colonial air lines of France, Great Britain and Italy will attract attention to the colonial areas, bring sportsmen, travelers, prospectors, merchants and capitalists to these regions, and in time develop a complete exploitation of natural resources with the resulting growth of highly organized new communities.

These large air networks have introduced no new phase of imperialism. It is but the old story of the desire to dominate the highways of commerce. As long as sections on great commercial routes remain in the control of single nations, misunderstandings are sure to arise. This is true of the air as well as the sea and the land. At the present time no aviation company would attempt to run a scheduled route above the territory of any state without its previous consent. Due to commercial rivalries, differences in policies, a desire to bargain and other reasons, this assent is not always forthcoming. In the following chapter an account of some of the present conflicts will be discussed. Suffice it here to say that the problem of aerial privileges engages the attention of diplomacy in nearly every capital of the world.

AIRCRAFT AS A WAR WEAPON

The third phase of international control concerns the use of aircraft as a weapon of war. In this field the two serious

problems are the competition between the military states to outclass their rivals in air armaments, and the rules of warfare which attempt to limit the use of aircraft in time of war and to bring the most deadly of weapons within the pale of civilization. In 1929, Lord Thomson, Secretary of State for Air in the British cabinet, speaking before the Authors' Club, stated that the gravest problem confronting his ministry was the expansion of the air forces of foreign lands.¹ And he added that unless a stop were called, competition in naval vessels and land armaments would be insignificant compared to that in aviation. This competition, he held, was not merely limited to military aircraft; it had extended to vast governmental subsidies paid to air-line companies, aircraft manufacturers and every phase of the industry.

There are, at present, no international agreements regarding the limitation of aircraft such as the treaty of 1922 limiting battleships and aircraft carriers. The Committee on Aviation at the Washington conference, after studying the question of restricting the number of dirigibles and airplanes, reported unanimously against limitation as being detrimental to aeronautical development, and the conference confined itself to the creation of a commission of jurists to meet at The Hague and propose an international code to govern the use of aircraft in wartime. The question was also discussed at the London naval conference of 1930, but without resulting in any limitation.

The Preparatory Commission for the Disarmament Conference of the League of Nations has taken up the problem of restricting the construction of aircraft. It is enough to indicate, while we are looking at the problem of international control in its broader aspects, that the same perplexing questions that divide France and Great Britain in regard to the measurement of land armaments impede agreement upon limitation of aircraft. In particular, there is the question of

¹ *Jane's All the World's Aircraft, 1929* (London, 1930), p. v.

reserves. What shall be the relation of the reserve forces (trained officers and men not in active service) to the actual forces under arms? No formula has been found to resolve this question. There is also the awkward query as to the relation between civil aviation and military aviation, which likewise awaits solution.

The second general problem concerns the attempt to secure an international code of law regulating aerial warfare. Unhappily, in the early development of flying, the possibilities of aircraft as instruments of warfare vividly appealed to the human mind and spurred on the ardent search for the secret of wings. When the Great War began, jurists had not succeeded in persuading governments to adopt any extensive and clear-cut rules governing the use of aircraft in warfare. Conventional law was pitifully inadequate. The war, which witnessed prodigious development in the mechanics of flying, also witnessed deplorable violations of the few existing rules of aerial war law. But such violations were actually encouraged by the vagueness of the rules.

In 1923, the Commission of Jurists appointed to meet at The Hague in pursuance of the resolution of the Washington conference drew up a project of a code for the regulation of aerial war.¹ This code, if universally adopted, will undoubtedly aid in the attempt to regulate war, though not all international thinkers are agreed that war can be properly regulated by a nicely adjusted code of legal rules. One school holds that governments should endeavor by means of legal codes to ameliorate the sufferings of war and to govern the conduct of hostilities by a logical and definite system of rules. An opposing school asserts that the only way to circumvent war is by making it still more horrible, by striking down all so-called legal restrictions and allowing combatants to win in the quickest possible way—by poison gas, by disease germs that will kill off a whole nation or by unlimited raids of air-

¹ See Appendix VI.

craft.¹ In other words, this theory concludes that war should be made so destructive that a nation will not dare to appeal to force of arms unless it possesses such superior armaments that its enemies will surrender without a struggle. In late years, others have held that while codes of war have little efficacy, the machinery of international statecraft and the psychology of nations can be so developed that the status of war will become more and more rare and codes of war will become unnecessary.

In closing our general survey of the problem of aerial regulation we should take note of the fact that in one very real sense flying has an international character. It is the most rapid form of transportation; in most countries only a few hours' flight will carry the voyager out of one national territory into another and possibly into several. This idea is unconsciously shown in the maps frequently published by aviation companies in which air routes are drawn from city to city omitting all indication of national boundary lines. Indeed, it is not rare to find commercial aviation maps that omit even the sea barriers; London and Paris, for instance, being connected by a straight line with no indication of the English Channel.

All this tends to render aviation susceptible to interstate regulation, to hurry along the unification of conflicting national laws and to iron out diplomatic controversies due to international competition.

¹ For a statement of this theory, compare W. Lee Lewis, "Is Prohibition of Gas Warfare Feasible?" in *Atlantic Monthly*, June 1922, p. 834-840.

II. THE AIR SYSTEMS OF THE WORLD

WHILE aviation presents many international aspects the industry is organized to-day on a national basis.

It is true that there exists an International Air Traffic Association—a loose federation of European air companies to promote cooperation in transportation services—and there are international regulatory organs maintained by groups of Governments such as the International Commission for Air Navigation located at Paris. But aviation, as an industry, like shipping, railways and telegraphs, finds its roots in national enterprise.

THE NATIONAL AVIATION SYSTEMS

Nearly every country has an aviation system. Some of the air routes lie wholly within the national borders; but others reach out in various directions and enter the great network of international traffic. The following table gives a comparative view of the most important systems now in operation:

COMMERCIAL AVIATION IN 1928¹

Country	Miles of lines	Miles flown	Passengers carried	Mail in lbs.	Freight in lbs.
AUSTRIA		351,825	5,477		214,145
BELGIUM	3,646	402,236	9,854	6,978	299,444
FRANCE	14,801	4,560,627	19,698	286,847	2,544,117
GERMANY	7,275	6,832,230	113,615	760,302	4,671,972
GREAT BRITAIN	8,231	1,033,260	36,769	299,200	1,621,400
ITALY	4,827	810,515	8,936	6,853	378,978
JAPAN	535	248,779			
NETHERLANDS	4,445	1,013,330	17,007	76,696	1,495,142
RUSSIA	11,971	1,492,456	8,966		503,054
SPAIN		322,285	4,784	4,613	69,441
SWEDEN	711	947,241	55,728	85,518	614,767
UNITED STATES	36,321	10,673,450	49,713	4,163,173	1,848,156

¹ This table is limited to scheduled flying on regular air routes. It is compiled from June's *All the World's Aircraft, 1929, passim*; *Annuaire de l'Aéronautique, 1929, ch. v, p. 31-35*; *Deutsche Luftverkehrsstatistik, 1928, p. 19-23*; International Air Traffic Association, *Information Bulletin (The Hague, 1929), No. 12, p. 21-54*; British Air Ministry, *Report on the Progress of Civil Aviation, 1928 (London, 1929), p. 39*; United States Department of Commerce, *Annual Report of the Director of Aeronautics, 1929, p. 25*; C. I. N. A., *Bulletin de Renseignements, 1929, passim*.

In all countries having a complete aeronautic system the industry is almost uniformly divided into the manufacturers of aircraft and the air traffic companies that operate the air routes above mentioned. The manufacture of aircraft of all types in 1928 was as follows: in the United States, 4,346; France, 1,440; Italy, 475; Germany, 352; Great Britain, 204; and Switzerland, 25.¹ A considerable export trade has grown up not only between the manufacturing and nonmanufacturing countries but also between the manufacturing countries themselves.

CIVIL AND MILITARY AVIATION

In almost all of these national systems there is a close connection between military and civil aviation. For instance, in Great Britain, France and Italy, both military and commercial aviation are under the regulation of the same ministry—the Air Ministry. In these countries, commercial aviation is looked upon as one of the sources of national defense and is vigorously promoted with this end in view. The connection is so close that frequently aviation companies operate machines loaned them from the military forces while they recruit most of their pilots from the army. This is particularly the case with the Italian companies—the Transadriatica, the Navigazione Aerea and the Aero Espresso.

In Germany, Austria and the United States, the situation is somewhat different. Under the peace treaties, Germany and Austria are forbidden to possess military aircraft. In the United States, the air commerce act of 1926 placed the promotion and regulation of commercial aviation under the Department of Commerce, leaving military aviation in the hands of War and Navy Departments. Nevertheless, even in the United States, the fact that the military departments are the largest customers of the aircraft manufacturers tends to influence the industry.

¹ The figure for Great Britain includes only commercial airplanes. Compare U. S. Department of Commerce, *Annual Report of the Director of Aeronautics, 1929*, p. 62, 64-65.

It is generally believed that if the support given to the aeronautic industry by the purchases of military departments were withdrawn, the industry would receive a setback, and that the wheels turn in many aviation factories because of the flow of orders for military planes. What this means to the aeronautic industry is partly indicated by a comparison of the number of planes in the military forces and the number employed by the large air-traffic companies on their scheduled routes:

MILITARY VERSUS COMMERCIAL AVIATION IN 1928¹

Country	Number of military planes	Number of commercial planes used on scheduled routes
FRANCE	4,730	302
UNITED STATES	1,813	268
ITALY	1,640	28
GREAT BRITAIN	1,292	29
JAPAN	572	42
POLAND	541	6
BELGIUM	360	33
GERMANY	-----	659

Statistics on this subject are difficult to obtain and their value is impaired by the lack of uniformity in the various reports on equipment. But it is probably safe to say that military fleets far surpass in size the aircraft employed by the large traffic companies.

GOVERNMENTAL SUBVENTIONS FOR AVIATION

In Europe, commercial aviation is directly subsidized. Subventions are granted to manufacturers of aircraft, to aero clubs and to air-line companies. The most common form of subsidy is a mileage or kilometric subvention as in

¹The military information in this table is partly taken from the Statement of the Air League of the British Empire published in the *London Times*, January 20, 1930, p. 14. The commercial information is partly compiled from International Air Traffic Association, *Information Bulletin* (The Hague, 1929), No. 12, p. 16-57; *Jane's All the World's Aircraft, 1929, passim*, and U. S. Department of Commerce, *Annual Report of the Director of Aeronautics, 1929*, p. 58.

France and Germany, whereby a certain payment is made by the government for every mile or kilometer flown by the subsidized company over a scheduled route. Under this system, parliaments appropriate each year a maximum sum for such payments while the governments make contracts with aviation companies for the payment of the subsidy according to mileage. In Germany, these contracts are for one year; in Great Britain for ten years; and in France, in several cases, for ten years.

Subventions of the character just described establish a more or less intimate relationship between commercial aviation and the government and tend to bring a large political influence into the industry. They play an important rôle in the present international competition for air supremacy. This competition, at the present time, involves all of the imperial systems of air lines, particularly the French, British, German, American, Italian and Dutch. Each of these ventures is viewed not only as a salutary extension of commercial activity but also as a strategic undertaking of great military value.

THE FRENCH NETWORK OF AIR-LINES

In many respects the French system shows closest affiliation between government and commerce. France emerged from the Great War with an exalted idea of the necessity for security. Every resource of the nation must be mobilized for defense against a possible renewed conflict with Germany. In the war, no weapon had undergone a more profound development than the airplane, no weapon gave more promise of still greater development as an instrument of offense and defense. As a result, the attitude of the Government toward civil aviation was destined to be political rather than commercial. Subventions were voted to the newly formed aviation companies in the first postwar session of parliament. Commercial aviation was regarded chiefly as a reserve for the army, generous subsidies being granted particularly for

machines adaptable to military conversion. Consequently, French companies maintained fleets larger than their air routes required while their airplanes were less comfortable for the traveler than the German machines.

Beginning with the comprehensive policy mapped out in 1919, the French aim has been to connect Paris with the capitals of its European allies, to connect France with its colonies, and finally to develop routes particularly adaptable to French exploitation. In 1928, aviation was placed in the hands of a separate Air Ministry, and under its direction the French system is resolved into three great networks, including: (1) continental Europe, (2) the Orient, and (3) Africa and South America.

The continental network connects France with most of the capitals and great seaports of western Europe, extending as far north as London, Amsterdam, Copenhagen and Malmoe, and as far east as Warsaw and Bagdad. The oriental service runs from Marseille to Syria and ends at Bagdad; eventually it will be continued eastward to Indo-China, where a mail service already exists between Saigon and Hanoi. The Paris-Constantinople line will be extended to Aleppo and Beirut.

The African and South American system connects France with almost every French possession in Africa, including the celebrated trans-Saharan line; while the South American branch extends from Paris to Dakar on the coast of west Africa, and thence by fast boat to Natal in Brazil. In South America, the French have developed lines along the east coast to Buenos Aires, westward to Santiago de Chile, and northward from Buenos Aires to Asunción, and southward to Comodoro Rivadavia. Extensions of this system are under way, first along the west coast from Santiago to Callão, and second along the east coast from Natal to Barranquilla and to the islands of Martinique and Guadeloupe.

The growth of the ambitious network of France is shown by the following table:

GROWTH OF FRENCH COMMERCIAL AVIATION¹

Year	Kilometers of routes	Kilometers of flight	Passengers	Freight in Kg.	Mail in Kg.
1920	5,605	853,959	1,379	48,100	3,295
1921	6,492	2,353,455	9,427	166,490	9,481
1922	10,012	2,798,366	6,799	388,509	40,367
1923	8,333	3,387,195	7,822	704,253	73,573
1924	8,542	2,647,826	10,758	674,559	110,176
1925	10,860	4,712,888	14,985	641,196	198,609
1926	12,153	5,220,585	13,634	767,681	154,258
1927	18,226	6,028,727	15,857	746,452	125,289
1928	23,741	7,297,004	19,698	1,156,417	130,385

On the map of the world, the French aerial system makes a most imposing impression. The actual traffic on these lines, however, is surpassed on the German, British and American lines. A comparison of the five great systems shows Germany far in the lead as to the number of passengers and freight carried; while the United States takes the lead in the number of miles of routes, miles flown and mail carried.

France occupies a unique geographical position in aviation. It holds a strategic position on two great routes of commerce. German air-lines cross French territory on the way to South America, and British lines on the way to the Orient. The ambitious system mapped out by the air ministry has for its object the realization of what is called the "geographical destiny of France", namely, an outstanding position in aerial navigation. In the words of Emmanuel Chaumié, director of commercial aviation in the air ministry: "It is necessary that France become conscious of the rôle it plays. . . . The three great networks constituted by Monsieur Laurent-Eynac will permit our country to realize the destiny that geography opens to it. France is thus prepared to take a preponderant place in the empire of the air." In the words of Laurent-Eynac, the present air minister:²

¹ *Annuaire de l'Aéronautique*, 1929, Ch. V, p. 31-35.

² The quotations are taken from two statements by Messrs. Laurent-Eynac and Chaumié in *L'Europe Nouvelle*, February 8, 1930, p. 228, 230.

With its Atlantic and Mediterranean coast, its possessions in Africa, Asia Minor and the Far East, France must hold its own on the great aerial courses of the world. If the exploitation of these international routes should result in international pooling of interests, it is necessary for us to be prepared. In international bargaining, nations never exchange projects or ambitions. They trade only positions actually held; they deal only with realities.

Thus it appears that the present far-flung air-lines of France are maintained not only for the immediate prestige and defense of France as a colonial power but also as a bid for predominance in any future international amalgamation of air traffic.

These ambitions are costly. In the past few years, France has greatly increased the subventions paid to air-traffic companies.

AIR TRAFFIC SUBSIDIES VOTED BY THE FRENCH PARLIAMENT

<i>Year</i>	<i>In francs</i>	<i>Year</i>	<i>In francs</i>
1919	1,545,000	1925	51,340,000
1920	6,207,000	1926	60,250,000
1921	25,180,000	1927	78,650,000
1922	34,908,000	1928	115,000,000
1923	36,067,000	1929	172,000,000
1924	41,100,000	1930	196,000,000

The budget of 1930 contained a vote of 196,000,000 francs to subsidize commercial air-lines.¹ The actual amounts of the subsidies paid out of this fund to the five French air-lines are not available to the public, but they are probably not much below the figures demanded by the air minister in his project of a budget for 1930, and indicated in the following table:²

¹ *Journal Officiel, Lois et Décrets*, April 17, 1930, p. 4253.

² *Budget Général de l'Exercice 1930: Air*, ch. xli, p. 173. The air minister asked for a vote of 210,150,000 francs for the year 1930.

SUBVENTIONS TO AIR-LINES IN THE FRENCH BUDGET OF 1930

1. <i>Connections with Morocco, East Africa and South America.</i>		<i>French francs</i>
Toulouse-Casablanca		14,450,000
Marseille-Perpignon		2,100,000
Bordeaux-Toulouse		250,000
Casablanca-Dakar		6,300,000
Saint Louis-Buenos Aires		38,000,000
Buenos Aires-Santiago de Chile		4,000,000
		<hr/> 65,000,000
2. <i>Connections with Algeria and Tunis.</i>		
Paris-Marseille		5,000,000
Marseille-Tunis-Bône		21,200,000
Marseille-Algiers		15,000,000
		<hr/> 41,200,000
3. <i>Connections with Syria and Greece.</i>		
Marseille-Athens-Syria		18,000,000
4. <i>Connections with Eastern Europe and Syria via Eastern Europe.</i>		
Paris-Constantinople-Warsaw		32,000,000
Constantinople-Aleppo-Bagdad		2,000,000
		<hr/> 34,150,000
5. <i>Connections with England.</i>		
Paris-London		11,800,000
6. <i>Connections with Northern Europe and Germany.</i>		
Paris-Amsterdam-Malmoe		7,400,000
Paris-Berlin		7,000,000
		<hr/> 14,400,000
7. <i>Connections with Spain.</i>		
Paris-Madrid		3,500,000
8. <i>Connections with Indo-China.</i>		
Rangoon-Vinh		5,000,000
9. <i>Connections with the Congo.</i>		
Paris-Oran-Colomb-Bechar-Elizabethville		16,000,000

It should also be noted that the item of 100,000,000 francs in the budget for "researches, studies and experiments, and construction of prototypes" together with another item for 3,587,000 francs, serves also in part as a subsidy to the manufacture of aircraft.

The close alliance between the Government and the air companies operates in two directions. On the one side, the minister of air is a representative of the aeronautic industry. It is commonly said that the industry through its influence in the Chamber of Deputies practically dictates the appointment of the minister; that four cabinets have come into office since the Air Ministry was established in 1928, but Laurent-Eynac, by the grace of the aeronautic interests, has sat in every one. On the other hand, the minister of air has taken a prominent part in shaping the destinies of aeronautic companies to the needs of France as well as to the interest of the large banks that loan money to the companies.

Several policies of the Air Ministry illustrate this reciprocal relationship. The financial interests backing the industry demand that the governmental subsidies to the air companies be in the form of ten-year arrangements rather than annual agreements subject to the caprice of the Chamber of Deputies. Such contracts have been awarded to the Air Union and the Aéropostale, and Laurent-Eynac is urging forward the same grant to all the other companies. In the second place, the financial interests backing the industry demand, and governmental regulation likewise requires, a concentration of manufacturers and air-lines into a few large groups.¹ Already one great controlling company, the Société Générale Aéronautique, has paved the way for a centralization of manufacturing concerns, while, the air-lines have been combined into three—namely, the amalgamation of C. I. D. N. A. (the common designation for the Compagnie Internationale de Navigation Aérienne) and the Farman lines op-

¹ Compare *Rapport fait au nom de la Commission des Finances chargée d'examiner le projet de loi portant fixation du Budget Général de l'exercice 1929: Air*, p. 17-19; *Ibid.*, 1930, p. 21-23.

erating on the continent and in Asia Minor, the Air Union connecting France with the Orient, and the Aéropostale and its subsidiaries connecting France with Spain, Africa and South America.

In the third place, the air ministry is promoting a decentralization of factory locations. In terms of national defense, the French air industry has been vulnerable because of the concentration of the aeronautic factories in the vicinity of Paris. If a future enemy should capture Paris, the air fleet of France would be paralyzed. As a military precaution, the minister of air has initiated a movement for scattering the factories more widely over France.

The subvention of aeronautics in France has not been without its critics. Attacks upon the system as a breeder of monopolies have frequently occurred in the Chamber of Deputies, while a prominent aeronautical journal, *Les Ailes*, opposes the system as a menace to the best interests of the industry.¹ General Hirschauer has recently pointed to the fact that there actually exists one private company that receives no subsidy from the state and yet pays dividends.²

¹ Compare the debate on the budget of 1930 in the Chamber of Deputies, in particular, the speeches of Jules Moch and Pierre Roux-Freissinuy as reported in the *Journal Officiel, Débats Parlementaires*, February 5, 1930, p. 459-472. *Les Ailes*, referred to in the text, is a weekly journal published at 65, Faubourg Poissonnière, Paris. See the trenchant editorials by George Houard in the issues of March 21, 1929, p. 1-2; March 13, 1930, p. 1-2.

In justification of the French subsidized air-lines to-day it should be said that the industry is far different than in 1920 when C. Grey Grey penned the following indictment: "The French Government affords a subsidy based on a regular sum per kilometer flown. Consequently it pays in France to buy an obsolete war-aeroplane for a few thousand francs, register it as a civil aviation machine, and run it as frequently as the weather permits between one point and another as a so-called air-line. Thus, in its generosity, the French Government has actually done harm instead of good in that the tax-payer's money is wasted in the form of a subsidy which is spent in consuming petrol and wearing out a useful aero engine, and in occupying the time of a pilot who might be doing useful work of some other kind, while at the same time, none of the subsidy is spent, as was originally intended, in improving the design and construction of commercial planes." (*Jane's All the World's Aircraft*, 1920, p. 136a.)

² *Senat, Rapport au nom de la Commission des Finances, chargée d'examiner le projet de loi, adopté par la Chambre des Députés, portant fixation du Budget Général de l'exercice 1930, Ministère de l'Air*, p. 90-91.

THE BRITISH SYSTEM OF IMPERIAL COMMUNICATIONS

The British interest in air systems is based upon several considerations, two of which claim particular attention. In the first place, Great Britain, as the greatest sea power, nucleus of a far-flung empire, is deeply concerned in the speediest means of communication with its overseas possessions. In the second place, the invention of aircraft has brought a new menace to the British Isles the inhabitants of which have hitherto been free from the soul-withering fear of foreign invasion. For the first time since the Spanish Armada, the shores of England are now vulnerable to attack from continental Europe.

In the days immediately following the Great War, the British found airplanes of great use in military campaigns in remote regions like Mesopotamia and Afghanistan. There was every incentive to develop better fighting machines for the Royal Air Force and to promote commercial aviation as a means of imperial communication. Nevertheless, no governmental subsidies were granted to the two English companies which in 1919 established the first transport services to the continent. These companies competed with two French companies for the traffic between Paris and London. The French concerns enjoyed generous subsidies from their Government and, after reducing traffic rates, drove the British companies out of the field. British officialdom was finally alarmed. In 1921, a temporary scheme was adopted subsidizing two British companies.¹ In 1924, under governmental guidance, four British air companies were merged into the present monopoly known as the Imperial Airways Ltd., with a subsidy of £137,000 per annum. At the same time was begun the practice of granting a subsidy of £2,000 for two years to air clubs. Thus was initiated the British system of subvention.

¹ Compare British Parliamentary Papers, Air Ministry, *Agreements with the Handley Page Transport, Limited, and S. Instone & Co., Limited, for the Operation of the London-Paris Aeroplane Service, March-October 1921* (Cmd. 1521 of 1921). See also the statement by Lord Gorell in the House of Lords, October 27, 1921.

In 1926, Sir Samuel Hoare, the then secretary of state for air, laid before the Imperial Conference a comprehensive scheme of imperial communications, and asked the Dominions and India to cooperate in the venture.¹ As a beginning, the Imperial Airways was given a special subsidy of £95,000 per annum for five years to open the Egypt-India Service. In the following year the service was partially opened via Athens-Alexandria-Gaza-Bagdad-Basra. Due to objections on the part of the Persian Government, the line was not extended to Karachi until the year 1929.² Finally, in 1930, the trans-Indian service was extended from Karachi to Delhi and Calcutta, with a projected line to Rangoon.³ In the meanwhile, Pierre van Ryneveld and Alan Cobham had shown the possibility of trans-African aviation, with the result that in 1929, aided by a subsidy of £60,000, the Imperial Airways began a partial service from Egypt to South Africa, thus adding another chapter to the Cape-to-Cairo dream of Cecil Rhodes.

The British system, at the present time, consists of four routes to European capitals and two great colonial routes across Asia and Africa. While the British air-lines seem inferior to the French in respect to size, British experts hold that they are on a sounder basis. The total subsidies of Imperial Airways amount to only £345,000,—the governmental policy appears to be one of conservative advancement,—and the air traffic exceeds the French.

THE GERMAN AIR SYSTEM

The treaty of Versailles imposed heavy restrictions on German aviation which we shall describe in another place,

¹ Air Ministry, *Approach towards a System of Imperial Air Communications* (London, 1926). See also the conclusions in Imperial Conference, 1926, Summary of Proceedings, p. 40, and Appendices, p. 192 and 218 (Parliamentary Papers, Cmd. 2768 and 2769).

² Referring to the arrangement with the Shah's Government permitting the Imperial Airways to fly over Persia only once a fortnight, C. Grey Grey wrote in picturesque language: "Of course in the good old days of Palmerston or even Disraeli we should never have had this trouble with Persia. We should merely have landed a company of troops on whatever aerodrome we wished to use, and should have defied the whole Persian army to put them off." (*The Aeroplane*, May 7, 1930, p. 324).

³ Air Ministry, *Report on the Progress of Civil Aviation, 1927* (London, 1928), p. 4; *London Times*, March 19, 1930, p. 8.

while original Art. 5 of the air navigation convention of 1919 deliberately sought to bar German aircraft from flight over the territory of other states. In particular, we should note that the prohibition upon military planes has deprived the German industry of a home market and an indirect subsidy which every other large state has lavishly afforded its industry.¹ Nevertheless, German aviation has forged ahead with rapid strides. Beginning with sharp competition between small concerns, the German experience followed that of other European countries where the government by its subsidy policy deliberately promoted semi-monopoly. In 1926, under the guidance of the Reich ministry of communication, the two largest competitors, the Deutscher Aero Lloyd and the firm Junkers combined to form the Deutsche Luft Hansa. This corporation was subsidized by the Reich, the states and various German cities to the amount of about 19,000,000 gold marks a year.² A network of lines connecting the principal capitals of Europe was established, and plans were projected for lines both to the Far East and to South America through an understanding with Spain that would develop Seville as the great air center of western Europe. In 1928, the section of this project known as the Berlin-Marseille-Barcelona-Madrid line was inaugurated, the Barcelona-Madrid portion being operated by a Spanish company.

State monopolies are not popular in postwar Germany, and at the same time the short-route aviation lines have bitterly complained of the advantages of the Luft Hansa. As a consequence, in March, 1929, when pressure was exerted to effect economies in the budget of 1929-30 under the forthcoming Young Plan, the German Reichstag cut aviation

¹ "C.G.G." (C. Grey Grey, the sagacious British critic of aeronautics) thinks that the treaty prohibitions on Germany are a blessing in disguise. Commenting on the great progress in the German aeronautic industry he says: "Germany has the great advantage, when concentrating on capturing the world's civil aviation that, thanks to the Versailles treaty and the French, she has no air force to maintain. Consequently, the money which would otherwise have to be used for her air force can be spent in subsidizing air lines and the manufacture of commercial aircraft." *The Aeroplane* (a weekly periodical published at 173, Piccadilly Circus, London), Oct. 28, 1925, p. 496.

² International Air Traffic Association, *Information Bulletin*, No. 12 (The Hague, 1929), p. 19.

subsidies by one-half.¹ The Luft Hansa was compelled to discharge a third of its personnel and to abandon a number of its routes. Several of the international lines were taken over by French and Belgian companies, and most of the short routes by its German competitor, the Nordbayerische Verkehrsflug. This curtailment caused so much distress not only to the subsidized air-line but also to the manufacturing industry that the Reichstag was compelled in November to vote several supplements to the budget for their relief.²

There is considerable difference of opinion in Germany as to whether the aeronautical industry would be more effectively promoted by being compelled to stand on its own feet or whether the system of subsidies should be revived, and there is difference of opinion as to what is to be gained by maintaining a world-wide system of air-lines.³ Germany lost all of its overseas possessions in the Great War, and, although a clever Stresemannian policy as a Member of the League of Nations may succeed in winning back the administration of a mandate or two in Africa and the Pacific, it is contended that Germany has little to gain by building up a network of air-lines. As commerce advances, the empires of the future may not be dependent on colonies, but rather on transportation systems. On the seas, the North German Lloyd and the Hamburg Line, with such magnificent ships as the *Bremen* and the *Europa*, are making rapid progress toward recapturing Germany's share of the sea-carrying trade which was lost in the Great War. In the air, its passenger, mail and freight

¹ *Reichsgesetzblatt*, Pt. ii, June 30, 1929, p. 443, 454, 461, 462.

² The budget demanded by the Reichsverkehrsministerium for civil aviation in 1930 was 44,423,500 gold marks as compared with the total appropriation of 47,884,500 marks in 1929. See *Einsatzplan, Haushalt des Reichsverkehrsministeriums für das Rechnungsjahr 1930* (Berlin, 1930), p. 108-118, 138-140. The greater part of the budget was assigned to subsidies to the Deutsche Luft Hansa and the manufacturers. In 1929, the sum of 2,500,000 marks was contributed to the maintenance of the airship *Graf Zeppelin*; in 1930 the ministry demanded 3,150,000 marks.

³ Compare articles by Wolf von Dewall and Dr. Josef Sablatnig in the *Frankfurter Zeitung*, April 18, p. 1, and the *Berliner Tageblatt*, April 13, 1929, and an article by Dr. Carl Hann Pollog on "German Commercial Aviation in 1929" in the *Aero Digest*, January, 1930, p. 59, 98. Also see speeches in the Reichstag in *Die Stenographischen Berichte des Reichstags*, March 26, 1930, p. 4659-4662; June 14, 1929, p. 2431-2482.

services surpass all other European systems. The world-girdling flight of Dr. Hugo Eckener with the *Graf Zeppelin* in 21 days and seven hours adds to the prestige of the German nation, while the establishment of a new international dirigible air-line across the Atlantic is promised in 1933.²

In all events, Germany appears to be one of the most outstanding factors in international flying. Barred by the victors of the Great War from immediate membership in the International Commission for Air Navigation—the first international organization for regulating the air—Germany has shown no haste to join the commission. At the same time the early attempt to bar German flights over the territory of the other states promptly proved to be infeasible. The Germans have become the most air-minded people in Europe. They have become more accustomed to traveling by air than have Frenchmen and British; in this connection it should be remembered that 75 per cent of the passengers on the French line between Paris and London are Americans. In 1927 and 1928, German airplanes flew more miles and carried more passengers than all the French, British and Italian lines combined. It was this showing by the German industry that was largely responsible for the huge increases in subsidies which the French Government granted the French air industry in 1928.

THE ITALIAN PROGRAM

Under the vigorous ægis of Mussolini, aviation in Italy has assumed great ambitions. Before Fascism came into power, Italian military flying was carried on largely with machines received as reparation from Austria and Germany or with obsolete airplanes remaining from the war. Within four years after the march on Rome in 1922, the Fascist dictator succeeded in developing a military air force that is considered superior to the British. A separate air ministry was created in 1925, and the air budget has increased from 399,000,000

² Compare the statement issued by Dr. Eckener in London on April 24, 1930. (*London Times*, April 25, 1930, p. 9.)

lire in 1924 to 800,000,000, or over \$30,000,000, in the budget of 1930.¹ At the same time a commercial air network is being developed to link Italy with the capitals of western Europe, with the colony of Tripoli and with Asia Minor where Italy has no colony but possesses mining concessions. In 1928, air treaties were negotiated with Spain, Austria, Germany and Greece, and air-lines were opened into the territory of these states; while in 1930 an air agreement was reached with France. The six Italian air-line companies are heavily subsidized to the amount of nearly three million dollars a year; they enjoy ten-year contracts, and are completely under the patronage of the Fascist Government.²

The diplomatic complications that result from the governmental tutelage in Italy are illustrated by the recent Italian quarrel with the British Imperial Airways which culminated in the exclusion of British commercial lines from Italy.³ Commercial aviation in Italy is still largely a camouflage for military aspirations. Although the Italian system spreads ambitiously over the map of Europe its traffic is but one-thirteenth the size of the German, one-tenth the size of the American, and one-sixth of the British.

OTHER EUROPEAN SYSTEMS

Ambitious air projects are not limited to the great states. The Netherlands, a small state of 7,000,000 people who govern a colonial possession of 48,000,000, not only supports a large continental company, but in 1929 inaugurated a service from Amsterdam to Batavia and the Dutch East Indies. The K. L. M. (Koninklyke Luchtvaart Maatschappij voor Nederland en Kolonien) has received until recently one of the smallest governmental subventions in Europe, yet it has maintained a service comparable to those of the great states. In

¹ For the Italian budget of 1930 submitted by General Balbo, see *Atti Parlamentari, Sessione 1929-30, Camera dei Deputati, No. 445, Stato di Previsione della Spesa del Ministero dell'Aeronautica, 1 luglio 1930 al 30 giugno 1931, p. 6.*

² For a map and statistics regarding the Italian lines see *Ministerio dell'Aeronautica, Statistica delle Linee Civili Italiane, 1929 (Rome, 1930).*

³ See further, p. 32.

1929, its airplanes flew 1,087,450 miles and carried 17,165 passengers. Its subsidy has amounted to less than \$125,000 per annum. With the inauguration of the colonial service, a subsidy of over a million dollars was granted.

Austria, Belgium, Czechoslovakia, Sweden, Switzerland, Yugoslavia, Denmark and Hungary also support air companies, all of which receive cash subsidies from the Governments.¹

Russia is one of the most promising fields of aeronautical enterprise. The great distances within the Soviet borders invite the development of a rapid method of transportation. Considerable progress has already been made. With German cooperation, Russia is now linked up with western Europe and under Soviet direction a large interior air network is being evolved. The German-Russian company, the Deruluft, operates a line from Moscow to Berlin, with a branch line from Riga to Reval and Leningrad. It is subsidized by the German Government and receives special favors from the Soviet Government. A purely Russian concern, the Dobrolot, carries on a domestic service of over 3,000 miles. The great economic project known as the Five-Year Plan, adopted by the All-Russian Congress in 1929, provides for an air system of 26,500 miles to be completed by the year 1933, including the completion of the line from Moscow to Vladivostok, Peiping and Tokyo, a line from Moscow to Tashkent and Kabul, and services from Archangel to the lumber and fur centers on the White Sea.²

Spain has made an ambitious bid for air control, particularly in the western hemisphere by means of the Ibero-American convention of October 30, 1926, which aims at joining the Latin American countries with Spain into a combination of states supporting an international commission

¹ International Air Traffic Association, *Information Bulletin* (The Hague, 1929), No. 12, p. 38, 44, 45, 55, 57; British Air Ministry, *Report on the Progress of Civil Aviation*, 1928, p. 57-71.

² *Piatiletinii Plan Sotsialisticheskovo Stroitel'stva*, (Five-Year Plan of Socialist Reconstruction) (Moscow, 1929), I, p. 92-95. Compare article by V. Zarzar on "Soviet Civil Aviation and its Prospects" in *Planovoe Khoziaistvo*, August, 1928, p. 240-258; also articles in *Izvestia*, October 3 and 5, 1929, p. 1.

similar to the I. C. A. N.¹ dominated by France, Great Britain and Italy. Only four states, however, have thus far ratified this convention, while the Pan American convention of 1928 may result in introducing a rival system in the same field.

Nevertheless, with the collaboration of German enterprises, realities in Spain are beginning to appear. In 1928, the Department of Civil Aviation and Air Transport was organized under the Supreme Council for Aeronautics. In the same year the Madrid-Berlin service was inaugurated; while projects were elaborated to connect Seville with South America. Two Spanish air-lines are subsidized as high as 3,000,000 pesetas a year. A new company, the Sociedad Colon Transaerea Española, which has reached an agreement with Argentina for the carriage of mails over the proposed route from Seville to Buenos Aires, is also subsidized by the Spanish Government. With German support and Latin American good will, the prospects of Iberian aviation are viewed as excellent.

AVIATION IN THE UNITED STATES

In sheer bulk, the American aviation system surpasses all other air networks, but it does not entail a corresponding international significance because of the fact that 90 per cent of the flying is wholly within the borders of the United States. There are 24,366 miles of domestic airways with a schedule of 79,586 miles of daily flying. The foreign service, partly within and partly without American jurisdiction, amounts to 11,599 miles of air routes with 8,400 miles of daily flying.²

American companies operate several lines into Canada, two lines through Mexico, one to Cuba, and one to Nassau. At the present time, interest is particularly centered in the lines to South America. One of these lines, operated by the Pan American Airways, extends from Miami through Central

¹ The initials of the International Commission for Air Navigation; also known as the C. I. N. A., from the initials of the French name, Commission Internationale de Navigation Aérienne.

² U. S. Department of Commerce, *Air Commerce Bulletin*, December 16, 1929, p. 6-8.

America to the Canal Zone, and thence down the west coast of South America to Santiago de Chile, and across the Andes to Buenos Aires. Another line of the same company runs from Miami by way of Cuba, the island of San Domingo to Trinidad, and along the South American coast to Paramaribo. A new line, the New York, Rio & Buenos Aires (Nyrba), extends through the West Indies to South America, as far south as Buenos Aires.

None of the American lines receive out-and-out subsidies from the Government and frequently the American system is cited as an example of aerial development without the aid of subventions. The tribute, however, is not entirely deserved. Indirect subsidies are paid in the form of contracts for carrying the mails which are placed at higher rates than the revenue recovered by the Government from the public through surcharges in the form of special air-mail stamps. The amount involved in these contracts far surpasses any subventional payments in European countries save those of France. In the year 1929, air-mail contracts reached \$11,169,015.¹

Down to the present day the United States has stood somewhat aloof from European and Asiatic aviation. It did not ratify the international air navigation convention of 1919, and it did not participate in the Ibero-American Congress. On the other hand, in counter-balance to European cooperation, it played a leading rôle in the conference of Habana in 1928 which drafted the Pan American air convention establishing a code for the regulation of international flying in the western hemisphere. The American position, however, is somewhat vague, for after a lapse of two and a half years the Senate has still failed to ratify the Pan American convention.

¹ Compare *Annual Report of the Postmaster-General, 1929*, p. 126. It should be pointed out that Nyrba, unlike the Pan American Airways, at present has no mail contract with the United States Government. It has contracts with the South American countries.

UNMITIGATED COMPETITION IN COMMERCIAL AVIATION

Commercial competition offers many advantages. Even international rivalries are not devoid of good. But commercial competition combined with military expansion is one of the dangers to international peace. This is the menace of the present subsidized aviation systems which blend commercial and military aviation into one service and promote both branches on the ground of self-defense. Almost invariably air ministries when demanding parliamentary appropriations for commercial aviation stress the argument of national defense.¹

Under such a system it is to be expected that Governments will use their jurisdiction over the air to aggrandize their national lines at the expense of foreign competitors. An illustration in point is the exclusion of the British Imperial Airways from Italy late in the year 1929. Previously, the Indian mail service of the British Empire had been conducted through Switzerland, and by agreement with Italy, over Italian territory on its way to Athens and Alexandria, with stops at Geneva, Rome and Naples. In 1929, the Imperial Airways attempted to renew the contract. But negotiations were suddenly broken off, and the British were compelled to change the Indian air mail to a new route across Europe and the Mediterranean, following Croydon-Cologne-Nuremberg-Vienna-Budapest-Belgrade-Uskub-Salonika-Athens-Crete-Alexandria.

A semi-official explanation by the Fascist ministry of its refusal to negotiate with the English company attempted to blame the "Socialist Government" of Ramsay MacDonald.² It appears, however, that the conditions which Italy tried to

¹ For instance, compare the recent budget speeches of Lord Thomson and Frederick Montague in Great Britain, Laurent-Eynac in France, and General Italo Balbo in Italy. British Parliamentary Debates, *House of Commons*, March 18, 1930, cols. 1927-1942; *House of Lords*, April 9, 1930, cols. 48-57; *Journal Officiel, Débats Parlementaires*, December 8, 1928, p. 3410-11; *Atti Parlamentari, Camera dei Deputati, Discussioni*, March 14, 1930, p. 1837-1841; *La Tribuna (Rome)*, March 15, 1930 and April 9, 1930, p. 2.

² *Giornale d'Italia (Rome)*, January 18, 1930, p. 1; *La Tribuna (Rome)* January 18, 1930, p. 1. See also the newspaper controlled by General Balbo, *Corriere Padano (Ferrara)*, January 17, 1930, p. 1.

impose for a renewal of the agreement were detrimental to the British Company.³ For the Imperial Airways was to be compelled to use the same ports as its Italian rival, the Società Anonima Navigazione Aerea. The Italian company was to have the privilege of running a machine between Genoa and Alexandria midway between the dates of each trip of the Imperial Airways. Tabruk in Tripoli was to be a port of call although of no use to the British service. Finally, Italy demanded a pooling of the income from both the mail and passenger services of the two companies along the whole route to India, and the Italian company was to receive one-half the pool. The absurdity of this claim is evidenced by the fact that in the 25 weeks previous to the rupture of negotiations, the Italian company had not carried a single paying passenger.

The episode is one of the extreme cases of the use of territorial jurisdiction to crush foreign competition. The method is perfectly legal, but not conducive to comity of nations. The British misadventure was cited in the French press as an example of the present deplorable lack of international cooperation. At the same time French aviation was not slow to profit. On January 10, 1930, a Franco-Italian accord was signed at Rome whereby the French Air Union, Lignes d'Orient which operates the Marseille-Naples-Athens-Castellosso-Beirut-Bagdad service was to receive Italian air mail destined for points in the East.

Great Britain has also given cause for international grievance. For years, the French have desired to link up their colony of Indo-China with Paris. In August, 1929, a series of conferences between Lord Thomson and M. Laurent-Eynac at London and Paris gave promise of Anglo-French cooperation in the Orient as well as in Africa and South America.⁴ In the following January, the French finally realized their hope of a Paris-Saigon line by the inauguration of a service covering the distance in ten days—an excellent

³ See a note signed by "C.G.G." (C. Grey Grey) in *The Aeroplane*, January 15, 1930, p. 90.

⁴ Compare the *London Times*, August 7, 1929, p. 7; August 9, 1929, p. 11.

achievement when it is recalled that the schedule for mail by steamer is 28 days. The passage over India on the way to Indo-China was carried out for the French by arrangement with the Dutch K.L.M. which possessed authorization to make only twelve flights from Karachi to Bangkok. The permit to make other flights was not obtained, with the result that the French were compelled to discontinue the service in February, 1930. A few months later, the Dutch obtained British permission to resume the service in October.

While political disturbances in India on the eve of the report of the Simon Commission may have been ample justification for the British decision to suspend a foreign air-line over Indian territory, nevertheless, at the time, the affair caused an unfavorable impression throughout the world of aviation.¹

French practice, like Italian and British, likewise has given rise to considerable complaint, particularly in reference to the attempt of the subsidized *Aéropostale* to monopolize the European approach to South America. For some time, the German *Luft Hansa* has projected a line from Berlin to Natal in Brazil by way of Spain and the Azores. But before the Germans could act, the *Aéropostale* backed by the French Government secured from Portugal the exclusive privilege to make the Azores a station on the route from Europe to South America. This monopolistic contract brought protests not only from Germany but also from the United States as a counter-claim against French opposition to American aeronautic activity in South America.²

¹ Referring to the British refusal to permit the Paris-Saigon line to cross India as well as to the Italian quarrel with the Imperial Airways, Georges Houard said: "This is another result of international discord in a field where an entente of all nations is absolutely necessary. . . . Thus, a break with one country and an accord with another! The case proves more than ever that international understandings ought to govern aerial navigation, that such understandings are even the condition of success. I believe, more than ever, in the interest and future of a line from France to Indo-China, but for a long time to come this dream can be accomplished only by international collaboration. The accords with Holland and Italy are examples of what are necessary for such cooperation. A similar accord with Great Britain is necessary to assure the realization of the line to Saigon. We have the means for bargaining, and England knows it." (*Les Ailes*, January 30, 1930, p. 2.)

² Compare dispatches in *New York Times*, February 19, 1930, p. 1, and *Berliner Tageblatt*, February 19, 1930, p. 1; May 10, 1930, p. 1.

It appears that there has been considerable jealousy on the part of Portugal because of the plans of the German Luft Hansa to make Seville a great depot on the proposed route to the Americas. In 1929, the Aéropostale and the Société des Moteurs Gnôme (Rhône) secured the incorporation of the S.P.E.L.A., or Sociedade Portuguesa de Estudos e Linhas Aereas, Ltda., or Portuguese Society of Aerial Research and Air-Lines.¹ The company was formed to obtain from the Portuguese Government concessions for air routes which should be exploited by the Aéropostale, and has been the means of winning the monopolistic 15-year contract above mentioned.

OPEN DOOR VERSUS RECIPROCITY IN SOUTH AMERICA

American exploitation of South American air routes has raised serious commercial problems. International air-lines developed as early as 1921 when the German firm Scadta (German-Colombian Air Transport Company) inaugurated the system which connects the principal cities of Colombia and Ecuador. A second German firm, the Lloyd Aero Boliviano, incorporated under a Bolivian charter and receiving a Bolivian subsidy, operates in Bolivia. A third German concern, the Kondor Syndikat, operates across the Andes to Buenos Aires and along the coast to Rio de Janeiro. There are also the Chilean National Lines and the Peruvian Naval Lines, as well as the Faucett Aviation Company operating in Peru.

The continent is approached from the European side by the French Aéropostale, which in 1928 established a line of flight from Paris to Dakar in Africa, and then by boat to Natal in Brazil. The French line thence continues along the coast to Buenos Aires and further south, with branches to Santiago, to Callao and northward from Natal to Guadeloupe. From the north, the continent is entered by the two

¹ Compare a series of articles by C. G. Grey on "The Importance of Portugal" in *The Aeroplane*, April 9, 16, 23 and 30, 1930, p. 645-650, 685-690, 729-732, 769-772; *Jane's All the World's Aircraft 1929*, p. 682.

American lines of the Pan American Airways which we have already mentioned. Late in the year 1929, a new American company, the Nyrba (New York, Rio & Buenos Aires Line), developed air stations from Tampa, through the West Indies and down the east coast to South America.¹ It required airport facilities on the French islands of Guadeloupe and Martinique as well as along the coast of French Guiana following a line surveyed by Colonel Lindbergh, and application was made to the French Government for access to French territory.

At the time, Paris and Washington were in the midst of a controversy over customs tariffs. But even more compelling was the fact that the American company in South America would compete with the French subsidized monopoly. Accordingly, the French forbade the Nyrba to fly over the narrow strip of French possessions or to land unless it agreed to carry mail for its rival—the *Aéropostale*—and unless it gave the French company access to all its airports and hangars along the entire coast from Natal to Cayenne. In other words, the French monopoly which expected to extend a branch from Natal to Cayenne demanded that the American company defray the entire cost of airports along the Brazilian coast for the use of both companies. The American Department of State protested against these terms, and in the meantime, the new line was compelled to take a more difficult route by way of San Lucia. In April, 1930, however, the American company accepted the French terms and its flight across French territory was permitted.

The national friction engendered by the competition just described is illustrated by a statement appearing in a French periodical which reflects the aggressive colonial group in French administration. "Our new line to the Antilles," said this journal, "is principally a political line. The United States has made so much pro-American and anti-French propaganda in South America that the aviator from France—poeti-

¹ For an account of the inauguration of the Nyrba and its possible amalgamation with Pan American Airways, see *La Nación* (Buenos Aires), January 12 and 13, 1930.

cally, we will call him a bird—must come to kindle the patriotic ardor of a population most sympathetic and alluring, but at present under the influence of the chase after the dollar.”¹

The Franco-American conflict in South America is the logical outcome of the meeting of two theories of commercial relations, each country pursuing a different theory. It is a conflict not limited to air-lines in South America, but also occurs in differences over the tariff, double taxation of foreigners, unequal taxation of foreign corporations, discriminatory rent laws and other questions now pending between the two nations. It is the old contest between the open door and the policy of reciprocity.

In other words, the American policy calls for equal treatment for all—the same principle demanded by John Hay in his celebrated open door policy in China thirty years ago. It means that all nations trading in a country shall have the same opportunities and suffer the same restrictions. But France takes the position that commercial favors should be accorded only in return for similar favors granted, nation to nation. Thus, the French Government has extended the free use of landing facilities at the airport Le Bourget in return for similar privileges afforded to the French by Great Britain at Croydon.

As a matter of international justice, there is much to be said in defense of either policy. In favor of the open door policy it is contended that invidious distinctions between commercial rivals do not make for comity of nations. On the other hand, it must be admitted that the receiving of favors without a *quid pro quo* seems unworthy of a great nation.

At any rate the present French policy is that of bargaining. What have you to offer for the privileges you demand? So far as aviation is concerned, this policy does not well comport with the theory of the French jurists that the sky is free. But it fulfills the needs of a practical diplomacy which has

¹ *Le Vie d'Étranger* (27, rue des Mathurins, Paris), January 5, 1930.

been aptly stated by an official in the Air Ministry in the following language:¹

France is on the road to taking an outstanding place in the world's empire of the air. From now on she must have a foreign policy consistent with her situation and her future. What will that be?

Last summer the International Conference on Air Navigation decided on the interpretation of Art. 15 of the 1919 convention. This text, which at the present time constitutes the air law of most of the countries of the world, makes the establishment of air-lines dependent on the authorization of the countries flown over.

That gives us the immense advantage of being able to assure our advance on French routes and to receive foreign money in exchange sought by us to open up necessary routes over neighboring territories.

But it would be foolish to think that this restriction of the liberty of the air which we have not advocated can be long maintained. The present era of biddings will last only for a period. If this state of affairs procures immediate advantages for us, let us by all means make use of them, but at the same time we must remember that this is only a transitory stage.

Certainly, if we were to open our ports in Africa and Asia to anyone, without compensation, we would be betraying those men who, at the cost of their lives, endowed us with a colonial empire the future importance of which they did not even guess. But, if, on the other hand, through narrow nationalism we wish to keep for ourselves alone the use of our sky, we will divert from the more direct and convenient, though not obligatory, French routes the very traffic that we seek. We must take as our goal the development of French sectors of inter-continental routes so that when the air becomes as free as the sea is now these French lines will be preferred to other possible ones, in international traffic.

The problem raised by the conflict in the South American field is one of the most delicate questions in our present diplomacy—all the more delicate because of the virtue that

¹ Emmanuel Chaumié in *L'Europe Nouvelle*, February 8, 1930, p. 232.

exists in both of these two policies. The tragedy of international conflicts, as Hegel has said, consists not in the fact that two great nations may quarrel, but that both nations may be right. The problem now confronting diplomacy is to seek adjustments that will be so fair and advantageous that nations can not afford to refuse them.

III. PROGRESS TOWARD INTERNATIONAL CONTROL BEFORE THE GREAT WAR

PROPOSALS for the international regulation of aviation are not of recent origin. In the marvelous development of flying, the jurist has sought to keep pace with the inventor, and even outdistance him. The jurist is in truth not a mere pettifogging lawyer; he is a philosopher who understands the relations of man to man and of state to state, who seeks rules of conduct which will give liberty to all and render justice to all. Aerial navigation opened a new field in jurisprudence and international government. At first, it seemed possible by analogy to apply the rules of the land and of the sea. In time it became apparent, to the jurist at least, that aircraft required a special code of laws and a new means of international regulation.

THE FIVE INTERNATIONAL CONGRESSES ON AERONAUTICS

In 1889, when the balloon was still the only successful means of flight, when Hargrave was still thinking in terms of flapping wings and when Otto Lilienthal was experimenting with his gliders, the first international aerial congress met in Paris. It had been called by a decree of the French Government in connection with the Universal Exposition of 1889 at Paris, and assembled in a room of the flamboyant Trocadero erected for the exposition. Delegates were in attendance from Brazil, France, Great Britain, Mexico, Russia and the United States.

Although summoned by a French ministry, the International Congress of Aeronautics was not a public conference in the sense that the delegates were representatives of their Governments with full powers to negotiate. The congress was, in this respect, semi-public. Its attention was devoted to the entire range of aeronautics, both practical and scientific, with some account taken of legal problems.

Several juridical questions were on the agenda such as: (1) should governments license civil aviation? (2) Should there be special legislation to regulate responsibility of aviators toward their passengers, the public and the owners of the land where descent is made, or should the usual rules of law apply? (3) Should the salvage of aerial wrecks be governed by maritime law? (4) Should there be new rules for establishing the fact of the absence or death of lost aviators? (5) Should the rule of war be changed whereby military authorities refuse the status of belligerents to aviators and treat them as spies.¹

The first of these questions was answered in the affirmative, the others were referred to a Permanent International Commission of Aeronautics. In 1890, a second congress met in Paris. Belgium, Cuba, Ecuador, France, Great Britain, Mexico and the United States were officially represented, while unofficial delegates came from Austria, Germany, Italy, Rumania, Russia and Sweden.² A third congress met in Milan in 1906, a fourth at Nancy in 1909, and a fifth at Turin in 1911.³ While the main emphasis at all of these congresses was on the mechanics of flying, yet governmental questions were often discussed, in particular, the subjects of air collisions, customs, responsibility for criminal acts, damages caused by objects thrown overboard and freedom of passage over territory.

¹ Ministère du Commerce, de l'Industrie et des Colonies, *Congrès International d'Aéronautique tenu à Paris du 31 Juillet au 3 Août 1889: Procès-Verbaux Sommaires* (Paris, Imprimerie Nationale, 1889), p. 3. See also the monthly periodical *L'Aéronaute* (22nd year), July-November, 1889, p. 156-160, 165-214, 217-276.

² Ministère du Commerce, de l'Industrie, des Postes et des Télégraphes, *Congrès International d'Aéronautique tenu à Paris du 15 Septembre au 21 Septembre, Procès-Verbaux Sommaires* (Paris, 1890), p. 9-11.

³ At Milan, the Governments of France, Italy, Spain and Sweden were officially represented, while Austria, Belgium, England, Rumania and the United States were the principal states that sent unofficial members. At Nancy, the Governments of Belgium, France, Italy, Russia and the United States sent official representatives and Germany unofficial. See *Congrès International d'Aéronautique, Nancy, 18-23 Septembre 1909, Procès-Verbaux, Rapports et Mémoires*, (Paris, 1909), p. 13-15. At Turin, official delegates came from Argentina, Belgium, Spain, France, Great Britain, Italy, Norway, Russia, United States and Uruguay. See *Congrès International d'Aéronautique, Turin, 25-31 Octobre 1911, Procès-Verbaux, Rapports et Mémoires* (Turin, 1912), p. 20-22.

PROPOSALS OF THE JURISTS FOR A CODE OF AIR LAW

Aeronautical regulation soon claimed more attention from the jurists. In 1880, the Institut de Droit International, a private association of eminent jurists from nearly every civilized country, in its Oxford session, included the subject of aviation in its draft project of a convention on the laws and customs of war on land, giving aviators the rights of belligerents in time of war and opposing the practice of subjecting them to summary execution as spies.¹ A broader aspect of the question was attacked by Paul Fauchille in the session of the Institut which met at Neuchâtel in 1900, when he called the attention of jurists to the need for an international code of air law. In the following year he published his epoch-making study of the *Domaine Aérien et le Régime Juridique des Aérostats*. Then, at the session of the Institut in Brussels in 1902, he laid down his celebrated thesis:²

The air is free. The states have no authority over it in time of peace or in time of war other than that which is necessary for their own preservation.

Sixteen nationalities were represented at the session of the Institut which met at Ghent in 1906 when Fauchille and Ernest Nys defended the well-known resolution asserting freedom of the air. In opposition, the distinguished British jurist, John Westlake, offered a resolution to the effect that: "The state has a right of sovereignty over the aerial space above its soil, saving a right of inoffensive passage for balloons or other aerial machines and for communication by wireless telegraphy." Westlake's resolution was rejected by a vote of 9 to 14, and the Institut pronounced in favor of Fauchille's doctrine.³

Five years later at the Madrid session of the Institut, Fauchille reported a project of a code containing 28 articles

¹ *Annuaire de l'Institut de Droit International*, 1880, V. p. 163. See also Carnegie Endowment for International Peace. *Resolutions of the Institute of International Law* (New York, 1916), p. 31.

² *Annuaire*, 1902, XIX, p. 19.

³ *Annuaire*, 1906, XX, p. 327-328.

on aerial law in time of peace and 30 articles on aerial law in time of war.¹ Debate on these drafts resulted in the adoption of the following principles:²

Aerial Law in Peace Time

1. Aircraft are distinguished as public aircraft and private aircraft.

2. Every aircraft must have a nationality, and one only. This nationality will be that of the country in which the aircraft has been registered. Every aircraft must bear special marks of identification.

The state in which registration is applied for determines to what persons and under what conditions registration will be granted, suspended or withdrawn.

The state registering an aircraft belonging to an alien cannot, however, claim to protect such aircraft in the territory of the owner's state as against any laws of that state forbidding its nationals to have their aircraft registered in foreign states.

3. International aerial circulation is free, saving the right of subjacent states to take certain measures, to be determined, to insure their own security and that of the persons and property of their inhabitants.

Aerial Law of War

Air war is allowed, but on the condition that it does not present for the persons or property of the peaceable population greater dangers than land or sea warfare.

This short document, practical and far-sighted in its general rules upon nationality and registration, impractical and absurd in its rule for warfare, formed an embryonic code of aerial law influenced chiefly by French ideas.

Two years later, the International Law Association—a legal society in which the British and American attitude predominated—debated in its annual conference at Madrid the ques-

¹ *Annuaire*, 1911, XXIV, p. 105-120. An English translation of this project is in *Resolutions of the Institute of International Law*, p. 243-256.

² *Annuaire*, 1911, XXIV, p. 346. Compare the English translation in *Resolutions of the Institute*, p. 171.

tion of the sovereignty of states over the air and adopted the following resolutions:¹

1. It is the right of every state to enact such prohibitions, restrictions and regulations as it may think proper in regard to the passage of aircraft through the air space above its territories and territorial waters.

2. Subject to this right of subjacent states, liberty of passage of aircraft ought to be accorded freely to the aircraft of every nation.

This assertion of the absolute sovereignty of the subjacent state stood in sharp contrast to the French thesis.

Another attempt of jurists at codification was the International Juridical Congress for the Regulation of Air Locomotion held at Verona in 1910. Although the participants were chiefly from Italy, delegates from France, England, Monaco and Switzerland were present. This congress proposed a practical rule as to nationality, asserted the sovereignty of the subjacent state in the first place and freedom of the air in the second place, holding that the atmosphere is subject to police regulation by the state for the protection of public and private interests.²

INTERNATIONAL JURIDICAL COMMITTEE OF AVIATION

In the meantime, French juridical interest in aviation led to the founding of a unique institution for the collective study of the subject. This was the Comité Juridique International de l'Aviation set up in 1909, the same year that Blériot flew across the English Channel. Its founders were two jurists by the names of Delayen and d'Hooghe who pointed out that the new invention of traveling would have an admirable and redoubtable effect upon the customs, the family, the public life and the government of all nations, and that there was imposed upon jurists the task of adapting the laws to the new social condition.³ The purpose, then, of the Comité would

¹ International Law Association, *Report of the Twenty-Eighth Conference, Madrid, 1913*, p. 533, 545.

² *Journal du Droit International* (1911), XXXVIII, p. 1404-1406.

³ Compare the statement of Edouard d'Hooghe in the *Revue Juridique Internationale de la Locomotion Aérienne* (1910), I, p. 5.

be to secure the adoption of an international code by all governments conformable to the needs and interests of aviation.

The organization was headed by a Directing Committee (Comité Directeur) with its seat in Paris and composed of an equal number of French and foreign members.¹ Local committees were established in foreign countries and in French departments and colonies. The local committees chose their own chairmen and discussed all phases of aerial law, reporting their decisions to the committee in Paris, which examined the national projects and submitted them to the ratification of a congress of all the committees, in which each state was represented by one vote.

The first congress of the new organization was held in the Trocadero in Paris in 1911 under the presidency of Alexandre Millerand. Two other congresses were convoked previous to the Great War, one at Geneva in 1912, and the other in Frankfurt-am-Main in 1913. By this time, the three congresses had proceeded so far as to frame a part of an aerial code which included the following subjects: (1) general principles of air law, (2) nationality and registration of aircraft, (3) law of landing, (4) jettison, (5) wrecks, (6) aerial jurisdiction, (7) proprietorship of the air, and (8) damages. The Comité and its congresses stood for freedom of the air. At the first congress it was held that universal agreement would be impeded if the doctrine of state sovereignty over the air were admitted.²

NATIONAL LEGISLATION

In the meanwhile the statute books of various states recorded national legislation affecting aviators, both citizens

¹The American committee consisted of: James Brown Scott, national delegate; Charles F. Beach, national rapporteur; Arthur K. Kuhn, Simeon E. Baldwin, Denys P. Myers, George Whitelock, William W. Smithers, Ambrose Kennedy.

²Minutes of the first congress, *Revue Juridique Internationale de la Locomotion Aérienne*, April, 1912, p. 132-145.

and aliens. Acts were passed by the legislatures of Brandenburg and Prussia in 1910. The first British act, the aerial navigation act, became law on June 2, 1911, followed by another act of Parliament on February 14, 1913. And the first French decree was issued by the Ministry of the Interior on November 21, 1911. In the same year legislation was passed by three of the commonwealths in the United States—Connecticut, Pennsylvania and California, and by Massachusetts in 1913. The first Austrian legislation was a decree of the Ministry of the Interior on December 21, 1912. Legislation in Italy was delayed until after the outbreak of the Great War.¹

A study of this legislation indicates that the doctrine of freedom of the air had made little headway with governments, all of which made the most unequivocal claim to absolute sovereignty over the air above their territory. In all this legislation there was a general similarity in regard to the question of nationality but no agreement upon some of the other subjects found in the code of the International Juridical Committee of Aviation or the excellent project for national legislation presented to the French Ministry of Public Works in March, 1910, by the Aero Club of France.²

THE HAGUE CONFERENCES

The initial governmental progress toward international regulation of aviation appeared in the realm of war law. In 1899, the first Peace Conference met at The Hague. Called

¹ Citations for national legislation are as follows: Austria—Decree of the Ministry of the Interior, December 21, 1912, *Reichsgesetzblatt im Reichsrate*, 1912, no. 240, p. 1224; France—Decrees of the Ministry of Public Works, November 21, 1911 and December 17, 1913, *Journal Officiel, Lois et Décrets*, November 25, 1911, p. 9347-9349, and December 25, 1913, p. 11038-11053; Great Britain—Acts of Parliament, June 2, 1911 and February 14, 1913, *Public General Acts*, 1 & 2 George V, Ch. IV and 2 & 3 George V, Ch. XXII; Italy—Royal Decree of September 3, 1914, *Raccolta Ufficiale delle Legge e dei Decreti del Regno d'Italia* (Rome, 1914), vol. iv, no. 1008, p. 3332-3334; Massachusetts—Act of May 16, 1913, *Acts and Resolves of Massachusetts, 1913*, ch. 663, p. 609-612.

² For the code of the Comité Juridique International de l'Aviation, see *Revue Juridique Internationale de la Locomotion Aérienne* April, 1912, p. 168-171; for the project of the Aero Club, see *Ibid.*, 1910, p. 126-129.

by the Tsar of Russia to devise a system of disarmament, the conference applied itself to the more practical task of codifying the laws of war and neutrality and devising a system for the pacific settlement of international disputes. With magnificent courage the plenipotentiaries adopted a rule banning one phase of aerial war. The declaration read: "The contracting powers agree for a term of five years to forbid the discharge of projectiles and explosives from balloons or by other new methods of similar nature."¹ The declaration was to be binding on the contracting parties only in case of war among themselves; if a belligerent state were joined by a noncontracting state, the obligation of the declaration was not applicable.

The signatories were: Austria-Hungary, Belgium, Bulgaria, China, Denmark, France, Germany, Great Britain, Greece, Italy, Japan, Luxemburg, Montenegro, the Netherlands, Norway, Persia, Portugal, Rumania, Russia, Siam, Sweden, Switzerland, Turkey and the United States. Most of these ratified the declaration.² All this took place, however, before the Wright brothers made their epoch-making flight of twelve seconds at Kitty Hawk.

The declaration of 1899 had expired when the Second Hague Conference assembled in 1907. In the meantime, the Wright brothers had proved the possibilities of sustained flight in the airplane, Count Zeppelin had maneuvered his giant dirigible over Lake Constance, Santos-Dumont had circled the Eiffel Tower, while the United States War Department had offered \$25,000 for a military plane that would carry two men and sufficient fuel for 125 miles, fly ten miles at a stretch, and maintain a speed of 40 miles an hour. At the conference of 1907, the declaration banning the discharge of projectiles from aircraft was again proposed. Many of the small states

¹ Ministère des Affaires Étrangères, *Conférence Internationale de la Paix: La Haye 18 Mai-29 Juillet 1899* (The Hague, 1899), pt. 2, p. 252-253.

² Compare Denys P. Myers, *The Record of The Hague*, p. 14 (World Peace Foundation, Pamphlet Series, IV, No. 6, pt. III); Carnegie Endowment for International Peace, *The Hague Convention and Declarations of 1899 and 1907* (New York, 1915), p. 230-232.

hastened to sign; but the large ones held back.¹ Thus when the Great War broke out there was little specific international legislation restricting one of the most destructive weapons of war ever invented.

INTERNATIONAL CONFERENCE OF AIR NAVIGATION, 1910

Returning to the field of aviation in peace time, the fact should be mentioned that France took the lead in the work of securing an international code of air law. In May, 1910, the International Conference of Air Navigation, summoned by invitation of the French Government, met at the Ministry of Foreign Affairs in Paris. Eighteen European states were represented, including Austria-Hungary, Belgium, Bulgaria, Denmark, France, Germany, Great Britain, Italy, Monaco, the Netherlands, Portugal, Rumania, Serbia, Spain, Sweden, Switzerland and Turkey. The distinguished French jurist, Louis Renault, presided over the conference and the equally renowned German judge, Dr. Kriege, presided over the most important commission of the conference.

Careful preparation had been made on the part of the French to insure successful negotiation. A questionnaire had been prepared by an interministerial commission to serve as a basis for discussion at the conference.² This questionnaire had been circulated among the states, which had answered in memoranda. The Germans, in particular, had replied with a complete draft for an international convention of 43 articles and two annexes.³ Hence, views were known in advance and reconciliation of divergent views facilitated.

The discussion was limited to air law in peace, and no rules regarding belligerents and neutrals were taken up. General agreement was secured upon principles in a draft convention

¹ *Ministère des Affaires Étrangères, Deuxième Conférence Internationale de la Paix, La Haye, 15 Juin-18 Octobre 1907, Actes et Documents* (La Haye, Imprimerie Nationale, 1907), I, p. 87-88, 711-719; III, p. 148-159.

² *Conférence Internationale de Navigation Aérienne, Exposé des Vues des Puissances d'après les Mémoires adressés au Gouvernement Français* (Paris, Imprimerie Nationale, 1909), p. 9-10.

³ *Exposé des Vues*, p. 79-90.

of 55 articles and three annexes treating such questions as nationality and registration of aircraft, certificates of navigability, licenses of pilots and mechanics, rules for departure and landing, customs and tariffs, and rules regarding public aircraft.¹ Nevertheless, the conference broke up without the signing of a treaty. The rock on which it split was the question of sovereignty over the air.

The French delegation had presented a memorandum admitting complete freedom of aerial movement in the words of Paul Fauchille and the Madrid session of the Institut.² The Germans also proposed a wide liberty in Art. 11 of their draft project which read:³ "The aircraft of a contracting state are authorized, in principle, to effect their departure and landing in the territory of another contracting state, and to pass above its territory. They shall however submit to the restrictions of the following articles." The 12th article admitted the right of the state to impose rules for its own security and for the protection of persons and property, which rules were to apply equally to all aircraft of the contracting states. The 14th article declared that the establishment of international routes of air communication depended on the assent of the interested states.

To these views the British delegation, headed by Admiral Gamble, made the following reply:⁴

1. Having regard for municipal legislation and decisions of British courts, abstract authorization in general terms permitting aircraft to navigate above a foreign territory or to land will not be recognized and could have no sanction in English law. Consequently, the English delegation can not accept the first proposition of the German delegation in view of the impossibility of knowing in advance the attitude of the British

¹ *Conférence Internationale de Navigation Aérienne, Procès-Verbaux des Séances et Annexes, Paris 18 Mai-29 Juin 1910* (Paris, Imprimerie Nationale, 1910), p. 188-204; also Great Britain, *Parliamentary Papers, Report of the Civil Aerial Transport Committee*, p. 25-35 (Cd. 9218).

² *Procès-Verbaux*, 1910, p. 242-244.

³ *Exposé des Vues, 1909*, p. 81-82; *Procès-Verbaux*, 1910, p. 239-242.

⁴ *Procès-Verbaux*, 1910, p. 270.

tribunals when they would be called upon to apply such a declaration.

2. Besides, while wishing in every way possible to encourage and develop air navigation, it is evidently necessary to safeguard the interests and the sovereignty of the states and, although the German delegation doubtless admits this obligation, its propositions in this report seem to us to be incomplete.

The conference adjourned to meet in November. But the adjournment proved more than temporary. In spite of the solicitude of the promoters of the conference to hide the nature of the rupture, it became known that agreement could not be reached upon the question of freedom of the air. The British Admiralty and War Office were persistently opposed to any limitation upon the right of a state to close its air space to the entrance of the aircraft of any or all nations. The British public attitude was partly reflected in an article in the official organ of the Royal Aero Club of the United Kingdom which said in part:¹

The break-up of the conference seems to have been caused by the attitude of certain powers, including Great Britain, who desire to retain the right to close their frontiers against the aerial vessels of one or all nationalities when they see fit, without any obligation to give a reason for taking such action. Negotiations are now said to be in progress between the various governments with a view to finding a way out of the *impasse* in which the conference finds itself.

Whatever the ultimate result of these negotiations may be, we think it a cause for congratulation that the British Government appears fully to recognize the imperative importance of starting well in this matter of the codification of international aerial law. There may be no great importance attaching to the exact point which happens to have brought the conference to an untimely end. It is rather the principle underlying the action leading up to continued postponement with which we are concerned. Too long has the Government appeared to look upon aerial navigation as something too far removed for serious notice, and to regard the aerial enthusiast as a person with a

¹ *Flight*, December 10, 1910, p. 1004.

bee in his bonnet. The measured words of Admiral Gamble's resolution, anent profound study on the part of the Government, indicates very clearly that the old-time policy of *laissez-faire* in matters aerial is past and done with.

In the following year Parliament passed the British aerial navigation act placing foreign aircraft under strict supervision and conferring power on the Secretary of State for Home Affairs to exclude at his discretion all foreign aircraft.¹

In the realm of unilateral negotiation, France and Germany concluded a provisional accord at Berlin on July 26, 1913, accepting certain rules applicable to the aircraft of each nation while in the territory of the other.²

In one sense, the conference of 1910 marks the end of the first phase of the development of international regulation of aviation. The hasty attempt to secure an international declaration for complete freedom of the air before unfavorable national legislation had time to crystallize proved to be a failure. Perhaps it would have been unwise to circumvent national prejudices in this fashion, and perhaps the convention, if signed and ratified, would have been more honored in the breach than in the observance. At any rate, the insistence of the originators of the conference upon a declaration of freedom of aerial circulation and the resistance of the British to such a declaration blocked the opportunity to secure at that time an international convention which included many rules upon which there was general agreement.

In a theoretical manner the French jurists had been farsighted. The trend of civilization for centuries has been toward freedom of communication both on the sea and on the land. The new mode of transit was destined to make a powerful appeal for international cooperation in opening new highways of commerce and intercourse. At the conference of 1910, the French delegates even went so far as to point out the progress made in international organization,

¹ *Public General Acts*, 1 & 2 George V, Ch. IV. The act of 1911 was amended and expanded by the act of 1913, 2 & 3 George V, Ch. XXII.

² *Journal Officiel, Lois et Décrets*, August 12, 1913, p. 7334-7335. Compare the note in *Revue Générale de Droit International Public* (1913), XX, p. 395.

as instanced by the commissions already existing, and had proposed to set up an international aerial commission.¹ This proposal was not included in the draft convention. It was finally realized after the Great War when the opportunity offered by the Peace Conference was seized to establish the first international régime for the air.

¹ *Procès-Verbaux*, 1910, p. 51-58.

IV. THE AIR NAVIGATION CONVENTION OF 1919

THE Great War brought a temporary end to the collaboration of all nations toward the government of the air. On the other hand, the war caused an enormous development in the mechanics of flying and attracted attention in the most spectacular manner to the possibilities of aircraft in the service of mankind.

AERONAUTICAL COMMISSION OF PEACE CONFERENCE

Problems of air control thrust themselves upon the Peace Conference in Paris, first in connection with the complete disarmament of Germany and its allies by land and sea and air, and second in regard to commercial aviation with respect to Germany in the future. There was general agreement that Germany should be compelled to surrender, as it had undertaken in the armistice, all the military planes in its possession; and it also appeared correct to prohibit the manufacture of German military planes for all time to come. But when it was proposed to bar all aircraft activity in Germany a new problem confronted the negotiators—a problem of far-reaching significance.

Thanks to President Wilson, Lord Robert Cecil and General Smuts, a large degree of statesmanlike idealism had been brought to the Peace Conference. There was aspiration not merely to close up the present war with Germany, but also to build international relations upon a more permanent basis and to eradicate the causes of all war. Progressively with the development of the idea of the League of Nations, the conference became conscious of its inability to settle many of the economic and political questions in an arbitrary manner at Paris. Statesmen saw the convenience, if not the wisdom, of handing over many of the difficult problems of readjustment to the League of Nations or to special commissions for

future settlement or regulation. The question of the régime of the air fell in this category.

During the latter part of the war, the air forces of the Principal Allied and Associated Powers were coordinated by means of an organization, a part of the Supreme War Council, known as the Interallied Aviation Committee. At the Peace Conference, the secretary of this organization (Captain Boulanger) together with a young aviation officer (Captain Albert Roper) brought forward the idea of perpetuating this organization as an instrument of international regulation.¹ The suggestion was approved by Clemenceau. An instrument of this nature, at least a temporary one, fitted in with the needs of the conference, and met the approval of President Wilson, Premier Orlando and Lord Milner, representing the British Empire.

Early in the conference, the duty of drafting air clauses for the peace treaty had been assigned to the Naval, Military and Air Committee.² But on March 12, 1919, on the motion of A. J. Balfour, the conference established the Aeronautical Commission of the Peace Conference, charged with the duty of drafting not only the air clauses of the treaty of peace, but also a convention to govern international aviation in time of peace.³ Under Mr. Balfour's motion, the British Empire, France, the United States, Italy and Japan were members of the Aeronautical Commission. At the meeting of March 15, representatives of the small states—"powers with limited interests"—were added, including Belgium, Brazil, Cuba, Greece, Portugal, Rumania and Serbia. Thus was initiated the commission which eventually drafted the first international aerial convention.

It is to be noted that the proposed aerial convention was to be separate from the treaty of peace. The experienced

¹ Compare the statement by Captain Roper in International Commission for Air Navigation, *Extraordinary Session of June 1929, Draft Minutes*, p. 145.

² David Hunter Miller, *My Diary at the Conference of Paris, with Documents* (New York, Appel Printing Company, 1924-1927), XIV, p. 384.

³ Miller, *My Diary, with Documents*, XV, p. 352.

diplomat, Pichon, had pointed out, in the Supreme Council, that it was necessary to disjoin the air clauses pertaining to peace with Germany from the rules that properly belong to a general air convention.¹ He had called attention to the difficulties that had beset the drafting of such a convention in the past, and indicated that the attempt to incorporate an aerial convention in the treaty of peace would indefinitely postpone the signing of the treaty. These views prevailed.

It is a matter of some reproach that the drafting of the aerial convention was placed in the hands of a commission composed exclusively of the victors of the Great War. But it is doubtful whether technical delegates who had recently been enemies unto death would have been able to reach decisions around the same table. On the other hand, the psychological time had come for securing agreement between the allies, particularly Great Britain and France; all the more so, because of the fact that after the experience of the Great War, the French were in no mood to press Fauchille's doctrine of the freedom of the air. The negotiators believed in taking the tide in the affairs of nations that leads on to immediate achievement.

DRAFTING THE CONVENTION OF 1919

With admirable precision the Aeronautical Commission began its work. The commission, as we have already seen, consisted of five large states and seven "powers of limited interests." The drafting of the convention was almost entirely the work of the great states. Belgium alone was represented on the subcommissions, and then only on one of the three. With the exception of Bustamante of Cuba, Chiesa of Italy and Yamakawa of Japan, all of the chief delegates were military officers. Yet the conference had the services of very able legal talent including Messrs. d'Aubigny and de Lapradelle of France, Buzzati of Italy and White Smith of Great Britain who formed the Legal Subcommittee.

¹ Miller, *My Diary, with Documents*, XV, p. 346.

The commission first drew up a list of the principles which should govern the drafting of the convention. These principles, 12 in number were as follows:¹

1. Recognition of (1) the principle of the full and absolute sovereignty of each state over the air above its territories and territorial waters, carrying with it the right of exclusion of foreign aircraft, and (2) the right of each state to impose its jurisdiction over the air above its territory and territorial waters.

2. Subject to the principle of sovereignty, recognition of the desirability of the greatest freedom of international air navigation in so far as this freedom is consistent with the security of the state, with the enforcement of reasonable regulations relative to the admission of aircraft of the contracting states and with the domestic legislation of the state.

3. With regard to domestic regulations relative to the admission and treatment of the aircraft of the contracting states, recognition of the principle of the absence of all discrimination on the ground of nationality.

4. The recognition of the principle that every aircraft must possess the nationality of the contracting state only and that every aircraft must be entered upon the register of the contracting state, the nationality of which it possesses.

5. The following provisions are recognized as desirable from an international point of view to insure the safe conduct of aerial navigation:

I. Regulations for compulsory certificates of airworthiness and licenses for wireless equipment, at least for aircraft used for commercial purposes. Mutual recognition of these certificates and licenses by the contracting states.

II. Regulations for compulsory licenses of pilots and other personnel in charge of aircraft. Mutual recognition of these licenses by the contracting states.

III. International rules of the air, including international rules as to signals, lights, and for the prevention of collisions. Regulations for land and on the ground.

6. Recognition of the principle of special treatment for military, naval and state aircraft when they are in government service.

7. Recognition of the right of transit without landing for international traffic between two points outside the territory

¹International Commission for Air Navigation, *The International Air Convention of 13th October 1919: Its Preparation; Its Entry into Force; Its Application* (Paris, May, 1929), p. 2-3.

of a contracting state, subject to the right of the state traversed to reserve to itself its own internal commercial aerial traffic and to compel landing of any aircraft flying over it by means of appropriate signals.

8. Recognition of the right of use, by the aircraft of all the contracting states, of all public aerodromes upon the principle that charges for landing facilities should be imposed without discrimination on the ground of nationality.

9. Recognition of the principle of mutual indemnity between the contracting states to cover damage done to person or property in one state by Government aircraft of another state.

10. Recognition of the necessity of a permanent International Aeronautical Commission.

11. Recognition of the obligation of each contracting state to give effect to the provisions of the convention by its domestic legislation.

12. Recognition of the principle that the convention does not affect the rights and duties of belligerents or neutrals in time of war.

These principles served as the guide to the three sub-commissions, one on technical matters, the second on legal, and the third on military, which drafted the text of the convention and its annexes. The Legal Subcommittee drew up the text of the articles of the convention and Annex H, while the Technical Subcommittee prepared the text of the other annexes. The three sub-commissions examined the convention and its annexes as a whole, and subsequently it was amended and adopted in plenary session.¹ On September 27, the completed convention was presented to the Supreme Council by Captain Roper, reporter-general of the commission. On October 13, it was adopted and opened to signature by the plenipotentiaries of the 32 Allied and Associated Powers represented at the Peace Conference.

In many respects the convention is the most remarkable treaty ever drawn up by a conference composed chiefly of military officers. It should be remarked that although French influence extended more fully than that of any other state, yet, France was not represented by any of the great jurists like

¹ Compare *Convention of 13th October 1919: Its Preparation*, p. 5.

Renault, Fauchille, Nys, Henry-Couïannier and Millerand who a few years previously had played the leading rôle in developing French concepts of air law. Renault had died, but the other jurists were alive. The convention of 1919 was the product of interallied cooperation in the Great War. Ten years after the conference, Captain Roper attributed its success to the fact that most of the members had learned, because of their experience as members of the Interallied Aviation Committee, how to work rapidly and harmoniously together. Continuing, he stated: "The military men pressed matters forward, perhaps bustling the jurists a little. Certain aspects of the question were not touched upon which in 1910 had given rise to considerable discussion, and it was no doubt thanks to this push, this ardor, this comradeship of the delegates, that the commission was able to lay down principles in a day, to set up the framework of the convention in a few weeks and to draw it up in less than four months."¹

These remarks which were made on the occasion of the Extraordinary Session of the International Commission for Air Navigation in June, 1929, brought the rejoinder from Signor Giannini: "I take the liberty of reverting to a few words somewhat acerbic which the Secretary-General pronounced with regard to the jurists, for I desire to remark—I who sometimes take a pleasure in criticising the jurists, my confrères—that the part which is really well done in this convention is the juridical part. For once, therefore, the politicians did not have the best of it, inasmuch as the part of the convention which lives and which will perhaps outlive to-morrow, is the legal part of that document."

Every clause in the convention bore the impress of the work of experts well versed in the mechanics of flying. The details were mainly concerned with practical problems of the operation of aircraft; while the legal rules were deftly framed. There were serious flaws in the convention, particularly in regard to relations with the former enemy coun-

¹ *Session of June 1929: Draft Minutes, p. 145.*

² *Session of June 1929: Draft Minutes, p. 149.*

tries, but, on the other hand, the treaty provided for a system of amendment that looked toward future development.

ANALYSIS OF THE CONVENTION OF 1919

The convention of 1919 applied only to peace conditions. It laid down no rules of war and did not affect the relations of states as belligerents or as neutrals. In its structure, the convention followed the most approved technic in treaty-making. General principles were laid down in a convention of 43 articles; details were relegated to eight annexes. The convention could be modified only by consent of all the signatory states; but the annexes (except H) could be amended by vote of a commission provided three-fourths of the total possible votes were cast in favor of such modification (see Art. 34 *c* and *g*). Moreover, in order to facilitate amendment as well as to carry out administrative features, the convention established an International Commission for Air Navigation, representing each contracting state.

In its very first clauses, the convention ended, for a time at least, the controversy over freedom of the air which had broken up the conference of 1910. The convention recognized the complete and exclusive sovereignty of every state over the air space above its territory and its territorial waters. But each contracting state undertook in time of peace to accord freedom of innocent passage above its territory to the aircraft of the other contracting states provided the conditions of the convention were observed. The convention thus adopted the identical principle proposed by Professor Westlake in the 1906 meeting of the Institute of International Law which had been rejected in favor of the liberal rule of Paul Fauchille.

It was held by the negotiators, however, that the recognition of the right of innocent passage was a sufficient counterbalance to the admission of complete sovereignty, particularly in view of the provision of Art. 2 which provided that regulations made by a contracting state as to the flight of air-

craft of other contracting states over its territory must be applied without distinction. Moreover, while every state was entitled for military reasons or in the interest of public safety to prohibit the aircraft of the other contracting states from flying over certain areas of its territory, it was agreed that the prohibition must extend to the aircraft of its own nationals. This provision would balk the temptation to declare prohibited zones of undue size.

As a means of forcing as many states as possible among the Allied and Associated Powers to adhere to the convention, the fifth article provided: "No contracting state shall, except by a special and temporary authorization, permit the flight above its territory of an aircraft which does not possess the nationality of a contracting state." This ill-advised attempt to compel cooperation was eminently characteristic of the mentality of the postarmistice period.

More sane and practical general rules were laid down on the subject of nationality and registration—rules advocated long before by Fauchille and the French jurists. Aircraft must possess the nationality of the state in which they are registered; an aircraft must be registered in only one state; and all aircraft must bear marks of identification. The contracting states also were to transmit monthly to the International Commission for the information of all contracting states copies of registrations, cancellations of registrations entered on their official registers during the month.

Certificates of airworthiness and licenses of pilots were to be issued by the state whose nationality was claimed by the aircraft in accordance with regulations stipulated in the annexes and modified by the International Commission. Certificates of airworthiness and pilot licenses issued by the state whose nationality was claimed for the aircraft must be recognized as valid by the other states. But each state had the right to refuse to recognize certificates and licenses granted to one of its nationals by another contracting state (Art. 13). To an Anglo-Saxon mind, it seems illogical for

a state to prohibit flights above its territory by one of its own citizens who happens to have a foreign license while permitting flights by a foreign pilot with a license of the same character. Both pilots have measured up to the same standard of competency. Nevertheless, according to the continental legal system, the state may have reasons for compelling its citizens to take out licenses within the motherland. This principle of the *lex patriae*, in opposition to English common law, was evidently a concession to Latin influence in the conference.²

In regard to navigation above the territory of a state, Art. 15 provides that aircraft of a contracting state has the right to cross the air space of another state without landing. It is under obligation, however, to follow the route fixed by the subjacent state, and it must land if ordered to do so by the prescribed signals, or if there were a general requirement for airplanes crossing the border to land in a particular aerodrome for inspection.

The establishment of international airways is subject to the consent of the states flown over. Furthermore, each contracting state has the right to make restrictions in favor of its national aircraft in connection with commercial transportation wholly within its own territory (Art. 16). Such reservations must be immediately published and communicated to the International Commission for the information of other states. While this liberty of action might lead to abuse, a make-weight is found in the provision that such restrictions would automatically apply to the aircraft of the restricting state when flying over other states.

A proper provision is made to protect all rights in the matter of claims upon foreign aircraft for infringement of patent. Correct rules were formulated as to the papers and log books that aircraft must carry, and as to the verification of documents by the official inspectors (Arts. 19-21). An obligation is put upon every state to the effect that public

² Compare Arthur K. Kuhn, "International Aerial Navigation and the Peace Conference," *American Journal of International Law*, July, 1920, p. 373.

airdromes must be open to foreign aircraft at the same rates as to the nationals of that state.

The carriage by aircraft of explosives and of munitions of war is forbidden in international navigation (Art. 26). If a state restricts the transportation of other articles, notification of such prohibition must be sent to the International Commission, which shall communicate this information to the other contracting states. A chapter of the convention is devoted to state-owned aircraft, including military planes, applying principles quite analogous to the status of public ships in territorial waters. The contracting states agree to cooperate in the collection and dissemination of statistical and meteorological information. Customs regulations are set forth in Annex H, although states are free to conclude special protocols between themselves in respect of customs, police and posts (Art. 36).

In case of disagreement between two or more states relating to the interpretation of the convention, the dispute is to be referred to the Permanent Court of International Justice.

Finally, the enemy states in the Great War (Germany, Austria, Hungary, Bulgaria and Turkey) as well as Russia might adhere to the convention only after becoming Members of the League of Nations or after January 1, 1923, provided admission of any such state were approved by the Allied and Associated Powers. After January 1, 1923, this admission was to be admitted only if accepted by three-fourths of the signatory and adhering states voting in the International Commission.

Such, in brief, were the provisions of the convention of 1919. In spite of several glaring defects the convention was a precious basis for international regulation of the air. It was one of the permanent contributions of the Peace Conference of Paris.

RATIFICATION OF THE CONVENTION

The convention was opened to signature on October 13, 1919. Twenty-six of the 32 states enumerated in the pre-

amble signed the document within the time limit named therein.³ But ratifications came slowly. Even the French Chambers allowed nearly two years to elapse without final action.

The delay was due to formidable objections made by the states that had not participated in the Great War and that had been specifically invited by Art. 41 of the convention to adhere to the same. The first of these criticisms to be formally presented was a memorandum addressed by the Swiss Government to the Quai d'Orsay on November 30, 1919. Herein it was pointed out that in adhering to the convention, Switzerland or any other ex-neutral state would be obliged to engage itself, in pursuance of Art. 5, to close its air space to the aircraft of Germany and its former allies. Consequently, Switzerland would probably find itself, in turn, excluded from flight over the central European states, inasmuch as Switzerland would not have the privilege of flying over the conquered territories which was granted by Art. 313 of the treaty of Versailles to the Allied and Associated Powers.

There was no gainsaying that the Swiss remonstrance exposed a serious weakness in the convention. In January, 1920, the objection was laid before the Conference of Ambassadors, which had succeeded to the Supreme Council in winding up the affairs of the Allied and Associated Powers. The suggestion was brought forward that an amendment of Art. 5 of the convention might be the means of eliminating the inequality of the ex-neutral states. But it was evident that this was impossible. Under Art. 34 of the convention no amendment of the convention could be offered to the signatory states until approved by the International Commission for Air Navigation, while the commission could not

³ These Governments were: the United States, Belgium, Bolivia, Brazil, British Empire, Australia, South Africa, New Zealand and India, China, Cuba, Czechoslovakia, Ecuador, France, Greece, Guatemala, Italy, Japan, Yugoslavia, Panama, Poland, Portugal, Rumania, Siam and Uruguay. Of the remaining six states, Peru, Nicaragua and Liberia subsequently adhered to the convention; while Haiti, Honduras and the Hejaz neither signed nor adhered.

come into existence until the convention was ratified and entered into force.

The best solution that the Conference of Ambassadors could find was the awkward arrangement of an additional protocol signed on May 1, 1920, granting the right of derogations from the obnoxious fifth article.¹ This protocol was ratified by the signatory states along with the convention. It permitted the ex-neutral states to have aerial agreements with the ex-enemy states pending some satisfactory amendment of the convention of 1919. The arrangement was an embarrassing and almost undignified solution of an absurd situation, but as Secretary-General Roper has pointed out it gave proof of the desire of the authors of the convention to correct their mistake.²

In the meanwhile, further objections to the convention were presented. In December, 1919, representatives of Denmark, Finland, the Netherlands, Norway, Spain, Sweden and Switzerland met at Copenhagen to study the convention. As a result, these governments declared that they could adhere to the convention only after it had been amended so as to (1) recognize that all the contracting states should have the right to conclude special treaties with states not parties to the convention, and (2) grant equal voting rights to all the states represented on the International Commission for Air Navigation.

It was not until June 1, 1922, that sufficient states had ratified the convention to warrant a deposit of ratifications. Fourteen of the signatory states participated in this event, including Belgium, Bolivia, the British Empire with Australia, Canada, New Zealand, South Africa and India, France, Greece, Japan, Yugoslavia, Portugal and Siam. Forty days later, on July 11, 1922, the convention came into effect for these 14 states and for Persia which had already adhered.³

¹ *Bulletin Officiel*, No. 10, June, 1926, p. 97.

² *Session of June 1929: Draft Minutes*, annex 2, p. 2-3.

³ *Bulletin Officiel*, No. 1, August 1922, p. 3-6.

On the same day the International Commission for Air Navigation assembled for its first session.

Among the questions examined by the International Commission at its first session was the Copenhagen declaration to which we have already referred. The first proposal as to amendment of Art. 5 of the convention was readily admitted. The second proposal for equal votes in the commission raised the delicate question of state equality which has embarrassed every attempt at creating international jurisdiction.

In regard to the air régime, some states had large air fleets and were undertaking large responsibilities in developing international traffic. Other states had small responsibilities. Was it not correct to give the former a larger voice in the international legislature? Perhaps compromise was possible.

A month after the adjournment of the first session of the International Commission the Copenhagen conference re-assembled. As a result, the ex-neutral states (Spain excepted) proposed an arrangement whereby all states should have an equal voice in the International Commission, with the proviso that any majority vote to modify the annexes of the convention must include at least three of the great states. This compromise proposal greatly facilitated the discussion.³ The two demands of the ex-neutral states were adopted by the commission and offered to the signatory states in the protocols of October 27, 1922, and of June 30, 1923, amending Arts. 5 and 34 of the convention. Ratifications were not secured until December, 1926, and shortly thereafter three of the ex-neutral states—Sweden, Denmark and the Netherlands adhered to the convention.

³ Compare *Sessions of June 1929: Draft Minutes*, annex a, p. 4.

V. THE INTERNATIONAL COMMISSION FOR AIR NAVIGATION

ONE of the most admirable features of the convention of 1919 was the creation of the Commission Internationale de Navigation Aérienne (International Commission for Air Navigation) frequently referred to as C. I. N. A. or I. C. A. N.¹ In origin, this organization is the outgrowth of the Interallied Aviation Committee, an important cog in the machinery that won the war against Germany. In practice, it is the principal organ of an international arrangement requiring administrative, legislative and judicial agents. The judicial work of the air régime was assigned by the convention of 1919 to the Permanent Court of International Justice. The administrative and legislative functions were entrusted to C. I. N. A.

THE ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Treaties of regulatory nature should have a permanent administrative agency. This is one of the lessons of modern diplomacy. The idea is not new. The treaty of Paris of March 30, 1856, providing for the regulation of traffic on the Danube, established the European Commission, which has had a long and useful career. The universal postal convention of 1874 set up the International Bureau of the Postal Union with its seat at Bern; the railways transportation convention of 1890 created the International Railways Transport Office with its seat at Bern; while the sugar convention of 1902 established the Sugar Commission located at Brussels, which functioned until 1920. Before the war also there were telegraphic, literary, artistic and industrial property, weights and measures, sanitary, geodetic and other bureaus or commissions for the administration of conventions. French dele-

¹In technical circles this body is usually called *Cine*, the pronunciation of the vowel in the first syllable being short.

gates at the Air Navigation Conference of 1910, in an admirable memoir, called attention to this form of international administration, and cited the organs already established. The commission proposed at that time was eventually realized by means of the air convention of 1919.

A glance at the convention of 1919 suffices to indicate that its operation properly requires a permanent organization for the following purposes: (1) to receive reports of the contracting states; (2) to transmit this information to the other states; (3) to revise the numerous and detailed rules in the annexes so that they will meet the rapidly changing conditions of aviation; and finally and most important of all, (4) to provide a means for the progressive revision of the text of the convention. These duties are placed upon the International Commission. The convention would have been incomplete without provision for such an institution.

An unhappy mistake was made in the organization of this instrument of the treaty. There was blatant inequality in the representation of states. The problem of equality of states has always been a perplexing question connected with all forms of international cooperation. In the League of Nations, the preponderance of the great states had been adroitly managed; every state had an equal voice in the Assembly, the vote of the British Empire counting no more than the vote of Albania, while a counterbalance was secured in the Council where the great states are permanently represented and nine out of 14 places are always filled by elected representatives of smaller states.

Two chambers of international delegates, however, would have been too clumsy for the administrative body of the air régime. Thus the commission was organized as a unicameral body. France, Italy, Japan and the United States were given two representatives on the commission; Great Britain, India and the Dominions each possessed one representative; all other states had only one representative apiece. Moreover, each of the five premier states (the British Em-

pire counting as one state) was to have as many votes as the number five was contained in the number of small states. The small states were to have one vote each. This cumbersome arrangement laid the convention open to the trenchant criticism of being in opposition to the democratic spirit of which the Allied and Associated Powers had been boasting. It is fortunate that at the fourth session of the International Commission at London in 1923, after the convention had been in force but a year, a resolution was adopted to amend the convention so that each state should have but a single vote.¹ The protocol to this effect was duly ratified and the amendment finally came into effect in December, 1926.

The leveling process was so drastic that even the British Empire possessed but a single vote. Such an arrangement, however, soon proved irksome to the Dominions. Surely Canada, Australia, South Africa, New Zealand and India are peers of Denmark, Persia, the Saar, Siam and Uruguay, each of which has a separate vote. Consequently, at the 17th session of C. I. N. A. in December, 1929, a protocol of amendment was adopted modifying Arts. 34 and 40 of the convention; and, if this protocol is ratified by all the signatory states the members of the British Commonwealth of Nations will possess an equal voice with all other states.²

Under the terms of the convention the International Commission was to be convened as soon as a majority of the signatory states had ratified. The majority, consisting of 14, was reached on the first deposit of ratifications on June 1, 1922. Accordingly, the commission assembled in Paris on July 11, 1922, the day on which the convention entered into force. The first session, under the presidency of Pierre-Etienne Flandin, drew up rules of procedure, established a permanent secretariat with headquarters in Paris, appointed

¹ *Bulletin Officiel*, December, 1922, No. 2, p. 38; June, 1923, No. 4, p. 16.

² Compare *Protocole relatif à des Amendements aux Articles 34 et 40 de la Convention portant Règlementation de la Navigation Aérienne en Date du 13 Octobre 1919* (Paris, 11 Décembre 1929), and Appendix, *infra*, p. 171.

six subcommissions for the study of technical questions and chose a secretary-general.¹

The subcommissions included one for each of the following subjects: operations and materials, wireless, meteorology, medical aviation, legal questions, and maps.

Eighteen sessions of the commission have been held down to date, and include meetings as follows:

1. Paris, July 11-28, 1922.
2. London, October 25-27, 1922.
3. Brussels, February 28-March 2, 1923.
4. London, June 26-30, 1923.
5. Rome, October 26-31, 1923.
6. Paris, March 3-6, 1924.
7. Paris, October 10-14, 1924.
8. London, April 3-6, 1925.
9. Brussels, October 6-9, 1925.
10. Japanese Embassy in Paris, May 11-15, 1926.
11. Paris, November 3-5, 1926.
12. London, April 25-27, 1927.
13. Rome, October 24-28, 1927.
14. Geneva, June 8-11, 1928.
15. Brussels, March 21-23, 1929.
16. Paris, June 10-15, 1929.
17. Paris, December 10-11, 1929.
18. Antwerp, June, 1930.

THE WORK OF THE INTERNATIONAL COMMISSION

The duties and powers of the commission are extensive. As succinctly stated in one of its official brochures:²

The commission has to examine all proposals for amendments to the articles of the convention. No demand for modification can be considered, whatever its origin, without having been discussed by the commission.

It is also competent to make, by its own motion, any modifications of the annexes to the convention; and its decisions, at the expiration of four months from the notification sent by the

¹ *Bulletin Officiel*, August, 1922, No. 1, p. 8-25.

² *Convention of 13th October 1919; Its Preparation; Its Entry Into Force; Its Application* (May, 1929), p. 9-10.

secretary-general to the Governments of the contracting states, become valid in respect to these states.

Charged, moreover, by various articles of the convention (Arts. 9, 15, 16, 27, 28, 36 and Annex H, par. 3) with the duty of communicating to the contracting states decisions taken by each one of them with regard to different matters of great importance to airmen, and of collecting and communicating (Art. 34, *d* and *e*) information of every kind concerning air navigation as well as all information relating to wireless telegraphy, meteorology and medical science which may be of interest to air navigation, the International Commission for Air Navigation has organized at its Secretariat a center of collection and dissemination of all these decisions, regulations and information.

The decisions referred to in the convention are centralized at the Secretariat and notified direct to the Governments of all the contracting states. They are also published periodically in the *Bulletin of Information* of the commission together with the regulations and information above mentioned. The bulletin is published weekly in two languages—French and English.

The *Bulletin of Information* is one of the most useful governmental documents issued at the present day for national administrative authorities; it brings immediate information to all the Governments of contracting states in regard to aviation—information essential to the proper execution of the convention and essential to the proper regulation of international flying. A brief synopsis of its five parts will help to illustrate the function of the commission:

Part 1. Conventions, Laws and Regulations, including conventions, agreements or arrangements relating to air navigation concluded between contracting states and noncontracting states in conformity with Art. 35 of the convention. Special protocols in respect of customs, police, posts and other matters of common interest in connection with air navigation, provided for in Art. 36 of the convention. National laws and regulations relating to the carriage and use of photographic apparatus in air navigation, prohibited areas, customs aerodromes, prohibited transport, the construction of machines, the issue of certificates and licenses, and rules of the air.

Part 2. Register of Aircraft, including registrations and cancellations of registrations entered on the registers of the

various states (communications provided for in Art. 9 of the convention).

Part 3. Lists of licenses issued by the different states, for pilots, navigators, ground engineers and others.

Part 4. General information including notices issued by contracting or noncontracting states regarding aerodromes and landing grounds, the condition of such aerodromes, danger areas, the creation or closing of landing grounds, the installation or demolition of air lights or W-T masts, the prices charged for fuel, the special rates for landing to be observed at certain aerodromes, the charges made for attendance at different aerodromes, the conditions for the use of certain military aerodromes, and wireless, meteorological and medical information.

Part 5. Air traffic statistics, including annual statistics officially published by the Governments.

The publication of this information proves of practical value to airmen. Consulting the pages of the weekly edition of the *Bulletin* they learn, for instance, that the Italian Ministry of Aeronautics has revised its prohibited areas and obligatory routes in crossing the Alps and flyers must take notice; that sheep are grazing on the landing field at Le Bourget and planes should be careful to avoid them; that the Cherbourg-Querqueville Aerodrome will be occupied by military formations on certain dates and private planes are barred; that plowing and leveling operations are in progress on the Croydon Aerodrome and pilots should avoid taxiing beyond the boundary lights; that the Pisa Aerodrome is water-logged by heavy rains and is unfit for use; that the Rotterdam air-light is temporarily out of action; that the Italian Government has ordered a red flag to be displayed at the Furbara Aerodrome on the Rome-Civita Vecchia line whenever landing will be dangerous because of artillery fire; that Canada has organized a meteorological service and reports are obtainable at its offices in Toronto, Walkerville and St. Hubert, that a new system of air lights for night-flying has been installed along the Berlin-Hanover route; and that Denmark has issued a revised list of customs airdromes.

The information is often given in considerable detail. For

instance, the Greek Government, which has ever insisted on seemingly vexatious restrictions on foreign aircraft, issues new regulations applicable to airplanes on landing and leaving Greece; the *Bulletin of Information* publishes the regulations in full in French and English translations. Or, the Italian Government, by royal decree, proclaims a code of air regulations; this decree covering 86 pages is reprinted in French and English translations. Or, the German Reichsverkehrsministerium has announced new requirements for certificates of airworthiness; English and French translations of this decree are published.

There is no doubt but that this valuable system of collecting and transmitting information should be more fully developed. To do so would relieve the contracting states of the burden of numerous transmissions, difficult researches and duplication of translations. In the words of the secretary-general: "It is already manifest that the contracting states appreciate the importance of these exchanges and contribute more and more to their extension."

DECISIONS OF THE COMMISSION

Beginning with the first session of the commission in July, 1922, numerous questions have been submitted to its decision. Some of them have been settled on the spot; others are on the way toward a satisfactory settlement. Among these questions are the following:²

1. Establishment of the standard minimum requirements for the issue of the airworthiness certificate with which all aircraft engaging in international navigation must be provided.

2. Determination of the methods of employing wireless apparatus (Art. 14) in aircraft.

3. Publication of maps for air navigation, which are to be prepared in a uniform manner for all countries.

4. Unification of the log books and documents on board aircraft, so as to simplify the formalities to be complied with in the course of journeys by air.

² *Convention of 13th October 1919: Its Preparation; Its Entry into Force; Its Application* (May, 1929), p. 11-12.

5. Rules as to lights and signals and the preparation of a code for air traffic.

6. Unification of the models of the certificate of airworthiness, certificate of competency and license, so as to permit the ready identification of their holders whatever be the language in which the documents have been issued.

7. Unification of the symbols and terms used in aeronautical technology, which will facilitate international discussions and the translation of studies, researches or tests, made or undertaken.

8. Medical examinations required for pilots of aircraft.

9. Transmission of meteorological information.

10. Organization of emergency medical boxes on board aircraft.

11. Night landing lights on aerodromes.

12. Adoption, for calculations, of an international standard atmosphere.

13. Rules for air traffic.

14. Transport prohibited for aircraft.

15. Institution of a certificate for navigators and a certificate for meteorologists.

16. Composition of the operating crew of aircraft.

17. Collection and dissemination of meteorological information.

18. Unification of the characteristics required in respect of materials used in aeronautical construction.

19. Competency of women for piloting aircraft.

20. Investigation of aircraft accidents occurring abroad.

21. Use by aircraft of a radiotelegraphic alert signal.

22. Compilation, centralization and publication of air traffic statistics.

Before closing our discussion of the work of the International Commission a few words should be said anent the secretary-general. Institutions are built by men. This is true of international organizations as well as domestic. In the international field, personal tact, untiring enthusiasm and technical ability are peculiarly in demand. The first session of the commission in July, 1922, appointed as secretary-general, Albert Roper who had rendered able service in the drafting of the convention at the Peace Conference. By his vigilance, energetic communication with Governments the world

over, and administrative ability, he has contributed to the continuous progress of the commission.

AMENDMENT OF THE CONVENTION OF 1919

Amending clauses are, in one respect, the most important part of multilateral conventions as well as of national constitutions. For it is all too true that unless international agreements, like constitutions, expand to meet changing conditions of world politics they drop into public contempt and fail to fulfill their destiny. Perhaps, in this matter, diplomats have a few lessons to learn from constitution-builders—from the words of such a statesman as George Washington who in his Farewell Address in 1796 advised his countrymen not only to respect their fundamental law but also to hasten to amend it when it failed to accomplish the purposes of government.

International agreements are notoriously difficult to revise, with the result that their efficacy is sometimes greatly impaired. The authors of the Covenant of the League of Nations had this difficulty in mind when they provided a workable amending process for the Covenant, involving both the Assembly and the Council, whereby amendments shall take effect when ratified by all the Member states whose representatives compose the Council and by a majority of the Member states represented in the Assembly (Art. 26). The independence of statehood is protected by the provision that no amendment shall bind any Member state which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League.

As we have already noted, the air convention of 1919 solves the difficulty by relegating most of the details of aerial regulation to the annexes, which, with the exception of Annex H, can be modified simply by a resolution of C. I. N. A. As originally provided, this modification was to be accomplished by a vote of three-fourths of the total possible votes which could be cast if all the states were represented (Art. 34, par. 8). Under the amendment to Art. 34, adopted at London

in 1923, the majority must contain at least three of the great states—the British Empire, the United States, France, Italy and Japan. This provision, however, will be abolished if the protocol of June 15, 1929, is ratified. In this event, modification of the annexes hereafter will be effected by resolution of the commission if approved by three-fourths of the total votes of the states represented at the session and two-thirds of the total possible votes that could be cast if all the states were represented.¹ The proviso was originally adopted in order to guard the ambitious air system of the great states against any vexatious regulations that the small states might seek to impose. But apprehensions of such attempts no longer exist.

As to amending the articles of the convention, proposals may originate with one of the contracting states or with the commission. In either case they are to be offered to the states for adoption provided that they are approved by a two-thirds vote in the commission. But all such amendments of the articles become effective only upon ratification by all of the contracting states (Art. 34, par. 9).

This amending process is modern and scientific. Few international organizations to-day are as adequately equipped with the means for the progressive expansion of their constitutional basis. Progress in the development of aviation is so rapid that international regulation would be hampered if modifications in the governing rules could not be secured with promptness.

It is significant that most of the amendments to the articles have been of a nature to purge the convention of all traces of the war mentality of 1919. As we have already seen, the second session of C. I. N. A. at London in October, 1922, proposed an amendment to the fifth article—the article which attempted to force all the allies and neutrals in the late war with Germany into the air régime by putting the contracting states under obligation to close their air space to non-

¹ *Bulletin Officiel*, November, 1929, No. 16, p. 51; *infra*, p. 87 and Appendix I.

contracting states. By the year 1922, none of the immediate neighbors of Germany, save Belgium, had ratified the convention, and it was apparent that some of them at least would never ratify under such conditions. The convention had also created an unfavorable impression in the United States where the failure of the Senate to act upon it placed the American air routes into Canada in an anomalous position.

The fifth article, as modified at the London session, read as follows:

Art. 5. No contracting state shall, except by a special and temporary authorization, permit the flight above its territory of an aircraft which does not possess the nationality of a contracting state unless it has concluded a special convention with the state in which the aircraft is registered. The stipulations of such special convention must not infringe the rights of the contracting parties to the present convention and must conform to the rules laid down by the said convention and its annexes. Such special convention shall be communicated to the International Commission for Air Navigation which shall bring it to the knowledge of the other contracting states.

This amendment was embodied in a protocol dated at London, October 27, 1922. In three years' time, it received the assent of the 20 states then members of the commission, and entered into force in December, 1926.¹ At the fourth session in London in June, 1923, another important amendment was adopted, which, as we have already described, swept away the inequality in the representation of the contracting states on the commission and allowed each state only one vote.

In 1929, ten years after the drafting of the air convention, the commission undertook an extensive revision. Since this modification was chiefly for the purpose of bringing Germany into the régime, we will postpone an examination of the undertaking until the following chapter.

¹ *Bulletin Officiel*, No. 2, November, 1922, p. 27; No. 8, May, 1925, p. 19, 87; No. 12, May, 1927, p. 17. Compare *Convention* (May, 1929) p. 2.

VI. THE DISARMAMENT OF GERMANY

THE air convention of 1919 was a product of the Peace Conference, and as we have seen reflects the psychology of that conference. It is true that the provisions for the complete disarmament of Germany and its allies by air were included in the various peace treaties, while the general arrangement for an international regulation of the air was relegated to a separate convention. Nevertheless, the air convention of 1919 and the treaty of Versailles are mutually supplementary. The clauses of both treaties were drafted at the same conference and the treaty of Versailles affected commercial as well as military aviation in Germany.¹

THE QUESTION OF SUPPRESSING COMMERCIAL AVIATION IN GERMANY

The Supreme Council entertained no doubts as to the principle of the full disarmament of Germany. But the application of the principle raised questions. It was granted that equipment for war must be abolished. But what was equipment for war? Military planes were in an obvious category. On the other hand, commercial planes, as Secretary Lansing pointed out, presented the same difficulties as horses which could be used to draw guns or to draw plows—a fact that did not constitute sufficient grounds to prohibit them to the Germans.²

On April 26, 1919, the Supreme Council met in Monsieur Pichon's room at the Quai d'Orsay to discuss the clauses of the peace treaty relating to aviation which the Aeronautical Commission had drafted. The provision that drew debate

¹ Part V of the treaty of Versailles was drafted by the Naval, Military and Air Committee of the Conseil Supérieur de Guerre de Versailles; while Part XI was drafted by the Aeronautical Commission, which also drew up the air convention of 1919.

² Miller, *My Diary with Documents*, XV, p. 344. Compare Ray Stannard Baker, *Woodrow Wilson and World Settlement* (New York, 1923), I, p. 410-414, 455-456.

read: "As regards internal commercial air traffic, the aircraft of the Allied and Associated States shall enjoy through Germany, treatment accorded to aircraft of the most favored nation." In the words of the minutes of the meeting, the discussion proceeded as follows:¹

Mr. Lansing said that his chief objection to the proposed articles was that there was no reciprocity about them. Germany was given no rights and it appeared as though the allied Governments were trying to suppress all economic aerial activity on her part. He thought this was an unfair attitude to assume, and he did not see why Germany was not given the right to pass through the air of other countries when the allies reserved for themselves full powers to use the air routes of Germany.

Capt. Roper explained that the Aeronautical Commission in drafting these regulations had not intended to suppress Germany's commercial activities. Indeed that was not a question which the commission could have dealt with, as it constituted a political matter which fell outside its functions. The commission had originally intended to put a stop to all German aerial activity, but the Supreme Council had disapproved of any such arrangement. The object the commission had kept in view in drafting the articles under consideration had not been to interfere with Germany's freedom of the air, but to prevent her from interfering with the free passage of allied and associated aircraft over German territory.

This explanation did not satisfy Secretary Lansing who insisted:

The crux of the whole matter lay in the fact that Germany would not be entitled to participate in the air convention until she became a member of the League of Nations, and her entry into the latter would depend upon the assent of her economic rivals, who would necessarily be opposed to her obtaining any aerial commercial privileges.

Secretary Lansing finally withdrew his objections after the adoption of the following formula:

The obligations imposed by these clauses shall continue until January 1, 1923, provided that unless prior to that enemy

¹ Miller, *My Diary with Documents*, XVI, p. 119-121.

countries admitted to the League of Nations or by consent of the Allied and Associated States are permitted to adhere to the convention relating to International Air Navigation made by the latter states.

In other words, by the year 1923, Germany might be able to recover sovereignty of her air space. This was the origin of Art. 42 in the air convention of 1919, and is evidence of the intimate relation between the two treaties.

AIR CLAUSES IN THE TREATY OF VERSAILLES

The move to bar all aerial activity in Germany thus did not meet ultimate success. Commercial progress was hampered for a period by the surrender of all military planes (Art. 202), whereas in interallied countries many military planes soon entered into commercial use. A temporary handicap was imposed by the prohibition of all manufacture and importation of aircraft for six months following the coming into force of the treaty of Versailles. Finally the provision of Art. 198 that "the armed forces of Germany must not include any military or naval air forces" withdrew from the aeronautical industry that support so freely accorded by the military department of other states, at least during such period as Germany was unable to overcome the prohibitions of the treaty. The Aeronautical Interallied Commission of Control was to keep vigilant watch to enforce in Germany all these prohibitions (Art. 210). The same restrictions were placed upon Austria, Hungary and Bulgaria.¹

In Arts. 313-320 dealing specifically with commercial aviation, the treaty granted the aircraft of the Allied and Associated Powers full liberty of passage and landing in the territories of Germany with the same privileges as German aircraft.² All public airdromes were to be open to the aircraft of the Allied and Associated Powers on the same terms as to

¹ The military air clauses in the treaty of Versailles are found in Arts. 198-202, 210; in the treaty of St. Germain, 144-148, 155; treaty of Trianon, 128-132, 139; and treaty of Neuilly, 89-93, 100.

² The commercial air clauses in the other peace treaties are as follows: treaty of St. Germain, Arts. 276-283; treaty of Trianon, 260-267; treaty of Neuilly, 204-211.

the Germans. Certificates of nationality, airworthiness and competency issued by the Allied and Associated Powers must be recognized as valid in Germany. The aircraft of the Allied and Associated Powers were to participate in the international commercial air traffic on the most-favored-nation terms. Finally, Germany was to enforce in its territories the rules of the air to be laid down by the victors in the air convention of 1919. These obligations were to remain in force until January 1, 1923, unless before that time Germany were admitted to the League of Nations or permitted by the Allied and Associated Powers to adhere to the air convention.

THE NINE RULES

The enforcement of these provisions was far from child's play. Disarmament of Germany by land and sea and air proved a stubborn problem. One result of these difficulties was the prolongation of the prohibition of manufacture and importation of aircraft (Art. 201) which was to run for six months after the treaty of Versailles entered into effect. As a matter of fact, by decision of the Conference of Ambassadors, this absolute prohibition was continued until late in the year 1922, while an indirect prohibition was extended for a further period.

On April 14, 1922, the Conference of Ambassadors at Paris notified Germany that the prohibition of Art. 201 would continue for six months after May 5, 1922, and that thereafter German manufacture and importation of aircraft would be subject to nine rules.³ These rules had been drawn up by the French undersecretary for aeronautics and adopted by the Interallied Military Conference at Versailles. In order to bar any possible manufacture or importation of military aircraft, the Nine Rules laid down so many restrictions that there was little of aeronautic value left for the

³ *Revue Juridique Internationale de la Locomotion Aérienne*, 1922, p. 419; Arnold J. Toynbee, *Survey of International Relations, 1920-1923*, p. 111.

Germans. Naturally this was a severe blow to the aeronautic industry which had been paralyzed by the results of the war.

One advantage accrued to Germany on January 1, 1923. On this date, by virtue of Art. 320 of the treaty, the Reich was entitled to recover to a certain extent sovereignty of the air over its unoccupied territory. Accordingly, the German ambassador at Paris informed the Conference of Ambassadors that Germany would adhere in principle to the air convention, making reservations as to Arts. 5 and 34 similar to the Copenhagen declaration.¹ Germany thus made a move to conform to the new international air régime. Conciliation, however, came to an end with the Franco-Belgian invasion of the Ruhr.

National resentment against the seizure of the richest industrial area of Germany gave rise to various retaliatory acts, among which was the Reich decree of April 23, 1923, requiring special German authorization for all foreign commercial aircraft which flew over German territory. Exception was made in favor of Switzerland, the Netherlands, Denmark and the Free City of Danzig with which countries Germany had negotiated aviation treaties. Orders were issued to arrest all pilots and confiscate all aircraft that lacked the proper authorization.

A curious contest then ensued. The Compagnie Franco-Roumaine, which for the past two years had flown its airplanes across Germany on the route to Prague and Warsaw, now attempted to fly its machines over Germany without authorization. For several weeks no accident forced a French pilot to land on German territory. But in May, a pilot was compelled to descend near Nuremberg. He was promptly arrested and the airplane confiscated. The French Govern-

¹ For the German law regulating aerial circulation in Germany of April 23, 1923, and the Copenhagen agreement of April 15, 1922, see *Revue Juridique Internationale de la Locomotion Aérienne*, 1923, p. 509 and 511.

ment made diplomatic protest at Berlin, but to no avail.¹ Throughout the next two years Germany seized French aircraft landing within its borders, confiscating in all 14 airplanes, and eventually compelling the French company to change its route to run by way of Zürich and Innsbrück.

THE ACCORD OF MAY, 1926

These conditions continued until the Locarno treaties (initialed on October 16, 1925) ushered in a new day of Franco-German relations. The conciliatory diplomacy of Stresemann and Briand, among its many achievements, resolved the anarchy in the air régime. The Conference of Ambassadors instructed the Interallied Committee of Guaranties, which had replaced the Aeronautical Interallied Commission of Control, to devise a new supervisory system for Germany, while negotiations with the French, British, Belgian, Italian and Japanese Governments resulted in the satisfactory arrangements of May 7 and 22.² The Committee of Guaranties disappeared, and, in accordance with Art. 213 of the treaty of Versailles, the supervision of military control was left to the League of Nations. The Nine Rules, of course, were abrogated, and German aeronautic industry was henceforth free except for the prohibition against military aircraft.

The relaxation of the severe restrictions upon Germany was followed by the signing of air treaties with France and Belgium (May 22 and 29) providing for reciprocal privileges of flight over their respective territories. Commercial exploitation immediately began. On May 26, the Paris-Ber-

¹ For an account of this episode and the protest of the French Government, see *London Times*, May 21, 1923, p. 7; and June 4, 1923, p. 11. Compare Werner Bartz, *Deutsche Luftrechtspolitik seit Versailles* (Berlin, 1927), p. 20-21. On November 20, 1924, Pierre-Etienne Flandin, in a remarkable speech before the French Chamber of Deputies, declared that the German Government believed itself to be acting within its rights and implied that the French Government had been lax in not ending the present anarchy by negotiation, even to the extent of agreeing to a modification of the Nine Rules. He furthermore suggested that if negotiation should fail the problem might well be referred to C.I.N.A. (*Journal Officiel, Débats Parlementaires*, November 21, 1924, p. 3685).

² Compare *London Times*, May 1, 1926, p. 13; May 8, 1926, p. 3; May 22, 1926, p. 11.

lin lines were inaugurated, being operated by the Lignes Farman and by the Deutsche Luft Hansa; while the Compagnie Internationale de Navigation Aérienne, which had detoured its Strassburg-Prague line through Switzerland, began to operate the more direct route crossing Germany.¹ The German Luft Hansa also secured the privilege of a route across France for its Berlin-Geneva-Barcelona service.

The interallied restrictions upon German aviation had stimulated a sort of psychological resistance. Stories were told by travelers and investigators indicating the existence of forbidden military airplanes and of a system of surreptitious pilot training for military purposes. But, regardless of any sporadic military effort by ultrapatriotic groups of citizens, the open development of aviation had been prodigious. By 1926, German companies operated more planes, flew more miles, and carried more passengers and freight than any two other countries in Europe.

REVISION OF THE AIR CONVENTION OF 1919

The time had come when the absence of Germany from the diplomatic table of C. I. N. A. was proving an embarrassment. Would it consent to membership? The story of Germany and the League of Nations found a parallel. In 1919, the war mentality of the Peace Conference had refused German admission to the League. Germany protested. By 1926, however, there was fear that it might play the Soviet game and refuse to join the League. Thus, eventually its agreement to participate in the responsibilities of Geneva was met with acclaim. So also in the air régime. In 1919, Germany was definitely excluded from C. I. N. A., at least for a period of time. In 1926, aviation experts were wondering how to induce the Germans to enter the fold.

Important political changes often have informal beginnings. In 1925, Secretary-General Roper while in Stockholm met Dr. Alfred Wegerdt, soon to become counselor in the

¹ Compare notes in *L'Aéronautique*, July, 1926, p. 249, 252.

Reich Ministry of Communications. He secured the latter's promise to study the question of revising the convention of 1919 in such a manner as to meet all German objections. The result was the publication of a monograph under Dr. Wegerdt's name with suggestions for amendment of the convention.¹ This article, taking semi-official cognizance of the convention, awoke prompt response, and an extraordinary session of C. I. N. A. was summoned to meet in June, 1929, in Paris to undertake a complete revision of the convention. Invitations to participate were sent not only to the contracting states but also to all states interested in aviation. Besides 22 contracting states, 16 noncontracting states participated. The latter included the former enemy states, Germany, Austria and Hungary; the United States; Spain and four other signatories of the Ibero-American convention, namely Brazil, Colombia, Cuba and Venezuela; together with Switzerland, Norway, Estonia, Finland, Luxemburg, China and Haiti.

The deliberations frankly proceeded on the basis of examining the objections of the Wegerdt monograph, and ended in several important changes in the convention highly acceptable to the German delegates, among whom was Dr. Wegerdt himself. One of these innovations was the recognition of an even greater concession to the doctrine of state sovereignty over the air. German opinion, possibly growing out of the bitter experiences of the postwar period, had condemned the failure of the convention to recognize the right of a contracting state under exceptional circumstances temporarily to restrict or prohibit air traffic above its territory, wholly or in part, and with immediate effect.

Such an amendment appealed strongly to imperial states like the British, whose colonial borders as in India contain

¹The English of the title is "Germany and the Paris Convention relating to the Regulation of Air Navigation," *Zeitschrift für das gesamte Luftrecht*, October, 1928, II, No. 1, p. 25-49. The article was republished in French under the title "L'Allemagne et la Convention de Navigation Aérienne de Paris de 13 Octobre 1919 (C.I.N.A.)," in *Le Droit Aérien*, XIII, p. 169.

unruly tribes against whom strict measures are frequently taken. In such cases it is deemed good policy to interdict all flight above the affected territory in order to keep out provoking agents from abroad.¹ The amendment to Art. 3 as finally adopted provided for this situation, and even allowed a state to close an area temporarily to all foreign aircraft while permitting the flight of its own citizens in that area.²

The obnoxious features of Art. 5 were completely eliminated. The Spanish delegate had proposed the deletion of the entire article as a bar to regional negotiations such as the Ibero-American agreement.³ This suggestion was not accepted, but the amended article was given a soothing vagueness that seemed to admit the possibility of special treaties including rules inconsistent with those of the convention itself.

In like manner, Art. 7 was amended to give the contracting states wider latitude in the registration of aircraft. It simply stated that registration shall be effected in accordance with the laws of the registering state. Similarly, in regard to the amendment of Art. 15, a new provision was inserted stipulating that every contracting state may make conditional on its prior authorization the establishment of international airways and the creation and operation of regular international air navigation lines with or without landing on its territory.

The discussion leading up to this amendment found a radical reversal of positions held in the past. Twenty-nine states, including France, Germany and Italy, stood against freedom of the air for international lines and for the requirement of authorization previously obtained. Four states, including

¹ Compare the statements by Sir W. Selson Branker and Col. F. C. Shelmerdine, *Extraordinary Session of June 1929, Draft Minutes*, p. 22-24.

² The proposed amendments are found in *Extraordinary Session of June 1929, Draft Minutes*, annex n; and in *Bulletin Officiel*, November, 1929, No. 16, p. 49-53.

³ *Extraordinary Session of June 1929, Draft Minutes*, p. 32.

Great Britain and the United States, voted for liberty of international lines.²

Finally, all vestige of the inequality of states represented in the commission was eliminated by an amendment to Art. 34 whereby the assent of three of the great states is no longer required for the modification of the annexes. Hereafter, amendment of the annexes would be effected by a three-fourths vote of the states represented at the session provided this be two-thirds of the total possible vote of all the contracting states.

In general, it may be said that while the proposed amendments of 1929 maintain the restrictive attitude toward freedom of aerial traffic, they succeed in eradicating the vestiges of the war psychology of 1919. The extraordinary session adjourned with confidence that the contracting states would accept the amendments and thus pave the way for the admission of Germany and its former allies and perhaps even of Spain and some of the Latin American states.

² *Extraordinary Session of June 1929, Draft Minutes, p. 54-56.*

VII. THE AMERICAN SYSTEM OF INTERNATIONAL AVIATION

THE New World which Canning claimed to have called into being offers a difficult problem of international organization. Shall international relations be organized on a world basis? If not, are regional leagues and unions to flourish in place of a constitutional society of all nations? The question invites the consideration of the feasibility of a world-wide organization in contrast to separate concentrations of regulation such as an American system, a European system, and possibly Asiatic and African systems.

For years, European jurists have watched, often with regret, the growth of what is claimed to be an American system of public law quite distinct from what is considered universal international law, and they have been somewhat alarmed at the beginning of the codification of such law under the ægis of the Pan American Union. At the same time it has been a matter of regret that, while a President of the United States played the leading rôle in the establishment of the League of Nations, he was unable to guide his own country into this general society of states.

So far as the United States is concerned, a policy, typified by the Monroe doctrine, has tended to bar American collaboration with European nations while actively opposing the development of European relations with the Americas. It is thus eminently characteristic of American history that the League of Nations and other organizations growing out of the Great War have been looked upon by many Americans as European institutions outside the scope of a true American policy. The refusal of the American Senate to advise and consent to ratification of the Covenant of the League was followed by failure to consider the air convention of 1919. In spite of its President, the United States was in process of rapid recession from the close European relation of the Great War.

THE PAN AMERICAN CONVENTION OF COMMERCIAL AVIATION

Ever since 1889 when the first Pan American Conference was held, the states of the New World have slowly strengthened the bonds between themselves by occasional conferences and by a loose organization maintained at Washington under the name of the Pan American Union. At the Fifth Pan American Conference held in Santiago de Chile in 1923, an Inter-American Commercial Aviation Commission was appointed to draft a "bill of laws and regulations, the adoption of which is to be recommended to all the American states, with respect to commercial aviation, the determination of aerial routes, the establishment of special customs procedure for aviation, and the determination of adequate landing policies, and it shall make recommendations with respect to the places at which said stations shall be established."¹

The Commercial Aviation Commission met four years later in May, 1927, at the Pan American Union in Washington, and prepared a draft which was revised by the Director-General of the Union and submitted to the Sixth Pan American Conference which met in January, 1928, at Habana. With modifications this project was adopted by the conference and signed by every one of the 21 states of the Pan American Union.²

Such was the origin of a system of aerial regulation which has been hailed in some quarters as a rival of the Paris régime. Ratifications have come slowly. Within two years the convention has been ratified by only four of the signatory states, namely, Guatemala, Mexico, Nicaragua and Panama.³

THE IBERO-AMERICAN CONVENTION

The Pan American convention was not the only rival of C. I. N. A. Another competitor was already in the field,

¹ *Actas de las Sesiones Plenarias de la Quinta Conferencia Internacional Americana* (Santiago de Chile, 1925), II, p. 367-368.

² *Sixth International Conference of American States, Final Act, Motions, Agreements and Conventions* (Habana, 1928), p. 97-109.

³ *Bulletin of the Pan American Union*, March, 1930, p. 237.

namely the Ibero-American convention, the result of a diplomatic maneuver by Spain.

The Madrid Government, like the other ex-neutral Governments, had been invited to adhere to the air convention of 1919. But it declined, partly because of the fact that it did not have an equal voice on the commission along with France and Italy. In 1926—in the second year of the dictatorship of Primo de Rivera—Spain withdrew from the League of Nations; its claim for a permanent seat on the Council had not been admitted. National prestige suggested a policy of counterbalances; and the creation of a Latin American air régime offered itself as a profitable experiment in diplomacy, especially since only two American states (Chile and Uruguay) were members of C. I. N. A.

On invitation of the Spanish Government the Ibero-American Aviation Congress met in Madrid on October 25-30, 1926. All the states of Latin America except Haiti were represented, as well as Spain and Portugal.¹ The conference ended with the signing of the Ibero-American air convention. Ratifications slowly followed: Spain and Paraguay in 1927; Mexico and the Dominican Republic in 1928; and Costa Rica in 1929.

The Ibero-American convention was avowedly modeled on the convention of 1919. The text of the earlier convention and its annexes is followed word for word save in a few clauses.² Art. 5 differs from the first treaty in giving the contracting states the most extensive liberty to authorize or prohibit the flight of the aircraft of noncontracting states over their territory. Art. 7 contains a slight improvement upon the system of registration of aircraft. All inequalities of states are eliminated in Art. 34, each state having one vote

¹ The states represented were Argentina, Bolivia, Brazil, Colombia, Costa Rica, Cuba, Chile, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Salvador, Spain, Uruguay and Venezuela.

² The Spanish text of the Ibero-American convention is found in the *Gaceta de Madrid*, April 23, 1927. For an English translation, see *Extraordinary Session of June 1929, Draft Minutes*, annex c.

in the Ibero-American Commission for Air Navigation with its seat at Madrid.

The Ibero-American convention omits all reference to the Permanent Court of International Justice at The Hague. That tribunal was thought to be too close to the League of Nations, from which Spain had just withdrawn. According to Art. 37, disputes among the contracting states are to be referred to arbitrators. Arts. 41 and 42 make no mention of the Great War, and the former article specifically invites all states whether Ibero-American or not, to adhere to the convention. Finally, in view of the fact that Chile, Portugal and Uruguay were members of C. I. N. A., Art. 43 provides that the signature of the convention does not imply the cancellation of other air agreements previously concluded by any of the states. The annexes of the convention of 1919 are reproduced save for the omission of Annexes F, G and H. Otherwise, clause by clause, the Ibero-American convention follows the air convention of 1919. This imitation is sincere flattery for the excellence of the technical phases of the earlier treaty. If the political clauses of the convention of 1919 had been as liberal in the beginning, its membership would probably have been doubled.

COMPARISON OF C. I. N. A. AND THE PAN AMERICAN CONVENTION

The Pan American convention is no mere copy of its European precursor. The negotiators, it is true, had the advantage offered by the study of the former treaty. Indeed, the Inter-American Commercial Aviation Commission had been specifically instructed to study all existing air agreements.¹ The 37 articles contain much that is similar to the convention of 1919; there are some comparative defects, some improvements, and several provisions of purely American character.

¹ See *Actas de las Sesiones Plenarias de la Quinta Conferencia Internacional Americana*, II, p. 368.

The convention of 1928 has no annexes; all rules are contained in the treaty itself including customs regulations—a subject relegated to an annex of a special nature in the convention of 1919. The Pan American convention also applies exclusively to private aircraft, and has no chapter on aircraft owned by the states themselves. As to sovereignty, the convention of 1928 asserts the complete jurisdiction of the subjacent state as positively as does the earlier treaty. It also puts an obligation upon the contracting states to grant innocent passage over their territories in time of peace to the private aircraft of the other contracting states. Prohibited zones are allowed; but the equality of treatment between domestic and foreign aircraft applies only to foreign aircraft engaged on international routes (Art. V). Furthermore, each contracting state may prescribe the route to be followed over its territory by the aircraft of other states which must be observed except in cases of *force majeure*.

On the subject of registration and certificates of competency the two conventions are not in harmony. While the convention of 1919 lays down obligatory rules of registration, the Pan American convention provides that registration shall be made in accordance with the laws of each contracting state (Art. VIII). It thus obviates the necessity for interfering with the internal legislation of the various states, providing simply that aircraft can be registered in but one state. On the other hand, this lack of regulation leads to an inconsistency in regard to the certificates of competency; for, if national laws are not uniform, how can competency be attested? The difficulty is solved by a curious arrangement, whereby certificates of competency are to set forth that each pilot, in addition to having fulfilled the requirements of the state issuing the certificate, has passed a satisfactory examination as to the traffic rules in the other countries in which he desires to fly (Art. XIII). In other words, each registration office must be familiar with the rules of perhaps 20 jurisdictions.

In the matter of supervision of landing in a foreign country, the Pan American convention is perhaps more emphatic in declaring that "the aircraft, aircraft commander, crew, passengers and cargo shall be subject to such immigration, emigration, customs, police, quarantine or sanitary inspection as the duly authorized representatives of the subjacent state may make in accordance with its laws" (Art. XVIII).

The question of damages to persons or property, which in the European system is left to a special convention, is placed entirely by the Pan American convention within the competence of each contracting state (Art. XXVIII). Finally, in case of disagreement between two contracting states, the Pan American convention ignores the Permanent Court of International Justice and provides a clumsy system of arbitrators (Art. XXXVI).

From a technical standpoint, the convention of 1919 as amended in 1922, 1923 and 1929 seems to offer a superior basis of international regulation. General rules which do not require frequent modification are placed in the convention itself, while detailed rules requiring constant change in order to keep pace with mechanical advancement are segregated in the more flexible annexes. The Pan American convention lacks this simple device to facilitate progressive development, relegating an unduly large part of aerial control to national legislation with the resulting confusion of practice.

The attempt to avoid the use of international machinery also is a prominent feature of the Pan American convention. The Pan American Union, located in Washington, has been given but few of the duties intrusted to C. I. N. A. It plays no part in the progressive amendment of the convention; that function is left presumably to the Pan American conferences which meet every five years. The Union does not even serve as a means of transmitting information, save in a general way. Hence, the cumbersome arrangement requiring every contracting state each month to file with every other contracting state a copy of all registrations and can-

cellations of registrations of aircraft engaged in international navigation, and requiring the states to communicate to each state in turn their various regulations concerning prohibited areas, authorized airways, certificates, airdromes and landings. In view of the great distances in the New World, however, such arrangements may be necessary in spite of the fact that the airplane has done much to abridge time and distance.

REGIONAL REGULATION VERSUS WORLD REGULATION

The appearance of the two American air régimes has caused anxiety to the school of jurists and international administrators who look forward to the universal synthesis of international relations. Even the German experts who lead the movement to bring the Reich into C. I. N. A. express the fear that the existence of three groups of states tends to block progress toward the establishment of a general public aerial law.¹

There is another side of the picture. Regional systems are not devoid of international utility and may even contribute to universal integration. But the latter hypothesis seems to require that states cooperate in a superregional organization as well as in their local systems. In any event, the present situation offers numerous problems of conflict of laws. As Señor Espil pointed out in the Sixth Pan American conference, some of the Latin American states have signed all three of the international air conventions, which as we have already seen are far from uniform. These states are thus confronted with the task of avoiding the embarrassment of a multiplicity of codes while cooperating loyally in the regimen of international progress.

If it is possible to draw conclusions from the facts at our disposal it seems that, with the development of transoceanic flights aided by airdromes stretched across the Atlantic, the American states will require air agreements with nearly every

¹ Compare Dr. Wegerdt in *Zeitschrift für das Gesamte Luftrecht*, II, p. 41.

European country. If these agreements are bilateral, the confusion of practice will be intensified. If, on the other hand, the European states meet the situation by adhering to the Pan American convention, as they are entitled to do under Art. 35, the awkward question is raised as to European representation in the Pan American conferences when the convention on commercial aviation is under discussion. The alternative policy seems to be that of a general adhesion of American states to C. I. N. A., particularly in view of the failure of the United States to ratify the convention of 1928. At all events, international aerial regulation in the Old World has gone far beyond such control in the New World, with the result that confusion exists in the progress toward universal unification of air law.

VIII. THE CODIFICATION OF PRIVATE AIR LAW

THE drafters of the convention of 1919 envisaged an organization whose functions lay chiefly in the realm of public international law. Nevertheless, there is nothing in the text of the convention to prevent C. I. N. A. from acting as a universal legislature for private as well as public law. In some respects, the two fields are so closely related that a desirable unification of law would apparently be promoted through the coordination offered by a common center of regulation. But, at present, the development of private aerial law is in the hands of a special international system composed of occasional international conferences and a permanent Comité International Technique d'Experts Juridiques Aériens.

THE FIRST INTERNATIONAL CONFERENCE OF PRIVATE AIR LAW

The need for uniform laws governing international commercial transactions and the international relations of nationals is generally admitted. This field, known as private international law, is still largely filled by national legislation. Even today, maritime law is to be found in the domestic rules of nations rather than in a universal code. The unification of aerial law, however, gives promise of a more rapid and scientific development. This progress began even before the Great War, when in 1910 a group of jurists organized the Comité Juridique International de l'Aviation and undertook a collective study of the problem of building up a code of private air law as well as a code of public air law.¹

With the sudden expansion of aviation after the Great War the question assumed more than academic interest. Commercial aviation, like all other means of transportation, immediately produced a long series of legal problems such

¹ See p. 44-45, 115.

as insurance and the liability of the shipper. For instance, a firm in Berlin consigns a case of surgical instruments to a London physician by way of an air traffic company. En route over Holland the consignment is damaged through the negligence of the pilot. Who, then, stands the loss, the Berlin firm, the London physician, the shipping company or the insurance company?

The liability of the shipper is only one of the several subjects covered in the national statutes that appeared in rapid succession with the growth of commercial aviation. Switzerland proclaimed such a law on January 27, 1920; Great Britain on December 13, 1920; Germany on August 1, 1922; Italy on August 20, 1923; and France on May 31, 1924.¹ This national legislation proved to be widely divergent and thus inconvenient to merchants, to shippers and to the traveling public. Lack of uniformity of commercial codes is ever one of the great obstacles to international trade and intercourse.

On November 30, 1923, the Air Transport Committee of the International Chamber of Commerce adopted a resolution urging the promotion of an international conference with power to draft projects of private international aerial law to be submitted for ratification to all countries. Two years later, the Third Congress of the International Chamber of Commerce, held at Brussels in June, 1925, voted.²

The congress of the International Chamber of Commerce, considering that in various countries interested in commercial aviation new questions of civil law are constantly arising, involving serious danger of conflicting judgments in the civil courts, decides to take all necessary measures with a view to recommending the convocation of an international official conference, charged with drafting an international convention on civil air

¹ Switzerland, *Recueil Officiel des Lois et Ordonnances de la Confédération Suisse* (1920), new ser., XXXVI, p. 177-186; Great Britain, *Public General Acts* (1920), 10 & 11 George V, Ch. 80, p. 540-549; Germany, *Reichsgesetzblatt* (1922), pt. I, p. 681-687; Italy, *Raccolta Ufficiale delle Leggi e dei Decreti del Regno d'Italia* (1923), p. 6361-6376; France, *Journal Officiel, Lois et Décrets*, June 3, 1924, p. 5046-5050.

² *Resolutions Passed at Third Congress, Brussels, June, 1925 (Paris, 1925)*, p. 50-51.

law similar to the international convention on public air law signed on October 13, 1919.

In the meanwhile the French Government had taken steps to meet the new demands of commerce. In August, 1923, Premier Poincaré informed the chancelleries of the world of his intention to call an international conference to meet in November for the purpose of drafting a convention regarding the liability of shippers in international traffic, and in general to decide whether the time was opportune to pursue the study of the codification of the private international law of the air.¹

The proposal was somewhat vague and the replies were not encouraging. Some Governments asked to have a project actually submitted to them before a conference was convoked. Moreover, at that moment, French prestige had reached low ebb, for the Franco-Belgian invasion of the Ruhr had not proved an edifying spectacle. In June, 1925, however, the invitation was repeated, accompanied by a draft project of a convention regarding the responsibility of the shipper in aerial traffic.²

This project served as the basis of discussion at the International Conference of Private Air Law which was held at Paris October 27-November 6, 1925. The conference was attended by representatives of 43 states.³ Under the presidency of the forward-looking French statesman, Pierre-Etienne Flandin, the negotiators accomplished two results. In the first place, they modified the French draft convention and then offered it to their Governments for further

¹ For the text of the French note of August 17, 1923, see *Ministère des Affaires Étrangères, Conférence Internationale de Droit Privé Aérien, 27 Octobre-6 Novembre 1925* (Paris, Imprimerie Nationale, 1926), p. 9.

² *Conférence Internationale de Droit Privé Aérien, 1925*, p. 10-14.

³ The states represented were as follows: Albania, Argentina, Austria, Belgium, Brazil, British Empire, Chile, China, Colombia, Czechoslovakia, Denmark, Dominican Republic, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Italy, Japan, Latvia, Lithuania, Luxembourg, Mexico, Monaco, the Netherlands, Paraguay, Peru, Poland, Portugal, Rumania, Siam, Spain, Sweden, Switzerland, Turkey, Union of Socialist Soviet Republics, United States, Uruguay, Venezuela and Yugoslavia. The United States and Hungary were represented only by official observers.

study prior to convoking a second conference for final adoption. In the second place, they established the Comité International Technique d'Experts Juridiques Aériens, with its seat at Paris, charged with the duty of continuing the work of the conference and studying in particular the possible codification of nine specified subjects of aerial law.

COMITÉ INTERNATIONAL TECHNIQUE D'EXPERTS JURIDIQUES AÉRIENS

The International Technical Committee of Juridical Aerial Experts, in spite of its awkward name, has proved a highly useful instrument.¹ Indeed, C. I. T. E. J. A. follows what Professor Jesse S. Reeves has aptly called the "new technic of codification." This method involves careful drafting of projects of conventions by experts from many lands, the study and criticism of these drafts in the chancelleries of the various Governments, then an exchange of views between the Governments, followed by another meeting of experts for compromise and modification of the text—all this taking place before the international conference is convoked to discuss and formally adopt the convention in question.

C. I. T. E. J. A. held its first meeting in the French Ministry of Foreign Affairs, May 17-21, 1926. Legal experts from 23 of the 40 states that signed the protocol of the conference of 1925 were present. The distinguished jurist, Professor de Lapradelle, presided, while Edmond Sudre was appointed secretary. The experts then laid down three guiding principles as follows:²

1. The maintenance of the tenet of the progressive elaboration of a single international code of private air law.
2. Preparation of texts on legal subjects for submission to the examination of periodic international conferences.

¹ The Comité is generally referred to as C. I. T. E. J. A., which is pronounced as one word, Citeja, with no accent.

² *Comité International Technique d'Experts Juridiques Aériens; Compte-Rendu de la 1ère Session, Mai 1926, p. 23.*

3. Establishment of a program each part of which should be studied by commissions of experts.

To carry out this program, four commissions, of 11 members each, were formed; they were instructed to study the following questions:

First Commission: (1) nationality of aircraft; (2) aeronautical registration; (3) ownership and co-ownership, construction and transfer; and (4) rights, mortgages, privileges and seizures.

Second Commission: (1) commercial transportation and tourism; (2) invoices; (3) liability of shipper to senders of merchandise and passengers; (4) jettison of cargo; and (5) renting of aircraft.

Third Commission: (1) damages and liability to third parties in taking-off, landing and jettison; (2) limits of liability; and (3) insurance.

Fourth Commission: (1) juridical status of the commander and the personnel; (2) accidents to the personnel and insurance; (3) status of the passengers; and (4) law applicable to acts committed on board an aircraft.

The second session of C. I. T. E. J. A. was held in Paris, April 4-7, 1927, with 27 states represented; the third session in Madrid, May 24-29, 1928, with 19 states represented; the fourth session in Paris, May 6-8, 1929, with 24 states represented. The four commissions have met separately twice a year. It should be added here that at the second session in Paris, a permanent secretariat was formed and M. Sudre was appointed permanent secretary-general. The secretariat has its offices in the French Ministry of Air, 37 Avenue Rapp.³ The expenses are borne equally by the adhering states; the amount being the small sum of 5,000 francs for each state.

It was the Second Commission of C. I. T. E. J. A. that was specially charged in 1926 with the redrafting of the project for a convention on liability of carriers in international air traffic. Modifications proposed by the British, German, Swiss, Lithuanian and Czechoslovak Governments were duly studied. The revised project was finally reported to the

³ For information regarding the secretariat see the brochure entitled *Liste des Experts Délégués par les Etats Adhérents au C. I. T. E. J. A., Programme des Travaux et Composition des Commissions: Règlement Intérieur* (Paris, 1930).

committee and adopted at the Madrid session; whereupon it was transmitted by the French Government to the other states.¹

All was now ready for the Second International Conference of Private Air Law; and, at the invitation of the Polish Government this met in Warsaw, October 4-12, 1929. Thirty-one states were represented. The majority of the delegates and technical advisers were men of considerable experience in aerial law—men who had seen service together on various organizations and conferences including the First Conference of 1925, and the sessions of C. I. N. A. and C. I. T. E. J. A. After some important compromises, the project of a convention on liability of shippers in international air traffic was adopted under the title of convention for unification of certain regulations relative to international air transportation and was signed by 14 of the states.² The conference also passed resolutions approving the policy of holding conferences to codify private international air law; and it requested C. I. T. E. J. A. to continue its work of preparing draft proposals.

It is worthy of note that Germany, although refraining from membership in C. I. N. A., has regularly participated on equal terms with all other states in every session of C. I. T. E. J. A. as well as in the conferences of 1925 and 1929. The Soviet Union and Turkey have also assisted in every conference and every session of the committee except the first session. The United States, on the other hand, has only been represented in the conferences by "observers." In the first session of C. I. T. E. J. A. it was represented by a delegate. It had no representation at the second session, but thereafter it has been represented simply by "observers." The United

¹ Compare *Compte-Rendu de la 3e, Session, Mai 1928*, p. 119-128.

² The signatory states were Germany, Austria, Belgium, Denmark, France, Greece, Italy, Japan, Yugoslavia, Luxemburg, Great Britain, Poland, Switzerland, and Czechoslovakia. The Foreign Ministry of Poland expects to publish the *procès-verbaux* of the Warsaw Conference in similar form to that of the conference of 1925 as published by the French Government. The text of the convention of 1929 has been published in a brochure by C. I. T. E. J. A.

States has not yet become a member of C. I. T. E. J. A. However, after long and careful consideration the President on April 1, 1930, sent to Congress a message in which he asked for an appropriation of \$250 "to meet the share of the United States of the expenses" of the committee for the year 1930. The resolution to give this request effect was passed by the House of Representatives on May 29, and was pending in the Senate after June 2.¹

By failure to adhere to C. I. T. E. J. A., the United States foregoes the privilege of a voice in the legislative process which is rapidly developing a code of private air law—a code that promises to become universal. American technical delegates, headed in the last few years by John J. Ide of the National Advisory Committee for Aeronautics, represent the

¹ See 71st Cong., 2d sess., Sen. Doc. No. 121, H. J. Res. 299, H. Rept. 1345 and *Congressional Record*, April 30-June 2, 1930.

The Treaty Division of the Department of State, responsive to an inquiry, narrates the history of the proposal referred to as follows in a letter dated July 14, 1930:

"The Department believes that you have reference to a draft of a joint resolution authorizing an annual appropriation of a sum not to exceed \$250 to pay the quota of the United States toward the expenses of the International Technical Committee of Aerial Legal Experts, for which, in a report to the President dated May 3, 1928, the Department recommended that the favorable consideration of Congress be requested. On May 4, 1928, President Coolidge commended to the favorable consideration of Congress the recommendation of the Department of State as contained in its report of May 3, 1928, H. J. Res. 311, authorizing an annual appropriation to meet the quota of the United States toward the expenses of the International Technical Committee of Aerial Legal Experts, passed the House of Representatives on May 28, 1928. As Congress adjourned on May 29, 1928, no action on the joint resolution was taken by the Senate during the first session of the 70th Congress. Nor was any action taken by the Senate on this resolution during the second session of that Congress.

"In a report to the President dated March 26, 1930, this department referred to President Coolidge's message to Congress of May 4, 1928, concerning the International Technical Committee of Aerial Legal Experts and again recommended that Congress be requested to enact legislation authorizing an annual appropriation of a sum not in excess of \$250 to meet this Government's share of the expenses of the International Technical Committee of Aerial Legal Experts, beginning with the year 1930. The department's report of March 26, 1930, was transmitted by President Hoover to Congress on April 1, 1930, with a recommendation for favorable consideration. H. J. Res. 299, authorizing an annual appropriation of a sum not in excess of \$250 for the purpose stated, was passed by the House of Representatives on May 29, 1930, but was not passed by the Senate prior to the adjournment of the second session of the 71st Congress on July 3, 1930.

"The message of May 4, 1928, from President Coolidge to Congress transmitting this department's report of May 3, 1928, is printed in S. Doc. 94, 70th Cong., 1st Sess. President Hoover's message of April 1, 1930, transmitting to Congress the report of March 26, 1930, is printed in S. Doc. 121, 71st Cong., 2d Sess., with which is also printed a copy of S. Doc. 94 of the 70th Cong., 1st Sess."

United States in the conferences and in the sessions of C. I. T. E. J. A., but because of the attitude of their Government they do not take part in the debates and can not make American participation really effective.

THE RELATION OF C. I. N. A. AND C. I. T. E. J. A.

Can the existence of two official bodies like C. I. N. A. and C. I. T. E. J. A. be justified? Does the present condition make for the much desired unification of air law?

It appears that when the French Government decided in 1923 to initiate the great task of codifying aerial law it considered the advisability of asking C. I. N. A. to undertake these studies.¹ There was, however, one grave objection. At that time C. I. N. A. represented only 21 states. The promoters of the new undertaking hoped to enlist the interest of every state in the family of nations. Under these circumstances the French Government deemed it expedient to organize the project on a wider basis by calling a new international conference.

The action caused no conflict between the French Government and C. I. N. A. In the words of Secretary-General Roper: "The French Government stated its intentions to C. I. N. A. and offered to associate the commission in the work contemplated by requesting the latter to authorize its secretary-general to take charge of the Secretariat of the conference. C. I. N. A., on its part, proclaimed its competency in the matter, but appreciating the reasons of expediency which explained the attitude of the French Government, formulated no protestation, willingly authorized the cooperation offered, and considered that the subsequent enlargement of the air convention of 1919 would before long

¹ See statement of Secretary-General Roper in International Commission for Air Navigation, *Extraordinary Session of June, 1929*, annex a, p. 8.

do away with the temporary duplication of a question the two parts of which are manifestly connected."¹

The expectation of C. I. N. A. that an enlargement of the convention of 1919 would bring the problem of codification of private air law within its functions remains to be fulfilled. In the meanwhile a permanent secretariat of C. I. T. E. J. A. has been established and a special technic developed in which the legal experts of 32 countries now participate.² In justification for the continuance of this arrangement it is claimed that the field of codification of private air law is so vast that it should be separated from public air law. Moreover, because of conflicting rules in domestic legislation some of the questions for adjustment are so intricate that an extraordinary method of draftmanship is required.

It is also said that in view of the fact that C. I. N. A. has administrative powers and adopts modifications of its rules which are put into force by the member Governments, it would be a delicate matter for the commission to treat internal questions such as liability of the shipper and insurance which Governments are accustomed to regulate themselves.

At any rate, so long as Spain and the South American states as well as the United States abstain from C. I. N. A., the existence of C. I. T. E. J. A. can be easily defended. At

¹ The resolution referred to was voted in the session of October, 1923, and read as follows: "The commission, after having taken cognizance of the French Government's communication concerning the international conference on questions of aerial law, authorizes its General Secretary to undertake, if necessary, the secretariat of such conference. It directs its General Secretary, however, to remind the French Government that par. (g) of Art. 34 of the air convention refers expressly to the competence of the I. C. A. N. 'in regard to all questions which the states may submit for examination'. It considers that the question of the responsibility of aerial carriers is closely allied in practice to questions concerning the regulation of aerial navigation, the study of which devolves on the I. C. A. N. by virtue of the international convention of October 13, 1919, and that it is fully qualified, by means of its Legal Subcommittee, usefully to study this matter. It therefore expresses the wish that, with a view to maintaining a unity of views in the organization of air navigation and of air traffic, par. (g) of Art. 34 be interpreted in its broadest sense by the contracting states." (*Official Bulletin*, December, 1923, No. 5, p. 29).

² The participating states in 1930 are: Argentina, Austria, Belgium, Brazil, China, Czechoslovakia, Denmark, Dominican Republic, Egypt, France, Germany, Great Britain, Greece, Guatemala, Hungary, Italy, Japan, Lithuania, Luxembourg, Mexico, the Netherlands, Peru, Poland, Portugal, Rumania, Spain, Sweden, Switzerland, Turkey, Union of Socialist Soviet Republics, Yugoslavia, and the United States as an observer.

the present time, in the well-chosen words of Professor Henry-Couëannier, the two organizations find their duties to be "parallel, but not concurrent, and by no means hostile."¹

¹ *Éléments Créateurs de Droit Aérien* (Paris, 1929), p. 73.

IX. THE LEAGUE OF NATIONS AND THE AIR RÉGIME

FEW international questions fail to touch in some respect the League of Nations. That the League does not play a larger rôle is due to a remarkable restraint practiced by the League statesmen in the first decade of its existence. Whenever the functions of the League have been exercised in a field hitherto devoid of international organization it has acted vigorously, but whenever its functions have coincided with those of other international agencies, it has held its activities in abeyance or else sought to secure a cooperating arrangement. This policy is admirably illustrated by the relation of the League to the régime of air control.

International regulation of the air comes within the purview of the League in the following ways: (1) the League's constitutional relationship with C. I. N. A., (2) the question of communications and transit, and (3) the problem of disarmament. The first two of these categories will be described in this chapter, the third will be postponed to Chapter XII.

THE LEAGUE AND C. I. N. A.

The originators of the League believed that international cooperation could be rendered more simple and have more efficacy by centralizing as much as possible the various regulatory organs. Art. 24 of the Covenant provided: "There shall be placed under the direction of the League all international bureaus already established by general treaties if the parties to such treaties consent. All such international bureaus and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League."

C. I. N. A. took legal existence in 1922 and thus falls into the second group of the 24th article. But the commission

has always chafed under its relationship to the League and has stood as much aloof as possible. This attitude was due not entirely to the jealousy inherent in all governmental organs, but rather to the belief that more states would adhere to the convention of 1919 if the commission were separate from the League.

As in all such cases, the direction of the League has been light. There has been no attempt on the part of the sagacious Secretary-General, Sir James Eric Drummond, to force an unwilling submission. Since four permanent members of the Council of the League—France, Great Britain, Italy and Japan—are also members of C. I. N. A., any dispute over respective jurisdictions is not likely to be carried far.

In 1926, when the question of coordination was urged upon C. I. N. A., an understanding was reached whereby the secretary-general of the commission would send to the League an agenda of each session of the commission and would invite the secretary of the League's Committee on Communications and Transit to attend *ad audiendum*.¹ At the same time, the Secretary-General of the commission would be invited to attend the sessions of the Committee on Communications and Transit.

CONFERENCES ON COMMUNICATIONS AND TRANSIT

That the League would take vigorous initiative in international cooperation to promote freedom of transportation was clearly the intent of the framers of the Covenant. Art. 23 of the Covenant provides: "Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League . . . (e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League." In accordance with this obligation the Council arranged for a program of action

¹ See resolution No. 277 at the session of C. I. N. A. in May, 1926. *Official Bulletin*, June, 1926, No. 10, p. 10.

to be submitted to the Assembly, with the result that the latter body adopted resolutions calling for the appointment of a permanent advisory committee and for occasional general conferences on communications and transit.¹ Three of these international conferences have been held, one at Barcelona in 1921, and two at Geneva in 1923 and 1927.

At the Barcelona Conference, there was organized the Advisory and Technical Committee for Communications and Transit (why must international jurisdiction be encumbered with such long names?) to prepare the agenda of future conferences and to advise the Council and the Assembly on transportation problems.²

Annual sessions of the committee are held each year at Geneva. Naturally, questions of aerial navigation as well as shipping and railways have come within the range of its study. The Third General Conference in 1927 recommended the following topics to the consideration of the committee:³

Agreement between states concerning rules and regulations for civil air navigation. Articles of treaties of commerce concerning air navigation.

Bills published, acts and regulations regarding the régime and legal position of air navigation or likely to affect its development.

Information on regular lines already open, between two points in the territory or with starting point, terminus or intermediate stopping point in the territory.

Regular lines to be opened. Information concerning timetables. Important work approved, in process of execution or completed during the year concerning the establishment of air routes, (landing grounds, day and night signals, etc.), maps.

Statistics concerning air traffic.

¹ *Records of the First Assembly, Plenary Meetings* (Geneva, 1920), p. 47-58.

² *Conférence de Barcelone, Comptes Rendus et Textes relatifs au Règlement d'Organisation des Conférences Générales et de la Commission Consultative et Technique des Communications et du Transit*, p. 58-60. The committee is made up of governmental appointees and is served by a section in the Secretariat of the League. Monsieur R. Haas has served as chief of the section, and consequently as general secretary of the various committees on communications and transit, since its organization in 1921.

³ *Third General Conference, Records and Texts*, II, p. 48. (C,558(a).M,200(a).1927.VIII.15/11).

The attention of the Committee for Communications and Transit has lately been drawn to the subject of combined air and rail transport. Its Subcommittee on Combined Transport made a report during its 12th session at Geneva in 1928 recommending this sort of transport cooperation.¹

DUPLICATION OF INTERNATIONAL AGENCIES

One of the contributions made by the Committee for Communications and Transit has been an investigation of duplication in the supervision and study of aerial navigation. It will be generally admitted that redundancy in these fields is to be avoided. The chief organizations now existing include:

1. C. I. N. A.
2. C. I. T. E. J. A.
3. International Conferences on Private Air Law.
4. League of Nations: Committee for Communications and Transit.
5. Preparatory Commission for the Disarmament Conference.
6. Pan American Conferences.
7. International Chamber of Commerce.
8. International Air Traffic Association.
9. Comité Juridique International de l'Aviation.
10. International Law Association.
11. Institut de Droit International.
12. Fédération Aéronautique Internationale.

The first six organizations in this group are public, the last six private.

At the Third Conference in 1927, Robert Herold of Switzerland called attention to the "considerable dispersion of effort" that now obtains in the field of aviation and proposed that the committee study the present lack of concentration and organization.² As a result, the committee has undertaken such a study.

¹ Advisory and Technical Committee for Communications and Transit, *Minutes of the 12th Session, Geneva, February 27-March 2, 1928, p. 15-16.*

² *Third General Conference, Records and Texts, I, p. 45-46. (C.558.M.200.1927. VIII.15/1).*

In this connection it should be noted that at the meeting of the International Air Traffic Association in August, 1929, the duplication of international agencies was not only condemned but also complaint was made that some of these agencies, particularly C. I. N. A. and C. I. T. E. J. A., do not give representation to the Air Traffic Association in their deliberations, and a resolution was adopted urging that pressure be exerted on the participating Governments to change this condition.¹ The International Chamber of Commerce also has pointed to the fact that some of the international agencies of transport and communication, both public and private, do not lend themselves to cooperation, but the culprits in this respect are not cited by name.²

If duplication exists it is not due to any over-zealous action on the part of the League. While the intention of the authors of the Covenant was to draw all international regulation into the orbit of Geneva, practical considerations have prevented immediate pursuit of this object. Such an end would be sufficiently difficult to attain even if the League were universal and included the United States and Soviet Union. Thus, while C. I. N. A. aspires to a world-wide air régime and avoids the ægis of the League on this account, the League lacks the prestige of a universal membership and can not effectively assert its constitutional claims, at least in the realm of public air law. In regard to private air law, it appears that the statesmen of the League states have missed one opportunity to concentrate the direction of universal legislation, for C. I. T. E. J. A., the chief agency in this field, has been created in recent years by them apparently without taking account of the existing possibilities of coordination.

¹ International Air Traffic Association, *Information Bulletin* (The Hague, 1929), No. 12, p. 71-75.

² See the report of the Coordination Committee of the Transport and Communications Group presented by Sir John Sanderman Allen, *World Trade*, July, 1929, p. 421-422.

X. THE UNIVERSAL POSTAL UNION AND OTHER PUBLIC AGENCIES

ONE of the most important services of air-lines is the rapid transportation of the mails. In this field, aviation comes in contact with the international machinery already organized in the form of the Universal Postal Union of which every postal administration in the world is a member and which maintains a bureau in Bern for clearing accounts.

AIR MAIL

The postal convention, creating and regulating the Union, is revised every five years. At the congress of the Union at Stockholm in August, 1924, clauses regarding air post were included for the first time in the revised convention. Art. 74 of the Stockholm convention provided as follows: (1) Transit rates for air mail were not to be the same as for ordinary mail; (2) rates for conveyance were to be uniform in all countries which used the service without sharing the working expenses; (3) the countries served directly by air-lines were to fix rates for service performed with the air companies concerned; furthermore each postal administration maintaining an air service retained the right to collect conveyance rates from other administrations which made use of it; (4) provision was also made for the transfer of mails carried by more than one air service and for warehousing before further transmission.¹

The Stockholm convention had been in existence only a year when the Committee on Air Transport of the International Chamber of Commerce acted upon the widely recognized need of modification. At its meeting of October 27-28, 1926, the committee adopted a resolution calling attention to

¹ *Documents du Congrès Postal de Stockholm, 1924* (Lausanne, Imprimeries Réunies, 1924), II, p. 864; League of Nations, *Treaty Series*, XI, p. 73.

the fact that the universal postal conventions are binding on the signatory Governments for five years, during which it is practically impossible to amend them, that the next Universal Postal Congress was not to be held until 1929 in London; accordingly, the committee called the attention of the postal administrations to the feasibility of summoning a limited official conference under the provisions of Art. 3 of the Stockholm convention. The resolution proposed that the conference should inquire into the possibility of establishing as a practical experiment a limited common agreement between the postal administrations of countries crossed by the heaviest and longest postal currents and suggested that such agreements should be placed in force from January 1, 1928, so that proposed amendments to the Stockholm convention, which would need to be submitted to the coming London congress, might be based upon actual experience and presented in due time.¹

Detailed suggestions as to the content of the agreements were communicated to the postal administrations of the Universal Postal Union. The committee soon had the satisfaction of learning that its recommendation with regard to a special conference of postal administrations was generally favored; and in March, 1927, the Post Office of the Union of Socialist Soviet Republics took the step of formally proposing the convocation of this special conference.

The Conference of Postal Administrations met at The Hague in September, 1927. The principal questions before it were: (1) unification of surtaxes to be charged the public, and (2) the simplification of remuneration to the carrier.² A convention drawn up by this body was put into force in Austria, Belgium, the Belgian Congo, Bulgaria, Denmark, Free City of Danzig, Estonia, Finland, France, Germany,

¹ International Chamber of Commerce, Air Transport Committee, *Proposals concerning the Air Post Laid before the Special Conference of the Universal Postal Union, Meeting of May 18th, 1927*, (Manuscript report No. 2651), p. 1.

² Compare Pierre Comoz, "La Poste Aérienne: La Conférence Spéciale de la Haye" in *Etude Aéronautiques*, September, 1927, p. 26-48.

Great Britain, Hungary, Latvia, Morocco, the Netherlands, Persia, Poland, Sweden, Switzerland, Czechoslovakia and the U. S. S. R.¹

At the quinquennial Congress of the Universal Postal Union, which met in London in May, 1929, the 37 articles of the Hague agreement were annexed, in slightly modified form, but as an integral part of the London convention.²

The most significant change in the London convention as a whole is the provision in regard to its duration.³ This is to be, as usual, five years, but by common agreement of the signatories it may be modified during that period. According to the final protocol, a proposal for reconsideration must have the assent of three countries through the International Bureau at Bern, and the calling of a conference requires the approval of a majority of the signatories.

In general it may be said that the regulation of air mail is still in an experimental stage. The aim of the International Chamber of Commerce in suggesting new rules, as well as the postal congresses in making new rules, has been to preserve flexibility and easy modification of regulations in order to meet changing conditions in the new industry.

The story of the collaboration between the International Chamber of Commerce and the Universal Postal Union is a conspicuous example of effective cooperation between a private and a public international agency, an instance of the usefulness of an internationally organized group of citizens for promoting universal regulation deemed to be beneficial and of good judgment on the part of a public agency in taking advice from such a source.

¹ *Documents de la Conférence sur la Poste Aérienne de la Haye, Septembre 1927* (Berne, Bureau International de l'Union Postale Universelle, 1927), p. 231-251.

² *Documents du Congrès Postal de Londres, 1929* (Berne, Imprimerie Par Stampfli & Cie., 1929), II, p. 773-794. Previous to the meeting of the London congress, the Chamber of Commerce laid before the Postal Union another report containing further proposals. See *Report Presented to the Universal Postal Union* (Paris, 1928), brochure No. 67.

³ Compare Pierre Comoz, "London Postal Convention, May 18-June, 1929", *Etudes Aéronautiques*, December, 1929, p. 13.

THE INTERNATIONAL AIR CONGRESSES

Another feature of the international air régime is to be found in the International Air Congresses summoned from time to time by various Governments. The first five of these congresses, held between the years 1889 and 1911 at Paris, Milan, Nancy and Turin we have already described.¹ Although they have been convoked under the auspices of particular Governments and are to be considered as public, nevertheless, they are not in the same category as conferences where the delegates come with powers to negotiate. Their purpose is to raise discussion and permit an exchange of views that may be beneficial to scientists, manufacturers and air traffic companies as well as to the participating Governments. While the agenda is devoted chiefly to mechanical problems, attention is also given to air law.

The first of these congresses after the war, was called by France on the initiative of Pierre-Etienne Flandin, and was held in Paris, November 15-25, 1921. The second congress met in London in June, 1923, at the invitation of the British Government. Official delegates to the number of 551 attended from 22 countries.² Standardization and technical development were the chief topics of discussion, although M. Sudre read a report urging the calling of an international conference to draft a code of private air law—a report which resulted in the adoption of a resolution urging this matter on the attention of Governments.

¹ See above, p. 40-41.

² The following countries were represented: Afghanistan, Belgium, Brazil, British Empire, Chile, China, Czechoslovakia, Denmark, France, Netherlands, Italy, Japan, Mexico, Norway, Poland, Rumania, Soviet Union, Spain, Sweden, Switzerland and the United States. See *Report of the International Air Congress at London, 1923* (Royal Aeronautical Society, 1923), p. 7-15.

XI. PRIVATE INTERNATIONAL ORGANIZATIONS

NO study of international control of aviation would be complete without a review of the numerous private organizations and conferences in the field. Some of these bodies are interested in air law as an abstract legal problem. Other organizations represent commercial interests and seek to promote reforms in governmental regulation that will facilitate international trade. Still other associations are primarily interested in aviation as a sport and maintain a code of rules and regulations governing aeronautic contests.

INTERNATIONAL LAW SOCIETIES

As we have related in another chapter, both the Institut de Droit International and the International Law Association several decades before the Great War began the study of air law. The former accepted Fauchille's doctrine of freedom of the air while the latter at its conference of 1913 adopted the English theory of complete state sovereignty with the right of innocent passage.¹

The Great War interrupted the work of both of these societies. At its first meeting after the war, held at Portsmouth in 1920, the International Law Association resumed its study of air law. On this occasion, papers were presented approving the air convention of 1919 as the basis for a universal aerial régime and urging the amendment of the convention in order to eliminate the clauses inspired by the war as well as to open the way for the adherence of all states.² At the next meeting in 1921, the association adopted a resolution recommending that all the signatory states hasten to ratify the convention.³ At most of the sessions since 1920,

¹ See p. 42-44.

² International Law Association, *Report of the Twenty-Ninth Conference, Portsmouth, 1920*, p. 377-432.

³ *Report of the Thirtieth Conference, The Hague, 1921*, p. 330-332.

the reports of the Aerial Law Committee of the association have occupied a prominent part on the program. In particular, the association has been interested in codifying the law of aerial warfare; a code on this subject was adopted at the Stockholm conference in 1924 and was addressed to the attention of C. I. N. A.¹

The sessions of the Institut de Droit International have also included studies in the field of air law. At the Lausanne session of the Institut in 1927 Professor Fernand de Visser, reporter of the 11th commission, proposed a resolution sustaining in a modified form the principle of the Madrid session of 1911 to the effect that "international aerial circulation is free." After strenuous debate in which attention was called to the actual *status quo* as expressed in the air convention of 1919, the resolution was amended to admit the complete sovereignty of the subjacent states.²

While the resolutions of these associations are the mere expression of wishes on the part of private societies, nevertheless it should be remembered that they are the opinions of a very influential group of citizens of many states and carry unusual weight with Governments.

COMITÉ JURIDIQUE INTERNATIONAL DE L'AVIATION

The origin and early work of the Comité Juridique International de l'Aviation, we have already described in another chapter. After the Great War, the Comité resumed its careful task of building up its project of a code of air law. Its first congress after the War, was held at Monaco in 1921.³

¹ *Report of the Thirty-First Congress, Buenos Aires, 1922*, p. 213-214; *Report of the Thirty-Third Conference, Stockholm, 1924*, p. 118-120; *Transactions, 1873-1924* (London, 1925), p. 27-28.

² *Annuaire*, 1927, I, p. 341-397; III, p. 226-257, 337-339. The amendment to the original resolution proposed by Professor Charles Dupuis directly proclaiming the sovereignty of the subjacent states was rejected by a vote of 30 to 13. The amendment offered by Baron Rolin-Jacquemyns which suppressed the declaration of freedom of circulation and indirectly admitted sovereignty was accepted by a vote of 33 to 13. *Ibid.*, III, p. 231, 235-236.

³ The proceedings are found in *Compte Rendu du Quatrième Congrès International de Législation Aérienne, Monaco, 19-22 Décembre 1921* (Paris, 1922).

Other congresses have been held at Prague in 1922, at Rome in 1924, at Lyons in 1925 and at Madrid in 1928.

Step by step the Comité has continued the process of constructing its code, with the support of members in 37 countries.¹ To-day the code consists of 87 articles, 21 of them being only a statement of principle. The code is intended as a guide for both national and international legislation, and concerns both public and private law. The arrangement is as follows:

Book I. Public Air Law.

Book II. Private Air Law.

Title I. Civil Law.

Title II. Commercial Law.

Book III. Administrative Air Law.

Book IV. Fiscal Air Law.

Book V. Penal Air Law.

Title I. Crimes and Offenses against the Safety of the States.

Title II. Crimes and Offenses against Persons.

It is difficult to estimate the exact influence of this rather remarkable private body of jurists. The French Government has highly valued its collaboration.² Likewise the Comité International Technique d'Experts Juridiques Aériens seeks its services. Indeed, many of the experts appointed by Governments to serve on C. I. T. E. J. A. are members of this private organization not only in France but also in their respective countries. The Comité was invited to collaborate with C. I. T. E. J. A. in the drafting of the convention on liability of shippers in international traffic and many members consulted with the official organization for this purpose in the Madrid session of May, 1928.

¹ The text of the code and a list of the members of the Comité are given in the *Liste-Annuaire des Membres en ler Janvier 1929*. The seat of the Comité is 95, rue des Petits-Champs in Paris. Messrs. Millerand and Laurent-Eynac are the two honorary presidents; Monsieur Delayen is president of the administrative commission; Professor de Lapradelle is director and Professor Henry-Cobannier is reporter-general.

² Compare a statement by M. Sudre at the Prague congress, *Compte Rendu du Cinquième Congrès International de Législation Aérienne, Prague, 25-30 Septembre 1922* (Paris, 1922), p. 226.

The Comité has rendered an outstanding service to the science of air law by supporting the publication of a periodical the *Revue Juridique Internationale de la Locomotion Aérienne*, the name of which has recently been changed to *Droit Aérien*. Some other excellent journals have been published in the field of air law—in Italy, *Il Diritto Aeronautico*, in Germany, *Die Zeitschrift für das Gesamte Luftrecht*, and in the United States, the *Journal of Air Law*. But the *Revue* was the pioneer. From the beginning in 1910, it has been edited by Professor Henry-Couannier. It is devoted not only to technical articles and to the proceedings of the Comité, but also to a comprehensive documentation on air law.¹

INTERNATIONAL CHAMBER OF COMMERCE

The International Chamber of Commerce, founded in 1921 and now representing national chambers of commerce in 27 countries, has been well described as "a private organization for public welfare; its purpose being to develop international trade, to suppress the barriers which hamper commercial exchanges, to strengthen the bonds which link the various nations together, to counteract the causes of economic conflict and thereby contribute to the maintenance of peace."² The resolutions of its biennial congresses have contributed to such notable achievements as the appointment of the Dawes committee and the calling of the Geneva Economic Conference of 1927. From its inception the International Chamber has been particularly interested in problems of international communication. Naturally it wishes to keep open the highways of commerce and to facilitate all means of international transport, by air, as well as by land and sea. At its second inter-

¹ The *Revue Juridique Internationale de la Locomotion Aérienne* suspended publication during the Great War, and resumed in 1922. In 1929 the name was changed to *Droit Aérien*. This quarterly is published by Per Orben, 4, rue Tronchet, Paris. The subscription rate is 50 francs per annum in France and 75 francs in foreign countries.

In 1930, the *Zeitschrift für das Gesamte Luftrecht* suspended publication.

² *The International Chamber of Commerce: What It Is and What It Does* (Paris, 1929), p. 1. Its seat is at 38 Cours Albert Premier, Paris. The Chamber's quarterly publication entitled *World Trade* is published in three languages, English, French and German.

national congress at Rome in March, 1923, the Chamber set up a Committee on Air Transport.¹ Its chairman is Pierre-Etienne Flandin, former French undersecretary of air in the ministries of Millerand and Leygues and later minister of commerce in the ministries of Tardieu.

The Committee on Air Transport is composed of 31 members nationals of the following 15 countries: Belgium, Czechoslovakia, Denmark, France, Germany, Great Britain, Italy, Japan, Yugoslavia, the Netherlands, Norway, Poland, Rumania, Sweden and the United States.² The procedure of the committee is to study traffic problems and draw up recommendations, which in turn are communicated to the proper governmental officials. For instance, as soon as the International Chamber of Commerce approves recommendations as to private air law, they are communicated to the Governments represented in the International Conference of Private Air Law and C. I. T. E. J. A.

The Committee on Air Transport has played a worthy part in the propaganda for unification of air law. At the Brussels congress in 1925 and at the Stockholm congress in 1927 the resolutions of the International Chamber of Commerce urging states to adhere to the air convention of 1919 have had, according to Monsieur Flandin, practical results in bringing new members into C. I. N. A.³ In the field of the unification of private air law, as we have already described, the Chamber has taken a prominent part in advocating the adoption of a convention on shippers' liability which culminated in the work of the Warsaw conference of 1929.⁴ At present the Committee on Air Transport is studying the intricate problem of air insurance.

The international air-mail service has been promoted through the efforts of the Chamber. In a special session of

¹ International Chamber of Commerce, *Resolutions adopted at the Second Congress, Rome, March, 1923* (Paris, 1923), p. 91.

² *World Trade*, July, 1929, p. 437-438.

³ International Chamber of Commerce, *Proceedings of the Congress, Amsterdam, July, 1929*, p. 90.

⁴ See above p. 100.

the Air Transport Committee it called the attention of the postal administrations, through the Universal Postal Union to needed changes in the Stockholm convention in 1924, in order to facilitate correspondence by air mail. As a result the Conference of Postal Administrations was held at The Hague in September, 1927. A number of the committee's propositions were accepted and an agreement on air post was reached. This arrangement served until the next meeting of the Universal Postal Congress in London in 1929, which finally adopted the proposals of the International Chamber of Commerce.¹

The Committee on Transport by Air has also approached the significant questions of combined railroad and air transport; the creation of free airports; the minimizing of obstacles to air navigation by the creation of a special customs régime and the simplification of passport and visa regulations; an international entente for the exploitation of long distance air-lines; and finally, certain measures for the limitation of international aeronautical expositions. Reforms in these matters were urged in resolutions adopted at the Amsterdam congress in 1929.²

There would be difficulty in estimating precisely the influence of the International Chamber of Commerce in the realm of air regulation, for its connections in the leading commercial countries are extensive, but there is no exaggeration in saying that its efficacy has been commensurate with its activities in this field.

INTERNATIONAL AIR TRAFFIC ASSOCIATION

The tendency to organize international commercial interests, of which conspicuous examples have been seen in maritime and transcontinental shipping, has given rise to a loose international union of air-lines. The International Air Traffic Association had its origin in August, 1919, when on the

¹ See above p. 110-112.

² *World Trade*, July, 1929, p. 437-442; October, 1929, supplement No. 1, p. 43-45; supplement No. 2, p. 90-95.

invitation of the president of the Air Travel and Transport Company, representatives of several British, German, Dutch, Danish, Norwegian and Swedish companies met at The Hague in conference. Out of this meeting grew the International Air Traffic Association.

This association quickly proved its utility. There was need for a system of connecting services on the various air routes, for a system of regulating accounts and for concerted action in such matters as air mail and shippers' liability. A permanent organization became necessary. Hence, in 1920, a Central Office was set up at The Hague and statutes were formally adopted a year later.¹ In the process of organization the question had been broached as to whether the new association should be a free union of air companies or a cartel dividing the territory and sharing profits. The former relationship was chosen.

For several years the I. A. T. A. seemed destined to remain an association limited to northern European companies. Rivals soon appeared. French companies formed a free union embracing air-lines in southern Europe; at the same time, a cartel, the Trans-Europa Union, began operations in central Europe. Clever diplomacy, however, secured the adhesion of the French companies to the I. A. T. A., while the cartel dissolved in 1925 and the component corporations joined the association.

Largely because the I. A. T. A. respects the autonomy of its members, it has survived all similar associations and has drawn into its membership 22 companies comprising nearly all the European air-lines outside of the Soviet Union. Its *modus operandi* is principally that of promoting cooperation through an exchange of information. Conferences of delegates from the member companies are frequently held; reports from each of the companies are rendered, and questions of general interest discussed. The agenda is arranged to

¹ The seat of the Central Office is at 3, Anna Paulownaplein, The Hague. The general manager is Jonkheer I. L. van den Berch van Heemstede.

secure the timely adoption of resolutions which will be helpful to C. I. N. A. and C. I. T. E. J. A. and other governmental bodies as indicating the opinion of the air traffic corporations on matters requiring public regulation.¹ The association publishes a monthly international Aerial Time-Table, showing 153 air schedules throughout the world.² The following table indicates the member companies and their comparative size:

**MEMBERS OF THE INTERNATIONAL AIR
TRAFFIC ASSOCIATION³**

Company	Traffic in 1928		
	Flown Kms.	Passen- gers	Freight in Kgs.
A. B. Aertransport (Stockholm)	1,515,545	55,728	277,167
Ad Astra Aero (Zurich)	—	—	—
Aero O. Y. (Helsingfors)	—	—	—
Air Union (Paris)	1,352,153	13,077	560,866
Compagnie Air Union (Paris)	48,078	—	—
Compagnie Internationale de Navigation Aérienne (Paris)	2,141,215	2,378	438,572
Compagnie Générale Aéropostale (Paris)	2,681,229	4,921	165,600
Compagnie Tchecoslovaque de Navigation Aérienne (Prague)	—	—	—
Det Danske Luftfart Selskab (Copenhagen)	148,495	1,602	12,076
Deutsche Luft Hansa A. G. (Berlin)	10,217,528	111,115	2,054,800
Deutsch-Russische Luftverkehrs Gesellschaft (commonly called Deruluft) (Berlin)	780,264	2,490	68,824
Drustvo za Vazdusni Saobraćaj (Belgrad)	148,840	1,322	—

¹ Compare International Air Traffic Association, *Information Bulletin* (1929), No. 12, p. 75.

² *L'Indicateur Aérien: Unique Horaire Officiel de l'Association Internationale du Trafic Aérien* (Editions G. Roche d'Estrez, 2, rue Blanche, Paris). The price is 3 francs per copy or 30 francs per year in France and 40 francs abroad.

³ Data as to traffic is taken from International Air Traffic Association, *Information Bulletin* (The Hague, 1929), No. 12, p. 15-57; *Rapport Fait au Nom de la Commission des Finances Chargée d'Examiner le Projet de Loi Portant du Budget Général de l'Exercice 1930, Air* (Paris, 1929), p. 192; *Jane's All the World's Aircraft*, 1929.

Imperial Airways Limited (London)	867,791	27,396	573,000
Koninklijke Luchtvaart Maatschappij voor Nederland en Kolonien, (The Hague)	1,623,000	17,007	674,610
Lignes Farman S. G. T. A. (Paris)	800,000	8,400	354,000
Magyar Legiforgalmi Reszvenytar- sasag (Budapest)	—————	—————	—————
Oesterreichische Luftverkehrs A. G. (Vienna)	643,000	5,477	97,337
S. A. Aero Espresso Italiana (Rome)	295,648	1,111	8,386
Société Anonyme Baloise commonly called Balair (Basel)			
Société Anonyme Belge d'Exploita- tion de la Navigation Aérienne (Brussels)	643,578	9,854	136,111
S. A. Navigazione Aerea (Genoa)	515,655	4,784	18,146
Transadriatica (Venice)	485,526	3,041	61,662
Ukrwosduchpout (Charkov)	—————	—————	—————

In general, the I. A. T. A. attempts to do much the same service for air traffic that the International Railway Union performs for rail transportation and the International Maritime Committee for shipping by sea.

FÉDÉRATION AÉRONAUTIQUE INTERNATIONALE

Aviation owes much to the adventurous spirits who have looked upon flying as a magnificent adventure worthy of its hazards, and who, by their zeal, have extended the frontiers of our aeronautical experience. The development of aviation as a sport has contributed immensely to the progress of aviation as a science. At the same time, by the means of competitions, aero-meets and international flights, it has promoted the comity of nations.

Aviation as a sport has become internationally organized. Many countries to-day have aero clubs such as the well-known Aéro Club de France, founded in Paris in 1898, or the Royal Aero Club of the United Kingdom.¹ Several countries have

¹ Naturally the Aéro Club de France is a center where every personage in the world of aviation turns up sooner or later. The club house is located at 6 rue Galilée near the Arc de Triomphe. An excellent library on aeronautics is maintained.

numerous clubs of this sort; in France there are 50 such societies affiliated with the Aéro Club de France. These clubs support an international organization known as the Fédération Aéronautique Internationale.¹ Created in Paris in 1905 with the primary purpose of establishing unity in rules of sport, the Federation now includes federations of aero clubs in 27 countries. It has played an important rôle in setting up standards in the marking of aircraft and in the confirmation of air records.

At the same time, the Federation carries on a dignified campaign of propaganda to render Governments favorable to the science of aviation; while the individual aero clubs affiliated with the Federation promote international friendliness by extending their hospitality to foreign members of similar clubs when traveling abroad.

In conclusion it may be said that the development of the governmental regulation of the air would be retarded if the support, encouragement, expert collaboration and even driving force of private organizations were withdrawn. Democratic Governments to-day largely act at the behest of popular demand or the prodding of energetic citizens; and the orderliness of the development of international control of aviation is partly due to the intelligent labors of private organizations.

¹ The seat of the Fédération Aéronautique Internationale is in the Aéro Club de France in Paris. For years, Count de la Vaulx, who died in an airplane crash in 1930, served as president. Monsieur Paul Tissandier is the secretary-general. The Federation publishes a quarterly *Bulletin de la Fédération Aéronautique Internationale*.

XII. MILITARY LIMITATION AND REGULATION

THE Great War was the cause of tremendous development in several outstanding inventions including the submarine, chemical warfare and aircraft. The first of these weapons is intimately connected with sea power, but the last two are essential elements in sea power and land power, as well as air power.

The war necessitated a readjustment in national military forces. The relative value of old arms was questioned. It had raised a doubt as to whether an airplane costing \$10,000 might not work greater destruction than a dreadnaught costing \$40,000,000. It had also demonstrated the fact that on land a few airplanes can often do more damage to the enemy than several battalions of infantry. Thus air power became a matter of the gravest concern, and soon the governments were engaged in a new race in air armaments.

All this has happened in spite of the fact that under the peace treaties, Germany, Austria, Hungary and Bulgaria surrendered their military aircraft and are prohibited from manufacturing or maintaining fighting planes or dirigibles.

THE RACE IN AIR ARMAMENTS

There is a growing fear in European countries anent the use of airplanes in time of war. The French newspapers and technical periodicals are full of references to the menace of the great German system of commercial aircraft, while apprehensions are expressed regarding the Fascist policy in the Mediterranean.¹ In Italy the trenchant articles of General Douhet in the *Rivista Aeronautica* proclaim the formula that in the next war "the land is only useful for defense, the

¹ On the technical side of this question, see a symposium on "La Flotta Adrienne dans la Guerre à Venir" in *Revue des Forces Aériennes* (a monthly periodical published in concurrence with the Ministry of War, at 55, Quai des Grands-Augustins, Paris), February, 1930, p. 218-226.

place to attack is the air.¹ Fulminations by Mussolini are educating the Italian people to support a large air fleet without grumbling.² During the London Naval Conference of 1930 when Italy refused to discuss its claim for naval parity with France the Fascist press declared that Italian air forces were inferior to those of France and demanded that the budget contain sufficient appropriations to insure parity in the air.³

England is considered the most vulnerable of all nations to aerial attack because its capital is in easy bombing range from the continent, while the English Channel instead of serving as a protection as is the case in maritime warfare now serves as an assistance to enemy raiders by delaying any warning of their approach.⁴ Perhaps nothing more patently shows the lurking fear of air attack than a recent statement made by a Labor member of the British Parliament in reference to Britain's chief ally in the Great War:⁵

Mr. Malone (Northampton, Labor member) said that the next war would, in the first instance at all events, be an air war. If we were at war with France the first action would be a bombing raid by French aeroplanes in London. Were the Government content to allow France to have a four-to-one ratio in aeroplanes compared with this country? The position was very anomalous. If we were safe in the air with 1,292 fighting aeroplanes compared with 4,730 possessed by France, there was surely no need to stick out for a two-power naval standard at the present Naval Conference.

¹ Compare his articles entitled "La Conquista del Domino dell' Asia" and "Probabili aspetti di guerra futura", *Rivista Aeronautica*, March, 1928, p. 411-439; and April, 1928, p. 1-59.

² Compare texts of speeches in *Benito Mussolini: Discorsi del 1925* (Milan, 1928), p. 35-46; and *Giornale d'Italia* (Rome), March 27, 1929, p. 1.

³ Compare *La Tribuna* (Rome), March 20, 1930, p. 1; *Corriere Padano* (Ferrara), March 20, 1930, p. 1; *Il Regime Fascisti* (Cremona), March 20, 1930, p. 1; *Giornale d'Italia* (Rome), March 21, 1930, p. 2. The *Corriere Padano* is the organ of General Balbo, the minister of aeronautics.

⁴ Compare the London *Observer*, March 2, 1930, p. 8; Major-General E. B. Ashmore, *Air Defense* (London, 1929), Ch. XII.

⁵ *London Times*, March 19, 1930, p. 10.

Similar expressions of a haunting dread of aerial raids can be found in the contemporary parliamentary debates of every great state.

Thus it is not surprising that recent increases in military air forces have been notable. Most military régimes have followed the example initiated by Great Britain during the Great War (in April, 1918) when the air personnel was separated from the army and navy and set up as the Royal Air Force.¹ Under Mussolini in 1926 Italy established a separate Regia Aeronautica, and in 1929 France formed an Armée de l'Air which promises to become detached from the army and navy. Recent increases in the services are shown by the following tables:

INCREASE MILITARY AVIATION EXPENDITURES²

Year	Great Britain (pounds)	United States (dollars)	France (francs)	Italy (lire)
1924	14,600,000	24,689,000	405,637,018	460,207,000
1925	15,540,000	30,429,000	400,353,550	529,872,000
1926	15,401,000	32,316,000	379,427,887	679,866,000
1927	15,123,000	41,438,000	695,442,942	625,810,000
1928	16,250,000 ³	57,886,000 ³	791,990,810	614,510,000
1929	16,200,000 ³	63,711,000 ³	924,540,620 ⁴	700,000,000

INCREASE IN MILITARY AVIATION EXPENDITURES (Reduced to dollars)

Year	Great Britain	United States	France	Italy
1924	70,372,000	24,689,000	16,225,440	24,221,421
1925	74,902,800	30,429,000	16,014,142	27,888,000
1926	74,232,820	32,316,000	15,175,115	35,782,421
1927	74,951,000	41,438,000	27,817,717	32,884,874
1928	78,325,000 ³	57,886,000 ³	31,679,623	32,342,632
1929	78,084,000	63,711,000 ³	36,981,985 ⁴	36,610,000

¹ For an account of the organization of the Royal Air Force, see James M. Spaight, *The Beginnings of Organized Air Power: A Historical Study* (London, 1927).

² Compiled from various sources including the League of Nations, *Armaments Year Book*; *Annual Report of the U. S. Department of War*; *Annual Report of the U. S. Department of the Navy*; *Journal Officiel de la République Française*, and *British Air Estimates*.

³ Estimated expenditures.

⁴ *Armaments Year Book*, 1929-1930, gives Air Ministry estimates at 1,769,700,000 francs (\$70,788,000).

THE WASHINGTON CONFERENCE OF 1921

There are at present no international agreements for the limitation of military aircraft, save the prohibitions placed upon the central European states by the victors in the Great War. The Washington conference of 1921 which resulted in the five-party treaty limiting capital ships and large aircraft carriers placed no bounds on airplanes and dirigibles. Indeed, the American proposal which Secretary Hughes laid before the conference at the opening session declared: "The limitation of aircraft is not proposed. Owing to the fact that naval aircraft may be readily adapted from special types of commercial aircraft, it is not considered practical to prescribe limits for naval aircraft."¹

Notwithstanding this negative attitude, a Committee on Aircraft composed of military experts was appointed to consider the problem. It reported against the feasibility of imposing any limitations upon either commercial or military aircraft, except in the single case of lighter-than-aircraft.² The conference took no action. What had occurred was explained by the American delegates in their report to President Harding as follows:³

It was found to be impracticable to adopt rules for the limitations of aircraft in number, size or character, in view of the fact that such rules would be of little or no value unless the production of commercial aircraft were similarly restricted. It was deemed to be inadvisable thus to hamper the development of a facility which could not fail to be important in the progress of civilization.

The conference confined itself to the creation of a commission of jurists to meet at The Hague and drafting an inter-

¹ *Conference on Limitation of Armament*, (Sen. Doc. No. 126, 67th Cong., 2d sess.), p. 63.

² Sen. Doc. No. 126, p. 395-408; British Parliamentary Paper, *Conference on Limitation of Armament* (Cmd. 1627 of 1922), p. 32. The members of the committee included: Rear-Admiral William A. Moffett and Major-General Mason M. Patrick for the United States; Air-Vice-Marshal J. F. A. Higgins for the British Empire; Captain Albert Roper for France; Colonel Riccardo Moizo for Italy; and Captain Osami Nagano for Japan.

³ Sen. Doc. No. 126, p. 818.

national code to govern the use of aircraft in wartime. Thus the conference failed to curb the agent of destruction which had rendered the battleship less formidable than before the war, and had rendered admiralties amenable to the suggestion of scrapping a few of the so-called "dreadnoughts."

The Washington conference made little headway against the new inventions of destruction developed by the Great War; its reduction of armament was chiefly in the field of the older and even obsolete weapons. Lost was the opportunity to abolish the submarine at a time when the horrors of submarine warfare were fresh in the memory of everyone. Merely a limitation on submarine tonnage was accepted—a limitation placed at a figure higher than that then represented in several of the five navies, while the use of the submarine as a commerce destroyer was branded as piracy.¹ A limitation was laid on capital ships (battleships above 10,000 tons) whose efficacy as floating fortresses was already in doubt; but no limitation was imposed on cruisers under 10,000 tons whose remarkable merit had been proved in the war. The committee of military experts had actually proposed a limitation of military dirigibles, but the conference failed to take the suggestion, thus offering an instance when politicians trailed behind war chiefs in the business of peace-making.

No direct limitation was placed upon the chief enemy of the battleship, the airplane, although an indirect circumscription was imposed on aircraft by the limitation of aircraft carriers over 10,000 tons. Naval adjuncts of this large size were allotted as follows: 135,000 tons each to Great Britain and the United States; 81,000 tons to Japan; 60,000 tons each to France and Italy. But, as in the case of cruisers, no limitation was placed on aircraft carriers under 10,000 tons, while the maximum tonnage allotment for aircraft carriers of the large size was in excess of the tonnage then existing in every one of the five navies. An absolute prohibition was placed

¹ Treaty in relation to the use of submarines and noxious gases in warfare.

upon the use of asphyxiating and poisonous gas in time of war, but the advantage of this self-denying ordinance was partly lost by the failure to limit airplanes—one of the chief means for diffusing death-dealing gases and liquids; nor did the engagement come into force. Finally, there was no limitation on airships in spite of the fact that Zeppelin raids in the war had proved the baneful character of this engine of terror and annihilation.

The achievements of the Washington conference, however, are not to be minimized. The diplomatic understanding regarding the Orient and the psychological effect of an agreement to limit even a few categories of armament were victories of unusual moral value.

THE LONDON NAVAL CONFERENCE OF 1930

The London Naval Conference of 1930, called to continue the work of the Washington conference, likewise side-stepped the problem of aircraft limitation. Governmental delegations at St. James' Palace included air experts, but no state seriously broached the question of reduction of air forces, save in regard to the question of aircraft carriers. The Washington treaty, as we have already seen, limited aircraft carriers of more than 10,000 tons but not those under that tonnage. In 1921 it was believed that the best type of aircraft carriers would be gigantic ships armed with 8-inch guns which would accompany the battle fleet rather than cruise by themselves. The American carriers *Lexington* and *Saratoga* displacing 33,000 tons each are of this class.

In the following years, however, as naval technic turned away from the capital ship toward the fast and powerful cruiser, there was also a trend in favor of smaller and speedier aircraft carriers which could operate independently of the battle fleet.¹ On the eve of the London conference every naval state was seriously studying this type of car-

¹ See the illuminating dispatches on the subject of the "gunless cruisers" by Paul Scott Mowrer in the *Chicago Daily News*, February 3, 1930, p. 1; April 8, 1930, p. 1.

rier. The British Empire possessed one vessel of this kind, the *Albatross* of 5,000 tons, belonging to the Royal Australian Navy; Japan possessed one, the *Wakamiya* (5,180 tons), while the Japanese navy yards were scheduled to begin construction of another ship, the *Ryujo* of 8,100 tons early in the year 1930; France had one, the *Commandant-Teste* (10,000 tons); and Italy one, the *Giuseppe Miraglia* (4,880 tons).³ The new type of carrier carries no battery of heavy cannon, but rather a squadron of six or eight airplanes and a few anti-aircraft guns. It has a cruising radius of 8,000 miles; and, while the ordinary cruiser has a firing range of 20 miles, the "gunless cruiser" by catapulting a fleet of airplanes from its deck can strike within a radius of 400 miles. As a destroyer of enemy's commerce, the "gunless cruiser" is expected to prove far more effective than the submarine or the cruiser armed with 6-inch and 8-inch guns.

New factors such as the "gunless cruiser" require readjustment of old methods of strategy, and until their efficacy is fully measured cause considerable apprehension to the naval technicians. Accordingly, when the American delegation at St. James' Palace proposed to classify the new ships according to the guns they carry, rating a carrier with 6-inch guns as a 6-inch cruiser, Japan, Great Britain and France opposed the suggestion on the ground that it would give a country like the United States having a large 6-inch cruiser allotment an undue advantage in building up a fleet of the new type of fighting ship. With this problem in view, the British delegation proposed that a modification be made in the total tonnage of aircraft carriers over 10,000 tons as defined in the Washington treaty as well as limiting those under that tonnage.⁴ This proposal was not accepted and the question was referred to a conference of the five states to be called in 1935. On the other hand, Great Britain won

³ Compare Jane's *Fighting Ships, 1929* (London, 1929), p. 106, 182, 277, 303, 334, 457.

⁴ London Naval Conference, 1930, *Second Report of the First Committee* (March 15, 1930), p. 4-5, 11-12.

the point that aircraft carriers under 10,000 tons should be included in the aircraft carrier category of the Washington treaty together with the provision that the gun armament of these vessels should not exceed 6.1 inches in caliber.¹

While neither the Washington treaty nor the London treaty placed direct limitations upon aircraft, it is obvious that important indirect limitations were placed upon airplanes and seaplanes by the prescriptions imposed on aircraft carriers. In this matter the second treaty made a notable advance upon the Washington agreement. The limitation of air forces, however, is not entirely a problem of naval disarmament; it also concerns land disarmament, and has occupied considerable attention in the comprehensive study of disarmament undertaken by the League of Nations. As Prime Minister MacDonald stated in his letter transmitting the text of the London treaty to the League, it was hoped that the League would find the particular achievements of the treaty a contribution in its larger field of general disarmament.

THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE

Persistence is a virtue. The untiring efforts of the statesmen who carry on the disarmament program of the League of Nations merits a high measure of admiration. In particular, Viscount (formerly Lord Robert) Cecil will have a conspicuous page in the history of humanity for his leadership in the movement for disarmament during the first decade of the League's existence.

The originators of the League rightly held that if Germany were disarmed on land and sea and air it was incumbent upon other nations to approach the same condition. Art. 8 of the Covenant laid down the principle that "the

¹ Arts. 3-5 and 23 of the London treaty. *London Times*, April 23, 1930, p. 6. Compare the fourth paragraph in Ramsay MacDonald's *Memorandum on the Results of the London Naval Conference from January 21 to April 15, 1930* (Cmd. 3547 of 1930).

maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations." To the Council of the League was intrusted the task of formulating plans for this limitation of armaments—plans which were to be revised at least every ten years. Under Art. 9, a permanent advisory commission on armaments was to be constituted to advise the Council on limitation of armaments.

The story of the League's efforts in this field during the past ten years is too long and involved to relate in this place. A few words must suffice to indicate the relation of aviation to the problem of disarmament as studied at Geneva.

Four months after the organization of the League, the Council set up the Permanent Advisory Commission on Armaments as provided in Art. 9 of the Covenant.¹ This commission is composed of military, naval and air officers of the Governments represented on the Council. Its members are divided into three subcommissions on land, naval and air forces; it is the adviser of the Council on all technical military affairs.

A commission of military experts is not necessarily the best means of promoting disarmament. The First Assembly of the League had a definite opinion on this subject, and insisted upon committing the problem into the care of a Temporary Mixed Commission for the Reduction of Armaments in order to keep it out of the exclusive control of military experts.² It was in this commission that Lord Robert Cecil began to play his magnificent rôle. It was he who formulated the idea that disarmament can not be attained directly but only through an atmosphere of mutual confidence and security. There was a necessary preliminary—some guaranty to nations against aggression. Thus, in 1923, the draft treaty of mutual assistance was offered to the Assembly, only to be rejected by the Governments.

¹ Resolution of May 9, 1920, *Official Journal*, I, p. 46.

² *Records of the First Assembly, Plenary Meetings (Geneva, 1921)*, p. 92.

In 1924, the liberal-minded British and French premiers, MacDonald and Herriot, after making a sensible settlement of the question of German reparation at the London conference, journeyed to Geneva and laid down a new basis for armament limitation. "There can be no arbitration or security without disarmament, nor can there be disarmament without arbitration and security," said Ramsay MacDonald before the Assembly.¹ Thereupon, the First and Third Committees of the Assembly sought a new formula based upon arbitration and security as a prelude to disarmament. But their work—the Geneva protocol for the pacific settlement of international disputes—met the same fate as the draft treaty.

The Locarno treaties of October, 1925, and the entrance of Germany into the League in September, 1926, gave a new trend to the movement for disarmament. In the meanwhile, the Council had established the Preparatory Commission for the Disarmament Conference, to be composed of representatives from the states which are members of the Council and certain other states, including the Soviet Union, Turkey and the United States.² This commission, appointed to prepare the way for a universal disarmament conference, is still seeking for an agreed basis of negotiations. All this is preliminary. The disarmament conference remains in the future. At the same time, outside the sphere of the League, the Briand-Kellogg pact of 1928—a general agreement that the settlement of all disputes shall be sought only by pacific means—had added a vague and incalculable element to the situation, while the London Naval Conference of 1930 sought to continue the reduction, begun by the Washington conference of 1921, of the navies of Great Britain, the United States, Japan, France and Italy.

¹ *Records of the Fifth Assembly, Minutes of the Committee, Third Committee*, p. 212 (*Official Journal*, Spec. Sup. No. 26).

² Resolution of September 26, 1925, *Official Journal*, VII, p. 164, 1403.

THE THREE ARMS OF WAR—MILITARY, NAVAL AND AIR FORCES

In all these maneuvers for a *modus operandi*, the problem of reduction of air forces has naturally received its share of attention. But, as regards the three branches of warfare, the thesis of the French delegation, reiterated on frequent occasions, is difficult to answer, namely, that there is a unity in military forces that can not be ignored. In the words of M. Paul-Boncour, "no limitation of armaments is possible unless it covers the three categories of armaments—land, air and naval."¹ In other words, special agreements to accept unequal limitations in one arm must be balanced by compensating inequalities elsewhere. If France submitted at the Washington conference to the small end of the 5-5-3-1.67 ratio in capital ships, its army and air forces claim special consideration in the general arms agreement when it finally comes. This tendency of France to look upon the disarmament question in the whole, instead of attacking it arm by arm, explained its reluctance to participate in the ill-fated Geneva Naval Conference of 1927 and in the London Conference of 1930.

The last statement is made with no intention of casting reproach upon France. Perhaps to offset any such inference we should call attention to the fact that Salvador de Madariaga, former director of the Secretariat on Disarmament of the League of Nations and now professor of Spanish literature in Oxford University, in a graceful but masterly book, puts first blame for the small progress in disarmament upon America and Great Britain—on the former for its policy of isolation, and on the latter for allowing its Admiralty and General Staff to dominate its premiers.²

THE RELATION OF MILITARY AND CIVIL AVIATION

The problem of disarmament is so intricate that, whether

¹ League of Nations, *Documents of the Preparatory Commission of the Disarmament Conference, Minutes of the Third Session, March 21-April 26, 1927, Series IV, p. 169 (C. 310. M. 109. 1927. IX).*

² *Disarmament*, Ch. V-VI, (New York, Coward, McCann, 1929).

attacked as a whole or attacked in part, difficulties multiply in both directions. One of the perplexing questions as to land forces is whether to count the reserves—trained officers and men who are in civil employment for the time being—as members of the army. The question is truly formidable, especially when France takes one side and Great Britain the other. But the attempt to limit air forces encounters the same question and another one quite as awkward. For in aviation, machines as well as men may become weapons of war. The relation between military aviation and civil aviation is one of the storm centers of disarmament.

The question of civil aviation came directly before Subcommittee A of the Preparatory Commission for the Disarmament Conference in its first sessions of 1926. It was found that the delegations of Germany and the United States held the opinion that civil aviation is of comparatively little value as a possible weapon of war; while Great Britain, France and Italy and all the other states agreed that both the personnel and material in civil aviation constitute possible war armament of a very high value because of the ease and rapidity with which they can be utilized for military purposes.³

Germany and the United States refused to budge; and so the subcommission voted "that any limitation of civil aviation raises economic and political questions" and then proceeded to consider limitation of military and civil aviation as a whole.

Three divergent views appeared. France, Italy, Belgium, Poland, Yugoslavia, Czechoslovakia, Rumania and Chile declared that "in order to be efficient in practice, any method must provide for the limitation of military and civil aviation as a whole; the limitation of military aviation only would be ineffectual, for it could be balanced by a corresponding expansion of civil aviation."² Germany, the United States,

³ League of Nations, *Preparatory Commission for the Disarmament Conference, Report of Subcommittee A*, p. 111 (C. 739. M. 278. 1926. IX).

the Netherlands, Spain and the Argentine asserted "that the limitation of civil aviation was impossible, because they thought that any method for the reduction or limitation of air armaments can apply only to the war aircraft of different countries, and should not interfere with the expansion of communication, commerce or the building of civil aircraft." In the third place, Germany, the United States, the British Empire, Japan, the Netherlands, Sweden, Spain and Finland subscribed to the proposition that the subcommission was not competent to discuss limitation of civil aviation because of the *economic* consequences it might involve.

The last point of view eventually put a stop to the discussion of direct methods of limiting civil aviation. But the question bobbed up again in connection with reserves. Should there be a limit to the number of reserves? If so, who was a reservist? In case the definition were extended to those who had received military training but were serving in civil aviation, the limitation of numbers might hamper commercial progress. The arguments thus ran around in circles. Although unanimous consent could be reached on little else than an agreement to disagree, the discussions developed the pros and cons of various methods including the following:

1. Limitation of personnel.
2. Limitation of material.
3. Combined method.
4. Limitation of military and civil aviation as a whole.

The difficulties confronting Subcommittee A are not to be minimized, but it should be said that the American and German refusal to consider limitations on civil aviation has considerable justification. Both countries wish to expand their air-lines without limit. And why should limits be set? The plan for restriction of military and civil aviation as a whole suggested by France and other states including Italy prescribed bounds somewhat as follows: a state would accept a limit of 500,000 horse-power for the total motive power of aviation as a whole; of this, 200,000 horse-power might

be military and 300,000 civil.¹ The advantage would be that states could feel assured that the total air forces of their neighbors would not exceed a maximum figure. The disadvantage lies in the attempt to fetter a useful industry whose growth can not yet be calculated and whose growth should not be stunted. The proposal, indeed, savors of dilatory tactics.

REPORT OF THE COMMITTEE OF EXPERTS ON CIVIL AVIATION

The military experts at Geneva decided to take economic advice as to the consequences to civil aviation resulting from any method of aggregate limitation of military and civil aeronautics. So the question was referred to a committee of economic experts to meet at The Hague. When this committee assembled in February, 1927, as Madariaga laments, the "economic" experts in many cases turned out to be the same military experts who had represented their nations at Geneva.

Nevertheless, there were a number of experienced civilians including Messrs. Harry F. Guggenheim of the United States and M. A. Plesman of the Netherlands, who contributed to the final conclusion that "in any limitation of air armament it is essential to avoid hampering the development of civil aviation" and that it is "desirable that every effort should be directed toward differentiating more and more clearly between civil and military aviation." In fact one civilian member of the committee, a Dutch manufacturer, went so far as to condemn all governmental connections with the aeronautical industry, especially subventions and war office grants as a nuisance. They prevented, he said, the free development of civil aviation in securing safety and efficiency in planes and kept the attention of manufacturers centered on building for speed—a military requirement.

¹ *Report of Subcommittee A*, p. 120-121 (C. 759. M. 278. 1926. IX).

The final report of the economic experts Madariaga dubs¹ as timid and almost pusillanimous. Nevertheless, it ventured to suggest a policy that was progressive although cautious. The proposals were:²

1. It is desirable that the development of civil aviation should be directed solely toward economic ends, and should remain outside the sphere of military interests.

2. Civil aviation should be organized on autonomous lines, and every effort should be made to keep it separate from military aviation.

3. If states intervene in any capacity, whether directly or indirectly, wholly or partially, in civil aviation undertakings, it is desirable that the state organs dealing with the matter should be quite separate from the organs dealing with military aviation. The suggestions made below should apply to all civil aviation undertakings, whether private or state-owned. [A footnote to the report here reads: "It should be noted that the committee did not mean this proposal to apply to cases where the civil and military aviation services are united under a single ministry; in such cases it is even desirable for each of these two branches to be operated with complete autonomy."]

4. It is desirable that Governments should refrain from prescribing the embodiment of military features in the build of civil aviation material, so that this material may be constructed for purely civil purposes, more particularly with a view to providing the greatest possible measure of security and the most economic return.

In this connection, and with a view to differentiating still further between the material of civil and that of military aviation, it would be particularly desirable, as far as possible, to avoid using military aviation material for civil aviation undertakings, and in particular for the operation of air-transport lines.

5. The committee desires to point out that a note of warning should be sounded against contemplating any restriction of the construction of civil aircraft by the application of present-day aeronautical formulæ, such as horse-power, ratio of loading per horse-power, and ratio of wing areas per horse-power, etc., which, in the rapid developments taking place, would unquestionably lead to serious economic consequences.

¹ Madariaga, *Disarmament*, p. 195 (New York, Coward, McCann, 1929).

² League of Nations, *Documents of the Preparatory Commission of the Disarmament Conference, Minutes of the Third Session, March 21 to April 26, 1927, Series IV*, p. 419 (C. 310. M. 109. 1927. IX).

6. As regards personnel and, in particular, pilots, it would be desirable that civil aviation undertakings of all kinds should not require such personnel to have received a military training or give preference to those who have received such training.

It is *a fortiori* desirable that these undertakings should not give their personnel such training as would be of use solely for military purposes.

It would also be desirable as far as possible to avoid seconding personnel from military in civil aviation for the purposes of the latter.

7. The committee desires to point out the undesirable effects which may result from the direct or indirect encouragement by Governments of civil air-transport lines for military rather than for economic purposes.

8. At the present time, civil aviation in most cases has become national in character. It would seem desirable to encourage the conclusion of economic agreements between civil aviation undertakings in the different countries.

It is to be observed that the heart of the experts' report consists of the recommendation for the severance of all connection between civil and military aviation. It is true that the exhortation addressed to Governments to intrust their internal regulation of military and civil aviation to separate organs of administration was vitiated by a footnote saying that the committee did not mean the proposal to apply to countries where the military and civil aviation services are united under a single ministry. This had been the case in England since 1919, and Italy had just set up a ministry of the same sort. In the following year, France ignored the experts' advice and followed the British and Italian examples in creating its ministry of air.

There are, of course, many strong considerations for a centralization of supervision in one ministry.² But it is doubtful whether all the advantages could not be obtained by a proper liaison between the separate departments. Such a system of coordination obtains in the United States where, under the air commerce act of 1926, the promotion and regulation of civil aviation is intrusted to the Aeronautics Branch of the

² Compare G. A. Nebout, *Le Ministère de l'Air* (Paris, 1929), p. 136-140.

Department of Commerce while military aviation is confined to the War and Navy Departments.

REPORT OF THE PREPARATORY COMMISSION IN 1927

The Preparatory Commission gave serious consideration to the experts' report and in the somewhat sketchy project of a convention for disarmament submitted to the Council in 1927 the following provisions were included:¹

1. If the high contracting parties intervene in any capacity, whether directly or indirectly, wholly or partially, in civil aviation undertakings, they agree that the state organs dealing with the matter shall be quite separate from the organs dealing with military aviation. It is agreed that this undertaking does not prevent the union of civil and military aviation under a single ministry provided that the two subjects are dealt with separately and independently.

2. The high contracting parties shall refrain from prescribing the embodiment of military features in the build of civil aviation material so that this material may be constructed for purely civil purposes, more particularly with a view to providing the greatest possible measure of security and the most economical return.

3. The high contracting parties undertake not to require of civil aviation undertakings that they should employ only personnel specially trained for military purposes. They undertake to authorize only as a provisional and temporary measure the seconding of personnel to, and the employment of military aviation material in, civil aviation undertakings.

4. The high contracting parties undertake not to subsidize, directly or indirectly, air-lines principally established for military purposes, instead of being established for economic administrative or social purposes.

5. The high contracting parties undertake to encourage as far as possible the conclusion of economic agreements between civil aviation undertakings in the different countries.

The Italian delegation alone took exception to the above-mentioned clauses. Undaunted by the Italian objection, when the draft treaty came to the attention of the Assembly of the League in 1927, it recommended to all Member states to

¹ *Minutes of the Third Session*, p. 406-407 (C. 310. M. 109. 1927. IX).

take away the embarrassment caused to the disarmament program by the close liaison between military and civil aviation.¹ It went further than this, and, envisioning the possibility of developing a great system of an international grouping of air-traffic companies that would tend to make aviation more international than national, it asked the Council to instruct the Committee for Communications and Transit to study the question.

In concluding this brief account of the effort to limit military aviation we may ask: How far has the problem been carried on its way to solution? The answer is: Not very far.

In fact, Governments have discovered that in proportion to their devastating effects upon the enemy the air forces are a less expensive branch of the service than land forces. With the mounting cost of armaments, skillful budgetary economies must be practiced. Accordingly a marked shift in military budgets is in progress. States like France and Poland which have materially reduced their land forces in the last few years are now increasing their air units. At present, there seems to be little disposition among continental states to put any limitations on aircraft. This will probably be the case until the technical readjustment between air and land equipment is more complete. The problem for the statesman is to develop from realities, as rapidly as possible, international understandings based on adequate consideration for national demands.

Whether actualities call for a vigorous pursuit of the possibilities through the League of Nations commission or for an attempt to secure agreements for limitation of air forces similar to the Washington treaty on navies—this is at present a foremost question. Speaking recently in the House of Commons, Sir Samuel Hoare, former secretary for air in the Conservative Government, advised the air ministry of the

¹ Resolution of September 26, 1927, *Official Journal*, Spec. Sup. No. 57, October, 1927, p. 22.

Labor Government to leave the problem of limitation as simple as possible; and he solemnly warned his successors in office to "keep clear of the mass of technical details that some representatives at Geneva had heaped on this problem during the past few years."¹

In England there is a strong sentiment to abandon for the moment the attempt for a general disarmament agreement and to advance step by step in separate pacts seeking an early parity agreement between the three great European air powers—France, Great Britain and Italy. Without regard to the theory as to whether the problem of disarmament should be approached as a whole or in part, the ideal statesman will be ready to take advantage of all possibilities to find a just and reasonable solution, bearing in mind that national security must be built on more solid foundations than armies and navies.

THE LAW OF AERIAL WARFARE

Another phase of military regulation remains for our attention, namely the law of war in the air. When the Great War began there were few conventional rules governing the conduct of aerial hostilities. The Hague declaration of 1899 prohibiting the use of projectiles from aircraft had expired in 1904, and the great states did not sign a similar declaration at the Second Hague Conference. It is true that Art. 25 of the regulations on the laws and customs of war on land of 1907 provided: "The attack or bombardment, by whatever means, of towns, villages, dwellings or buildings, which are undefended, is prohibited." The words by *whatever means* had been added to the text of 1899, on the motion of the French delegation at the Second Hague Conference for the express purpose of forbidding the bombardment of undefended towns by means of aircraft.² But during the war

¹ *London Times*, March 19, 1930, p. 1.

² *Ministère des Affaires Étrangères, Deuxième Conférence Internationale de la Paix, La Haye, 15 Juin-18 Octobre 1907: Actes et Documents* (The Hague, Imprimerie Nationale, 1907), III, p. 16.

this article was not binding on any of the belligerents, although the convention covering the regulations had been signed and ratified by Germany, Austria-Hungary, France and Great Britain. The convention applied only in cases when all belligerents in a war were bound thereby, and ratifications had not been forthcoming for Italy, Serbia, Montenegro, Bulgaria and Turkey.³

After the war the need for codification of the laws of aerial warfare was urged by Garner, Henry-Couannier, Spaight, Phillimore, Bellot, Strupp, Higgins and other jurists. The International Law Association at its first meeting following the war, in 1920, undertook the study of the question, and at its Stockholm session in 1924 adopted a project of convention which was recommended to the consideration of Governments.⁴ At the same time, the Comité Juridique International de l'Aviation carried forward an investigation of the question as an integral subject in the air code which it was constructing step by step.⁴

The world was still filled with the horrors of the devastating inventions inspired by the war—some of them still held in abeyance. The combination of chemistry and aeronautics figured prominently in discussions of how the next war would be fought. It was said that two men in an aircraft would be able to fly over a warship at a great height and besprinkle its decks with a poisonous liquid so potent that three drops would kill a man and a small quantity lodged in the crevices of a ship would render it uninhabitable for days. Another device was an airplane equipped with tanks of toxic liquid which, falling like rain from nozzles, would bring death to everyone beneath its path in the sky.

The International Committee of the Red Cross in 1920 gave its attention to the need for a convention additional to the Geneva convention of 1907 adapting aerial war law to

³ Compare James W. Garner, *International Law and the World War*, I, p. 467.

⁴ See above, p. 114-115.

⁴ Compare *Compte Rendu du Quatrième Congrès International de Législation Aérienne, Monaco, 1921*, p. 241.

the principles of the Geneva convention for ameliorating the sufferings of war. The attention of the Assembly of the League of Nations was called to the question. Finally, the Twelfth International Red Cross Conference, meeting in Geneva in October, 1925, drafted such a convention and recommended it to the consideration of all Governments for universal adoption.³

THE COMMISSION OF JURISTS OF 1922-1923

As we have already seen, the conference of Washington in 1921 failed to put any limitations upon the air armaments of the great states. But in the realm of war law it placed restrictions upon the employment of submarines against merchantmen, prohibited the use of noxious gases in all cases and called for a Commission of Jurists of the five great states to meet at The Hague and draft a convention of aerial war law.⁴

The Commission of Jurists met at the Peace Palace from December 11, 1922, to February 9, 1923.⁵ Their discussions resulted in a well-planned project of convention which was duly transmitted to the Governments of the great states for future action.⁶ This draft, in its general principles, has met the approval of jurists and juridical societies throughout the world. It awaits the calling of an international conference for further discussion and collective decision.

In view of the elaborate arrangements now under way to preserve the peace of the world, codification of the laws

³ Compare Charles L. Julliot, *La Convention de Genève de 1929 et l'Immunité des Appareils Sanitaires Aériens* (Paris, 1930).

⁴ *Conference on Limitation of Armament*, Sen. Doc. No. 126, 67th Cong., 2d sess.

⁵ The delegates included John Bassett Moore and Albert H. Washburn for the United States; Sir Rennell Rodd and Sir Cecil Hurst for Great Britain; Professors de Lapradelle and Basdevant for France; Senator Vittorio Ricci for Italy; and Baron Matsui and Mr. Matsuda for Japan. Since the conference met on the territory of the Netherlands, two Dutch jurists were invited, namely Professors Scroycken and Van Eysinga. For the text of the draft rules see British Parliamentary Papers, *Revision of the Rules of Warfare* (Cmd. 2201 of 1924).

⁶ See Appendix, p. 211.

of war has sometimes been branded as defective psychology: nations should think in terms of peace and not in terms of war. There are others who claim that attention directed to the law of war is wasted effort, since all laws are violated in time of war. To both of these views Professor Garner has well answered that, considering the rôle that aircraft is fated to play in war time and the frightful consequences of its unregulated use, codification of aerial war law is urgently needed.¹ The cynics may claim that it will be violated in the stress of conflict. But nevertheless few will deny the fact that solemnly ratified treaties have at least a deterrent effect upon belligerent nations.

In concluding this study of governmental control of aviation it may be permitted to say that aviation is preeminently international in character. The problem of reducing international confusion to order seems to involve in the first instance the adoption of codes regulating international communication, as well as the establishment of workable international legislative, administrative and judicial processes. At the same time, the commercial rivalries of great air systems supported by governmental subsidies are a constant source of diplomatic solicitude. In time, international rivalries may be partially submerged in international pools of air traffic, and the air may become, as Fauchille pictured, as free to navigation as are the high seas. But, in any case, diplomacy must ever smooth the path of international misunderstandings. Finally, aircraft as a weapon of war is intimately bound up in the great problem of international limitation of armaments, contributing to the difficulties of this problem and dependent in a large measure on its solution.

No better estimate of the essential characteristics and requirements of aviation as an international phenomenon has been expressed than the cablegram in which Charles A. Lindbergh responded to the Committee on Cooperation between

¹ "The Proposed Rules for Regulation of Aerial Warfare," *American Journal of International Law*, January, 1924, p. 81.

Civil Aviation Undertakings at Geneva. This committee, which met for the first time on July 8, 1930, received the following analysis from Mr. Lindbergh:¹

Aviation must be considered from an international standpoint. An ability to cover great distances in a relatively short time makes it a leading factor in world intercourse.

Every advance in transportation has stimulated commerce and brought people into closer contact with each other. One after another the fears and prejudices of isolation have been overcome as methods of communication and transport improved. Aviation, with its great speed and freedom of movement, is too powerful an instrument of progress to be long confined by the remaining artificial restrictions left over from an age of provincialism. Constructive thought is turning more and more toward international cooperation and nothing is more important in this field than the simplification of communication and intercourse. At the present time, while the world's air-lines are in a formative stage in their development, much can be done to encourage their progress and to avoid unnecessary complications in the future.

There is a great need for international cooperation in the standardization of airways. A uniform system of markings and signals should be decided upon and a comprehensive meteorological and radio reporting system established.

The adoption of uniform regulations is of utmost importance. In some countries today, aircraft are placed in the same class as ocean steamers and must go through a similar procedure in clearing. As a result clearance charges are high and delays often comparatively long in relation to time spent in actual travel. There are instances where only aircraft registered within a country and carrying its markings are allowed to operate. Others where it is required that a native pilot be carried. In certain countries a visiting pilot must qualify for a license before he is permitted to fly. Numerous and complicated papers are often required where a careful study would make most of them unnecessary. Lack of uniformity is so great that it is at times impossible for a private flier to obtain accurate informa-

¹ Text of cablegram sent by Mr. Lindbergh July 5; reprinted from copy furnished by him.

tion regarding the regulations he will encounter on an international trip without unreasonable effort and delay.

The intelligent consideration of these and many other problems confronting aviation at the present time will be of untold assistance in the development of international air commerce.

Aviation does not concern one nation alone. Its ultimate value lies in bringing the various countries of the earth into closer contact. It is not possible to develop air transport and communication in its broadest aspect without the cooperation of the entire world.

APPENDIX I

1. CONVENTION RELATING TO THE REGULATION OF AIR NAVIGATION, 1919¹

CHAPTER I. GENERAL PRINCIPLES

ART. 1. — The high contracting parties recognize that every power has complete and exclusive sovereignty over the air space above its territory.

For the purpose of the present convention the territory of a state shall be understood as including the national territory, both that of the mother country and of the colonies, and the territorial waters adjacent thereto.

ART. 2. — Each contracting state undertakes in time of peace to accord freedom of innocent passage above its territory to the aircraft of the other contracting states, provided that the conditions laid down in the present convention are observed.

Regulations made by a contracting state as to the admission over its territory of the aircraft of the other contracting states shall be applied without distinction of nationality.

ART. 3. — Each contracting state is entitled for military reasons or in the interest of public safety to prohibit the aircraft of the other contracting states, under the penalties *provided* by its legislation and subject to no distinction being made in this respect between its private aircraft and those of the other contracting states, from flying over certain areas of its territory.

In that case the locality and the extent of the prohibited areas shall be published and notified beforehand to the other contracting states.

¹ *International Commission for Air Navigation, Convention relating to the Regulation of Aerial Navigation dated October 13, 1919* (Paris, May 1929), p. 1-10. The text contains all the modifications (in italics) made by the International Commission for Air Navigation in the original text of the convention of October 13, 1919, including those adopted at the Fifteenth Session, Brussels, March, 1929, by Resolutions 457, 461, 464, 466, 470, 472, 473, 476 and 477 reproduced in the *Official Bulletin* No. 15 and which came into force September 15, 1929. The reader is referred by notes to complementary texts, when necessary.

[French and Italian texts omitted.]

ART. 4. — Every aircraft which finds itself above a prohibited area shall, as soon as aware of the fact, give the signal of distress provided in Par. 17 of Annex D and land as soon as possible outside the prohibited area at one of the nearest aerodromes of the state unlawfully flown over.

CHAPTER II. NATIONALITY OF AIRCRAFT

ART. 5. — No contracting state shall, except by a special and temporary authorization, permit the flight above its territory of an aircraft which does not possess the nationality of a contracting state *unless¹ it has concluded a special convention with the state in which the aircraft is registered. The stipulations of such special convention must not infringe the rights of the contracting parties to the present convention and must conform to the rules laid down by the said convention and its annexes. Such special convention shall be communicated to the International Commission for Air Navigation which will bring it to the knowledge of the other contracting states.*²

ART. 6. — Aircraft possess the nationality of the state on the register of which they are entered, in accordance with the provisions of Section I (c) of Annex A.

¹ This article was modified to read as above by a protocol dated in London October 27, 1922, which entered into force on December 14, 1926.

Resolution No. 32 (O. B. 2, p. 27).

Text of this protocol (O. B. 8, p. 87).

Signatures (O. B. 8, p. 19).

Ratifications (O. B. 12, p. 17).

Entry into force (O. B. 12, p. 17).

Adhesions (O. B. 15, p. 23).

² Special agreements kept in force by virtue of the new stipulations of Art. 5:

Agreement between Great Britain and Switzerland (O. B. 2, p. 6).

Convention between France and Switzerland (O. B. 2, p. 9).

Agreement between Great Britain and Norway (O. B. 2, p. 17 and O. B. 4, p. 7).

Arrangement between Belgium and Switzerland (O. B. 6, p. 9).

Convention between France and Germany (O. B. 12, p. 6).

Convention between Denmark and Norway (O. B. 13, p. 4).

Convention between Denmark and Germany (O. B. 13, p. 9).

Convention between Sweden and Norway (O. B. 13, p. 12).

Convention between Sweden and Germany (O. B. 13, p. 19).

Convention between Belgium and Germany (O. B. 13, p. 28).

Agreement between Germany and Great Britain (O. B. 13, p. 31).

Agreement between Poland and Austria (O. B. 14, p. 4).

Convention between Italy and Germany (O. B. 14, p. 6).

Convention between the Netherlands and Norway (O. B. 15, p. 3).

Convention between the Netherlands and Switzerland (O. B. 15, p. 5).

Treaty between Czechoslovakia and Austria (O. B. 15, p. 8).

Convention between Italy and Spain (O. B. 15, p. 12).

ART. 7. — No aircraft shall be entered on the register of one of the contracting states unless it belongs wholly to nationals of such states.

No incorporated company can be registered as the owner of an aircraft unless it possess the nationality of the state in which the aircraft is registered, unless the president or chairman of the company and at least two-thirds of the directors possess such nationality, and unless the company fulfills all other conditions which may be prescribed by the laws of the said state.

ART. 8. — An aircraft can not be validly registered in more than one state.

ART. 9. — The contracting states shall exchange every month among themselves and transmit to the International Commission for Air Navigation referred to in Art. 34 copies of registrations and of cancellations of registrations which shall have been entered on their official registers during the preceding month.*

ART. 10. — All aircraft engaged in international navigation shall bear their nationality and registration marks as well as the name and residence of the owner in accordance with Annex A.

CHAPTER III. CERTIFICATES OF AIRWORTHINESS AND COMPETENCY

ART. 11. — Every aircraft engaged in international navigation shall, in accordance with the conditions laid down in Annex B, be provided with a certificate of airworthiness issued or rendered valid by the state whose nationality it possesses.

ART. 12. — The commanding officer, pilots, engineers and others members of the operating crew of every aircraft shall, in accordance with the conditions laid down in Annex E, be provided with certificates of competency and licenses issued or rendered valid by the state whose nationality the aircraft possesses.

ART. 13. — Certificates of airworthiness and of competency and licenses issued or rendered valid by the state whose nationality the aircraft possesses, in accordance with the regulations

* Resolution No. 7 (O. B. 1, p. 16).

Resolution No. 290 (O. B. 10, p. 22).

established by Annex B and Annex E and hereafter by the International Commission for Air Navigation, shall be recognized as valid by the other states.⁴

Each state has the right to refuse to recognize for the purpose of flights within the limits of and above its own territory certificates of competency and licenses granted to one of its nationals by another contracting state.

ART. 14. — No wireless apparatus shall be carried without a special license issued by the state whose nationality the aircraft possesses. Such apparatus shall not be used except by members of the crew provided with a special license for the *purpose*.

Every aircraft used in public transport and capable of carrying ten or more persons⁵ shall be equipped with sending and receiving wireless apparatus when the methods of employing such apparatus shall have been determined by the International Commission for Air Navigation.

This commission may later extend the obligation of carrying wireless apparatus to all other classes of aircraft in the conditions and according to the methods which it may determine.⁶

CHAPTER IV. ADMISSION TO AIR NAVIGATION ABOVE FOREIGN TERRITORY

ART. 15. — Every aircraft of a contracting state has the right to cross the air space of another state without landing. In this case it shall follow the route fixed by the state over which the flight takes place. However, for reasons of general security it will be obliged to land if ordered to do so by means of the signals provided in Annex D.

⁴ The rules concerning the preparation of the certificates of airworthiness and of competency and licenses were the subject of four resolutions of the I. C. A. N. which are operative, as regards the contracting states, in like manner as the annexes of the convention:

- (A) Resolution No. 102 (O. B. 4, p. 24-31) in force as from February 10, 1924.
- (B) Resolution No. 114 (O. B. 5, p. 19 and 20) in force as from February 10, 1924, modified by Resolution No. 356 (O. B. 12, p. 23).
- (C) Resolution No. 129 (O. B. 5, p. 29) in force as from June 20, 1924.
- (D) Resolution No. 405 (O. B. 13, p. 54) in force as from September 15, 1928.

The rules concerning the minimum requirements for airworthiness certificates were the subject of 18 resolutions of the I. C. A. N. . . .

⁵ Resolution No. 234 (O. B. 8, p. 36).

⁶ These regulations are fixed by Resolution No. 471 (O. B. 15, p. 45) of the I. C. A. N. which is operative, as regards the contracting states, in like manner as the annexes of the convention and came into force on January 1, 1930.

Every aircraft which passes from one state into another shall, if the regulations of the latter state require it, land in one of the aerodromes fixed by the latter. Notification of these aerodromes shall be given by the contracting states to the International Commission for Air Navigation and by it transmitted to all the contracting states.⁷

The establishment of international airways shall be subject to the consent of the states flown over.⁸

ART. 16. — Each contracting state shall have the right to establish reservations and restrictions in favor of its *national* aircraft in connection with the carriage of persons and goods for hire between two points on its territory.

Such reservations and restrictions shall be immediately published, and shall be communicated to the International Commission for Air Navigation, which shall notify them to the other contracting states.⁹

ART. 17. — The aircraft of a contracting state which establishes reservations and restrictions in accordance with Art. 16, may be subjected to the same reservations and restrictions in any other contracting state, even though the latter state does not itself impose the reservations and restrictions on other foreign aircraft.

ART. 18. — Every aircraft passing through the territory of a contracting state, including landing and stoppages reasonably necessary for the purpose of such transit, shall be exempt from any seizure on the ground of infringement of patent, design or model, subject to the deposit of security the amount of which in default of amicable agreement shall be fixed with the least possible delay by the competent authority of the place of seizure.

CHAPTER V. RULES TO BE OBSERVED ON DEPARTURE WHEN UNDER WAY AND ON LANDING

ART. 19. — Every aircraft engaged in international navigation shall be provided with:

(a.) A certificate of registration in accordance with Annex A;

⁷ Resolution No. 11 (O. B. I, p. 18).

⁸ Resolution No. 443 (O. B. 14, p. 30).

(b.) A certificate of airworthiness in accordance with Annex B;

(c.) Certificates and licenses of the commanding officer, pilots and crew in accordance with Annex E;

(d.) If it carries passengers, a list of their names;

(e.) If it carries freight, bills of lading and manifest;

(f.) Log books in accordance with Annex C;

(g.) If equipped with wireless, the special license prescribed by Art. 14.

ART. 20. — The log books shall be kept for two years after the last entry.

ART. 21. — Upon the departure or landing of an aircraft, the authorities of the country shall have, in all cases, the right to visit the aircraft and to verify all the documents with which it must be provided.

ART. 22. — Aircraft of the contracting states shall be *entitled* to the same measures of assistance for landing, particularly in case of distress, as national aircraft.

ART. 23. — With regard to the salvage of aircraft wrecked at sea the principles of maritime law will apply, in the absence of any agreement to the contrary.

ART. 24. — Every aerodrome in a contracting state, which upon payment of charges is open to public use by its national aircraft, shall likewise be open to the aircraft of all the other contracting states.

In every such aerodrome there shall be a single tariff of charges for landing and length of stay applicable alike to national and foreign aircraft.*

ART. 25. — Each contracting state undertakes to adopt measures to insure that every aircraft flying above the limits of *its* territory and that every aircraft wherever it may be, carrying its nationality mark, shall comply with the regulations contained in Annex D.

Each of the contracting states undertakes to insure the prosecution and punishment of all persons contravening these regulations.²⁰

* Resolution No. 408 (O. B. 13, p. 57).

²⁰ Resolution No. 18 (O. B. 1, p. 23).

CHAPTER VI. PROHIBITED TRANSPORT

ART. 26. — The carriage by aircraft of explosives and of arms and munitions of war is forbidden in international navigation.²¹ No foreign aircraft shall be permitted to carry such articles between any two points in the same contracting state.

ART. 27. — Each state may, in aerial navigation, prohibit or regulate the carriage or use of photographic apparatus. Any such regulations shall be at once notified to the International Commission for Air Navigation, which shall communicate this information to the other contracting states.²²

ART. 28. — As a measure of public safety, the carriage of objects other than those mentioned in Arts. 26 and 27 may be subjected to restrictions by any contracting state.²³ Any such regulations shall be at once notified to the International Commission for Air Navigation, which shall communicate this information to the other contracting states.²⁴

ART. 29. — All restrictions mentioned in Art. 28 shall be applied equally to national and foreign aircraft.²⁴

CHAPTER VII. STATE AIRCRAFT

ART. 30. — The following shall be deemed to be state aircraft:

(a.) Military aircraft.

(b.) Aircraft exclusively employed in state service, such as posts, customs, police.

Every other aircraft shall be deemed to be a private aircraft.

All state aircraft other than military, customs and police aircraft shall be treated as private aircraft and as such shall be subject to all the provisions of the present convention.

ART. 31. — Every aircraft commanded by a person in military service detailed for the purpose shall be deemed to be a military aircraft.

ART. 32. — No military aircraft of a contracting state shall fly over the territory of another contracting state nor land thereon without special authorization. In case of such *authorisation*

²¹ Resolution No. 228 (O. B. 8, p. 34).

²² Resolution No. 11 (O. B. 1, p. 18).

²³ Resolution No. 11 (O. B. 1, p. 18).

²⁴ Resolution No. 228 (O. B. 8, p. 34).

the military aircraft shall enjoy, in principle, in the absence of special stipulation the privileges which are customarily accorded to foreign ships of war.

A military aircraft which is forced to land or which is requested or summoned to land shall by reason thereof acquire no right to the privileges referred to in the above paragraph.

ART. 33. — Special arrangements between the states concerned will determine in what cases police and customs aircraft may be authorized to cross the frontier. They shall in no case be entitled to the privileges referred to in Art. 32.

CHAPTER VIII. INTERNATIONAL COMMISSION FOR AIR NAVIGATION

ART. 34. — There shall be instituted, under the name of the International Commission for Air Navigation, a permanent commission placed under the direction of the League of Nations²⁵ and composed of:

Two representatives of each of the following states: The United States of America, France, Italy and Japan;

One representative of Great Britain and one of each of the British Dominions and of India;

One representative of each of the other contracting states.

*Each state represented on the commission (Great Britain, the British Dominions and India counting for this purpose as one state) shall have one vote.*²⁶

The International Commission for Air Navigation shall determine the rules of its own procedure and the place of its per-

²⁵ Resolutions Nos. 19 and 20 (O. B. 1, p. 23).

Resolution No. 277 (O. B. 10, p. 10).

²⁶ This article was modified to read as above by a protocol dated in London the 30th June, 1923, which entered into force on the 14th December, 1926.

Resolution No. 55 (O. B. 2, p. 38).

Resolution No. 87 (O. B. 4, p. 16).

Text of this protocol (O. B. 8, p. 89).

Signatures (O. B. 8, p. 20).

Ratifications (O. B. 12, p. 17).

Entry into force (O. B. 12, p. 17).

Adhesions (O. B. 15, p. 24).

manent seat,²⁷ but it shall be free to meet in such places as it may deem convenient. Its first meeting shall take place at Paris.²⁸ This meeting shall be convened by the French Government, as soon as a majority of the signatory states shall have notified to it their ratification of the present convention.

The duties of this commission shall be:

(a.) To receive proposals from or to make proposals to any of the contracting states for the modification or amendment of the provisions of the present convention, and to notify changes adopted;

(b.) To carry out the duties imposed upon it by the present article and by Arts. 9, 13, 14, 15, 16, 27, 28, 36, and 37 of the present convention;

(c.) To amend the provisions of the Annexes A-G;²⁹

(d.) To collect and communicate to the contracting states

²⁷ Administration of the Commission (O. B. 5, p. 31). Modified by Resolution No. 415 (O. B. 13, p. 60).

Subcommissions:

- Resolutions Nos. 3 and 4 (O. B. 1, p. 13).
- Resolutions Nos. 26 and 27 (O. B. 2, p. 25).
- Resolution No. 59 (O. B. 3, p. 13).
- Resolution No. 108 (O. B. 5, p. 14).
- Resolution No. 142 (O. B. 6, p. 25).
- Resolution No. 168 (O. B. 6, p. 48).
- Resolution No. 237 (O. B. 8, p. 37).
- Resolution No. 301 (O. B. 10, p. 26).
- Resolution No. 382 (O. B. 12, p. 37).
- Resolution No. 446 (O. B. 14, p. 31).
- Resolution No. 484 (O. B. 15, p. 49).

- ²⁸ Resolution No. 24 (O. B. 1, p. 25).
- Resolution No. 57 (O. B. 2, p. 39).
- Resolution No. 82 (O. B. 3, p. 33).
- Resolution No. 106 (O. B. 4, p. 33).
- Resolution No. 133 (O. B. 5, p. 33).
- Resolution No. 172 (O. B. 6, p. 50).
- Resolution No. 212 (O. B. 7, p. 44).
- Resolution No. 243 (O. B. 8, p. 40).
- Resolution No. 272 (O. B. 9, p. 29).
- Resolution No. 307 (O. B. 10, p. 29).
- Resolution No. 344 (O. B. 11, p. 30).
- Resolution No. 383 (O. B. 12, p. 38).
- Resolution No. 416 (O. B. 13, p. 60).
- Resolution No. 447 (O. B. 14, p. 32).
- Resolution No. 485 (O. B. 15, p. 50).

- ²⁹ Resolution No. 17 (O. B. 1, p. 21).
- Resolution No. 76 (O. B. 3, p. 30).
- Resolution No. 463 (O. B. 15, p. 37).

information of every kind concerning international air navigation;²⁰

(e.) To collect and communicate to the contracting states all information relating to wireless telegraphy, meteorology and medical science which may be of interest to air navigation;

(f.) To insure the publication of maps for air navigation in accordance with the provisions of Annex F;²¹

(g.) To give its opinion on questions which the states may submit for examination.²²

Any modification of the provisions of any one of the annexes may be made by the International Commission for Air Navigation when such modification shall have been approved by three-fourths of the total possible votes which could be cast if all the states were represented: *this majority must, moreover, include at least three of the five following states: the United States of America, the British Empire, France, Italy, Japan.*²³ Such modification shall become effective from the time when it shall have been notified by the International Commission for Air Navigation to all the contracting states.

Any proposed modification of the articles of the present convention shall be examined by the International Commission for Air Navigation, whether it originates with one of the contracting states or with the commission itself. No such modification shall be proposed for adoption by the contracting states, unless it shall have been approved by at least two-thirds of the total possible votes.

All such modifications of the articles of the convention (but not of the provisions of the annexes) must be formally adopted by the contracting states before they become effective.

The expenses of organization and operation of the International Commission for Air Navigation shall be borne by the

²⁰ Resolution No. 11 (O. B. 1, p. 18).

Resolution No. 174 (O. B. 7, p. 16).

²¹ Resolution No. 12 (O. B. 1, p. 18).

²² Resolution No. 130 (O. B. 5, p. 29).

²³ See note No. 16 relating to Par. 5 of Art. 34.

contracting States; ²⁴ the total shall be allocated in the proportion of two shares each for the United States of America, the British Empire, France, Italy and Japan and one share each for all the other states.²⁵

The expenses occasioned by the sending of technical delegations will be borne by their respective states.

CHAPTER IX. FINAL PROVISIONS

ART. 35. — The high contracting parties undertake as far as they are respectively concerned to cooperate as far as possible in international measures concerning:

(a.) The collection and dissemination of statistical, current and special meteorological information, in accordance with the provisions of Annex G;²⁶

(b.) The publication of standard aeronautical maps, and the establishment of a uniform system of ground marks for flying, in accordance with the provisions of Annex F;

²⁴ Budget for the years 1922 and 1923:

Resolution No. 5 (O. B. 1, p. 13).

Accounts for 1922:

Resolution No. 85 (O. B. 4, p. 14).

Accounts for 1923:

Resolution No. 181 (O. B. 7, p. 25).

Budget for 1924:

Resolution No. 86 (O. B. 4, p. 15).

Accounts for 1924:

Resolution No. 246 (O. B. 9, p. 16).

Budget for 1925:

Resolution No. 141 (O. B. 6, p. 24).

Accounts for 1925:

Resolution No. 311 (O. B. 11, p. 16).

Budget for 1926:

Resolution No. 220 (O. B. 8, p. 26).

Resolutions Nos. 279 and 280 (O. B. 10, p. 16).

Accounts for 1926:

Resolution No. 387 (O. B. 13, p. 42).

Budget for 1927:

Resolutions Nos. 278 and 281 (O. B. 10, p. 15, 16)

Accounts for 1927:

Resolution No. 452 (O. B. 15, p. 24).

Budget for 1928:

Resolution No. 349 (O. B. 12, p. 18).

Budget for 1929:

Resolution No. 418 (O. B. 14, p. 17).

Budget for 1930:

Resolution No. 454 (O. B. 15, p. 25).

²⁵ See note No. 16 relating to Par. 5 of Art. 34.

²⁶ Resolution No. 257 (O. B. 9, p. 21).

(c.) The use of wireless telegraphy in air navigation, the establishment of the necessary wireless stations, and the observance of international wireless regulations.²⁷

ART. 36. — General provisions relative to customs in connection with international air navigation are the subject of a special agreement contained in Annex H to the present convention.

Nothing in the present convention shall be construed as preventing the contracting states from concluding, in conformity with its principles, special protocols as between state and state in respect of customs, police, posts and other matters of common interest in connection with air navigation. Any such protocols shall be at once notified to the International Commission for Air Navigation which shall communicate this information to the other contracting states.²⁸

ART. 37. — In the case of a disagreement between two or more states relating to the interpretation of the present convention, the question in dispute shall be determined by the Permanent Court of International Justice to be established by the League of Nations, and until its establishment by arbitration.

If the parties do not agree on the choice of the arbitrators, they shall proceed as follows:

Each of the parties shall name an arbitrator, and the arbitrators shall meet to name an umpire. If the arbitrators can not agree, the parties shall each name a third state, and the third states so named shall proceed to designate the umpire, by agreement or by each proposing a name and then determining the choice by lot.

Disagreement relating to the technical regulations annexed to the present convention, shall be settled by the decision of the International Commission for Air Navigation by a majority of votes.²⁹

In case the difference involves the question whether the interpretation of the convention or that of a regulation is concerned,

²⁷ Resolution No. 167 (O. B. 6, p. 48).

²⁸ Agreement between Poland and Czechoslovakia (O. B. 16, p. 20).

Agreement between France, Belgium and Great Britain (O. B. 16, p. 23).

²⁹ The procedure to be followed for carrying out the terms of this paragraph was the subject of Resolution No. 50 (O. B. 2, p. 35 and 36) of the I. C. A. N. which is operative, as regards the contracting states, in like manner as the annexes of the convention and is in force as from August 10, 1923.

final decision shall be made by arbitration as provided in the first paragraph of this article.

ART. 38. — In case of war, the provisions of the present convention shall not affect the freedom of action of the contracting states either as belligerents or as neutrals.

ART. 39. — The provisions of the present convention are completed by the Annexes A to H which, subject to Art. 34 (c), shall have the same effect and shall come into force at the same time as the convention itself.

ART. 40. — The British Dominions and India shall be deemed to be states for the purposes of the present convention.

The territories and nationals of protectorates or of territories administered in the name of the League of Nations, shall, for the purposes of the present convention, be assimilated to the territory and nationals of the protecting or mandatory states.

ART. 41. — States which have not taken part in the war of 1914-1919 shall be permitted to adhere to the present convention.

This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by it to all the signatory or adhering states.²²

ART. 42. — A state which took part in the war of 1914-1919 but which is not a signatory of the present convention, may adhere only if it is a Member of the League of Nations or, until January 1, 1923, if its adhesion is approved by the Allied and Associated Powers signatories of the treaty of peace concluded with the said state. After January 1, 1923, this adhesion may be admitted if it is agreed to by at least three-fourths of the signatory and adhering states voting under the conditions provided by Art. 34 of the present convention.²³

Applications for adhesions shall be addressed to the Government of the French Republic, which will communicate them to the other contracting powers. Unless the state applying is ad-

²² Adhesion of Persia (O. B. 1, p. 5).

Adhesion of Chile (O. B. 10, p. 3).

Adhesion of the Saar Territory (O. B. 12, p. 3).

Adhesion of Sweden (O. B. 13, p. 3).

Adhesion of Denmark (O. B. 13, p. 4).

Adhesion of the Netherlands (O. B. 14, p. 3).

²³ Resolution No. 78 (O. B. 3, p. 51).

Adhesion of Bulgaria: (O. B. 5, p. 3).

mitted *ipso facto* as a Member of the League of Nations, the French Government will receive the votes of the said powers and will announce to them the result of the voting.

ART. 43. — The present convention may not be denounced before January 1, 1922. In case of denunciation, notification thereof shall be made to the Government of the French Republic, which shall communicate it to the other contracting parties. Such denunciation shall not take effect until at least one year after the giving of notice, and shall take effect only with respect to the power which has given notice.²²

THE PRESENT CONVENTION shall be ratified.

Each power will address its ratification to the French Government, which will inform the other signatory powers.²³

The ratifications will remain deposited in the archives of the French Government.

The present convention will come into force for each signatory power, in respect of other powers which have already ratified, 40 days from the date of the deposit of its ratification.

On the coming into force of the present convention, the French Government will transmit a certified copy to the powers which under the treaties of peace have undertaken to enforce rules of aerial navigation in conformity with those contained in it.

Done at Paris, the thirteenth day of October nineteen hundred and nineteen in a single copy which shall remain deposited in the archives of the French Government, and of which duly authorized copies shall be sent to the contracting states.

The said copy, dated as above, may be signed until the twelfth day of April nineteen hundred and twenty inclusively.

²² Denunciation of Bolivia (O. B. 8, p. 3).

²³ Ratifications of the convention:

Belgium, Bolivia, British Empire, France, Greece, Portugal, Kingdom of the Serbs, Croats and Slovenes, Siam (O. B. 1, p. 3).

Japan (O. B. 1, p. 4).

Italy (O. B. 3, p. 3).

Czechoslovakia (O. B. 5, p. 3).

Rumania (O. B. 6, p. 4).

Uruguay (O. B. 7, p. 3).

Poland (O. B. 7, p. 3).

Panama (O. B. 16, p. 2).

(See list of signatures, accessions, ratifications and adhesions in *Official Bulletin* No. 16, p. 37).

In faith whereof the hereinafter named plenipotentiaries whose powers have been found in good and due form have signed the present convention in the French, English and Italian languages, which are equally authentic.

Annexes

[*Note.* Annexes A-G contain practical regulations for the management and control of aircraft and air traffic. They have been extensively modified by the International Commission for Air Navigation in virtue of Art. 34 (c) of the convention and in some instances, such as Annex G, have been completely revised after extensive scientific investigations. The commission's revision is constant, and, as a consequence, only the latest edition is completely up to date. For that reason and on account of their detailed and essentially technical character, annexes A-G are not here reprinted. By title they are as follows:]

Annex A. The marking of aircraft and call signs.

Annex B. Certificates of airworthiness.

Annex C. Log books.

Annex D. Rules as to lights and signals. Rules for air traffic.

Annex E. Minimum qualifications necessary for obtaining certificates and licenses as pilots and navigators.

Annex F. International aeronautical maps and ground markings.

Annex G. Collection and dissemination of meteorological information.

Annex H. Customs

GENERAL PROVISIONS

1. Any aircraft going abroad shall depart only from aerodromes specially designated by the customs administration of each contracting state, and named "customs aerodromes."

Aircraft coming from abroad shall land only in such aerodromes.

2. Every aircraft which passes from one state into another is obliged to cross the frontier between certain points fixed by the contracting states. These points are shown on the aeronautical maps.

3. All necessary information concerning customs' aerodromes within a state, including any alterations made to the list and any corresponding alterations necessary on the aeronautical maps and the dates when such alterations become valid, and all other information concerning any international aerodromes which may be established, shall be communicated by the *state* concerned to the International Commission for Air Navigation which shall notify such information to all of the contracting states. The contracting states may agree to establish international aerodromes at which there may be joint customs services for two or more states.

4. When, by reason of a case of *force majeure*, which must be duly justified, an aircraft crosses the frontier at any other point than those designated, it shall land at the nearest customs aerodrome on its route. If it is forced to land before reaching this aerodrome it shall inform the nearest police or customs authorities.

It will only be permitted to leave again with the authorization of these authorities, who shall, after verification, stamp the log book and the manifest provided for in par. 5; they shall inform the pilot of the customs aerodrome where he must necessarily carry out the formalities of customs clearance.

5. Before departure, or *immediately* after arrival, according to whether they are going to or coming back from a foreign country, pilots shall show their log books to the authorities of the aerodrome and, if necessary, the manifest of the goods and supplies for the journey which they carry.

6. The manifest is to be kept in conformity with the attached form No. 1.¹

The goods must be the subject of detailed declarations in conformity with the attached form No. 2,¹ made out by the senders.

Every contracting state has the right to prescribe for the insertion either on the manifest or on the customs declaration of such supplementary entries as it may deem necessary.

7. In the case of an aircraft transporting goods the customs officer, before departure, shall examine the manifest and declarations, make the prescribed verifications and sign the log book as well as the manifest. He shall verify his signature with a

¹ Not here reproduced.

stamp. He shall seal the goods or sets of goods, for which such a formality is required.

On arrival the customs officer shall insure that the seal is unbroken, shall pass the goods, shall sign the log book and keep the manifest.

In the case of an aircraft with no goods on board, the log book only shall be signed by the police and customs officials.

The fuel on board shall not be liable to customs duties provided the quantity thereof does not exceed that needed for the journey, as defined in the log book.

8. As an exception to the general regulations, certain classes of aircraft, particularly postal aircraft, aircraft belonging to aerial transport companies regularly constituted and authorized and those belonging to members of recognized touring societies not engaged in the public conveyance of persons or goods, may be freed from the obligation of landing at a customs aerodrome and authorized to begin or end their journey at certain inland aerodromes appointed by the customs and police administration of each state at which customs formalities shall be complied with.

However, such aircraft shall follow the normal air route, and make their identity known by signals agreed upon as they fly across the frontier.

REGULATIONS APPLICABLE TO AIRCRAFT AND GOODS

9. Aircraft landing in foreign countries are in principle liable to customs duties if such exist.

If they are to be reexported, they shall have the benefit of the regulations as to permit by bond or deposit of the taxes.

In the case of the formation between two or more countries of a union of touring societies, the aircraft of the said countries will have the benefit of the regulations of the "Triptyque."

10. Goods arriving by aircraft shall be considered as coming from the country where the log book and manifest have been signed by the customs officer.

As regards their origin and the different customs régimes, they are liable to the regulations of the same kind as are applicable to goods imported by land or sea.

11. With regard to goods exported in discharge of a tem-

porary receiving or bonded account or liable to inland taxes, the senders shall prove their right to send the goods abroad by producing a certificate from the customs of the place of destination.

AIR TRANSIT

12. When an aircraft to reach its destination must fly over one or more contracting states, without prejudice to the right of sovereignty of each of the contracting states, two cases must be distinguished:—

1. If the aircraft neither sets down nor takes up passengers or goods, it is bound only to keep to the normal air route and make itself known by signals when passing over the points designated for such purpose.

2. In other cases, it shall be bound to land at a customs aerodrome and the name of such aerodrome shall be entered in the log book before departure. On landing, the customs authorities shall examine the papers and the cargo, and take, if need be, the necessary steps to insure the reexportation of the craft and goods or the payment of the dues.

The provisions of par. 9 (2) are applicable to goods to be reexported.

If the aircraft sets down or takes up goods the customs officer shall verify the fact on the manifest, duly completed, and shall affix, if necessary, a new seal.

VARIOUS PROVISIONS

13. Every aircraft during flight, wherever it may be, must conform to the orders from police or customs stations and police or customs aircraft of the state over which it is flying.

14. Customs officers and excise officials, and generally speaking the representatives of the public authorities shall have free access to all starting and landing places for aircraft; they may also search any aircraft and its cargo to exercise their rights of supervision.

15. Except in the case of postal aircraft, all unloading or throwing out in the course of flight, except of ballast, may be prohibited.

16. In addition to any penalties which may be imposed by local law for infringement of the preceding regulations, such infringement shall be reported to the state in which the aircraft is registered and that state shall suspend for a limited time, or permanently, the certificate of registration of the offending aircraft.¹

17. The provisions of this annex do not apply to military aircraft visiting a state by special authorization (Arts. 31, 32, and 33 of the convention), nor to police and custom aircraft (Arts. 31 and 34 of the convention).

2. PROTOCOL FOR AMENDING THE AIR CONVENTION OF 1919²

The International Commission for Air Navigation, in the course of its sixteenth session assembled in Paris under the presidency of Pierre-Etienne Flandin, assisted by Albert Roper, secretary-general, approved at its meeting of June 15, 1929, in conformity with the dispositions of Art. 34 of the convention relating to the regulation of air navigation, certain modifications [italicized] of Arts. 3, 5, 7, 15, 34, 37, 41 and 42, as well as of the final clauses of the aforesaid convention, which will read as follows, in . . . English . . . :

ART. 3. Each contracting state is entitled for military reasons or in the interest of public safety to prohibit the aircraft

¹ Resolution No. 18 (O. B. 1, p. 23).

See also:

Resolution No. 392 (O. B. 13, p. 46): Regulations concerning the international employment of symbols and terms used in aeronautical technica.

Resolution No. 188 (O. B. 7, p. 30): Regulations concerning emergency medical boxes on board aircraft.

Resolution No. 192 (O. B. 1, p. 34) and Resolution No. 266 (O. B. 9, p. 27): Regulations concerning an international standard atmosphere.

Resolution No. 325 (O. B. 11, p. 23): Investigation of aircraft accidents occurring abroad.

Resolution No. 462 (O. B. 15, p. 36): Unification of the methods of testing the light alloys.

Resolution No. 468 (O. B. 15, p. 39): Air traffic statistics.

Resolution No. 483 (O. B. 15, p. 48): Measures to be taken by ships at sea to enable aircraft to recognize their nationality.

² International Commission for Air Navigation: *Extraordinary Session of June 1929: Draft Minutes* (Paris, 1929), annex a. This protocol is in French with texts of the amendments in French, English and Italian. Only the English text is here given, the English of the protocol being from Great Britain, Parliamentary Papers, Miscellaneous No. 7 (1930), Cmd. 3541.

of the other contracting states, under the penalties provided by its legislation and subject to no distinction being made in this respect between its private aircraft and those of the other contracting states, from flying over certain areas of its territory.

Each contracting state may, as an exceptional measure and in the interest of public safety, authorize flight over the said areas by its national aircraft.

The position and extent of the prohibited areas shall be previously published and shall be notified, as well as the exceptional authorizations issued under the last preceding paragraph, to all the other contracting states as well as to the International Commission for Air Navigation.

Each contracting state reserves also the right in exceptional circumstances in time of peace and with immediate effect temporarily to restrict or prohibit flight over its territory or over part of its territory on condition that such restriction or prohibition shall be applicable without distinction of nationality to the aircraft of all the other states.

Such decision shall be published, notified to all the contracting states and communicated to the International Commission for Air Navigation.

ART. 5. (To be inserted as the last article of Chapter I.)

Each contracting state is entitled to conclude special conventions with noncontracting states.

The stipulation of such special conventions shall not infringe the rights of the contracting parties to the present convention.

Such special conventions in so far as may be consistent with their objects shall not be contradictory to the general principles of the present convention.

They shall be communicated to the International Commission for Air Navigation which will notify them to the other contracting states.

ART. 7. *The registration of aircraft referred to in the last preceding article shall be made in accordance with the laws and special provisions of each contracting state.*

ART. 15. Every aircraft of (unchanged).

No aircraft of a contracting state capable of being flown without a pilot shall, except by special authorization, fly without a pilot over the territory of another contracting state.

Every aircraft which passes (unchanged).

Every contracting state may make conditional on its prior authorization the establishment of international airways and the creation and operation of regular international air navigation lines, with or without landing, on its territory.

ART. 34. There shall be instituted, under the name of International Commission for Air Navigation, a permanent commission placed under the direction of the League of Nations.

Each contracting state may have not more than two representatives on the commission.

Each state represented (unchanged).

The International Commission for Air Navigation shall determine the rules (unchanged).

The duties of this commission shall be (a-g) (unchanged).

Any modification of the provisions of any one of the annexes may be made by the International Commission for Air Navigation when such modification shall have been approved by three-fourths of the total votes of the states represented at the session and two-thirds of the total possible votes which could be cast if all the states were represented. Such modification shall become effective (unchanged).

Any proposed modification of the articles of the present convention (unchanged).

All such modifications (unchanged).

The expenses of the International Commission for Air Navigation shall be borne by the contracting states in the proportion fixed by the said commission.

The expenses occasioned (unchanged).

ART. 37. (First paragraph.) In the case of a disagreement between two or more states relating to the interpretation of the present convention, the question in dispute shall be determined by the Permanent Court of International Justice. *Provided that, if one of the states concerned has not accepted the protocols relating to the Court, the question in dispute shall, on the demand of such state, be settled by arbitration.*

ART. 41. Any state shall be permitted to adhere to the present convention.

This adhesion shall be notified (unchanged).

ART. 42. (Deleted.)

(FINAL CLAUSES.) In faith whereof the hereinafter named plenipotentiaries, whose powers have been found in good and due form, have signed the present convention.

The present convention has been drawn up in French, English and Italian.

In case of divergencies the French text shall prevail.

The undersigned, duly authorized, declare that they accept, in the name of the states they represent, the aforesaid modifications, which are proposed for final acceptance by the contracting states.

The present protocol shall remain open for signature by the states which are now contracting parties to the convention; it shall be ratified and the ratifications shall be deposited as soon as possible at the permanent seat of the commission.

It will come into force as soon as the states which are now contracting parties to the convention shall have effected the deposit of their ratifications.

States which may become contracting parties to the convention may adhere to the present protocol.

A certified true copy of the present protocol shall be transmitted by the Secretary-General to all the contracting states, as well as to the other states signatory to the convention relating to the regulation of air navigation.

Done at Paris, this fifteenth day of June, one thousand nine hundred and twenty-nine, in a single copy, which shall be deposited in the archives of the commission.

PIERRE-ETIENNE FLANDIN,
*President of the Sixteenth Session
of the C. I. N. A.*

ALBERT ROPER
Secretary-General of the C. I. N. A.

Signed For:	BELGIUM	INDIA
	GREAT BRITAIN AND	DENMARK
	NORTHERN IRELAND	FRANCE
	CANADA	ITALY
	AUSTRALIA	PORTUGAL
	NEW ZEALAND	TERRITORY OF THE SAAR.
	IRISH FREE STATE	

3. PROTOCOL RELATING TO AMENDMENTS TO ARTS. 34 AND 40 OF THE CONVENTION RELATING TO THE REGULATION OF AIR NAVIGATION, DATED OCTOBER 13, 1919, SIGNED DECEMBER 11, 1929¹

The International Commission for Air Navigation, composed of Representatives of those states who are parties to the convention, that is to say: Australia, Belgium, Bulgaria, Canada, Chile, Denmark, France, Great Britain and Northern Ireland, Greece, the Irish Free State, Italy, Japan, New Zealand, Panama, the Netherlands, Persia, Poland, Portugal, Rumania, the Territory of the Saar, Siam, Sweden, Czechoslovakia, the Union of South Africa, Uruguay, Yugoslavia, in the course of its seventeenth session assembled in Paris under the presidency of M. Alejandro Alvarez, Chilean delegate, assisted by Mr. Albert Roper, Secretary-General, at its meeting of December 11, 1929, and in conformity with the provisions of Art. 34 of the convention relating to the regulation of Air Navigation, approved certain modifications to Arts. 34 and 40 of the aforesaid convention.

I. Paragraph five of Art. 34, corresponding to paragraph three of Art. 34, as it appears in the protocol of June 15, 1929, relating to the amendments to Arts. 3, 5, 7, 15, 34, 37, 41, 42 and to the final clauses of the convention, shall read as follows, in French, in English and in Italian:—

Each state represented on the commission shall have one vote.

II. Paragraph one of Art. 40 shall be suppressed.

The undersigned, duly authorized, declare that they accept, in the name of the states they represent, the aforesaid modifications, which are proposed for final acceptance by the contracting states.

The present protocol shall remain open for signature by the states which are now contracting parties to the convention; it shall be ratified and the ratifications shall be deposited as soon as possible at the permanent seat of the commission.

It will come into force as soon as ratifications shall have been

¹ Protocols relating to Amendments to Arts. 3, 5, 7, 15, 34, 37, 40, 41 and 42 and to the Final Clauses of the Convention relating to the Regulation of Air Navigation of October 13, 1919, p. 13 (British Parl. Pap. Miscellaneous No. 7 (1930) Cmd. 3541).

deposited in the name of all the states which are now contracting parties to the convention.

States which may become contracting parties to the convention may adhere to the present protocol.

A certified true copy of the present protocol shall be transmitted by the Secretary-General to all the contracting states, as well as to the other states signatory to the convention relating to the regulation of air navigation.

Done at Paris, this eleventh day of December, one thousand nine hundred and twenty-nine, in a single copy, which shall be deposited in the archives of the commission.

ALEJANDRO ALVAREZ,
*President of the Seventeenth Session
of the C. I. N. A.*

ALBERT ROPER
Secretary-General of the C. I. N. A.

Signed For: AUSTRALIA	IRISH FREE STATE
CANADA	ITALY
CHILE	NEW ZEALAND
DENMARK	PORTUGAL
FRANCE	TERRITORY OF THE SAAR
GREAT BRITAIN AND	UNION OF SOUTH
NORTHERN IRELAND	AFRICA
INDIA	

APPENDIX II

PAN AMERICAN CONVENTION ON COMMERCIAL AVIATION, SIGNED AT HABANA, FEBRUARY 15, 1928.¹ [Not in force June 1, 1930.]

The Governments of the American Republics, desirous of establishing the rules they should observe among themselves for aerial traffic, have decided to lay them down in a convention, and to that effect have appointed as their plenipotentiaries:

[Peru, Uruguay, Panama,² Ecuador, Mexico,² Salvador, Guatemala,² Nicaragua,² Bolivia, Venezuela, Colombia, Honduras, Costa Rica, Chile, Brazil, Argentina, Paraguay, Haiti, Dominican Republic, United States of America, Cuba]

Who, after having exchanged their respective full powers, which have been found to be in good and due form, have agreed upon the following:

ART. I. The high contracting parties recognize that every state has complete and exclusive sovereignty over the air space above its territory and territorial waters.

ART. II. The present convention applies exclusively to private aircraft.

ART. III. The following shall be deemed to be state aircraft:

(a) Military and naval aircraft;

(b) Aircraft exclusively employed in state service, such as posts, customs, police.

Every other aircraft shall be deemed to be a private aircraft.

All state aircraft other than military, naval, customs and police aircraft shall be treated as private aircraft and as such shall be subject to all the provisions of the present convention.

¹ *Sixth International Conference of American States: Final Act: Motions, Agreements, Resolutions and Conventions*, p. 97-109. (Habana, Imprenta y Papelería de Rambla, Bouza y Ca.); *American Journal of International Law*, XXII, Supplement, p. 124.

² Ratification deposited with the Government of Cuba (*Bulletin of the Pan American Union*, LXIV, p. 237).

ART. IV. Each contracting state undertakes in time of peace to accord freedom of innocent passage above its territory to the private aircraft of the other contracting states, provided that the conditions laid down in the present convention are observed. The regulations established by a contracting state with regard to admission over its territory of aircraft of other contracting states shall be applied without distinction of nationality.

ART. V. Each contracting state has the right to prohibit, for reasons which it deems convenient in the public interest, the flight over fixed zones of its territory by the aircraft of the other contracting states and privately owned national aircraft employed in the service of international commercial aviation, with the reservation that no distinction shall be made in this respect between its own private aircraft engaged in international commerce and those of the other contracting states likewise engaged. Each contracting state may furthermore prescribe the route to be followed over its territory by the aircraft of the other states, except in cases of *force majeure* which shall be governed in accordance with the stipulations of Art. XVIII of this convention. Each state shall publish in advance and notify the other contracting states of the fixation of the authorized routes and the situation and extension of the prohibited zones.

ART. VI. Every aircraft over a prohibited area shall be obliged, as soon as this fact is realized or upon being so notified by the signals agreed upon, to land as soon as possible outside of said area in the airdrome nearest the prohibited area over which it was improperly flying and which is considered as an international airport by the subjacent state.

ART. VII. Aircraft shall have the nationality of the state in which they are registered and can not be validly registered in more than one state.

The registration entry and the certificate of registration shall contain a description of the aircraft, and state the number or other mark of identification given by the constructor of the machine, the registry marks and nationality, the name of the airdrome or airport usually used by the aircraft, and the full name, nationality and domicile of the owner, as well as the date of registration.

ART. VIII. The registration of aircraft referred to in the

preceding article shall be made in accordance with the laws and special provisions of each contracting state.

ART. IX. Every aircraft engaged in international navigation must carry a distinctive mark of its nationality, the nature of such distinctive mark to be agreed upon by the several contracting states. The distinctive marks adopted will be communicated to the Pan American Union and to the other contracting states.

ART. X. Every aircraft engaged in international navigation shall carry with it in the custody of the aircraft commander:

(a) A certificate of registration, duly certified to according to the laws of the state in which it is registered;

(b) A certificate of airworthiness, as provided for in Art. XII;

(c) The certificates of competency of the commander, pilots, engineers, and crew, as provided for in Art. XIII;

(d) If carrying passengers, a list of their names, addresses and nationality;

(e) If carrying merchandise, the bills of lading and manifests, and all other documents required by customs laws and regulations of each country;

(f) Log books;

(g) If equipped with radiotelegraph apparatus, the corresponding license.

ART. XI. Each contracting state shall every month file with every other state party to this convention and with the Pan American Union, a copy of all registrations and cancellations of registrations of aircraft engaged in international navigation as between the several contracting states.

ART. XII. Every aircraft engaged in international navigation (between the several contracting states) shall be provided with a certificate of airworthiness issued by the state whose nationality it possesses.

This document shall certify to the states in which the aircraft is to operate, that, according to the opinion of the authority that issues it, such aircraft complies with the airworthiness requirements of each of the states named in said certificate.

The aircraft commander shall at all times hold the certificate in his custody and shall deliver it for inspection and verification to the authorized representatives of the state which said aircraft visits.

Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the rating of its aircraft as to airworthiness and shall similarly communicate any changes made therein.

While the states affirm the principle that the aircraft of each contracting state shall have the liberty of engaging in air commerce with the other contracting states without being subjected to the licensing system of any state with which such commerce is carried on, each and every contracting state mentioned in the certificate of airworthiness reserves the right to refuse to recognize as valid the certificate of airworthiness of any foreign aircraft where inspection by a duly authorized commission of such state shows that the aircraft is not, at the time of inspection, reasonably airworthy in accordance with the normal requirements of the laws and regulations of such state concerning the public safety.

In such cases said state may refuse to permit further transit by the aircraft through its air space until such time as it, with due regard to the public safety, is satisfied as to the airworthiness of the aircraft, and shall immediately notify the state whose nationality the aircraft possesses and the Pan American Union of the action taken.

ART. XIII. The aircraft commander, pilots, engineers and other members of the operating crew of every aircraft engaged in international navigation between the several contracting states shall, in accordance with the laws of each state, be provided with a certificate of competency by the contracting state whose nationality the aircraft possesses.

Such certificate or certificates shall set forth that each pilot, in addition to having fulfilled the requirements of the state issuing the same, has passed a satisfactory examination with regard to the traffic rules existing in the other contracting states over which he desires to fly. The requirements of form of said documents shall be uniform throughout all the contracting states and shall be drafted in the language of all of them, and for this purpose the Pan American Union is charged with making the necessary arrangements among the contracting states.

Such certificate or certificates shall be held in the possession of the aircraft commander as long as the pilots, engineers and other members of the operating crew concerned continue to be

employed on the aircraft. Upon the return of such certificate an authenticated copy thereof shall be retained in the files of the aircraft.

Such certificate or certificates shall be open at all times to the inspection of the duly authorized representatives of any state visited.

Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the issuance of such certificates and shall from time to time communicate any changes made therein.

ART. XIV. Each and every contracting state shall recognize as valid, certificates of competency of the aircraft commander, pilots, engineers and other members of the operating crew of an aircraft, issued in accordance with the laws and regulations of other contracting states.

ART. XV. The carriage by aircraft of explosives, arms and munitions of war is prohibited in international aerial navigation. Therefore, no foreign or native aircraft authorized for international traffic shall be permitted to transport articles of this nature, either between points situated within the territory of any of the contracting states or through the same, even though simply in transit.

ART. XVI. Each state may prohibit or regulate the carriage or use, by aircraft possessing the nationality of other contracting states, of photographic apparatus. Such regulations as may be adopted by each state concerning this matter shall be communicated to each other contracting state and to the Pan American Union.

ART. XVII. As a measure of public safety or because of lawful prohibitions, the transportation of articles in international navigation other than those mentioned in Arts. XV and XVI may be restricted by any contracting states. Such restrictions shall be immediately communicated to the other contracting states and to the Pan American Union.

All restrictions mentioned in this article shall apply equally to foreign and national aircraft employed in international traffic.

ART. XVIII. Every aircraft engaged in international traffic which enters the air space of a contracting state with the intention of landing in said state shall do so in the corresponding

customs air-drome, except in the cases mentioned in Art. XIX and in case of *force majeure*, which must be proved.

Every aircraft engaged in international navigation, prior to its departure from the territorial jurisdiction of a contracting state in which it has landed, shall obtain such clearance as is required by the laws of such state at a port designated as point of departure by such state.

Each and every contracting state shall notify every other state party to this convention and the Pan American Union of such airports as shall be designated by such state as ports of entry and departure.

When the laws or regulations of any contracting state so require, no aircraft shall legally enter into or depart from its territory through places other than those previously authorized by such state as international airports, and the landing therein shall be obligatory unless a special permit, which has been previously communicated to the authorities of said airport, is obtained from the competent authorities of said state, in which permit shall be clearly expressed the distinctive marks which the aircraft is obliged to make visible whenever requested to do so in the manner previously agreed upon in said permit.

In the event that for any reason, after entering the territorial jurisdiction of a contracting state, aircraft of another contracting state should land at a point other than an airport designated as a port of entry in that state, the aircraft commander shall immediately notify the nearest competent authority and hold himself, crew, passengers and cargo at the point of landing until proper entry has been granted by such competent authority, unless communication therewith is impracticable within 24 hours.

Aircraft of one of the contracting states which flies over the territory of another contracting state shall be obliged to land as soon as ordered to do so by means of the regulation signals, when for any reason this may be necessary.

In the cases provided for in this article, the aircraft, aircraft commander, crew, passengers and cargo shall be subject to such immigration, emigration, customs, police, quarantine or sanitary inspection as the duly authorized representatives of the sub-jacent state may make in accordance with its laws.

ART. XIX. As an exception to the general rules, postal aircraft and aircraft belonging to aerial transport companies regularly constituted and authorized may be exempted, at the option of the subjacent state, from the obligation of landing at an airdrome designated as a port of entry and authorized to land at certain inland airdromes, designated by the customs and police administration of such state, at which customs formalities shall be complied with. The departure of such aircraft from the state visited may be regulated in a similar manner.

However, such aircraft shall follow the normal air route, and make their identity known by signals agreed upon as they fly across the frontier.

ART. XX. From the time of landing of a foreign aircraft at any point whatever until its departure, the authorities of the state visited shall have, in all cases, the right to visit and examine the aircraft and to verify all documents with which it must be provided, in order to determine that all the laws, rules, and regulations of such states and all of the provisions of this convention are complied with.

ART. XXI. The aircraft of a contracting state engaged in international air commerce shall be permitted to discharge passengers and a part of its cargo at one of the airports designated as a port of entry of any other contracting state, and to proceed to any other airport or airports in such state for the purpose of discharging the remaining passengers and portions of such cargo and in like manner to take on passengers and load cargo destined for a foreign state or states, provided that they comply with the legal requirements of the country over which they fly, which legal requirements shall be the same for native and foreign aircraft engaged in international traffic and shall be communicated in due course to the contracting states and to the Pan American Union.

ART. XXII. Each contracting state shall have the right to establish reservations and restrictions in favor of its own national aircraft in regard to the commercial transportation of passengers and merchandise between two or more points in its territory, and to other remunerated aeronautical operations wholly within its territory. Such reservations and restrictions shall be immediately published and communicated to the other contracting states and to the Pan American Union.

ART. XXIII. The establishment and operation of airdromes will be regulated by the legislation of each country, equality of treatment being observed.

ART. XXIV. The aircraft of one contracting state engaged in international commerce with another contracting state shall not be compelled to pay other or higher charges in airports or airdromes open to the public than would be paid by national aircraft of the state visited, likewise engaged in international commerce.

ART. XXV. So long as a contracting state shall not have established appropriate regulations, the commander of an aircraft shall have rights and duties analogous to those of the captain of a merchant steamer, according to the respective laws of each state.

ART. XXVI. The salvage of aircraft lost at sea shall be regulated, in the absence of any agreement to the contrary, by the principles of maritime law.

ART. XXVII. The aircraft of all states shall have the right, in cases of danger, to all possible aid.

ART. XXVIII. Reparations for damages caused to persons or property located in the subjacent territory shall be governed by the laws of each state.

ART. XXIX. In case of war the stipulations of the present convention shall not affect the freedom of action of the contracting states either as belligerents or as neutrals.

ART. XXX. The right of any of the contracting states to enter into any convention or special agreement with any other state or states concerning international aerial navigation is recognized, so long as such convention or special agreement shall not impair the rights or obligations of any of the states parties to this convention, acquired or imposed therein: provided, however, that two or more states, for reasons of reciprocal convenience and interest may agree upon appropriate regulations pertaining to the operation of aircraft and the fixing of specified routes. These regulations shall in no case prevent the establishment and operation of practicable inter-American aerial lines and terminals. These regulations shall guarantee equality of treatment of the aircraft of each and every one of the contracting states and shall be subject to the same conditions as are set

forth in Art. V of this convention with respect to prohibited areas within the territory of a particular state.

Nothing contained in this convention shall affect the rights and obligations established by existing treaties.

ART. XXXI. The contracting states obligate themselves in so far as possible to cooperate in inter-American measures relative to:

(a) The centralization and distribution of meteorological information, whether statistical, current or special;

(b) The publication of uniform aeronautical charts, as well as the establishment of a uniform system of signals;

(c) The use of radiotelegraphy in aerial navigation, the establishment of the necessary radiotelegraph stations and the observance of the inter-American and international radiotelegraph regulations or conventions at present existing or which may come into existence.

ART. XXXII. The contracting states shall procure as far as possible uniformity of laws and regulations governing aerial navigation. The Pan American Union shall cooperate with the Governments of the contracting states to attain the desired uniformity of laws and regulations for aerial navigation in the states parties to this convention.

Each contracting state shall exchange with every other contracting state within three months after the date of ratification of this convention copies of its air traffic rules and requirements as to competency for aircraft commanders, pilots, engineers and other members of the operating crew, and the requirements for airworthiness of aircraft intended to engage in international commerce.

Each contracting state shall deposit with every other state party to this convention and with the Pan American Union three months prior to the date proposed for their enforcement any additions to or amendments of the regulations referred to in the last preceding paragraph.

ART. XXXIII. Each contracting state shall deposit its ratification with the Cuban Government, which shall thereupon inform the other contracting states. Such ratification shall remain deposited in the archives of the Cuban Government.

ART. XXXIV. The present convention will come into force for each signatory state ratifying it in respect to other states

which have already ratified, 40 days from the date of deposit of its ratification.

ART. XXXV. Any state may adhere to this convention by giving notice thereof to the Cuban Government, and such adherence shall be effective 40 days thereafter. The Cuban Government shall inform the other signatory states of such adherence.

ART. XXXVI. In case of disagreement between two contracting states regarding the interpretation or execution of the present convention the question shall, on the request of one of the Governments in disagreement, be submitted to arbitration as hereinafter provided. Each of the Governments involved in the disagreement shall choose another Government not interested in the question at issue and the Government so chosen shall arbitrate the dispute. In the event the two arbitrators can not reach an agreement, they shall appoint another disinterested Government as additional arbitrator. If the two arbitrators can not agree upon the choice of this third Government, each arbitrator shall propose a Government not interested in the dispute and lots shall be drawn between the two Governments proposed. The drawing shall devolve upon the Governing Board of the Pan American Union.

The decision of the arbitrators shall be by majority vote.

ART. XXXVII. Any contracting state may denounce this convention at any time by transmitting notification thereof to the Cuban Government, which shall communicate it to the other states parties to this convention. Such denunciation shall not take effect until six months after notification thereof to the Cuban Government, and shall take effect only with respect to the state making the denunciation.

In witness whereof, the above-named plenipotentiaries have signed this convention and the seal of the Sixth International Conference of American states has been hereto affixed.

RESERVATION OF THE DOMINICAN REPUBLIC

The Delegation of the Dominican Republic records, as an explanation of its vote, that upon signing the present convention it does not understand that the Dominican Republic dissociates itself from conventions it has already ratified and which are in force.

APPENDIX III

CONVENTION FOR UNIFICATION OF CERTAIN RULES RELATIVE TO INTERNATIONAL AIR TRANSPORTATION, SIGNED AT WARSAW, OCTOBER 12, 1929¹

[Translation²]

[Not in force July 1, 1930.]

The President of the German Reich, the Federal President of the Republic of Austria, His Majesty the King of the Belgians, the President of the United States of Brazil, His Majesty the King of the Bulgarians, the President of the Nationalist Government of the Republic of China, His Majesty the King of Denmark and Iceland, His Majesty the King of Egypt, His Majesty the King of Spain, the Chief of State of the Republic of Estonia, the President of the Republic of Finland, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Territories beyond the Seas, Emperor of India, the President of the Hellenic Republic, His Most Serene Highness the Regent of the Kingdom of Hungary, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Latvia, Her Royal Highness the Grand Duchess of Luxemburg, the President of the United Mexican States, His Majesty the King of Norway, Her Majesty the Queen of the Netherlands, the President of the Republic of Poland, His Majesty the King of Rumania, His Majesty the King of Sweden, the Swiss Federal Council, the President of the Czechoslovak Republic, the Central Executive Committee of the Union of Socialist Soviet Republics, the President of the United States of Venezuela, His Majesty the King of Yugoslavia,

¹ French text in *Convention pour l'unification de certaines règles relatives au transport aérien international, protocole additionnel et protocole final adoptés par la 11e. Conférence internationale de droit privé aérien réunie à Varsovie du 4 au 12 Octobre 1929* (Paris, Publication du Comité international technique d'experts juridiques aériens, 1930); French text in *Droit aérien*, XIII, p. 646.

² Reprinted from United States Department of State, *Bulletin of Treaty Information*, No. 7, September, 1929, *Supplement*.

having recognized the utility of regulating in a uniform manner the conditions of international transportation by air with respect to the documents employed for such transportation and the liability of the carrier,

have for this purpose appointed their respective plenipotentiaries who, duly authorized, have concluded and signed the following convention:

CHAPTER I. SUBJECT—DEFINITIONS

ARTICLE 1. (1) The present convention applies to any international transportation of persons, baggage or merchandise effected by aircraft for compensation. It likewise applies to gratuitous transportations effected by aircraft by an aerial transportation enterprise.

(2) The name of "international transportation," in the meaning of the present convention, is given to any transportation in which, according to the stipulations of the parties, the point of departure and the point of destination, whether or not there is an interruption to the transportation or transshipment, are located either on the territory of two high contracting parties, or on the territory of a single high contracting party, if a stop is contemplated in a territory subject to the sovereignty, suzerainty, mandate or authority of another power, even a non-contracting power. Transportation without such a stop between the territories subject to the sovereignty, suzerainty, mandate or authority of the same high contracting party is not considered international in the meaning of the present convention.

(3) Transportation to be effected by several successive aerial carriers is deemed to constitute a single transportation for the application of this convention when it has been considered by the parties as a single operation, when it was concluded under the form of a single contract or a series of contracts and it does not lose its international character by the fact that a single contract or a series of contracts must be wholly executed in a territory subject to the sovereignty, suzerainty, mandate or authority of one high contracting party.

ART. 2. (1) The convention applies to transportations effected by the state or other juridical persons in public law, under the conditions provided in Art. 1.

(2) Transportations effected under the rule of international postal conventions are excepted from the application of the present convention.

CHAPTER II. TRANSPORTATION DOCUMENTS

Section I. Passage Ticket

ART. 3. (1) In the transportation of travelers, the carrier is required to deliver a ticket which must bear the following data:

(a) the place and date of issue;

(b) the points of departure and of destination;

(c) the stops contemplated, subject to the carrier's right of stipulating that he may change them in case of necessity; but such change may not cause the transportation to lose its international character;

(d) the name and address of the carrier or carriers;

(e) mention that the transportation is subject to the régime of liability established by the present convention.

(2) The absence, irregularity or loss of the ticket does not affect either the existence or the validity of the transportation contract, which shall be no less subject to the rules of the present convention. However, if the carrier accepts the passenger without his having been delivered a passage ticket, he shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability.

Section II. Baggage Check

ART. 4. (1) For the transportation of baggage, other than small personal objects which the traveler keeps in his possession, the carrier is required to deliver a baggage check.

(2) The baggage check is made out in duplicate, one copy for the traveler, the other for the carrier.

(3) It must contain the following data:

(a) the place and date of issue;

(b) the points of departure and of destination;

(c) the name and address of the carrier or carriers;

(d) the number of the passage ticket;

(e) indication that baggage is delivered to the bearer of the check;

- (f) number and weight of packages;
- (g) amount of the value declared in accordance with Art. 22, par. 2;
- (h) mention that the transportation is subject to the régime of liability established by the present convention.

(4) The absence, irregularity or loss of the check does not affect either the existence or the validity of the transportation contract, which shall be no less subject to the rules of the present convention. However, if the carrier accepts baggage without a check having been delivered or if the check does not contain the data mentioned under (d), (f), (h), the carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability.

Section III. Aerial Way-Bill

ART. 5. (1) Any carrier of merchandise has the right to demand that the shipper draw up and deliver a document styled: "aerial way-bill"; every shipper has the right to demand that the carrier accept such document.

(2) However, the absence, irregularity or loss of this document does not affect either the existence or the validity of the transportation contract which shall be no less subject to the rules of the present convention, reservation being made of the provisions of Art. 9.

ART. 6. (1) The aerial way-bill is made out by the shipper in three original copies and delivered with the merchandise.

(2) The first copy bears the notation, "for the carrier"; it is signed by the shipper. The second copy bears the notation, "for the consignee"; it is signed by the shipper and the carrier and it accompanies the merchandise. The third copy is signed by the carrier and delivered by him to the shipper after the merchandise has been accepted.

(3) The signature of the carrier must be affixed immediately upon acceptance of the merchandise.

(4) The signature of the carrier may be replaced by a stamp; that of the shipper may be printed or replaced by a stamp.

(5) If, at the demand of the shipper, the carrier draws up the aerial way-bill, he is considered to be acting for the account of the shipper, until proof to the contrary is shown.

ART. 7. The carrier of merchandise has the right to demand

that the shipper make out different aerial way-bills where there are several parcels.

ART. 8. The aerial way-bill must contain the following data:

(a) the place where the document originated and the date on which it was made out;

(b) the points of departure and of destination;

(c) the stops contemplated, subject to the carrier's right of stipulating that he may change them in case of necessity; but such change may not cause the transportation to lose its international character;

(d) the name and address of the shipper;

(e) the name and address of the first carrier;

(f) the name and address of the consignee, if any;

(g) the nature of the merchandise;

(h) the number, manner of packing, special marks or numbers of the packages;

(i) the weight, quantity, bulk or dimensions of the merchandise;

(j) the apparent condition of the merchandise and of the packing;

(k) the cost of transportation if it is stipulated, the date and place of payment and the person who should pay;

(l) the cost of the merchandise and the amount of charges, if any, if the shipment is made C.O.D.;

(m) the amount of the value declared in conformity with Art. 22, par. 2;

(n) the number of copies of the aerial way-bill;

(o) the documents forwarded to the carrier to accompany the aerial way-bill;

(p) the period of time in which the transportation is to be effected and a brief indication of the route to be followed (*via*), if they have been stipulated:

(q) mention that the transportation is subject to the régime of liability established by the present convention.

ART. 9. If the carrier accepts merchandise without an aerial way-bill having been drawn up, or if this bill does not contain all the data indicated by Art. 8 [(a) to (i) inclusive and (q)], the carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability.

ART. 10. (1) The shipper is responsible for the accuracy of the information and declarations concerning the merchandise

which he enters on the aerial way-bill.

(2) He shall be responsible for any injury suffered by the carrier or any other person on account of his information and declarations being irregular, inaccurate or incomplete.

ART. 11. (1) The aerial way-bill is evidence, until proof to the contrary is adduced, of the conclusion of the contract, of the receipt of the merchandise and of the terms of transportation.

(2) The statements in the aerial way-bill relative to the weight, size and packing of the merchandise, and also the number of packages are evidence, until proof to the contrary is adduced; those relative to quantity, bulk and the condition of the merchandise are evidence against the carrier only in so far as verification thereof has been made by him in the presence of the shipper, and stated on the aerial way-bill, or in so far as statements relative to the apparent condition of the merchandise are concerned.

ART. 12. (1) The shipper has the right, on condition that he fulfills all the obligations resulting from the transportation contract, to dispose of the merchandise, either by withdrawing it from the airdromes of departure or of destination, or by stopping it on the way at a landing point, or by having it delivered at the place of destination or on the way to a person other than the consignee indicated on the aerial way-bill, or by requesting its return to the airdrome of departure, in so far as the exercise of that right does not prove injurious to either the carrier or to the other shippers, and under the obligation of repaying all expenses incurred thereby.

(2) In case it is impossible to execute the orders of the shipper, the carrier must so notify him immediately.

(3) If the carrier complies with the orders of the shipper as to the disposal of the merchandise without requiring that a copy of the aerial way-bill delivered to the latter be produced, he shall be responsible, with recourse against the shipper, for the injury which might be caused thereby to the person regularly in possession of the aerial way-bill.

(4) The right of the shipper ceases from the moment when that of the consignee begins, in conformity with Art. 13 hereinbelow. However, if the consignee refuses the way-bill or the merchandise, or if he can not be reached, the shipper reassumes his right of disposal.

ART. 13. (1) Except in the cases named in the foregoing article, the consignee has the right, immediately upon the arrival of the merchandise at the point of destination, to demand that the carrier shall deliver to him the aerial way-bill and the merchandise upon payment of the amount of the money owing and upon fulfillment of the conditions of transportation indicated in the aerial way-bill.

(2) Except in the case of a stipulation to the contrary, the carrier must notify the consignee immediately upon the arrival of the merchandise.

(3) If the carrier acknowledges the loss of the merchandise or if, at the expiration of a period of seven days after it should have arrived, the merchandise has not arrived, the consignee is authorized to invoke against the carrier the rights resulting from the transportation contract.

ART. 14. The shipper and the consignee may invoke all the rights which are conferred on them respectively by Arts. 12 and 13, each in his own name, when it concerns their own interests or the interests of others, provided that they fulfill the obligations imposed by the contract.

ART. 15. (1) Arts. 12, 13, and 14 in no wise impair either the relations of the shipper and consignee to each other nor the relations of third parties whose rights are derived either from the carrier or the consignee.

(2) Any clause departing from the stipulations of Arts. 12, 13 and 14 must be entered in the aerial way-bill.

ART. 16. (1) The shipper is required to supply the information and attach to the aerial way-bill all documents which are needed, before the delivery of the merchandise to the consignee, for the fulfillment of customs, octroi or police formalities. The shipper is responsible to the carrier for all damages which might result from the absence, inadequacy or irregularity of such information and documents, except when the carrier or his agents are at fault.

(2) The carrier is not required to ascertain whether the said information and documents are correct or adequate.

CHAPTER III. LIABILITY OF THE CARRIER

ART. 17. The carrier is liable for any damage occurring in case of death, wounds or any other bodily injury suffered by

a traveler when the accident which occasioned the damage occurred on board the aircraft or during any operations in connection with embarkation or landing.

ART. 18. (1) The carrier is liable for damage having occurred in case of destruction, loss or damage to checked baggage or merchandise when the event which occasioned the damage took place during the transportation by air.

(2) Transportation by air, in the meaning of the preceding paragraph, includes the period during which baggage or merchandise are in the custody of the carrier, whether in an airdrome or on board an aircraft or in any place whatever in case a landing is made outside an airdrome.

(3) The period of transportation by air does not cover any transportation by land, sea or river effected outside an airdrome. However, when such transportation is effected in the execution of the aerial transportation contract because of loading, delivery or transshipment, any damage is, except on proof to the contrary, presumed to result from an event taking place during the transportation by air.

ART. 19. The carrier is liable for damage resulting from a delay in the transportation by air of travelers, baggage or merchandise.

ART. 20. (1) The carrier is not liable if he proves that he and his agents have taken reasonable measures to prevent the damage, or that it was impossible to take such measures.

(2) In the transportation of merchandise and baggage, the carrier is not liable if he proves that the damage arises from a fault of piloting, of handling the aircraft, or of navigation, and that, in all other regards, he and his agents have taken all necessary measures to prevent the damage.

ART. 21. (1) In case the carrier proves that the fault of the injured person caused the damage or contributed to it, the court may, in accordance with the provisions of its own law, set aside or extenuate the liability of the carrier.

ART. 22. (1) In the transportation of persons, the liability of the carrier toward each passenger is limited to the sum of 125,000 francs. In case, according to the law of the court before which the case is brought, the indemnity may be fixed under the form of an income, the capital of the income may not exceed this limit. However, the traveler may, by a special agreement with the carrier, set a higher limit of liability.

(2) In the transportation of checked baggage and of merchandise, the liability of the carrier is limited to the sum of 250 francs per kilogram, except in the case of a special declaration of interest in delivery made by the shipper at the time the package is turned over to the carrier, and upon the payment of a possible additional charge. In that case, the carrier is required to pay up to the amount that has been declared, unless he proves that it is higher than the actual interest of the shipper in the delivery.

(3) With respect to articles kept in the passenger's possession, the liability of the carrier is limited to 5,000 francs per traveler.

(4) The amounts mentioned above are considered to refer to the French franc, composed of 65.5 milligrams of gold at the standard of nine hundred thousandths of pure metal. They may be converted into any national currency in round numbers.

ART. 23. Any clause tending to release the carrier from his liability or to set a limit lower than that fixed in the present convention is null and void, but the nullity of that clause does not entail the nullity of the contract which remains subject to the provisions of the present convention.

ART. 24. (1) In the cases contemplated in Arts. 18 and 19, any action for damages, on any grounds whatever, may be brought only under the conditions and within the limits provided by the present convention.

(2) In the cases contemplated in Art. 17, the provisions of the above paragraph also apply, without prejudice to the determination of the persons who are entitled to act and their respective rights.

ART. 25. (1) The carrier shall not be entitled to avail himself of the provisions of the present convention which exclude or limit his liability, if the damage arises from deception on his part or from a fault which, according to the law of the court before which the case is brought, is considered equivalent to deception.

(2) He shall also be denied this right if the damage was caused under the same circumstances by one of his agents in the performance of his duties.

ART. 26. (1) When merchandise and baggage are received by the consignee without protest, that shall constitute a presumption, unless proof to the contrary is adduced, that the

merchandise was delivered in good condition and in accordance with the transportation voucher.

(2) In case of damage the consignee must send a protest to the carrier immediately after discovery of the damage and, at the latest, within a period of three days for baggage and seven days for merchandise from the date of their receipt. In case of delay, the protest must be made not later than 14 days after the date on which the baggage or merchandise shall have been placed at his disposal.

(3) All protests must be made through reservations entered on the voucher or by another document issued within the period provided for such protests.

(4) In the absence of a protest within the periods provided, all actions against the carrier are inadmissible, except in the case of fraud of the latter.

ART. 27. In case of the debtor's death, the action for damages, within the limits provided by the present convention, is prosecuted against the parties who, because of their connection with the debtor, may be concerned (*ayants droit*).

ART. 28. (1) Action for damages must be brought, as the plaintiff may elect, in the territory of one of the high contracting parties, either before the court of the domicile of the carrier, of the registered office of the concern, or of the place where it has an establishment through which the contract was concluded, or before the court of the place of destination.

(2) Procedure shall be regulated by the law of the court before which the case is brought.

ART. 29. (1) Action for damages must be instituted within a period of two years, counting from the date of the arrival of the aircraft at its destination or the date when it should have arrived, or the date when the transportation ceased, or it will be outlawed.

(2) The method of estimating the period is determined by the law of the court before which the case is brought.

ART. 30. (1) In the case of transportation governed by the definition in the third paragraph of Art. 1, to be accomplished by various successive carriers, each carrier accepting passengers, baggage or merchandise is subject to the rules established by this convention, and is considered to be one of the contracting parties of the transportation contract, in so far as

this contract touches upon the part of the transportation effected under his supervision.

(2) In the case of such transportation, the passenger or his *ayants droit* can have recourse only against the carrier who effected the transportation during which the accident or delay occurred, except in the case when the first carrier, by an express stipulation, shall have assumed responsibility for the whole trip.

(3) In the case of baggage or merchandise, the shipper shall have recourse against the first carrier and the consignee who is entitled to delivery against the last, and both may, in addition, bring action against the carrier who effected the transportation in the course of which the destruction, loss, damage or delay occurred. These carriers shall be jointly liable to the shipper and the consignee.

CHAPTER IV. PROVISIONS RELATIVE TO COMBINED TRANSPORTATIONS

ART. 31. (1) In case of combined transportations effected partly by air and partly by any other means of transportation, the stipulations of the present convention apply only to the transportation by air and if the latter comes within the conditions of Art. 1.

(2) Nothing in the present convention prevents the parties from inserting in the air transportation voucher, in the case of combined transportations, conditions relative to other means of transportation, on condition that the stipulations of the present convention are respected with regard to transportation by air.

CHAPTER V. GENERAL AND FINAL PROVISIONS

ART. 32. (1) All clauses of the transportation contract, and all private agreements entered into prior to the damage by which the parties might depart from the rules of this convention, either through a determination of the law applicable to the case or through a modification in the rules of the jurisdiction, are null and void. In the transportation of merchandise, however, arbitration clauses are permitted, within the limits of the present convention, when arbitration is to be effected in the places of competence of the courts contemplated in Art. 28, par. 1.

ART. 33. Nothing in the present convention may prevent a carrier from refusing to conclude a transportation contract or from formulating regulations which are not contradictory to the provisions of the present convention.

ART. 34. The present convention is not applicable to international aerial transportation made as first attempts by air navigation enterprises with a view to establishing regular air navigation lines or to transportations effected under extraordinary circumstances outside any normal operation of aerial exploitation.

ART. 35. When the present convention considers days, it means successive days and not working days.

ART. 36. The present convention is drafted in French, in a single copy which shall remain in the archives of the Ministry of Foreign Affairs of Poland, and an authenticated copy of which shall be transmitted by the Polish Government to the Government of each of the high contracting parties.

ART. 37. (1) The present convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry of Foreign Affairs of Poland, which shall notify the Government of each of the high contracting parties of the deposit thereof.

(2) As soon as the present convention shall have been ratified by five of the high contracting parties, it shall become effective between them the 90th day after the deposit of the fifth ratification. Subsequently, it shall become effective between the high contracting parties which shall have ratified it and the high contracting party which shall deposit its instrument of ratification on the 90th day after its deposit.

(3) It shall devolve upon the Government of the Republic of Poland to notify the Government of each of the high contracting parties of the date on which the present convention becomes effective as well as the date of deposit of each ratification.

ART. 38. (1) After it becomes effective, the present convention shall be open to adherence by all states.

(2) Adherence shall be effected by a notification addressed to the Government of the Republic of Poland, which shall inform the Government of each of the high contracting parties thereof.

(3) Adherence shall take effect from the 90th day after notification has been given the Government of the Republic of Poland.

ART. 39. (1) Each of the high contracting parties may denounce the present convention by notifying the Government of the Republic of Poland, which shall immediately so advise the Government of each of the high contracting parties.

(2) The denunciation shall take effect six months after notification thereof and only with respect to the party with which it shall have originated.

ART. 40. (1) The high contracting parties may, at the time of signing, of depositing their ratifications or adhering, declare that their acceptance of the present convention does not apply to all or part of their colonies, protectorates, territories under mandate, or any other territory subject to their sovereignty or authority, or to any other territory under suzerainty.

(2) They may, accordingly, subsequently adhere separately in the name of all or part of their colonies, protectorates, territories under mandate, or any other territory subject to their sovereignty or authority, or any other territory under suzerainty.

ART. 41. Each of the high contracting parties shall have the right to occasion, not sooner than two years after the present convention becomes effective, a meeting of another international conference for the purpose of seeking to find improvements which might be made in the present convention. For such purpose, it shall write to the Government of the French Republic which shall take the necessary measures to prepare for such conference.

The present convention, done at Warsaw October 12, 1929, shall remain open for signature until January 31, 1930.

Signed for:

*GERMANY

*AUSTRIA

BELGIUM

*UNITED STATES OF BRAZIL

BULGARIA

CHINA

*DENMARK

EGYPT

HUNGARY

*ITALY

JAPAN

LATVIA

*LUXEMBURG

MEXICO

NORWAY

NETHERLANDS

*Indicates signatures affixed.

SPAIN	*POLAND
ESTONIA	RUMANIA
FINLAND	SWEDEN
*FRANCE	*SWITZERLAND
*GREAT BRITAIN AND NORTHERN IRELAND	CZECHOSLOVAKIA
*COMMONWEALTH OF AUSTRALIA	UNION OF SOCIALIST SOVIET REPUBLICS
*UNION OF SOUTH AFRICA	VENEZUELA
HELLENIC REPUBLIC	*YUGOSLAVIA

ADDITIONAL PROTOCOL

Ad Art. 2

[Translation]

The high contracting parties reserve the right to declare, at the time of ratification or adherence, that Art. 2, par. 1, of the present convention shall not apply to international transportations by air effected directly by the state, its colonies, protectorates, territories under mandate or any other territory under its sovereignty, suzerainty or authority.

[The same countries and signatures as are listed above follow here.]

FINAL PROTOCOL OF THE SECOND INTERNATIONAL CONFERENCE ON PRIVATE AERIAL LAW

[Translation]

The delegates to the Second International Conference on Private Aerial Law met at Warsaw from October 4 to 12, 1929, for the purpose of discussing the draft convention relative to air transportation documents and the liability of the carrier in international transportation by aircraft drawn up by the International Technical Committee of Aerial Legal Experts, formed by virtue of a motion of the First International Conference on Private Aerial Law which met at Paris from October 27 to November 6, 1925.

The delegations meeting at Warsaw were composed as follows:

* Indicates signatures affixed.

[Here follows a list of the delegations of:

GERMANY	ITALY
AUSTRIA	JAPAN
BELGIUM	LATVIA
BRAZIL	LUXEMBURG
BULGARIA	MEXICO
CHINA	NORWAY
DENMARK	NETHERLANDS
EGYPT	POLAND
SPAIN	RUMANIA
ESTONIA	SWEDEN
FINLAND	SWITZERLAND
FRANCE	CZECHOSLOVAKIA
GREAT BRITAIN	UNION OF SOCIALIST SOVIET
AUSTRALIA	REPUBLICS
UNION OF SOUTH AFRICA	VENEZUELA
HELLENIC REPUBLIC	YUGOSLAVIA]
HUNGARY	

I. As a result of their deliberations, the delegates named above have agreed to submit for the signature of the respective plenipotentiaries of the high contracting parties the text of a draft convention for the unification of certain rules relative to international transportation by air, which shall remain open for signature until January 31, 1930.

II. The conference has passed the following recommendations and resolutions:

A. The conference, considering that the Warsaw convention only regulates certain questions relative to transportation by air and that international air navigation is raising many other questions which it would be desirable to regulate by international understandings,

Recommends

that other conferences be convoked later, which will continue this work of unification, by the French Government, which has taken the initiative in the convocation of these conferences.

B. The conference, considering the importance from an international standpoint of uniform regulations for transportations by air of every kind,

Recommends

that the International Technical Committee of Aerial Legal

Experts prepare a preliminary draft convention on the subject as soon as possible.

C. The conference, considering the expediency of having transportation documents drawn up uniformly for all air navigation companies,

Recommends

that they adopt the models prepared by the International Technical Committee of Aerial Legal Experts.

D. The conference, having taken cognizance of the proposal made by the Brazilian delegation with respect to the definition of the carrier, under Art. 1, believing that the question should not be settled in this convention,

Refers the proposal to the International Technical Committee of Aerial Legal Experts with the memorandum prepared by the said delegation in order that it may use this preparatory work.

E. The conference, having taken cognizance of the proposal of the Brazilian delegation that an article respecting the obligation of the carrier to preserve transportation documents for two years in conformity with the provisions already adopted by the Italian law be added to the convention, considering that the question should not be dealt with in this convention,

Draws the attention of the International Technical Committee of Aerial Legal Experts to the proposal so that it may use the Brazilian proposal in its labors.

In faith whereof the delegates have signed the present final protocol.

Done at Warsaw, October 12, one thousand nine hundred and twenty-nine, in a single copy, which shall remain in the archives of the Ministry of Foreign Affairs of the Republic of Poland and an authenticated copy of which shall be transmitted to all the delegations taking part in the conference.

Signed for:

*GERMANY

*AUSTRIA

BELGIUM

*BRAZIL

BULGARIA

*CHINA

*DENMARK

*ITALY

*JAPAN

*LATVIA

*LUXEMBURG

*MEXICO

*NORWAY

*NETHERLANDS

*Indicates signatures affixed.

- *EGYPT
- *SPAIN
- *ESTONIA
- *FINLAND
- *FRANCE
- *GREAT BRITAIN AND
NORTHERN IRELAND
- *COMMONWEALTH OF
AUSTRALIA
- *UNION OF SOUTH AFRICA
- *HELLENIC REPUBLIC
- *HUNGARY
- *POLAND
- *RUMANIA
- *SWEDEN
- *SWITZERLAND
- *CZECHOSLOVAKIA
- *UNION OF SOCIALIST SOVIET
REPUBLICS, subject to the
reservation in the declara-
tions made at the closing
session.
- VENEZUELA
- *YUGOSLAVIA

* Indicates signature affixed.

APPENDIX IV

CONVENTION BETWEEN FRANCE AND GERMANY RELATING TO AIR NAVIGATION¹

The President of the French Republic and the President of the German Reich, equally convinced of the mutual interest of France and Germany to promote, for peaceful ends and within the framework of the existing treaties and conventions, their aerial relations and international aerial relations in general, have determined to conclude a convention for this purpose, and have appointed as their respective plenipotentiaries:

The President of the French Republic:

His Excellency M. Aristide Briand, Deputy, President of the Council, Minister for Foreign Affairs;

The President of the German Reich:

His Excellency Herr von Hoesch, German Ambassador Extraordinary and Plenipotentiary to the President of the French Republic;

Who, having exchanged their full powers, found in good and due form, have agreed as follows:

ART. 1. Each of the high contracting parties will accord in time of peace to the aircraft of the other contracting party duly registered in the state, freedom of passage above its territory, provided that the conditions set forth in the present convention are observed.

It is agreed, however, that the establishment or operation, by air navigation enterprises of one of the high contracting parties, of regular air lines passing over the territory of the other high contracting party (with or without landing) shall be made conditional to a special agreement between the two states.

For the purpose of the present convention, "territory" means the territory of the mother country including the territorial waters.

"Aircraft" means private aircraft and state aircraft employed exclusively in commercial service.

¹ International Commission for Air Navigation, *Official Bulletin*, May, 1927, No. 12, p. 6-9.

ART. 2. Aircraft of one of the high contracting parties, their crew and passengers, when on the territory of the other state, shall be subject to the obligations which arise from regulations in force in the said state, particularly prescriptions relating to air navigation in general, in so far as they are applicable to all foreign aircraft without distinction of nationality, to customs and other dues, export and import prohibitions, the carriage of persons and goods, public security and order. They shall also be subject to the other obligations which arise from general legislation in force, unless it is otherwise provided in the present convention.

It is agreed that the carriage of passengers and goods for hire between two points within national territory may be reserved to national aircraft.

ART. 3. Either of the contracting parties shall be entitled to prohibit air navigation over certain areas of its territory, subject to no distinction being made in this respect between its national aircraft and the aircraft of the other state. Each of the contracting states shall communicate to the other state a list of the territorial areas over which air navigation is prohibited.

Furthermore, each of the contracting parties reserves to itself the right to restrict or prohibit temporarily, in exceptional circumstances and with immediate effect, air navigation over the whole or parts of its territory, provided that no distinction shall be made in this respect between aircraft of the other contracting party and aircraft of any other foreign country.

ART. 4. Every aircraft which finds itself above a prohibited area shall immediately give the signal of distress provided in the regulations as to air navigation of the state flown over, and shall land as soon as possible on one of the aerodromes of that state and outside the prohibited area.

ART. 5. Aircraft shall carry distinctive and clearly visible marks permitting of their identification in flight (nationality and registration marks). They shall also bear the name and residence of the owner.

Aircraft shall be provided with a certificate of registration and a certificate of airworthiness and all other documents required in their country of origin for air navigation.

All the members of the crew who, on an aircraft, perform duties subject in their country of origin to a special authoriza-

tion, must be provided with the documents prescribed for air navigation in their country of origin and particularly with the required certificates and licenses.

The other members of the crew must be provided with documents giving their occupation on board, their profession, identity and nationality.

Certificates of airworthiness, certificates of competency and licenses, issued or rendered valid by one of the high contracting parties for the aircraft or crew, shall have the same validity in the other state as the corresponding documents issued by the latter state.

Each of the high contracting parties reserves to itself the right to refuse to recognize, as regards air navigation within and above its own territory, certificates granted by the other contracting party to persons under its jurisdiction.

In so far as it shall not have been otherwise agreed, the crew and a certificate of airworthiness and all other documents required by the regulations in force for international traffic.

ART. 6. On the territory of one of the high contracting parties the aircraft of the other contracting party shall carry wireless apparatus only in so far as shall be permitted by the two contracting states. Such apparatus shall be used only by such members of the crew as are provided with a special authorization for the purpose issued by their state of origin.

The two contracting states reserve to themselves the right for reasons of safety to lay down regulations for the compulsory equipment of aircraft with wireless apparatus.

ART. 7. Aircraft, their crew or passengers, shall not carry arms, munitions, asphyxiating gases, explosives, carrier pigeons or photographic apparatus, except with the authorization of the state flown over.

ART. 8. Aircraft carrying passengers or goods must be provided with a list of the names of the passengers and for goods with a manifest describing the nature and quantity of the goods carried, as well as the necessary customs declarations.

If, on the arrival of the aircraft, any difference is ascertained between the goods carried and the documents above mentioned, the customs authorities of the airport of arrival shall enter into communication direct with the competent customs authorities of the other contracting state.

The carriage of mail will be regulated direct between the postal administrations of the two contracting states by means of special arrangements.

ART. 9. In all cases of departure or landing, each of the contracting states shall have the right within its territory to have the aircraft of the other state visited by its competent authorities and to examine the certificates and other documents with which it must be provided.

ART. 10. Aerodromes which are open to public use for air navigation shall be open to the aircraft of both states. These aircraft shall also be entitled to the use of meteorological information, radioelectric communications, day and night marking signals. The charges to be made (landing fee, charge for accommodation, etc.) shall be the same for national aircraft as for the aircraft of the other state.

ART. 11. Aircraft arriving in or departing from one of the contracting states must land at or depart from an aerodrome open to public use for air navigation and classified as a customs aerodrome (with passport examination service), without making any intermediary landing between the frontier and the said aerodrome. In special cases the competent authorities may authorize the departure from or arrival at other aerodromes, where the customs and passport formalities will be carried out. The prohibition of intermediary landing applies also to these special cases.

In the case of a forced landing outside the aerodrome referred in subpar. 1, the pilot, crew and passengers must conform to the national regulations provided in such case.

Each of the high contracting parties will furnish to the other contracting state a list of the aerodromes open to public air navigation. This list shall designate those of the aerodromes which are classified as customs aerodromes. Any modification of such list or any restriction, even temporary, of the right to use any of such aerodromes, shall be immediately notified to the other contracting party.

ART. 12. The common frontiers of the two high contracting parties may be crossed only between points determined by common agreement. Frontiers not common to both states will be crossed between points fixed by the state concerned.

It is agreed that any zone within which one of the contracting

parties authorizes the crossing of its frontiers (common or not common) by its national aircraft or aircraft of another nationality can *ipso facto* be used for the passage of aircraft of the other contracting party.

ART. 13. By way of ballast, only fine sand or water may be dropped.

ART. 14. In the course of flight, apart from ballast, only such articles or substance may be thrown or dropped, in respect of which the state upon whose territory the throwing or dropping takes place shall have granted a special permit.

ART. 15. As regards all questions of nationality in connection with the application of the present convention, it is understood that aircraft possess the nationality of the state on the register of which it shall have been duly entered.

No aircraft shall be entered on the register of one of the two states unless it belongs wholly to nationals of that state.

If the owner is a company, such company, whatever be its form, must fulfill all the conditions prescribed by French or German legislation, in order to be considered as possessing French or German nationality as the case may be.

ART. 16. The two high contracting parties will exchange every month between themselves lists of the registrations and cancellations of registrations entered on their official registers during the preceding month.

ART. 17. Every aircraft passing through the territory and making only the landings and stoppages reasonably necessary, may be exempted from any seizure on the ground of infringement of patent, design or model, subject to the deposit of security the amount of which, in default of amicable agreement, shall be fixed with the least possible delay by the competent authority of the place of seizure.

ART. 18. Aircraft of one of the two contracting states shall be entitled to the same measures of assistance for landing, particularly in case of distress, as national aircraft.

With regard to the salvage of aircraft wrecked at sea, in the absence of any agreement to the contrary the principles of maritime law as set forth in the international conventions in force, will apply, or, in default thereof, the national law of the salvors.

ART. 19. The two high contracting parties will communicate

to each other all the regulations relative to air navigation which are in force in their territory.

Art. 20. The details of application of the present convention, which shall not have been amicably settled by means of the normal methods of diplomacy, shall be settled in conformity with the provisions of the Franco-German arbitration convention dated October 16, 1925.¹

Art. 21. Either of the high contracting parties may at any time denounce the present convention by giving notice twelve months in advance.

Art. 22. The present convention will be ratified, and the ratifications will be exchanged at Paris as soon as possible. It will enter into force on the date of the exchange of ratifications.

In faith whereof the plenipotentiaries have signed the present convention.

Done at Paris, in two originals in French and German the 22nd May 1926.

(L. S.) Signed: A. BRIAND

(L. S.) Signed: HOESCH

FINAL PROTOCOL

The contracting parties agree in recognizing that the exceptional circumstances mentioned in Art. 3, subpar. 2, of the present convention are, in conformity with Art. 1, subpar. 1, circumstances arising in time of peace.

Done at Paris in two originals in French and German the 22nd May 1926.

Signed: A. BRIAND

Signed: HOESCH

¹For text see *League of Nations Treaty Series*, LIV, p. 315.

APPENDIX V

ARRANGEMENT EFFECTED BY EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND THE DOMINION OF CANADA, AUGUST 29, 1929, AND OCTOBER 22, 1929¹

*The Secretary of State to the Chargé d'Affaires ad interim of
the Dominion of Canada*

DEPARTMENT OF STATE
WASHINGTON, August 29, 1929.

SIR:

The Department refers to the negotiations which have been conducted between this Department and your Legation for the conclusion of a reciprocal arrangement between the United States and Canada for the admission of civil aircraft, the issuance of pilots' licenses, and the acceptance of certificates of airworthiness for aircraft imported as merchandise.

It is my understanding that it has been agreed in the course of these negotiations that this arrangement shall be as follows:

1. All state aircraft other than military, naval, customs and police aircraft, shall be treated as civil aircraft and as such shall be subject to the requirements hereinafter provided for civil aircraft.

2. Subject to the conditions and limitations hereinafter contained and set forth, Canadian civil aircraft shall be permitted to operate in the United States and, in like manner, civil aircraft of the United States shall be permitted to operate in the Dominion of Canada.

3. Canadian aircraft before entering the United States, must be registered and passed as airworthy by the Canadian Department of National Defense and must bear the registration markings allotted to it by that department. Aircraft of the United States, before entering Canada, must be registered and passed as airworthy by the United States Department of Commerce, and must bear the registration markings allotted to it by that

¹ Publications of the Department of State, No. 19, Executive Agreement Series, No. 2.

department, preceded by the letter "N", placed on it in accordance with the Air Commerce Regulations of the Department of Commerce.

4. Canadian aircraft making flights into the United States must carry aircraft, engine and journey log books, and the certificates of registration and airworthiness, issued by the Canadian Department of National Defense. The pilots shall bear licenses issued by said Department of National Defense. Like requirements shall be applicable in Canada with respect to aircraft of the United States and American pilots making flights into Canada. The certificates and licenses in the latter case shall be those issued by the United States Department of Commerce; provided, however, that pilots who are nationals of the one country shall be licensed by the other country under the following conditions:

(a) The Department of National Defense of the Dominion of Canada will issue pilots' licenses to American nationals upon a showing that they are qualified under the regulations of that department covering the licensing of pilots; and the United States Department of Commerce will issue pilots' licenses to Canadian nationals upon a showing that they are qualified under the regulations of that department covering the licensing of pilots.

(b) Pilots' licenses issued by the United States Department of Commerce to Canadian nationals shall entitle them to the same privileges as are granted by pilots' licenses issued to American nationals, and pilots' licenses issued by the Department of National Defense of the Dominion of Canada to American nationals shall entitle them to the same privileges as are granted by pilots' licenses issued to Canadian nationals.

(c) Pilots' licenses granted to nationals of the one country by the other country shall not be construed to accord to them the right to register aircraft in such other country.

(d) Pilots' licenses granted to nationals of the one country by the other country shall not be construed to accord to them the right to operate aircraft in air commerce unless the aircraft is registered in such other country in accordance with its registration requirements except as provided for in Pars. (a) and (b) of Clause 6, with respect to discharging and taking on through passengers and/or cargo.

5. No Canadian aircraft in which photographic apparatus has been installed shall be permitted to operate in the United States, nor shall any photographs be taken from Canadian aircraft while operating in or over United States territory, except in cases where the entrance of such aircraft or the taking of photographs is specifically authorized by the Department of Commerce of the United States. Like restrictions shall be applicable to aircraft of the United States desiring to operate in or over Canadian territory, and in such cases the entrance of aircraft in which photographic apparatus has been installed, and the taking of photographs shall not be permissible without the specific authorization of the Department of National Defense of Canada.

6. (a) If the Canadian aircraft and pilot are licensed to carry passengers and/or cargo in the Dominion of Canada, they may do so between Canada and the United States, but not between points in the United States, except that subject to compliance with customs, quarantine and immigration requirements, such aircraft shall be permitted to discharge through passengers and/or cargo destined to the United States at one airport in the United States, according landing facilities to foreign aircraft, and to proceed with the remaining passengers and/or cargo to any other airports in the United States, according landing facilities to foreign aircraft, for the purpose of discharging the remaining passengers and/or cargo; and they shall in like manner be permitted to take on passengers and/or cargo destined to Canada at different airports in the United States on the return trip to Canada.

(b) If the United States aircraft and pilot are licensed to carry passengers and/or cargo in the United States, they may do so between the United States and Canada, but not between points in Canada, except that subject to compliance with customs, quarantine and immigration requirements such aircraft shall be permitted to discharge through passengers and/or cargo destined to Canada at one airport in Canada, according landing facilities to foreign aircraft, and to proceed with the remaining passengers and/or cargo to any other airports in Canada, according landing facilities to foreign aircraft, for the purpose of discharging the remaining passengers and/or cargo; and they shall in like manner be permitted to take on passengers

and/or cargo destined to the United States at different airports in Canada on the return trip to the United States.

7. The right accorded to Canadian pilots and aircraft to make flights over United States territory under the conditions provided for in the present arrangement shall be accorded, subject to compliance with the laws, rules and regulations in effect in the United States governing the operation of civil aircraft. The right accorded to American pilots and aircraft of the United States to make flights over Canadian territory, under the conditions herein provided for, shall be accorded, subject to compliance with the laws, rules and regulations in effect in Canada governing the operation of civil aircraft.

8. Certificates of airworthiness for export issued in connection with aircraft built in Canada imported into the United States from Canada as merchandise will be accepted by the Department of Commerce of the United States if issued by the Department of National Defense of the Dominion of Canada in accordance with its requirements as to airworthiness. Certificates of airworthiness for export issued in connection with aircraft built in the United States imported into Canada from the United States as merchandise will, in like manner, be accepted by the Department of National Defense of Canada, if issued by the Department of Commerce of the United States in accordance with its requirements as to airworthiness.

9. It shall be understood that this arrangement shall be subject to termination by either Government on 60 days' notice given to the other Government, by a further arrangement between the two Governments dealing with the same subject, or by the enactment of legislation in either country inconsistent therewith.

I shall be glad to have you inform me whether it is the understanding of your Government that the arrangement agreed upon is as herein set forth. If so, the arrangement will be considered to be operative from the date of the receipt of your note so advising me.

Accept, Sir, the renewed assurances of my highest consideration.

H. L. STIMSON

Mr. Hume Wrong,
*Chargé d'Affaires ad interim of
the Dominion of Canada.*

210 INTERNATIONAL CONTROL OF AVIATION

*The Minister of the Dominion of Canada to the Secretary
of State*

No. 207

CANADIAN LEGATION

WASHINGTON, October 22, 1929.

SIR:

I have the honor to refer to your note of August 29, 1929, concerning the proposed reciprocal arrangement between the United States and Canada for the admission of civil aircraft, the issuance of pilots' licenses, and the acceptance of certificates of airworthiness for aircraft imported as merchandise. I have been instructed to inform you that His Majesty's Government in Canada concur in the terms of the agreement as set forth in your note, and will, therefore, consider it to be operative from this date.

I have the honor to be, with the highest consideration, Sir,
Your most obedient, humble servant,

VINCENT MASSEY

The Hon. Henry L. Stimson
*Secretary of State of the United States
Washington, D. C.*

APPENDIX VI

PROPOSED RULES FOR THE REGULATION OF AERIAL WARFARE DRAFTED BY THE COMMISSION OF JURISTS IN 1923¹

CHAPTER I. APPLICABILITY: CLASSIFICATION AND REMARKS

ART. 1. The rules of aerial warfare apply to all aircraft, whether lighter or heavier than air, irrespective of whether they are, or are not, capable of floating on the water.

ART. 2. The following shall be deemed to be public aircraft:—

(a.) Military aircraft.

(b.) Nonmilitary aircraft exclusively employed in the public service.

All other aircraft shall be deemed to be private aircraft.

ART. 3. A military aircraft shall bear an external mark indicating its nationality and military character.

ART. 4. A public nonmilitary aircraft employed for customs or police purposes shall carry papers evidencing the fact that it is exclusively employed in the public service. Such an aircraft shall bear an external mark indicating its nationality and its public nonmilitary character.

ART. 5. Public nonmilitary aircraft other than those employed for customs or police purposes shall in time of war bear the same external marks, and for the purposes of these rules shall be treated on the same footing, as private aircraft.

ART. 6. Aircraft not comprised in Arts. 3 and 4 and deemed to be private aircraft shall carry such papers and bear such

¹ British Parliamentary Papers 1924, *Dispatch from the First British Delegate to the International Commission for the Revision of the Rules of Warfare, The Hague, December 10, 1922-February 17, 1923* p. 15-60 (Cmd. 2201).

The proposed rules are embodied in a report, the commentary of which has been omitted in this reprint.

The articles have been published in the United States in a press release of the Department of State, reprinted in the *American Journal of International Law, Supplement*, XVII, p. 242 at 245. The full report is printed in John Bassett Moore, *International Law and Some Current Illusions*, p. 210 ff.

The report was signed on behalf of the United States, the British Empire, France, Italy, Japan and the Netherlands.

external marks as are required by the rules in force in their own country. These marks must indicate their nationality and character.

ART. 7. The external marks required by the above articles shall be so affixed that they can not be altered in flight. They shall be as large as is practicable and shall be visible from above, from below and from each side.

ART. 8. The external marks, prescribed by the rules in force in each state, shall be notified promptly to all other powers.

Modifications adopted in time of peace of the rules prescribing external marks shall be notified to all other powers before they are brought into force.

Modifications of such rules adopted at the outbreak of war or during hostilities shall be notified by each power as soon as possible to all other powers and at latest when they are communicated to its own fighting forces.

ART. 9. A belligerent nonmilitary aircraft, whether public or private, may be converted into a military aircraft, provided that the conversion is effected within the jurisdiction of the belligerent state to which the aircraft belongs and not on the high seas.

ART. 10. No aircraft may possess more than one nationality.

CHAPTER II. GENERAL PRINCIPLES

ART. 11. Outside the jurisdiction of any state, belligerent or neutral, all aircraft shall have full freedom of passage through the air and of alighting.

ART. 12. In time of war any state, whether belligerent or neutral, may forbid or regulate the entrance, movement or sojourn of aircraft within its jurisdiction.

CHAPTER III. BELLIGERENTS

ART. 13. Military aircraft are alone entitled to exercise belligerent rights.

ART. 14. A military aircraft shall be under the command of a person duly commissioned or enlisted in the military service of the state; the crew must be exclusively military.

ART. 15. Members of the crew of a military aircraft shall

wear a fixed distinctive emblem of such character as to be recognizable at a distance in case they become separated from their aircraft.

ART. 16. No aircraft other than a belligerent military aircraft shall engage in hostilities in any form.

The term "hostilities" includes the transmission during flight of military intelligence for the immediate use of a belligerent.

No private aircraft, when outside the jurisdiction of its own country, shall be armed in time of war.

ART. 17. The principles laid down in the Geneva convention, 1906¹ and the convention for the adaptation of the said convention to maritime war (No. X of 1907)² shall apply to aerial warfare and to flying ambulances, as well as to the control over flying ambulances exercised by a belligerent commanding officer.

In order to enjoy the protection and privileges allowed to mobile medical units by the Geneva convention, 1906, flying ambulances must bear the distinctive emblem of the Red Cross in addition to the usual distinguishing marks.

CHAPTER IV. HOSTILITIES

ART. 18. The use of tracer, incendiary or explosive projectiles by or against aircraft is not prohibited.

This provision applies equally to states which are parties to the declaration of St. Petersburg, 1868,³ and to those which are not.

ART. 19. The use of false external marks is forbidden.

ART. 20. When an aircraft has been disabled, the occupants, when endeavoring to escape by means of a parachute, must not be attacked in the course of their descent.

ART. 21. The use of aircraft for the purpose of disseminating propaganda shall not be treated as an illegitimate means of warfare.

Members of the crews of such aircraft must not be deprived of their rights as prisoners of war on the charge that they have committed such an act.

ART. 22. Aerial bombardment for the purpose of terrorizing

¹ *Treaties, Conventions, etc., 1776-1907*, p. 2181.

² *Ibid.*, p. 2326.

³ Relative to explosive bullets; for text see *British and Foreign State Papers, LVIII*, p. 16, and in *English American Journal of International Law, Supplement, I*, p. 95.

the civilian population, of destroying or damaging private property not of military character, or of injuring noncombatants is prohibited.

ART. 23. Aerial bombardment for the purpose of enforcing compliance with requisitions in kind or payment of contributions in money is prohibited.

ART. 24. 1. Aerial bombardment is legitimate only when directed at a military objective, that is to say, an object of which the destruction or injury would constitute a distinct military advantage to the belligerent.

2. Such bombardment is legitimate only when directed exclusively at the following objectives: military forces; military works; military establishments or depots; factories constituting important and well-known centers engaged in the manufacture of arms, ammunition or distinctively military supplies; lines of communication or transportation used for military purposes.

3. The bombardment of cities, towns, villages, dwellings or buildings not in the immediate neighborhood of the operations of land forces is prohibited. In cases where the objectives specified in par. 2 are so situated that they can not be bombarded without the indiscriminate bombardment of the civilian population, the aircraft must abstain from bombardment.

4. In the immediate neighborhood of the operations of land forces, the bombardment of cities, towns, villages, dwellings or buildings is legitimate provided that there exists a reasonable presumption that the military concentration is sufficiently important to justify such bombardment, having regard to the danger thus caused to the civilian population.

5. A belligerent state is liable to pay compensation for injuries to person or to property caused by the violation by any of its officers or forces of the provisions of this article.

ART. 25. In bombardment by aircraft, all necessary steps must be taken by the commander to spare as far as possible buildings dedicated to public worship, art, science, or charitable purposes, historic monuments, hospital ships, hospitals and other places where the sick and wounded are collected, provided such buildings, objects or places are not at the time used for military purposes. Such buildings, objects and places must by day be indicated by marks visible to aircraft. The use of marks to indicate other buildings, objects or places than those specified

above is to be deemed an act of perfidy. The marks used as aforesaid shall be in the case of buildings protected under the Geneva convention the red cross on a white ground, and in the case of other protected buildings a large rectangular panel divided diagonally into two pointed triangular portions, one black and the other white.

A belligerent who desires to secure by night the protection for the hospitals and other privileged buildings above mentioned must take the necessary measures to render the special signs referred to sufficiently visible.

ART. 26. The following special rules are adopted for the purpose of enabling states to obtain more efficient protection for important historic monuments situated within their territory, provided that they are willing to refrain from the use of such monuments and a surrounding zone for military purposes, and to accept a special régime for their inspection:—

1. A state shall be entitled, if it sees fit, to establish a zone of protection round such monuments situated in its territory. Such zones shall in time of war enjoy immunity from bombardment.

2. The monuments round which a zone is to be established shall be notified to other powers in peace time through the diplomatic channel; the notification shall also indicate the limits of the zones. The notification may not be withdrawn in time of war.

3. The zone of protection may include, in addition to the area actually occupied by the monument or group of monuments, an outer zone, not exceeding 500 meters in width, measured from the circumference of the said area.

4. Marks clearly visible from aircraft either by day or by night will be employed for the purpose of insuring the identification by belligerent airmen of the limits of the zones.

5. The marks on the monuments themselves will be those defined in Art. 25. The marks employed for indicating the surrounding zones will be fixed by each state adopting the provisions of this article, and will be notified to other powers at the same time as the monuments and zones are notified.

6. Any abusive use of the marks indicating the zones referred to in par. 5 will be regarded as an act of perfidy.

7. A state adopting the provisions of this article must abstain

from using the monument and the surrounding zone for military purposes, or for the benefit in any way whatever of its military organization, or from committing within such monument or zone any act with a military purpose in view.

8. An inspection committee consisting of three neutral representatives accredited to the state adopting the provisions of this article, or their delegates, shall be appointed for the purpose of insuring that no violation is committed of the provisions of par.

7. One of the members of the committee of inspection shall be the representative (or his delegate) of the state to which has been intrusted the interests of the opposing belligerent.

ART. 27. Any person on board a belligerent or neutral aircraft is to be deemed a spy only if acting clandestinely or on false pretenses he obtains or seeks to obtain, while in the air, information within belligerent jurisdiction or in the zone of operations of a belligerent with the intention of communicating it to the hostile party.

ART. 28. Acts of espionage committed after leaving the aircraft by members of the crew of an aircraft or by passengers transported by it are subject to the provisions of the land warfare regulations.¹

ART. 29. Punishment of the acts of espionage referred to in Arts. 27 and 28 is subject to Arts. 30 and 31 of the land warfare regulations.

CHAPTER V. MILITARY AUTHORITY OVER ENEMY AND NEUTRAL AIRCRAFT AND PERSONS ON BOARD

ART. 30. In case a belligerent commanding officer considers that the presence of aircraft is likely to prejudice the success of the operations in which he is engaged at the moment, he may prohibit the passing of neutral aircraft in the immediate vicinity of his forces or may oblige them to follow a particular route. A neutral aircraft which does not conform to such directions, of which he has had notice issued by the belligerent commanding officer, may be fired upon.

ART. 31. In accordance with the principles of Art. 53 of the land warfare regulations, neutral private aircraft found upon

¹ See Arts. 29-31 of the Hague convention, *Treaties Conventions, etc., 1776-1909*, p. 2286.

entry in the enemy's jurisdiction by a belligerent occupying force may be requisitioned, subject to the payment of full compensation.

Art. 32. Enemy public aircraft, other than those treated on the same footing as private aircraft, shall be subject to confiscation without prize proceedings.

Art. 33. Belligerent nonmilitary aircraft, whether public or private, flying within the jurisdiction of their own state, are liable to be fired upon unless they make the nearest available landing on the approach of enemy military aircraft.

Art. 34. Belligerent nonmilitary aircraft, whether public or private, are liable to be fired upon, if they fly (1) within the jurisdiction of the enemy, or (2) in the immediate vicinity thereof and outside the jurisdiction of their own state, or (3) in the immediate vicinity of the military operations of the enemy by land or sea.

Art. 35. Neutral aircraft flying within the jurisdiction of a belligerent, and warned of the approach of military aircraft of the opposing belligerent, must make the nearest available landing. Failure to do so exposes them to the risk of being fired upon.

Art. 36. When an enemy military aircraft falls into the hands of a belligerent, the members of the crew and the passengers, if any, may be made prisoners of war.

The same rule applies to the members of the crew and the passengers, if any, of an enemy public nonmilitary aircraft, except that in the case of public nonmilitary aircraft devoted exclusively to the transport of passengers, the passengers will be entitled to be released unless they are in the service of the enemy, or are enemy nationals fit for military service.

If an enemy private aircraft falls into the hand of a belligerent, members of the crew who are enemy nationals or who are neutral nationals in the service of the enemy, may be made prisoners of war. Neutral members of the crew, who are not in the service of the enemy, are entitled to be released if they sign a written undertaking not to serve in any enemy aircraft while hostilities last. Passengers are entitled to be released unless they are in the service of the enemy or are enemy nationals fit for military service, in which cases they may be made prisoners of war.

Release may in any case be delayed if the military interests of the belligerent so require.

The belligerent may hold as prisoners of war any member of the crew or any passenger whose service in a flight at the close of which he has been captured has been of special and active assistance to the enemy.

The names of individuals released after giving a written undertaking in accordance with the third paragraph of this article will be notified to the opposing belligerent, who must not knowingly employ them in violation of their undertaking.

ART. 37. Members of the crew of a neutral aircraft which has been detained by a belligerent shall be released unconditionally, if they are neutral nationals and not in the service of the enemy. If they are enemy nationals or in the service of the enemy, they may be made prisoners of war.

Passengers are entitled to be released unless they are in the service of the enemy or are enemy nationals fit for military service, in which cases they may be made prisoners of war.

Release may in any case be delayed if the military interests of the belligerent so require.

The belligerent may hold as prisoners of war any member of the crew or any passenger whose service in a flight at the close of which he has been captured has been of special and active assistance to the enemy.

ART. 38. Where under the provisions of Arts. 36 and 37 it is provided that members of the crew or passengers may be made prisoners of war, it is to be understood that, if they are not members of the armed forces, they shall be entitled to treatment not less favorable than that accorded to prisoners of war.

CHAPTER VI. BELLIGERENT DUTIES TOWARD NEUTRAL STATES AND NEUTRAL DUTIES TOWARD BELLIGERENT STATES

ART. 39. Belligerent aircraft are bound to respect the rights of neutral powers and to abstain within the jurisdiction of a neutral state from the commission of any act which it is the duty of that state to prevent.

ART. 40. Belligerent military aircraft are forbidden to enter the jurisdiction of a neutral state.

ART. 41. Aircraft on board vessels of war, including aircraft carriers, shall be regarded as part of such vessels.

ART. 42. A neutral Government must use the means at its disposal to prevent the entry within its jurisdiction of belligerent military aircraft and to compel them to alight if they have entered such jurisdiction.

A neutral Government shall use the means at its disposal to intern any belligerent military aircraft which is within its jurisdiction after having alighted for any reason whatsoever, together with its crew and the passengers, if any.

ART. 43. The personnel of a disabled belligerent military aircraft rescued outside neutral waters and brought into the jurisdiction of a neutral state by a neutral military aircraft and there landed shall be interned.

ART. 44. The supply in any manner, directly or indirectly, by a neutral Government to a belligerent power of aircraft, parts of aircraft, or material, supplies or munitions required for aircraft is forbidden.

ART. 45. Subject to the provisions of Art. 46, a neutral power is not bound to prevent the export or transit on behalf of a belligerent of aircraft, parts of aircraft, or material, supplies or munitions for aircraft.

ART. 46. A neutral Government is bound to use the means at its disposal:—

1. To prevent the departure from its jurisdiction of an aircraft in a condition to make a hostile attack against a belligerent power, or carrying or accompanied by appliances or materials the mounting or utilization of which would enable it to make a hostile attack, if there is reason to believe that such aircraft is destined for use against a belligerent power.

2. To prevent the departure of an aircraft the crew of which includes any member of the combatant forces of a belligerent power.

3. To prevent work upon an aircraft designed to prepare it to depart in contravention of the purposes of this article.

On the departure by air of any aircraft dispatched by persons or companies in neutral jurisdiction to the order of a belligerent power, the neutral Government must prescribe for such aircraft a route avoiding the neighborhood of the military operations of the opposing belligerent, and must exact whatever

guaranties may be required to insure that the aircraft follows the route prescribed.

ART. 47. A neutral state is bound to take such steps as the means at its disposal permit to prevent within its jurisdiction aerial observation of the movements, operations or defenses of one belligerent, with the intention of informing the other belligerent.

This provision applies equally to a belligerent military aircraft on board a vessel of war.

ART. 48. The action of a neutral power in using force or other means at its disposal in the exercise of its rights or duties under these rules can not be regarded as a hostile act.

CHAPTER VII. VISIT AND SEARCH, CAPTURE AND CONDEMNATION

ART. 49. Private aircraft are liable to visit and search and to capture by belligerent military aircraft.

ART. 50. Belligerent military aircraft have the right to order public nonmilitary and private aircraft to alight in or proceed for visit and search to a suitable locality reasonably accessible.

Refusal, after warning, to obey such orders to alight or to proceed to such a locality for examination exposes an aircraft to the risk of being fired upon.

ART. 51. Neutral public nonmilitary aircraft, other than those which are to be treated as private aircraft, are subject only to visit for the purpose of the verification of their papers.

ART. 52. Enemy private aircraft are liable to capture in all circumstances.

ART. 53. A neutral private aircraft is liable to capture if it—

- (a.) Resists the legitimate exercise of belligerent rights.
- (b.) Violates a prohibition of which it has had notice issued by a belligerent commanding officer under Art. 30.
- (c.) Is engaged in unneutral service.
- (d.) Is armed in time of war when outside the jurisdiction of its own country.
- (e.) Has no external marks or uses false marks.
- (f.) Has no papers or insufficient or irregular papers.
- (g.) Is manifestly out of the line between the point of departure and the point of destination indicated in its papers and

after such inquiries as the belligerent may deem necessary, no good cause is shown for the deviation. The aircraft, together with its crew and passengers, if any, may be detained by the belligerent, pending such inquiries.

(*h.*) Carries, or itself constitutes, contraband of war.

(*i.*) Is engaged in breach of a blockade duly established and effectively maintained.

(*k.*) Has been transferred from belligerent to neutral nationality at a date and in circumstances indicating an intention of evading the consequences to which an enemy aircraft, as such, is exposed.

Provided that in each case (except (*k.*)) the ground for capture shall be an act carried out in the flight in which the neutral aircraft came into belligerent hands, i.e., since it left its point of departure and before it reached its point of destination.

ART. 54. The papers of a private aircraft will be regarded as insufficient or irregular if they do not establish the nationality of the aircraft and indicate the names and nationality of the crew and passengers, the points of departure and destination of the flight, together with particulars of the cargo and the conditions under which it is transported. The logs must also be included.

ART. 55. Capture of an aircraft or of goods on board an aircraft shall be made the subject of prize proceedings, in order that any neutral claim may be duly heard and determined.

ART. 56. A private aircraft captured upon the ground that it has no external marks or is using false marks, or that it is armed in time of war outside the jurisdiction of its own country, is liable to condemnation.

A neutral private aircraft captured upon the ground that it has disregarded the direction of a belligerent commanding officer under Art. 30 is liable to condemnation, unless it can justify its presence within the prohibited zone.

In all other cases, the prize court in adjudicating upon any case of capture of an aircraft or its cargo, or of postal correspondence on board an aircraft, shall apply the same rules as would be applied to a merchant vessel or its cargo or to postal correspondence on board a merchant vessel.

ART. 57. Private aircraft which are found upon visit and search to be enemy aircraft may be destroyed if the belligerent

commanding officer finds it necessary to do so, provided that all persons on board have first been placed in safety and all the papers of the aircraft have been preserved.

ART. 58. Private aircraft which are found upon visit and search to be neutral aircraft liable to condemnation upon the ground of unneutral service, or upon the ground that they have no external marks or are bearing false marks, may be destroyed, if sending them in for adjudication would be impossible or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged. Apart from the cases mentioned above, a neutral private aircraft must not be destroyed except in the gravest military emergency, which would not justify the officer in command in releasing it or sending it in for adjudication.

ART. 59. Before a neutral private aircraft is destroyed, all persons on board must be placed in safety, and all the papers of the aircraft must be preserved.

A captor who has destroyed a neutral private aircraft must bring the capture before the prize court, and must first establish that he was justified in destroying it under Art. 58. If he fails to do this, parties interested in the aircraft or its cargo are entitled to compensation. If the capture is held to be invalid, though the act of destruction is held to have been justifiable, compensation must be paid to the parties interested in place of the restitution to which they would have been entitled.

ART. 60. Where a neutral private aircraft is captured on the ground that it is carrying contraband, the captor may demand the surrender of any absolute contraband on board, or may proceed to the destruction of such absolute contraband, if sending in the aircraft for adjudication is impossible or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged. After entering in the log book of the aircraft the delivery or destruction of the goods, and securing, in original or copy, the relevant papers of the aircraft, the captor must allow the neutral aircraft to continue its flight.

The provisions of the second paragraph of Art. 59 will apply where absolute contraband on board a neutral private aircraft is handed over or destroyed.

CHAPTER VIII. DEFINITIONS

ART. 61. The term "military" throughout these rules is to be read as referring to all branches of the forces, i.e., the land forces, the naval forces and the air forces.

ART. 62. Except so far as special rules are here laid down and except also so far as the provisions of Chapter VII of these rules or international conventions indicate that maritime law and procedure are applicable, aircraft personnel engaged in hostilities come under the laws of war and neutrality applicable to land troops in virtue of the custom and practice of international law and of the various declarations and conventions to which the states concerned are parties.

APPENDIX VII

INTERNATIONAL AGREEMENTS ON AIR NAVIGATION

In this list the following abbreviations are used: League of Nations, *Treaty Series* = L. N. Tr. Ser.; International Commission for Air Navigation, *Official Bulletin* = I.C.A.N., *Of. Bul.*; *American Journal of International Law, Official Documents* = A.J.I.L., *Of. Doc.*; *Revue Juridique Internationale de la Locomotion Aérienne* = R.J.I. de L.A.; Martens, *Nouveau Recueil général de Traités, troisième série* = N. R. G., 3^e sér.; *British and Foreign State Papers* = B. & F. State Papers; *Zeitschrift für das Gesamte Luftrecht* = Z.G.L.; *Bolletino di Legislazione Doganale e Commerciale* = B.L.D.C.; *British Treaty Series* = Br. Tr. Ser.; *United States Treaty Series* = U. S. Tr. Ser.; *United States Bulletin of Treaty Information* = U. S. Bul. Tr. Inf.

MULTILATERAL TREATIES

1899

International declaration prohibiting the discharge of projectiles and explosives from balloons, signed at The Hague, July 29. France, Ministère des Affaires Etrangères, *Documents Diplomatiques, Conférence Internationale de la Paix, 1899*, p. 100; A.J.I.L., *Of. Doc.*, 1907, p. 104.

1907

International declaration prohibiting the discharge of projectiles and explosives from balloons, signed at The Hague, Oct. 18. France, Ministère des Affaires Etrangères, *Documents Diplomatiques, Conférence Internationale de la Paix, 1907*, p. 269; B. & F. State Papers, C, p. 455; A.J.I.L., *Of. Doc.*, 1908, p. 216.

1919

Allied and Associated Powers—Germany. Treaty of peace, signed at Versailles, June 28 (Arts. 198-202, 313-320). France, Ministère des Affaires Etrangères, *Traité de Paix*

entre les Puissances Alliées et Associées et l'Allemagne et Protocole, signés à Versailles le 28 juin 1919, p. 95-96 (Paris, Imprimerie Nationale, 1919); A.J.I.L., *Of. Doc.*, 1919, p. 235; N.R.G., 3^e sér., XI, p. 323.

BELGIUM, BRITISH EMPIRE, FRANCE, ITALY, JAPAN—GERMANY. Agreement on aerial navigation with a view to the application of Art. 198 of the treaty of Versailles, signed at Paris, May 22, 1926 (came into force Aug. 9, 1926). L.N. Tr. Ser., LVIII, p. 331; N.R.G., 3^e sér., XVI, p. 887.

Allied and Associated Powers—Austria. Treaty of peace, signed at St. Germain-en-Laye, Sept. 10 (Arts. 144-148, 276-283). France, Ministère des Affaires Etrangères, *Traité de Paix entre les Puissances Alliées et Associées et l'Autriche, Protocole et Déclarations, signés à Saint-Germain-en-Laye le 10 septembre, 1919*, p. 142 (Paris, Imprimerie Nationale, 1920); A.J.I.L., *Of. Doc.*, 1920, p. 153; N.R.G., 3^e sér., XI, p. 691.

BRITISH EMPIRE, FRANCE, ITALY, JAPAN—AUSTRIA. Agreement on aerial navigation with a view to the application of Art. 144 of the treaty of St. Germain, signed at Paris, Oct. 27, 1927. *N.R.G.*, 3^e sér., XXI, p. 139.

Convention relating to the regulation of aerial navigation, signed at Paris, Oct. 13, with additional protocol signed at Paris, May 1, 1920 (came into force in respect of 14 countries, July 11, 1922). *L.N. Tr. Ser.*, XI, p. 173, 307; International Commission for Air Navigation, *Convention relating to the Regulation of Aerial Navigation Dated 13 October, 1919*, May, 1929, p. 1-85; *N.R.G.* 3^e sér., XXIII, p. 61, 114; *B. & F. State Papers*, CXII, p. 931 (the convention with the annexes as revised to date is appended to each number of the *Official Bulletin*; for text of the convention itself, as amended, see Appendix I, *supra*).

PROTOCOL of amendment to Art. 5 of the convention, signed at London, Oct. 27, 1922. *Br. Tr. Ser.*, No. 12 (1925), Cmd. 2328.

PROTOCOL of amendment to Art. 34 of the convention, signed at London, June 30, 1923. *Br. Tr. Ser.*, No. 13 (1925), Cmd. 2329.

PROTOCOL of amendments to Arts. 3, 5, 7, 15, 34, 37, 41, 42 and to the final clauses of the convention, signed at Paris, June 15, 1929. *U. S. Bul. Tr. Inf.*, No. 4, 2d sup.; *I.C.A.N., Of. Bul.*, No. 16, p. 49; *British Parl. Pap. Misc.* No. 7 (1930) Cmd. 3541, p. 2.

PROTOCOL relating to amendments to Arts. 34 and 40 of

the convention signed at Paris, December 11, 1929. *British Parl. Pap. Misc.* No. 7 (1930) Cmd. 3541, p. 11.

ALLIED AND ASSOCIATED POWERS—Bulgaria. Treaty of peace, signed at Neuilly, Nov. 27 (Arts. 89-93, 204 ff). *Ministère des Affaires Etrangères, Traité de Paix entre les Puissances Alliées et Associées et la Bulgarie et Protocole, signés à Neuilly-sur-Seine le 27 novembre, 1919*, p. 39 (Paris, Imprimerie Nationale, 1920); *A.J.I.L., Of. Doc.*, 1920, p. 286; *N.R.G.* 3^e sér., XII, p. 323.

BRITISH EMPIRE, FRANCE, ITALY, JAPAN—BULGARIA. Agreement on aerial navigation with a view to the application of Art. 89 of the treaty of Neuilly, signed at Paris, Mar. 31, 1927 (came into force, June 2, 1927). *L.N. Tr. Ser.*, LXVI, p. 59.

1920

ALLIED AND ASSOCIATED POWERS—Hungary. Treaty of peace, signed at Trianon, June 4 (Arts. 128-132, 260-267). *Ministère des Affaires Etrangères, Traité de Paix entre les Puissances Alliées et Associées et la Hongrie et Protocole et Déclaration du 4 juin 1920*, p. 54 (Paris, Imprimerie Nationale, 1920); *A.J.I.L., Of. Doc.*, 1921, p. 42; *N.R.G.*, 3^e sér., XII, p. 423.

BRITISH EMPIRE, FRANCE, ITALY, JAPAN—HUNGARY. Agreement on aerial navigation with a view to the application of Art. 128 of the treaty of Trianon, signed at Paris, May 19, 1927; with exchange of notes, Paris, July 12, 1927 (came into

force Aug. 14 and 15, 1927).
L.N. *Tr. Ser.*, LXVIII, p. 407.

Allied Powers—Turkey. Treaty of peace, signed at Sévres, Aug. 10 (Arts. 19 ff, 318-327). Ministère des Affaires Etrangères, *Traité de Paix entre les Puissances Alliées et Associées et la Turquie du 10 août 1920*, p. 126 (Paris, Imprimerie Nationale, 1920); *A.J.I.L., Of. Doc.*, 1921, p. 273; *N.R.G.*, 3^e sér., XII, p. 664. (This treaty was never brought into force.)

1921

France, Great Britain, Italy—Danzig, Poland. Agreement concerning hangars attributed to Danzig, signed at Danzig, Dec. 19. *N.R.G.*, 3^e sér., XVII, p. 239, 242.

1923

British Empire, France, Italy, Japan, Bulgaria, etc.—Turkey. Convention on the régime of the Straits (Art. 2), signed at Lausanne, July 24. L.N. *Tr. Ser.*, XXVIII, p. 115; *N.R.G.*, 3^e sér., XII, p. 392.

England, the Netherlands, Northwest Germany, Denmark, Sweden, Norway. Resolutions of the conference at The Hague on aerial service between above countries (adopted Nov. 9). Published in the *Compte-Rendu* of the conference.

France, Great Britain, Spain. Convention on the organization of the statute of the Tangier zone (Art. 3), signed at Paris, Dec. 18 (ratifications deposited May 14, 1924). *Br. Tr. Ser.*, No. 23 (1924), Cmd. 2203; *N.R.G.*, 3^e sér., XIII, p. 246. L.N. *Tr. Ser.*, XXVIII, p. 541.

FRANCE, GREAT BRITAIN, ITALY, SPAIN. Agreement revising the convention on the organization of the statute of the Tangier zone, signed at Paris, July 25, 1928. L.N. *Tr. Ser.*, LXXXVII, p. 211.

1924

Universal Postal Convention (Art. 74), signed at Stockholm, Aug. 28. *N.R.G.*, 3^e sér., XIX, p. 368; L.N. *Tr. Ser.*, XL, p. 73.

1926

Belgium, France, Great Britain. Agreement on customs arrangement relating to air traffic, signed at Paris, May 5. *N.R.G.*, 3^e sér., XVIII, p. 533; I.C.A.N., *Of. Bul.*, No. 16, p. 23.

Ibero-American convention on air navigation, signed at Madrid, Nov. 1 (has not been ratified by a majority of the signatory states). *Gaceta de Madrid*, April 23, 1927; *R.J.I. de L.A.*, XI, p. 97.

1927

Germany, United States of America, Austria, Belgium, etc. Provisions for the conveyance of mails by air, adopted at the conference held at The Hague, Sept. 10. L.N. *Tr. Ser.*, LXXV, p. 9.

Germany, United States of America, Austria, Belgium, etc. Provisions concerning the transmission of air parcels, adopted at the conference held at The Hague, Sept. 10. L.N. *Tr. Ser.*, LXXV, p. 41.

International radiotelegraph convention and general regulations between the United States and other states, signed at Washington, Nov. 25. U. S. *Tr. Ser.*, No. 767.

1928

Inter-American convention on commercial aviation, signed at Habana, Feb. 20. *Sixth International Conference of American States, Final Act, Motions, Agreements, Resolutions and Conventions*, p. 97 (Habana, 1928); *A.J.I.L., Of. Doc.*, 1928, p. 124; *Droit Aérien*, 1929, No. 2, p. 255.

1929

Universal Postal Convention, signed at London, June 28 (Art. 74).

Universal Postal Union. Provisions concerning the transport of postal letters by air, signed at London, June 28. (Published by the International

Bureau of the Universal Postal Union.)

Universal Postal Union. Provisions concerning the transport of parcels post by air, signed at London, June 28. (Published by the International Bureau of the Universal Postal Union.)

Convention of Geneva for the amelioration of the condition of wounded and sick of armies in the field (Art. 18), signed at Geneva, July 27. *Droit Aérien*, 1929, No. 4, p. 475-476.

Convention for the unification of certain rules relative to international transportation by air, and additional and final protocols, signed at Warsaw, Oct. 12. *U. S. Bul. Tr. Inf.*, No. 7, Sup.; *Droit Aérien*, 1929, No. 4, p. 646, 658.

BILATERAL TREATIES

1913

France—Germany. Exchange of notes on aerial navigation, signed at Berlin, July 26. *Journal Officiel de la République Française*, p. 7334 (Paris, Imprimerie Nationale, Aug. 12, 1913); *Reichsgesetzblatt*, 1913, No. 48, p. 601; *R.J.I. de L.A.*, 1913, p. 240; *N.R.G.*, 3^e sér., VII, p. 643.

1919

France—Great Britain. Agreement between postal administrations for the conveyance of mails by aeroplane, signed at London, Sept. 10, and at Paris, Sept. 24. *B. & F. State Papers*, CXII, p. 724.

Great Britain—Netherlands. Agreement between postal administrations for the conveyance of mails by aeroplane, signed at The Hague, Oct. 29,

and at London, Nov. 14. *B. & F. State Papers*, CXII, p. 757.

Great Britain—Switzerland. Provisional convention regulating aerial circulation, and additional protocol, signed at Bern, Nov. 6 (ratified Feb. 9, 1920). *L.N. Tr. Ser.*, I, p. 37, 43; *I.C.A.N., Of. Bul.*, No. 2, p. 6, 8; *R.J.I. de L.A.*, VI, p. 520-525; *N.R.G.*, 3^e sér., X, p. 132, 135; *B. & F. State Papers*, CXII, p. 775, 778.

France—Switzerland. Provisional convention regulating aerial circulation, and additional protocol, signed at Bern, Dec. 9 (ratified Feb. 1, 1920). *L.N. Tr. Ser.*, I, p. 29, 35; *I.C.A.N., Of. Bul.*, No. 2, p. 9, 11; *R.J.I. de L.A.*, VI, p. 525-529; *N.R.G.*, 3^e sér., X, p. 137, 140; *B. & F. State Papers*, CXII, p. 1057, 1061.

1920

Estonia—Great Britain. Exchange of notes concerning commercial relations, dated July 20. *N.R.G.*, 3^e sér., XV, p. 636.

Germany—Switzerland. Provisional convention regulating aerial circulation, and additional protocol, signed at Bern, Sept. 14 (ratified Dec. 28, 1920). *L.N. Tr. Ser.*, II, p. 331, 337; *R.J.I. de L.A.*, VI, p. 530-533; *N.R.G.*, 3^e sér., XV, p. 674; *B. & F. State Papers*, CXIII, p. 1073, 1076.

Belgium—Great Britain. Agreement between postal administrations for the conveyance of mails by aeroplane, signed at London, Sept. 23, and at Brussels, Oct. 5. *I.C.A.N.*, *Of. Bul.*, No. 11, p. 6; *B. & F. State Papers*, CXIII, p. 318.

Finland—Russia. Treaty of peace (Art. 8), signed at Dorpat, Oct. 14. *L.N. Tr. Ser.*, VI, p. 6 at 68; *N.R.G.*, 3^e sér., XII, p. 37.

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- Austria—Czechoslovakia.** Treaty on air navigation, and additional protocol, signed at Vienna, Feb. 15 (ratified Feb. 21, 1928). *L.N. Tr. Ser.*, LX-XIII, p. 365; *I.C.A.N., Of. Bul.*, No. 15, p. 8, 11; *Droit Aérien*, 1929, No. 2, p. 224; *Z.G.L.*, II, p. 28 (appendix).
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- Germany—Italy.** Convention on air navigation, and additional protocol, signed at Berlin, May 20 (ratified Mar. 13, 1928). *L.N. Tr. Ser.*, LXXIX, p. 179, 190, and 193, 201 (English translation); *I.C.A.N., Of. Bul.*, No. 14, p. 6, 9; *Reichsgesetzblatt* (1927), Part 2, p. 940, 948; *Z.G.L.*, II, p. 1 (appendix); *R.J.I. de L.A.*, XII, p. 333.
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- Persia—Union of Socialist Soviet Republics.** Protocol relative to air post, signed at Teheran, Nov. 23. *Droit Aérien*, 1929, No. 4, p. 578; *Sobranie Zakonov, Rasporiazhenii Rab-Krest. Prav. S.S.R.* May 23, 1928, No. 24, Div. II, par. 111, p. 739.
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HANDBOOK
OF THE
LEAGUE OF NATIONS
SINCE 1920

By DENYS P. MYERS



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HANDBOOK OF THE LEAGUE OF NATIONS SINCE 1920

BY DENYS P. MYERS

I. WHAT THE LEAGUE OF NATIONS IS

THE establishment of a League of Nations became one of the objectives of the World War. At the time the armistice of November 11, 1918, was concluded, this was accepted by all belligerents and neutrals as one of the essential subjects for the peace negotiations.

The preliminary Peace Conference at its Second Plenary Session on January 25, 1919, passed a resolution declaring that "it is essential to the maintenance of the world settlement . . . that a League of Nations be created" and that "this League should be treated as an integral part of the general treaty of peace." As a consequence, the conference appointed the Commission on the League of Nations under the chairmanship of Woodrow Wilson, President of the United States, which worked out a project in 10 sessions between February 3 and February 13. This project, elaborated by delegates of the United States, British Empire, France, Italy, Japan, Belgium, Brazil, China, Czechoslovakia, Greece, Poland, Portugal, Rumania and Serbia, was published on February 14, 1919, for the consideration of the world. Members of the commission met on March 20 and 21 to consider proposals from the following states which were neutral in the World War: Argentina, Chile, Colombia, Denmark, Netherlands, Norway, Paraguay, Persia, Salvador, Spain, Sweden, Switzerland and Venezuela. In five additional meetings on March 22, 24, 26, April 10 and 11, the Covenant of the

League of Nations was completed and on April 28 accepted by a plenary session of the Peace Conference.¹

The Covenant was incorporated into the treaties of peace, and is Part I of the treaties with Germany, Austria, Bulgaria and Hungary. On the entrance of the first of these into force, on January 10, 1920, the Covenant acquired the character of a separate treaty. The deposit of ratifications of parties to the treaty of peace brought the Covenant into force on that day, giving legal existence to the League of Nations. As a result of that act, the accessions to the Covenant of Argentina, Chile, Paraguay, Persia and Spain came into force so that the League of Nations entered upon its legal existence on January 10, 1920, at 4.15 P.M., with a membership of 24 states, 19 of which were parties to the treaty of peace: Australia, Belgium, Bolivia, Brazil, British Empire, Canada, Czechoslovakia, France, Guatemala, India, Italy, Japan, New Zealand, Panama, Peru, Poland, Siam, South Africa and Uruguay.

By subsequent accessions and admissions under the terms of the Covenant,² it has been accepted by 56 states, of which two, Brazil and Costa Rica, have withdrawn. The latter is reassuming membership and the former, while maintaining its withdrawal, continues to "collaborate."

ENGAGEMENTS UNDER COVENANT

The states Members of the League have taken engagements in the Covenant, each for itself and toward the others, "in order to promote international cooperation and to achieve international peace and security," to the following effect:

1. Each Member on admission "shall give effective guaranties of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments" (Art. 1, par. 2).

¹ For full information, see David Hunter Miller, *The Drafting of the Covenant* (New York, Putnam, 1928), or Florence Wilson, *The Origins of the League Covenant* (London, 1928).

² See p. 16.

2. Each Member recognizes "that the maintenance of peace requires [a] the reduction of national armaments to the lowest point consistent with national safety and [b] the enforcement by common action of international obligations" (Art. 8, par. 1).

3. Each agrees "that the manufacture by private enterprise of munitions and implements of war is open to grave objections" (Art. 8, par. 5).

4. Each undertakes "to interchange full and frank information as to [a] the scale of their armaments, [b] their military, naval and air programs, and [c] the condition of such of their industries as are adaptable to warlike purposes" (Art. 8, par. 6).

5. Each undertakes "to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League" (Art. 10, par. 1).

6. They declare "a matter of concern to the whole League" "any war or threat of war," with respect to which they "shall take any action that may be deemed wise and effectual to safeguard the peace of nations" (Art. 11, par. 1).

7. They declare it "to be the friendly right" of each "to bring to the attention" of the bodies they set up "any circumstance whatever . . . which threatens to disturb international peace or the good understanding between nations upon which peace depends" (Art. 11, par. 2).

8. They "agree that . . . they will submit . . . any dispute likely to lead to a rupture . . . either to arbitration or judicial settlement or to inquiry" (conciliation) (Art. 12, par. 1).

9.¹ "They agree in no case to resort to war until three months after" the result of such submission is known (Art. 12, par. 1).

10. They "agree that . . . they will submit the whole subject matter to arbitration or judicial settlement" in the case of any dispute which "they recognize to be suitable" for such procedure (Art. 13, par. 1).

11. They "agree that they will carry out in full good faith any award or decision that may be rendered" (Art. 13, par. 4).

12.² They agree that they "will not resort to war against a Member of the League which complies" with such award or decision (Art. 13, par. 4).

¹The Tenth Assembly on September 24, 1929, adopted a proposal with a view to bringing the Covenant "into harmony with the Pact of Paris" by amendment, which is proposed to read: ". . . they agree that they will in no case resort to war."

²The Tenth Assembly on September 24, 1929, adopted a proposal with a view to bringing the Covenant "into harmony with the Pact of Paris" by amendment. This clause is to be omitted by the proposed amendment.

13. They "agree that they will submit" to the Council for conciliation "any dispute likely to lead to a rupture, which is not submitted to arbitration or judicial settlement" (Art. 15, par. 1).

14.¹ They "agree that they will not go to war with any party to the dispute which complies with the recommendations of the report" of the Council, if this is unanimously agreed to by the Council, exclusive of the disputant states (Art. 15, par. 6).

15. They "reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice,"² if the Council, exclusive of the disputant states, fails to attain unanimity (Art. 15, par. 7).

16. Should any member disregard agreements Nos. 8 to 15 and resort to war, "it shall *ipso facto* be deemed to have committed an act of war against all other members." They undertake "immediately to subject it to the severance of all trade or financial relations," as well as to insure "the prevention of all financial, commercial or personal intercourse" with it (Art. 16, par. 1).

17. They "agree that they will mutually support one another" in these respects (Art. 16, par. 3).

18. They obligate themselves to register for immediate publication "every treaty or international engagement" with the Secretariat. No such document "shall be binding until so registered" (Art. 18).

19. They grant to the Assembly the faculty of advising them to reconsider "treaties which have become inapplicable" (Art. 19).

20. They grant to the Assembly the faculty of considering "international conditions whose continuance might endanger the peace of the world" (Art. 19).

21. They agree that the "Covenant is accepted as abrogating all" inconsistent obligations. They accept as a duty the procuring "of release from such obligations" (Art. 20).

22. They "solemnly undertake" not to "enter into any engagements inconsistent" with the terms of the Covenant (Art. 20).

23. They establish "the principle that the well-being and development" of "peoples not yet able to stand by themselves under the strenuous conditions of the modern world" are "a sacred trust

¹ The Tenth Assembly on September 24, 1929, adopted a proposal with a view to bringing the Covenant "into harmony with the Pact of Paris" by amendment. This clause is to be extensively revised (see *Report of the Committee*, p. 10, Document A. 8, 1930 V. 2).

² The Tenth Assembly on September 24, 1929, adopted a proposal with a view to bringing the Covenant "into harmony with the Pact of Paris" by amendment. The proposed amendment provides a continuing procedure (*ibid.*, p. 10).

of civilization." The "tutelage of such peoples" is "intrusted to advanced nations" and "exercised by them as mandatories on behalf of the League" (Art. 22, pars. 1 and 2).

24. They will "endeavor¹ to secure and maintain fair and humane conditions of labor for men, women and children," and "will establish and maintain the necessary international organizations"² (Art. 23a).

25. They "undertake¹ to secure just treatment of the native inhabitants of territories under their control" (Art. 23b).

26. They "intrust¹ the League with the general supervision over the execution of agreements with regard to the traffic in women and children" (Art. 23c).

27. They "intrust¹ the League with the general supervision of the execution of agreements with regard to . . . the traffic in opium and other dangerous drugs" (Art. 23c).

28. They "intrust¹ the League with the general supervision of the trade in arms and ammunition" (Art. 23d).

29. They "make provision¹ to secure and maintain freedom of communications and transit . . . for the commerce of all" (Art. 23e).

30. They "make provision¹ to secure and maintain . . . equitable treatment for the commerce of all" (Art. 23e).

31. They "endeavor¹ to take steps in matters of international concern for the prevention and control of disease" (Art. 23f).

32. They place "under the direction of the League all international bureaus already established by general treaties," if the parties consent (Art. 24, par. 1).

33. They stipulate that all international bureaus and commissions for the regulation of matters of international interest constituted after January 10, 1920, shall be placed under the direction of the League (Art. 24, par. 1).

34. They "agree to encourage and promote the establishment and cooperation of" authorized voluntary national Red Cross organizations to improve health, prevent disease and mitigate suffering (Art. 25).

¹"Subject to and in accordance with the provisions of international conventions, existing or hereafter to be agreed upon."

²For the realization of this engagement in the International Labor Organization, see *Industry, Governments and Labor*, World Peace Foundation Pamphlets, Vol. XI, Nos. 4-5.

THE CONFERENCE METHOD OF OPERATION

The League of Nations can best be understood if it is realized that it is not closely comparable with other institutions. It consists of states associating themselves together under specified conditions for the accomplishment of purposes of common interest. These purposes and the standards of action which the Member states have agreed to accept as a basis of their association are those set forth in the Covenant as analyzed above. Some of those engagements address themselves primarily to the individual action of the Member state; the consensus of action of the Members and their experience in working together contribute to a fuller interpretation of these engagements. Other engagements state objectives which Member states seek to attain; these become the subject of investigations especially organized within the machinery of the League and are constantly productive of international conferences for developing specific international agreements.

In view of the general standards of conduct adopted by them in the Covenant and the fundamental purposes of the League, Member states have felt free to agree additionally between themselves to leave many matters calculated to promote international cooperation or to achieve a greater degree of peace and security to its organs. Among instances of duties assigned to the League by such independent action of Member states may be cited the treaties, declarations and clauses establishing régimes for the protection of minorities; the financial reconstruction of Austria and Hungary; the Greek Refugee Settlement Scheme; the administration of the Saar Basin, the Free City of Danzig and Upper Silesia. Not infrequently the common objectives are realized by internal measures. General agreements frequently result in bilateral treaties in which Member states apply the principles determined at Geneva. Instances of such action are a series of sanitary conventions made between the states of Eastern Europe in 1922-23, the convention relating to nonfortification and neutralization of the Aaland Islands, and an extensive

series of treaties for the pacific settlement of international disputes.

To comprehend the League of Nations most readily, it is advisable to think of it as an instrument of the Member states for attaining a maximum of agreement on questions which the nations themselves recognize as having a common interest for them. The contracting parties provide in the Covenant that the machinery for conducting their common business shall be an Assembly, consisting of delegates of all Member states, and a Council, consisting of delegates of Member states representative of and acting on behalf of the entire Membership (Arts. 3 and 4). Both the Assembly and Council take their decisions by unanimous vote, unless there is a specific provision to the contrary or the matter is one of procedure (Art. 5). The persons composing both "render their decisions as the representatives of their respective states, and . . . have no standing except as such representatives." With respect both to the status of persons and the character of the vote, the two organs are, therefore, constructed on the basis of international conferences.

The Secretariat performs secretarial duties for the Assembly and Council and for bodies called into being by their decisions. This organ of the League is analogous to the civil service of a national government in that it serves the League as a whole rather than particular Member states.

In general, the experience of the states Members of the League of Nations since 1920 has indicated that the objectives of the Covenant are broad enough to enable them to seek agreement through it upon any question of common interest.

As questions of diverse character are considered, machinery adapted to securing appropriate results has been created. The Assembly, which meets annually, is not a continuing body, and it consequently devolves upon the Council to manage current business. The Council, usually after consulting the Assembly, has set up a series of advisory committees "for the purpose of facilitating the task of the Assembly and the Council . . . on the one hand,

and on the other hand to assist Members of the League by establishing direct contact between their technical representatives in the various spheres, to fulfill their international duties." These committees differ in their composition according to the objects sought. For the most part, committees consist of unofficial experts, diversified as to nationality and professional qualifications. Emphasis is thus given to "enough independence and flexibility to make them effectively useful to the Members of the League." In cases where the fundamental necessity is to develop agreement among Governments or to commit Governments to decisions, the membership of a committee is drawn from official life.

A committee is served by an expert section of the Secretariat, which works under its direction. The committee thus aided collects facts and elaborates conclusions, subject to confirmation by the Council. Nationals of non-Member states, especially the United States, have for several years taken an active part in the work of the committees. Annual reports on the work of each committee are made to the Assembly, which frequently indicates the direction which the Member states as a whole desire to see taken in future work.

Confirmation of the conclusions of a committee by the Assembly may constitute a sufficient international agreement upon a subject.¹ In such a case, the Assembly acts as an international conference, and the representatives of Member states, in addition to their credentials as Assembly delegates, are furnished with full powers for signing or accepting the document in question. More frequently the conclusions of a committee are of a character requiring the convening of a special conference to enable states to conclude an acceptable agreement. States non-Members

¹ Instances are the Statute of the Permanent Court of International Justice, adopted by the First Assembly; the international slavery convention, adopted by the Sixth Assembly; the convention for the execution of arbitral clauses in commercial matters, adopted by the Eighth Assembly; the general act and model conventions on pacific settlement of international disputes, nonaggression and mutual assistance adopted by the Ninth Assembly; the protocol concerning amendments to the Statute of the Permanent Court of International Justice and the protocol for the accession of the United States thereto, both adopted and opened for signature by the Tenth Assembly, following consideration in conference.

of the League are invited to such conferences. They differ from conferences not held under League auspices only in respect to the more careful and thorough preparation afforded and the great advantage of being served by a thoroughly trained and continuous Secretariat.

PREVENTION OF WAR

The conference method described above is followed in handling the bulk of the work done by the League of Nations. Its object is "to promote international cooperation and to achieve international peace and security" by facilitating "the firm establishment of the understandings of international law" as the actual rule of conduct among Governments. It produces a body of agreement which can command the "scrupulous respect for all treaty obligations in the dealing of organized peoples with one another." These activities are recognized as facilitating "the acceptance of obligations not to resort to war" in that they prescribe through voluntary agreement "open, just and honorable relations between nations," which are calculated to forestall the development of conditions which might encourage resort to war.

Though the 98 international conventions developed by the League of Nations in ten years through the machinery described above are very diverse in character, they all contribute to the promotion of cooperation between the peoples of the world.

Member states of the League of Nations accepted in the Covenant specific undertakings with respect to the reduction of armament and the employment and development of the pacific settlement of international disputes. The reduction of armament in its multiform complications has been handled by the conference system described. The pacific settlement of international disputes, which does away with the occasion for resort to war, has been extensively developed under the influence of the League, while the Covenant itself gives to the Council (and sometimes the Assembly) special authority from the Member states for

jurisdiction over international disputes. The activities of the League in this field include matters on which public attention has been widely focused. Questions of great interest and of high importance have come under the jurisdiction of the Council.

Bilateral relations between states Members of the League continue in full measure to be conducted between governments. It is only that portion of the foreign relations of governments which can be satisfactorily handled solely in multilateral negotiations that falls within the scope of the League.

A possible exception to this general rule is recognized by an agreement in the Covenant which provides that "any dispute likely to lead to a rupture" between Members of the League is to be submitted to some form of pacific settlement. The forms specified are arbitration, judicial settlement and inquiry by the Council. Disputes referred to the League are normally for inquiry by the Council. The method of judicial settlement is provided for in the Permanent Court of International Justice, to which states become parties by the normal process of ratifying a treaty document. The other method of pacific settlement specified is that of arbitration. The functioning of the League has facilitated and encouraged the development of this method of pacific settlement, which is supplemented by conciliation through a commission of inquiry.

As other methods have come into existence, the exclusive importance of inquiry by the Council has decreased. The statutory jurisdiction of the Permanent Court of International Justice had been widened up to June 15, 1929, by the provisions of 285 bilateral and multilateral treaties.¹ The wide variety of international conventions negotiated under the auspices of the League, or otherwise, since 1920 has reformed international practice or solved international problems on a large number of frictional subjects. The conventions accomplishing these ends have uniformly contained a clause providing that any dispute with respect

¹ Publications of the Permanent Court. *Fifth Annual Report*, p. 95-139, 383 (Series E, No. 5).

to the interpretation or application of the document shall be left to the decision of the Permanent Court of International Justice. Special jurisdiction has been created for special problems; for instance, in the convention on import and export prohibitions and restrictions, provisions are made for the conciliatory or arbitral settlement of disputes arising from it and specially adapted to the issues involved. Member states have extensively included such clauses in bilateral treaties and have both developed and adjusted methods of pacific settlement to their own needs by the conclusion of bilateral treaties of pacific settlement.¹ The totality of these developments results in reducing the area of international life from which disputes within the cognizance of the League might arise. While the possibility of disputes reaching a stage where they should, under the Covenant, be submitted to the Council has thus decreased, the Member states retain in full force the provision to refer disputes to the League in case other methods fail to solve such difficulties.

THE LEAGUE AND INTERNATIONAL RELATIONS

The Members of the League have more and more come to view it as a forum for the discussion of their mutual interests and a mechanism for the solution of their mutual problems. The permanence of the Secretariat and the constant functioning of committees under the direction of the Council have provided the framework for realizing such objects. The Assembly meets automatically each year about the first Monday in September. The Council meets normally four times each year. In the early days of the League, postwar problems were to the front, and the continuity of League action had much to do with the ability to handle them promptly and systematically. In the realm of agreements of a permanent nature, the early years were characterized by the employment of the machinery for establishing general principles, such as those on freedom of transit. In each avenue of activity, there

¹ For partial list see *Arbitration and Security. Systematic Survey*, p. 427 (Doc. C. 653, M. 216, 1927, V. 29).

has been a steady development toward the handling of problems which are highly technical and which touch more intimately the national practice or policy of Member states.

As this situation has developed, it has become the general practice of the states to send foreign ministers to Geneva as representatives on the Council. The delegations to the Assembly in recent years have included 20 to 25 heads of cabinets or ministers of foreign affairs, in addition to other ministers. As a consequence of the presence of such officials at Geneva, meetings of the Assembly and Council since 1924 have sometimes been quite as important because of the negotiations taking place outside of the League organization as for the decisions made at its meetings. Foreign ministers, who could not visit other capitals without arousing speculation, find it possible to discuss in person with ministers from other countries questions of national concern. Such meetings have very often been of world-wide importance and have amounted to special conferences, for example, in 1925, during the Assembly, when some negotiations respecting the subsequent Locarno treaties took place, and again in 1928 when cabinet members of the states interested in reparation and the Rhine occupation reached an agreement which brought a settlement of both. The League of Nations has nothing to do with such meetings, but its periodic gatherings simply afford the opportunity for those concerned to meet for discussion. Nevertheless, the existence of the League contributes to the success of such outside negotiations. The value of Geneva as a meeting place is appreciated, because it affords not only neutral ground, but an essentially friendly one. Ministers who might never otherwise meet each other become acquainted with each other in their attendance at League meetings, and the acquaintance enables them to dispatch their special business. Two ministers sitting at the same table in the morning on international business find themselves in a hotel room in the afternoon discussing national business. During the afternoon both of them may be aware that in the morning they will have the duty of preparing a League report together. The habit of in-

ternational cooperation in the League, they testify, facilitates better understanding of their national problems.

The first week or ten days of the Assembly sessions are devoted to a general debate on the report on the work of the Council and of the Secretariat and on the measures taken to execute decisions of the Assembly. Each country has a free opportunity to discuss any questions which it wishes. With some 300 press representatives in the gallery, the Assembly hall acts as a sounding board to all the world. Delegates of Members make use of this fact to explain satisfactory or unsatisfactory positions in which they find themselves, to define their attitude toward international action, to defend their national action or to complain of conditions which they deem reparable. This is a new factor in international relations.

Within the bounds laid down by the standards of conduct of the Covenant, the associated business of the Members of the League is the attainment of agreement. This objective is so continuously exercised that certain characteristics of Geneva action are becoming well recognized. In general matters, it is exceptional to attempt to force a decision. It is always sought to have a question examined by well qualified persons. In 1929, for instance, three consultations by the Economic Committee of experts on the coal problem occurred. Nearly 75 persons speaking for every conceivable phase of the industry participated.

Decisions may be taken piecemeal on account of the continuity of procedure, and this possibility has proved to be very useful. The collection of information and its digesting in advance of decisions is a regular practice. Decisions themselves usually represent the common thread of agreement as shown by the facts. A measure of agreement reached customarily opens vistas of an additional consensus, following further experience and investigation. Almost every field of agreement displays interlocking features. Improvement of trade statistics is found to depend in some degree upon the adoption of standard methods for the measurement of shipping tonnage.

Final diplomatic decisions are arrived at through the

League of Nations machinery by diplomatic conferences which produce international conventions. The facility with which this is done brings about the holding of some half dozen conferences a year. This activity in producing multilateral treaties has resulted in distinctive features of League procedure. The president of a conference is customarily designated by the Council and in most cases full rules of procedure based upon the cumulated experience of the Secretariat are submitted for formal adoption. A conference invariably works from a draft convention originally developed from the replies of Governments to questionnaires and previously submitted to the Governments participating in the conference. The background of a permanent and continuous machine frequently enables the conference to reach an agreement on part of the subject while remitting troublesome phases of it to further study.

League of Nations conventions ordinarily come into force on the 90th day following the receipt of a specified number of ratifications or accessions, in some instances two only being required.¹ Following its signing at the close of a conference, a convention is ordinarily kept open for signature to a specified date. Ratification or accession is left entirely to the national practice and will of the signatory states. There is a tacit understanding that reservations to international conventions are to be acceptable to the other contractants. Reservations made on accession are open to objection for a time, after which they are deemed to be acceptable. A practice exists of attaching a protocol to an international convention. This enables the convention to be phrased in more general terms, since in the protocol states may record specific interpretations or possible exceptions and reservations. A final act is customary. This invariably contains definite suggestions for further advances, so that one international agreement frequently grows out of another. Practically the whole program of the Committee on Traffic in Women and Children, for instance, was suggested in the Final Act of the 1921 conference.

¹ In such a case a convention begins as a bilateral convention, becoming multilateral as additional ratifications enter into force.

II. ORGANS OF THE LEAGUE

1. Members of the League

THE contracting states are defined in the Covenant as Members of the League of Nations.

Members of the League are "original" or "admitted."

Original Members are named in an annex to the Covenant in two groups. The first group acquired membership by ratification of the treaties of peace, in which the text of the Covenant appears. This first group were signatories "of the first part" of the treaties of peace. The second group, consisting of neutrals in the World War which were not parties to the treaties of peace, acceded to the Covenant as a separate document, without reservations.¹

Admitted Members consist of any other "fully self-governing state, dominion or colony" whose "admission is agreed to by two-thirds of the Assembly." An admitted member "shall give effective guaranties of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments."

Growth: The League of Nations formally came into being by the official deposit of the ratifications of the treaty of Versailles at the French Foreign Office, at Paris, on January 10, 1920, at 4.15 P.M. By that deposit 24 states² became the first members of the League of Nations.

Within the next two months 42 of the states named in the Annex to the Covenant had become original Members of the League. The signatories of a treaty of peace acquired that status by ratification in accordance with constitutional practices. Those which were not signatories of such a treaty acceded to the Covenant as a separate in-

¹ For some details of ratifications, see *Three Months of the League of Nations*, p. 7-10 (this Series, III, Nos. 1-2). The recognition of Switzerland's perpetual neutrality by resolution of the Council dated February 13, 1920, is not regarded as a reservation.

² See p. 2.

strument after the parliamentary adoption of an act authorizing such accession.

States admitted to the League by vote of the Assembly have based their applications upon parliamentary or governmental action, having the effect of a conditional ratification of the Covenant previous to action by the Assembly.

MEMBERS OF THE LEAGUE OF NATIONS, JANUARY 1, 1930 — 54

State	Member from	State	Member from
ALBANIA	Dec. 17, 1920	ESTONIA	Sept. 22, 1921
ARGENTINA	Jan. 10, 1920	ETHIOPIA ²	Sept. 28, 1923
AUSTRALIA	Jan. 10, 1920	FINLAND	Dec. 16, 1920
AUSTRIA	Dec. 15, 1920	FRANCE	Jan. 10, 1920
BELGIUM	Jan. 10, 1920	GERMANY	Sept. 8, 1926
BOLIVIA	Jan. 10, 1920	GREECE	March 30, 1920
[BRAZIL ¹	Jan. 10, 1920—	GUATEMALA	Jan. 10, 1920
	June 13, 1928]	HAITI	June 30, 1920
BRITISH EMPIRE	Jan. 10, 1920	HONDURAS	Nov. 3, 1920
BULGARIA	Dec. 16, 1920	HUNGARY	Sept. 18, 1922
CANADA	Jan. 10, 1920	INDIA	Jan. 10, 1920
CHILE	Jan. 10, 1920	IRISH FREE STATE	Sept. 10, 1923
CHINA	July 16, 1920	ITALY	Jan. 10, 1920
COLOMBIA	Feb. 16, 1920	JAPAN	Jan. 10, 1920
[COSTA RICA ²	Dec. 16, 1920—	LATVIA	Sept. 22, 1921
	Dec. 31, 1926]	LIBERIA	June 30, 1920
CUBA	March 8, 1920	LITHUANIA	Sept. 22, 1921
CZECHOSLOVAKIA	Jan. 10, 1920	LUXEMBURG	Dec. 16, 1920
DENMARK	March 8, 1920	NETHERLANDS	March 9, 1920
DOMINICAN REPUBLIC	Sept. 29, 1924	NEW ZEALAND	Jan. 10, 1920
		NICARAGUA	Nov. 3, 1920

¹ Notice of withdrawal effective June 13, 1928, in accordance with telegram received June 12, 1926 (*Monthly Summary*, V, p. 135). A note from the Brazilian Government of April 9, 1928, said: "I beg . . . the Council to consider my country one of the most devoted collaborators of the League of Nations." Collaboration was "not only by occupying a seat in the Assembly or in the Council," but by recognizing the League's "service to civilization and to humanity," by joining "in the conferences through which the League of Nations strives for universal welfare by working out problems of general interest" and by preaching and practicing "the true policy of preserving peace . . . by the employment of juridical solutions, by their disinterestedness, by their unity and by their spirit of justice and concord." (*Official Journal*, IX, p. 778.)

² The acting president of the Council received a telegram from the Government of Costa Rica stating that on September 6, 1928, the council of ministers had agreed "to submit the matter [of resuming membership] to the Constitutional Congress, requesting it to vote the necessary funds for the payment of the contribution involved." (*Records of the Ninth Assembly, Plenary Sessions*, p. 130, *Official Journal*, Spec. Sup. No. 64.) Correspondence respecting the Monroe doctrine had preceded on July 18 and September 1 (*Official Journal*, IX, p. 1606).

³ This monarchy in League documents is called Ethiopia in French and Abyssinia in English.

State	Member from	State	Member from
NORWAY	March 7, 1920	SIAM	Jan. 10, 1920
PANAMA	Jan. 10, 1920	SOUTH AFRICA	Jan. 10, 1920
PARAGUAY	Jan. 10, 1920	SPAIN ¹	Jan. 10, 1920
PERSIA	Jan. 10, 1920	SWEDEN	March 9, 1920
PERU	Jan. 10, 1920	SWITZERLAND	March 8, 1920
POLAND	Jan. 10, 1920	URUGUAY	Jan. 10, 1920
PORTUGAL	April 8, 1920	VENEZUELA	March 3, 1920
RUMANIA	Sept. 14, 1920	YUGOSLAVIA ²	Feb. 10, 1920
SALVADOR	March 10, 1920		

Argentina's participation in the League has been an executive matter. Approval of the Covenant by the Congress had not taken place when the Government sent a delegation to the First Assembly. After several years' absence, the Government paid its back financial quota and participated generally in the work of the League until 1929, when a new period of quiescence set in.

Costa Rica was admitted to the League by vote of the Assembly on December 16, 1920. Its financial quotas were in arrears in 1924, when the Fifth Assembly passed a resolution inviting the Secretary-General to make "further urgent representations to Costa Rica." On December 24, 1924, Costa Rica paid all contributions due and announced an intention to withdraw, effective December 31, 1926. On March 9, 1928, the Council authorized its acting president to invite Costa Rica to reverse its decision. On July 19, 1928, the Costa Rican Government replied responsively. However, it stated that "under Art. 21 of the Covenant, the international legal scope of the Monroe doctrine was extended." It desired, before acting on the invitation, "to know the interpretation placed by the League of Nations on the Monroe doctrine and the scope

¹ Responsive to an invitation of the Council of March 9, 1928, the Spanish Government on March 22, 1928, decided not to withdraw from the League in accordance with its notice of September 11, 1926 (*Official Journal*, VII, p. 1528). The Government in the note announcing its decision said: "We leave it to the Assembly to decide the form which Spain's cooperation should take and the position due to her in order that her rôle may be effectual and valuable and in consonance with her special situation as a great Power, which was neutral during the last war, and with her great past, as the creator of nations and civilizations." (*Official Journal*, IX, p. 603.)

² The name of the Kingdom of the Serbs, Croats and Slovenes was changed to Yugoslavia by royal decree of October 3, 1929.

given to that doctrine when it was included in Art. 21 of the Covenant." The Council in reply on September 1 cited Art. 20, by which the Members of the League agree to abrogate all understandings between themselves which are inconsistent with the terms of the Covenant. The reference to the Monroe doctrine cited in Art. 21 "neither weakens nor limits any of the safeguards provided in the Covenant," and it can not have the effect of giving them a "sanction or validity" not previously possessed. It "confines itself to referring to these engagements, such as they may exist, without attempting to define them," for definition would be "liable to have the effect of restricting or enlarging their sphere of application." On September 6, the Costa Rican Government telegraphed that the Council of Ministers had decided to submit the invitation to resume Membership of the League "to the constitutional congress, requesting it to vote the necessary funds for the payment of the contribution involved."

Germany in 1919 requested admission to the League, which was refused by the Allied and Associated Governments which were then in *de facto* control.¹ "The political situation as it developed after the coming into force of the treaty of Versailles" prevented Germany from making a further proposal. The situation was changed by the London conference on reparation in August, 1924. A German council of ministers on September 23, 1924, unanimously decided to seek an early entrance into the League. On September 29, Germany addressed to the Government of each Member of the Council a memorandum in which it requested to know its attitude respecting a German application for membership. This memorandum emphasized:²

1. "Germany must possess the certainty that immediately upon her admission she will obtain a permanent seat on the Council;"

2. "So long as the present inequality in armaments continues to exist, Germany — unlike other Members of the League — will

¹ For correspondence exchanged at that time see Sen. Doc. 149, 66th Cong. 1st sess., p. 14-30.

² *Official Journal*, VI, p. 325-326.

not be in a position to take part in any coercive measures which may be undertaken by virtue of Art. 16;"

3. "The German Government is prepared to confirm by a formal declaration its sincere intentions to observe its international obligations;"

4. Germany expects that in due time she "will be given an active share in the working of the mandate system."

Full approval having been given to the German decision in the replies from the states represented on the Council, Germany formally brought the matter to the attention of the Council in a note of December 12, 1924.¹ On March 14, 1925,² the Council replied. Respecting Council membership, the Council noted that all Governments were "in complete agreement." With regard to the condition respecting Art. 16, the Council pointed out that "it would be for Germany itself to say to what extent she was in a position to reply to the recommendations of the Council," in which she "would always have a voice in deciding the application of the principles of the Covenant."

The German Reichstag on November 30, 1925, authorized the Government "to take the steps necessary for the entrance of Germany into the League of Nations." This authorization was incorporated into the law approving the Locarno treaties. On February 8, 1926,³ Germany formally applied for admission to the League. Attached to the application was a copy of the joint note of the Locarno states respecting Art. 16 of the Covenant. In this note, Germany was informed that the obligations on Members of the League "must be understood to mean that each state Member of the League is bound to cooperate loyally and effectively in support of the Covenant and in resistance to any active aggression to an extent that is compatible with its military situation and takes its geographical position into account."

Following receipt of the German application, the Council

¹ *Official Journal*, VI, p. 323. The German memorandum is appended.

² *Ibid.*, p. 490.

³ *Records of the Special Assembly*, p. 45.

convened an extraordinary session of the Assembly for March 8, 1926. The Assembly was informed¹ that the question of the status of the military, naval and air forces of Germany was regulated by the treaty of Versailles of June 28, 1919, and did not require to be examined, and that the Secretariat had been advised by the Conference of Ambassadors that to the best of its knowledge, Germany was giving effective guaranties of her sincere intention to discharge her obligations under that treaty and the instruments connected therewith. The First Committee accordingly submitted to the Assembly a unanimous report in favor of Germany's admission to the League.

At its closing meeting on March 17, the Assembly was officially notified of difficulties which had arisen in the Council with regard to the granting of a permanent seat to Germany.

The difficulties were in no wise due to Germany, which it had always been contemplated was to become a permanent member of the Council on its admission. They were due to claims preferred for representation on the Council by Brazil brought forward as a condition of accepting Germany as a permanent Council member. Since the Council was thus unable to agree unanimously upon admitting Germany alone as a permanent member of the Council and she was unwilling to be admitted to the League without that condition, the proceedings took the form of explanations,² closing with a resolution intended to prepare for the dissolution of the *impasse*.³

The unanimous report in favor of Germany's admission made by the First Committee of the Special Assembly was submitted to the Seventh Assembly in September, 1926. A vote was taken by roll-call, as a result of which the admission of Germany into the League of Nations was unanimously approved on September 8, 1926, by the 48 states participating in the vote.⁴ On September 10, the

¹ For full text and accompanying documents, see *Records of the Special Assembly, Official Journal, Spec. Sup. No. 42, p. 46.*

² *Records of the Special Assembly, p. 25, 29 for the Brazilian statement.*

³ *Ibid., p. 32.*

⁴ *Records of the Seventh Assembly, Plenary Meetings, p. 31.*

German delegation took its seat in the Assembly. After the president, M. Ninchich, had welcomed them, M. Stresemann, the head of the delegation and German minister of foreign affairs, made a speech which was replied to by the first French delegate, M. Briand.¹ These speeches were remarkable both for their eloquence and friendly tone and made a deep impression as the beginning of a real Franco-German policy of cooperation.

DELEGATES TO THE LEAGUE OF NATIONS

The existence of the League of Nations results in an almost continuous series of conferences and committee meetings at which Member and even non-Member states find it advantageous to have representatives. As a consequence, many states, especially those geographically distant from Geneva, have found it beneficial for the conduct of their international relations to make regular provision for representation at Geneva.

The following states have permanent representatives accredited to the League of Nations, resident either at Geneva or a nearby capital:

ABYSSINIA	FINLAND	NICARAGUA
ALBANIA	GERMANY	NORWAY
AUSTRALIA	GREECE	PARAGUAY
AUSTRIA	GUATEMALA	PERSIA
BULGARIA	HUNGARY	PERU
CANADA	INDIA	POLAND
CHILE	IRISH FREE STATE	PORTUGAL
COLOMBIA	JAPAN	RUMANIA
CUBA	LATVIA	SIAM
CZECHOSLOVAKIA	LIBERIA	SWEDEN
DENMARK	LITHUANIA	VENEZUELA
DOMINICAN REPUBLIC	NETHERLANDS	YUGOSLAVIA

With respect to the United States:² "The correspondence with the League is carried on by the American legation at Bern. Information on the activities of the League in which this Government is not directly represented is obtained through the consulate in Geneva."

¹ *Records of the Seventh Assembly, Plenary Meetings*, p. 51.

² Frank B. Kellogg, *Foreign Relations*, p. 13 (Republican National Committee, Bulletin No. 5, 1928).

Many states Members have reorganized their foreign offices so as to provide for a League of Nations section in the ministry with the special duty of conducting necessary business with Geneva. Those with such sections or officials are:

AUSTRIA	GERMANY	PERSIA
BELGIUM	GREAT BRITAIN	PERU
CUBA	ITALY	SALVADOR
CZECHOSLOVAKIA	JAPAN	SPAIN
DENMARK	LATVIA	SWEDEN
ESTONIA	LITHUANIA	SWITZERLAND
FINLAND	LUXEMBURG	URUGUAY
FRANCE	NETHERLANDS	VENEZUELA

STATES NOT MEMBERS — 11

The states listed below would seem to be eligible for admission to the League of Nations according to the customary concepts of international law.

AFGHANISTAN	EGYPT	UNION OF SOCIALIST
BRAZIL	MEXICO	SOVIET REPUBLICS
COSTA RICA	NEJD, SULTANATE OF	UNITED STATES
ECUADOR	TURKEY	YEMEN

All these states participate in specific conferences or committees of the League and frequently respond to invitations¹ to accede to its international conventions.

There are sundry territorial entities which do not exercise normal international attributes by reason of their size, paucity of international relations or relationship with other states. Liechtenstein, Monaco and San Marino applied for admission to membership in 1920. The Second Assembly adopted a report from its First Committee that definite conditions should not be laid down in connection with small states until further experience was gained.² These three, Andorra, the Free City of Danzig, Iceland — in special relations with Denmark — and the Sudan have been invited to accede to conventions.

¹ For typical invitation see *Official Journal*, VI, p. 469.

² *Records of Second Assembly, Plenary Meetings*, p. 829.

2. Organs

"Action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat" (*Covenant*, Art. 2).

THE ASSEMBLY¹

Organization. "The Assembly shall consist of representatives of the Members of the League." It meets annually at Geneva in the early days of September.² It "may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world. At meetings of the Assembly each Member of the League shall have one vote, and may have not more than three Representatives" (*Covenant*, Art. 3).

A report adopted by the First Assembly on December 7, 1920, stated that "it is impossible to consider the Assembly as a chamber of deputies" or as invested "with the legislative power."³ It is best thought of as a gathering of plenary state delegates. "Under the Covenant, representatives sitting on the . . . Assembly render their decisions as the representatives of their respective states, and in rendering such decisions they have no standing except as such representatives."⁴

Functions. The Assembly has certain duties peculiar to it under the Covenant. Among these are:

Admission of new Member states, of which 14 have been favorably acted upon by a two-thirds vote.

Election of nonpermanent Member states represented on the Council, an annually recurring duty. The elections take place by secret ballot and by majority vote.

¹ A list of sessions, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 233 (Boston, World Peace Foundation, 1930).

² The Rules of Procedure prescribe the first Monday in September, but the Tenth Assembly of September 23, 1929, adopted a resolution under which the Eleventh Assembly will open Wednesday, September 10, 1930. It was then indicated that there was a desire to change the regular opening date to that day.

³ *Records of the First Assembly, Plenary Meetings*, p. 318.

⁴ *Ibid.*, p. 320.

Approval of additional Members represented on the Council. One permanent additional Member of the Council was approved in 1926. Two additional non-permanent Members of the Council were approved by the Assembly of 1923 and three in 1926.

Approval of the Council's nomination of a Secretary-General, a duty not yet exercised.

Joint election with the Council of judges of the Permanent Court of International Justice. The first full election was in 1921; one judge was elected in 1923, one in 1928 and two in 1929. The full bench will be chosen in 1930.

The agenda of an Assembly always includes:¹

"A report on the work of the Council since the last session of the Assembly, on the work of the Secretariat, and on the measures taken to execute the decisions of the Assembly," on which there is extended debate;

"Items . . . ordered . . . by the Assembly at a previous session, items proposed by the Council and items proposed by any Member of the League;

"The budget for the next fiscal period and the report on the accounts of the last fiscal period."

Some questions "require the concurrence and action of the Governments concerned in the form of international conventions." On these it can not engage "the responsibility of the Governments represented at the Assembly, which is external to the Assembly," and its action takes "the form of a recommendation or invitation leading up to agreement between the Governments."² Thus the Assembly negotiated and referred to Governments for signature and ratification the Protocol of Signature covering the Statute of the Permanent Court of International Justice (1920), Rules for establishing Conciliation Commissions (1922), Protocol on Arbitration Clauses in Commercial Matters (1923), Protocol for Pacific Settlement of International Disputes (1924), Slavery Convention (1926), Convention on Execution of Arbitral Awards (1927), Model Conventions and General Act on Pacific Settlement of

¹ *Rules of Procedure of the Assembly* (C. 356 (1). M. 158 (1). 1923. V), Rule 4.

² *Records of the First Assembly, Plenary Meetings*, p. 328.

International Disputes, Mutual Assistance and Nonaggression (1928), Protocol concerning Revision of the Statute of the Permanent Court of International Justice and Protocol concerning Accession of the United States (1929). So far as such documents are signed at Geneva by delegates to the Assembly, the delegates act by virtue of credentials issued by their Governments for that specific purpose.

Procedure. A session of the Assembly is opened by the current president of the Council, after whose address a president is elected. Six vice-presidents are elected; the chairmen of the six main committees also ranking as vice-presidents.

The work is distributed among six committees consisting of one representative of each Member state. Since the Third Assembly these have been:¹

- No. 1. Legal and Constitutional Questions;
- No. 2. Technical Organizations of the League;
- No. 3. Reduction of Armaments;
- No. 4. Budget and Financial Questions;
- No. 5. Social and General Questions;
- No. 6. Political Questions.

Each Assembly appoints three other committees. The Credentials Committee passes upon the membership of the Assembly. The Agenda Committee decides on the disposition of proposals made in the course of the session. As this duty is a delicate one, great care is taken to have on the committee representatives of states which will fully reflect the general opinion of the Assembly. The General Committee consisting of the president, vice-presidents and the chairman of the Agenda Committee, manages the Assembly, determining the time and business of plenary meetings, etc.

¹ The Assembly has also had committees dealing with:
General organization (First Assembly);
Secretariat (First Assembly);
Permanent Court of International Justice (First Assembly);
Admission of new members (First Assembly);
Economic weapon or blockade (First and Second Assemblies);
Mandates (First Assembly).

These questions are now handled by the committees above.

The debate on the *Report on the Work of the Council* lasts from six to ten plenary sessions with from 20 to 30 Member states represented among the speakers. The debate is not only a review of work but a forum in which world events are discussed, affording an opportunity to appraise recent action and to develop new activities.

The six main committees examine all matters of the agenda, frequently assuming the character of international conferences by the production of declarations of policy or agreements for formal acceptance by the Member states.

The results of the committee deliberations are brought before the plenary meetings in reports, the conclusions of which are adopted as resolutions¹ by unanimous vote. The Assembly as the organ in which all Member states are actively represented is well adapted to map out the program of the coming year and to give indications to the Council and Secretariat on what matters the Members desire results to be sought.

THE COUNCIL²

Organization. The Council consists of one representative each of

1. *Permanent Members:* The British Empire, France, Germany (since 1926), Italy, Japan (and the United States, if it elects to sit), all "deemed to be directly affected by all matters within the sphere of action of the League."³

2. *Nonpermanent Members:* Nine since 1926, six from 1923 to 1926,⁴ originally four from 1920 to 1922, being states selected by the Assembly as representative of countries of limited interests.

¹ A "recommendation" is so defined because of the character of the decision embodied in it rather than of any fundamental difference in its effect.

² A list of sessions, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 234 (Boston, World Peace Foundation, 1930).

³ Art. 3 of draft Covenant, Annex 1 to Minutes of the first session of the Commission on the League of Nations, David Hunter Miller, *The Drafting of the Covenant*, II, p. 232.

⁴ *Official Journal*, III, p. 1197, 1198, 1415.

3. *Temporary Members*: "Any Member of the League not represented on the Council shall be invited to send a representative to sit as a Member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League" (*Covenant*, Art. 4, par. 5).

The Council acts on behalf of the Members of the League as a whole, not solely on behalf of those whose representatives compose it.

"It is impossible to consider . . . the Council as an upper chamber" or "as invested with the executive" power.¹

"Under the Covenant representatives sitting on the Council . . . render their decisions as the representatives of their respective states and in rendering such decisions they have no standing except as such representatives."²

Functions. "The Council may deal . . . with any matter within the sphere of action of the League or affecting the peace of the world" (*Covenant*, Art. 4, par. 4).

The Council has certain powers and duties peculiar to it under the Covenant. Among these are:

Naming, with the approval of the majority of the Assembly, of "additional Members of the League whose representatives shall always be members of the Council," a right which was exercised in 1926 with respect to Germany.

The increase, with the approval of the majority of the Assembly, "of the number of Members of the League to be selected by the Assembly for representation on the Council." This right was exercised in 1922 when the nonpermanent Members of the Council were increased from four to six and in 1926 from six to nine.

Approval of appointments made by the Secretary-General.

It shall formulate plans for the reduction of armament and must give its consent to armament exceeding those limitations.

It shall advise as to the evil effects attendant upon the manufacture of arms by private enterprise.

¹ *Records of the First Assembly, Plenary Meetings*, p. 318.

² *Resolutions adopted by the First Assembly, 1920*, p. 10.

It shall advise in case of aggression.

It may act as a council of mediation (Art. 11, par. 2) or of conciliation (inquiry) (Arts. 15, 17).

It must make recommendations to the Governments as to contributions to armed forces to be used to protect the covenants of the League.

Its consent is required for the cooperation of the Secretariat with international bureaus and commissions.

It appoints committees and commissioners, with the exception of the Permanent Military, Naval and Air Commission and the Technical and Advisory Committee on Communications in Transit. The former is made up of Government representatives and the composition of the latter is determined by the General Conference on Communications and Transit.

It receives reports from committees and commissioners and gives their conclusions effect by adopting them as resolutions.

It supervises the "sacred trust of civilization" embodied in the system of mandated territories.

It prepares a draft budget for submission to the Assembly.

Among the wide variety of duties "affecting the peace of the world" falling to the Council under treaties are:

Joint election (with the Assembly) of judges of the Permanent Court of International Justice.

The protection of racial, religious and linguistic minorities.

The Saar Basin administration.

Control of armament in Germany, Austria, Bulgaria, Hungary.

The Straits Commission annual reports.

Disputes referred to it under many treaties.

Procedure. The Council held 57 sessions from 1920 to 1930 and handled 2,547 items of business. The agenda is prepared by the Secretariat from recommendations of Member states.

The president of the Council is the representative of a Member whose turn has arrived in rotation according to the alphabetical order of the states represented. He acts until the succeeding session.

Meetings are invariably public, the only regular exception being for the discussion of appointments. Full proceedings are published.

Decisions are unanimous, usually without a record vote. All matters of procedure, which include decisions taken in virtue of the Rules of Procedure, are determined by majority vote of the Members of the League represented and voting at the meeting.¹

Representatives of Members of the League attend sessions with full powers authorizing them to bind their Governments in case a decision takes the form of an international instrument.

The Council on August 31, 1923, decided that it should hold regular meetings on the Monday immediately preceding December 10, March 10 and June 10 and that the fourth session should begin three days before the meeting of the Assembly. Since 1926 the August-September meeting has split into two, the Council reorganizing after the election of the nonpermanent Members by the Assembly. In March, 1927, the British representative raised the question of reducing the annual number of sessions from five to four to facilitate the attendance of foreign ministers as representatives. On September 6, 1929, the Council decided the question, fixing the times as the third Monday in January, the second Monday in May and three days before the meeting of the Assembly.²

Rapporteurs. The rules of procedure provide that questions should be examined and reported upon by the representatives of Members neutral to the subject matter. On February 2, 1923, the experience of the previous three years was consolidated into a list of subjects and rapporteurs. With a change in the composition of the Council in 1926, annual revision, in view of the changes in states represented on the Council, has since been required. On September 19, 1929, the following list of rapporteurs for 1929-30 was approved at the 57th session of the Council:

¹ *Rules of Procedure of the Council*, May 17, 1920, *Official Journal* I, p. 272.

² *Official Journal*, VIII, p. 819, 743; IX, p. 141, 173; X, p. 1463.

1. Financial Questions	Canada
2. Economic Questions	Germany
3. Transit Committee	Poland
4. Health	Cuba
5. International Law	Italy
6. Finances of the League of Nations	Cuba
7. International Bureaux	Venezuela
8. Mandates	Finland
9. Minorities	Japan
10. Armaments	Spain
11. Saar	Italy
12. Danzig	Great Britain
13. Intellectual Cooperation	France
14. Opium	Yugoslavia
15. Traffic in Women and Children	Persia
16. Humanitarian Questions	Peru
17. Child Welfare	Yugoslavia
18. Refugees Questions	Venezuela

Nonpermanent Members. The term of office of the Council with respect to nonpermanent Members was fixed by Assembly resolution of December 11, 1920, as running from January 1. Rules adopted by the Assembly on September 15, 1926, provide that nonpermanent Members shall take office immediately on election in September. The year of the Council, from 1920 to 1926 therefore, was on the calendar; periods since then have been: September 16, 1926–September 15, 1927; September 15, 1927–September 10, 1928; September 10, 1928–September 6, 1929; September 6, 1929–September, 1930.

The states which have served are as follows, the asterisk indicating the nine current members:

BELGIUM (1920–27)	*PERSIA (1928–31)
BRAZIL (1920–26)	*PERU (1929–32)
*CANADA (1927–30)	*POLAND (1926–32) ¹
*CHILE (1926–29)	ROMANIA (1926–29)
CHINA (1921–23, 1926–28)	SALVADOR (1926–27)
COLOMBIA (1926–28)	*SPAIN (1920–26, 1928–31) ¹
*CUBA (1927–30)	SWEDEN (1923–26)
CZECHOSLOVAKIA (1924–27)	URUGUAY (1923–26)
*FINLAND (1927–30)	*VENEZUELA (1928–31)
GREECE (1920)	YUGOSLAVIA (1929–32)
NETHERLANDS (1926–28)	

¹ Also eligible for further terms of these years.

The first four nonpermanent Members of the Council were designated in the Covenant. They were intended to be one less than the permanent Members, but the Council's need for disinterested rapporteurs, the amount of work, and the desire of Member states to participate caused an increase to six in 1922. At the Council meeting, in March, 1926, held simultaneously with the Special Assembly, and in that Assembly, the claims of Brazil and Spain to permanent Council seats along with Germany — obviously a state with "general interests" — led to a re-examination of the whole problem of selecting nonpermanent Members of the Council adequately representative of the entire League membership.

In 1920 doubt had been expressed in the First Assembly as to its competence under the Covenant to decide that problem in a fundamental manner. The doubt was corrected by an amendment to Art. 4, par. 2, of the Covenant. Pending its sufficient ratification the problem lay in abeyance. Spain, wishing to retain a nonpermanent seat, had not signed the protocol of amendment, so that the amendment could not become effective. The sharp attention drawn to this condition by the failure of the Special Assembly to accomplish the admission of Germany, concentrated attention upon establishing membership in the Council on a firm basis. A Committee on the Composition of the Council of 15 representatives of Member states was appointed by the Council on March 18, 1926.¹ The pressure of general opinion led Spain to ratify the amendment, which entered into force on July 29, 1926.² The committee in its later studies and the Seventh Assembly were therefore able to consider the problem under the following stipulations of the Covenant:

Art. 4. 2. With the approval of the majority of the Assembly, the Council may name additional Members of the League whose Representatives shall always be members of the Council; the Council with like approval may increase the number of Members of the League to be selected by the Assembly for representation on the Council.

¹ *Official Journal*, VII, p. 533.

² *Ibid.*, p. 670.

2 *bis*. The Assembly shall fix by a two-thirds majority the rules dealing with the election of the nonpermanent members of the Council, and particularly such regulations as relate to their term of office and the conditions of reeligibility.

The problem which the Assembly was now free to solve was very complicated. The Assemblies of 1922-25 had reiterated that it was desirable for the Assembly to choose nonpermanent Members of the Council "with due consideration for the main geographical divisions of the world, the great ethnical groups, the different religious traditions, the various types of civilization and the chief sources of wealth." The Sixth Assembly had declared for "application of the principal of rotation." Brazil, China, Poland, Spain and perhaps other states had developed at the Special Assembly ambitions to be permanent Members. They raised the thorny question of how many states can in fact legitimately claim that all matters coming before the Council directly or specially affect their interests. In addition, the number of Council Members had to be limited to preserve its essential character as a body taking decisions. A permanent place was reserved for the United States under the Covenant and another was earmarked for the Soviet Union.

The Committee on the Composition of the Council sought the answer to the problem. It ended its second session September 3, 1926, and the next day the Council approved its report and passed a resolution to carry out its provisions so far as that body was concerned, by appointing Germany a permanent Member and increasing to nine the nonpermanent members. The Assembly submitted the report to some revision in its First Committee and on September 15 adopted its conclusions as a set of rules. The essentials of these read:¹

Article I. The Assembly shall each year, in the course of its ordinary session, elect three nonpermanent members of the Council. They shall be elected for a term commencing immediately on

¹ *Resolutions and Recommendations of the Assembly . . . 1926 (Official Journal, Spec. Sup. No. 43) p. 9-10.*

their election and ending on the day of the elections held three years later by the Assembly. . . .

Art. II. A retiring member may not be reelected during the period between the expiration of its term of office and the third election in ordinary session held thereafter unless the Assembly, either on the expiration of the member's term of office or in the course of the said period of three years, shall, by a majority of two-thirds of the votes cast, previously have decided that such member is reeligible.¹ . . .

The Assembly may not decide upon the reeligibility of a member except upon a request in writing made by the member itself.

. . .
The number of members reelected in consequence of having been previously declared reeligible shall be restricted so as to prevent the Council from containing at the same time more than three members thus elected. . . .

Art. III. Notwithstanding the above provisions, the Assembly may at any time by a two-thirds majority decide to proceed, in application of Art. 4 of the Covenant, to a new election of all the nonpermanent members of the Council. In this case the Assembly shall determine the rules applicable to the new election.

Temporary Members. By Art. 4, par. 5, of the Covenant any Member of the League not represented on the Council is entitled to representation as a Member during consideration of matters specially affecting its interests. The same principle is applied to non-Members of the League. Organizations both of League and non-League origin have official representatives at sessions dealing with matters concerning them and participate in the proceedings. By virtue of these practices the participation of non-Council Members may equal in number that of Council Members. In 15 sessions in 1925-27 a total of 120 states and 58 committees participated. A state's representative so attending sits and votes as a Member. The extra-Council attendance at the 37th session in December, 1925, for instance was:

Albania, Austria, Bulgaria, Danzig, Denmark, Greece,

¹ Poland was voted reeligible in 1926 and Spain, by special extension of the right to apply, in 1928. Belgium was denied reeligibility in 1927 and China in 1928. Poland was elected for a second consecutive term in 1929.

Hungary, Netherlands, Persia, Poland, Rumania, Serb-Croat-Slovene State and Turkey. The Commission of Inquiry on Bulgaro-Greek Affairs, the Assistant High Commissioner for Hungary, the Commissioner-General for Austria, the Committee of Control of the Austrian Loan, the Permanent Mandates Commission, the High Commissioner for Danzig, the Commissioner on the Iraqi-Turkish Frontier and the Mixed Commission on the Greco-Turkish Exchange of Populations were also represented or present.

THE SECRETARIAT

Functions. "The permanent Secretariat shall be established at the Seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required" (*Covenant*, Art. 6).

"All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

"Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.

"The buildings and other property occupied by the League or its officials or by representatives attending its meetings shall be inviolable" (*Covenant*, Art. 7).

"The members of the Secretariat act, during their period of office, in an international capacity, and are not in any way representatives of their own country."¹

By Art. 18 of the Covenant the Secretariat shall publish as soon as possible every treaty or international engagement registered with it.

The Secretary-General appoints the personnel with the approval of the Council. He acts as secretary-general at all meetings of the Assembly and Council.

The Secretary-General shall summon a meeting of the Council under Art. 11, par. 1, of the Covenant.

Organization. The Secretariat comprises the Secretary-General, Sir Eric Drummond, and about 475 men and

¹ Memorandum of Secretary-General to Fifth Session of the Council, May 19, 1920, *Procès-verbal of the 5th Session*, p. 219.

women of some 40 nationalities. Appointments are made by the Secretary-General, with the approval of the Council. However, the Secretary-General has established Staff Regulations which in large measure control nominations for appointment.

The Secretariat includes a Deputy Secretary-General (French) and three Under Secretaries-General (German, Italian and Japanese), who have charge respectively of Internal Administration and, as directors, of the Section of International Bureaus and Intellectual Cooperation, and of the Political Section. Included in the General Organization are the Information Section and its Liaison Offices in London, Paris, Rome, Tokyo and Berlin, and correspondents in China and elsewhere; the Legal Section (which acts as counsel to all League organs and deals with all matters concerning the registration of treaties), and the Treasurer's Office.

The Special Organizations of the League are served by the following Sections of the Secretariat: Administrative Commissions and Minorities Questions, Economic and Financial, Mandates, Transit, Health, Social Questions and Opium Traffic, Disarmament, Intellectual Cooperation.

The Internal Administrative Services comprise the Personnel Office, Précis-Writing Department, Printing and Publications Department, Drafting Committee, Interpreters and Translators, Library, Registry and Indexing of Publications Service, Internal Control Office. The Central Services are the Internal Services and Establishment Office, Contracts and Supplies Branch, Stenographers' Branch, Distribution of Documents, Miscellaneous Services and House Staff.

The complete Staff List was published annually in No. 1 of the *Official Journal* until it was decided in 1928 to print it each year in No. 11 or 10 with the Budget adopted by the Assembly in the previous September.

The Eighth Assembly on September 26, 1927, adopted a statute establishing, until the Assembly of 1931, an administrative tribunal in order to provide a forum for disputes arising from staff contracts, and particularly to

remove that administrative detail from the shoulders of the chiefs of League organizations. The tribunal consists of three judges and three deputy-judges, all of different nationalities, and their judgments, which are final and without appeal, are to be taken by a majority vote, with the reasons therefor stated. The tribunal is competent for any disputes concerning compensation under the Staff Regulations. The tribunal was organized as of January 1, 1928.¹

Character. Some permanent appointments to the original Secretariat were for seven years under contract and expired with the year 1926 or early in 1927. The Council on May 19, 1920, approved the provisional appointments of the Secretary-General made under the authority of the Organization Committee for a period of five years.² Re-appointments may be made.

A Committee of Experts was appointed to study the many problems connected with the Secretariat in accordance with an Assembly resolution of December 17, 1920. A report based on its studies was adopted by the Assembly on October 1, 1921,³ in which definite rules of tenure were laid down. On this basis the higher officials through the directors of sections hold office for a maximum period of seven years, reappointments being in the nature of exceptions to the rule.

Members of sections and officers of equivalent grade receive permanent appointments divided into Classes A and B, the requirements being "high educational qualifications and . . . very considerable capacity and qualities of initiative and resource." Permanent service is for a period of 21 years, with an age limit of 55. The 21 years consists of three periods of seven years each. The subordinate staff (Class C), shorthand typists, etc., have a tenure of 28 years, divided into four periods. Staff of lower grade has no fixed tenure. Promotion occurs throughout the whole Secretariat.

At the Ninth Assembly there was expressed the fear that

¹ *Official Journal*, IX, p. 172.

² *Proceedings of the Fifth Session*, p. 37, 237.

³ *Records of the Second Assembly, Plenary Meetings*, p. 594, 600.

the Secretariat was undergoing a change for the worse and that the principles laid down in the Balfour memorandum of May 19, 1920,¹ were not being fully realized. Certain states were not yet "represented" in the Secretariat; nationals of a certain group filled too large a number of posts; there was a growing tendency for the higher officials to be members of the diplomatic service of their respective countries, and certain states laid a permanent claim to high posts. The matter was debated in the Fourth Committee. The Assembly adopted a resolution indorsing the principles concerning the staff of the Secretariat contained in the report adopted by the Council on May 19, 1920. "In the words of this report, the Secretary General, in making appointments to posts on the Secretariat, 'had primarily to secure the best available men and women for the particular duties which had to be performed. But in doing so, it was necessary to have regard to the great importance of selecting officials from various nations. Evidently no one nation or group of nations ought to have a monopoly in providing the material for this international institution.' Lord Balfour emphasized the word 'international' because the members of the Secretariat, once appointed are no longer the servants of the country of which they are citizens, but become for the time being servants only of the League of Nations. Their duties are not national, but international."²

The Tenth Assembly considered the subject in the light of a report which had previously been studied by the Supervisory Commission and which dealt with modifications of the Staff Regulations of the Secretariat, the International Labor Office and the Registry of the Permanent Court of International Justice. The Assembly appointed a Committee of Inquiry of 13 members "to examine what steps could be taken to insure, in the future as in the past, the best possible administrative results." Its report will be considered by the Eleventh Assembly.

¹ *Official Journal*, I, p. 136.

² *Resolutions and Recommendations adopted by the Assembly . . . 1928*, p. 62.

3. Finances of the League

Allocation. "The expenses of the League shall be borne by the Members of the League in the proportion decided by the Assembly" (*Covenant*, Art. 6, par. 5).

The above provision is an amendment to the *Covenant* which went into force on August 13, 1924. The original provision apportioned the expenses on the basis of a scheme adopted for the Universal Postal Union, under which the first three budgets were allocated, with subsequent modifications.

The First Assembly recommended to the Council "the immediate appointment of a special committee . . . to investigate the question of the allocation of the expenditure of the League, with a view to an equitable scheme of allocation being devised."¹ The committee on allocation of expenses was first appointed on December 14, 1920. It was not until 1925 that the committee completed its work and a scheme was voted by the Sixth Assembly for the years 1926, 1927 and 1928. This was reexamined in 1928 and its revision postponed to a time when it is hoped fully stabilized conditions will prevail. The Ninth Assembly continued the 1926-28 scheme of allocation for the years 1929, 1930, 1931, and 1932. The report of the Fourth Committee to the Sixth Assembly presented a plan based on postwar data which overcame many difficulties in weighing fiscal ability of Members.² Revision of the scale is being done by the Committee on Allocation of Expenses³ on the basis of the budget estimates of the states Members of the League for 1930 (1930-31) and the closed accounts for each financial period.

¹ *Resolutions adopted by the Assembly, 1920*, p. 27; see also *Records of the First Assembly. Records of Committees*, II, p. 125.

² *Records of the Sixth Assembly, Plenary Meetings*, p. 420.

³ Term of office renewed until 1932 by resolution of the Council of December 11, 1928 (*Official Journal*, X, p. 20).

A list of meetings of the committee, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 304 (Boston, World Peace Foundation, 1930).

SCALE OF ALLOCATION OF THE EXPENSES OF THE LEAGUE FOR 1929-32

Country	Units	Country	Units
Abyssinia	2	Italy	60
Albania	1	Japan	60
Argentine	29	Latvia	3
Australia	27	Liberia	1
Austria	8	Lithuania	4
Belgium	18	Luxemburg	1
Bolivia	4	Netherlands	23
Bulgaria	5	New Zealand	10
Canada	35	Nicaragua	1
Chile	14	Norway	9
China	46	Panama	1
Colombia	6	Paraguay	1
[Costa Rica]	[1]	Persia	5
Cuba	9	Peru	9
Czechoslovakia	29	Poland	32
Denmark	12	Portugal	6
Dominican Republic	1	Rumania	22
Estonia	3	Salvador	1
Finland	10	Siam	9
France	79	Spain	40
Germany	79	South Africa (Union of)	15
Great Britain	105	Sweden	18
Greece	7	Switzerland	17
Guatemala	1	Uruguay	7
Haiti	1	Venezuela	5
Honduras	1	Yugoslavia	20
Hungary	8		
India	56		986
Irish Free State	10		

Budgets. The budget meets the expenses of the Assembly, the Council and the Secretariat; the International Labor Office, and the Permanent Court of International Justice since 1922. The total budgets have been:

Period	Amount	Unit
1. May 5, 1919-June 30, 1920	£291,078 15s. 10d = \$1,416,535	£648
2. April 1-Dec. 31, 1920	10,000,000 gold francs = \$1,930,000	20,920 gold francs (Swiss)
3. Jan. 1-Dec. 31, 1921	21,250,000 gold francs = \$4,101,250	\$9,385.01
4. Jan. 1-Dec. 31, 1922	20,873,945 gold francs = \$4,028,671	5,232.04

5. Jan. 1-Dec. 31, 1923	25,673,508 gold francs = \$4,954,987	\$5,248.93
6. Jan. 1-Dec. 31, 1924	23,233,635.7 gold francs = \$4,483,007.69	4,810.09
7. Jan. 1-Dec. 31, 1925	22,658,138 gold francs = \$4,371,963.49	4,675.90
8. Jan. 1-Dec. 31, 1926	22,930,633 gold francs = \$4,424,542.31	4,722.03
9. Jan. 1-Dec. 31, 1927	24,512,341 gold francs = \$4,729,738.17	4,659.84
10. Jan. 1-Dec. 31, 1928	25,333,817 gold francs = \$4,888,244.69	4,787.39
11. Jan. 1-Dec. 31, 1929	27,026,280 gold francs = \$5,214,811.09	5,288.86
12. Jan. 1-Dec. 31, 1930	28,210,248 gold francs = \$5,443,261.68	5,520.55

The budget for 1930 is divided as follows:

	Gold francs
I. Secretariat and Special Organizations	15,965,256
II. International Labor Organization	8,552,011
III. Permanent Court of International Justice	2,267,981
IV. Buildings at Geneva	1,425,000
Total	28,210,248

The total budgetary contributions up to December 31, 1925, exclusive of the Working Capital Fund, amounted to 116,232,938.29 gold francs. The allocation of actual expenditure, including payment for the Secretariat office and the International Labor Office building, up to the same date based on annual scales of apportionment was 97,872,077.76 francs. The amounts overpaid by the Member states reached a total of 22,837,481.83 francs, while amounts underpaid by Bolivia, China, Honduras, Liberia, Nicaragua, Peru and Salvador reached a total of 4,476,621.30 francs.¹ As a consequence of these circumstances the Supervisory Commission decided upon a readjustment in the 1927 budget so as to refund to Member states all surpluses which had accumulated up to December 31, 1925. Rules to govern refunds were laid down¹

¹ *Supervisory Commission. Report . . . on its 18th and 19th Sessions (1926. X. 8).*
p. 4-5.

and 1,400,000 francs (\$270,134.68) was assigned for deduction from the budget annually for 1927 and succeeding years until 1930 when the refund was 700,000 francs (\$135,067.34).

SUPERVISORY COMMISSION ¹

The First Assembly examined the financial arrangements previously made by the Secretariat with great care, and on December 17, 1920, voted that the Council should appoint "a small committee of experts to consider all factors connected with the organization, method of work, efficiency, number, salaries and allowances of the staff, and with the general expenditure of the whole organization,"² as well as with all other points necessary to enable the Assembly to form a fair judgment in respect thereto, both as regards the Secretariat and the International Labor Office." A committee of five began a preliminary investigation on April 18, 1921, and sat from April 26 to May 7, when it presented a report to the Council. This report was transmitted to the Second Assembly³ which on October 5, 1921,⁴ passed a recommendation that the committee be reappointed by the Council to continue its work. The Council on October 12, 1921, appointed the Commission of Control. The name was subsequently retranslated as the Supervisory Commission. The Ninth Assembly decided that the commission should thereafter be elected by the Assembly, thus emphasizing its control over the finances. The first election took place by the Assembly September 23, 1929.

United States Payments. The American legation in Bern was authorized on January 6, 1928, to pay to the Secretariat of the League a total of \$16,748.60 (the check was for 83,743 Swiss francs) as the American share of the

¹ A list of meetings of the commission, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 303 (Boston, World Peace Foundation, 1930).

² The "Regulations for the Financial Administration of the League of Nations" are printed in *Official Journal*, V, p. 78.

³ *Records of the Second Assembly. Meetings of its Committees*, II, p. 174.

⁴ *Ibid.*, *Plenary Meetings*, p. 595.

League Secretariat expenses in connection with certain conferences in which the United States participated. Of the total amount, \$5,475 was for the four sessions of the Preparatory Commission for the Disarmament Conference. The remainder met expenses for the Conference on Export and Import Prohibitions and Restrictions, and the Conference on Communications and Transit.

In December, 1929, a check for 12,415 gold francs (\$2,395.98) was paid to the Secretariat by the American legation at Bern. This was in payment for the United States share of the expenses of six League conferences in which it participated during 1928.

Previous payments of a similar character were made in the amount of \$2,900 in 1925 as a result of participation in the Second Opium Conference and of \$2,700 in connection with participation in the Conference on Traffic in Arms, also held in 1925.

The American payments are made on the initiative of the United States and constitute 10.65% of the League's budgetary items representing the specific cost of the conferences in which it has participated. No payment toward general overhead expenses was included. The percentage employed is the percentage of the entire League budget paid by Great Britain, that is, 105/986ths. In addition to these payments, the United States Government buys documents from the League to the amount of \$400 annually.

ASSEMBLY HALL¹

The Fifth Assembly requested the Council to appoint architects to draw up the conditions of a competition for plans for a new conference hall. The Secretariat is housed in the former Hotel National, situated in grounds of its own on the west side of Lac Léman. Additional property adjacent was added by gift from the Canton and City of Geneva, making a total site of 13,104 square meters (141,051 square feet). The only large building available

¹ A list of meetings of committees on this subject, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Filed on Public Sale, 1920-1929*, p. 314 (Boston, World Peace Foundation, 1930).

for the Assembly is the Hall of the Reformation across the lake, a mile or more away. The Assembly early considered it desirable to have the hall for its meetings more accessible to the Secretariat, where the Council holds its sessions and where all files and other records are kept.

In 1923 a resolution in favor of erecting a hall on the land given by the Canton and City of Geneva, adjacent to the Secretariat, was passed. The available site offered perhaps 5,000 square meters (50,382 square feet) for the purpose. The architects considered this site too small and another site was proposed farther up the west side of the lake between the Parc Mon Repos and the International Labor Office building. This consisted of four properties, one of which was not obtainable. Consequently, the Ninth Assembly concluded arrangements with the Genevan authorities to place the new buildings in Ariana Park, which abuts on the International Labor Office property on the lake front. The area acquired by the exchange is about 250,000 square meters.

In September, 1927, John D. Rockefeller, Jr., tendered, and the Council and Assembly accepted, \$2,000,000 for the construction and endowment of a League Library which would also provide full and adequate facilities for private research work.¹ The "Library Endowment Fund" was created by resolution of the Tenth Assembly, with \$500,000 of the gift as its original nucleus.

An international jury of architects for the selection of plans by competition for the new Assembly Hall was appointed by the Council in September, 1924. The competition closed on January 25, 1927. None of the prize-winning plans was deemed entirely suitable and a committee was appointed to adapt them. The change of site to Ariana Park necessitated still further adjustments in the plans.

The corner stone of the new buildings was laid on September 7, 1929, the Secretary General, the acting president of the Council, the president of the Assembly and the president of the Swiss Confederation delivering formal

¹ *Official Journal*, VIII, p. 1132.

speeches in the presence of an audience of 12,000 representing 53 Member states and other countries. A leaden casket containing a copy of the Covenant, specimens of the currency of all Member states, and a parchment document recording the nature of the ceremony, the purpose of the buildings and the names of all Member states was inclosed in the corner stone of the nations' "house of peace and international cooperation."

A Committee of Five working under the Council had brought the project to this initial stage. It still had to approve the full plans, the acoustic arrangements and the detailed estimates of cost. Construction continues, and the final decision on the reserved points will not be given until the Eleventh Assembly.¹ The budget amount available is 19,500,000 francs.

Member states are contributing toward the new Assembly Hall and Secretariat in the form of gifts of construction material or for external decoration, due by December, 1930; for interior decoration or furniture and works of art, due in 1931 and 1932.

4. Registration of Treaties

"Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered" (*Covenant*, Art. 18).

"Publicity has for a long time been considered as a source of moral strength in the administration of national law. It should equally strengthen the laws and engagements which exist *between nations*. It will promote public control. It will awaken public interest. It will remove causes for distrust and conflict. Publicity alone will enable the League of Nations to extend a moral sanction to the contractual obligations of its Members. It will, moreover,

¹ For description of the buildings, see *Official Journal*, X, p. 1258; for elevations of them, *ibid.*, p. 1304.

contribute to the formation of a clear and indisputable system of international law." (Memorandum approved by the Council, May 19, 1920.)¹

Registration. Certified, complete texts are communicated to the Secretariat by one or all parties to the engagement. Certificates of registration are delivered to the party registering the document.

A register, entitled "Registration of Treaties," an elephant folio series of volumes marked off in columns, is kept. In these volumes are inscribed the names of the parties to the engagement, its short title, date of signing, date of ratification, date of registration and registration number, determined chronologically by the order of presentation. In a supplementary register each treaty or engagement is assigned a separate page, on which are noted additional signatures, ratifications, adhesions, denunciations, etc., as well as records of negotiations, national legislation, and other details of the document's history.

Treaty Series. The obligation of publishing international engagements is met by the issuance of the *Treaty Series: Publication of Treaties and International Engagements Registered with the Secretariat of the League*.

The first treaty was filed for registration by Denmark, Norway and Sweden on July 5, 1920, and was registered the same day. The first issue of the *Treaty Series* was published in September, 1920, and contained nine treaties. Eighty-six volumes of over 400 pages each had been issued up to 1930. The first 1,000 treaties (Vols. I-XXXIX) are covered by a General Index and each additional 500 are given indexical treatment (Vols. XL-LXIII, Vols. LXIV-LXXXVIII). Maps and charts made parts of treaties by their terms were included in the volumes from 1929 when furnished by the contracting parties.

Texts are published in the languages of negotiation, and in French and English, if either of these official League languages were not used for the original texts.

The total registration, which does not include treaties

¹ *Treaty Series*, I, p. 9.

III. PROMOTION OF INTERNATIONAL COOPERATION

THE Assembly and Council are assisted in specific phases of League business by what are known as Technical Organizations. The fully developed technical organization devotes itself to a single field of international relations and consists of three parts: 1, A section of the Secretariat serving as an exploring, recording and secretarial body; 2, An advisory or technical committee composed of experts serving to give definite form to the material placed before the committee by Member states or the Secretariat; 3, Conferences of representatives of Member and other states convened on the advice of the committee and on invitation from the Council, resulting in international conventions submitted by signatory states to their appropriate internal organs for ratification.

The technical organizations are "established for the purpose of facilitating the task of the Assembly and the Council . . . on the one hand and on the other to assist Members of the League by establishing direct contact between their technical representatives in the various spheres, to fulfil their international duties. With this double object, they must keep enough independence and flexibility to make them effectively useful to the Members of the League, and yet they must remain under the control of the responsible organizations which conduct the general business of the League."

1. Economic and Financial Organization¹

On the invitation of the Secretary-General a conference on International Cooperation in Statistics was held in London, August 14-15, 1919, before the League was

¹ A list of meetings and conferences on the subject matter handled by this Organization, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 238 (Boston, World Peace Foundation, 1930).

formally in being. The Council at Rome in May, 1920, appointed a commission to advise it upon what steps should be taken. This commission met at Paris on October 10, 1920, and surveyed the field, which was then more or less dominated by the Supreme Economic Council, a development from the Supreme War Council which had been active during the World War. Eventually, in July, 1921, the League continued the publication of the *Monthly Bulletin of Statistics*, which otherwise would have ceased with the dissolution of the Supreme Economic Council in the previous May.

The first definite action of the League in this field was the convening of the Brussels International Financial Conference which sat from September 24 to October 8, 1920, and was attended by representatives of 39 states, including the United States. The conference produced a series of resolutions which were generally recognized as a fundamental statement of the financial problems involved in reconstruction.

The resolutions of the conference were forwarded to Member states by the Council, which, in accordance with them, on October 25, 1920, decided upon the creation of a financial and economic organization consisting of two sections of 10 members each to proceed separately with their technical work and to meet as a single committee whenever proposals of a general nature are to be laid before the Council, or at the request of either.¹ The First Assembly confirmed this action. The Provisional Economic and Financial Committee was appointed by the Council on November 14, 1920. It was continued provisionally through the calendar years 1922 and 1923 by the Council.² On September 10, 1923, the Council prolonged its term of office until further orders and the title became Economic and Financial Commission.³

¹ Council, *Minutes of the 10th Session*, p. 29 and 209.

² Council, *Minutes of the 14th Session*, p. 101; *Official Journal*, III, p. 1398.

³ *Official Journal*, IV, p. 1303.

THE ECONOMIC ORGANIZATION

The Economic and Financial Commission from 1920 to 1927 was divided into the Financial Committee and Economic Committee, each consisting of 10 members. It was the Economic Committee alone which was primarily concerned in preparation for the International Economic Conference. That conference expressed the opinion that its success would depend upon the execution of the principles laid down by it, and, with respect to appropriate organization, drew "the Council's attention to the well-balanced composition of the Preparatory Committee, which has yielded excellent results."

The Eighth Assembly dealt with the reorganization. Its resolution stated that much important and extensive work would result from the recommendations of the Economic Conference in addition to the economic tasks hitherto taken up by the League. It called attention to the essential desirability of the different interests and organizations which had collaborated in the preparation of the conference continuing to give their support and advice. It, therefore, concluded that the Economic Committee should continue as "the organ through which the Council deals with economic affairs" and that it should be constituted "so as to be best suited for its principal work which, in the near future at least, will lie within the sphere of the economic relations between states and their economic policies so far as they have international aspects." The resolution¹ envisaged three bodies, in addition to the Secretariat:

(a) The Economic Committee;

(b) "Temporary subcommittees of experts for preparatory work and, subject to Council approval and in consultation with the states in question, economic correspondents in countries which have no member on the committee;" and

(c) "A Consultative Committee the object of which is to follow the application of the Economic Conference recommendations."

¹ *Official Journal*, VIII, p. 1482.

The Economic Committee provided by the Council on September 27, 1927, consists of 15 members of different nationalities appointed in their personal capacity on the ground of their qualifications and holding office for three years. Retiring members become "corresponding members" unless succeeded by a member of the same nationality.

The Consultative Committee was established by the Council, December 9, 1927,¹ with a membership of about 60. The committee is modeled in make-up after the Preparatory Committee for the International Economic Conference and includes persons competent in industry, commerce, agriculture, finance, transport, labor questions, and questions relative to consumption. Three members from the International Chamber of Commerce are provided for.

WORLD ECONOMIC CONFERENCE

The Sixth Assembly, on the proposal of the French delegation, called for an international economic conference because it was "convinced that economic peace will largely contribute to security among nations" and was persuaded of the necessity of investigating difficulties affecting the revival of general prosperity.

The proposal was universally recognized as of fundamental importance and every effort was made to insure that no stone was left unturned to bring forth the soundest judgment, unaffected by political considerations of any kind. The first step was for the Council to appoint a Preparatory Committee composed of the experts best fitted by their qualifications and personal experience to prepare the work of the conference, and not of representatives of Governments or organizations. It was given full scope² and for over a year its 35 members from 21 countries worked on the program and collected and published in 60 memoranda an

¹ *Official Journal*, IX, p. 171-172. The committee includes nationals of the following countries: Australia, Austria, Belgium, Great Britain, Canada, Chile, China, Colombia, Czechoslovakia, Denmark, Finland, France, Germany, Greece, Hungary, India, Italy, Japan, Luxembourg, Netherlands, Poland, Portugal, Rumania, Spain, Sweden, Switzerland, United States, Yugoslavia.

² *Ibid.*, VI, p. 185, 238, 358.

enormous amount of material, compiled with the aid of official and private organizations throughout the world and covering an extremely wide range of subjects.¹

The International Economic Conference summoned by the Council sat at Geneva from May 4 to 23, 1927, and was attended by 190 delegates and 157 experts from 50 countries.² It was also attended by observers from Mexico; by representatives of the Chambers of Commerce and other international organizations appointed by the Council, and by experts invited by the president of the conference.

The delegates, selected by their Governments on the basis of technical and personal qualifications, were not spokesmen of any official policy, and their personal responsibility alone was engaged. They included industrialists, merchants, bankers, economists, agriculturists, officials with experience of commercial policy, representatives of workers' and consumers' organizations and cooperative societies and three women specialists in economic matters.

The main object of the conference as recommended by the Assembly was to bring about a general exchange of views on existing economic difficulties and the means of overcoming them—to evoke collective opinion on the conditions, principles and guaranties which might serve as a starting point for the improvements and progress necessary to restore greater freedom to international commerce. The conference was only a stage in the continuous work of collaboration in the economic sphere which began before the project of a general conference was launched, and continues after the conference itself.

The Final Report of the conference was a full review of the economic position in the world in 1927. Generally, it

¹ The documentation is on sale by World Peace Foundation (catalog furnished); see also World Peace Foundation Pamphlets, Vol. X, No. 4 and Report to the Council on the Second Session of the Committee (1926, II, 57), p. 4.

² The countries represented were Abyssinia, Albania, Australia, Austria, Belgium, Brazil, British Empire, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, India, Irish Free State, Italy, Japan, Latvia, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Paraguay, Persia, Poland, Portugal, Rumania, Salvador, Siam, South Africa, Sweden, Switzerland, Turkey, Union of the Socialist Soviet Republics, United States, Uruguay, Venezuela and Yugoslavia.

was found that production and consumption were greater than before the war, but that they were unevenly distributed throughout the world. The inequalities affected international trade injuriously. Industries enjoyed unequal prosperity, some suffering undue depression. The world had not adjusted itself to such abnormal charges as war debts and to the sudden increase in manufacturing facilities in countries formerly producing only raw materials.

The very extensive report based upon the resolutions of the conference dealt in general and in detail with (1) commerce in its relation to liberty of trading, customs tariffs, commercial policy and treaties; (2) industry in its relation to the general situation, rationalization, international industrial agreements and industrial information; (3) agriculture in several general and various special aspects.

The *Final Report* is textually available in separate form¹ and should be read as a whole in order to comprehend the new orientation which the conference gave to the world's economy. Though its conclusions were those of experience rather than of governmental authority, their clearness, logic and practical value gave them a high standing without delay. The Assembly in a resolution on September 20, 1927,

Believes . . . that there is every reason to hope for universal approval when the public opinion of all countries has been sufficiently instructed; . . .

Trusts that the economic policies of all countries may develop in accordance with the principles laid down by the conference and desires that the Economic Organization of the League should take these recommendations as the basis of its work.

No state has disapproved of the *Final Report* and its recommendations. On the other hand, 30 Governments have accepted it in whole or in part or by general ap-

¹ *The World Economic Conference, Final Report* (C. E. I. 44 (1), p. 49) and *Report and Proceedings of the World Economic Conference, held at Geneva, May 4th to 23rd, 1927* (C. 356. M. 129. 1927. 11. 52).

proval.¹ It may be regarded as the international program for economic peace and progress.

ECONOMIC CONSULTATIVE COMMITTEE

The first session of the Economic Consultative Committee was held in Geneva May 14-19, 1928, exactly a year after the International Economic Conference. Its function is to survey the economic situation as it has developed since the conference with particular attention to the way in which its recommendations are being applied.

Its report² reviewed action taken on the *Final Report* and noted that it had influenced the independent action of Governments. The rising movement of tariffs had ceased but their decrease had not begun. As to future work it laid stress on the importance of the program already begun by the Economic Committee and pointed to various new tasks.

The second session of the Economic Consultative Committee at Geneva May 6-11, 1929, had before it a valuable summary analysis of action taken throughout the world.³ The committee based its report⁴ upon these facts.

As to customs tariffs, the committee found a tendency to increase, particularly in the nations whose indices were the highest. Details for 34 countries indicated that the chief amelioration was the wider application of the most-favored-nation clause in bilateral treaties. The committee noted that the positive gain in tariff equilibrium seemed to be dependent upon the multilateral convention on import and export prohibitions and restrictions. The committee suggested that states proposing bills relating to import

¹ *Official Declarations concerning the Recommendations of the International Economic Conference*, (C. E. I. 45 (1), 1928, II. 4). The Governments are: Australia, Austria, Belgium, British Empire, Bulgaria, Canada, Chile, Cuba, Czechoslovakia, Denmark, Estonia, Finland, France, Germany, Hungary, India, Italy, Japan, Luxemburg, Netherlands, Norway, Persia, Poland, Portugal, Rumania, Sweden, Switzerland, Union of Socialist Soviet Republics, Uruguay and Yugoslavia.

² *Official Journal*, IX, p. 1114; the proceedings are C. 217, M. 73, 1928, II. 18, on separate sale.

³ *Application of the recommendations of the International Economic Conference. Report on the period May, 1928, to May, 1929* (C. 130, M. 45, 1929, II. 12).

⁴ *Report of the Economic Consultative Committee on its Second Session* (C. 192, M. 73, 1929, II. 23).

duties should explain reasons for any departure from the conclusions of the International Economic Conference. The committee emphasized the importance of collective action regarding certain groups of commodities which were the subject of commercial uncertainty. These localized explorations seemed to it "to represent at the present time the best method of obtaining a reliable idea of the existing possibilities of reducing tariff barriers by the means of multilateral agreements." The committee recommended business conferences of producers, traders and consumers and suggested that a first consultation of a commodity group might be selected on account of its importance in both industry and agriculture, for instance agricultural implements and machinery. The committee indorsed the Economic Committee's recommendations relating to commercial policy,¹ especially that the most-favored-nation clause should be of an unconditional and unrestricted character.

Respecting industrial cartels, the committee noted that the increasing number of them was developing a problem of marked international aspect. It proposed that national legislation and the texts of existing agreements should be collected and studied with a view to bringing out the features of the problem and the tendencies of development. The committee gave careful attention to an impression held by some individuals and countries that industrial grouping in cartels was unsound. It suggested that meetings of industrial leaders, consumers and workers concerned in the operation of, or affected by, cartels would be valuable. A special annual report of information concerning their development was proposed.

The committee felt that the time had come to associate agricultural experts with the work of the League in addition to the collaboration with the International Institute of Agriculture made in July, 1928. It was proposed that qualified agricultural experts should be appointed to be associated with the Economic Organization in such a way as to make their assistance most practical and effective.

¹ C. 138. M. 53. 1929. II. 15; *Official Journal*, X, p. 1234.

ECONOMIC COMMITTEE

Since 1927, the Economic Committee has had the guidance of the Economic Consultative Committee, but to it falls the duty of putting the recommendations of the latter on the way to realization. At any particular time its task is to examine the importance and possibilities of agreement on proposals, to guide the necessary investigations of a special committee or the Secretariat, to reach tentative conclusions, and to pursue the problem in question beyond that point as indicated by the Council, with or without the advice of the Assembly. The great bulk of its record, therefore, is in the completed questions, of which specific notice is given below. Its current work consists of guiding investigations in process, which are described below, and of examining possibilities or policies. Matters in this stage of development are referred to at this point.

In June, 1927, concluding that its immediate task was to carry out the commercial policy advocated by the International Economic Conference, it began an inquiry concerning customs tariffs and commercial treaties on that basis.¹ The Council on June 14, 1929, strongly recommended the committee's report on commercial policy to the attention of Governments, defining its conclusions as "essentially equitable and practical."² The report³ at great length worked out a system of harmonizing a progressive extension of unconditional most-favored-nation treatment and the conclusion of collective agreements on international economic relations. The tariff policies of the various countries have resulted in diverse uses of the most-favored-nation clause. The committee concentrated a large part of its effort upon formulating a "clear, unequivocal, simple and intelligible" statement of the clause in this connection. This formula, submitted to Governments for approval, reads:⁴

¹ *Official Journal*, VIII, p. 1165; IX, p. 512.

² *Ibid.*, X, p. 1021.

³ *Recommendations of the Economic Committee relating to Commercial Policy* (C. 138 M. 53. 1929. II. 15).

⁴ *Ibid.*, p. 12.

The high contracting parties agree to grant each other unconditional and unrestricted most-favored-nation treatment in all matters concerning customs duties and subsidiary duties of every kind and in the method of levying duties, and, further, in all matters concerning the rules, formalities and charges imposed in connection with the clearing of goods through the customs.

Accordingly, natural or manufactured products having their origin in either of the contracting countries shall in no case be subject, in regard to the matters referred to above, to any duties, taxes or charges other or higher, or to any rules and formalities other or more burdensome, than those to which the like products having their origin in any third country are or may hereafter be subject.

Similarly, natural or manufactured products exported from the territories of either contracting party and consigned to the territories of the other party shall in no case be subject, in regard to the above-mentioned matters, to any duties, taxes or charges other or higher, or to any rules and formalities other or more burdensome, than those to which the like products when consigned to the territories of any other country are or may hereafter be subject.

All the advantages, favors, privileges and immunities which have been or may hereafter be granted by either contracting party, in regard to the above-mentioned matters, to natural or manufactured products originating in any other country or consigned to the territories of any other country shall be accorded immediately and without compensation to the like products originating from the other contracting party or to products consigned to the territories of that party.

Nevertheless, the advantages now accorded or which may hereafter be accorded to other adjacent countries in order to facilitate frontier traffic, and advantages resulting from a customs union already concluded or hereafter to be concluded by either contracting party, shall be excepted from the operation of this article.

The Tenth Assembly considered "in principle that the adoption of the doctrine . . . with regard to tariff systems, contractual methods, and the application of the most-favored-nation clause would do much to improve international economic relations" and invited Governments promptly to submit their observations on the report of the committee, which it strongly recommended.

The committee is studying "indirect protectionism," by which it understands the habit of customs officials to bar

goods by special national rulings respecting the origin, condition, etc., of goods. The investigation began with preparation of the collection of laws or regulations on which such practices are based and of the practical obstacles or difficulties which they create for foreign trade.

The committee has launched an investigation concerning economic tendencies affecting the peace of the world, the initial step being the preparation of a memorandum by economists, a further consultation with universities and other institutions which encourage and direct research, and discussion on economic questions and questions of international interest.

Following the Conference for Concerted Economic Action in the early part of 1930, the committee appointed a coordination subcommittee to supervise the general progress of inquiries by 10 subcommittees to deal with the following problems:

1. Customs formalities concerning certificates of origin, customs information, transit, transshipment, the treatment of samples and patterns, certificates of purity and of analysis;
2. Application of specific duties (gross and net basis of taxation) export charges, internal charges, regulation of trade not subject to duty;
3. Most-favored-nation clause, nationality of goods;
4. Calculation of ad valorem duties;
5. Appellations of origin;
6. Creation of a permanent organ of arbitration and conciliation;
7. Export bounties and subsidies;
8. Marks of origin;
9. Customs nomenclature;
10. Veterinary questions.

The Secretariat issues a series of annuals under the direction of the committee. Among these are: *The International Statistical Yearbook*, *Memorandum on Production and Foreign Trade*, and the *Memorandum on Balance of Payments*, which becomes more complete with each issue.

The *Memorandum on Public Finance* is for the first time presenting governmental accounts on a uniform basis, making greater comparability possible.

Import and Export Prohibitions and Restrictions

This question was studied by the Economic Committee as a result of a resolution passed by the Fifth Assembly on September 25, 1924, and culminated in a diplomatic conference of 34 states held at Geneva, October 17–November 8, 1927,¹ and another of 29 states July 3–11, 1928, to complete the convention. The conference disclosed the extreme complexity of the problem, showed that the system had taken deep root in commercial policy, and that its abolition would affect numerous private enterprises. It also revealed the interdependence of certain prohibitions and the effect of prohibitions in one state upon the régime in force in other states for similar or other wares. The conference thus had to deal with concrete problems affecting enormous interests. The convention is the first multilateral treaty regulating commercial relations between states.

The convention of November 8, 1927,² and the supplementary agreement of July 11, 1928, entered into force on January 1, 1930, for at least six months under complicated conditions which will be explained below.

By Art. 2 of the convention the contracting parties undertake to abolish all existing import and export prohibitions and restrictions and not to impose new ones within six months after January 1, 1930, subject to duly specified exceptions. The procedure instituted is designed systematically to reduce the exceptions provisionally allowed.

Three types of exceptions are provided for. The first series (Art. 4) is based upon noneconomic considerations such as national defense, public order and security, the protection of animals and plants against disease, the protection of national artistic property, the necessity of continuing to apply certain national laws or international conventions, the protection of state monopolies, etc. A second type (Art. 5) provides for a kind of safety valve, in the form of a clause enabling contracting states to re-

¹ *Official Journal*, VIII, p. 1653.

² *Ibid.*, p. 1655, and IX, p. 1256; Registration No. 2238.

establish prohibitions in extraordinary or abnormal circumstances, catastrophes, etc.

The third type of exception is defined as temporary by Art. 6 and is expressed by individual states in the form of reservations to the general provisions of the convention that have met with agreement from the other contracting parties. Certain reservations of this kind were examined by the conference and annexed to the convention; others made before February 1, 1928, were examined at the second conference. The net result of its deliberations, which reduced the list to only 11 export prohibitions,¹ became Art. A of the supplementary agreement of July 11, 1928.

Six months after the convention came into force, all other provisions were to cease. However, the protocol of December 20, 1929, provided for a general reconsideration of the position of the contracting parties as to ratification at that time, which may result in a modification of the conventional provisions. The convention is subject to denunciation after five years. The undue prolongation of temporary restrictions will justify a denunciation after three years. If, as a result of denunciations, the conditions governing the coming into force of the convention no longer exist, a fresh conference may be convened to examine whether it should nevertheless remain in force between the other states (Art. 18). This complicated procedure is one of the essential factors of the convention, designed to enable the greatest possible number of states to remain parties to it, to facilitate the abolition of existing prohibitions and to leave time for their elimination as "a serious obstacle to international trade."

Arts. 8 and 9 of the convention establish an elaborate procedure of conciliation and arbitration for the friendly settlement of disputes regarding the interpretation and application of the convention. These were the subject of exhaustive debate, as compulsory arbitration was a new departure in connection with national trade policies, and the system adopted made full use of conciliation prior

¹ The United States prohibits the exportation of helium.

to actual submission of a difference to arbitration for an award.

The supplementary agreement of July 11, 1928, supplies the conditions under which the convention was ratified and came into force. It specified that 18 states were to have ratified it before it came into force and — so great was the delicacy of the inter-relations affected — it was further provided that the parties might make entrance into force dependent upon the ratification or accession of one or more of the following states: Austria, Czechoslovakia, France, Germany, Great Britain, Hungary, Italy, Japan, Poland, Rumania, Switzerland, Turkey, United States and Yugoslavia.

The documents of ratification were to be deposited at Geneva before September 30, 1929, and in case the requisite 18 were deposited, the convention was to enter into force on January 1, 1930. The requisite number of ratifications were deposited, but several of them were conditional upon the ratifications of Czechoslovakia, Germany or Poland, and these conditional acceptances left the effective total below the requisite 18. As a consequence, the convention, supplementary agreement and their attached protocols could not come automatically into force on January 1, 1930, as contemplated.

A conference was held at Paris December 5–20, to meet that situation. The principal difficulty encountered was the fact that neither Czechoslovakia nor Poland had modern commercial treaties existent with their important neighbor Germany. On November 25, Germany deposited its ratification, but as this was conditional upon similar action by the other two, it did not alter the primary situation. The Paris conference brought a *modus vivendi*. The protocol of December 20, provided that the documents should enter into force on January 1, 1930, but that the contracting parties are not bound by it beyond July 1, unless Czechoslovakia and Poland have ratified by that date. This protocol was signed by 18 states, 11 of which had ratified the convention conditionally upon its acceptance by Czechoslovakia and Poland. It is understood

that the German-Polish and Czechoslovak-German negotiations for commercial treaties were well advanced at that time.¹

Hides and Bones. The 1927 conference showed that special tariff conditions existed respecting hides and bones, the sources of leather, fertilizers, glue and other manufactured articles. Two Conferences for the Abolition of Export Prohibitions and Restrictions on Hides and Bones were held at Geneva March 14-16, and June 28-30, 1928, the first attended by 12, and the second by 19 states. They were the first meetings summoned by the League specifically to limit customs tariffs on raw materials. The first conference adopted two protocols which were recommended to Governments; the second revised and enacted these into international agreements² supplementary to the convention of November 8, 1927.

The international agreement relating to the exportation of hides and skins signed at Geneva, July 11, 1928,³ entered into force October 1, 1929, by virtue of a special protocol of September 11, 1929.⁴ On that date the export duties and prohibitions on hides and bones ceased between the contracting parties, and import duties no longer exceed specified maximum rates.⁵

The international agreement relating to exportation of bones signed at Geneva, July 11, 1928,⁶ entered into force by reason of a protocol of September 11, 1929,⁷ on October 1, 1929. The contracting parties suppress export prohibitions, and the imposition of export duties is maintained

¹ The Paris protocol was signed by Germany, the United States, Great Britain, France, Belgium, Italy, Denmark, Finland, Japan, Luxemburg, Netherlands, Portugal, Austria, Hungary, Norway, Rumania, Sweden, Switzerland and Yugoslavia, for which the documents entered into force on January 1, 1930.

² *Official Journal*, IX, p. 1289 and 1307. They were each signed by Austria, Belgium, Czechoslovakia, Denmark, Finland, France, Germany, Great Britain, Hungary, Italy, Luxemburg, Netherlands, Norway, Poland, Rumania, the Serb-Croat-Slovene State and Switzerland.

³ *Ibid.*, p. 1288.

⁴ C. 436. M. 144. 1929. II. 36.

⁵ The agreement entered into force for Austria, Belgium, Czechoslovakia, Denmark, Finland, France, Germany, Great Britain, Hungary, Italy, Luxemburg, Netherlands, Rumania, Switzerland and Yugoslavia.

⁶ *Official Journal*, IX, p. 1306.

⁷ C. 437. M. 145. 1929. II. 37 and Final Act C. 438. M. 146. 1929. II. 38.

within maximum limits which for most of the contracting parties are 1.50 gold francs per 100 kilos.¹

Veterinary Questions. The 1927 conference in its final act recognized that sanitary or veterinary measures might legitimately be applied, but endeavored to prevent such measures from becoming a disguised form of economic protection. For this reason it recommended the Council to undertake investigations, inquiries and consultations with a view to summoning one or more conferences of experts to study measures of proved efficacy in animal and plant disease and how to adjust them strictly to risks of infection. A Subcommittee of Experts on Veterinary Questions met twice in 1928 and, as immediate steps, advised that each state should possess a veterinary organization capable of exercising efficacious sanitary supervision over the whole of its territory and that each should publish a regular health bulletin prepared on the standard lines adopted by the Committee of the International Office for Contagious Diseases of Animals.²

The experts at their third meeting, May 29–June 5, 1929, studied replies from 30 Governments on their control of cattle import, export and transit. Inspection of meat for export was examined with the aid of officials of exporting countries. Collaboration between veterinary services is desirable and it was suggested that interchanges of their personnel be arranged. The subcommittee has drawn up a general report on the international trade in animals and animal products.

Coal. The Economic Committee in 1929 instituted an inquiry respecting the coal industry as suggested by the Consultative Committee. The form of the inquiry added another method to League procedure. Instead of calling in a committee of experts, the Economic Committee delegated certain of its members to consult with groups of professional men. The first consultation in January was of coal technicians and resulted in an examination of all

¹ The agreement entered into force for Austria, Belgium, Czechoslovakia, Denmark, Finland, France, Germany, Great Britain, Hungary, Italy, Luxembourg, Netherlands, Rumania, Switzerland and Yugoslavia.

² *Official Journal*, IX, p. 1963.

aspects of the coal question, production, consumption, trade and transport. It was demonstrated that the coal problem was an international one and in consequence further consultations were held. Labor experts from nine countries were convened in February and in September was held a consultation of persons representing producers' and workers' organizations in producing and consuming countries. An interim report was issued, on the basis of which the International Labor Organization was invited by the Tenth Assembly to conclude its investigations on hours, wages, and conditions of work in coal mines with a view to agreeing upon an international convention on the subject in the 1930 session of its conference. The final report of the Economic Committee will be available at that time. The Assembly also invited the Council to consider whether fluctuations in price and the existing difference between producers' and consumers' needs might justify, on the basis of the Economic Committee's final report, the convening of a conference of Governments to study the recommendations in question.

Sugar. The Economic Committee's inquiry into the sugar question was begun from the basis of three memoranda submitted by experts on the production of cane sugar, on the production of beet sugar, concerning the influence of legislation on the production, consumption, import and export of sugar, and on the development of consumption and the means of increasing it. The memoranda showed that the situation of the world's sugar industry was essentially due to lack of equilibrium between production and consumption. The problem is in reality an old one, the solution of which resulted in the series of conferences between 1863 and 1902 and accounted for the permanent commission which functioned from 1903 to 1913.¹ The Economic Committee's consultations were of experts in general in April, 1929, and of those especially familiar with sugar beet production in May. The report on the subject was submitted to the Council in July, 1929,

¹ Myers, *Manual of Collections of Treaties*, p. 475-485. The convention ceased to be in force in 1920 (*Treaty Series*, I, p. 73, 400).

and resulted in an inquiry to Governments as to the possibility of reducing excise duties. The replies were due by March 30, 1930. The Council has under consideration the advisability of summoning a meeting of Governments to study the recommendations concerning price fluctuations and the existing disproportion between supply and demand.

Concerted Economic Action

M. Hymans of Belgium in the sixth plenary meeting of the Tenth Assembly inquired why the recommendation of the Economic Conference to end the increase in tariffs and to move in the opposite direction could not be given a contractual form. The general discussion of the Assembly brought into relief an impression that the effort to bring an economic rapprochement should not be left entirely to experts but should enlist the active participation of Governments. As a consequence of this feeling and the Belgian suggestion, the Belgian, British and French delegations introduced resolutions which resulted in the adoption of the conclusion "that no effective action will be possible in the future unless the Governments are now requested to examine in their turn the questions left in suspense by the Consultative Committee and by the Economic Committee." The Assembly, therefore, recommended concerted action and "that states which are prepared to participate therein should agree not to increase their protective tariffs above the present level from a period of from two to three years or to impose new protective duties or create new impediments to trade." The Assembly called for the immediate formulation of a proposal to be submitted to Governments, which were to intimate before December 31, 1929, whether they would be willing to participate in a preliminary conference and that such a conference itself should meet early in 1930. A later conference would reach formal decisions and to it "all states without distinction will be invited."

It fell to the Economic Committee to formulate the proposal for consideration. This preliminary draft conven-

tion¹ provided that the parties undertake for its duration not to levy upon imports or exports customs duties or accessory charges "higher than those leviable upon the said products on . . . (date), 1929." A similar engagement is taken with respect to all internal charges on account of public organs. The provisions of the convention for the abolition of import and export prohibitions and restrictions are read into the engagement. A distinction is made between "protective duties" and "duties of a purely fiscal character," which may not be strictly subject to the provisions of the proposal. Provided rates are not increased, substitution of specific or ad valorem duties, modification of tariff nomenclature and proportionate fresh rates for new products are recognized as permissible.

The preliminary draft convention did not prove to be the eventual basis of the work of the Preliminary Conference for Concerted Economic Action held at Geneva from February 17–March 24, 1930. The conference drew up a commercial convention, the essential provision of which was that the contracting parties undertake not to denounce before April 1, 1931, bilateral commercial treaties at present in force. This was signed by Austria, Belgium, Denmark, Estonia, Great Britain, Finland, France, Germany, Greece, Italy, Latvia, Luxemburg, Netherlands, Norway, Poland, Rumania, Sweden and Switzerland. A protocol lays down an extensive program of negotiation and investigation looking to closer cooperation, the improvement of the régime of production and trade, the enlargement of markets and improvement of relations of European markets between themselves and with overseas markets. This was signed by Lithuania and Portugal, in addition to the signatories of the convention. The final act, which recommended an objective investigation into trade relations, was signed by all the foregoing. Thus, the move for a tariff truce did not arrive at its purpose, but did give formal recognition to the interdependence of European commercial policies. The presence of 18 min-

¹ *International Conference for the conclusion of a Tariff Truce. Preliminary Draft Convention* (C. 519. M. 177. 1929. II. 45).

isters of commerce as heads of delegations established direct relations between them for the first time. All European states Members of the League, except Albania, were represented, but only Colombia, Japan and Peru of the non-European states sent delegates, though several others were represented by observers.

Simplification of Customs Formalities

The conference prepared by the Economic Committee was held at Geneva, October 15–November 3, 1923, with 35 states participating.

The international convention¹ relating to the simplification of customs formalities signed at Geneva, November 3, 1923, came into force on November 27, 1924. The contracting states "undertake that their commercial relations shall not be hindered by excessive, unnecessary or arbitrary customs or other similar formalities." They undertake to revise their laws with a view to their simplification and adaptation to the needs of foreign trade and to the avoidance of all hindrance to such trade "except that which is absolutely necessary in order to safeguard the essential interests of the state." With respect to customs and the formalities of trade, they agree to abstain from any unjust discrimination against the commerce of any contracting state, in accordance with legislation or reciprocal commercial agreements. Rules for simplifying formalities with respect to import and export prohibitions and restrictions are laid down.

The prompt publication of customs regulations is stipulated and provision for their being brought to the adequate notice of those concerned is made. The publication of complete tariffs is enjoined, together with the desirability of stating duties in clear and unequivocal forms. All publications respecting customs and formalities connected with them shall be communicated to all contracting states, to

¹ *Treaty Series*, XXX, p. 371. Ratifications: Australia, Austria, Belgium, Brazil, British Empire, Bulgaria, China, Czechoslovakia, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, India, Italy, Luxemburg, French protectorate of Morocco, the Netherlands (including Netherlands India, Surinam and Curaçao), New Zealand, Norway, Rumania, Siam, South Africa, Sweden, Switzerland, Regence of Tunisia, Yugoslavia. Accession: Persia.

the Secretariat of the League and to the International Office for the Publication of Customs Tariffs at Brussels.

States undertake to prevent arbitrary or unjust application of their laws and to insure means of redress for those prejudiced by abuses. Goods which form the subject of a dispute shall be released immediately upon the solution of the dispute, which must be as speedy as possible. Annual reports¹ of measures taken in accordance with these undertakings shall be summarized for the Secretariat of the League.

Provisions for the free importation of commercial samples and to facilitate the work of traveling salesmen are given in Art. 10.

The formalities are to be "as simple and equitable as possible." Certificates issued by officials or by authorized organizations are to be accepted by the authorities of third countries. Production of a certificate of origin is not required for specified categories of goods, which may be extended by reciprocal agreements. Consular invoices shall be simplified as to form and are required only to establish the origin or the value of goods. States endeavor to conclude agreements under which evidence afforded by the exporting country will guarantee technical conditions for the importation of goods, such as their constitution, purity, quality, sanitary condition or place of production.

Special regulations are laid down to insure the rapid passage of goods through the customs,² the examination of travelers' baggage, the treatment of goods in warehouses, warehousing charges for goods shown on manifests but not landed, and the cooperation of the customs offices concerned. Especially favorable treatment is stipulated for goods which are to undergo a manufacturing process, for articles intended for purposes of exhibition and for goods to be returned, such as touring vehicles, furniture vans, samples, etc.

¹ These are being communicated regularly (*Official Journal*, VII, p. 831, 844; VIII, p. 636, 1044; IX, p. 343, 733, 834; X, 839, 914, 1292; XI, p. 22).

² The Economic Committee is perfecting a draft convention on false customs declarations (*Official Journal*, VI, p. 955; VIII, p. 571).

Arbitration of Commercial Disputes

The principle of the arbitration of commercial disputes, resulting from international trade, by chambers of commerce and business men themselves resident abroad has gained great popularity since the World War. The recognition of the validity of these decisions in courts and otherwise required international action. As a consequence the Economic Committee drew up a protocol.

This protocol on arbitration clauses¹ was perfected by the Fourth Assembly and opened for signature September 24, 1923. It came into force July 28, 1924. For disputes considered as commercial under their national law, the contracting states recognize the validity of agreements between persons, subject to different national jurisdictions, to arbitrate commercial disputes arising from their contracts, wherever the arbitration is to take place. The tribunals of the contractants will honor awards so made.

Under the terms of the protocol the contracting parties undertake to recognize the validity of arbitration agreements, but insure only the execution of arbitral awards pronounced in their own territory. In many countries long and costly proceedings are essential to carry out an award given in the territory of another contracting party. The Economic Committee, therefore, considered fresh international action to enable traders to resort to arbitration with full security. A Committee of Experts prepared a draft which was perfected as a convention² by the Eighth Assembly and opened for signature on September 26, 1927. The convention³ on the execution of foreign

¹ *Treaty Series*, XXVII, p. 157. Ratifications: Albania, Austria, Belgium, British Empire, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Japan, Monaco, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Norway, Rumania, Spain, Sweden, Switzerland. Accessions: Southern Rhodesia, Newfoundland, British Guiana, British Honduras, Jamaica, Leeward Islands, Grenada, St. Lucia, St. Vincent, Gambia, Gold Coast, Kenya, Zanzibar, Northern Rhodesia, Ceylon, Mauritius, Gibraltar, Malta, Falkland Islands, Iraq and Palestine, Tanganyika, St. Helena; Chosen, Taiwan, Karafuto, the leased territory of Kwangtung and territories under Japanese mandate; Uganda.

² For text see Document C. 659. M. 220. 1928. II. 1; *Treaty Series*, XCII, p. 301; the convention is Registration No. 2096. Ratifications: Belgium, Denmark, Estonia, New Zealand, Spain, Sweden.

arbitral awards is a technical document intended to adjust the validity of such awards to the procedure of national courts. It entered into force July 25, 1929.

Unfair Competition

The attention of the Assemblies of 1922 and 1923 was drawn to "the harmful effect on legitimate trade of the manufacture and sale of products which . . . are a form of fraud owing to the various devices intended to disguise their real nature."¹ The result was a series of draft articles which, after consultation with the Inter-American High Commission, were incorporated in the International Convention for the Protection of Industrial Property revised at a conference at The Hague November 6, 1925.²

By these changes states agree to cancel the national registration by another person of trademarks, etc., owned by the nationals of another state, in case of bad faith. They undertake to insure nationals of other states against unfair competition, defined as "any act contrary to honest industrial or commercial practices."

Unification of Economic Statistics

A joint meeting was held in London on December 4-5, 1922, of representatives of the Economic Committee, the International Labor Office and the International Institute of Statistics, to discuss what practical measures might be adopted to increase the comparability of methods in use in different countries in the compilation of economic statistics.

The Preparatory Committee on Statistical Methodology³ carried on the work in conjunction with the International Institute of Statistics. In 1927 the Economic Committee named a Preparatory Committee for the Statistical Conference. The International Conference for the Unification

¹ *Official Journal*, V, p. 558; for data collected see p. 1474, 1485.

² The added articles are Arts. 6 bis, 6 ter, 10 bis and 10 ter, *Treaty Series*, LXXIV, p. 305, 309.

³ *Official Journal*, IV, p. 275, 966; V, p. 555; VIII, p. 396.

of Economic Statistics convened at Geneva November 26–December 14, 1928, attended by delegates of 41 states to consider (1) the scope of economic statistics, that is to say, the field of economic activity which national statistics should normally embrace, and (2) methods to be adopted by Governments with a view to the comparability of industrial and commercial statistics.

The international convention relating to economic statistics was signed on December 14, 1928.¹ The difficulties of making a convention on the subject grew out of the widely differing conditions of the various countries as to their requirements for statistical returns, their physical possibilities of collecting them, their varying practices in publication, and the subject matter usefully covered by national reports. The agreement did not go so far as some states already go, while others must establish new services to meet its conditions. Territorial allocation of statistical returns necessitated compiling a list of 208 territorial divisions (Annex I, Part II). For these, annual returns are to be prepared on external trade, agriculture, mining and metallurgy and index numbers of prices (cumulated monthly). Censuses of occupation, agriculture, live stock, forestry and fisheries and of industry are to be made each 10 years. On each of these subjects detailed standard factors of analysis and method are laid down in lengthy technical annexes. Respecting external trade, the tables are to show for imports the countries of origin or production and of consignment and purchase; for exports the countries of consumption and of consignment and sale. It is expected that these details will exhibit the extent of transit and finishing trade.

A permanent Committee of Technical Experts representative of the contracting parties is to suggest improve-

¹ It remained open for signature until October 1, 1929, and was signed by Austria, Belgium, Brazil, Bulgaria, Czechoslovakia, Denmark, Danzig, Egypt, Estonia, Finland, France, Germany, Great Britain and Northern Ireland and non-Member parts of the British Empire, Greece, Hungary, Irish Free State, Italy, Japan, Latvia, Luxembourg, Netherlands, Norway, Poland, Portugal, Rumania, South Africa, Sweden, Switzerland, United States and Yugoslavia. Bulgaria, Denmark and Norway have ratified it.

ments or amplifications of the principles and arrangements laid down in the convention concerning the classes of statistics dealt with, as well as the inclusion of other classes. The committee will have many duties respecting the conventional classes, the detailed regulations of which are entrusted to it. Deputies as to the interpretation or application of the convention may be submitted to the committee.

Future Conferences

Treatment of Foreign Nationals. The attention of the Economic Committee was called to the treatment of foreign nationals and enterprises by a resolution of the Fourth Assembly in 1923. In May, 1925, the committee reported to the Council that, in general, persons exercising a profession or trade in a foreign country should receive the same treatment as nationals of that country, subject or not to reciprocity in their countries. The number of professions, industries and occupations for which national interests may require restrictions to be imposed on foreigners should be limited to the minimum compatible with the protection of such interests; the same rule should apply to restrictions. Discrimination based on the nationality of persons concerned should be avoided.¹

A questionnaire to states enabled the committee to prepare a draft convention, which after study by Governments, was resubmitted to them with all their observations and comments analytically presented with its text.²

A conference on the basis of the draft convention met at Paris, November 5-December 4, 1929,³ but failed to

¹ *Official Journal*, VI, p. 674, 688.

² Document C. M. N. 21, 1929, II, 5.

³ Representatives of 47 states participated: Australia, Austria, Belgium, Bolivia, Brazil, Czechoslovakia, Denmark, Dominican Republic, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, India, the Irish Free State, Italy, Japan, Latvia, Lithuania, Mexico, Netherlands, Norway, Panama, Paraguay, Peru, Poland, Portugal, Rumania, Salvador, Spain, Sweden, Switzerland, Turkey, Uruguay, Venezuela, Yugoslavia, and the Free City of Danzig; the United States and the Soviet Union sent observers and the International Chamber of Commerce took part in an advisory capacity.

conclude a convention. The question of the treatment of foreigners is intimately connected both with the national legal and social systems. In the body of the conference there was a general tendency of states to modify general principles by consideration for their special conditions. The conference discussed these questions frankly and decided not to attempt to reach an agreement which might have the effect of generalizing practices at present confined to a few states and which would in effect provide a less liberal system in a formal convention than actually exists in practice.

The conference drew up a protocol¹ in which it called for a second session to be summoned in 1930. In the meantime, the records of the conference were submitted to the Governments, whose attention was called to the usefulness of establishing a convention on the most liberal bases with a minimum of derogations from its general principles. All observations and suggestions are to be in hand by June 30, 1930.

Bills of Exchange and Checks. A Committee of Experts at Geneva in December, 1926, reported to the Economic Committee that solution of the difficulties encountered by bankers and merchants in daily business as a result of the divergences between the laws of different countries on bills of exchange lay first in an attempt to assimilate or harmonize the laws of countries belonging to the Continental group.² A Committee of Legal Experts then developed draft conventions aimed at harmonizing the various laws of the continental group on bills of exchange and checks.

Replies from 32 states accept the draft conventions as a basis for a conference convened on May 13, 1930.

Tariff Nomenclature. The Economic Conference stated that a fixed nomenclature for goods subject to customs duties was an essential condition of equity in their application and ease in their collection, and recommended that the Council take the initiative in drawing up an appropriate procedure for establishing a systematic customs nomen-

¹ *Official Journal*, XI, p. 168-171.

² *Ibid.*, VIII, p. 575, 583.

clature in accordance with a general plan covering all classes of goods. In July, 1927, the Economic Committee decided to appoint a committee of customs experts to study the matter. International conferences to study the question in 1900 at Paris and at Brussels in 1913 had dispersed after finding it practically impossible to make even a beginning.

The task assigned to the Subcommittee of Experts on the Unification of Customs Nomenclature has proved to be one of the most highly technical and difficult assignments in League history. The items of national customs tariff have increased tremendously in comparatively recent years. The German tariff of 1888 contained 480 items, while in 1925 it ran to 2,300. The French tariff of 1892 dealt with 1,500 items, while that of 1927 included 4,371. The United States tariff act of 1922 determined duties in 1,701 paragraphs, some of which included several hundred commodities. Diverse classifications exist. The difficulties of the task can be appreciated by a few illustrations. Paper and cardboard are obviously subject to different tariff rates, but what is cardboard? It was found that various schedules varied between 180 and 400 grams per square meter in defining cardboard, while other tariffs employed definitions depending on other factors than weight. To set up an international standard required extensive research. A precise definition of when a metal bar in process of drawing becomes a wire and is subject to a different tariff was a typical problem. It was decided to place animal fats with fatty substances rather than with raw materials of animal origin, etc., etc.

From August, 1927, to October, 1928, the Experts studied questions of principle and decided on a draft framework¹ which was submitted to Governments. This consisted of 86 chapters organized into 21 subject headings which have since been subjected to detailed examination in a series of lengthy meetings. The Tenth Assembly invited the committee to attempt to complete its work before the Eleventh Assembly. In January, 1930, about half of the

¹ Printed as C. 346. M. 103. 1928. II. 37.

schedules had been passed on second reading, after meetings running through 400 sittings.

Industrial Agreements. The Economic Conference had before it the papers relating to cartels and international industrial agreements. In March, 1929,¹ the Economic Committee summoned experts² to draw up a systematic and detailed account of laws in various countries on the subject. They found that legislation fell into three groups. The laws of Great Britain and Latin countries had been established before industrial agreements between corporations had come into being; a second group, represented by United States legislation, started from the idea of opposing or prohibiting restrictions on commercial competition and a third group, such as German and Scandinavian laws, were of recent date and were devised to deal with, control or foster modern industrial combinations. The exploration of the experts is being continued to collect data on the origin and methods pursued under each group, to complete the study of legislation and to examine the jurisprudence resulting therefrom.

Whaling. The Committee of Experts on the Progressive Codification of International Law had under consideration the question of exploitation of the riches of the sea, which was submitted to the Economic Committee by an Assembly resolution of 1927 for the study of "whether and in what terms, for what species and in what areas international protection of marine fauna could be established." The committee after consultation with the International Council for the Exploration of the Sea at Copenhagen decided that it was only in connection with various species of whales that urgent international measures were indicated. To define the problem more closely, a committee of experts met April 3, 1930.

FINANCIAL COMMITTEE

The work of the Financial Committee has noticeably changed in character. The stage of financial reconstruc-

¹ *Official Journal*, X, p. 1231.

² Col. Robert E. Olds, former Undersecretary of State, for the United States.

tion, so important in the years immediately following the Great War, was by 1929 well on the way to completion, requiring only supervising attention from the committee. Meantime, new developments had taken place, new needs had arisen, and new institutions were being planned or established in financial as well as in all other spheres of world activity. The Financial Committee's tasks consequently began to take on the standard form of League committee activities, namely, fact-finding investigations of problems with a general purpose of arriving at international agreement.

The Financial Committee has been the medium through which the League has contributed to the reconstruction of Europe. By common consent the aid of the League saved Austria and Hungary from disaster and anarchy and restored them to their places in the world with their autonomy intact. In the past such crises frequently resulted in the loss of autonomy or even independence.

While the League has undertaken many other activities of a financial character the work of the committee concentrated in loans for reconstruction or internal reform constitutes the largest single phase of its efforts. All these have involved some degree of League control or management. The loans are all international, that is, floated on several markets. The list follows:

Country	Protocol	Amount	Rate
AUSTRIA	Oct. 4, 1922	585,000,000 gold crowns . . .	7
HUNGARY	Mar. 14, 1924	250,000,000 gold crowns . . .	7½
GREECE	Sept. 19, 1924	£10,000,000	7
DANZIG	Feb. 19, 1925	40,000,000 gulden	7
BULGARIA	Sept. 8, 1926	{ £2,112,000 \$3,915,000 }	7
ESTONIA	Dec. 10, 1926	{ £700,000 \$4,000,000 }	7
DANZIG, MUNICIPALITY	June 22, 1927	£1,900,000	6½
DANZIG HAR- BOR BOARD	July 1927	\$4,500,000	6½
BULGARIA	Sept. 12, 1927	\$13,000,000	7½
GREECE	Sept. 15, 1927	{ £4,070,960 ¹ \$17,000,000 }	6

¹ \$19,811,827.

Financial Reconstruction

Austria. In March, 1921, Great Britain, France, Italy and Japan decided to release Austria for a period of years from their liens in respect of all claims for relief credits, reparation, etc., provided other interested Governments did the same and provided Austria was prepared to place the administration of her assets in the hands of the League under the international credits (Ter Meulen) scheme.¹ The Financial Committee drew up a detailed scheme, which failed to be put into operation because of the slowness of interested Governments, especially the United States, to grant Austria the necessary moratorium.²

By February, 1922, Austria's condition had become so grave that a collapse was imminent. Great Britain, France, Italy and Czechoslovakia came to the rescue by providing public loans, which arrested disaster during the first six months of 1922. Austria's financial disorganization continued at an increased pace.

In August, when the crown was one-tenth of its value six months before and only 1/15,000 of its gold value, the Austrian Government made a desperate appeal to the Supreme Council of the Allied Premiers, then meeting in London. A further depreciation of the crown, said the Austrian spokesman, must lead to social upheavals of great danger to Europe itself, marking the end of an independent Austria. On August 15, 1922, the Supreme Council told Austria that "there is no prospect of further financial assistance to Austria from the Allied Powers, unless the League were able to propose such a program of reconstruction . . . as would induce financiers in our respective countries to come to the rescue of Austria."

The Council at Geneva on August 31 instructed the Financial Committee to examine the problem in its essentials. On September 6, Premier Seipel of Austria was heard by the Council in public meeting. He put Austria's fate

¹ *International Financial Conference, 1920, I, p. 27.*

² *See The Financial Reconstruction of Austria (Geneva, 1921) for the documents.*

completely into the hands of the League. The Council invited Czechoslovakia to join the Council for this question, and a committee consisting of Lord Balfour (Great Britain), Gabriel Hanotaux (France), Marquis Imperiali (Italy), Premier Beneš (Czechoslovakia) and Premier Seipel (Austria) was formed to direct the solution of the problem.

This committee organized the work, using the League's Economic, Financial and Legal Committees, but keeping in its own hands the political aspects of the question. In 12 meetings the committee determined the general outline of the task, parceled its details out to the experts, heard their interim and final reports and finally saw the three protocols effecting a solution of the question signed on October 4.¹ The two multilateral protocols were signed by Great Britain, France, Italy, Czechoslovakia and Austria; Belgium, Denmark, Netherlands, Spain and Sweden adhered to the second.²

The guarantors promised to respect the political independence, territorial integrity and sovereignty of Austria, to seek no special or exclusive economic or financial advantage compromising that independence, and to comply with the decisions of the Council in respect to any question arising with regard to those matters. The program of reform was directed to the balancing of her budget by the end of 1924. The deficit in the interval, a maximum of 650,000,000 gold crowns, was to be met by proceeds from a loan. This was guaranteed by Austrian assets, and further by the guarantor Governments in definite proportions, so that the subscriber to the loan has a double security, while the guarantor has no liability until Austrian assets prove insufficient. A Bank of Issue under definite and specified conditions was established on January 2, 1923, and Austria relinquished to it all rights with respect to currency utterance. A long program of Austrian reforms was carried out under a commissioner-general, an officer of the League of Nations resident in Vienna and reporting monthly to the Council. A Committee of Control of the Guaranteeing

¹ *Treaty Series*, XII, p. 385.

² *Ibid.*, XV, p. 321.

Governments was provided to watch over their special interests.¹

The essential features of the program were the provision by loan to meet the deficit during a period when financial reform was taking place, the arrest of the collapse of the crown, and the supervision of the Austrian Government's execution of the scheme within carefully defined and restricted limits by the Commissioner-General of the League, whose monthly reports for 3½ years give all necessary details.² The Commissioner-General's functions terminated on June 30, 1926. The period from the signing of the protocols until that date may be summarized:

1. October 4–December 14, 1922 — Preparation for putting the scheme into execution.

2. December 15, 1922–August, 1923 — From the beginning of the Commissioner-General's control to the successful issue of a long-term reconstruction loan. The scheme of control was successfully established, reforms were begun, a series of special inquiries made, and the necessary external loan definitely obtained. The period was characterized by a remarkable financial recovery leading to a boom and excessive stock exchange speculation.

3. September, 1923–September, 1924 — Reconstruction work proceeded more slowly with modifications in the original plan. An agreement was effected in September, 1924, by which Austria pledged itself to take 15 specified measures, several of which related to financial re-establishment on a gold basis, and to execute specified reforms.³

4. September, 1924–June, 1926 — The reforms were gradually effected. The process of establishing Austrian currency on a gold basis was completed on July 1, 1925, the Austrian crown having been absolutely stable since October, 1922. The unit of stabilization was the schilling, containing 0.2117208 grams of gold, 900 fine, being equivalent to 10,000 paper crowns and worth 14¼ cents, or 34.585 to the pound sterling. General anxiety as to the economic future of the country led to a special inquiry by Walter T. Layton and Charles Rist, who made a report to the Council.⁴ In

¹ *Treaty Series*, XV, p. 321.

² The reports are printed separately and also in the *Official Journal*.

³ Text, *Official Journal*, V, p. 1557.

⁴ *The Economic Situation of Austria. Report . . . by W. T. Layton and Charles Rist* (C. 440 (1). M. 162 (1). 1925. 11).

September, 1925, a modified control was introduced contemplating a gradual relaxation by stages.¹ By June 30, 1926, the final conditions for the complete removal of the control were carried out and the Commissioner-General's services were terminated.

The last formal chapter in this "great act of international cooperation" was the session of the Council on June 9, 1926.² The Financial Committee reported Austria's house in order. The commissioner-general testified that Austria had so far recovered from her desperate condition of a few years ago that she was leading a normal life and was in a better financial position than many other countries.

Present Régime. The protocols of October 4, 1922, remain in force so that, while Austria is financially autonomous, the country has special international duties of a financial character. By Protocol No. III, par. 5, security for the international loan of June, 1923, is the gross receipts of the customs and of the tobacco monopoly. Protocol No. II establishes a Committee of Control in charge of these revenues. The Committee of Control, which consists of appointees of the guaranteeing governments, retains its powers under the protocols and communicates directly with the Austrian Government. The special account into which the yield of the gross revenues designed as security continue to be paid remains under the management of the trustees, who draw from it the sums required for the service of the loan, placing the balance at the disposal of Austria. The trustees in this duty succeed the commissioner-general. The trustees are represented at meetings of the Committee of Control and furnish to it information requested. The Austrian Government undertakes to furnish information required.

The total yield of the international loan was 879,800,000 schillings. Of this amount 342,540,000 schillings were used for deficits, repayments and loan service and 332,500,000 schillings as cover for investment expenditures, leaving

¹ *Financial Reconstruction of Austria. Dates and Conditions of Termination of Control* (C. 541. 1925. II).

² *Official Journal*, VII, p. 868. The proceedings of that meeting were notable and very impressive.

217,600,000 schillings available at the end of control for allocation for productive expenditure.

Hungary. At the beginning of 1923, Hungary, in a desire to raise foreign loans on the security of certain revenues, approached the Reparation Commission in order to secure the necessary release of liens on certain of her assets and revenues, and at the same time expressed the desire that the League of Nations be asked to draw up a plan of financial reconstruction. On September 29, Rumania, the Serb-Croat-Slovene State and Czechoslovakia requested the Council of the League to authorize the Financial Committee to undertake at once any preparatory work necessary for the reconstruction of Hungary in the event of such a request from the Reparation Commission. The Reparation Commission on October 17 passed the necessary resolution.

The first stage of the League's work was completed by the Council in December, 1923. The Financial Committee had agreed upon the main lines of the scheme for financial reconstruction and its unanimous report was then accepted by the Council, which also approved the text of two protocols, along the same lines as the Austrian protocols, presented by its Hungarian committee.

By Protocol¹ No. 1 of March 14, 1924, the guaranteeing Governments declare "that they will respect the political independence, the territorial integrity and the sovereignty of Hungary" and "that they will not seek to obtain any special or exclusive economic or financial advantage calculated directly or indirectly to compromise that independence." The guarantors pledge loyal fulfillment of the agreements and to leave any questions at issue to the Council of the League. Hungary, for its part, undertakes to fulfill its treaty obligations and to abstain from any act likely to prove prejudicial to the guaranties provided.

Protocol No. 2 sets forth in detail the program of reform, pledges Hungary to the conclusion of commercial agree-

¹ *Treaty Series*, XXV, p. 423-440.

ments with neighboring states and lays down the conditions for the reconstruction loan, the duties of the commissioner-general, the committee of control and the trustees, provides for the assignment of revenues for the service of the loan and for keeping a special account, as well as for the establishment of a central bank of issue.

Jeremiah Smith, Jr., of Boston, Commissioner-General of the League of Nations for Hungary, assumed his duties on May 1, 1924. The foreign loan of 250,000,000 gold crowns was placed in June on the American, Italian, Swiss, Swedish, Dutch, Czechoslovak and Hungarian markets. The new bank of issue opened on June 24. The reconstruction schedule contemplated balancing the budget by June 30, 1926, but it showed a surplus after October, 1924, and was balanced a year and a half earlier than the schedule.

On June 10, 1926, the Council decided to suppress the office of commissioner-general at the end of that month. Controls similar to those applied in Austria entered into force.¹ As in Austria the currency had been absolutely stable and on January 1, 1927, a new currency was introduced, the pengő, equivalent to 12,500 old paper crowns, \$0.1749 and 5.7176 to the dollar. The balance sheet of the National Bank was already expressed in pengős, with reserve amounting to 55% of note circulation as against a required 20%. On June 30, 1926, the reconstruction loan was valued at 266,884,211.63 gold crowns, of which there was a balance available of 119,459,845.14 for productive expenditure with the assent of the Council.²

Refugee Settlement. The Greek refugee settlement loan under the protocol of September 19, 1924, amounting to £10,000,000 was floated in December, 1924.³ The Bulgarian refugee settlement loan under the protocol of September 8, 1926, was issued in London and in New York on December 21, 1926.⁴

¹ *Official Journal*, VII, p. 876.

² On June 30, 1929, Royall Tyler of Quincy, Mass., representative of the loan trustees and of the administrator of the loan balance, terminated his duties (*Official Journal*, X, p. 1015).

³ See p. 185.

⁴ See p. 188.

Danzig. Three loans have been issued by the Free City under League auspices. The municipal loan of 1925 was virtually a private transaction but the banks inserted in the general bond provisions which required the assent of the Council.¹ By these the trustee may draw the attention of the Council to any breach by the municipality of the terms of the general bond. The Council may be called upon to settle disputes between the municipality, the financial institutions in charge of the loan and the trustee. The Free City may appeal to the Council if it considers that the trustee has abused his authority. The program of expenditure was subject to Council approval.

The two Danzig loans of 1927 differed in character. That of the Harbor Board was for productive purposes and the stipulation of the Council² was that it be issued after the municipal loan. The money required by the city was not for productive purposes, but 45% of it was to meet obligations arising out of the treaty of Versailles and the occupation of 1920. Special regulations for protection of a loan secured on the tobacco monopoly were worked out and the Council appoints the trustee, who annually reports to it.

Bulgarian Stabilization. On March 10, 1928, the Council approved the final plan for the Bulgarian stabilization loan of £5,000,000 which had been drawn up by the Financial Committee in agreement with the Bulgarian Government. The protocols were finally signed on September 8, 1928.³ The loan is to be devoted to the repayment of the state debt to the National Bank in connection with the stabilization of the currency, to strengthening the position of the Agricultural Bank and the Central Cooperative Bank, the liquidation of budget arrears, the construction of roads and railways, and work in connection with the damage caused by earthquakes during the spring of 1928. The 7½% loan was issued November 21, 1928, at 97. The scheme in its general lines resembles that of the Greek stabilization loan. The Bulgarian Government undertakes to safeguard

¹ *Official Journal*, VI, p. 887, 967.

² *Ibid.*, VIII, p. 806.

³ *Bulgarian Stabilization Loan. Protocol and Annexes . . .* (C. 338. M. 96. 1928. II. 32).

the independence of the National Bank from any political influence by the appointment by the Council of a technical adviser.

Greek Stabilization and Refugees. The exhaustion of the loan for refugee settlement work and the state of its currency caused Greece to raise the question of a loan for £9,000,000, one-third to be devoted to completing the refugee settlement program, one-third for budget arrears and one-third for the new bank of issue. Greek finances were in a complicated state, one outstanding question being with the United States. During the war, the United States Treasury extended to the Greek Government a credit which had not been exhausted. When the United States brought this indebtedness to its attention, the Greek Government stated that refunding was not due until the entire credit was turned over. Negotiations resulted in a United States Treasury agreement to advance the Greek Government, as part of an agreement refunding the total indebtedness, the sum of \$12,167,000 at 4%, redeemable in 20 years. An act to that effect was passed by the Congress. This American agreement accounts for £2,500,000 of the required amount, and in its technical aspects has the same securities as the loan issued under the auspices of the League. The loan protocol for the remaining £6,500,000 was signed at Geneva September 15, 1927,¹ and the loan issued in London, New York, Rome, Stockholm and Zurich in sterling and dollar bonds at 91, with 6%, on January 31, 1928. By the terms of the protocol the Greek minister of finance makes a quarterly report to the League.² Greek currency was stabilized on a gold basis at 375 drachma to the pound sterling on May 14, 1928, on which date the new bank of issue was opened.

Estonia. The Estonian Government in September, 1924, requested the League to send experts to study the economic and financial crisis in that country. The report recommended that the bank of Estonia should be made

¹ *Greek Stabilization and Refugee Loan. Protocol and Annexes* (C. 556. M. 198. 1927. II. 74).

² *Official Journal*, IX, p. 488, 1034, 1707; X, p. 845, 709, 1196, 1751.

completely independent of the state and reorganized on the principles adopted for the banks of issue for Austria, Hungary and Danzig and that a mortgage institute be created to take over all Government long-term loan operations. These recommendations were accepted and a scheme of reform involving an international loan of £1,350,000 was arranged. The protocol signed December 10, 1926, provides for the appointment by the Council of a loan trustee and for a foreign adviser to the Estonian bank of issue.¹ The loan was issued in June, 1927.

Counterfeiting of Currency

The question of forged currency was discussed by the Council on June 10, 1926, as a result of a communication from the French Government. In this letter,² M. Briand drew attention to numerous cases in which the national currency of various countries had been forged. In his opinion, such forgeries were not only an attack upon the financial strength of the country whose currency was counterfeited; they might also, as a direct consequence, disturb international public order.

The Financial Committee, to which the question was referred, sent a questionnaire to 43 banks of issue, of which 20 replied in detail. An international convention was generally favored in order to homologate legislative measures and cooperation between the judicial and police authorities. The Mixed Committee authorized by the Council on December 9 was made up of four delegates of banks of issue, four specialists in international criminal law and three prosecution authorities, the latter two groups nominated by seven Governments. The draft convention³ and report were circulated to Governments for consideration on December 6, 1927,⁴ and the conference to prepare it for signing sat at Geneva April 9-20, 1929.

¹ *Banking and Currency Reform in Estonia, Protocol* (C. 227. M. 89. 1927. II. 45), *Treaty Series*, LXII, p. 277.

² *Official Journal*, VII, p. 950.

³ *Report and Draft Convention*, p. 18 (C. 523. M. 181. 1927. II. 70).

⁴ *Official Journal*, IX, p. 121.

The international convention for the suppression of counterfeiting currency¹ sets up rules recognized by the contracting parties as providing for the present the most effective means for insuring the prevention and punishment of counterfeiting currency, the word currency being understood to mean paper money, bank notes, and metallic money which is legally authorized for circulation. Offenses punishable as "ordinary crimes" are:

- (1) Any fraudulent making or altering of currency;
- (2) The fraudulent uttering of counterfeit currency;
- (3) The introduction into a country, or the receiving or obtaining, of counterfeit currency with a view to uttering it and with knowledge that it is counterfeit;
- (4) Attempts to commit an intentional participation in the foregoing acts;
- (5) The fraudulent making, receiving or obtaining of instruments or articles peculiarly adapted for counterfeiting or altering currency.

Each of these acts, if committed in different countries, is to be considered a distinct offense, and no distinction is to exist in the scale of punishments between acts relating to domestic and foreign currency. Foreign convictions for counterfeiting offenses will be recognized for the purpose of establishing habitual criminality in countries "where the principle of the international recognition of previous convictions is recognized." Foreign "civil parties," including, if necessary, the contracting party whose money has been counterfeited, will be entitled to all rights allowed to inhabitants of the country in which the case is tried, subject to its domestic laws. Extradition provisions are intended to prevent offenders from escaping punishment by residing in a foreign country or in a country other than that in which the offense has been committed. Provisions for the seizure and confiscation of counterfeit currency and of instruments used for counterfeiting are provided for on an international basis. The convention provides for the establishment of a central office in each contracting state to investigate cases of counterfeit currency and for their

¹ *Official Journal*, X, p. 286.

maintaining direct relations with each other by correspondence. The convention contains details regarding the national organization and operation of these offices. The central offices should hold conferences, along with the representatives of banks of issue, and the organization of a central international information office may form the subject of one of the conferences. Detailed provisions are laid down for the transmission of letters rogatory (letters of request) relating to the offenses covered by the convention.

The conference encountered a theoretical difficulty in attaining agreement to the extent which it did. As a consequence, there was inserted in Art. 17 a provision that participation in the convention "shall not be interpreted as affecting that party's attitude on the general question of criminal jurisdiction as a question of international law." The convention recognizes further (Art. 18) that the offenses should be defined, prosecuted and punished in conformity with the general rules of the domestic law of each contracting state, "without ever being allowed impunity."

The customary final articles, including the provision that disputes regarding the interpretation or application of the convention shall be referred to the Permanent Court of International Justice, are included. The convention will come into force when five ratifications or accessions have been deposited.¹ Several states made reservations relating to the application of the convention in relation to their national law. The Final Act provides, among other things, that on creation of 15 central offices, the Council of the League may summon a conference for assuring, perfecting and developing direct international collaboration. Pending the creation of this office, the International Bureau at Vienna will be continued. Uniform procedure respecting letters of request is recommended as a subject of an additional convention.

¹ The convention, protocol and Final Act were signed by Albania, Austria, Belgium, Bulgaria, China, Colombia, Cuba, Czechoslovakia, Danzig, Denmark, France, Germany, Great Britain, Greece, Hungary, India, Italy, Japan, Luxemburg, Monaco, the Netherlands, Norway, Panama, Poland, Portugal, Rumania, Spain, Switzerland, Union of Socialist Soviet Republics, United States, Yugoslavia.

The exact terms of the convention were determined to a considerable extent by the fact that it contemplated a régime under which a crime against one state might create a duty of cognizance by another state not affected by the offense. In defining the conditions, the difference between such a situation and ordinary extradition was constantly in mind. It was suggested in the conference that the difference be obliterated. While this was not done, an optional protocol¹ was adopted by which contracting parties "undertake, in their mutual relations, to consider, as regards extradition, the acts referred to in Art. 3 of the said convention as ordinary offenses."

Mixed Greco-Bulgarian Emigration Commission

The operation of the convention of November 27, 1919, for reciprocal emigration between Bulgaria and Greece has from the beginning been managed by a commission appointed by the Council of the League.² The extensive interchange of population resulted in financial arrangements for the liquidation of properties abandoned by Bulgarians or Greeks who had elected to take up residence in the country of their nationality. A plan of payment for the properties involved was adopted on December 8, 1922, and its liquidation has been effected through Greek and Bulgarian 6% loans, the final certificates of which were due for amortization as from January 1, 1925. Documents presented to the Council on September 3, 1927, indicated that of a total of 40,000 claims presented by emigrants, the number of liquidations had risen to 10,600 and that the question of providing satisfactory security for the bonds given in liquidation to emigrants had definitely arisen.³

The problem was referred to the Financial Committee which worked out an agreement, signed at Geneva on

¹ The optional protocol, subject to ratification, has been acceded to by Austria, Bulgaria, Colombia, Cuba, Czechoslovakia, Greece, Panama, Poland, Portugal, Rumania, Spain and Yugoslavia.

² See p. 220.

³ *Official Journal*, VIII, p. 776, 885.

December 9, 1927, by the representatives of Bulgaria and Greece and the president of the Mixed Commission.¹ By this arrangement, the provisional certificates are being exchanged for final certificates and the funds resulting from the liquidation of properties — some \$35,000,000 — are being deposited in the National Bank of Bulgaria and the Greek Bank of Issue as sinking funds. Semi-annual drawings result in the owners of the liquidated properties recovering their money.

Central Bank Statistics

At the suggestion of the Financial Committee, representatives of the Information and Statistical Services of 25 banks of issue met from April 11 to April 17, 1928, in Paris at the Banque de France. The banks represented were: The National Banks of Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, England, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Norway, Netherlands, Poland, Rumania, Serb-Croat-Slovene State, Spain, Sweden, and Switzerland, the Federal Reserve Bank of New York and the Federal Reserve Board.

The discussions were directed to the examination of the characteristic features of the different money markets, the volume of money and credit, clearing statistics, the velocity of circulation, indices of economic activity, the definition of the different rates of money and the manner in which these rates are quoted. In all these discussions the primary object was to find means of rendering monetary statistics more comparable and easy of interpretation, and how such information might be exchanged between banks.

Double Taxation

The first step of the Financial Committee in solving the problem of double taxation was the appointment of a Committee of Economic Experts, who presented a compre-

¹ Financial Committee. Report . . . of 29th Session, p. 5 (C. 643. M. 211. 1927, II. 75).

hensive report on April 3, 1923,¹ in which was developed the full theory of this first "financial problem of universal importance"² to be handled by the League. The Financial Committee next organized a committee of government taxation officials³ to study the subject from the administrative point of view and in relation to the problem of fiscal evasion.

In January, 1927, the result of this examination of the problem was studied by a committee of taxation experts,⁴ designated by and acting for their Governments, who developed two draft conventions on double taxation and two others on fiscal evasion. The question was still so complicated that it was deemed advisable to summon in October, 1928,⁵ a conference of fiscal experts, who revised the drafts so as to adopt them for acceptance in bilateral treaties rather than in a multilateral convention. The question still offered so many difficulties that the Council on June 14, 1929, appointed the Fiscal Committee to continue the study of the problem and to lend assistance in creating a harmonious system of tax imposition. Professor Thomas S. Adams is the United States expert on this committee.

2. Organization for Communications and Transit.⁶

Art. 23 of the Covenant provides that, "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon the Members of the League: (e) will make provision to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all Members of the League."

¹ League of Nations, E. F. S. 73/F. 19.

² Resolutions and Recommendations . . . Sixth Session (*Official Journal*, Spec. Sup. No. 32, p. 15).

³ League of Nations, C. 115. M. 55. 1925. II and C. 216. M. 85. 1927. II. 40.

⁴ *Ibid.*, C. 216. M. 85. 1927. II. 40.

⁵ *Ibid.*, C. 495. M. 197. 1928. II. 46.

⁶ A list of meetings and conferences on the subject matter handled by this Organization, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 277 (Boston, World Peace Foundation, 1930).

On February 13, 1920, the Council proposed that the Committee of Ports, Waterways and Railways of the Peace Conference, together with representatives of states having special interest in the subject, undertake a preliminary survey of the problem involved in carrying out this provision. A conference was held for that purpose in the summer of 1920 at Paris and the committee transformed itself into a provisional committee on communications and transit of the League.

The proposals of the committee called for a general conference to prepare international agreements and recommendations suitable for embodiment in national laws, and draft resolutions to be submitted to the Assembly. It also recommended a permanent committee to sit continuously and act both as the bureau of the conferences and as a technical advisory body. These recommendations were approved by the Council and the First Assembly.

CONFERENCES

The General Conference on Freedom of Communications and Transit is held at intervals of three years. Conferences have been held as follows:

1. Barcelona, March 10–April 20, 1921; 44 states represented.
2. Geneva, November 15–December 9, 1923; 41 states represented. The United States sent an "official observer." Organizations represented in an advisory capacity were: International Chamber of Commerce, Central Railway Transport Office, the International Union of Railway Administration, the four International River Commissions for the Danube, the Elbe, the Oder and the Rhine, the Hydraulic Danube Commission, and the League's Advisory Committee for Communications and Transit.
3. Geneva, August 23–September 2, 1927; 41 states represented, including the United States and three other non-Members of the League. There were also present in an advisory capacity, besides representatives of the Saar Governing Commission, delegates from the following:

Members of the Advisory and Technical Committee for Communications and Transit, Experts appointed by the Advisory and Technical Committee for Communications and Transit, Permanent Technical

Hydraulic System Commission of the Danube, International Elbe Commission, International Oder Commission, Central Commission for Rhine Navigation, International Railway Union, International Central Railway Transport Office, International Chamber of Commerce, International Shipping Conference, International Federation of Transport Workers, Christian Union of Transport Workers, International Labor Office, International Broadcasting Union, International Air Traffic Association, International Commission for Air Navigation, International Technical Committee of Legal Experts for Air Navigation.

4. Scheduled for 1931. Owing to the technical and detailed character of questions under inquiry, which resulted in several special conferences in 1929 and 1930, postponement of the general session was deemed advisable.

ADVISORY AND TECHNICAL COMMITTEE

The Advisory and Technical Committee on Communications and Transit was organized by the Barcelona Conference in accordance with the resolution of the First Assembly. The committee is a consultative and technical body to assist the Council and the Assembly of the League in discharging its functions. It may arrange for any future conference and prepare its agenda; it exchanges all requisite information with the appropriate ministries of the Members of the League; it is intrusted with the investigation of any disputes which may be referred to the League under Arts. 336, 376 and 386 of the treaty of Versailles and corresponding articles in the other treaties of peace, and will endeavor to adjust such disputes whenever possible by conciliation between the parties; in the event of such disputes being brought before the Permanent Court of International Justice, the committee may be called upon to assist the Court.¹

The committee is governmental, being composed of one representative for each Member of the League represented permanently on the Council, together with (now 13) Members appointed as determined by the conference, taking into account as far as possible technical interests and geographical representation. The total membership shall

¹ Conférence de Barcelone. *Comptes rendus et textes relatifs au Règlement d'organisation*. . . p. 58-60.

not exceed one-third of the Members of the League of Nations. The states represented have been:

1921	1924	1927
France	France	France
Great Britain	Great Britain	Germany
Italy	Italy	Great Britain
Japan	Japan	Italy
Belgium	Austria	Japan
Brazil	Belgium	Argentina
Chile	Chile	Austria
China	China	Colombia
Cuba	Colombia	Greece
Denmark	Cuba	Latvia
Estonia	Greece	Netherlands
Netherlands	Lithuania	Panama
Poland	Norway	Portugal
Spain	Poland	Salvador
Switzerland	Rumania	Serb-Croat-Slovene State
Uruguay	Salvador	Siam
	Spain	Sweden
	Venezuela	Switzerland

The committee is engaged in one of the most technical fields with which the League concerns itself. As a consequence it divided into seven committees in 1922. To these have been added experts on specific subjects and a series of temporary committees has further been created.¹ The work engaging the attention of the committee is indicated by that of the committees. The committees maintain close touch with many technical international organizations, especially those dealing with air traffic.

The third conference made an exhaustive study of the collection and exchange of general information on communications and transit. The United States delegation took an active and important part in this work, the head of the delegation being chairman of the committee. The resolution consisted of a general decision and of detailed suggestions as to the kind of information which might be collected on ports and maritime navigation, inland navi-

¹ For list see *Monthly Summary*, No. 1 of each year.

gation, railways, electric questions, road traffic and air navigation. This information should bear upon agreements between states, bills published, acts and regulations in preparation; it should further include general data as to work planned or proceeding, statistics, etc.¹

CONFERENCE OF PRESS EXPERTS

The Conference of Press Experts met at Geneva August 24–29, 1927. It originated from a proposal submitted by the Chilean delegation to the Assembly of 1925. The conference was attended by 63 experts, 20 assessors and 35 technical advisers from 38 countries, Members and non-Members of the League, representing not only the different continents, but also the various categories of press interests — newspaper proprietors, news agencies, press bureaus and journalists. Its debates resulted in the adoption of resolutions which cover a large part of the technical work of the press.²

The first series of these resolutions needed exhaustive technical study, and the Council requested the Secretary-General to ask the Organization for Communications and Transit to continue this technical study with the help of press associations interested in these questions.

As to customs regulations applicable to newspapers the Committee at its 12th session advised summoning a special conference of experts to submit to European Governments definite recommendations and decided to ask Governments levying special duties whether it was possible to abolish them.

A European conference on the transport of newspapers was held at Geneva November 25–29, 1929. It was attended by delegates of 19 states and of newspaper forwarding organizations, postal and traffic institutions. In its final act³ the conference recommended measures

¹ *Third General Conference on Communications and Transit, Vol. II, p. 52 (C. 558 (a), M. 200 (a), 1927, VIII, 15th)*.

² *Conference of Press Experts . . . Final Resolutions . . . (A. 43, 1927, G. Q. 8)*.

³ *Official Journal, X, p. 986, and XI, p. 36*.

concerning a system of transport for daily newspapers in international traffic, transport rates, customs and police formalities, customs and fiscal duties applicable to newspapers, the dropping of newspapers from aircraft in flight, combined air and rail transport, periodicals as distinct from newspapers, and postal questions relating to newspapers and periodicals.

A Special Committee of Telegraphic and Press Experts in May, 1928, submitted recommendations to the Committee concerning priority for press telegrams and wireless messages, "urgent" press telegrams and wireless messages, long-distance telegraph and wireless communications, regional telegraphic agreements, telephone rates, the authorization to receive press messages by wireless, wireless rates, code telegrams, and the importance of telegraphic and wireless communications between different continents. Governments are in general favorable to these recommendations.¹

A second series of resolutions of the conference depends on the action of Governments for realization. The Council on December 7, 1927,² asked the Governments what action could be taken on the resolution respecting the protection of news:

The Conference of Press Experts lays down as a fundamental principle that the publication of a piece of news is legitimate subject to the condition that the news in question has reached the person who publishes it by regular and unobjectionable means, and not by an act of unfair competition. No one may acquire the right of suppressing news of public interest.

a. Unpublished News. The conference is of opinion that full protection should be granted to unpublished news or news in course of transmission or publication in those countries in which such protection does not already exist. . . .

There shall be no preferential right in official news issued by a Government or Government Department or by an official representing a Government or Government Department. All such news may be published without restriction in full or in part.

¹ *Official Journal*, X, p. 916.

² *Ibid.*, IX, p. 136.

Newspapers, press agencies, press bureaus, and newspaper correspondents and representatives shall have free and equal opportunity of access to and transmission of such news.

b. Published News. In view of the widely differing conditions obtaining in various countries, the conference is of opinion that the question of the protection of published news, whether reproduced in the press or by broadcasting, is one for the decision of the respective Governments concerned, and recommends that any Governments to whom application in this respect is made by its country's press, should sympathetically consider the advisability of granting suitable protection. . . .

Governments were asked what action they intended to take on resolutions respecting professional facilities for journalists, including special resolutions on travel tours, schools for journalists, scholarships, double taxation of journalists living abroad, reductions of fares, equality of treatment for foreign journalists and facilities for inquiry afforded to foreign journalists.

The Council drew the special attention of Governments to the following passage in the resolution on censorship in peace time:

However, so long as, contrary to the principle of the liberty of the press, censorship still exists in any country, the conference asks for the following minimum guaranties:

1. That telegrams submitted to censorship should be examined by specialists and dispatched with the greatest promptitude possible.

2. That journalists should be informed of the instructions given to these specialists so as to enable them to make their own dispositions.

3. That they should be informed of the passages suppressed in their dispatches as well as of exceptional delays in their transmission, and that they should be given the option of sending or withholding telegrams which have been either censored or delayed.

4. That the transmission charges paid in advance for telegrams which have been either censored or delayed should be reimbursed in proportion to the number of words suppressed.

5. That a complete equality of treatment should be granted to all journalists without exception.

The replies¹ of Governments to these resolutions go into detail as to the legal conditions and actual practice in the given states and exhibit a great variety of method.

Lastly, the Council itself took note of the resolutions dealing with courses for journalists at Geneva, the establishment in newspapers of a special heading on the League of Nations, regional press understandings, and two others on the publication or distribution of tendentious news and on the press combating hatred between nationalities.

FREEDOM OF TRANSIT

The convention and statute on freedom of transit² signed at Barcelona, April 20, 1921, has been in force since October 31, 1922. The statute defines traffic in transit as persons, baggage and goods, as well as any means of transport, which is taken across the territory of a state on a complete journey which begins and terminates beyond the frontier of the state in question. The contracting states engage to facilitate such traffic and agree to make no distinction respecting it on the basis of "nationality of persons, the flag of vessels, the place of origin, departure, entry, exit or destination, or any circumstances relating to the ownership of goods" or means of transport. Traffic shall not be subject to special duties on account of transit. Tariffs applicable to traffic in transit "shall be so fixed as to facilitate international traffic as much as possible" and are to be "reasonable as regards both their rates and the method of their application."

The statute does not bind contracting states to afford transit for passengers whose admission to its territories is forbidden or for goods whose importation is prohibited on

¹ See replies in *Official Journal*, X, p. 489, 866, 1363.

² Treaty Series, VII, p. 11, Ratifications: Albania, Austria, Belgium, British Empire (including Newfoundland), Bulgaria, Chile, Czechoslovakia, Denmark, Estonia, Finland, France, Greece, India, Italy, Japan, Latvia, Netherlands (including Netherlands India, Surinam and Curaçao), New Zealand, Norway, Poland, Rumania, Spain, Sweden, Switzerland. Accessions: Federated Malay States (Perak, Selangor, Negri Sembilan and Pahang), Non-Federated Malay States (Brunei, Johore, Kedah, Perlis, Kelantan and Trengganu), Palestine (British mandate), Free City of Danzig, Germany, Hungary, Iraq, Peru, Siam, Syria and Lebanon. Subject to ratification: Peru.

grounds of public health or security or as a precaution against disease of animals or plants. The statute continues in force in time of war so far as the rights and duties of belligerents and neutrals permit. Deviations from its provisions are permissible in exceptional cases of "an emergency affecting the safety of the state or the vital interests of the country." It does not abrogate treaties in force with respect to transit or the withdrawal of facilities greater than those provided for.

Passports and Identity Certificates. The provisional committee convened at Paris on October 15-21, 1920, a Conference on Passports, Customs Formalities and Through Tickets. This conference was convinced "that the many difficulties affecting personal relations between the peoples of various countries constitute a serious obstacle to the resumption of normal intercourse and to the economic recovery of the world." The conference passed a series of resolutions¹ with the primary purpose of securing uniform practice in the various states. These proposals, which were of an administrative character, greatly simplified travel among the many states accepting them.

In the Second Passport Conference 38 Governments were represented at Geneva, May 12-18, 1926. The program was based on a resolution of the Sixth Assembly and in addition aimed to carry out resolutions of the 1924 Rome Emigration Conference. The conference adopted a series of recommendations aiming principally at technical improvements in passports of the international type and in methods of establishing passports; the prolongation of the duration of their validity, and its extension to all foreign countries, or to as large groups of countries as possible; the reduction of passport fees, which should in no case exceed the expenditure entailed by their issue; and the simplification of frontier control.

The conference² was in favor of the total abolition of exit visas and recommended that the suppression of entrance and transit visas should be made as general as

¹ *Official Journal*, I, 2, p. 58.

² See *Minutes of the Plenary Meetings* (1926, VIII, 4) and *Final Act* (1926, VIII, 2).

possible by means of interstate agreements. It also recommended that facilities should be granted to travelers, enabling them to break their journey in the countries through which they passed, more especially in ports of call, even though their passport should bear no transit visa; that visas should be valid for two years, or for a period equal to that of the validity of the passport, and that they should be good for an unlimited number of journeys and for all frontiers.

It was further recommended that the visa fee should not exceed:

(1) 5 gold francs for entrance visas valid for a single journey;

(2) 10 gold francs for entrance visas valid for several journeys;

(3) 1 gold franc for transit visas of unlimited validity.

The conference considered that fees should not vary according to the nationality of the passport-holder, his itinerary, or the flag of the ship upon which he embarked. It recommended that the issue of passports, identity papers and visas should be organized so as to simplify formalities and to spare travelers and emigrants long and expensive journeys. Visas should be delivered within the shortest possible time. The conference recommended that frontier control should be carried out, whenever possible, when the trains were in motion; should this be impossible, during the stoppage of trains at one of the two frontier stations, and that police inspection by the two countries concerned should be effected simultaneously or follow rapidly upon one another. It drew attention to the fact that these improvements would be of little value unless agreements were also concluded for the accomplishment of customs formalities in the same conditions.¹

A Conference on Transit Cards for Emigrants concluded an agreement² at Geneva June 14, 1929. Its object is to simplify transit formalities for emigrants leaving Europe

¹ Replies from Governments on the application of the recommendations are in *Official Journal*, IX, p. 1329, 1414; X, p. 305, 473, 861, 927, 1299, 1896; XI, p. 324.

² *Official Journal*, X, p. 1352. In force for Free City of Danzig, Greece, Hungary, the Netherlands, Switzerland.

and passing through one or more states on their way. The cards are to be supplied to shipping companies and issued without charge to emigrants with tickets for the whole journey. The cards are to be issued by the contracting Governments in accordance with models contained in the agreement. Emigrants must fulfill the conditions of admission laid down by the country of emigration and must have means sufficient for their transit. Emigrants provided with passports and transit cards issued by the Government of the country in which their port of embarkation is situated may pass in transit through other contracting countries without consular visa or special control or transit charges.

In connection with refugee problems, Fridtjof Nansen, the High Commissioner, inaugurated a system of identity certificates which has served a useful purpose for hundreds of thousands of Russian, Armenian and other refugees. At a small technical conference at Geneva on July 3-5, 1922, 16 governments agreed upon the form of a certificate of identity and rules for its issuance for the purpose of enabling Russian refugees both to remain in the countries where they found themselves and to travel.¹

While this system worked well, the problem of identifying persons without nationality status continued. The Second Passport Conference adopted regulations at Geneva on May 18, 1926, incorporating recommendations on this subject.² The complications of the problem resulted in summoning a committee of experts which held two sessions prior to the Third General Conference on Communications and Transit. The latter on September 2, 1927, adopted four recommendations³ to establish

¹ *Treaty Series*, XIII, p. 237. The countries which adopted the above arrangement were: Austria, Bolivia, Bulgaria, Chile, China, Denmark, Estonia, Finland, France, Germany, Great Britain, Greece, Guatemala, Hungary, Italy, Japan, Latvia, Lithuania, Netherlands, Norway, Poland, Portugal, Rumania, Sweden, Switzerland, Union of South Africa, United States of Mexico.

² *Ibid.*, LXXXIX, p. 47. In force for Austria, Belgium, Bulgaria, Cuba, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, India, Irish Free State, Luxemburg, Norway, Poland, Rumania, Sweden, Switzerland and Yugoslavia.

³ *Ibid.*, VIII, p. 1611; for replies, IX, p. 1325, 1415; X, p. 313, 474, 863, 928, 1299, 1896.

an international system of identity and traveling documents for persons without nationality or of doubtful nationality.

The European Conference on Transit Cards for Emigrants adopted on June 30, 1928, an arrangement for extending these measures to Turkish, Assyrian, Assyro-Chaldean and other refugees.¹ An arrangement relating to the legal status of Russian and Armenian refugees was effected at Geneva, June 30, 1928,² in completion of the arrangements of July 5, 1922, May 31, 1924, and May 12, 1926.

PORTS AND MARITIME NAVIGATION

The Permanent Committee for Ports and Maritime Navigation is a double one with specialist members for the two subjects.

The Committee for Ports has as its special concern the development of the régime laid down in the convention and statutes on international régime of maritime ports.

The Committee for Maritime Navigation has given special attention to safety of life at sea, which was the subject of an international convention concluded at London in July, 1914, following the *Titanic* disaster, but which was not generally ratified. The international ice patrol of the North Atlantic was provided for by the convention, but has been conducted on the initiative of the United States alone in the interval. The committee, after extensive studies of the problem, with the aid of the International Hydrographic Bureau, brought the matter to a position where a new convention could be signed at London, May 31, 1929. This convention deals very completely with construction of passenger ships, life-saving appliances, radio-telegraphy on ships engaged on international voyages, safety of navigation, including the North Atlantic ice patrol, and certificates issuable to all

¹ *Treaty Series*, LXXXIX, p. 63. In force for Belgium, Bulgaria, Estonia, Germany, Latvia, Poland, Rumania, Switzerland and Yugoslavia.

² *Ibid.*, p. 53. In force between Belgium, Bulgaria, Estonia, Germany, Rumania, Switzerland and Yugoslavia.

ships. Extensive regulations on each of these subjects complete the convention.¹

A Technical Committee for Maritime Tonnage Measurement was set up in 1926 to bring into effect uniform practice. While the British regulations have been almost universally adopted, the application of them in different countries varies, and there are diverse methods of calculating gross and net tonnage. The technical committee in an exceedingly full report² established schemes for unifying laws and regulations. The committee then drafted instructions for surveyors, model tonnage documents, etc., for consideration by a conference called by Great Britain at London in 1930.

A temporary Technical Committee on Buoyage and Lighting of Coasts has been developing methods to improve and unify such aids to navigation as lighthouse signals, buoyage regulations by day and by night, wireless or radio beacons and coast and port signals, including storm, ice, tide and high sea signals. This technical committee finished its report³ in February, 1929, and the Advisory Committee approved a draft convention, which is to come before a conference at Lisbon, October 6, 1930.

The penal consequences of collision at sea were considered by the Advisory Committee in 1929 at the request of the International Association of Merchant Marine Officers as a result of the decision in the *Lotus* case.⁴ The committee felt unable to examine questions of criminal law in view of the present state of international law, but called the attention of Governments to principles of safety which it was desirable to observe.⁵

Navigable Waterways. The convention and statute on the régime of navigable waterways of international con-

¹ *International Conference on Safety of Life at Sea, London, April 16-May 31, 1929.* Report of the delegation of the United States (Publications of the Department of State, Conference Series No. 1).

² C. 138. M. 31. 1928. VIII. 2.

³ C. 59. M. 34. 1929. VIII. 1.

⁴ Permanent Court of International Justice, Series A, No. 10.

⁵ *Official Journal*, X, p. 853.

cern¹ signed at Barcelona April 20, 1921, has been in force from October 31, 1922. The statute defines such waterways as:

(1) "All parts, which are naturally navigable to and from the sea, of a waterway which in its course . . . separates or traverses different states," as well as waterways connecting therewith which separate or traverse different states.

(2) Natural or artificial waterways or parts thereof expressly placed under the régime of the general convention by treaty agreements. On the parts of such waterways under their authority, the contracting states "accord free exercise of navigation to the vessels flying the flag of any one of the other contracting states."

(3) Navigable waterways which are, or may in the future be, controlled by international commissions on which nonriparian states are represented.

The nationals, property and flags of all contracting states shall be treated on a footing of perfect equality in all respects. No distinction shall be made respecting the nationals, property or flags of riparian and nonriparian states, and no exclusive rights of navigation shall be accorded.

Exceptions of a practical character are stipulated. A riparian state may reserve for its own flag the transport of passengers and goods between two ports under its own authority. On a natural system of navigable waterways, which is not subject to special treaty and which traverses only two states, they may reserve to their flags trade between their respective ports. The contracting states maintain their right to apply police and other laws and regulations to international waterways, but "these must be reasonable, must be applied on a footing of absolute equality . . . with respect to all other contracting states, including the state which is their author, and must not

¹ *Treaty Series*, VII, p. 35. Ratifications: Albania, Austria, British Empire (including Newfoundland), Bulgaria, Chile, Czechoslovakia, Denmark, Finland, France, Greece, India, Italy, New Zealand, Norway, Sweden. Accessions: Federated Malay States (Perak, Selangor, Negri Sembilan and Pahang), Non-Federated Malay States (Brunei, Johore, Kedah, Perlis, Kelantan and Trengganu), Palestine (British mandate), Hungary, Rumania, Siam. Subject to ratification: Colombia, Peru.

without good reason impede the freedom of navigation." No dues, other than those imposed in the interest of navigation, shall be levied anywhere on international waterways. The rules of the statute respecting freedom of transit apply to transit on international waterways.

In the ports on these waterways the nationals, property and flags of all contracting states enjoy a treatment equal to that accorded to the trade of the riparian state controlling the port. Riparian states are bound to refrain from all measures likely to prejudice the navigability of the waterway or to reduce the facilities for navigation. Equitable arrangements are made for the upkeep of works affecting navigability and for restrictions on navigation necessitated by local conditions. Allocation of expenses for the upkeep of facilities to navigation are provided for in detail. In this connection, treaties establishing international commissions are to be appropriately applied.

Riparian states may issue customs, police, sanitary and administrative regulations respecting their respective portions of the waterways, but the great desirability of agreement rendering them uniform is recognized. The statute continues in force in time of war so far as the rights and duties of belligerents and neutrals permit. It does not impose upon a contracting state "any obligation conflicting with its rights and duties as a Member of the League of Nations."

An additional protocol¹ accords equality of treatment for communication on all navigable waterways under national control for commerce not involving transshipment.

¹ *Treaty Series*, VII, p. 65. Ratifications: Albania, British Empire (including Newfoundland), Chile, Czechoslovakia, Denmark, Finland, Greece, India, New Zealand, Norway. Accessions: Austria, Nyasaland Protectorate and Tanganyika Territory, Bahamas, Barbados, Bermuda, British Guiana, Jamaica (including Turks and Caicos Islands and Cayman Islands), Leeward Islands, Trinidad and Tobago, Windward Islands (Grenada, St. Lucia and St. Vincent), Gibraltar, Malta, Cyprus, Gambia Colony and Protectorate, Sierra Leone Colony and Protectorate, Nigeria Colony and Protectorate, Gold Coast, Ashanti and Northern Territories of the Gold Coast, Kenya Colony and Protectorate, Uganda Protectorate, Zanzibar, St. Helena, Ceylon, Mauritius, Seychelles, Hong-Kong, Straits Settlements, Fiji, Gilbert and Ellice Islands Colony, British Solomon Islands, Tonga Islands, Federated Malay States (Perak, Selangor, Negri Sembilan and Pahang), Non-Federated Malay States (Brunei, Johore, Kedah, Perlis, Kelantan and Trengganu), Palestine (British mandate), Hungary, Rumania, Siam, Sweden. Subject to ratification: Peru.

Maritime Ports. The convention and statute on the international régime of maritime ports¹ and the protocol of signature, signed at Geneva on December 9, 1923, entered into force on July 26, 1926. The statute defines maritime ports for its purposes as all those "which are normally frequented by seagoing vessels and used for foreign trade." Contracting states reciprocally grant equality of treatment with its own vessels as regards freedom of access to such ports, their use and the full enjoyment of the benefits as regards navigation and commercial operations which it affords to vessels, their cargoes and passengers. Equality of treatment covers facilities of all kinds such as allocation of berths, loading and unloading facilities and all dues and charges levied. Measures required for the proper conduct of the business of the port are fully within the jurisdiction of the competent authorities, provided they comply with the principle of equality of treatment. Dues and charges shall be of public record, and customs and other analogous duties are imposed without any distinction of flag. Unless special reasons justify an exception, customs duties in a maritime port may not exceed such duties levied on other frontiers.

The statute implies reciprocity, and contracting states reserve the power of suspending its benefits with reference to vessels of a contracting state which does not effectively apply its provisions. In case of dispute over such action, either state may refer the matter to the Permanent Court of International Justice for adjustment under summary procedure.

¹ *Treaty Series*, LVIII, p. 285. Ratifications: Belgium, British Empire, Denmark (excluding Greenland), Germany, Greece, Hungary, India, Iraq, Japan, Netherlands, New Zealand, Norway, Siam, Sweden, Switzerland. Accessions: Austria, Newfoundland, Southern Rhodesia, Australia, Bahamas, Barbados, Bermuda, Brazil, Guiana, British Honduras, British Solomon Islands Protectorate, Brunei, Ceylon, Cyprus, Falkland Islands, Federated Malay States, Fiji, Gambia, Gibraltar, Gilbert and Ellice Islands, Gold Coast, Grenada, Hong-Kong, Jamaica (excluding Turks and Caicos Islands and Cayman Islands), Kenya, Leeward Islands (Antigua, Dominica, Montserrat, St. Christopher Nevis, Virgin Islands), Malay States (Unfederated), Mauritania, Nigeria, Palestine, St. Helena, St. Lucia, St. Vincent, Seychelles, Sierra Leone, Somaliland, Straits Settlements, Tanganyika Territory, Tonga, Trinidad and Tobago, Zanzibar, Malra, Netherlands Indies, Surinam and Curaçao. Subject to ratification: France, Panama.

The statute does not apply to the maritime coasting trade, nor to fishing vessels or their catches. States reserve the right to make such towage arrangements as they see fit, to organize and administer pilotage services under their own rules, and to enact special legislation respecting the transport of emigrants. The statute applies both to publicly and privately controlled vessels, but not to warships or vessels performing police or administrative functions. Special treaty rights conferred upon a foreign state within a defined area of a maritime port for the purpose of facilitating transit are not to be regarded as inequality of treatment, but the benefiting state shall not acquire thereby advantages with respect to the treatment of the vessels of third states trading with the beneficiary.

Exceptions from the rules in case of an emergency affecting the safety of the state and the maintenance of prohibitions respecting the entrance of forbidden passengers and goods are set forth. The statute continues in force in time of war so far as belligerent and neutral rights and duties permit. Applicable provisions of the statute on the international régime of railways are incorporated in the agreement.

Maritime Flag. The declaration recognizing the right to a flag of states having no seacoast, signed at Barcelona, April 20, 1921, is very simple. The contracting states "recognize the flag flown by the vessels of any state having no seacoast which are registered at some one specified place situated in its territory; such place shall serve as the port of registry of such vessels."¹

INLAND NAVIGATION

The Permanent Committee for Inland Navigation began work in 1924. In 1922, the Advisory and Technical Committee passed a resolution asking the various European

¹ *Treaty Series*, VII, p. 73. Ratifications: Albania, Austria, Belgium, British Empire (including Newfoundland), Bulgaria, Chile, Czechoslovakia, Denmark, Estonia, France, Greece, India, Japan, Latvia, Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Norway, Poland, Spain, Sweden, Switzerland. Accessions: Australia, Canada, Union of South Africa, Finland, Hungary, Rumania, Siam. Subject to ratification: Peru.

river commissions for suggestions respecting the measurements of tonnage for vessels employed in inland navigation. A convention of 1898 and a supplementary arrangement of 1908 were no longer entirely applicable. A Technical Committee produced a draft convention, and the Council convoked a conference in Paris, November 20-27, 1925, which drew up a convention.

The reports made by Walker D. Hines on the Danube and Rhine discussed below called attention to the diversity of private law applicable to inland navigation. As a consequence, the Permanent Committee set up a Committee on Private Law in Inland Navigation, which has been collecting comprehensive information regarding such subjects as the nationality of vessels, ownership, mortgages and privileges, rules applying to collisions, contracts of employment and labor conditions. A conference beginning November 17, 1930, will begin its deliberations on three draft conventions¹ on the registration and ownership of inland navigation vessels, on administrative measures for certifying their nationality and the unification of rules concerning collisions in inland navigation.

In addition, this field of work called for the establishment of a Committee on Statistics of Inland Navigation, which was appointed by the Advisory Committee on July 1, 1924, and serves the whole field of the Permanent Committee.²

Danube and Rhine Inquiries. A postwar difficulty was the dislocation of navigation on the Danube, partly owing to the redivision of its banks among several states and the new trade regulations which they had imposed. The Danube has been under international control since the establishment of the European Commission of the Danube in 1856. This commission has jurisdiction over the maritime Danube from Braïlá to Sulina. In addition, the Danube International Commission has jurisdiction over the river

¹ C. 541. M. 159. 1929. VIII. 17.

² Brig.-Gen. William W. Harts and Capt. P. C. Guardsing represented the United States on the committee at its meeting in January, 1929.

upstream from Brăila. Together they are charged with keeping the channel clear and maintaining navigation facilities.

In 1920 the disuse of the river during the World War was found to have permitted the formation of shoals seriously interfering with navigation. At the instance of the Committee for Communications and Transit, Walker D. Hines, former director-general of the United States Railroad Administration and later arbitrator for questions raised in the peace treaties concerning tonnage distribution on European waterways, was appointed to investigate the problems involved. Major Brehon B. Somervell, Corps of Engineers, U. S. A., was appointed to assist him and conducted a preliminary investigation before Mr. Hines' arrival at Geneva in April, 1925.

The Hines report on Danube navigation¹ examined the conditions of traffic, the restrictions to international trade imposed by riparian states, the problems of maintaining navigation, the extent and mode of operation of the navigation companies, the complications of frontier formalities and the relation between Danube transportation and connecting systems. The extent of existing friction, the lack of capital and other conditions were carefully examined. The report afforded a sound analytical basis for improvement of conditions, which have since been studied.

Mr. Hines was also appointed to make a similar study of Rhine navigation,² that river being also international in character. He found that navigation conditions on the Rhine were principally due to the railway policy of riparian states and that the development of navigation was unfavorably influenced by the character of taxes and customs formalities. As in the case of the Danube, the analysis of conditions opened the way to their improvement.

Vessel Measurement. The convention regarding the measuring of vessels employed in inland navigation³ and

¹ League of Nations, C. 444 (a). M. 164 (a). 1925. VIII.

² *Ibid.*, C. 444. M. 164. 1925. VIII.

³ *Ibid.*, C. 107. M. 50. 1926. VIII. 1. and C. L. 136. 1926. VIII. 11.

protocol of signature, signed at Paris November 27, 1925, entered into force from October 1, 1927.¹ A technical annex to this convention lays down in detail the rules for the measurement of vessels employed in inland navigation, including forms of certificate and distinguishing letters for vessels. Measurement certificates issued by the competent authorities of a contracting state under these regulations shall be acceptable to the authorities of other contracting states as equivalent to their own certificates. State regulations for the execution of the provisions of the convention shall be communicated to other contracting states three months before their application. Parties to the convention undertake to measure any vessel for which such a request is made. A measurement certificate is valid for ten years, and a demand for remeasurement may not be made within that time unless extensive repairs or alterations in the vessel have been made. Lists of vessels measured shall be communicated to all contracting states under such conditions, that all registration officers shall have up-to-date information. Notification of the loss of any vessel shall be made within three months of the establishment of that fact.

TRANSPORT BY RAIL

The Permanent Committee for Transport by Rail began work with special reference to European problems already covered by international agreement. Transportation of merchandise by railroads was covered by a convention signed at Bern, October 14, 1890, with additions in 1893, 1895, 1898, and 1906; while on May 15, 1886, a convention regarding the sealing of railway trucks subject to customs inspection, and another regarding a technical standardization of railroads, were signed.² The subcommittee has secured more general acceptance of these conventions, and

¹ *Treaty Series*, LXVII, p. 63. Ratifications: Austria, Belgium, British Empire (for Great Britain and Northern Ireland), Bulgaria, Czechoslovakia, France, Germany, Hungary, the Netherlands, Rumania, Spain, Switzerland.

² Denys P. Myers, *Manual of Collections of Treaties*, p. 499, 504.

approved the principles agreed on at the Portoroze Conference of Succession States November 23, 1921.¹

In 1926, the committee gave attention to public railroad facilities for the League as a consequence of the possible need for rapid movement, to which attention was drawn in the Bulgaro-Greek frontier incident. Various suggestions were made, and it was especially noted that great improvement in railroad connections could be made.

The committee, while studying such questions as the nomenclature of railway tariffs, the unification of railroad statistics and of transport documents, has devoted its attention to the problems of combined transport since the entrance of the convention into force. It has set up a Committee on Combined Transport, a Subcommittee on Combined Transport between Railways and Waterways and another Subcommittee on Combined Transport between Railways and Air Navigation. In addition, there is a Committee on Competition between Railways and Waterways. All of these are studying the appropriate phases of facilitating through traffic, devoting their attention first to the unification of contracts for journeys over more than one type of transportation.

Régime of Railways. The convention and statute on the international régime of railways² and protocol of signature, signed at Geneva December 9, 1923, came into force on March 23, 1926. The statute, which constitutes the technical agreement, is divided into six parts devoted to the interchange of international traffic by rail, reciprocity in the use of rolling stock and its technical uniformity, relations between the railway and its users, tariffs, financial arrangements between railway administrations in the interest of international traffic and general regulations.

¹ *International Conciliation*, Bulletin No. 176.

² *Treaty Series*, XLVII, p. 55. Ratifications: Austria, Belgium, British Empire, Denmark, Estonia, Germany, Greece, Hungary, India, Japan, Netherlands, New Zealand, Norway, Poland and Free City of Danzig, Rumania, Siam, Spain, Sweden, Switzerland. Accessions: Ethiopia, Newfoundland, Southern Rhodesia, British Guiana, British Honduras, Brunei, Federated Malay States, Gambia, Gold Coast, Hong-Kong, Malay States (Unfederated), Nigeria, Northern Rhodesia, Nyasaland, Palestine, Sierra Leone, Straits Settlements, Tanganyika Territory. Subject to ratification: China, Colombia, Panama.

The contracting states undertake to provide for a through service connecting the existing lines "wherever the needs of international traffic so require." In case existing connections are not sufficient the reinforcement of existing lines or the construction of new lines to effect junctions are to be arranged without delay. A system of common frontier stations is contemplated and mutual facilities at separate frontier stations are provided for. States undertake to give reasonable facilities to international traffic and to refrain from all discrimination of an unfair nature with regard to it. An obligation to improve time-table connections is recognized, and the states agree to encourage the establishment of through trains or through carriages. Customs, police and passport formalities shall be adjusted so as to create "the least possible hindrance and delay."

Shipment of baggage through customs under seal is encouraged. Railway administrations are urged to enter into agreements to facilitate the exchange and reciprocal use of rolling stock on roads of the same gauge. With a view to facilitating such use, agreements for the technical uniformity of rail lines are to be made. (Many of these are in force.) Standardization in contiguous countries is especially urged.

Contracting states agree to facilitate agreements permitting the use of single contracts for international journeys over different lines and in different states. Conditions to be included in such contracts for both passengers and their baggage and for freight are set forth. A set of principles is laid down respecting railroad tariffs with a view to securing the greatest possible uniformity of rates, incidental charges and the conditions under which they shall be applied. International traffic tariffs are to be reasonable and not to discriminate unfairly against other contracting states, their nationals or their vessels; at the same time states retain full freedom to frame their tariffs under their national legislation.

The business arrangements between railway administrations are not to hamper the working of international traffic and the application of through ticket contracts.

Direct financial relations between railroad administrations in such matters are provided for in detail.

General regulations permit deviation from the general principles in case of emergencies affecting the safety of the state, but only to the extent necessary under the circumstances. Contracting states are not obliged under the statute to insure the transport of passengers whose admission into its territories is forbidden or of goods against which importation restrictions run. Precautionary measures against dangerous freights are authorized. Discrimination under these heads is not permissible, but the transit, export or import of articles prohibited by general agreement such as opium, arms, etc., is excepted. The statute does not entail the withdrawal of facilities greater than those provided in it, nor any prohibition of granting greater facilities in the future. It continues in force in time of war so far as belligerent and neutral rights and duties permit.

ELECTRIC QUESTIONS

The Permanent Committee on Electric Questions early concerned itself with bringing international agreement respecting wireless communication up to date. The 1912 convention¹ no longer represented the adequate minimum of international agreement, and conferences held in Paris and Washington in 1920 had brought no agreement. A temporary Committee of Experts on Telegraphic Questions began meeting in London in July, 1923, to mature plans for "an international conference to deal with the general body of international radiotelegraphic problems."² By 1925, preparations were made for a telegraphic conference meeting in Paris, September 1, 1925, and a radiotelegraphic conference, which was convened in Washington in 1927.

The Permanent Committee has developed machinery for constituting an international center of information with a view to promoting interstate cooperation with respect to the development and the technical aspects of the trans-

¹ *Treaties, Conventions . . . between the United States and other powers, III*, p. 3048.

² *Official Journal, IV*, p. 682.

mission in transit of electric power and the development of hydraulic power, in connection with the conventions dealing with those subjects.

The question of improvement of League telegraphic and telephonic communications in times of crisis has occupied the attention of the Committee since 1926.¹ Examination of the existing conditions, preparation of a list of communication routes, provision for special handling of messages directed to the League and other features of the problem have been extensively studied. A Committee of Experts in 1928 examined the technical aspects of constructing a League wireless station.² Switzerland has signed with the Secretary-General a contract³ providing that the use of a Radio-Suisse station by the League "in times of crisis can in no case be invoked against Switzerland as affecting her international responsibility."

Transit of Power. The convention relating to the transmission in transit of electric power,⁴ signed at Geneva December 9, 1923, entered into force from July 26, 1926. Each contracting state undertakes, on the request of any other contracting state, to negotiate for agreements to insure the transmission in transit of electric power across its territory. If such an agreement should be seriously detrimental to the national economy or security, representations to such effect may be made to the applicant state. Such agreements may include the general conditions for the construction and upkeep of power transmission lines, equitable remuneration for the state across whose territory the transmission takes place, the methods for exercising technical control and securing public safety, the means to be used for communications in connection with the working of the power lines, and the procedure for

¹ League of Nations, C. C. T. 310. 1927. VIII. 6.

² *Ibid.*, C. 141. M. 32. 1928. VIII. 4.

³ *Official Journal*, X, p. 550, 553, 751.

⁴ *Treaty Series*, LVIII, p. 315. Ratifications: Austria, British Empire, Czechoslovakia, Denmark, Greece, New Zealand, Spain. Accessions: Newfoundland, Southern Rhodesia, British Guiana, British Honduras, Brunei, Federated Malay States, Gambia, Gold Coast, Hong-Kong, Kenya, Malay States (Unfederated), Nigeria, Northern Rhodesia, Nyasaland, Palestine, Sierra Leone, Straits Settlements, Tanganyika Territory, Uganda Protectorate.

settling disputes in regard to the interpretation and application of the agreements.

It is recognized that the construction of lines and installations ancillary thereto shall be subject to the legal and administrative provisions of the state in which they are erected. The convention does not oblige any state to exercise powers of expropriation. The convention continues in force in time of war so far as belligerent and neutral rights and duties permit.

Hydraulic Power. The convention relating to the development of hydraulic power¹ affecting more than one state and protocol of signature, signed at Geneva December 9, 1923, entered into force from June 30, 1925. "Within the limits of international law, this convention does not affect the right of each state to carry out on its own territory operations for the development of hydraulic power which it may consider desirable." However, should reasonable development of hydraulic power involve international investigation, the contracting states agree to a joint investigation to arrive at a solution most favorable to their interests as a whole and, if possible, to draw up an equitable scheme of development. Contracting states obligate themselves to enter into negotiations with a view to concluding agreements to allow for the development of hydraulic power partly on the territory of each of the contracting states concerned. If a hydraulic power development might cause serious prejudice to one state, the states concerned shall enter into negotiations calculated to allow such operations to be executed.

The agreements contemplated may provide for general conditions for the establishment, upkeep and operation of works, equitable contributions by the states concerned toward expenses, financial arrangements, methods for exercising technical control and for insuring security, public

¹ *Treaty Series*, XXXVI, p. 75. Ratifications: Austria, British Empire, Denmark, Greece, New Zealand, Siam. Accessions: Newfoundland, Southern Rhodesia, British Guiana, British Honduras, Brunei, Federated Malay States, Gambia, Gold Coast, Hong-Kong, Kenya, Malay States (Unfederated), Nigeria, Northern Rhodesia, Nyasaland, Palestine, Sierra Leone, Straits Settlements, Tanganyika Territory, Uganda Protectorate.

safety, protection of sites, regulation of the flow of water, protection of the interests of third parties and the settling of disputes. Works in particular states are subject to their laws and regulations applicable to similar works. The development of hydraulic power on international waterways is subject to all rights and obligations resulting from the general convention establishing their status. The convention continues in force in time of war so far as belligerent and neutral rights and duties permit.

ROAD TRAFFIC

The Permanent Committee of Inquiry on Road Traffic first met in October, 1924, to draft a revision of the convention signed at Paris on October 11, 1909, with respect to international circulation of motor vehicles.¹ A new conference attended at Paris by 53 countries April 20-24, 1926, embodied in a new convention the principal clauses of a draft² drawn up by the committee.

The committee has concentrated attention on the unification of traffic regulations in the interests of safety. Automobile clubs are cooperating with this effort. One resolution recommended the general adoption of right-hand traffic as the most expedient and feasible solution of the problem in European states, this rule having already been applied by the majority of those states. The committee is examining the question of road signals³ and many incidental problems connected therewith in the light of the rules and habits in force throughout the world.

CALENDAR REFORM

¶ The inconveniences of the present calendar are keenly felt by economic life as a whole and particularly by transport. The International Chamber of Commerce in 1921

¹ 102 *British and Foreign State Papers*, p. 64.

² Early draft in *Official Journal*, VI, p. 978; the text as signed is in Great Britain, Treaty Series No. 11 (1930), Cmd. 3510.

³ *Report of the Permanent Committee on Road Traffic regarding Road Signalling*. League of Nations, C. 15. M. 8. 1928. VIII. 1.

and the International Astronomical Union in 1922 advocated reform. A preliminary investigation showed that the reform of the calendar necessarily involved as a first step a consultation of the religious authorities interested, in order to determine to what extent solutions were possible.

A Special Committee of Inquiry into the Reform of the Calendar was decided upon by the Advisory Committee at its fifth session in 1923, consisting largely of experts in the fields of religion and astronomy. After studying replies to questionnaires sent to Governments, religious communities and international organizations and hearing those interested — primarily representatives of various religions — the committee ended its work in 1926 by presenting a report of its findings.

The Seventh Assembly came to the conclusion that the next step should be to make this work known in the various countries. For this purpose it suggested the formation of international organizations to study the questions, to include representatives of the principal interests involved. None of the religious authorities upon whom the settlement of this question depended had formulated objections to the principle of the fixing of Easter, and no objections had been raised in lay circles.¹

The Report on the Reform of the Calendar² is a comprehensive review of opinions collected from Governments and other sources. The defects of the Gregorian calendar are that the divisions of the year are of unequal length; months contain from 28 to 31 days; quarters of the year vary from 90 to 92 days; the first half of the year contains two or three days less than the second; and there is an unequal number of weeks in the quarters and half years. These inequalities cause confusion and uncertainty in respect to all statistics, accounts, commercial and transport figures. Owing to the inequality of months, all calculations of salaries, interest, insurance, pensions, leases and rent on less than an annual basis are inaccurate and do not correspond with one-twelfth, one-quarter or half of

¹ *Official Journal*, VII, p. 1192.

² *League of Nations*, A. 33. 1926. VIII. 6 and C. 167. M. 49. 1927. VIII. 8.

the year. All bills are discounted with an interest disadvantage of $\frac{1}{36}$ running against the customer, since the banks calculate daily interest on the basis of 360 days but charge on the basis of 365 days per year.

The year contains 52 weeks plus one day, or two days in leap year. As a result of leap year, the exact reproduction of the calendar takes place but once every 28 years. The day of the month falls on a different day each year. The dates of periodical events vary. The position of weeks and quarters overlaps and reckonings are thereby complicated, while the frequent falling of the first and thirtieth of months on Sunday creates difficulties in making fixed payments. Perhaps the greatest drawback from a statistical and commercial point of view is that the variations render similar periods incomparable. One month of 30 days may contain five Sundays and five Saturday half days on which no production occurs, whereas another month of 30 days will contain but four of each.

The committee received and examined 185 schemes for reforming the calendar, of which 33 were from France, 27 from the United States, 24 from Germany and 14 from Switzerland. The committee felt that it could not recommend any reform changing the beginning of the year from January 1 to December 22, the winter solstice; any alteration in the length of the year, or any scheme making the months of more irregular length. It felt that a general renaming of the months was not of practical utility.

The committee draws the attention of the public to three groups.

The first of these equalizes the quarters of the years. Each quarter would consist of two months of 30 days and one month of 31 days with an additional day in one quarter. Aside from the extra day, each quarter would contain exactly 13 weeks, and each quarter would be easily comparable within itself.

The two other groups provide for a blank day. Thus the year would contain exactly 52 weeks for computing purposes. One scheme provides for 12 months of 30 and 31 days; while the other provides for 13 months of 28

days. Each completely rectifies the variability of the existing calendar. They also possess all the advantages of equalizing divisions of the year. The advantages and disadvantages of both are set forth. The very logical and convenient scheme of 13 months is chiefly objected to because 13 is not readily divisible. Governments seem to feel that the 12-month system would cause less disturbance to established customs, but an increasing number seem to favor the 13-month system, particularly those who are already using it as an auxiliary calendar.

No objection was found to the stabilization of Easter. The Christian churches saw no objection from the point of view of dogma, and all stated that they were willing to accept a reform which would serve the good of humanity. The business world was distinctly favorable because of the influence of a variable Easter on numerous industries. Railroad administrations favored it, and school authorities were without exception desirous of it. At the present time Easter varies between March 22 and April 25. Most replies favored the stabilization of Easter on the second Sunday in April. The committee was prepared to accept this day, with the suggestion that the accurate definition be "the Sunday following the second Saturday of April."

Calendar reform is now dependent on national action. Since the issuance of the report, Great Britain has passed an act providing for the stabilization of Easter when international action is possible. The larger question is being studied by national committees which through 1929 had been appointed in 12 countries, the United States, Brazil, Costa Rica, Cuba, Ecuador, France, Hungary, the Netherlands, Nicaragua, Panama, Peru and Salvador. Their method of work is likely to follow the lines of organization adopted by the American National Committee on Calendar Simplification.¹ This committee secured the cooperation of all major departments of the Government, canvassed organizations, corporations, companies, busi-

¹ See *Report of the National Committee on Calendar Simplification for the United States*, submitted to the Secretary of State, and *Economic Aspects of Calendar Reform* (Rochester, New York, office of the chairman [George Eastman] 1929).

ness and professional men and presented the results to the Secretary of State in a carefully prepared report. A feature of this was a list of the many important concerns which have adopted a 13-period calendar for business purposes. The report was transmitted by the Secretary of State to the League of Nations.

The Tenth Assembly requested that the question of calendar reform be placed on the agenda of the Fourth General Conference on Communications and Transit in 1931.

ADJUSTMENT OF DISPUTES

European Commission of the Danube. A dispute between France, Great Britain and Italy on the one hand and Rumania on the other respecting the jurisdiction of the European Commission of the Danube was submitted to the Committee for Communications and Transit. The Transit Committee appointed a special committee to study the question on the spot in the spring of 1925,¹ and it met with delegates to the European Commission of the Danube in September, 1925, and September, 1926. As a result of these discussions, the British, French, Italian and Rumanian delegates to the European Commission signed an agreement requesting the Council to ask the Permanent Court of International Justice for an advisory opinion respecting the powers of the European Commission. The Court rendered its opinion on December 8, 1927,² finding that the European Commission "has the same powers on the maritime sector of the Danube from Galatz to Brafla as on the sector below Galatz" and that its powers "extend over the whole of the maritime Danube" including harbor zones. The opinion was communicated by the Council to the chairman of the Committee on Communications and Transit for transmission to the Governments concerned.

A special committee on March 20, 1929, brought the Governments represented on the European Commission

¹ The committee met at Geneva February 18-19, and March 30-April 2, 1925.

² Publications of the Permanent Court of International Justice, Series B, No. 14, and Series C, No. 13-IV.

and the Rumanian Government into agreement on the terms of a convention¹ settling the difficulty, which was signed at Geneva early in 1930. By this convention the Rumanian Government will set up navigation tribunals in towns situated on the maritime Danube to handle all infringements of river police regulations and regulations for policing the ports and banks of the maritime Danube. A navigation court consisting of the first president of the Galatz Court of Appeal, a national of a state represented on the European Commission, and one of a state not so represented will act as a court of final appeal from the navigation tribunals. Judgments and decisions are to be pronounced in the name of the head of the Rumanian state. The competence of inspectors of shipping and harbor masters is defined. Questions relating to international law connected with the status of the waterway are to be referred to the European Commission. In case of an international dispute, conciliation procedure before the transit committee and settlement by the Permanent Court of International Justice are provided for.

Oder River System. The treaties of peace provided for revision of the international agreements and regulations relating to the Oder River. A dispute developed between Great Britain, Czechoslovakia, Denmark, France, Poland, Prussia and Sweden respecting the inclusion of navigable tributaries of the Oder which are in Polish territory within the internationalized waterway system. The British Government referred this dispute to the Advisory and Technical Committee by a note of August 23, 1924, France also asking that the committee fix the limits of the international river system. The committee heard the parties in interest, following study of a report by its own commission of inquiry. Calling attention to the fact that its duty was to act as a conciliatory agency, the committee on November 27, 1924, concluded that the jurisdiction of the International Oder Commission should extend upstream on the Warthe to and above Posen and upstream on the Netze as far as

¹ *Official Journal*, XI, p. 189. A last minute revision of some details of the draft resulted in a delay in the signing.

Usch, while other sections of the system should be subject to the provisions of the Barcelona convention on the régime of navigable waterways.¹

Railroad Systems. Various questions arising from the division of railroad systems between states as a result of the peace treaties have been referred by the Council to the committee and submitted by it to its Subcommittee on Transport by Rail. The Arad-Csanad railways case was the first of this series, coming before the Council in December, 1923, at the request of the Hungarian Government under Art. 304 of the treaty of Trianon. The subcommittee, having found that the dispute had not been the subject of negotiations between the Hungarian and Rumanian Governments, so reported to the Council, which on March 15, 1926,² held that it was better not to intervene until an attempt at direct negotiations had failed. Such negotiations were opened in November, and on December 6, 1926, the Rumanian representative informed the Council "that an amicable settlement had been reached regarding railways."³ The railways then involved in this solution were the Arad-Csanad United, the Haskovo-Mastanly, the Maramarosi-Tarsasag, the Nagykaroly-Matesalka-Casp and Szatmar-Matesalka Railways.⁴

On September 26, 1928, the Council appointed arbitrators following a similar examination by the Committee on Communications and Transit to settle the problem of the administrative and technical reorganization of the Sopron-Kőszeg Railway Company, whose lines are situated in Austrian and Hungarian territory. The award was given on June 18, 1929.⁵

The Council, on advice of the committee, recommended negotiations between the Czechoslovak and Hungarian Governments with an effort to reach an agreement respecting the reorganization of the Boldva Valley Local Railway

¹ *Records of the Sixth Assembly, Plenary Meetings, 1925, p. 255.*

² *Official Journal, VII, p. 504.*

³ *Ibid., VIII, p. 114.*

⁴ *Ibid., VII, p. 1218, 1406, 1415.*

⁵ *Ibid., X, p. 1359.*

Company. With the cooperation of a member of the Advisory Committee an agreement between Czechoslovakia and the company was reached at Geneva April 17, 1929, supplemented by another of August 9, which ended the dispute.¹ Several other questions of a similar kind are under consideration.²

Saar Railroads. Freight traffic in Europe is regulated by the international convention signed at Bern in 1890. The Governing Commission of the Saar wished to apply it to the commerce of the territory, and proposed to adhere to the convention. The German Government opposed this proposal on the ground that shipments between Germany and the Saar were subject to internal German transport regulations. The Council of the League in September, 1921, referred the problem to the Advisory and Technical Committee for Communications and Transit, which on August 31, 1922, remitted the question to an inquiry committee according to the conciliatory procedure laid down by the Barcelona Conference. This committee consisted of four experts appointed by the Advisory and Technical Committee, two by Germany and one by the Saar Governing Commission. The experts met at Luxemburg, and on November 24, 1922, unanimously approved a practical and technical agreement solving all outstanding difficulties. This convention entered into force in January, 1923.³

THE STRAITS COMMISSION

By Art. 15 of the convention relating to the Straits signed at Lausanne, July 24, 1923, the Straits Commission performs its functions under the auspices of the League and makes an annual report to the Council.⁴ The convention lays down the detailed rules for what amounts to the neutralization of the Dardanelles, Sea of Marmora, and Bosphorus. In peace and war the commission is intrusted with

¹ *Official Journal*, XI, p. 99. The agreement is *ibid.*, X, p. 1081; see further, p. 560, 989.

² *Ibid.*, XI, p. 60.

³ *Treaty Series*, XXVII, p. 289.

⁴ *Official Journal*, VII, p. 951; VIII, p. 778; IX, p. 879.

administration under these rules.¹ It is composed of representatives of Bulgaria, France, Great Britain, Greece, Italy, Japan, Rumania and Turkey. The Soviet Union reports its naval forces.²

The Secretary-General communicates the reports to the Members of the Council, states signatory to the convention, the Members of the League and any technical organization of the League which might be interested in the information contained in them.

3. The Health Organization³

The health activities of the League are due to Art. 23 (f) of the Covenant which provides that the Members of the League "will endeavor to take steps in matters of international concern for the prevention and control of disease"; to Art. 24 declaring that all international bureaus should be under the direction of the League; and to Art. 25 by which Members agree to encourage and promote the establishment and cooperation of voluntary Red Cross organizations "having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world."

The Universal Sanitary Convention signed at Rome, December 9, 1907, established the Office international d'Hygiène publique, which in June, 1919, voted to come under the direction of the League. The British Ministry of Health convened a conference at the request of the Council on April 13, 1920, to draft an organization for the health activities of the League. This conference provided that the Paris office should be maintained and that its delegates should be members of the League's General Committee. The Office international d'Hygiène publique by a decision of April 25, 1921, found itself unable to appoint representa-

¹ *Treaty Series*, XXVIII, p. 115.

² *Official Journal*, VIII, p. 318, 630.

³ A list of meetings and conferences on the subject matter handled by this Organization, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 252 (Boston, World Peace Foundation, 1930).

tives to sit on the proposed committee, on the ground that the United States, which was a member of the Office international, was not willing that it should in any way be attached to the League. A revision of the Universal Sanitary convention signed at Paris, June 21, 1926, defined more clearly the division of functions of the Office international and the Health Organization.¹

The Assembly on December 10, 1920, had approved setting up an organization, and on June 22, 1921, the Council established the Provisional Health Committee. Later the scheme of the Permanent Health Organization was worked out and approved by the Council on July 7, 1923,² and by the Fourth Assembly.

The functions of the Health Organization range widely over the fields of medicine, sanitation, scientific coordination and medical education, but it concentrates its attention on certain well-defined branches of international public health. Its work was very aptly characterized by the Tenth Assembly which in a resolution noted that it "systematically draws practical conclusions from the comparison of national experiences and places those conclusions at the disposal of Governments."

COMPOSITION OF ORGANIZATION

The Health Organization consists of

1. The General Advisory Health Council, which is the Committee of the Office international d'Hygiène publique;
2. The Standing Health Committee, 24 members, of which nine are appointed by the Committee of the Office international, six elected by the Council of the League and the rest experts and assessors elected by the Council. The third term of three years began in 1929. The Health Committee meets in April and October.
3. The Health Section of the Secretariat.

General Functions. The Health Organization deals only with questions of international character. To an increasing extent it serves as the avenue of communication be-

¹ *United States Treaty Series*, No. 762.

² *Official Journal*, IV, p. 1051.

tween the public health services of states. Its collection of information is not only exclusively international but is confined to questions in which several states have an interest. The specific fields with which it is concerned vary from year to year, but its activities may be said always to supplement efforts of national public health services either to secure information or to contribute to their efficient administration. It affords a means of cooperation in the domains both of scientific investigation and administration. The content of international conventions, so far as they relate to sanitary measures, naturally falls within its field of interest. The Health Section is generally recognized as the suitable mediatory body for the solution of differences on such matters.

The numerous commissions appointed to handle specific problems are uniformly composed of some members of the Health Committee and a group of experts. For example, much specialized work has been done and the results published in the following fields. The Smallpox and Vaccination Commission is making inquiries and researches into the preparation, use and after effects of lymph. Attention has been given to problems connected with the quarantine disinfection of ships. An opium commission handles the medical phases of that problem in conjunction with the League Advisory Committee. There has been a Subcommittee on Anthrax. In the field of vital statistics, a committee to define "still-birth" made a report in 1925, which has been generally accepted. A committee on the nomenclature of causes of death is at work revising the international list which is in general use among census authorities. Another Committee on a Standard Million Population is trying to determine the fundamentals of that statistical unit. A Commission on Tuberculosis Mortality is pursuing its investigations.

The Assembly frequently proposes new phases of work for investigation.

The activities of the committee are valuable chiefly from a technical point of view, which can only be adequately appreciated by a study of its extensive publications.

Since 1925 an annual edition of *The International Health Year-Book* has been issued. A series of monographs on the *Organisation of Public Health Services* and a handbook series on *Official Vital Statistics* are being issued.

FIGHT AGAINST EPIDEMICS

In 1920, serious epidemic conditions existed in Eastern Europe. Millions of refugees were huddled together under unsanitary conditions and various typhus and relapsing fever epidemics, originating in Russia, were devastating them. In the previous year, 1919, a commission of the League of Red Cross Societies had found that the situation was beyond the means and resources of the local administrations and of private voluntary organizations. Accordingly, the Council on March 13, 1920, requested the London Health Conference to draw up a program to cope with the situation. The Epidemic Commission of the League was authorized by the Council on May 19, 1920, and immediately set to work.

Voluntary contributions of states Members of the League made it possible to promote international cooperation in these extraordinary circumstances. Medical measures were left to the local authorities, but the cooperative campaign was planned through the League Epidemic Commission, whose work was the more valuable because most of the Russian border states were newly organized and their own administrations not fully developed. Up to August 1, 1921, the commission had spent about \$1,000,000 in coordinating the battle against the epidemic scourges, and over 3,000,000 persons had been vaccinated in Greece alone. The direction of this work fell to the Provisional Health Committee after its organization. The Warsaw Conference in 1922 did much to organize the permanent defenses of Europe against epidemics.

The European Health Conference held at Warsaw, in March, 1922, summoned by the Polish Government on the invitation of the Council, was the first all-European conference since the close of the World War and the first co-

ordinated effort on the part of governmental and public authorities to fight epidemics in Europe. It was attended by representatives of 27 governments. A series of resolutions¹ laid down a comprehensive plan of campaign to strengthen the sanitary defenses of states bordering on Russia, where a typhus epidemic raged. It provided for the organization of sanitary training courses in Warsaw, Moscow and Krakow and laid down the general lines for a series of sanitary conventions.

These conventions were made to provide for the mutual notification of cases of cholera, plague, relapsing fever or typhus. Precautionary measures to prevent the spread of these epidemic diseases are to be notified to other states and all possible assistance in making them effective is to be given. Medical inspection, disinfection, the segregation of infected persons and other similar measures are to be taken by the authorities within areas defined as centers of infection. Adequate inspection and examination, as well as prophylactic methods, are to be exercised on the land and maritime frontiers with a view to preventing the spread of epidemic diseases, and the authorities of adjacent countries undertake to assist each other in these respects. Special régimes may be established in frontier zones extending five kilometers each side of the boundary line in case of need, while frontier medical observation posts may be established and are entitled to assistance from similar posts of the other country. One feature of the conventions is a clause providing that all disputes regarding their interpretation or application shall be submitted to the mediation of the Health Section of the League.²

¹ *European Health Conference held at Warsaw . . . from March 20th-28th, 1922*, p. 5-10.

² Conventions of this type have been made between Poland and Rumania, Warsaw, December 20, 1922 (*League of Nations, Treaty Series*, XVIII, p. 104); Germany and Poland, Dresden, December 18, 1922 (*Ibid.*, XXXIV, p. 302); Latvia and Poland, Warsaw, July 7, 1922 (*Ibid.*, XXXVII, p. 318); Latvia and the Russian Soviet Republics and the Soviet Republics of the Ukraine and White Russia, Tartu, June 24, 1922 (*Ibid.*, XXXVIII, p. 35); Estonia and Latvia, Tartu, June 24, 1922 (*Ibid.*, XXXVIII, p. 81); Poland and the Russian Soviet Republics and the Soviet Republics of the Ukraine and White Russia, Warsaw, February 17, 1923; Czechoslovakia and Poland, Warsaw, 1922; Estonia and the Russian Soviet Republics and the Soviet Republics of the Ukraine and White Russia, Tartu, June 25, 1922; Bulgaria and the Serb-Croat-Slovene State, April, 1923.

Epidemiological Intelligence. The need for a service of epidemiological intelligence was emphasized by the experiences of the Epidemic Commission. The impossibility of public health services waging an effective campaign against epidemics without facts as to their incidence and scope made the collection and distribution of such information the first task of the Provisional Health Committee. Many technical problems had to be overcome, such as lack of uniformity in the methods of gathering such information. The Epidemic Commission had made investigations and published several reports.

An appropriation of an annual grant of \$32,840 from the International Health Board of the Rockefeller Foundation enabled the Committee in July, 1923, to issue the *Monthly Epidemiological Report*. The report has become more and more valuable to public health services throughout the world and has steadily increased in accuracy. Back of this development has lain extensive scientific and technical investigations, resulting in radical changes in the methods of handling public health statistics.

The great plagues which afflict mankind and decimate populations originate in the Far East, and spread from there through the world. In November, 1922, the League's epidemic commissioner went on a mission to the Far East to acquaint himself with this situation. As a result, a bureau in the Far East to receive and distribute epidemiological information was suggested. The proposal was approved by the Health Committee, by the Council in 1924, and by an international conference of 12 Far Eastern health administrations at Singapore, February 4-13, 1925. Meantime, the Rockefeller Foundation had offered to grant a subvention of \$125,000 for a period of five years for the establishment of such a bureau.

The Eastern Bureau. The Eastern Bureau of the Health Organization at Singapore started work on March 1, 1925. It began by distributing telegraphic information from 35 ports in the 12 countries represented in the February conference. The development of the Bureau's weekly report was steady. In 1928, it received telegraphic infor-

mation from 140 ports, to which it is only possible to add more Chinese ports in order to cover the whole of the Far East. Information thus gathered is broadcast in a code message every Friday from the wireless stations at Saigon, Indo-China, Bandoeng, Dutch East Indies, and by telegraph from Geneva to 124 public health administrations throughout the world. The code message is supplemented weekly by more detailed and additional reports by mail. The substance of these reports increases in value as a wider range of information becomes available through steady improvement in the system of reporting and transmission.

The Eastern Bureau is intrusted with the duties of collecting and distributing epidemic information by the Paris sanitary convention of 1926, which supersedes that of 1907. As a consequence of its provisions, agreements were entered into in 1927 between the Health Committee and the Permanent Committee of the Paris office. These were approved by the Council on June 13, 1927.¹

The Eastern Bureau is controlled by an Advisory Council consisting of delegates representing health administrations of the Far East. While its budget originally came entirely from the Rockefeller grant, health administrations are contributing to it, and eventually it will be supported by Government contributions. To the budget of Straits \$81,600 in 1928, Siam, French Indo-China, China, Straits Settlements, Federated Malay States, Philippine Islands, Egypt, Japan and Dutch East Indies contributed over Straits \$41,434.

The Epidemiological and Public Health Intelligence Services of the League are subject to constant improvement as the result of experience. In October, 1927, a Conference of Experts examined the form of presentation of the epidemiological publications and the conditions attending their preparation with a view to securing the greatest possible degree of uniformity and speed.

In November, 1926, an epidemic of influenza broke out in Europe and spread over a wide area. A special bulletin

¹ Text, *Official Journal*, VIII, p. 809.

and a service of wireless broadcasts was begun to inform public health administrations of current conditions. A total of 30 countries contributed information, which materially aided in circumscribing the epidemic. All health services concerned contributed to a general report, which is probably the first instance of a complete, authentic record of the outbreak and subsidence of an epidemic. In 1928 aid was given to the Balkan states following serious earthquakes. Since then the regularity of reports has enabled the experts to show the course and severity of every outbreak which has occurred, the *Weekly Record* containing world-wide bulletins as to conditions.

INTERCHANGES OF PUBLIC HEALTH OFFICIALS

The duty of the Health Organization to promote cooperation in the field of public health directed attention at the outset to the desirability of bringing administrative health officials in different countries into closer touch with each other. Thanks to a yearly grant since 1922 from the International Health Board of the Rockefeller Foundation, varying between \$50,000 and \$75,000 annually, a great number of public health officials have visited other countries to study general or special phases of their work. What are known as collective interchanges, in which public health officers examine the operation of national administrations on a study tour, were most numerous in the first few years. As the work of the committee progressed, special interchanges of specially selected experts or even individual missions have occurred.

The collective interchanges began in October, 1922. They close with a conference and series of lectures at Geneva. During 1927 these interchanges were altered so as to become less of a study tour and were developed into international courses of advanced training in public health and hygiene. From 1922 through 1929 a total of 35 interchanges was held. Such interchanges were held in all parts of the world. From 1922-24, 176 persons of 126 nationalities participated.

In 1926 individual medical missions were inaugurated. These may be for the purpose of either scientific or laboratory research. A Japanese physician was enabled to complete a study of vitamins in Europe. An English professor made a special study and reported to the Health Organization on *The Food of Japan*.

While the interchanges are confined to persons who have already established themselves in their professions, the Health Organization has also provided scholarships for the study of special diseases. This is notably true in connection with the Malaria Commission, which has embarked on a program for training malariologists.

Training Courses. The Health Committee on January 11, 1923, asked the Medical Director to collect information from the universities of America, Europe and Japan regarding the study of medical and social hygiene. On February 20, 1924, the committee appointed a commission to examine the information collected, to continue the inquiry and to make recommendations as to the courses of study which in its opinion are most likely to yield the highest value in public education both from the scientific and practical points of view. The commission worked out a very complete schedule to this end,¹ with special reference to instruction courses. This Commission on Education in Hygiene and Preventive Medicine began in 1927 to hold sessions taking the form of conferences between the directors of schools of public health. A program for their cooperative realization is being carried out.

REORGANIZATION OF HEALTH SERVICES

Greece. On October 20, 1928, the Greek Government entered into correspondence with the Health Committee with respect to the reorganization of its sanitary services.² Dr. Ludwig Rajchman, the Medical Director of the Health Organization, and a committee which included

¹ Health Committee. *Minutes of the Third Session*, p. 49-54.

² *Official Journal*, X, p. 21.

Professor Haven Emerson of Columbia University and Dr. Allen McLaughlin of the United States Public Health Service made surveys in the country and were followed by a delegation of the Health Committee which presented a report accepted by the Greek Government and the Council.¹ The report emphasized the desire of Greece to provide citizens with healthier conditions of living and with more effective methods of preventing and treating disease, which were among the first necessities for peaceful development and stability after many years of war, economic crises and political change and the recent influx of new population. A scheme for a unified public health service centralizing both functions and institutions on a new basis and with new objectives was worked out and is in course of being set up. Full operation of the system, which includes a central sanitary administration, new technical services on hygiene and preventive medicine (including a school of hygiene), divisions of malariology, sanitary engineering, pharmacology and biochemistry, and research, will call for an increase of about one-third in the former budget. A program of new legislation is suggested and will involve a modern codification of Greek sanitary legislation.

Bolivia. On June 29, 1929, President Dr. Hernando Silés of Bolivia addressed to the League a proposal for its assistance in reorganizing the health services of his country.² It was suggested that the Health Committee delegate an expert to cooperate with the Bolivian Director General of Health in a scientific reorganization of his department. A preliminary period of six to eight months was designated for a survey, after which the Health Committee would send an expert to work as technical cooperator with the Director General of Health for a period of two years. This proposal was approved by the Council on August 31.³ Dr. M. D. Mackenzie (British) left shortly after to take up the position at La Paz.

¹ *Official Journal*, X, p. 1048.

² *Ibid.*, p. 1587.

³ *Ibid.*, p. 1452.

China. On January 31, 1929, the minister of health of the National Government of China invited the Medical Director of the Health Organization to become a member of his advisory council.¹ The invitation was accepted and official cooperation began. On September 14, the Chinese minister for foreign affairs requested the Health Organization to send a commission of experts to make a survey of port health and maritime quarantine. Acceptance of this invitation was authorized by the Council on September 19,² and in October Dr. Rajchman and Dr. Frank G. Boudreau (American) proceeded to China for the survey. As a result of their cooperation and consultations with the Nanking authorities, the conditions of technical collaboration were worked out and accepted by the Chinese Government. A very complete program was agreed to and reported to the Health Committee in March, 1930, in agreement with the Chinese authorities.³ In 1930 a definite program is to be developed for formal acceptance.

RELATIONS WITH SPECIAL AREAS

The Health Committee has responded to invitations to examine conditions or perform special work in various parts of the world. Most of these activities have been for a special purpose in connection with some phase of the committee's activities. Three areas, however, are receiving continuous attention, in addition to the contacts afforded by the interchanges of officials.

The special investigations of the Health Organization are of particular benefit to Latin America where both problems and conditions peculiar to the territory exist.

Latin America.⁴ The first League conference on Latin American soil was a Conference of South American Experts

¹ *Official Journal*, X, p. 544.

² *Ibid.*, p. 1672.

³ See *Proposals of the National Government of the Republic of China for Collaboration of the League of Nations on Health Matters* (C. 118. M. 30. 1930. III. 1.).

⁴ An extensive study of the entire group of relations between Latin America and the League of Nations will be found in Eckhner, Warren H., "Latin American Relations with the League of Nations," *World Peace Foundation*, 1930.

on Child Welfare¹ at Montevideo, Uruguay, June 7-11, 1927. Inquiry into infantile mortality is a great and urgent problem in South America, where underpopulation is a problem and infant mortality rates are comparatively high. The conference decided on a preliminary inquiry in Argentina, Brazil and Uruguay, which was followed by a detailed study ending in 1929. An international school for infant and child hygiene at Buenos Aires under the auspices of the League is proposed. The establishment of an international school of public health under the auspices of the League at Rio de Janeiro, Brazil, was approved by the Health Committee in 1927. Programs of study on leprosy, the diagnosis and treatment of syphilis and the coordination of laboratory work are under way in South America.

Pacific Problems. An International Pacific Health Conference was held at Melbourne from December 15-22, 1926. In accordance with its invitation a preliminary survey has been made of health conditions in Papua, New Guinea, the New Hebrides, New Caledonia, the Solomon Islands and Fiji.

Much valuable and original information is contained in the records of the Japanese Health Service which have been practically a sealed book to western medical science. The Japanese health and medical authorities formed a commission to strengthen the contacts between the Health Organization and applied medical science in the Far East. Monographs, based on recent original Japanese research work on public health problems of international importance, are being published by the Health Committee through its help.

STANDARDIZING SERA

The provisional Health Organization has conducted a technical reform of far-reaching importance through the Commission on Standardization of Sera, Serological Reactions and Biological Products. The international character of medical science forced the nations to an agreement on the unification of the formulas of potent drugs, which

¹ League of Nations, A. 49, 1927. III. 2.

was signed at Brussels November 29, 1906. In the period since then serum has come to be widely used as a means of treatment, but sera are made by different processes in different countries, and variations in strength have created great difficulties.

The Health Committee convened a conference of delegates of medical institutes at London in 1921 to discuss the problem. They agreed upon a scheme of coordinated investigation, designating the Danish State Institute of Serotherapy at Copenhagen as the laboratory to centralize their results. A conference in Geneva in September, 1922, a more general one at the Pasteur Institute in Paris in November, 1922, a conference at Edinburgh in July, 1923, and a technical laboratory conference at Copenhagen in November, 1923, produced the first results and determined the methods followed. These may be described as the conduct of extensive laboratory tests of a given substance, followed by a conference of technicians to agree upon the conclusions produced.

Once a standard is agreed upon, the preservation of it is intrusted to a specific serological or biological institute. The units fixed by the commission are known as League of Nations units and were recommended as standard for the world by the Second International Conference for the Unification of the Formulæ of Powerful Drugs at Brussels, September 21, 1925. The Health Committee, at the request of the conference, is studying a proposal to constitute a permanent secretariat for the unification of pharmacopeia.

Anti-diphtheritic serum has been determined as the Ehrlich standard, 10,000 antitoxin units as a therapeutic dose and 1,000 units as a preventive dose. The anti-dysentery serum was standardized by utilization of the Shiga bacillus. Experiments with respect to standardizing tuberculin have been under way for three years, and investigations respecting anti-meningococcus, anti-pneumococcus, and anti-streptococcus are being held.

Proposals for standard units of anatoxin and tuberculin have been made. Experimentation aims at determining

sera for gas-gangrene and scarlet fever. Agreement is being sought on the standardization of standard serum for different blood types.

In the field of the biological standardization of drugs, the efficacy and toxicity are determined. For medical practice, it is also important to determine the strength at which they should be administered. Standards have been fixed for pituitary extract, insulin, digitalis, arcenobenzols and thyroid-gland extract. Ergot, cod liver oil and vitamins, parathyroid extract and ovarian extract are in process of standardization.

Extensive tests as to the reagents in the serological diagnosis of syphilis resulted in a special conference in May, 1928.

Rabies. The first International Rabies Conference was attended at the Pasteur Institute in Paris in April, 1927, by representatives from anti-rabies institutes in 27 countries. This conference was organized by the Health Committee in view of the general interest in the treatment of hydrophobia and numerous requests made by directors of anti-rabies institutes.

Four committees were concerned with the nature of the rabies virus; the methods of inoculating persons after they have been bitten; various modifications of the Pasteur treatment; general and local accidents consequent on anti-rabies inoculations; post-vaccinal paralysis; the problem of inoculating domestic animals which have been bitten and the preventive inoculation of dogs; the necessity for preparing upon a uniform basis statistics concerning the results obtained from anti-rabies treatment; legislation in force in the various countries.

The conference¹ adopted the resolutions and recommendations of its committees and decided upon inquiries concerning the technique of human vaccination, different kinds of vaccine, plurality of strains of street and fixed virus, the rabicidal action of the serum of man and animals during and after immunization, etc. It requested the

¹ Reports . . . to the International Rabies Conference . . . (C. H. 531 (1). 1927. III. 14).

Health Organization to organize these investigations and arrange to collect and distribute information relating to rabies.

MALARIA COMMISSION

The Provisional Health Committee appointed a malaria subcommittee in January, 1923, which became the Malaria Commission in 1924. Malaria is endemic in districts inhabited by 650,000,000 people, a third of the world's population. By a series of study tours in Bulgaria, Greece, Italy, Rumania, Russia, Serbia, Albania, Macedonia and the Ukraine, and investigations in Corsica and Sicily and the Mediterranean basin generally the commission was able to prepare a general report¹ of great value in 1927. The report emphasizes the commission's view that no one method of malaria suppression can be considered best, and that each district must be carefully studied before deciding what methods are the most likely to yield good results.

Visits have been paid to the deltas of the Mississippi, Danube, Ebro and Po to determine the connection of rivers with the disease. Investigations also have extended to such subjects as the influence of rice fields in Europe, the rôle of animals, the results of drainage measures, of measures directed against adult mosquitoes and against larvæ, conditions under which mosquitoes become infected, the value of the secondary alkaloids of cinchona as a substitute for quinine, etc.

All this work was reviewed at the session of the commission at Geneva in June, 1928, when the report was discussed with the corresponding members and experts of the commission, a representative of the United States Public Health Service and six experts of the Rockefeller Foundation. The conclusions of the report were analyzed and a future program adopted.

In the autumn of 1929 the commission extended its consultations to Asia, accepting an invitation of the Indian Government to study methods of combating the disease

¹ *Principles and Methods of Antimalarial Measures in Europe* (C. H. Malaise, 73, 1927, III, 3).

there. Several weeks were spent by the commission in the Punjab, after which its members studied various aspects of the problem in other districts, coming together at the end of the tour.

Courses of study for training malariologists, organized by the Malaria Commission in selected institutes in London, Rome, Paris and Hamburg, followed by practical work and observation in malarial areas in Corsica, Italy, Serb-Croat-Slovene State and Spain, were given in 1926 and are repeated annually. Fourteen scholarships are awarded for these courses by the Health Organization in addition to those provided by the Rockefeller Foundation.

INFANT MORTALITY

The Netherlands Government proposed to the Sixth Assembly an inquiry into infant mortality. The Committee of Health Experts on Infant Welfare laid down their program of work in 1926. By 1928 they had concluded an inquiry in 29 districts, both urban and rural, of seven European countries where infant mortality was respectively high and low but in which such factors as the birth rate were relatively comparable. A full report has been prepared.

A Conference of Health Experts on Infant Welfare held at Rome March 25-28, 1929, drew up a summary of conclusions and experience as a result of the investigation.¹

The committee continues to collect information as to immunization against measles, scarlet fever and diphtheria and is preparing to study rickets. Special attention is being given to Latin America, which the committee visited in 1927.

CANCER

A subcommittee of the Provisional Health Committee was appointed on this subject on June 5, 1923. It was reconstituted as the Cancer Commission by the Standing Health Committee, February 20, 1924, with the addition

¹ Health Committee, *Minutes of 14th session*, p. 70 (C. 246. M. 85. 1929. III).

of experts and consultants. A first report made in 1926 dealt with (1) the reality of differences in frequency of cancer of the breast and the uterus in different countries; (2) the negative results of investigations as to the possible relation between cancer mortality and race in certain European countries; (3) the value to be attached to statistics concerning cancer mortality and the interpretation of such statistics; (4) the results of various national inquiries and statistical data collected and collated by the Secretariat; (5) a memorandum on the best methods of securing sufficient publicity for the information already collected. The commission continues on a program emphasizing the study of occupational cancer and certain aspects of the radiological treatment of cancer.

HEALTH INSURANCE

A preliminary survey¹ on the relation of health insurance to public health services brought out in 1927 that a great many health insurance organizations are engaged in one form or another of preventive medicine, health education or public hygiene, but often with little or no correlation with that of other public health agencies. The introduction of a well-considered system would allow of better utilization of all available facilities. The Health Committee decided to appoint a commission of experts, which confined its work in 1928 to the examination of two questions, the prevention of tuberculosis and the protection of maternity, infancy and the child of preschool age.

TROPICAL DISEASES

The problem of combating diseases peculiar to the tropics was brought to the attention of the Provisional Health Committee by the Mandates Commission, which had learned from the reports of the mandatory states something of the scope of the problem. The question of sleeping sickness had in fact been approached before the World

¹ Health Committee. *Ninth Session*, p. 71 (C. 107. M. 38. 1927. III).

War and there had been held in London in June, 1907, an international conference on that subject. The Health Committee appointed four experts on May 15, 1922, to report upon sleeping sickness and tuberculosis in equatorial Africa. On February 21, 1924, the committee named three of its own members to guide the work of the experts with respect to health conditions in mandated territories. The preliminary report recommending administrative and technical aid to combat the scourge was studied by an international conference at London in May 19-22, 1925, when a new program of investigation was decided upon. A second conference upon the commission's final report was held in 1929. A permanent committee to receive and discuss annual reports on the program of research work exists. Several conferences of African officials have been held.

4. Intellectual Cooperation

The First Assembly, on December 18, 1920, approved the assistance which the Council had given to the development of international cooperation in intellectual activity and particularly support extended to the Union of International Associations. On September 21, 1921, the Second Assembly adopted a resolution, proposed by Léon Bourgeois in the name of the Council, to the effect that the Council should nominate a committee to examine international questions regarding intellectual cooperation.

Committee.¹ The committee was not to exceed 12 members. On January 14, 1922, the Council decided to appoint this committee.

Henri Bergson, the French philosopher, was chairman of the committee until his resignation on August 12, 1925. He was succeeded by Professor H. A. Lorentz, the Dutch physicist, until his death on February 4, 1928. Professor Gilbert A. Murray, the Oxford Greek scholar, was elected chairman on July 25, 1928, and at the same time Mme.

¹ A list of meetings of this committee and its affiliates, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 309 (Boston, World Peace Foundation, 1930).

Curie, the famous scientist, was made Vice-President. Professor Robert Andrews Millikan, director of the Norman Bridge Laboratory of Physics at the Technological Institute of California, has been the American member from the beginning. Albrecht Einstein, the German physicist, resigned at one time and later resumed his membership. Several other changes in membership have occurred. In July, 1925, the committee appointed three corresponding members. The committee, as a result of changes, had increased in 1928 to 15 members, including a Japanese.

In 1922, when the committee was first constituted, its members were appointed for an indefinite period. As the Council felt that the committee should be regarded as a permanent organ of the League, it decided that the term of office of its members should be for five years (from June 9, 1926) and should be subject to renewal.¹

Development. The committee started its activities with a general inquiry for the purpose of ascertaining the extent of the evils from which intellectual activity and intellectual workers in different professions were suffering, and collecting suggestions for possible remedies. It was deeply impressed with the hard conditions confronted by intellectual workers in certain countries. A definite appeal bespeaking assistance for the Austrians was addressed on November 4, 1922, to the learned institutions and societies of all countries, and resulted in a generous response. Subsequently a similar appeal was made on behalf of the Hungarians. At the beginning of 1923, Albania, Austria, Bulgaria, Czechoslovakia, Estonia, Hungary, Lithuania, Poland, Rumania and the Serb-Croat-Slovene State were availing themselves of the avenue afforded by the committee to maintain touch with their fellow workers throughout the world.

At the outset the committee directed an inquiry into the conditions of intellectual work, the monographs of which have been published. Some of these relate to general questions, but the more extensive series is devoted to intellectual life in specific countries.

¹ *Official Journal*, VII, p. 949.

The committee secured a large number of books for the University of Tokio, which was destroyed by earthquake in 1923.

While these postwar problems were being met, the committee was developing a program for permanent work. At its first session it appointed three subcommittees on bibliography, university relations and intellectual property and in 1925 one on arts and letters. To these committees there came without delay a wide variety of problems. As part of the organization, it was decided to encourage the formation of national committees in the different countries. In 1924, France proposed to establish an International Institute at Paris, and it has functioned since 1926 as a special organ of the committee with its own staff. Both the Committee and the Institute have been under the necessity of calling upon numerous committees of specialists, since almost every question which has arisen has required special technical investigation. There is also a tendency to establish specialized offices in connection with the Institute which, in addition to its own program, aims to be hospitable to all efforts at intellectual cooperation. The International Committee itself is served by a section of the Secretariat. The Institute, while autonomous, is controlled by the committee sitting as its Governing Body. The detailed work of the Institute is under the authority of a Committee of Directors, and it has attached to it national delegates appointed by Governments. The complications of the organization which has thus grown up led the committee at its 10th session to decide to review both its program and mechanism. "The organization," said the rapporteur of the committee to the Council, "must be informed by a single guiding spirit which will insure the smooth working of all its parts."

Reorganization of the work of intellectual cooperation was discussed by the international committee and by the Assembly in 1928 and 1929. The committee proposed and the Council¹ on August 31 and the Assembly² on

¹ *Official Journal*, X, p. 1450, 1535.

² *Records of the Tenth Assembly, Plenary Meetings*, p. 137, 457.

September 21, 1929, approved the appointment of a committee of inquiry to revise the work and organization of intellectual cooperation. The committee of inquiry met in the spring of 1930 with the object of attempting to survey and define the vast field covered by the term "intellectual cooperation" and of laying down the lines of work which would most closely correspond to the needs of the time.

National Committees were felt to be necessary to act as intermediaries between the organizations of the respective countries and the League committee, and to assist in inquiries on the conditions of intellectual life undertaken by it by transmitting either directly or to other national committees both information and requests. The national committees determine their relations with their Governments, and their rules of procedure and composition. The first of these national committees came into being as organs for rendering assistance to intellectual *confères* in the countries most adversely affected by the World War. They have now transferred their activities to distinctly intellectual matters. Committees have been organized in the following countries: Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Cuba, Czechoslovakia, Denmark, Estonia, Finland, France, Germany, Great Britain, Greece, Hungary, Iceland, Italy, Japan, Latvia, Lebanon, Lithuania, Luxemburg, Netherlands, Norway, Poland, Portugal, Rumania, Salvador, South Africa, Spain, Sweden, Switzerland, United States and Yugoslavia.¹

The Eighth Assembly invited "states Members of the League which have not already done so to consider the possibility of providing the necessary funds to meet the expenses of their respective National Committees." At its 10th session the committee decided to summon in 1929 a meeting of representatives of the national committees to establish closer relations with one another, to exchange information as to their organization and methods of work,

¹ See list, *Official Journal*, X. p. 1917, where the Ukrainian Academic Committee, the Catholic Committee on Intellectual Cooperation and the Russian Emigrants Committee on Intellectual Cooperation are also noted.

to make known their views on the work of the international committee and to suggest questions which the latter might usefully study.

At the meeting of the national committees in Geneva, July 18-20, 1929, it was felt that the period of their organization in various countries was at an end. Comparisons of their work drew attention to differences in their structure which reflected the nature of cultural life in the various countries. In a number of states the committees are to an extent official government organs, but in most their status is independent. Their existence has developed cooperative relations and collaboration with the committees of other countries, while their relations with the Institute have resulted in widening its contacts with other international bodies.

INTERNATIONAL INSTITUTE

The French minister of education, on July 24, 1924, offered the committee a building and an annual fund for the establishment of an International Institute of Intellectual Cooperation.¹ The Council accepted this offer in principle on September 9. A lively debate occurred in the Second Committee of the Fifth Assembly respecting this proposal. The Assembly laid down principles to control its acceptance and on December 8, 1924, the French Government embodied these in a formal tender to the Council, appending an organic statute of the proposed institute. This was accepted by the Council as an agreement² on December 13, 1924.

The International Institute was inaugurated on January 16, 1926, with offices in the Palais Royal, 2 rue de Montpensier, Paris. It is under the detailed control of a Committee of Directors consisting of five persons of different nationalities³ and the chairman of the Governing Body.

¹ *Official Journal*, V, p. 1522.

² *Ibid.*, VI, p. 157.

³ Vernon L. Kellogg, of the National Research Council, is the American member. C. Vibbert replaced him in one session.

The Governing Body of the Institute is constituted by the Committee on Intellectual Cooperation and presided over by a French member of the committee. The Governing Body draws up the budget and determines the program of work; it appoints the directorate, the director and the heads of sections and branches.

The Institute is headed by a French director and an English assistant director.

The French Government provides toward its support a sum of 2,500,000 French francs annually,¹ including the cost of the necessary premises which are placed at its disposal by the French Government. The Institute as a legal person may accept donations, legacies, and subsidies from governments, institutions, organizations or private persons. The French Government undertakes to maintain its part of the agreement for a period of seven years.² The budget for 1930 amounts to 3,260,800 French francs, to which, besides France, Austria, Belgium, Brazil, Colombia, Czechoslovakia, Denmark, Dominican Republic, Egypt, Ecuador, Hungary, Italy, Luxemburg, Monaco, Poland, Portugal, Rumania, Switzerland and Venezuela have contributed subsidies.³

"The principal object of this institute shall be to prepare the work to be discussed by the Committee on Intellectual Cooperation, to assure in all countries the carrying out of the decisions and recommendations of that committee, and, under the direction of the committee and by every means in its power, to promote, through international cooperation, the organization of intellectual work throughout the world" (Art. 2).

The work of the Institute is divided among sections corresponding to the subcommittees of the Committee, of which they are the executing organs. The sections deal with University Relations, Artistic Relations, Literary Relations, Scientific Relations, a Section of Information and Reference and a Legal Service. A full analytical re-

¹ Increased in 1928 from 2,100,000 French francs.

² *Official Journal*, VI, p. 285.

³ *Ibid.*, X, p. 1569.

port is under preparation to enable the activities to be coordinated and concentrated.

Publications. The Institute through 1927 and 1928 attempted to carry on a series of sectional publications, partially continuing periodicals already begun by the International Committee. By 1929 the periodicals were all discontinued and the Institute started a single periodical, *La Coopération intellectuelle*, in which records of the organization and of each section are published. The publication of monographs and of the special *Museion* continues.

National Delegates. National delegates accredited to the Institute have been named to cooperate with it by the following states: Argentina, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, Irish Free State, Italy, Luxemburg, Mexico, Netherlands, Nicaragua, Panama, Paraguay, Peru, Poland, Portugal, Rumania, Salvador, Sweden, Switzerland, Uruguay, Venezuela, Yugoslavia.

UNIVERSITY RELATIONS

The Subcommittee on University Relations was appointed on August 4, 1922.

The International University Information Office was established at Geneva in January, 1924, under the direction of a governing body of which the director of the American University Union in Europe was a member. In 1924 and 1925 the office published a periodical *Bulletin* dealing with all phases of university relations, and paying special attention to information concerning the international recognition of degrees and diplomas, comparative study of curricula, announcements of courses on international relations in all phases, the interchange of students, and the extension of the interchange of professors. The Institute published the *Bulletin for University Relations* through 1928.

On April 6, 1925, the governing body arranged for carrying out Dr. C. T. Hagberg Wright's plan for the establishment of the list of the best works published in various countries, which was approved by the committee in July, 1924. Such lists of *Notable Books* have been compiled by the national committees and published by the Institute for 1924 and following years.

University Problems. The directors of National University Offices have met annually since 1926 on the invitation of the Institute. These offices are being organized in all countries to deal with the relations between their own and foreign universities. The International Institute of Education and the American University Union act for the institutions of the United States. At the third meeting in April, 1928, the delegates studied questions concerning the movements of professors and students between the different countries; the obstacles (difference of language, cost of living, depreciated currency) to the international exchange of professors and students; the equivalence of university degrees; special courses for foreigners; measures to facilitate student travel and to enable them to benefit as far as possible by these travels.

At the fourth meeting of the directors in Paris, April 11-12, 1929, a discussion took place upon the crisis in learned professions which is becoming apparent because of the increasing number of university graduates. They decided that a conference on the teaching of modern languages was an important factor in the development of international intellectual relations and asked the Institute to study the question. General instructions were issued for the collection of the laws bearing upon the matters previously examined.¹

Coordination of Studies. A meeting of Experts on Coordination of International University Studies met at Berlin March 22-24, 1928. Walter W. McLaren, secretary of the Institute of Politics at Williams College, Williamstown, Mass., participated. The experts submitted

¹ International Committee on Intellectual Cooperation, *Minutes of the Eleventh Session*, p. 93 (C. 342. M. 121. 1929. XII).

reports on the work of the institutes they represented and passed resolutions for coordinating their work.

The Berlin meeting was followed by the Second Conference of Institutions for the Scientific Study of International Relations held at London,¹ March 11-14, 1929. By that time national groups of such institutions had been organized and the conference was made up of delegates from them. Problems of coordinating national centers, cooperation in research, conferences of teachers and questions of permanent organization were discussed. In principle the preparation of selected bibliographies modeled after the quarterly list published in *Foreign Affairs* of the Council on Foreign Relations, New York, were advocated. On December 9, the executive committee of the conference decided to convene a third session in June, 1930, at which time a scheme for an international dictionary of political terms will be discussed.

University Exchanges. On March 7, 1928, the Council authorized the Committee on Intellectual Cooperation to accept the offer of the American Council on Education to contribute \$5,000 for an inquiry in Europe with regard to the organizations dealing with exchanges of professors and students between different countries. The resulting handbook, *University Exchanges in Europe*, went into a second edition with the aid of a new grant of \$4,000.

Scholarships. In 1928 the subcommittee and plenary committee recommended that a special committee of experts should be instructed to study the problem of national and international postgraduate scholarships as to its application not only to scientific laboratories but also to institutes for the study of humanities and sociology.

A compilation entitled *Holiday Courses in Europe* is published annually since 1928.

Students' Organizations. The Committee of Representatives of International Students' Organizations has held annual sessions at Geneva since 1926. The organizations represented were: the International University Federation

¹ International Committee on Intellectual Cooperation, *Minutes of the Eleventh Session*, p. 88.

for the League of Nations, the World Union of Jewish Students, the International Federation of University Women, the International Student Service, the World Student Christian Federation, "Pax Romana," the International Students' Confederation and the Auslandsamt der deutschen Studentschaft (in an advisory capacity).

At its second session the committee decided that a central international office should be set up in connection with the International Institute, with one delegate from each of the international students' organizations. An international students' identity card has been prepared. Among the questions discussed at the third session were unemployment in connection with brain workers, international student statistics, a scheme for an international university yearbook, a study of methods of self-help and mutual aid and the cooperative organization of students, the coordination of the dates of international students' conferences, the encouragement of foreign studies, and the most suitable means of making known the traveling facilities for students already granted by Governments and traveling agencies.

The resolutions of the fourth session of the committee¹ recorded much progress in realizing the objects in view, and it was decided by the International Committee not to convene the student representatives until other questions had arisen.

SCIENCE AND BIBLIOGRAPHY

The Subcommittee on Bibliography was appointed on August 2, 1922. Professor Jacob R. Schramm of the National Research Council is the American member. The subcommittee assumed supervision over the work of the Scientific Relations Section of the Institute in 1926, resulting in its adopting the title of the Subcommittee on Science and Bibliography.

It has issued a first edition of an *Index Bibliographicus*, containing a list of all periodical bibliography and biblio-

¹ *Official Journal*, X, p. 1542.

graphic institutions, which was prepared by Marcel Godet of the subcommittee.

The incomplete realization of the idea embodied in the international convention of March 15, 1886, respecting the interchange of official, scientific and literary publications attracted the attention of the subcommittee, and as a result of the deliberations of a committee of experts at Geneva July 17-19, 1924, a series of resolutions was prepared for embodiment in a revision of the original convention.¹ In the end the Belgian Government assumed charge of securing further ratifications to the unrevised convention.

Libraries. As a result of meetings of a Committee of Experts regarding the Coordination of Libraries, progress has been made in facilitating loans and exchanges between the libraries of different countries and the organization of machinery to direct intellectual workers to libraries containing the most suitable material for their studies. More than 400 libraries have expressed a willingness to cooperate.

A meeting of experts in February, 1929, included the microphotographic production of published documents and a unified system of abbreviating titles of periodicals among the subjects to be investigated and developed.

Bibliography. The subcommittee in its early period considered proposals for an annual bibliography of publications in all branches of science, literature and art and this has been tentatively approved by the Council.² On closer examination, it was decided to divide this field into its constituent parts, due in some measure to the fact that various annual bibliographies or bibliographical summaries existed. The bibliography of biological science is thus taken care of.

Work in the physical and economic sciences is being attempted by coordination of the special reviews in those subjects. Preparation of a bibliography of Latin languages has been arranged for and will deal with the history, the present state, technical and literary idioms, dialects and slang of those tongues.

¹ *Official Journal*, V, p. 1807; VI, p. 739, 1187, 1278, 1770.

² *Ibid.*, V, p. 1536.

Research. The Institute has interested itself in the facilitation of research work in the historical and social sciences. A proposition to translate scientific works from little known languages is being investigated.

Preservation of Manuscripts. A Committee of Experts has been studying the problem of the preservation of printed matter and manuscripts, especially with relation to the quality of print paper in use.

Linguistic Terms. An inquiry of considerable importance is being conducted into the standardization of linguistic terms, owing to the fact that the technical words of grammar are given various meanings, creating difficulty of comprehension for the student.

ARTS AND LETTERS

The Subcommittee on Arts and Letters was established on July 28, 1925. Its first work was to draw up the general program for the activities of the corresponding section of the Institute. Since that time it has both assumed charge of work originally undertaken by other subcommittees and developed its own field.

Museums. Under its direction, and with approval of the Council, there was established on September 3, 1926,¹ the International Museums Office as an organ of the Institute, which publishes a review and has embarked upon a considerable program. It is conducting an inquiry into the unification of museum catalogs and is evaluating their educational influence and the means for increasing it.

Chalcography. Under the subcommittee, a Committee of Representatives of Chalcographical Institutes reached an agreement in 1927 with regard to the exchange and sale of prints and their joint exhibition. Under this, joint exhibitions of proofs were held in Madrid, Paris and Rome in 1927 and in Birmingham, Brussels, Buenos Aires, Geneva, Liège and London in 1928.

Casts. In January, 1928, a meeting of Experts on Casts of Works of Art was held at Geneva in order to

¹ *Official Journal*, VII, p. 1287.

bring museums of casts and casting studios into cooperation. A handbook of these is to be drawn up and a list of the best molds prepared. The cooperation of official cast workshops in producing expensive or difficult casts is to be undertaken and joint exhibitions are to be held. Three such exhibitions covering the entire history of art are to be held in 1929. Belgium, France, Germany, Great Britain, Greece and Italy are cooperating in this program.

Popular Arts. The subcommittee organized a Congress of Popular Arts at Prague in October, 1928, and this was preceded by an International Exhibition of Popular Arts in Bern a few months earlier.

Publication of an international yearbook of the arts has been approved in principle.

Motion Pictures. The subcommittee has instructed the Institute to prepare a report on the motion picture as a form of art, and on its initiative the Assembly passed a resolution calling "the attention of Governments to the danger of cinematographic performances and broadcasting characterized by a spirit antagonistic to that of the League."

Music. A list of contemporary musical compositions performed or published is compiled periodically by the Institute.

Differences in the pitch of different musical instruments affect that great branch of art. In England, for instance, a difference between military and civilian instruments makes it impracticable for military bands to play at civilian functions unless they have duplicate instruments. Concert and normal pitch differ. These circumstances were called to the attention of the Committee, and the subcommittee has appointed a special committee on the subject. A French decree of February 16, 1859, fixed the pitch of "la" at 870 vibrations per second at 15° Centigrade (59° Fahrenheit). This was confirmed by an international conference at Vienna in 1885. The Committee of Experts has found the 1859 standard still applicable and is considering means of completely maintaining it. A special committee is continuing study of the question.

Beauty Spots. The subcommittee has directed the publication of a monograph containing information respecting the efforts and recommendations made for the protection of the beauties of nature, such as national parks and notable scenic places.

Literary Works. The international committee has referred to the national committees a proposal made by John Galsworthy of the subcommittee that translations of literary works be made, the Federation of P. E. N. Clubs selecting the works and making the translations.

INTELLECTUAL RIGHTS

The Subcommittee on Intellectual Rights was established August 3, 1922.

Scientific Property. The subcommittee at the outset decided that the protection of scientific property and the right of the scientist to his invention should be the subject of a draft international convention based on the idea that scientific discovery should rank with artistic creation and technical invention, both of which are protected, the former by copyright and the latter by patents. While the invention of a new rubber heel may bring a fortune to the patentee, the scientist who discovers the process of vulcanizing or a formula for producing a special steel alloy is protected by no law with respect to the industrial exploitation of his discovery. The Fourth Assembly approved the principle of the plan and the collection of observations from the Governments throws light on practical means of carrying it out. A special Committee of Experts at Paris in December, 1927, prepared a revised draft of the scheme, which was laid before the Ninth Assembly¹ after approval by the Committee. The draft has been submitted to Governments for their opinion. The principle governing the right is that "every scientific discovery open to material utilization entitles its author to remuneration from the users thereof," utilization being understood as "contributory to the production of a commercial commodity."

¹ League of Nations, A. 21. 1928. XII.

In 1929 it became apparent that a system of insurance was necessary to guarantee industrial concerns against fresh liabilities resulting from royalties due to scientists and inventors. A committee of insurance and legal experts at Paris December 2-3, 1929, drafted a formula contemplating either mutual insurance, compensatory funds or mixed agencies. A second meeting of this committee will prepare the scheme for transmission to Governments.

Literary and Artistic Property. The subcommittee, in cooperation with that on arts and letters, contributed to the revision at Rome on June 2, 1928, of the Bern convention for the protection of literary and artistic works, signed September 9, 1886, and revised at Berlin November 13, 1908. The subcommittee from the outset had worked to increase the number of parties to the convention. It had made an extensive study of the revision required, and at the international conference at Rome these were generally realized. The Ninth Assembly requested that investigations be made respecting the unification of the revised Rome convention and the copyright convention signed in 1910 at Buenos Aires by the American states and revised in Habana in 1928. This investigation involves a study of all national laws and measures for the protection of intellectual property.

The subcommittee examined the protection of professional titles, and a resolution for the consideration of Governments was prepared by it.¹

Status of International Organizations. The subcommittee has launched an extensive study of the legal status of international associations and foundations. This is being continued in collaboration with the Committee of Experts for the Progressive Codification of International Law, and the results are being considered by the International Institute for the Unification of Private Law.

The conditions contributing to the smuggling and forgery of works of art and antiquity have been under extensive investigation.

¹ *Official Journal*, V, p. 1523.

Archeological Research. At its first meeting the subcommittee took up the question of coordinating archeological research and the protection of ancient monuments. The purposes in mind were the allocation of the exploring field, the framing of a list of archeological sites not yet explored, aid in enabling explorers to benefit by each other's methods, and international rules for the preservation of archeological monuments.

Circulation of Publications. The Ninth Assembly recognized the importance of a resolution of the subcommittee respecting obstacles to the international circulation of scientific and technical publications for which favorable customs and postal arrangements should be made. The Institute has been instructed to propose a customs nomenclature by which such works should be exempt from customs duties. It has the benefit of suggestions from publishers in this connection.

Statistics. The subcommittee has given its approval to a report on the compilation of intellectual statistics submitted to the International Institute of Statistics at its plenary session, 1927-28, at Cairo.

INSTRUCTION OF YOUTH

The Fifth Assembly decided that it was important that the youth of the entire world should be familiarized with the principles and work of the League of Nations and that the younger generation should be trained to consider international cooperation as the normal method of conducting world affairs. It instructed the Secretariat to investigate the means by which efforts to promote contact and to educate the youth of all countries in the ideals of world peace and solidarity may be further developed and coordinated and to submit a report.¹ The Sixth Assembly in 1925 regarded the report "as a first stage" and requested the continued collection of information. As a consequence, the Committee on Intellectual Cooperation in January, 1926, decided to appoint an expert subcom-

¹ The report is available in separate form as Documents A. 10 and A. 10 (a). 1925. XII.

mittee to examine the whole question and proposed to the Council that this should be formed of ten or twelve members, including three members of the committee. On March 15¹ the Council instructed its president, after consulting the chairman of the Committee on Intellectual Cooperation, to appoint the members of the subcommittee, the primary qualification being experience in teaching.

The Subcommittee of Experts for the Instruction of Youth in the Aims of the League of Nations in two regular meetings and one limited meeting examined the material which had been gathered, in part from international associations, and which had been published for the Seventh Assembly.² Eventually a series of recommendations resulting from the study of all these suggestions was laid before the Eighth Assembly in what it called a remarkable report.³ The subcommittee continues its work on the lines suggested by the Council report of September 2, 1927.⁴

The 1927 Assembly specifically approved the subcommittee's recommendations for creating League of Nations Educational Information Centers.⁵

Member States to Act. The Assembly approved the recommendations as a whole and instructed "the Secretary-General to communicate them to the Governments of the states Members of the League of Nations, requesting them, so far as may be possible in each particular case, to take the necessary measures to give effect" to them.

Section II of the report deals with the many possible methods of developing the spirit of international cooperation, which was generally defined from the point of view of the Assembly's 1924 resolution.⁶

Numerous practical methods of promoting direct and indirect contacts between young people of different countries are described and discussed.

¹ *Official Journal*, VII, p. 569, 506.

² *Ibid.*, p. 1202; separately, A. 26. 1926. XII.

³ A. 26. 1927. XII.

⁴ *Official Journal*, VIII, p. 1110.

⁵ *How to Make the League of Nations Known and to Develop the Spirit of International Cooperation*, p. 20 (C. 51S. M. 174. 1927. XII).

⁶ *Ibid.*, p. 17.

Section I of the recommendations is devoted to instruction in schools and higher educational institutions, its conditions, methods and mechanism, including books and other material. Special emphasis is given to providing concrete aids to teaching. The recommendations include plans for both class-room and outside realization. "Instruction should begin in the primary school and should be continued to as late a stage as possible in the general education of the pupil," girls as well as boys. Special courses for teachers are suggested and definite types of literature and material for visual instruction are indicated, in addition to reading matter for children of various ages.

Institutions of university grade may create special chairs and in any case it is desirable that they give one or more special courses on the League of Nations and international relations in general. Encouragement of selection of League problems as subjects of theses is desirable and the study of international law should be made compulsory for all law students. Methods useful for voluntary associations are listed in the recommendations.

"Those in charge of educational institutions should be asked to use their influence to insure that text-books in general should not be written in such a way as to conflict with the spirit of mutual conciliation and cooperation," says the report. "In this respect, history text-books should be the subject of particular care. It is desirable that, in every country, incitements to hatred of the foreigner should be eliminated and every effort made to arrive at a better comprehension of what one nation owes to another."

A little volume, *The Aims and Organisation of the League of Nations*, was published in 1929 with the aid of qualified experts. The Tenth Assembly congratulated the Secretary-General on the preparation of this handbook and provided funds for furnishing copies of it to the Governments and for translations into languages besides French and English. The subcommittee of experts will convene in 1930 to revise the text of the handbook and to lay down a further program.

Beginning in July, 1929, the *Educational Survey* is issued twice each year. It contains articles of general interest to the teaching profession relative to instruction on international subjects, and reports from various countries. In the first two numbers reports were published from Belgium, Canada, Czechoslovakia, Denmark, France, Germany, Great Britain, New Zealand, Norway, Poland, Rumania, Sweden, Switzerland, United States and Wales.

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

On March 31, 1926, the Italian Government offered to found and maintain an International Institute for the Unification of Private Law at Rome, to be placed at the disposal of the League of Nations, and to contribute an annual sum of 1,000,000 lire (\$52,631) toward its upkeep.¹ The Council had arranged to accept this offer on March 18,² having approved statutes of the Institute on March 15. "The object of the Institute is to study methods for the assimilation and coordination of private law as between states or groups of states and to prepare for a gradual adoption by the various states of uniform private law legislation."³ It is under the direction of the League and works in connection with the Committee on Intellectual Cooperation, the International Labor Office and the technical organizations of the League. The Governing Body consists of a president (Vittorio Scialoja) and 10 members appointed by the Council of the League. It chooses the subjects for examination. "Any state or any organization of the League of Nations (International Labor Organization, technical organizations, etc.) or any international legal association may, through the intermediary of the Council of the League, make proposals for the study

¹ *Official Journal*, VII, p. 812.

² *Ibid.*, p. 537.

³ Art. 2 of the Statutes, *Official Journal*, VII, p. 579; the internal regulations and financial regulations are printed at *Ibid.*, IX, p. 1752.

of questions connected with the unification, assimilation or coordination of private law." ¹

The Institute was inaugurated on May 30, 1928, with headquarters in the Villa Aldobrandini, Rome, and with Professor Pietro de Francisci as secretary-general. The work of the Institute lies in an extremely technical field, and its functions up to 1930 were of an advisory character. The draft conventions on unification of river law, matters relating to the treatment of foreigners, questions from the Child Welfare Committee, harmonization of laws on bills of exchange and checks and like matters had engaged its attention.² The Governing Body at its third session December 17-18, 1929, undertook studies of the unification of laws concerning sale, maintenance and arbitral procedure and to examine cooperative possibilities on such subjects as copyright, publishing contracts and the legal status of international associations.

INTERNATIONAL EDUCATIONAL CINEMATOGRAPHIC INSTITUTE

The Council of the League on September 28, 1927, accepted an offer made in the Eighth Assembly by the Italian Government to found and maintain an International Educational Cinematographic Institute.³ The organic statutes of the Institute were approved by the Council on August 30, 1928.⁴ "The object of the Institute is to encourage the production, distribution and exchange between the various countries of educational films concerning instruction in art, industry, agriculture, commerce, health, social education, etc., by any means which the Governing Body may consider necessary." Its organs are a Governing Body,⁵ consisting of a president and 11 members of

¹ Statutes, Art. 7.

² At the second session of the Committee of Directors, February 20, 1929.

³ *Official Journal*, IX, p. 397, 549.

⁴ *Ibid.*, p. 1432, text at p. 1512. The text as amended on September 19, 1929, *Ibid.*, XI, p. 127.

⁵ First session, November 5-9, 1928, *Official Journal*, X, p. 157; second session, October 2-4, 1929, *Ibid.*, XI, p. 123.

differing nationalities, a permanent executive committee and the director, Dr. Luciano de Feo. The Governing Body includes three members of the International Committee on Intellectual Cooperation, one member of each of its four subcommittees and a member of the Child Welfare Committee. The other members are chosen with special reference to their experience in the matters coming before the Institute and include Carl E. Milliken, secretary of the Motion Picture Producers & Distributors of America, Inc. The Institute has an ordinary subsidy from the Italian Government of 600,000 lire annually, but supplementary funds bring its budget for 1930 up to 1,131,000 lire.¹

The Institute was inaugurated on November 5, 1928, with administrative headquarters in the Villa Torlonia, Via Lazzaro Spallanzani 1, Rome, and also with quarters in the Villa Falconieri, Frascati. Under the direction of Dr. de Feo, previously director of the *Unione Cinematografica Educativa*, it has become one of the most active of international institutions.²

The *International Review of Educational Cinematography* has appeared monthly since July, 1929, in English, French, German, Italian and Spanish editions. Besides articles, it contains departments reporting legislative, technical, sociological and educational developments of the moving picture.

The Institute is vigorously carrying out an extensive program of collecting information respecting all educational films, the development of apparatus, lighting systems and accessories, and the needs and progress in various parts of the world respecting the use of educational films. It is hoped to have not only a library of periodicals, books and pamphlets on the moving picture, but to establish a depository center for actual films, which can be borrowed under proper conditions. The catalog of films will be rendered as complete as possible. Investigation of the forms and effectiveness of censorship is under way, as well as the

¹ For the general and administrative regulations and the financial regulations see *Official Journal*, X, p. 160, 170.

² See report, *Official Journal*, XI, p. 129.

encouragement of preparation of films for scientific purposes and the devising of adequate means for their distribution. Matters calling for cooperation between states are the abolition of customs barriers against educational films, on which a draft convention is prepared;¹ the study and co-ordination of systems of censorship and collaboration respecting coordination of films relating to historical events.

5. Suppression of Opium Traffic²

Art. 23 of the Covenant provides that, "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League (c) will intrust the League with the general supervision over the execution of agreements with regard to . . . the traffic in opium and other dangerous drugs."

An international opium commission met at Shanghai in 1909 and a conference was convened at The Hague in 1912, resulting in a convention for the international control of opium and similar drugs. Additional conferences were convened in 1913 and 1914 with the purpose of bringing the 1912 convention into force.³ This had not taken place at the outbreak of the world war. With a view to making the convention effective, the signatories of the treaties of peace by Art. 295 of Versailles and corresponding articles of the other treaties agreed "that ratification of the present treaty should, in the case of powers which have not yet ratified the opium convention, be deemed in all respects equivalent to the ratification of that convention."

By the opium convention the Netherlands Government was designated as the depository of ratifications and the collector of data respecting the traffic. This Government

¹ Document C. 212. M. 100. 1930. XII. A. 1. The experts met at Geneva December 12-14, 1929, to prepare the draft.

² A list of meetings of committees and conferences on this subject matter, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 306 (Boston, World Peace Foundation, 1930).

³ *Treaty Series*, VIII, p. 188.

requested the League,¹ in view of Art. 23 of the Covenant, to assume the duties placed upon it by the convention with regard to the collection of data and dealing with disputes. This proposal was accepted by the First Assembly. The task of securing ratifications was intrusted to the League. By April 1, 1930, the convention had been ratified by all states except Afghanistan, Argentine Republic, Lithuania, Paraguay, Persia, Russia and Turkey, which had taken an obligation to ratify.²

INTERNATIONAL ENGAGEMENTS

Continuing from this basis the League prepared and held two opium conferences³ in 1924-25, the conventions of which became in 1928 the starting point of its work in this field.

The Second Conference, convened for carrying out the provisions of the 1912 Convention for limitation of the manufacture and production of opium and its derivatives to the amount required for medicinal and scientific purposes, sat from November 17, 1924, to February 19, 1925, and was attended by representatives of 41 Governments. The United States delegation withdrew on February 6, 1925, on the ground that "the conference is unable to accomplish" strict limitation of raw opium and coca leaves to medical and scientific purposes.

The convention of the Second Opium Conference, signed at Geneva, February 19, 1925, came into force September 25, 1928.⁴ It is in replacement of Chaps. I, III and V of the 1912 convention. The 1925 conventions

¹ *Records of the First Assembly, Meetings of Committees, I, p. 181.*

² *Treaty of peace, Lausanne, July 24, 1923, Art. 100, 9 (Treaty Series, XXVIII, p. 87).*

³ For full account see *The International Opium Conferences*, by Raymond L. Buell (World Peace Foundation Pamphlets, VIII, Nos. 2-3).

⁴ *Treaty Series, LXXXI, p. 317; Reg. No. 1845. Ratifications: Australia, Austria, Belgium, British Empire, Bulgaria, Canada, Czechoslovakia, Denmark, France, Germany, Greece, India, Japan, Latvia, Luxemburg, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Poland and Free City of Danzig, Portugal, Siam, South Africa, Spain, Sudan, Switzerland, Yugoslavia. Accessions: State of Sarawak, Bahamas, Free City of Danzig, Dominican Republic, Egypt, Finland, Italy, San Marino, Monaco, New Hebrides, Rumania, Salvador, Venezuela. Subject to ratification: Bolivia.*

replace the 1912 convention and "complete and strengthen its provisions."

The convention of 1925 contains seven chapters. Chap. I gives definitions of raw opium, medicinal opium, morphine, diacetylmorphine, coca leaf, crude cocaine, cocaine, ecgonine and Indian hemp; five definitions being additional to those of 1912. Chap. II relates to internal control, the parties undertaking to enact laws and regulations for the effective control of production, distribution and export of raw opium and to limit the localities of export or import of raw opium or coca leaves. Chap. III, internal control of manufactured drugs, applies to the drugs listed above, preparations of them, and any other narcotic drug which is found liable to similar abuse by the Health Committee of the League in consultation with the Comité international d'Hygiène publique.¹ The contractants agree to enact effective legislation to "limit exclusively to medical and scientific purposes the manufacture, import, sale, distribution, export and use" of the specified substances. Control shall be exercised over all concerned with them by a license system. Chap. IV applies the principles of the convention to Indian hemp. Chap. V, control of international trade, obligates each contracting party to require separate import or export "authorization to be obtained for each importation [or exportation] of any of the substances" specified. Full details to render this system effective are agreed to, covering such matters as free port handling, bonded warehousing, passage through third countries, etc.

Chap. VI establishes a Permanent Central Board of eight persons, not holding offices dependent on their Governments. The board was appointed by the Council in December, 1928, from persons commanding general confidence and possessing a knowledge of the drug situation in its various phases. "The United States² and Germany

¹ Dilaudide, benzoylmorphine, methyl-ecgonine, benzoyl-ecgonine and the morphine esters generally have been so included, and also products under the names of eucodal and dicodide.

² Declined to nominate (note of October 1, 1928), but will "endeavor to furnish such information as the Permanent Central Board may request."

shall be invited each to nominate one person to participate in these appointments." "The full technical independence of the board in carrying out its duties" is to be assured. Before December 31 each contractant is to send to the board estimates of its requirements of drugs for the following year. An annual report is to be made after the close of each year giving statistics of production, manufacture, stocks on hand, consumption and confiscations, the report to be communicated to contracting parties. Imports and exports are to be reported quarterly. The statistics are to be furnished in such form as "to enable the amounts required in the country for general medical and scientific purposes to be ascertained." Other statistics are to be forwarded "in order to complete the information of the board as to the disposal of the world's supply of raw opium."

If the board concludes from the information at its disposal that excessive quantities of any drug are accumulating in any country or the latter is in danger of becoming a center of illicit traffic, the board may ask for explanations through the Secretary-General of the League. If an explanation is unsatisfactory or none is forthcoming, the board has the right to call the matter to the attention of all contracting Governments and of the Council, as well as to recommend the cessation of exports to that country. The right of a hearing is given to the offending country. The board has the right to publish a report on the matter for communication to all contracting parties. The board may take the same measures of notification to states not parties to the convention. It is the friendly right of contractants to draw the attention of the board to any matter within its competence which appears to require investigation. The board will make an annual report, which will be published.

Chap. VII provides for penal legislation to be passed by the contractants, for legislation to assist the board and for the mutual exchange of all pertinent legislation. Provisions for settling disputes over the text and the customary stipulations respecting accession, ratification, etc., complete the convention.

The protocol¹ consists of an agreement to prevent within five years the smuggling of opium from constituting a serious obstacle to the effective suppression of the use of prepared opium in territories where its use is temporarily authorized.

The final act expresses the hope that the convention be applied in the colonies, possessions, protectorates and territories of the contractants. It urges consideration of prohibiting ships from carrying drugs without export authorization. Cooperation of national authorities in the suppression of illicit traffic and the requirement of sureties from licensed dealers are recommended.

FAR EASTERN CONTROL

The First Opium Conference, held at Geneva, November 3, 1924, to February 11, 1925, between the representatives of the British Empire, China, France, India, Japan, Netherlands, Portugal and Siam, produced an agreement, a protocol and a final act with the purpose of bringing about "the gradual and effective suppression of the manufacture of, internal trade in and use of prepared opium" in Far Eastern possessions and territories and "of taking all possible steps for achieving the suppression of the use of opium for smoking."

The agreement,² which came into force July 28, 1926, makes the importation, sale and distribution of opium a state monopoly, and also the making of the prepared product as soon as circumstances permit. Retail sale by licensed persons only is stipulated, while the system of such sale by salaried persons is to be tried. Sales to minors are prohibited and their presence in smoking divans interdicted. Private dealing in "dross" is prohibited. The

¹ Ratifications: Australia, British Empire, Bulgaria, Canada, Czechoslovakia, Germany, Greece, India, Japan, Latvia, Luxemburg, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Portugal, Siam, Sudan, Union of South Africa, Yugoslavia. Accessions: State of Sarawak, Bahamas, Egypt, Finland, Rumania, Salvador, Venezuela. Subject to ratification: Bolivia.

² *Treaty Series*, LI, p. 337. China did not sign. The other participants in the conference have all ratified.

export of import opium is to cease, and transit is placed strictly under control. Instruction to discourage the use of prepared opium is advocated. Legislative measures to render illegitimate transactions punishable are contemplated. All obtainable information as to the number of opium smokers is to be reported to the League Secretariat for publication.

The protocol promises the initiation of measures to reduce the use of prepared opium so that it "may be completely suppressed within a period of not more than 15 years." This period will begin when a commission appointed by the League Council determines that measures to prevent the exportation of raw opium make possible the reduction of consumption. If failure to accomplish this should appear, the fact may be brought before the Council; if the decision should result in any state denouncing the protocol, a fresh conference will be held at once. Coordination of effort to effect the complete and final suppression of the use of prepared opium is provided for.

The Assembly recommended the Council to appoint a commission of three to inquire into the situation in Far Eastern countries as regards the use of opium prepared for smoking, measures taken by Governments to give effect to the Hague convention of 1912 and the Geneva agreement, the nature and extent of the illicit traffic in the Far East, the difficulties which it causes in the fulfilment of international obligations and possible remedies.

The Council at its 54th session in March, 1929, appointed the Commission of Inquiry into Opium Smoking in the Far East which left Geneva on September 4, 1929, on an investigation to last some nine months in Burma, the Straits Settlements, Java, Sumatra, British North Borneo, Siam, French Indo-China, Macao, Hong Kong, the Philippine Islands, Formosa, Kwantung, Shanghai, Dairen and Mukden.

In order to allow time for the completion of this investigation, the conference which had been projected for 1929,

to carry out the provisions of Art. 12 of the Geneva opium agreement of February 11, 1925, was postponed until the latter half of 1930 or until 1931.

DUTIES OF THE COMMITTEE

The Advisory Committee on Traffic in Opium and Other Dangerous Drugs was appointed by the Council at the request of the Assembly on February 21, 1921. It consists of representatives of states chosen by their Governments and three assessors named by the Council. The object is to commit the Governments chiefly concerned either as producers or consumers in the decisions constantly taken. The following 14 countries were represented on the committee: The Netherlands, Great Britain, France, India, Italy, Japan, China, Siam, Germany, Bolivia, United States, Portugal, Switzerland and Yugoslavia.

The selections of the Governments represented on the committee was a deliberate choice of those in which narcotic crops were produced or the drugs chemically manufactured. It was felt wise to put up to them the problem of working out practical methods of reform. The steps taken until the coming into force of the opium convention in September, 1928, created a system of control which developed general cooperation for the suppression of illicit traffic in opium and other dangerous drugs. As a result of this development, the Tenth Assembly recommended that the Advisory Committee be enlarged in order to insure more effective representation of the nonmanufacturing countries upon it. The Council's designation of Governments in this category changed the character of the committee in 1930, making it substantially a standing conference of all points of view involved, to the expected end that progress in suppression would be accelerated. Additional states invited to sit on the committee are Austria, Belgium, Egypt, Mexico, Poland, Spain and Uruguay.

Development of the committee's functions has been an arduous task. In 1921, it issued a questionnaire to all

Governments to bring out the extent of the world's needs of manufactured drugs for medicinal and scientific use. This questionnaire was sent by the League directly to the United States Government, but when a reply was not received, the request was then forwarded to Washington by the Netherlands Government which had been intrusted with this duty under the 1912 convention. The United States had a representative at the fourth session of the committee, in an "unofficial and consultative capacity." Under public resolution No. 96, 67th Cong., approved March 2, 1923, which requested the President "to urge upon the Governments of certain nations the immediate necessity of limiting the production of habit-forming drugs and the raw materials from which they are made to the amount actually required for strictly medicinal and scientific purposes," the United States accredited a delegation to the fifth session of the committee and has since participated in its work.

Until 1928 the committee was largely engaged in exploring the subject to determine the types of information it required, the means of securing it and the study of material obtained with a view to basing practical proposals upon the data. In the earlier years several new phases of the problem came to light. When the convention came into force a highly developed system of control of illicit traffic had been worked out and since then has functioned under the terms of the convention.

An exchange of information in regard to drug seizures is in full effect and results in an annual publication of all seizures reported. At first the reports showed an increase in illicit traffic, but the recent tendency has been for the absolute amounts to show an annual decrease.

A survey of national laws, including penalties inflicted for traffic in narcotics, has been made.

A system of import and export certificates, which has the combined effect of making official records of all licit traffic in drugs and of controlling the traffic, has been in force for several years and by April, 1928, was in operation

in 39 states, 39 British colonies, five mandates and six other colonies.¹

The question of the world's legitimate requirements for drugs has been explored in order to afford a basis for judging the extent of the illicit traffic and providing means to abolish it. A joint subcommittee of the Opium and Health Committees of the League reached the conclusion that the requirement could be fixed at 600 milligrams per head per year, calculated in raw opium with 10% morphine. The Second Opium Conference adopted the Health Committee's revision of 450 milligrams, but pointed out that this made inadequate allowance for the legitimate consumption of morphine, on which adequate information was not available.

In 1929 the Health Section of the League prepared from extensive analytical statistics conclusions on world consumption of opiates and cocaine in revision of the previous figures. The per capita medical requirements were decided as follows,² in milligrams:

Medicinal opium	25.43
Morphine	5
Heroin	0.4
Codeine	5
Cocaine	3.1

During its 1929 session the Advisory Committee on Traffic in Opium examined a scheme for the limitation of drug manufacture by prior notification of national requirements which was submitted to its consideration by the United States Government.³

The Tenth Assembly adopted the principle of limitation of drug manufacture.⁴ Its resolution regarded the principle accepted as to crude cocaine and ecgonine, morphine,

¹ *Official Journal*, IX, p. 1097.

² *Minutes of the 13th session*, p. 346 (C. 121. M. 39. 1930. XI).

³ *Minutes of the 12th session*, p. 149. The United States received the proposal from C. E. Crane of Los Angeles.

⁴ *Official Journal*, Spec. Sup. No. 75, p. 158.

diacetylmorphine, cocaine and their respective salts, and narcotic drugs found to fall under the 1925 convention. A conference of countries in which they are manufactured will determine the total amount of those narcotics required to meet legitimate medical and scientific needs, as well as the quota to be allocated among the various manufacturing countries. The Advisory Committee drew up a draft scheme for this conference in its 13th session, January 20-February 14, 1930. The conference will be convened by the Council in December, 1930, and will mark the consummation of an important further step in the struggle against the drug traffic.

The disclosures made by the statistics of the quantities of drugs in illicit traffic and the methods used in placing them there led to an important debate in the Tenth Assembly on the question of limitation of manufacture. During 1929, under the 1925 convention, a circular inquiry had brought to Geneva information as to the countries in which manufacturing of narcotic drugs takes place. The majority of countries are not manufacturers. Those in which the drugs are manufactured are listed¹ as Germany, Austria, Denmark, Egypt, United States, Finland, France, Great Britain, Hungary, India, Italy, Japan, the Netherlands, Norway, Peru, Poland, Sweden, Switzerland, Czechoslovakia and Uruguay.

To the Advisory Committee in 1929 the Dutch Government submitted a memorandum concerning transactions of the Naarden Chemical Factory,² which had been engaged in the export of narcotics for unlawful purposes and which had been put out of business. It was estimated that this firm had introduced about half of the total world production of heroin into illicit traffic. This report resulted in a more careful scrutiny of other suspected manufacturers in a number of countries.

Control over smuggling of drugs through the mails was recommended by the Advisory Committee and supported

¹ Minutes of the 13th session, p. 403.

² Minutes of the 12th session, p. 315.

by the Tenth Assembly. Its resolution called for close supervision by the customs services over postal matter in countries of consignment and of destination, with particular attention to mails having a Far Eastern destination. The replies of Governments indicated that these measures were acceptable and largely in effect.¹

PRODUCTION IN PERSIA

Early in the work of the committee, it was found that a large amount of opium smuggling originated in the Persian Gulf and involved opium produced in Persia. In the spring of 1926, a Commission of Inquiry on Opium Production in Persia paid a visit to that country to determine the possibility of substituting other crops for the very profitable opium poppy. The American Bureau of Social Hygiene contributed 150,000 gold francs toward the expenses of the commission. The report made definite suggestions for the replacement of the opium poppy by other crops. The Persian Government, before the Council on March 11, 1927,² was prepared to accept the recommendations in principle, subject to reconsideration after three years. The agricultural problem involved not only substituting other crops for opium but providing irrigation and transport. The Government proposed to exempt from taxation land diverted from opium cultivation and to grant loans to cultivators reducing their poppy crop. The goodwill of Persia was commended by the Eighth Assembly in 1927.

ADMINISTRATIVE CONTROL

A representative of Italy sat on the committee for the first time during its ninth session in 1927. He took the position of a country which is solely concerned with reducing the menace to its population resulting from the overproduction of drugs and which itself produces no

¹ *Official Journal*, XI, p. 285.

² *Ibid.*, VIII, p. 392.

opium. He asked for an extraordinary meeting of the committee to study both measures for the limitation and rationing of drug manufacture and the question of smuggling, its causes and measures for its suppression. The 10th session of the committee, September 28–October 8, 1927, was devoted to this program. M. Cavazzoni presented for consideration a model code for the administrative control of the drug traffic.

The Tenth Assembly drew the attention of "all Governments to the vital necessity of their putting into operation an effective national system of administrative control," especially respecting limitation of manufacture. The Assembly recommended for this purpose the text which had been developed from the Cavazzoni proposal and adopted by the Advisory Committee at its 11th session.¹ The Governments were asked to indicate before May 31, 1930, whether they had in operation the same or equivalent administrative provisions and to forward copies of regulations issued for that purpose. The code thus recommended provides for the concentration and unification of supervision within a country of the trade in narcotics. Licenses to trade are to be granted by a single authority, and details of the licenses are specified. Manufacturers are to be registered, are to account strictly for all raw and manufactured materials, are to number receptacles intended for them, are to make periodic statements of narcotic business done and are to be subject to inspection. Extensive details respecting import and export permits are intended both to insure efficiency and completeness of records and to render statistical reports comparable. Provisions for the regulation of the internal trade of each country in narcotics are given.

PERMANENT CENTRAL OPIUM BOARD

With the entrance of the convention of the Second Opium Conference into force on September 25, 1928, the Permanent Central Opium Board provided for under

¹ *Minutes of the 11th session*, p. 353 (C. 328. M. 88. 1928. XI).

Chap. VI became the pivot around which control of illicit traffic would center. The Board was constituted by the Council in December, 1928,¹ and in April, 1929, established a secretariat attached to the Social Section of the League Secretariat. It prepared forms to be used by Governments in making quarterly reports on drug imports and exports respecting their territories, and its subsequent sessions have been devoted to considering the reports received, in determining its relation with the Advisory Committee, in developing its procedure and determining the form and content of its annual report. The quarterly reports made to this Board are additional to the annual reports made under the 1912 and 1925 conventions.

6. Women and Children ²

TRAFFIC IN WOMEN

Art. 23 of the Covenant provides that, "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League . . . (c) will intrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children."

Conferences. A conference was held at Paris, July 15-25, 1902, on this subject and a convention signed there on May 18, 1904, to which the United States is a party. A further conference, resulting in a revised convention, was held at Paris, April 18-May 4, 1910. A preliminary conference looking toward a second revision of the 1904 convention at a later date was held at Brussels, October 21-24, 1913. The League's first effort was to bring about this contemplated revision and so to extend the system of protection along lines that experience had shown to be desirable and feasible. The International Conference on

¹ *Official Journal*, X, p. 998, 1131.

² A list of meetings of committees and conferences on this subject, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents. Placed on Public Sale, 1929-1929*, p. 263 (Boston, World Peace Foundation, 1930).

White Slave Traffic was held at Geneva, June 30-July 5, 1921, with 35 states participating.

The international convention for the suppression of the traffic in women and children,¹ opened for signature September 30, 1921, was registered by the Secretariat of the League of Nations on June 15, 1922. By Art. 1 the parties agree to ratify or adhere to the agreement of May 18, 1904, and the convention of May 4, 1910.

The Governments agreed in 1904 to establish or designate an authority to centralize "all information concerning the procurement of women or girls with a view to their debauchery in a foreign country"; to seek to determine the identity of procurers engaged in criminal traffic; to receive declarations of women and girls of foreign nationality surrendered to prostitution and to take measures for their repatriation.

By the 1910 convention states undertake to punish any person debauching either a woman or girl, even with her consent, with a view to commercializing her, though the various acts are accomplished in different countries; to communicate their respective laws to each other and to provide special means of extraditing culprits under the convention. Persons convicted of offenses connected with the white slave traffic are to be listed and the information circulated to contracting Governments. The 1921 convention reiterates these provisions.

The parties to the 1921 convention agree to take appropriate measures for guarding the licensing and supervision of employment agencies and offices so as to insure

¹ *Treaty Series*, IX, p. 415. Ratifications: Albania, Australia, Austria, Belgium, British Empire, Canada, Chile, China, Cuba, Czechoslovakia, Estonia, Germany, Greece, Hungary, India, Italy, Japan, Latvia, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Norway, Poland and Free City of Danzig, Portugal, Rumania, Siam, Spain, Sweden, Switzerland, Union of South Africa, Yugoslavia. Accessions: Bahamas, Trinidad, Kenya, Nyasaland, Ceylon, Hong-Kong, Straits Settlements, Gibraltar, Malta, Cyprus, Southern Rhodesia, Barbados, Grenada, St. Lucia, St. Vincent, Seychelles, Northern Rhodesia, British Honduras, British Guiana, Fiji, Leeward Islands, Jamaica, Mauritius, Falkland Islands, Gold Coast Colony, Sierra Leone, Iraq, Bulgaria, Finland, France (not including French colonies and protectorates, or the mandated territories), Italian colonies, Luxembourg, Spain (not including Spanish possessions in Africa or the territories of the Spanish Protectorate in Morocco), Uruguay. Subject to ratification: Brazil, Colombia, Costa Rica, Denmark, Lithuania, Panama, Persia, Peru.

the protection of women and children seeking employment in another country. In connection with immigration and emigration, they undertake to adopt such measures as are required to check the traffic in women and children and to set up special means of protection at points of departure and arrival.

Advisory Committee's Work

The final act¹ of the conference consisted of 15 recommendations directed by the 35 participating Governments to the Council of the League and substantially became the initial program of the committee suggested by it.

On January 14, 1922, the Council constituted the Advisory Committee on the Traffic in Women and Children, which was organized so as to comprise Government representatives of 10 states, including the United States, and five delegates of associations. The committee was reorganized on December 10, 1924,² owing to the relationship established by the League with the International Association for the Promotion of Child Welfare. The reorganized committee bears the title of "Advisory Commission for the Protection and Welfare of Children and Young People."

This committee consists of two sections, with separate assessors, Government representatives having the right to a seat in each. The first section is the "Committee on Traffic in Women and Children," and the second the "Child Welfare Committee." The two committees hold their regular sessions at the same time, the president having the right to convoke the two committees in plenary session for the discussion of any question.

Annual Reports. Annual reports are received from states parties to the existing conventions, including the United States. They deliver their reports for a given year in the first half of the succeeding year, and reply to a questionnaire³ in which states are requested to report all laws and

¹ *Records of the International Conference on Traffic in Women and Children, Geneva, 1921*, p. 133 (C. 484, M. 339, 1921. IV).

² *Official Journal*, VI, p. 135, 221.

³ *Ibid.*, V, p. 942.

regulations in force, the central authority charged with executing them, the degree of supervision of emigration and immigration with relation to traffic in and protection of women, and for a statement of their attitude toward the maintenance of licensed houses. Additional information is furnished in periodical statements by five international associations represented by assessors on the committee.

Investigations. The American Social Hygiene Association has prepared a collection of the laws and regulations of all countries in respect to the traffic in women, which has been submitted to Governments.

The Ninth Assembly supported the committee's request that "the Governments of all those countries which still retain the licensed-house system will investigate the question as soon as possible." The committee is collecting the laws in force in countries where the system is illegal.

Meanwhile the continuous work of the committee and the periodic consideration of the problem in the annual reports led to a steady abolition of the system of licensed houses, especially in countries like France where action could be taken under general police measures.

The convention establishes the age limit of 21. In 1929 the committee began studying the abolition of this limit to secure more effective punishment of offenses connected with the traffic. This is in line with recently enacted penal codes, and the committee is consulting the Governments as to the desirability of revising the convention on this point.

Protection of *artistes* going abroad is engaging the detailed study of experts.

Extensive investigations have brought the committee to favor the general use of women police, who are now satisfactorily employed in an increasing number of cities.

The Council on June 5, 1928, indorsed proposals of the Committee regarding studies of the laws and penalties relating to *souleneurs*, i.e., persons living on the immoral earnings of women.

Many other phases of the traffic are also under study.

Methods of Traffickers

At the request of the Advisory Committee the Council on July 7, 1923, appointed a committee to conduct an international investigation into the extent and scope of the traffic in women. Miss Grace Abbott, the American representative on the committee, who was responsible for the suggestion, later informed the Secretary-General that, as anticipated, an American private organization, the Bureau of Social Hygiene, Inc., would provide \$75,000 for the investigation.

In February, 1927, the Special Body of Experts drew up and unanimously adopted a general report on the results of its two years' investigation, which had taken place under the direction of Bascom Johnson (American). The first source of information was official. Valuable information had been obtained by means of the replies sent by Governments in answer to the specially framed questionnaire; and much other valuable information had been given to the investigators on the spot in conversation with Government officials and others. The other main source of information was persons connected with this traffic. No fewer than 6,500 persons were interviewed, about 5,000 of whom were connected with commercialized prostitution.

The report ¹ was presented to the Council ² on March 9, 1927, in two parts, the first giving a concise account of the facts disclosed by the inquiry and a statement of the conclusions based upon them; the second a more detailed statement of evidence derived from various sources and arranged according to the 28 countries and 112 cities visited. The first part was published immediately, while the detailed reports on countries were sent to the Governments for their observations. These were examined by the experts in November and the second part of the report as then revised by them was published. The Ninth As-

¹ *Report of the Special Body of Experts on Traffic in Women and Children* (C. 52. M. 52. 1927. IV).

² *Official Journal*, VIII, p. 378.

sembly indorsed a proposal that the inquiry should be continued in other countries.

In 1928 the committee recommended that the inquiry should be extended to countries which had not hitherto been visited, particularly to the East (Near, Middle and Far). Since the social customs of those countries differ from those of Europe or America, the committee emphasized that the Special Body of Experts selected should include persons with wide knowledge and experience of Eastern conditions. The Assembly in 1929 indorsed this proposal, and the inquiry was arranged for in 1930.

CHILD WELFARE COMMITTEE

The International Association for the Promotion of Child Welfare, on its own application, was placed under the direction of the League by resolution of the Council in March, 1924, at which time the Council decided that the work hitherto carried out by the association should in the future be intrusted to the Secretariat, subject to ratification by the Assembly. The Fifth Assembly ratified this decision and also indorsed, and invited states Members of the League to be guided by, the principles of the "Declaration of Geneva," which reads:

By the present Declaration of the Rights of the Child, commonly known as the Declaration of Geneva, men and women of all nations, recognizing that mankind owes to the child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

I. The child must be given the means requisite for its normal development, both materially and spiritually;

II. The child that is hungry must be fed; the child that is sick must be helped; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;

III. The child must be the first to receive relief in times of distress;

IV. The child must be put in a position to earn a livelihood and must be protected against every form of exploitation;

V. The child must be brought up in the consciousness that its talents must be devoted to the service of its fellow men.

The original reorganization of the advisory committee in 1924¹ left the new work to a subcommittee, called the Committee for the Protection of Children which assumed separate form in 1926. For the new duties the Council added a group of new assessors and also a representative of Belgium to the Government representatives. The assessors have been chosen to represent organizations which could profitably participate in the work of the committee as a matter of interest. Since 1925, some changes have taken place in the organizations so represented, and the group since 1928 represents the principal organizations concerned with child welfare.² The organizations which send assessors to the committee are: International Child Welfare Association, League of Red Cross Societies, International Boy Scouts and Girl Guides organizations, Save the Child International Union, International Women's Organizations, American National Conference of Social Service (Miss Julia Lathrop), International Federation of Trade Unions and the International Union of Catholic Women's Leagues.

Program. The Fifth Assembly expressed the opinion that the League could most usefully concern itself with the study of those problems on which the comparison of the methods and experience of different countries, consultation and exchange of views between the officials or experts of different countries, and international cooperation might be likely to assist the Governments in dealing with such problems. In 1926 the committee developed an elaborate general program. The Council, commenting on the limits of the committee's competence, adopted a report³ in which it said: "Child welfare is not primarily a matter for international action and, as the resolution of the Assembly indicated, the purposes which the League can serve in this direction are limited."

Reconsideration of the program resulted in a Liaison Subcommittee to cooperate with other League committees.

¹ *Official Journal*, VI, p. 135, 221.

² *Ibid.*, p. 463; VII, p. 183; IX, p. 1643, 1647, 1682.

³ *Ibid.*, VII, p. 865.

The committee with the encouragement of the Ninth Assembly has prepared a provisional draft international agreement regarding the return of children and young people to their homes, it having been found on investigation that there is a considerable international problem of repatriation of minors of foreign nationality.¹ The observations of the Governments on this draft were returnable by December 31, 1929.

The committee has also prepared a preliminary draft convention on assistance for foreign minors who are in a state of indigence.² In this draft states are asked to accord foreign minors the same rights to assistance as nationals and to make the interests of the child the determining factor in the measures adopted.

The committee helped organize and takes a particular interest in the International Cinematographic Institute, especially with respect to the creation of offices for control or preliminary censorship in each country and the adoption of hygiene and sanitary measures.

The execution of judgments relating to the maintenance payable on behalf of children by persons responsible for their support, but who themselves are abroad, is engaging the attention of the committee, and its Legal Subcommittee is studying the question of the recognition and enforcement abroad of maintenance orders issued in such cases.

Prevention of Blindness. In 1928 L. W. Carris, director of the American Association for the Prevention of Blindness, laid before the committee a scheme for the creation of an international organization to deal with the question of blind children. The Health Organization of the League was already undertaking an inquiry into the general position of the blind and the questionnaire included those aspects of the question which affected minors. The International Labor Office was also engaged in an inquiry into methods of vocational guidance. The three inquiries complement each other.

¹ Text in *Official Journal*, X, p. 1089.

² *Ibid.*, p. 1090.

Juvenile Courts. An inquiry into the scope, composition and practice of juvenile courts conducted by the International Prison Commission is coordinated with the committee's work.

Dangers to Children. The American Social Hygiene Association has placed \$5,000 at the disposition of the League for child welfare work. The Friends of the League of Nations, an American society with headquarters at Richmond, Va., has contributed \$1,500 to the League and these amounts are to be used in a study of environment in relation to moral and social dangers to children in Canada, Czechoslovakia, Denmark, France, Germany, Great Britain, Italy and the United States.

Mlle. Marie Chaptal, assistant delegate of the French Government, was asked to make a preliminary inquiry and has visited a number of countries, including Canada and the United States.

Illegitimacy. A report has been sent to all states on a questionnaire bearing on the rights and obligations of parents toward illegitimate children, affiliation proceedings, the legitimization of illegitimate children, the maintenance, inheritance or succession rights of illegitimate children, the official guardianship and the moral and material protection of illegitimate children.¹

In principle the committee seeks to insure that illegitimate children are as well treated as legitimate children, due respect being paid to the rights of the family. The legal subcommittee is seeking to find the best method of preventing the separation of illegitimate children from their mothers.

Legal Age of Marriage and Consent. The Advisory Commission as a whole has studied these questions. In 1927 it expressed the opinion that the fixing of too early an age of consent was likely to encourage the traffic in women. It accordingly requested the Council to draw the attention of Governments to the necessity of fixing this age sufficiently late to insure the effective protection of children

¹ *Official Journal*, VIII, p. 915, and League Document C. P. E. 141(1). 1929. IV.

and young people. In 1928 it concluded that it was desirable that the legal age of marriage should be high enough to provide full safeguards as regards the health both of the married persons themselves and of the children of the marriage. It was nevertheless of the opinion that no single age limit could be made applicable to all countries. The commission recommended that Governments should examine the age of marriage fixed in their respective laws with relation to physical and moral welfare.

OBSCENE PUBLICATIONS

The International Conference for the Suppression of the Circulation of and Traffic in Obscene Publications met, by the invitation of the Government of the French Republic, at Geneva, under the auspices of the League of Nations, from August 31–September 12, 1923, in pursuance of a resolution of the Third Assembly on September 28, 1922.¹ In conformity with the resolution, the draft convention established by the international conference held at Paris in 1910, together with a questionnaire, was communicated on November 1, 1922, to all states. The replies to this questionnaire were transmitted by the Secretariat to all states and submitted to the conference.

The international convention² for suppression of the circulation of and traffic in obscene publications, signed at Geneva September 12, 1923, by 43 states entered into force on August 7, 1924. It is additional to the arrange-

¹ *Resolutions and Recommendations . . . 1922*, p. 34.

² *Treaty Series*, XXVII, p. 214. Ratifications: Albania, Austria, Belgium, Bulgaria, China, Czechoslovakia, Free City of Danzig, Finland, Germany, Great Britain and Northern Ireland, Greece, Hungary, India, Italy, Iraq, Latvia, Luxembourg, Monaco, New Zealand (including the mandated territory of Western Samoa), the Netherlands (including Netherlands India, Surinam and Curaçao), Norway, Poland, Portugal, Rumania, Siam, Spain, Switzerland, Turkey, Union of South Africa (including South-West Africa, mandate), Yugoslavia. Accessions: Canada, Newfoundland, Southern Rhodesia, Nigeria, Seychelles, British Honduras, Ceylon, Kenya, Mauritius, British Solomon Islands Protectorate, Gilbert and Ellice Islands Colony, Fiji, Uganda, Trinidad, Zanzibar, Tanganyika Territory, Leeward Islands, Windward Islands, Gambia, Nyasaland, Straits Settlements, Non-Federated Malay States, Sierra Leone, Northern Rhodesia, Barbados, Gold Coast, Cyprus, Gibraltar, Malta, Somaliland, Basutoland, Bechuanaland, Swaziland, Hong-Kong, Bermuda, Bahamas, Falkland Islands, St. Helena, Palestine, Trans-Jordan, Jamaica, British Guiana, Egypt, San Marino. Subject to ratification: Peru.

ment signed at Paris, May 4, 1910, which provides that the contracting parties are to designate an authority:

(1) To centralize information to aid in repressing infringements of their municipal laws as to obscene matter, "the constitutive elements of which bear an international character;"

(2) To supply all information tending to check the importation and to expedite the seizure of such matter;

(3) To communicate to each other all laws applicable to the subject.

The authorities of the states are empowered to correspond directly.

By the 1923 convention the parties agree to take measures to define as punishable offenses, which they would seek to suppress, the production, possession, distribution, exhibition, importation and exportation of obscene matters or things. Commerce in such articles and advertising them are likewise punishable offenses. Such offenses are brought within the jurisdiction of the courts of the country where the offense or any of its elements are committed. If the laws permit, an offense committed abroad is punishable in the offender's national courts. States undertake to improve their legislation so as to provide means of carrying out these provisions and those relating to the rendition of offenders, as well as to make possible the seizure, detention or destruction of offending materials.

By Art. 16 of the convention the Council is called upon to consider the desirability of summoning a conference at the end of each period of five years to discuss revision. This point had been referred to the Traffic in Women Committee, which at its 1928 session reached the conclusion that the time had not yet come for a further conference. That committee is collecting annually reports on legislation in force.

7. Refugees and Relief of Distress¹

The refugee problem has been before the League since 1920. It first presented itself as a task of repatriating or caring for hundreds of thousands of persons whom the war had torn from their own homes and driven into other countries. The influx of these disorganized and destitute masses of humanity into several countries created a special problem. Dr. Fridtjof Nansen, as High Commissioner of the League, met those conditions with aid provided by various states, and now for several years has been working on the second phase of the problem, which concerns improving the anomalous status of the refugees, their employment and settlement.

The first great humanitarian accomplishment was the repatriation of 430,000 prisoners of war belonging to 26 different nations. They were returned to their homes at an average cost of less than \$5.00 per person. The wholesale evacuation of Greeks and others from Asia Minor had thrown 1,500,000 refugees into Greece. Destitution and pestilence accompanied them and the necessity for rehabilitation resulted in coordination of relief measures, finally taking the form of the Greek Refugee Settlement Scheme, and similarly the Bulgarian refugee settlement of 200,000 persons. Over 1,500,000 Russian refugees, scattered throughout Europe, the Near and Far East, required much attention, and particularly assistance in establishing their identity for traveling purposes. The same problem existed for 300,000 Armenian refugees.

In June, 1924, the refugee problem had resolved itself essentially into the placement in useful employment of 200,000 Russian and 200,000 Armenian refugees. The Director of the International Labor Office was approached and recognized that the questions of employment and labor emigration fell within the scope of the Organization. Some 50 Governments accept the identity certificates for

¹ A list of meetings of committees, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 266 (Boston, World Peace Foundation, 1930).

Russians and 35 for Armenians,¹ and many thousands have been settled in countries where labor is scarce.

In 1928 other groups of unfortunates were brought within the scope of this task. There were 15,000 Assyrians and Assyro-Chaldeans in southern Russia who were unable to establish themselves and wished for passports and employment elsewhere. In Iraq and Syria there were respectively 12,000 and 1,500 Assyrians who wished to be settled as colonists in Syria and Lebanon and Iraq under the direct protection of the mandatory states. Refugees of Turkish nationality, proscribed by their Government, were living in various countries of Europe.

In 1928 the organization of employment facilities and the emergence of new refugee problems prompted a re-consideration of the entire question. The 1928 Assembly in reviewing the subject called attention to the fact that a complete solution of the remaining problem would only be realized by the repatriation of aliens in their original countries or their naturalization in the countries giving them shelter. An Advisory Commission on Refugee Questions was appointed by the Council in December, 1928, and at a first meeting, May 16-18, 1929, prepared a report on the status of questions relating to Russian, Armenian, Assyrian, Assyro-Chaldean and Turkish refugees with a view to a final solution of the problem.² The Tenth Assembly further studied the question, and in its resolution decided that the refugee organization should be wound up within a maximum period of 10 years and as much sooner as possible. The High Commissioner's central service was placed under the administrative authority of the Secretary-General. Governments were requested to adopt the arrangements respecting identity certificates and refugee passport facilities embodied in the arrangements of July 5, 1922, May 31, 1924, May 12, 1926, and June 30, 1928.³

While refugee work was in the hands of the International Labor Organization, a stamp bearing the portrait of the

¹ See p. 99.

² *Official Journal*, X, p. 1077.

³ See p. 99-100.

High Commissioner, known as the Nansen stamp, was placed on sale as a means of interesting the general public in the work of the refugees. The Assembly advocated the wider use of this stamp and assented to adding the proceeds from its sale to the funds created for the benefit of deserving refugees. Much support required for the refugee work has come from the Red Cross societies and various private associations and individuals who have been appealed to for continuance of their aid.

The problem of Armenian refugees since 1926¹ has been affected by a proposal that the persons concerned be established in the Republic of Erivan² under the auspices of the League. The scheme was estimated to cost about \$7,500,000, including the installation of extensive irrigation facilities.³ In 1928, 17 Governments had offered funds, while Armenian organizations had contributed about \$500,000. The Armenian Government made it a condition that £300,000 must be in hand before the settlement project could be launched. Dr. Nansen on several occasions wished to give up the undertaking, but was urged to continue by both the Assembly and Council. In 1929 only half of the minimum amount required for inaugurating the plan was definitely promised. Dr. Nansen advised its relinquishment, and the Assembly on September 21, 1929,⁴ passed a resolution in which it decided "to discontinue for the moment its connection with this scheme, but to invite the High Commissioner . . . to acquaint the Council if and when the High Commission's cooperation might appear to be opportune."

GREEK REFUGEE SETTLEMENT COMMISSION

After the retreat of the Greek army from Turkish territory in 1922, hundreds of thousands of the inhabitants

¹ League Document A. 68. 1927. XIII. 1.

² The Armenian Socialist Soviet Republic is a part of the Transcaucasian Socialist Federal Soviet Republic, and includes portions of the former Russian provinces of Erivan, Alexandropol and Elnatopol.

³ *Scheme for the Settlement of Armenian Refugees. General Survey and Principal Documents* (C. 609. M. 264. 1926. IV. 1927. IV. 1).

⁴ *Records of the Tenth Assembly, Plenary Meetings*, p. 131; report at p. 452.

sought refuge in Greece, some reaching there by their own efforts and others being concentrated and transported by Fridtjof Nansen, High Commissioner of the League for Refugees. The treaty of Lausanne required members of the Greek Orthodox Church established in Turkey to emigrate to Greece. Ultimately a million and a half persons were refugees there.¹ The problem involved in caring for them became very serious for the country. They represented a fifth of its population; they were largely without funds; they had no means of support; and Greece itself was going through an economic and political crisis due to 12 years of intermittent war.

American and British charitable organizations did much for the refugees in the first months, but the acuteness of the situation was emphasized by a note of March 31, 1923, from the American Secretary of State announcing that the American Red Cross would discontinue its emergency work on June 30 for fully 500,000 persons.

The Council appointed a Greek Committee on February 2, 1923,² and a scheme for refugee settlement was reported by the Financial Committee after investigations on the ground. On September 29, 1923, a Greek representative signed a protocol approved by the Council, which established the Greek Refugee Settlement Commission. This and the accompanying statute were re-enacted in revised form on September 19, 1924.³

While a long-term loan was an essential condition for permanent solution of the problem, the unstable Greek political situation in 1923 made any loan uncertain. The Financial Committee of the League limited the possible loan to a maximum of £6,000,000 (about \$30,000,000) three-fifths of the required amount. Political instability, however, rendered it inadvisable to proceed with even that flotation. Realizing the critical need of aid, the Bank of

¹ See illustrated volume, *Greek Refugee Settlement* (1926. II. 32).

² *Official Journal*, IV, p. 234.

³ *Treaty Series*, XXX, p. 413; *Official Journal*, V, p. 1558; *Monthly Summary*, IV, Sup., p. 26. The additional act was ratified by Greece on December 4, 1924. The declaration relating to the modifications made to the protocol by the additional act is in *Treaty Series*, XXX, p. 421.

England and the Bank of Greece agreed to advance £1,000,000 if an independent refugee settlement commission as planned were established. It was in presence of that offer that the signing of the 1923 protocol took place.

The commission, of which Henry Morgenthau, former American ambassador at Constantinople, was chairman,¹ first met at Salonika on November 11, 1923. Equipped with funds and with the settlement work already under way, the commission's activities brought the first £1,000,000 near exhaustion by May, 1924. A second advance of £1,000,000 by the Banks of England and Greece and a further £1,000,000 from the Bank of Greece and the Greek Government insured the progress of the work till 1925. Meantime, political stability had been established in Greece.

The acceptance of the revised protocol in September, 1924, opened the way to put the undertaking upon the permanent basis of a long-term international loan.² This reconstruction task differed in essential respects from the Austrian and Hungarian plans. Greek finances were not in themselves at issue, the Government requiring no aid for its normal operations. The scheme, yielding £10,000,000 (\$50,000,000) in a long-term loan floated in December, 1924, provided for governmental guaranties, but it was adequately secured as well by title to land transferred by the Greek Government to the commission, by the improvements being made on the land and by the settlers' taxes, mortgages and rents. The loan is intrinsically productive, and the scheme itself is primarily a huge development project, largely in Macedonia which was formerly a territory of deserted plains and uncultivated fields.

By September 30, 1929, the accounts of the commission balanced at £14,459,660, of which £9,892,670 had gone into the agricultural establishment and £1,624,373 had been devoted to urban settlement. In the total was included a 4% \$12,167,000 loan derived from the United

¹ Succeeded by Charles P. Howland and then by Charles B. Eddy.

² For loan agreements, see p. 83.

States Government in settlement of war-debt undertakings. The lands ceded to the commission were 8,610,104 stremmata (2,127,556.7 acres). This land has been cadastrally surveyed and half of the total cultivable area allotted to settlers. By the end of 1928, 143,000 families had been settled on the land and 28,000 in urban districts, 76,000 houses having been built. Houses in the agricultural district to the number of 59,000, which had been abandoned by Turkish and Bulgarian emigrants, were ceded by the Government to the commission and refugees installed in them in 1929. In 1927-28 agricultural production by the settlers amounted to 208,673,000 okes (590,961,936 lbs.) as compared with 186,595,000 (528,437,040 lbs.) in the previous year.

In 1929 plans for widening up of the work of the commission were made. The Health Service as reorganized was returned to the control of the Government, and agricultural and veterinary services, with their staff of nearly 500 people, were relinquished to the Athens authorities. Various activities of the commission were intrusted completely to Greeks, and the commission gave up its control over them. A plan for the complete taking over of the properties and functions developed by the commission was worked out, and on January 29, 1930, a convention between the Hellenic Government and the Refugee Settlement Commission was signed at Geneva by which all activities of the commission will be transferred to Greek authorities on or before December 31, 1930.¹

BULGARIAN REFUGEES

On June 10, 1926, the Council considered a request from the Bulgarian Government² for the League's assistance in carrying out a scheme of settlement for Bulgarian refugees. The Financial Committee stated, in its report,³ that the

¹ League Document C. 107. M. 31. 1930. II.

² *Official Journal*, VII, p. 1002. All pertinent documents are in "Scheme for the Settlement of Bulgarian Refugees. General Description and Principal Documents" (1926. II. 53).

³ *Ibid.*, p. 920.

Bulgarian Government had since 1913 had to receive about 52,000 families, representing roughly 200,000 persons. Thirty thousand refugees had been or could be established by the Government, which had spent 160,000,000 leva on general settlement work. There remained about 60,000 workers to be settled on the land, that is to say, some 33,000 families. This settlement would present great advantages from the point of view of Bulgaria's internal politics and external relations and also add to the economic resources of the country. The committee submitted that a loan of a net yield equivalent to £2,250,000 (\$11,250,000) would be sufficient.

The product of the loan was paid into an account independently controlled by the League commissioner, who only supervises the expenditure. Assistance is limited to Bulgarian citizens. The Bulgarian Government came to an agreement with the bond-holders of prewar loans, made arrangements in respect of previous liens, and brought the statutes of the National Bank into conformity with the best principles of central banking. Revenues were assigned for the loan service and for this purpose an arrangement was made with the reparation authorities.

A draft protocol was approved by the Council and signed by Bulgaria on September 8, 1926.¹ This instrument provides for the appointment by the Council of a commissioner who will report to the Council at least every three months, control the proceeds of the loan and approve all plans of settlement. He is free to refuse to release sums drawn from the loan, if he is not sure that the monies previously released have been spent as authorized by him. The Bulgarian Government undertakes to centralize all services dealing with refugees. For the settlement work, it undertakes to provide at least 132,000 hectares of land suitable for agriculture, the character and situation of which must be approved by the commissioner. The loan was issued December 24, 1926.

The 1928 earthquake did much damage, but about 30,000 families had been furnished with land by the end

¹ *Official Journal*, VII, p. 1343.

of 1928. The remaining 3,000 will be established on land reclaimed for cultivation by marsh drainage and flood protection works. More than 2,000 houses had been built and large quantities of equipment and draft animals distributed. Considerable progress had been made in eradicating malaria with the aid of the League Health Organization and the Rockefeller Foundation.

On March 10, 1928, a stabilization loan of £5,000,000 (£1,615,424, \$11,910,750 and 116,350,000 francs) was received for the purposes of reorganizing the central banking system, stabilizing the currency and repairing the damage done by the earthquake and completing the work of refugee settlement. The loan was issued in London, New York and Paris in November and December, 1928.¹

By the end of 1929, the settlement work had been well advanced. A total of 26,125 families had been settled on 925,798 decares of land. A total of 8,763 applications for houses had been received and of these 5,315 had been filled or were in course of fulfilment. A total of 5,045 horses, 11,164 oxen and cows and 2,343 buffaloes had been distributed. Matters of a general character, such as the supply of drinking water, the draining of marshes, constructing railroads and the development of health services were progressing rapidly.

INTERNATIONAL RELIEF

Senator Giovanni Ciruolo, president of the Italian Red Cross, proposed to the League the organization of an international federation for mutual assistance in the relief of peoples overtaken by disaster. The 1924 Assembly requested the Council to appoint a Preparatory Committee to determine the exact scope of the proposed international union's activities, the needs it would be designed to meet and the contributions required from each state.² The Preparatory Committee was named by the Council on

¹ *Settlement of Bulgarian Refugees, Tenth Report of the Commission*, p. 7 (C. 56. M. 33. 1929. 11).

² *Resolutions and Recommendations . . . 1924*, p. 41.

December 11, 1924.¹ A draft statute was submitted to Governments, revised in accordance with their suggestions,² and perfected at a conference in which delegates from 41 countries took part.

The convention and statute³ of July 12, 1927, constitute a Union at Geneva between states on the principle of official international solidarity and mutual aid in case of disaster. Each state undertakes to contribute to an initial fund a share equal to 700 Swiss francs for each unit in its quota of the League budget. The Union's remaining resources will be voluntary contributions and with their aid it will be possible constantly to replenish the initial fund.

It will be able to send first aid without waiting for the result of appeals to the public in case of disasters. This prompt dispatch of first aid is now lacking when it would be most useful. In addition to rendering first aid, the Union is to coordinate the efforts of relief organizations in the event of disaster, to encourage the study of preventive measures against disasters, and to induce all peoples to render mutual international assistance. Although the Union has been constituted between states, it contemplates an extremely close cooperation with nonofficial organizations, in particular with the Red Cross Societies. States which desire to do so may be represented by the national Red Cross Society.

The International Relief Union will operate for the benefit of all stricken peoples regardless of race, nationality, or political or religious considerations. Its activities will nevertheless be limited to disasters occurring in the territories of members of the Union, or of a nature to affect those territories. The convention will come into force when ratified or acceded to by 12 states, and when the combined contributions amount to 600 shares (420,000 Swiss francs or \$84,000).

¹ *Official Journal*, VI, p. 148.

² *Ibid.*, VII, p. 178; the revised text is at p. 338.

³ *Ibid.*, VIII, p. 997. Ratifications or Accessions: Albania, Belgium, Ecuador, Egypt, Finland, Germany, Great Britain and Northern Ireland, Hungary, India, Italy, Luxembourg, Monaco, New Zealand, Rumania, San Marino, Sudan, Switzerland, Venezuela.

In 1929 the requisite number of ratifications and accessions had been received, but the total of their budget quotas was not sufficient to provide the requisite amount of 600 shares. Entrance of the convention into force, therefore, awaits the meeting of that condition.

Under the statutes, the Union will be directed by a General Council, which will appoint an Executive Committee. The General Council will meet every two years as the deliberative and constitutional body, and will be composed of one delegate each from all the members of the Union. The Secretary-General of the League may attend or be represented at all meetings of the General Council and the Executive Committee. Decisions will be by majority vote. The Executive Committee will be composed of seven members appointed by the General Council for two years, and two representatives of the international organizations of the Red Cross in an advisory capacity. It will meet at least once a year, administer funds and represent the Union in dealing with the League, with Governments, and with organizations. It will have power to act on behalf of the Union and to organize relief.

8. Mandates and Backward Peoples

The mandatory system is adopted by Member states in Art. 22 of the Covenant, in which it is defined as follows:

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the states which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be intrusted to advanced nations who, by reason of their resources, their experience or their

geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

The territories affected are (1) those over which Germany renounced all rights and titles "in favor of the Principal Allied and Associated Powers" by Art. 119 of the treaty of Versailles; and (2) the territories defined as mandates in Part III, Sec. 7, of the treaty of peace with Turkey signed at Sèvres, August 10, 1920. These former Turkish territories were being administered under mandate when the treaty of Lausanne was signed on July 24, 1923; in the negotiation of that treaty Turkey, as the victor state, made no claim for a change of their status.

The territories thus falling to be administered by mandate were allocated to mandatory states by decision of the Principal Allied and Associated Powers taken at the Paris Peace Conference on May 5, 1919. The states concerned drafted mandates¹ which were submitted to the Council of the League and eventually accepted by it after delays due to negotiations undertaken or initiated by the United States with the mandatories with a view to securing rights accruing to it under Art. 119 of the treaty of Versailles.²

CLASSES

The mandates are divided into three classes as follows:

"A" class: "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory." — *Covenant*, Art. 22, par. 4.

¹ The terms of the mandates are separately printed.

² *Official Journal*, II, p. 137, 142.

Territory	Mandatory	Terms Defined by Council
Palestine ^{1,2}	Great Britain	July 24, 1922
Trans-Jordania	Great Britain	Sept. 16, 1922
Syria and Lebanon ^{1,2}	France	July 24, 1922
Mesopotamia (Iraq) ³	Great Britain	- -

Trans-Jordania comprises "all territory lying to the east of a line drawn from a point two miles west of the town of Akaba on the gulf of that name up the center of the Wady Araba, Dead Sea, and River Jordan to its junction with the River Yarmuk; thence up the center of that river to the Syrian frontier." By Art. 25 of the mandate for Palestine, Great Britain as the mandatory was entitled, with the consent of the Council, to postpone or withhold application of the mandate to that territory, principally because a native rule had been established there under the Emir Abdullah.⁴ Up to 1924 the Trans-Jordanian territory was dealt with in the report on Palestine.⁵ The Permanent Mandates Commission in its Fifth Session on October 28, 1924, raised the question of a separate report for Trans-Jordania, which was agreed to by the representative of the mandatory. On February 20, 1928, Great Britain recognized in a signed agreement the independence of the Government of Trans-Jordania, the mandate continuing in force.⁶

Iraq (Mesopotamia) was originally contemplated as an "A" mandate. The inhabitants of the territory set up a monarchical form of government and concluded a treaty of alliance with the British Government on October 10, 1922.⁷ A protocol accessory to the treaty was signed on April 30, 1923, and four subsidiary agreements on March 25, 1924. As a consequence of the relationships thus established, the mandatory status was recognized as no longer fully applicable to Iraq. The British representative

¹ These mandates after approval were to enter into force automatically and at the same time following agreement reached between the Governments of France and Italy on the subject of the mandate for Syria. Complete agreement between those Governments was notified to the Council on September 29, 1923. (*Official Journal*, IV, p. 1355.)

² The United States has negotiated a separate treaty with the mandatory; for American policy see *Mandate for Palestine* (Washington, Government Printing Office, 1927).

³ The convention and protocol signed at London, January 9, 1930, defining the rights of the United States and of its nationals in Iraq embody the decision of the Council of September 27, 1924, the treaty of alliance between Great Britain and Iraq of October 10, 1922, and their treaty of January 13, 1926.

⁴ *Official Journal*, III, p. 1189, 1390; IV, p. 212.

⁵ Permanent Mandates Commission, *Minutes of the Fifth Session*, p. 60.

⁶ See *Official Journal*, IX, p. 1449, 1451, 1574.

⁷ *Official Journal*, III, p. 1505; *Treaty Series*, XXXV, p. 131-174.

applied to the Council and the latter on September 27, 1924, adopted in a resolution a unilateral undertaking of the British Government implementing the mandate.¹ On December 14, 1927, Iraq and the United Kingdom signed a treaty to replace that of 1922. By Art. 1 of this treaty "his Britannic Majesty recognizes Iraq as an independent and sovereign state." By Art. 8, "provided the present rate of progress in Iraq is maintained and all goes well in the interval, his Britannic Majesty will support the candidature of Iraq for admission to the League in 1932."

By a treaty between the United Kingdom and Iraq, regarding the duration of the 1922 treaty, which was signed at Bagdad, January 13, 1926,² it was agreed that at intervals of four years Great Britain and Iraq would reexamine the question of Iraq's admission into the League. The clause, stipulating British support of that candidature "provided the present rate of progress in Iraq is maintained and all goes well in the interval," inserted in the 1927 treaty bred immediate opposition among the Bagdad parties. Sinister motives were ascribed as the cause for the insertion of the proviso. As a consequence, ratification of the 1927 treaty was not proceeded with, and the British High Commissioner was "authorized to inform the Iraq Government, without proviso or qualification, that His Majesty's Government would be prepared to support the candidature of Iraq for admission to the League of Nations in 1932."³ The accredited representative stated to the commission on November 7, 1929, that "distrust and suspicion at once gave place to mutual confidence and goodwill, and whereas previously no ministry could be found to take office, now a strong and responsible Government has been formed . . . eager to cooperate with His Majesty's Government in the solution of outstanding questions before 1932."

Syria and Lebanon by Art. 1 of the mandate are to be governed under an organic law, which has not been promulgated. Following the Jebel Druse rebellion,⁴ the French representative stated to the Council on March 12, 1927,⁵ that the mandatory state was actively pursuing its efforts to issue such a law. The cause of the delay was explained as due to the diversity of the communities,⁶

¹ *Official Journal*, V, p. 1346, 1347.

² Great Britain, *Treaty Series*, No. 10 (1926), Cmd. 2662.

³ Permanent Mandates Commission, *Minutes of the 16th Session*, p. 32 (C. 538. M 192. 1929. VII).

⁴ See p. 206.

⁵ *Official Journal*, VIII, p. 417.

⁶ Syria and Lebanon cover the State of Syria, the Sanjak of Alexandretta, the State of the Jebel Druse, the State of the Alawites and the Lebanon Republic.

their conflicting rights, interests and wishes, and the desire expressed by several of them for an autonomous political régime. The differences between the communities made it impossible to proceed with formulating a single organic law and of establishing a constituent assembly as an immediate step. Instead, an extensive system of building up local institutions on the basis of customary law was begun, and in this way "the organic law is being established gradually."¹ A constitution for Lebanon drawn up in 1926 has undergone considerable development. Provisional statutes have been drawn up for the other districts and the evolution of a unified and organic system of law from them is taking place. A constituent assembly held in 1928 was adjourned *sine die*.

On May 22, 1930, the French Government promulgated the Organic Statute.² This consisted of:

1. The constitution of the Lebanon Republic originally voted on May 22, 1927, and modified on October 17, 1927, and May 8, 1929;

2. New texts affecting the State of Syria, the Sanjak of Alexandretta, the Government of Latakia (Lattaquié) and the Government of Jebel Druse, completed by the organic regulations of the conference between their representatives;

3. The Syrian Constitution drafted in June and July, 1928, revised on August 7 and modified by No. 2 above;

4. The Organic Regulation of the Sanjak of Alexandretta;

5. The Organic Statute of the Government of Latakia (Lattaquié) and that of the Government of the Jebel Druse;

6. The Organic Regulation of the Conference of Common Interests, defining the relations between these entities.

"B" class: "Other peoples, especially those of Central Africa, are at such a stage that the mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defense of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League." — *Covenant*, Art. 22, par. 5.

¹ Statement of the accredited representative, Permanent Mandates Commission, *Minutes of the 15th Session*, p. 173 (C. 305. M. 105. 1929. VI).

² *Le Temps*, 23^e Mai, p. 8.

Territory	Mandatory	Terms Defined by Council
Cameroons	France ¹	July 18, 1922
Cameroons	Great Britain ¹	July 18, 1922
Ruanda Urundi	Belgium ¹	July 18, 1922
Tanganyika	Great Britain ¹	July 18, 1922
Togoland	France ¹	July 18, 1922
Togoland	Great Britain ¹	July 18, 1922

"C" class: "There are territories, such as Southwest Africa and certain of the South Pacific islands, which, owing to the sparseness of their population or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the mandatory, and other circumstances, can be best administered under the laws of the mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interest of the indigenous population."— *Covenant*, Art. 22, par. 6.

Territory	Mandatory	Terms Defined by Council
Southwest Africa	Union of South Africa	Dec. 17, 1920
Caprivi Zipfel		
Western Samoa	New Zealand	Dec. 17, 1920
Nauru	Great Britain and Australia	Dec. 17, 1920
Former German Pacific islands south of Equator	Australia	Dec. 17, 1920
Former German Pacific islands north of Equator	Japan ¹	Dec. 17, 1920

Nauru was allocated as a mandate of the British Empire by an agreement on July 2, 1919, between the London Government and those of the Commonwealth of Australia and the Dominion of New Zealand. The island is under an administrator appointed for the first term of five years by the Australian Government. There is a board of three commissioners, one appointed by each Government. The island comprises about 5,396.3 acres, of which 4,216.5 are phosphate-bearing.

Caprivi Zipfel. The Southwest Africa mandate lies on the Atlantic coast of Africa, bounded on the north by Portuguese Angola, on the east by Bechuanaland Protectorate and on the south by the Union of South Africa, which is the mandatory.

¹ The United States has negotiated a separate treaty with the mandatory.

From the Okavango River on the north border a narrow strip between Angola and Bechuanaland extends eastward to the Zambezi River. This district contains 10,573 square miles and is known as Caprivi Zipfel. A special report on it has been submitted since 1925.

PERMANENT MANDATES COMMISSION¹

"In every case of mandate the mandatory shall render to the Council an annual report in reference to the territory committed to its charge," says Art. 22, par. 7, of the Covenant, which continues: "A permanent commission shall be constituted to receive and examine the annual reports of the mandatories and to advise the Council on all matters relating to the observance of the mandates."

The Permanent Mandates Commission was constituted by the Council on November 29, 1920. The commission consists of ten² members, the majority of whom are nationals of nonmandatory states, "appointed by the Council and selected for their personal merits and competence. They shall not hold any office which puts them in a position of direct dependence on their Governments while members of the commission."³

The commission receives the annual reports respecting each mandated territory from authorized representatives of the mandatory, who may offer supplementary explanations or information. The reports are examined in the presence of these authorized representatives, who may participate in the discussion. The commission determines its conclusions and recommendations without the representative being present; but its observations are communicated to him and he is entitled to submit comments. Both documents are forwarded to the Council. Since 1925 mandatories delegate senior officials holding re-

¹ A list of meetings of the commission, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 273 (Boston, World Peace Foundation, 1930).

² William E. Rappard was appointed an extraordinary member of the commission on December 11, 1924, in view of his special qualifications, following his resignation as Chief of the Mandates Section of the Secretariat (*Official Journal*, VI, p. 143, 233).

On the appointment of the tenth (German) member in 1927 see *Official Journal*, VIII, p. 1257, 1132.

³ Resolution of the Council, November 29, 1920, *Official Journal*, I, No. 8, p. 87.

sponsible administrative posts in the mandated territories to represent them before the commission.

The meetings of the commission have been increasingly searching inquiries into the conduct of the administration of the mandates. Each mandate has its special problems ranging from the supervision of autonomous institutions in "A" mandates down through the safeguarding of the interests of primitive peoples in some of the "C" mandates. Reports of the mandatories¹ are annually being enlarged as a result of requests by the commission for information.

The commission receives petitions from responsible persons respecting the conduct of the mandates, and weighs their allegations in connection with statements made by the mandatory Governments.

Petitions. Petitions relating to the administration of the Palestine mandate have been brought before many sessions of the Commission.² These emanate chiefly from the Ashkenasic Community in Jerusalem, the Palestine Arab Congress, the Zionist Organization, the Agudath Israel Organization and the National Council of the Jews of Palestine.

Other petitions have dealt with conditions in Syria and Lebanon, especially in 1925, 1926 and 1929.

The Rehoboth Community in Southwest Africa has frequently petitioned. Western Samoa and Togoland under French mandate have been the subject of other petitions. Petitions respecting other mandates have been scattering.

In many cases grievances have been due to misunderstandings. In other cases complaints have resulted in satisfactory adjustments. In examining petitions the rapporteurs of the Mandates Commission emphasize the necessity for settlement of differences between the inhabitants and the administration by the parties and on the spot to the greatest extent possible.

¹ The reports are available separately.

² See for examples *Minutes of the 9th session*, p. 202, 227; *Official Journal*, IV, p. 298; VII, p. 1318.

General Decisions

In addition to the terms of the mandates, which are calculated to insure all proper guaranties to peoples under mandate, the commission has secured rulings on various important points:

Territorial Status. The preamble of a frontier agreement¹ between the Portuguese colony of Angola and the Union of South Africa stated that "the Union of South Africa, subject to the terms of the said mandate, possesses sovereignty over the territory of Southwest Africa." The Commission expressed its doubt whether this expression could be held correctly to define the relations between the mandatory power and the territory placed under its mandate.²

On September 8, 1927, the rapporteur of the Council stated that, the legal relationship between the mandatories and the territories under mandate "is clearly a new one in international law, and for this reason the use of some of the time-honored terminology in the same way as previously is perhaps sometimes inappropriate to the new conditions."³

The question arose again in 1929. On September 6, the Council adopted a report in which it was stated that there was no reason to modify in any way the opinion of 1927, "which states implicitly that sovereignty, in the traditional sense of the word, does not reside in the mandatory power."⁴ In a report to the Tenth Assembly from its Sixth Committee, following a debate on the subject,⁵ confidence was expressed that, if the matter arose again, "the Council will find it possible to solve any practical problems which may arise."⁶

¹ *Treaty Series*, LXX, p. 305.

² *Official Journal*, VIII, p. 347, 426.

³ *Ibid.*, p. 1120.

⁴ *Ibid.*, X, p. 1467; for observations of the commission, p. 1654.

⁵ *Records of the Tenth Assembly, Minutes of the Sixth Committee*, p. 18 f.

⁶ *Ibid.*, *Plenary Meetings*, p. 451.

Nationality. On the national status of inhabitants of territories under "B" and "C" mandates the commission has concluded:¹

1. It is important . . . that the native inhabitants of B and C mandated territories should be granted a national status wholly distinct from that of the nationals of the mandatory power.

2. A special law of the mandatory power should determine the status of these native inhabitants, who might be given a designation such as "administered persons under mandate" or "protected persons under mandate" of the mandatory power.

The Council on March 5, 1928, decided to circulate a questionnaire inquiring of the B and C mandatory states what measures had been taken respecting the national status of natives. The replies showed that the mandatories had taken such measures, but the practice did not point to the possibility of adopting immediately a single formula to describe the nationality of natives under mandates.²

Military Recruiting. "The spirit, if not the letter, of the mandate would be violated if the mandatory enlists the natives of the mandated territory (wherever they may present themselves for engagement) for services in any military corps or body of constabulary which is not permanently quartered in the territory and used solely for its defense or the preservation of order within it."³

State Land. "The mandatory powers do not possess in virtue of Arts. 120 and 257 (par. 2) of the treaty of Versailles any right over any part of the territory under mandate other than that resulting from their having been intrusted with the administration of the territory."⁴

Equality of Treatment. "Mandates A and B lay down the principle of economic equality for all nationals of states Members of the League and for goods coming from these countries. These nationals and goods therefore benefit *ipso facto* in A and B mandated territories by a clause

¹ *Official Journal*, IV, p. 659.

² Permanent Mandates Commission, *Minutes of the 15th Session*, p. 276.

³ *Official Journal*, VII, p. 867, 944.

which is practically equivalent to the granting of most-favored-nation treatment."¹

Liquor Traffic. The commission having defined "liquor" for mandate purposes,² in 1928 asked states to inform it to which parts of the territory under their mandate they had already applied Art. 4, par. 2, of the St. Germain convention on liquor traffic in Africa.

Capital. On September 15, 1925, the Council declared that the validity of financial obligations assumed by a mandatory on behalf of a mandated territory and all rights regularly acquired under the mandatory régime, were in no way impaired by administration under mandate. The cessation or transfer of a mandate could not take place unless the Council had been assured in advance that the financial obligations regularly assumed by the former mandatory would be carried out.³

In Iraq the capital of the Turkish Petroleum Company has been distributed 23.75% to each of four national groups and the remaining 5% to the developer of the project. No two groups have a voting majority.

Application of Treaties. The Council in 1925⁴ recommended that all states which had concluded special treaties or conventions with mandatory states, should agree to the extension of such agreements to mandated territories. It further requested mandatory states to insert in future agreements a clause providing for the possibility of their extension to mandated territories.⁴ This advice is being followed.

Public Health. During its 15th session in 1929, the commission dealt with the question of public health, having noted from the reports that there was a shortage of doctors and public health specialists in several mandated territories. The Council was requested to ask the mandatory states whether they accept properly qualified doctors of foreign nationality as officials in their mandatory administrations, what qualifications were required for pub-

¹ *Official Journal*, IX, p. 1442.

² *Ibid.*, VIII, p. 425, 347.

³ *Ibid.*, VI, p. 435, 495, 1363, 1512.

⁴ *Ibid.*, p. 856, 1363.

for health officials and also concerning the remuneration to such officials.

Form of Administration. In July, 1929, the Mandates Commission considered the recommendations in the report of a British Commission on Oseer Union of the British Dependencies in Eastern and Central Africa, known as the Hilton-Young Report. The recommendations of this report to the British Government were that the mandated territory of Tanganyika and the British Dependencies of Kenya and Uganda might be consolidated in an administrative, customs and fiscal union. Such a consolidation had taken place with respect to the British Cameroons under mandate, which is administered as though they were part of provinces of the protectorate of Nigeria. In that case the relative area of the mandate assimilated to colonial administration is small; in the case of the East African proposal the mandate Tanganyika is the principal territory. On September 6, 1929, the matter was discussed by the Council, where the British representative stated that his Government had reached no decision on the findings of the report. He assured the Council that any decision would be at once communicated to the Mandates Commission for any observations it wished to make.¹ The commission in November was in receipt of a further report by the British Government on the matter, but postponed consideration of the question until the British Government had taken a definite decision.

OPERATION OF THE SYSTEM

The mandate system has maintained a steadily widening control for the benefit of native populations over the territories affected by it. The annual reports of the mandatory Governments have been increased in detail as a result of the commission's desire for full information, and present a reasonably complete picture of conditions and development. It is notable that the administration of most of the mandated territories has been successful enough

¹ *Official Journal*, X, p. 1471.

in dealing with the natives that petitions have not reached the commission.

Managing mandates is a delicate business, touching upon all phases of life. That the system should not always run smoothly and without friction is consequently inevitable. Three instances may show both the difficulties involved and the manner of conducting supervision.

Western Samoa. In 1927 marked native disaffection appeared. The New Zealand Government investigated and found a European copra merchant, who was close to certain native groups, the chief of its critics. A commission of inquiry looked into the matter thoroughly, the European was expelled and the affair was carefully examined at Geneva in October, 1928, when various improvements in the administrative action and relations to the native Samoan parliamentary body were discussed.

The report of this commission and the annual report of the mandatory for 1928-29 were before the commission at its 16th session in November, 1929. The annual report was written in a general spirit of optimism; the commissioners, on the other hand, described the situation in very severe terms. The Mandates Commission found the evidence before it confusing, but stated "that there was no evidence of policy or action contrary to the mandate on the part of the mandatory power." On the other hand, New Zealand appeared to admit that some charges of inefficiency were partially justified. The good intentions of the administration were not questioned, but it was clear that the methods of recruiting officials were unsatisfactory. Financial control, which had been one of the causes of complaint, had been deficient. Two-thirds of the native population are enrolled in an organization called the Mau which had maintained an attitude of passive resistance to the administration during the period under review, when, however, no serious breach of public order had occurred.¹ Taxation revenue in consequence had produced only one-third of the estimated amount for the year ending March 31, 1929. The New Zealand Government had begun a

¹ Rioting broke out toward the end of 1929.

thorough reorganization of the administration with important changes in the higher staff. It has been generally recognized that the difficulties have not arisen from any intentions of New Zealand. However, the commission hoped that future annual reports would "be such as to allow it to form a true opinion of the whole administration and so to avoid the painful surprise which it experienced this year in considering the report of the administrative experts."¹

Palestine is regarded as the Jewish National Home. It is in reality largely inhabited by Arabs. The contact of new Jewish immigrants with the Arabs already settled there has produced innumerable frictional incidents. While these are far from ended, the commission has observed signs of decreased tension and a growing disposition of the parties to cooperate with the mandatory in working toward an equitable solution.

A long controversy respecting the Wailing Wall (*Kothel Maaravi*) at Jerusalem came to a head on August 16, 1929, with rioting² lasting a period of two or three weeks. The high commissioner had stated to the Mandates Commission in July that the relations between the Arab and Jewish Communities continued to improve and there was little open friction between them except in connection with the Wailing Wall. Since 1925, it had been the cause of more or less trouble, and it became the center of friction between the religious communities of Palestine. The chief shrines sacred to Christendom, Islam and Judaism are in Palestine. At the old site of Solomon's temple in Jerusalem stand mosques which to Mussulmans rank next to the Kaaba at Mecca and the tomb of Mohammed at Medina in sanctity. The site and adjacent property is owned by Moslems. The western wall of El-Haram es-Sharif site³ is the Wail-

¹ *Official Journal*, XI, p. 147.

² By August 31, the casualties were: Killed or died of wounds: Moslems 83, Christians 4, Jews 109; wounded in hospital: Moslems 122, Christians 10, Jews 183.

³ The area of El-Haram es-Sharif contains the exquisite Qubbat es-Sakra (Dome of the Rock), sometimes called the Mosque of Omar, the Mosque of El-Aksa and the underground Mosque of El-Buraq (where the Prophet tethered his horse), which is beneath the Wailing Wall. The latter gives on to the Waqf of Abu Madian, a sacred Moslem area for 500 years.

ing Wall where the Jews on their day of atonement from time immemorial have gathered and wept over the lost glories of ancient Judaism. The wall gives on an alley through which people pass. The Arab owners of the property have not objected to the performance of this rite either on account of the crowd or the noise, but they have insisted that, not to impede traffic, wailing was to be done standing up, which proved to be a hardship to old Jews who wished to perform their devotions through long hours. They have also been jealous of any action on the part of Jews which might lead to a claim of prescriptive rights in connection with the Wailing Wall or its vicinity.¹ The disturbance of August, 1929, was given wide publicity and brought to a head the many-sided conflict between the native Arabs and the Palestinian Jews, who regard themselves as preparing a national home for their race in the country.

In view of the disturbances, the British Government as mandatory on November 18, 1929,² proposed to the League that a special commission should be appointed forthwith to study, define and determine finally the rights and claims of Jews and Moslems at the Wailing Wall. Previously, the Council on September 6 had expressed a desire for a thorough investigation of the disturbances by the Mandates Commission at an extraordinary session in March, 1930. The British authorities on their own motion made an extensive study of the problems involved and issued a report upon the whole situation.³ The Council on January 14, 1930, decided to appoint the commission proposed by the British Government.⁴ Pending the report of this commission, the extraordinary session of the Mandates Commission is postponed.

Syria and Lebanon. The only other incident attracting wide attention culminated in the bombardment of Damascus in October, 1925. The Syria and Lebanon man-

¹ For a discussion of the holy places, see *Report of the High Commissioner on the Administration of Palestine, 1920-25*, p. 48 (Great Britain, Colonial No. 15).

² Permanent Mandates Commission, *Minutes of the 16th Session*, p. 198.

³ *Report of the Commission on Palestine Disturbances, 1929*, Cmd. 3530.

⁴ *Official Journal*, XI, p. 93.

date is a conglomeration of races and religions, with an upper class opposed to outside control and the remainder of the population now incapable of self-government. The bombardment of Damascus by the French mandatory was part of a campaign against the Jebel Druse tribe, which was in full rebellion. The Mandates Commission held a special session on the situation thus brought to light at Rome, February 16–March 6, 1926. While French statements of intentions and policy in Syria and Lebanon were found to be satisfactory, it was found that the military administration which had actually been in force was not only badly chosen for coping with the situation but was also inept and provocative. An extensive change of officials, including a capable high commissioner to replace General Sarrail, was the chief reform effected. The Committee realized that very complicated native conditions existed. By 1927 revolt had disappeared and progress toward a system of native self-government under the overdue Organic Law was being made.¹

SLAVERY CONVENTION²

Largely due to the information called to the attention of the Assembly and Council by the work of the Permanent Mandates Commission, a questionnaire respecting the existence of slavery was circulated to states in 1922. The 1923 Assembly expressed regret that the information thus supplied was insufficient "to form the basis of a sufficiently complete report" and suggested appointment of a commission by the Council. The Temporary Committee on Slavery was appointed by the Council on June 12, 1924.³ The report of the commission, containing suggestions to be submitted to the Council, showed the various aspects of the alienation or restriction of individual freedom, and

¹ A special *Rapport provisoire . . . (année 1925)* gives the French account. The commission's session is reported in its *Minutes of the Eighth (Extraordinary) Session* (C. 174. M. 65. 1926. VI. A. 5); the Council discussion in *Official Journal*, VII, p. 623.

² A list of its meetings and the conferences, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920–1929*, p. 274 (Boston, World Peace Foundation, 1930).

³ *Official Journal*, V, p. 909.

recommended practical measures for joint action.¹ In the Sixth Assembly the Sixth Committee drew up a convention, which Governments were asked to consider. The Sixth Committee of the Seventh Assembly perfected the document.

The slavery convention² signed at Geneva September 25, 1926, entered into force March 9, 1927. It completes the general act of the Brussels conference of 1889-90. Slavery is defined as "the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised." The slave trade is given an extensive definition. The parties undertake in territory under their control to prevent and suppress the slave trade and to bring about the complete abolition of slavery in all its forms. They undertake to adopt all appropriate measures to prevent traffic in slaves and undertake to negotiate a convention establishing mutual rights and duties with respect to control of shipping engaged in the slave trade, adopting rules of the same nature provided for in Arts. 12, 20-24 of the convention of June 17, 1925, relative to the international trade in arms. They recognize that compulsory or forced labor may have grave consequences and undertake to prevent either from developing into conditions analogous to slavery.³ Rules restricting the use of such labor and establishing the responsibility of competent central authorities over it are laid down. Contracting states undertake to adopt necessary legislative measures to implement the convention and to communicate to each other and to the Secretary-General of the League⁴ laws and regulations on the subject.

¹ See *Official Journal*, VII, p. 1030, 1140, 1547; VIII, p. 121.

² *Treaty Series*, LX, p. 253. Ratifications and accessions: Austria, Australia, Belgium, British Empire, Bulgaria, Canada, Denmark, Ecuador, Egypt, Estonia, Finland, Germany, Haiti, Hungary, India, Iraq, Italy, Latvia, Monaco, the Netherlands (including Netherlands Indies, Surinam and Curaçao), New Zealand, Nicaragua, Norway, Portugal, Union of South Africa, Spain, Sudan, Sweden, Yugoslavia. Subject to ratification: Dominican Republic and Panama.

³ The ratification of the United States excepted from its scope the provisions regarding forced labor. The reservation was circulated to ratifying states without calling forth any objections from them.

⁴ Annual reports are brought to the attention of the Assembly.

Following a resolution of the Seventh Assembly, states concerned have made annual reports on the abolition of slavery and similar conditions in territories under their control. In the light of these reports, a discussion took place in the Tenth Assembly respecting the status of the problem, and the creation of a new temporary commission on slavery was proposed. The Assembly advocated making an urgent appeal for further ratifications of the slavery convention and for the transmission by all states of all possible information on the present position with a view to determining whether the conditions warranted the appointment of a new commission.

In 1929, the Liberian Government set up a commission to inquire into the alleged existence of slavery or forced labor in that country. The commission consists of one person appointed by the president of the Council, one by the Government of the United States and one by the Liberian Government.

9. Protection of Minorities

At the Paris Peace Conference a number of special treaties relating to the protection of racial, linguistic or religious minorities were concluded with the new states and with the states whose territory had been considerably increased as a result of the war. Clauses corresponding to those contained in these treaties were inserted in several treaties of peace.

On December 15, 1920, the first Assembly requested that, if Albania, the Baltic and Caucasian states were admitted to the League, they should take the necessary measures to enforce the principles of the minorities treaties.¹ The Council on October 2, 1921, passed a report containing the text of the treaty articles and which was intended to serve as a form binding the states concerned.² A declaration embodying this report as an engagement of the state toward the League of Nations has been made by each

¹ *Resolutions of the Assembly . . . 1920*, p. 28.

² *Official Journal*, II, p. 1161.

following its admission to the League. In addition, the same provisions have been incorporated in other treaties.

All of these have been collected in a volume published by the Secretariat.¹

As a result of these various forms of obligation the following states are effectively under the minority régime:

ALBANIA	HUNGARY
AUSTRIA	LATVIA
BULGARIA	LITHUANIA (AND MEMEL)
CZECHOSLOVAKIA	POLAND
DANZIG, FREE CITY	RUMANIA
ESTONIA	TURKEY
FINLAND	YUGOSLAVIA
GREECE	

In addition bilateral treaties embodying the principles have been made between Austria and Czechoslovakia, Bulgaria and Greece, Germany and Poland.

TREATY PROVISIONS

The minorities provisions are recognized by the states affected as fundamental laws and they agree to enact no conflicting stipulations. The essential provisions are:

Full and complete protection of life and liberty will be insured to all inhabitants . . . without distinction of birth, nationality, language, race or religion.

All inhabitants . . . will be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals. They will have the right to change their religion.

All persons . . . not born nationals of another state shall *ipso facto* be . . . nationals. All . . . nationals shall be equal before the law, shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession will not prejudice any . . . national in matters relating to the enjoyment of civil or political rights.

¹ *Protection of Linguistic, Racial and Religious Minorities by the League of Nations, Provisions contained in the various international Instruments at Present in Force* (C. L. 110. 1927. I. B. 2).

No restriction will be imposed on the free use by any . . . national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment of an official language, adequate facilities will be given . . . nationals of [other] speech for the use of their language either orally or in writing before the courts.

Nationals who belong to racial, religious or linguistic minorities will enjoy the same treatment and security in law and in fact as others . . . nationals.

Provision will be made in the public educational system . . . for adequate facilities for insuring that in the primary schools instruction shall be given to the children of such nationals through the medium of their own language; it being understood that the teaching of the official language [may be] made obligatory in the said schools.

Minorities will be assured an equitable share in the enjoyment and application of public funds for educational, religious or charitable purposes.

The stipulations affecting persons belonging to racial, religious or linguistic minorities are declared to constitute obligations of international concern and are placed under the guaranty of the League. They shall not be modified without the assent of a majority of the Council. Any Member of the Council has "the right to bring to the attention of the Council any infraction or danger of infraction of any of these stipulations, and the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstance."

PETITIONS

Procedure. The Council on October 27, 1920, passed a resolution and report defining the nature of the guarantees undertaken by the League.¹ A resolution of June 27, 1921, by the Council laid down a series of rules regarding petitions in respect to minority questions.² Questions of the method of handling petitions by the Council having been raised, a resolution defining procedure respecting

¹ Minutes of 1st Session of the Council, p. 143-151; *Official Journal*, I, Vol. 8, p. 8.
² *Official Journal*, II, p. 708.

them was adopted on September 5, 1923.¹ A judicial report on who has the right to petition was noted by the Council on November 14, 1928.²

According to this procedure, the minorities themselves and states are entitled to draw the attention of the League of Nations to any infraction or danger of infraction of the treaty provisions. But this act must retain the nature of a petition or report pure and simple and can not have the legal effect of putting the matter before the Council.

Petitions

(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.

In case the state concerned should object to a petition being received, the Secretary-General will submit the question to the president of the Council, who may invite two other members of the Council to assist him in the study of this question. At the request of the state concerned this question of procedure may be put on the agenda of the Council.

A Government is granted two months in which to prepare a reply to a petition. Any Member of the League can see petitions (with the observations of the Government concerned) which have been communicated to the Council.

The 1923 resolution defines the functions of the so-called "Committee of Three" set up by the resolution of October 25, 1920. Examination by it of petitions and remarks on them by the Governments concerned shall be for the sole

¹ *Official Journal*, IV, p. 1293.

² *Ibid.*, IX, p. 1493.

purpose of determining whether one or more members of the Council should bring them to the attention of the Council.¹ The right of any member of the Council to bring to the attention of that body any infraction or danger of infraction is preserved intact.

A report of the Council on June 9, 1928, laid down important definitions of the difference between an international dispute and a minority appeal:²

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 insure that states with a minority within their borders should be protected from the danger of interference by other powers in their internal affairs.

. . . 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.

Revision of Procedure. On March 6, 1929, Raoul Dandurand of Canada submitted to the Council a memorandum in which he examined at length the difficulties to which the existing procedure had given rise and made a number of suggestions. He called attention to the fact that the procedure in force did not give satisfaction to a minority, since it was left "under the impression that its case has not been heard and that it is being victimized by the inaction or indifference of the Council."³ He proposed arrangements calculated to satisfy minorities in this and other respects. The Council appointed a committee which examined the questions at Geneva in March and at London in April and May. It heard verbal or written statements from the Austrian, Bulgarian, Chinese, Czechoslovak, Estonian, German, Greek, Hungarian, Latvian, Lithu-

¹ For additional resolution of June 10, 1925, see *Official Journal*, VI, p. 878.

² *Official Journal*, IX, p. 942.

³ *Ibid.*, X, p. 516.

anian, Netherlands, Polish, Rumanian and Yugoslav Governments. The London report, constituting an elaborate analysis of the problem of guaranteeing minorities and of maintaining cordial relations between them and their Governments, was debated by the Council on June 6, 7, 8 and 11, 1929, and a series of resolutions derived therefrom, but not covering all points discussed, was adopted on June 13.¹ The provisions adopted provide for the following additions to procedure:²

When the Secretary-General declares a petition nonreceivable, he will inform the petitioner and may send him the resolution laying down the conditions of receivability.

Four members of the Council may be called upon to examine petitions instead of two.

Minorities committees of the Council are to meet in intervals between sessions of the Council if occasion arises. If such a committee does not place the question raised in a petition on the Council's agenda, it will nevertheless communicate the result of the examination to the other Members of the Council. Such letters will be brought together and distributed annually to the members of the Council by the Secretary-General.

The Council advocates publishing the result of the examination of questions submitted to minorities committees.

The Secretary-General will publish annually in the *Official Journal* statistics of (1) the number of petitions received, (2) the number declared nonreceivable, (3) the number referred to committees of three of the Council, (4) the number of committees and of their meetings to consider petitions, and (5) the number of petitions whose examination has been finished in the course of a year.

It was felt that these provisions would enable those interested to follow more closely the action taken and would engender confidence in the system of minorities protection both on the part of the protected and of their Governments.

¹ See *Official Journal*, Special Supplement No. 73; the title is "Documents Relating to the Protection of Minorities."

² *Official Journal*, X, p. 1005; the report is at p. 1133 and is a valuable analysis of the whole problem.

DISPUTES ARISING UNDER GUARANTIES

Minority questions which have come before the Council have varied greatly as to character. They have not been very numerous and have emanated from only some of the areas inhabited by minorities. The great majority of them have dealt with the alleged infringement of minor rights and in most cases adjustments of administrative regulations have been involved. The position of the Council in relation to them is a delicate one, since it has to try and strike a balance between siding with disaffected persons and upholding inelastic national administrative methods.

Among the questions coming before the Council have been:

Hungarian Farmers in Rumania. On June 11, 1925, the Council began consideration of a petition from small landholders of Hungarian origin in the Banat and Transylvania who complained that under Rumanian laws they might be deprived of their realty without adequate compensation and that measures taken against them were more radical than those taken against other Rumanian nationals.¹ Rumania suspended all measures which might tend to affect the situation, pending the decision of the Council. The Rumanian case was that the farmers in the districts under discussion were to be subject to expropriation of their land above a maximum amount, as a part of a general agrarian reform which had been decided upon prior to the World War. The number of farmers affected was about 2,300. After extensive presentation of documents and discussion of details of the question, the Rumanian Government proposed to offer the farmers compensation to the amount of 700,000 francs or \$140,000. The Council accepted this proposal because it seemed better calculated to meet the interests of the farmers and to pacify the inhabitants than a legal decision dealing with the validity of the agrarian law.² The beneficiaries declined to participate in allocating this

¹ *Official Journal*, VI, p. 891-1000.

² *Ibid.*, p. 1341-1352, 1456.

sum, and the Rumanian Government established committees for that purpose.¹

Polish Minority in Lithuania. Complaints from this minority led to a report to the Council on June 10, 1925, that the information supplied by the Lithuanian Government to the Council gave "evidence of that Government's desire to cooperate with the League of Nations in removing any doubts which might exist as to the way in which the Lithuanian people fulfills its obligations towards those of its fellow citizens which belong to a minority."² Subsequently, the Lithuanian Government made an extensive statement in which it detailed the measures taken to insure fair treatment of the Polish minority.³

Jewish Minority in Hungary. A question of the Hungarian *numerus clausus* law of 1920 came before the Council in September, 1922.⁴ The law laid down that the number of students of different races and nationalities entered on the rolls of universities and other institutions for higher education should be proportional to the number of inhabitants of such races and nationalities in the country. Statistics and evidence were presented to the Council by the Hungarian Government and the petitioners. While the primary question was whether the *numerus clausus* was compatible with the principle of equal treatment in the minority treaty, the Hungarian Government considered the law as an exceptional measure necessitated by an abnormal social situation, and stated that it would be changed as soon as conditions altered. In view of this assurance, the Council on December 12, 1925,⁵ decided not to enter into the legal question, but to await the amendment of the law in the near future.

Upper Silesia. A number of petitions have emanated from Upper Silesia. One of these, dated May 26, 1925, complained that German laws with regard to payment

¹ *Official Journal*, VII, p. 1084.

² *Ibid.*, VI, p. 864, 276 at 865; compare p. 484, 581-606.

³ *Ibid.*, p. 139, 1452.

⁴ *Ibid.*, III, p. 1204, 1425.

⁵ *Ibid.*, VII, p. 148-153, 171.

by the German Government of compensation in Upper Silesia led to the systematic rejection of claims put forward by Poles for damages incurred at the time of the partition. Changes of membership in the Council of the League necessitated consideration of the question by different rapporteurs,¹ but the actual administration of the laws seemed to have left the petitioners without reason to reopen the question.

By petition of January 30, 1928, the *Deutscher Volksbund* raised the question of the right to establish an elementary minority school. A previous question involving the same problem² had been before the Council. The Permanent Court of International Justice laid down the principle respecting the rights of minorities with respect to schools, especially the authority of officials to determine whether an individual belonged to a minority, that a parent could decide the language of a child according to his conscience and on his personal responsibility: that the Polish Government was justified in not admitting children, whose only language was Polish, to minority schools; and that the declaration of a person responsible for the education of a child concerning his language was not to be the subject of any verification or dispute, pressure or hindrance on the part of the authorities. With this decision³ before it, the Council passed a report on June 9, 1928, covering a series of differences and also was able to adopt a report upon a number of other questions relating to schools in Upper Silesia.⁴

In 1929 a great variety of Upper Silesian questions were brought before the Council, mostly by the German minority. These related to many phases of minority schools, including cases involving admission to them, their opening and their closing, language instruction and other details. Other questions dealt with the dismissal of Germans or Poles from employment by companies of the opposite nationality, the

¹ *Official Journal*, VII, p. 1024.

² *Ibid.*, VIII, p. 604, 601, 592.

³ Publications of the Permanent Court of International Justice, Series A, No. 15.

⁴ *Official Journal*, IX, p. 968, 966.

use of either language with public officials, etc. In March 1929, a case involving the arrest of Herr Ullitz, secretary-general of the Deutscher Volksbund, was discussed in the Council. It was made clear that the arrest and subsequent trial were in no way connected with the man's minority status.¹

The liquidation by the Polish Government of the property of Polish nationals belonging to the German minority came before the Council in September, 1929,² in the case of Messrs. Naumann and Graebe, both deputies in the Polish Diet. This question arose at the same time that negotiations were under way between Germany and Poland, and the question before the Council was eventually solved by the general liquidation convention of October 31, 1929.

The number of German-Polish cases which were coming before the Council and which were dealt with in the first instance by reference back to the Governments led to an examination of the mechanism established by the two countries in the minorities offices set up by Art. 147 of the Geneva convention of May 15, 1922, for the primary handling of such questions. An agreement made at Paris on April 6, 1929, provided a detailed and improved procedure for this purpose with the object of insuring the adjustment of more differences directly between the parties.³

ALBANIAN PROPERTY AND THE ALBANIAN MINORITY IN GREECE

On April 10, 1928, the Albanian Government requested the Council, in virtue of Art. 11, par. 2, of the Covenant, to examine the question of Albanian property and of the Albanian minority in Greece.

On June 5 the Council⁴ heard statements of the parties. The Albanian representative stated that the application of the agrarian law in Greece had led to the confiscation,

¹ For details see *Official Journal*, X, p. 556, 1029, 1474, 1685.

² *Official Journal*, X, p. 974, 1032, 1474, 1664.

³ Text in *Official Journal*, X, p. 1104.

⁴ *Official Journal*, IX, p. 871, 874, 942.

more or less disguised, of Albanian properties, despite the fact that in virtue of its international obligations the Greek Government was not entitled to proceed to expropriation and requisition of foreign property without apparent reason and without a just preliminary indemnity. The Greek representative said that his Government was convinced that the Albanian request could not be received. Negotiations were being conducted on the questions which Albania had submitted to the Council in virtue of an unfair application of Art. 11 of the Covenant. The expropriation of Albanian lands had taken place under an agrarian law which the influx of refugees had rendered necessary and affected all landed proprietors without distinction.

The Council on June 9 adopted a report in which it found that the minorities complaint should not come up under Art. 11, for such an appeal "would create the very dangers which the minorities treaties were intended to avert." Some of the complaints were already being examined under the normal minority procedure. The two Governments agreed to negotiate directly on the question of Albanian property in Greece.

MOSLEMS OF ALBANIAN ORIGIN IN GREECE

The question of Moslems of Albanian origin in Greece, particularly the situation of the Albanians of Chamuria, was examined by the Council on March 16, 1926. The Greek Government informed the Council that it considered the exchange as practically terminated in Chamuria, and that it had decided not to demand the exchange of 800 inhabitants of certain villages specially mentioned in the debates. The persons who remained would enjoy the same treatment *de jure* and *de facto* as other Greek citizens. Any exceptional measures which the Government might have applied would be abrogated.¹

¹ *Official Journal*, VII, p. 153, 308, 510. For the earlier phase of this dispute under Art. 11, par. 2, of the Covenant, see *Official Journal*, V, p. 364, 1367; VI, p. 234.

EMIGRATION COMMISSIONS

On November 27, 1919, a convention¹ was concluded between Greece and Bulgaria to regulate the reciprocal and voluntary emigration of minorities between Greece and Bulgaria, so that Greeks domiciled in Bulgaria may emigrate to Greece, and Bulgarians domiciled in Greece may emigrate to Bulgaria. This convention provides for the formation of a Mixed Commission of four members, two appointed by the Council of the League. The duties of this commission are, generally speaking, to supervise this emigration.² The transfer of minorities involved changes of title to property and other interests, and the accounts were unsettled for several years. An arrangement for the issuance of bonds and their liquidation was made on December 9, 1927,³ liquidation of the bonds under which began in 1929.⁴

On January 30, 1923, a convention was signed at Lausanne concerning the obligatory exchange of Turkish nationals of Greek Orthodox religion on Turkish territory and of Greek nationals of Mussulman religion on Greek territory, with the exception of Greek inhabitants of Constantinople and Mussulman inhabitants of Western Thrace. According to the terms of this convention, a mixed commission has been appointed composed of four Turkish members, four Greek members and three members chosen by the Council.⁵ This commission had similar functions to that of the Greco-Bulgarian Mixed Commission. The final report was submitted on July 14, 1926.⁶

The resolution of the Council covering the Albanian declaration of October 2, 1921, provides for similar arrangements with countries bordering on Albania for re-

¹ *Treaty Series*, I, p. 67.

² *Official Journal*, I, No. 8, p. 84.

³ *Ibid.*, IX, p. 244.

⁴ *Ibid.*, X, p. 1181.

⁵ *Ibid.*, IV, p. 1312.

⁶ *Ibid.*, VII, p. 1137; cf. also p. 160.

reciprocal and voluntary migration of persons belonging to ethnic minorities, and contemplates adhesion by Albania to the Greco-Bulgarian convention.¹

10. Administration of Territory

THE SAAR BASIN

By the treaty of peace with Germany the Saar Basin is transferred under various conditions to the control of France "as compensation for the destruction of the coal mines in the north of France and as part payment toward the total reparation due from Germany for the damage resulting from the war." The coal mines in the basin are ceded "to France with full and absolute possession." The government of the basin territory and provisions for a plebiscite in 1935 are set forth. By Art. 49 of the treaty Germany renounces in favor of the League of Nations, in the capacity of trustee, the government of the territory. It is also provided that "the decisions of the Council of the League of Nations will be taken by a majority" in all matters respecting it. The Saar Basin, with the exception of the mines, was therefore to have a League of Nations government until January 10, 1935.

By pars. 23 and 26 of the Annex to the Saar section of the treaty of Versailles the laws and regulations in force shall not be changed and taxes and dues shall not be imposed "without previously consulting the elected representatives of the inhabitants." A decree of March 24, 1922,² of the Governing Commission established an Advisory Council and a Technical Committee. The Technical Committee consists of eight members versed in economics, administrative and financial matters appointed for one year by the Governing Commission and consulted by it at will. The Advisory Council consists of 30 members elected by the citizens for three years, and it meets

¹ *Official Journal*, II, p. 1162.

² *Ibid.*, III, p. 414.

every three months. The members elected in 1928 serve until March 31, 1931.¹

The League was responsible for the plebiscite to be held in 1935. The treaty of Versailles provides that the voters should be "all persons without distinction of sex more than 20 years old at the date of the voting" who were resident in the Saar on June 28, 1919. The object was to prevent the frequent dispute in plebiscites as to who are *qualified* voters. The voting lists were prepared in September, 1922, by a provisional records commissioner appointed by the Council of the League,² and as a consequence, the vital records necessary for determining the voting lists are now in the custody of the League.

By the treaty, the Governing Commission always includes a French member. M. V. Rault, the French member, served as chairman until April 1, 1926, having been criticized for acting more like a French than an international official. He was succeeded by a Canadian, George W. Stephens, and he by an Englishman, Sir Ernest C. C. Wilton.

The Governing Commission acts as the cabinet of the Saar Basin, which has a population of nearly 800,000.

France has special rights connected with working the mines, which are owned by that country. Since the Basin is exclusively a mining district, there is an underlying problem of exercising justice toward both the mining régime and the population. In the early days, France insured order by its own troops, of which there were 7,977 on February 1, 1920.

Members of the Governing Commission and the Council for some time pressed for the reduction of this force, which was to be replaced by a local gendarmerie. A report on the defense of the Saar was eventually made by the commission on January 28, 1926,³ and revised a year later.⁴ The solution of the problem was complicated by the fact

¹ *Official Journal*, IX, p. 761.

² *Ibid.*, III, p. 1204-1213.

³ *Ibid.*, VII, p. 527.

⁴ *Ibid.*, VIII, p. 599.

that the commission is obligated by the treaty to insure the working of the mines. Obviously, it could not fulfill this assigned duty if the gendarmerie and the miners were both agreed on preventing it. France was insistent that some provision must be made for uninterrupted communication.

The decision came before the Council in March, 1927, with Germany, to which the Saar belonged, as a Member of the Council and seriously interested in the decision. This difference between France and Germany attracted much attention in the press, and the session of March 12, 1927, was one of the high-lights of the Council's history. The decision was to establish a Railway Defense Force of 800 men, to be provided from the French, British and Belgian forces in the adjacent occupied zones of Germany on the left bank of the Rhine. Thus, the French "Saar garrison" was eliminated, all foreign troops were normally removed from the Saar, and in case of need the French contribution to the railway defense force was limited.

Though the voting lists prepared in September, 1922, by the provisional records commissioner have not been divulged, there has been a general opinion among observers that a plebiscite held in 1935 would result in a vote of the Saar inhabitants to return to Germany. Events such as the Locarno rapprochement, the preparation of the Young Plan for the settlement of reparation and the resulting developments, including the complete evacuation of the Rhineland, brought Franco-German relations into a state where any political value of retaining the position in the Saar was lessened for France, while German opinion increasingly regarded the Saar as unredeemed national territory. In 1929, France had ceased to insist upon the holding of a plebiscite, and on November 27 negotiations were begun at Paris with a view to determining the conditions under which the régime established by the treaty of Versailles might be abolished.

The negotiations were long and arduous and were not completed for many months. Both France and Germany intrusted their cases to men of affairs, since the political

decision to abolish the régime of the Governing Commission was agreed upon in principle. The French ownership of the mines offered a primary problem. By the treaty, Germany has the right to buy back the mines for cash; but the parties do not lay the same stress upon the mere ownership of the plants as upon the allocation of their product. Devising a satisfactory system of ownership and of distribution of coal and iron ores in the interest of both French and German metallurgic industries is the essential problem to be solved. Since 1920, the commercial and customs régimes of the Saar Basin have been extensively adjusted to the neighboring French régime, though German laws were for the most part applied. Furthermore, the special conditions resulted in numerous treaties between the Governing Commission and Germany, specifying the conditions under which intercourse with that country took place. With the reincorporation of the Saar in the German Reich, such arrangements would cease to have effect, and the special position of France regarding Saar products would disappear. The problem of adjusting these matters to mutual satisfaction has proved very complicated; a joint subcommission of the two delegations has been struggling with the problem. A third subcommission has been dealing with the juridical problems involved in reversing the régime established by the treaty of Versailles.

When the negotiations under way have resulted in agreement and the ensuing treaty is in force, the Governing Commission will cease to exist, and the functions of the Council of the League with respect to the Saar Basin will be at an end.

FREE CITY OF DANZIG

Par. 1 of Art. 100 of the treaty of peace of Versailles provides that Germany shall renounce in favor of the Principal Allied and Associated Powers all rights and titles over the City and Territory of Danzig. Art. 102 provides that they shall establish Danzig and its territory as a Free City to be placed under the protection of the League of Nations. Art. 103 provides that a constitution for the

Free City shall be drawn up by duly appointed representatives of the Free City in agreement with a high commissioner¹ to be appointed by the League, and placed under the guaranty of the League. The constitution was approved by the high commissioner on May 11, 1922.²

The high commissioner is further intrusted with the duty of dealing in the first instance with all differences arising between Poland and the Free City concerning the treaty of Versailles and any supplementary arrangements or agreements.

Art. 104 provides that a treaty, the terms of which are to be negotiated by the Principal Allied and Associated Powers, shall be concluded between the Polish Government and the Free City in order to assure to Poland the exercise of the rights which she derives from this article within the territory of the Free City. This treaty of November 9, 1920,³ came into force at the same time as the establishment of the Free City, November 15, 1920.

The guaranty of the Constitution was assumed by the Council on November 17, 1920,⁴ when the Free City was placed under the protection of the League, its defense falling to Poland. The Polish-Danzig convention of November 9, 1920, was not to be modified without the previous assent of the League.

As to foreign relations the commissioner decided on December 17, 1921:⁵

1. That Poland, when called upon by Danzig to conduct any of the foreign relations of the Free City, has the right to refuse the application, if the matter involved is clearly to the detriment of the important interests of the Polish state.

2. That Poland has no right to initiate and impose upon Danzig a definite foreign policy which is clearly opposed to the well-being,

¹ The high commissioners have been Mervyn Surley Macdonnell (English), Jost A. Van Hatzel (Dutch), and Count Manfredi Graziani (Italian), for three years from June 22, 1923.

² Text in *Official Journal*, Spec. Sup. No. 7.

³ *Treaty Series*, VI, p. 189.

⁴ *Minutes of the 12th Session*, p. 76.

⁵ *Decisions of the High Commissioner*, 1921, p. 22.

prosperity and good government of the Free City. Moreover, it is apparent from the Polish statement of the case that she has no desire to do so.

By Art. 6 of the treaty of November 9, 1920, Poland shall conclude no treaty affecting the Free City without previous consultation with it. The high commissioner, who shall be informed of the result of this consultation, has a right to veto the application of any treaty to the Free City if "in the opinion of the Council of the League," the treaty is inconsistent with the provisions either of the 1920 treaty or the status of the Free City. On September 6, 1929, the Council laid down new procedure in this connection in accordance with recommendations of the high commissioner. By these rules the high commissioner informs the Secretary-General respecting the negotiation of treaties applicable to the Free City. If he does not consider the treaty inconsistent with the 1920 instrument or the status of the Free City, and if no member of the Council so regards the document after a lapse of three weeks, the treaty may be put into force as regards Danzig. If the high commissioner feels that the treaty is inconsistent, the question comes before the Council for decision.¹

Disarmament. In accordance with the Council's resolution of November 17, 1920, the following was inserted in the Constitution:

Article 5.—The Free City of Danzig can not, without the previous consent of League of Nations, in each case:

- (1) Serve as a military or naval base;
- (2) Erect fortifications;
- (3) Authorize the manufacture of munitions or war material on its territory.

Under these provisions various questions have arisen. The former German Government rifle factory in Danzig had been managed by Danzig for the Principal Allied and

¹ *Official Journal*, X, p. 1462, 1645.

Associated Powers, the temporary owners. In December, 1920, Danzig requested permission to manufacture 50,000 rifles for Peru. The Council decided that the League could not undertake the responsibility for increasing the stock of arms in the world. The Council later decided that all manufacture of arms, including sporting rifles, must cease immediately, and that the rifle factory must be closed down on July 30, 1921.¹

The Council² decided in March, 1924, that the Westerplatte Peninsula in the territory of the Free City should be placed at the disposal of the Polish Government for the purpose of unloading, storing and forwarding to Poland war material and explosives in transit. After the completion of the works, the Governments of Danzig and Poland began negotiations under the chairmanship of the high commissioner, Joost van Hamel, on technical points, such as the right of admittance of Danzig authorities to the Westerplatte area, the control and supervision of the observance of the safety regulations in this area, the manner of regulating customs clearance, regulations applicable to consignments of war material and explosives leaving the Westerplatte area, the definition of "war material" which may be transported. The negotiations having failed, the high commissioner, in April, 1927, issued regulations to which both the Danzig and Polish Governments raised objections. He then asked the Council in a letter dated May 30, 1927, to give a final decision on the subject. The Council³ on December 12, 1927, again remitted the question to direct negotiation and they settled it by an agreement signed August 4, 1928.⁴

A request from the high commissioner for instructions as to applications for permission to convey through Danzig war material consigned to a country other than Poland was referred by the Council to the Permanent Advisory Commission on Military, Naval and Air Questions on

¹ *Official Journal*, II, p. 676, 968.

² *Ibid.*, V, p. 529, 536, 687.

³ *Ibid.*, VIII, p. 801, 1423; IX, p. 181.

⁴ *Ibid.*, IX, p. 1618.

March 7, 1927. A decision of the Council dated June 23, 1921,¹ prohibited the storage and transport in Danzig of war material unless the consent of the Council had been obtained. The Council authorized the high commissioner to deal, on its behalf, with such requests with a view to obtaining the Council's consent to such operations, and directed that it be informed of the results of the applications.²

Relations with Poland. The relations between Poland and the Free City have improved with time and they have been able to work out an understanding directly between themselves on most unsettled points. The Polish-Danzig agreement of October 24, 1921, contains 244 articles on many different questions, including naturalization in Danzig, extradition, postal arrangements, regulations for ships, stock exchange transactions, customs, fisheries, export and import trade and food supply for Danzig.

Such differences, however, as could not be arranged directly between the two parties have been, in accordance with the treaties, referred to the high commissioner of the League. His decisions³ were numerous in the early years. Either or both parties could appeal to the Council and this was done regularly, even though, as a rule, the appeals were withdrawn. The persistence of the parties finally led the high commissioner to say at Geneva on December 12, 1924, that "for the first time the Council had had nine clear months free of Danzig questions. . . . Appeals were made to the Council on every question by one side or the other, not only on their merits, but as a matter of tactics. . . . It was obvious from the remarks and feelings of the Council that these methods must be stopped."⁴

He asked to submit proposals to reduce the number of appeals, being supported by both the Polish and Danzig representatives. A report was made to the March, 1925,

¹ *Official Journal*, II, p. 659.

² *Ibid.*, VIII, p. 748.

³ Obtainable from World Peace Foundation.

⁴ *Official Journal*, VI, p. 153.

session of the Council¹ and a detailed procedure for the future was adopted in June, 1925. The new procedure maintains the system of direct negotiations between Poland and Danzig, while the high commissioner may invite one or both to meet to discuss the issue. In the case of technical or legal questions—the majority of those brought up—the high commissioner is empowered to take the advice of the League's technical organizations or experts before giving his decision. Formerly they were consulted only after an appeal from a decision had reached the Council. The result was to eliminate the political element in disputes.

Questions before Council. The Danzig questions brought to the Council have been exceedingly numerous, particularly in the first few years. Most of them involved minor matters and were more notable for expression of differences between the parties than their subjects.

One which developed quite a history may be cited. The Polish Government appealed to the Council against a decision of the high commissioner with regard to the Polish postal, telegraph and telephone service at Danzig, and particularly concerning the installation of postboxes and the employment of Polish postmen in the Free City. On March 13, 1925,² the Council requested an Advisory Opinion from the Permanent Court of International Justice on the question. On May 16, the Court rendered an opinion³ to the effect that no decision of the high commissioner covering the controversy was in force and that the Polish postal service at Danzig was not restricted to operations only within its premises, but that it could set up letterboxes for the public and collect and deliver postal matter outside those premises. Four experts, appointed by the chairman of the Advisory Committee on Communications and Transit made a report on the practical means of carrying out the Advisory Opinion, which was adopted by the Council. This involved laying down

¹ *Official Journal*, VI, p. 592.

² *Ibid.*, p. 471.

³ See Publications of the Permanent Court of International Justice, Series B, No. 11.

boundaries of the port, which are subject to revision every five years. On the basis of the report, Poland and Danzig entered into negotiations and reached agreements upon the question at issue and many other subsidiary questions, such as currency, language and taxation in the Heveliusplatz, which is a Polish section of the port.¹

The Council appoints various Danzig officials, such as the President of the Danzig Port and Waterways Board.

11. Progressive Codification of International Law

The Committee of Jurists appointed by the Council in 1920 to draft a statute for the Permanent Court of International Justice also reported a resolution of its own dealing with the codification of international law. This was referred to the First Assembly, but was not adopted by it. In the Fifth Assembly, the Swedish delegation called attention to the annual report showing the position of international engagements made under the auspices of the League and emphasized its contribution to the development of international treaty law.² It was the League's duty, it was said, to organize this process of development systematically.

The Assembly on September 22, 1924, adopted a resolution requesting the Council to convene a suitable committee of experts to prepare a provisional list of the subjects of international law which it was desirable to regulate by international agreement and to report which questions were sufficiently ripe to warrant calling an international conference for their solution. The Council appointed the Committee of Experts for the Progressive Codification of International Law, December 12, 1924.³

The committee held annual sessions 1925-1928.⁴ At its first session it decided to give the word "codification"

¹ *Official Journal*, VI, p. 1371.

² *Records of the Fifth Assembly, Plenary Meetings*, p. 82-83.

³ *Official Journal*, VI, p. 275.

⁴ A list of meetings of this and other committees on the subject, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 272 (Boston, World Peace Foundation, 1930).

a broad significance and adopted an empirical procedure without entering into the problem of abstract codification. Its process of work is fixed. Questions are suggested to it on its own initiative or that of others. These are assigned to members of the committee sitting as subcommittees for examination and report, usually taking the form of a draft convention preceded by a technical introduction. If a question is found suitable, a questionnaire is prepared and forwarded to states. Their replies are studied by the committee, which then reports to the Council whether a given subject is ripe for international regulation. The Council passes such questions to the Assembly, which determines upon the convening of a conference to reach agreement upon them.

Three questions were advanced to that stage in 1927. In order still further to prepare the field, the Assembly called for the appointment of a Technical Preparatory Committee for the Codification Conference, which analyzes each question and determines in detail the information which is to be requested of the states Members and non-Members of the League. This information is to contain precise statements regarding:

The status of the positive law of each state, internal and international, with as full details as possible on bibliography and jurisprudence;

Information derived from their practice at home and abroad; any views as regards possible additions to the rules in force and how to make good existing deficiencies in the international law of the subject.

The first Codification Conference was held at The Hague, March 13–April 12, 1930, to consider the following three questions:

Nationality;

Territorial waters;

Responsibility of states for damages caused on their territory to the person or property of foreigners.

The Council in its resolution of March 7, 1929, recommended that the conference "should not confine itself to the mere registration of existing rules, but should aim at adapting them as far as possible to contemporary conditions of international life.¹ In preparation for the conference, the Preparatory Committee for the Codification Conference had drawn up a detailed questionnaire on the subject matter of the three questions on which 30 Governments returned detailed replies respecting the principles of international law which, in their opinion, applied their attitude toward various phases of the questions, and comments based upon their national laws, practices and jurisprudence. The Preparatory Committee, January 28-February 17 and May 6-11, 1929, examined these memoranda and analyzed out of them "bases of discussion" for the conference. These bases were supplemented with the appropriate texts of the replies from Governments and the whole printed and circulated to foreign offices in time for adequate preliminary study.²

Forty-seven states were represented at the conference,³ which divided into committees on the three subjects, each of which presented difficulties and differed widely from the others. On nationality, a convention on questions relating to the conflict of nationality laws,⁴ a protocol relating to military obligations in certain cases of double nationality, a protocol relating to a certain case of statelessness and a special protocol relating to statelessness were signed.⁵

¹ *Official Journal*, X, p. 535.

² The Harvard Law School Research of International Law prepared and published a volume which was circulated as a private American contribution to the preliminary study of the three questions.

³ The states represented were: Austria, Belgium, Brazil, Great Britain, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czechoslovakia, Danzig, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Irish Free State, Italy, Japan, Latvia, Luxemburg, Mexico, Monaco, the Netherlands, Nicaragua, Norway, Persia, Peru, Poland, Portugal, Rumania, Salvador, South Africa, Spain, Sweden, Switzerland, Turkey, United States, Uruguay, Yugoslavia, Union of Socialist Soviet Republics (observer).

⁴ Open for signature till December 31, 1930; signed on behalf of Australia, Austria, Belgium, Chile, Colombia, Cuba, Czechoslovakia, Danzig, Denmark, Egypt, Estonia, France, Germany, Great Britain and Northern Ireland, etc., Greece, Iceland, India, Irish Free State, Italy, Latvia, Luxemburg, Mexico, Netherlands, Peru, Poland, Portugal, Salvador, South Africa, Spain, Switzerland, Uruguay.

⁵ C. 224-227, M. 111-114, 1930, V. 3-6.

On the legal status of the territorial sea a resolution was adopted for transmission to governments embodying articles provisionally approved, which were proposed as a basis for future agreement.¹ On the responsibility of states, the conference was unable to reach agreement.

The Tenth Assembly in 1929 deemed it advisable that the committee of experts should continue its labors and hold further sessions after the First Codification Conference.

Altogether 22 subjects, including the three advanced to the conference stage, have been submitted to the Committee of Experts. Their status follows:

Ripe for Regulation. Legal position and functions of consuls; reserved by Ninth Assembly to a subsequent conference.

Competence of courts in regard to foreign states; reserved by Ninth Assembly to a subsequent conference.

Procedure of international conference and procedure for the conclusion and drafting of treaties; reserved by the Council, not passed to the Eighth Assembly for reference to a conference.

Suppression of piracy; reserved by the Council, not passed to the Eighth Assembly for reference to a conference.

Diplomatic privileges and immunities; reserved by the Council, not passed to the Eighth Assembly for reference to a conference.

Exploitation of the products of the sea; remitted by the Council to the Economic and other League Committees for special examination. It has been decided that certain species of whales require protection, and a conference is to be held for that purpose.

Not Ripe for Regulation. Classification of diplomatic agents.

Communication of judicial and extrajudicial acts (letters rogatory in penal matters).

Application of the notion of prescription in international law.

Legal status of private international non-profit-making associations.

Other Questions. Extradition; the Committee of Experts accepted a report on this subject that it was not ripe for regulation.² However, the Mixed Committee for the Suppression of the Offense of Counterfeiting Currency referred the extradition feature of that problem to the committee, which found serious reasons in favor of its international regulation in that connection.

¹ See *Conference for the Codification of International Law . . . Final Act*, p. 15 (C. 228. M. 115. 1930. V. 7).

² League of Nations, C. 51. M. 28. 1926. V. 8.

Criminal competence of states in respect to offenses committed outside their territory; a subcommittee report found that the international regulation of the question "would encounter grave political and other obstacles."¹

Legal status of government ships employed in commerce; consideration of it "might appear superfluous since it is already under study by the International Maritime Conference."²

The nationality of commercial corporations and their diplomatic protection; a subcommittee report concludes that regulation "is at the present moment desirable and realizable."³

Recognition of the legal personality of foreign commercial corporations; already placed on the agenda of the conferences on international private law.⁴

Domicile; the questionnaire of the Committee of Experts was submitted to governments in June, 1928.⁵

Most-favored-nation clause; the Committee of Experts decided that regulation of this question "would encounter serious obstacles."⁶ However, the World Economic Conference dealt with it in its final report and the Economic Committee worked out a formula.⁷

Is it possible to establish, by means of a convention, international rules concerning the competence of courts with respect to foreign states and especially with respect to states engaging in operations of commerce?

Is it possible to establish, by means of a convention, international regulations on the conflict of law, relative to the contract of sale of merchandise?

DEVELOPMENT OF A CODE

In the 1927 Assembly Paraguay's delegation submitted a proposal for the preparation of a general and comprehensive plan for the codification of international law. The Committee of Experts in June, 1928, decided to continue the method already adopted. The Ninth Assembly, in passing resolutions on the matter of codification,

¹ League of Nations, C. 50. M. 27. 1926. V. 7.

² *Ibid.*, C. 52. M. 29. 1926. V. 9.

³ *Ibid.*, C. 207. M. 81. 1927. V. 12.

⁴ *Ibid.*, C. 206. M. 80. 1927. V. 11.

⁵ *Ibid.*, C. 343. M. 101. 1928. V. 3.

⁶ *Ibid.*, C. 205. M. 79. 1927. V. 10.

⁷ See text, *supra*, p. 56.

recommended "that the Committee of Experts should, when it next meets, examine whether it would be possible and desirable to endeavor, by the procedure of codification, to formulate a declaration of the fundamental rights and duties of states."

In addition, the Ninth Assembly in a resolution confirmed its decisions to make no change in the method of codification adopted in 1924, but recognized "that there would be advantages in indicating the full extent of the subjects which the Assembly proposes to cover by the work of codification." It, therefore, requested the Council to intrust to a committee of three jurists the task of establishing a systematic survey to be communicated to Members of the League as soon as possible. It would be desirable to distinguish subjects which should be reserved (1) for the technical organizations of the League, (2) for international conferences already initiated by particular Governments and (3) those which appear capable of being dealt with by conferences of jurists.

The Assembly emphasized the important practical value in this connection of assembling in the form of a code, according to a methodical classification, the various general international conventions opened to acceptance by states in general. It, therefore, asked the Council to refer to the committee of jurists the question of publishing, "as an accompaniment of the *Treaty Series* and in the form of a code of which new editions would be from time to time prepared, those general conventions which have the above-mentioned character."

The resulting committee met at Geneva, April 15-23, 1929, and produced a schedule of the "systematic survey of the subjects of international law with a view to a general codification." This is divided into five parts as follows:¹

- I. Persons in international law;
- II. Objects of international law;
- III. Legal relation between states;
- IV. International disputes;
- V. War.

¹ *Official Journal*, X, p. 1073.

The committee examined more than 450 international conventions with a view to arranging them as a code in a methodical classification, and it studied in detail both technical and practical matters connected with such a publication. The committee found that general conventions consist of two categories, one being absolutely open and the other relatively open to accessions by other states. The committee felt that even some "closed" conventions, that is not providing for accessions, at times provided principles of international law. The greatest difficulty was to determine which texts were to be chosen as evidencing international law, many general conventions, such as those on telegraphic questions, having gone through a series of revisions which had not been completely ratified. The substance of the committee's report was studied by the Ninth Assembly which observed that the contemplated publication could not at present be achieved in a satisfactory manner. The Assembly in its resolution:

Is of opinion, in particular, that it would be necessary first to proceed to codify the various successive conventions which deal with certain particular subjects so as to determine what precisely are the texts in force and the states which are parties thereto:

Requests the Council to call the attention of the technical organizations of the League to the possibility that it might be desirable to make an effort in this direction, with the assistance of the Secretariat and in collaboration, eventually, with the international bureaus, with a view to having the results of their work eventually brought into force by appropriate international conferences.

12. International Bureaus

Art. 24 of the Covenant provides that international bureaus "already established by general treaties," that is, existing on January 10, 1920, are to be under the direction of the League, if the treaty parties consent. On the other hand, those subsequently established by treaty "and all commissions for the regulation of matters of general interest" shall be placed under its direction. The general principles to be observed in placing international bureaus

under the authority of the League were laid down in a report adopted by the Council on June 27, 1921.¹ Only international organizations established by general treaties should be admitted, according to a Council resolution adopted on July 2, 1923, but it was felt desirable that a door should be left open for further discussion of the general principle.² Art. 24 of the Covenant, however, provides:

In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaus or commissions, the Secretariat of the League shall, subject to the consent of the Council, and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

To a considerable extent this general assistance is automatically realized through the contacts maintained by the standing committees.

Pursuant to a resolution of the Eighth Assembly, the Council on June 7, 1928,³ adopted a report on the question of the relations between the League and institutes or bodies set up under its authority. The Council laid down the general principles which should govern the relations between the League and international bodies and the procedure for the establishment of such relations and their acceptance by the League. The Council defines the "direction" of the League of Nations, as the exercise by the League of a general mission in regard to the examination and coordination of the various manifestations of international life. The League should see that the organization in question always preserves a strictly international character, and that its work is carried on in an efficient manner. The necessity of avoiding overlapping must also be borne in mind.

¹ *Official Journal*, II, p. 759; *Minutes of the 13th Session of the Council*, p. 248.

² *Ibid.*, IV, p. 852.

³ *Ibid.*, IX, p. 898.

The exercise of authority by the League further implies that its organs shall be fully informed as to the work of institutions covered by Art. 24; the League shall be able to call upon those institutions whenever their services may be of technical value to its general work; and the League's competent organizations shall be able to reach any decision in pursuance of this mission concerning general examination and coordination. The League's direction, which can only be extended to official institutions, must be established by a definite legal act admitting of no future doubt.

As regards the principles which might govern the acceptance of international institutes by the League, the Council adopted rules based on the experience of the last few years. These rules are:

1. The object of the institute must come within the sphere of activity of the League of Nations;
2. The legal statute of the institute must provide for its independence as regards the local authorities;
3. The constitution of the institute must be such that the League organs are able to exercise supervision over its work.

The Assembly was anxious that an institute should be attached to an advisory technical League organization and that its financial statutes should be examined to ascertain whether it possessed sufficient funds for effective fulfilment of its duties. The Assembly emphasized that the nomination of members both to the governing body and the senior staff of such institutes should be made without distinction of sex and with due regard to the international character of the institute.

Publications. The Secretariat of the League prepares and publishes a *Quarterly Bulletin of Information on the Work of International Organisations*, the first number of which appeared in October, 1922. The publication is a record of the meetings and general activities of existing public and private international institutions. It serves as the central information medium in making the work of the various organizations known.

The *Handbook of International Organisations*, first published in 1922 and containing succinct information as to the number, objects, history and general activities of some 352 international organizations, whether established by private initiative or created by general treaties, was revised in 1923, 1926 and 1929 in order to bring the information up to date.

The Council on August 3, 1920, voted to contribute £1,500 toward publication of a compilation of the resolutions of international congresses by the Union of International Associations at Brussels. This work has been issued.

Institutes. The institutes which are maintained by Governments and placed at the disposal of the League are: International Educational Cinematographic Institute (see p. 158).

International Institute of Intellectual Cooperation (see p. 143).

International Institute for the Unification of Private Law (see p. 157).

Bureaus. The organizations on which the Council has acted under Art. 24 are:

The *International Hydrographic Bureau* was created by a conference held in London in 1919, the purpose of which was to coordinate and reestablish the extensive and important work of studying ocean currents and other maritime phenomena, which is best known through the popular interest in the scientific activities of the Prince of Monaco. The United States participated in the conference. The bureau, when organized, applied to the League to be taken under its direction. The application was granted by a decision of the Council of October 2, 1921. The Prince of Monaco contributed the real estate of his Oceanographic Institute to the bureau as its headquarters.

The *International Association for the Promotion of Child Welfare* was placed under the direction of the League by resolution of the Council at its 28th meeting in March, 1924. The association was organized on July 21, 1921, by the official delegates of states and maintained offices at

Brussels. It applied to be taken under the direction of the League in June, 1922, but was not willing to make changes requested by the Council,¹ which on March 14, 1924,² decided that "the work hitherto carried out by the association shall in future be intrusted to the Secretariat." The Fifth Assembly placed the governmental activities of the association under the Advisory Committee on Women and Children, and the remaining organization was transformed into an international group of all private organizations and persons interested in the subject.

The *International Commission for Air Navigation* was constituted on July 11, 1922, under Art. 35 of the convention relating to the regulation of aerial navigation dated Paris, October 13, 1919.³ According to this article, "there shall be instituted, under the name of the International Commission for Air Navigation, a permanent international commission placed under the direction of the League of Nations." The convention came into force on July 11, 1922, and the commission accordingly came automatically under the direction of the League. The commission, from the nature of its work, is in close touch with the Organization for Communications and Transit of the League.

The *Central International Office for the Control of the Liquor Traffic in Africa*, at Brussels, set up by Art. 7 of the international convention signed at St. Germain-en-Laye on September 10, 1919,⁴ communicates to the Secretariat copies of all returns concerning the importation of spirituous liquor into the various African colonies and mandated territories, as well as the different ordinances in force in those colonies and territories. This is one of the duties of the office under the convention. The office was placed under the general direction of the League by a Council resolution of January 11, 1922.⁵

¹ *Official Journal*, IV, p. 558, 635.

² *Ibid.*, V, p. 715.

³ *Treaty Series*, XI, p. 174.

⁴ *Ibid.*, VIII, p. 21.

⁵ *Official Journal*, III, p. 91.

The *International Bureau for Information and Inquiries regarding Relief for Foreigners* was constituted by the International Committee of Congresses on Public and Private Relief in 1907 with the purpose of urging the development of international treaties regarding mutual relief and facilitating their execution. It was placed under the direction of the League by a resolution of the Council of June 27, 1921.¹

The Council on January 30, 1923,² authorized the Economic Committee to enlist the cooperation of the *International Institute of Commerce*, if occasion arose, as to subjects on which it might be able and willing to assist.

The *International Institute of Agriculture* is negotiating to establish closer relations with the League both in order to prevent duplication of work and to establish a coordinated cooperation with it. The Institute was established at Rome by the convention of 1905, and 74 Governments and minor administrations are members of it. The proposal for negotiations was brought before the Council in June, 1928, by the representative of Italy, as the depository of the constituent convention.³ The president of the Consultative Economic Committee is participating in the negotiations.

¹ *Minutes of the 13th Session of the Council*, p. 54, 251, 252.

² *Ibid.*, IV, p. 206; see also *Minutes of the 13th Session of the Council*, p. 251. The Council did not act favorably on requests of the International Parliamentary Conference of Commerce and the International Committee on Agriculture (*Official Journal*, VI, p. 889, 970, 1223, 1508, and IV, p. 208, 278).

³ *Official Journal*, IX, p. 901, 956.

IV. ACHIEVEMENT OF PEACE AND SECURITY

1. Reduction of Armament

THE Members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

"The Council, taking account of the geographical situation and circumstances of each state, shall formulate plans for such reduction for the consideration and action of the several Governments.

"Such plans shall be subject to reconsideration and revision at least every 10 years.

"After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council" (*Covenant*, Art. 8).

Effort to make the prescribed agreement upon the reduction and limitation of armament has been continuous since 1920, but through 1929 had led to no general result. The point of view of the Members of the League had, however, undergone several important changes. They felt that the new approach to the problem had offered improved prospects of success in the near future.

In 1920 when the League began to function, states felt that the maintenance of armament was one of the most sacred functions of their independence. In the First Assembly they insisted, however, that the problem of reduction should be intrusted to the Temporary Mixed Commission so as to take it out of the hands of strictly military experts. In 1921, the Assembly urged this commission to make proposals in the form of a draft treaty.¹ The commission found that a feeling of insecurity was the chief bar to reduction of armament. The Assembly in 1922

¹ *Resolutions and Recommendations of the Assembly . . . 1921*, p. 23.

emphasized this thought in extensive resolutions, one of which — known as Resolution XIV — added that “moral disarmament is an essential preliminary condition of material disarmament, and that this moral disarmament can only be achieved in an atmosphere of mutual confidence and security.”¹

In 1923, the Temporary Mixed Commission reported a draft treaty of mutual assistance to the Assembly, in which the third committee, as a conference, perfected the text for submission to Governments. Eighteen states approved it in principle,² but various criticisms were leveled against it, one of which was that it did not take into sufficient account existing machinery for the pacific settlement of international disputes.

Premiers Edouard Herriot of France and J. Ramsay MacDonald of Great Britain attended the opening sessions of the Assembly in 1924 as heads of their delegations. They were fresh from the London Conference on Reparation, at which the Experts' (Dawes) Plan was brought into force and smooth working order by provisions for the establishment of 19 separate arbitral jurisdictions.³ As a result of their Assembly speeches, a resolution requested the First and Third Committees to examine the obligations of the Covenant “in relation to the guaranties of security which a resort to arbitration and a reduction of armaments may require.” The result was the well-known Geneva Protocol for the Pacific Settlement of International Disputes, opened for signature October 2, 1924. This agreement was built on the basic conception that “there can be no arbitration or security without disarmament, nor can there be disarmament without arbitration and security.”⁴ Its first aim was to supply a system of pacific settlement, made complete by closing the legal “fissures in the Covenant,” and secondly to provide for the general

¹ *Resolutions and Recommendations of the Assembly . . . 1922*, p. 27.

² *Records of the Fifth Assembly, Minutes of the Committees, Minutes of the Third Committee*, p. 129.

³ *World Peace Foundation Pamphlets*, Vol. VIII, p. 314.

⁴ *Records of the Fifth Assembly, Minutes of the Committees, Minutes of the Third Committee*, p. 217.

disarmament conference which, it was planned, could be held in 1925.

The British Government, under Premier Baldwin, held up the preparations for this conference, and its representative in the Council on March 12, 1925, declared himself against the principles of the protocol.¹ His essential declaration was that the real problem of confidence was not to be solved by a general agreement but by agreements on certain "extreme cases" of "brooding fears that keep huge armaments in being." The best way of dealing with these, he said, "is, with the cooperation of the League, to supplement the Covenant by making special arrangements in order to meet special needs."

In February, 1925, Germany made the proposal that led to the Locarno Conference. The Locarno treaty of guaranty neutralizes the Rhine frontier, the principal of the "extreme cases." The other treaties resulting from the conference provide for a complete system of pacific settlement between the parties concerned. This system was made completely effective by the admission of Germany to the League and by the entrance of the treaties into force in September, 1926.² The Locarno principles then became a new starting point.

The early development of League policy respecting armament has, therefore, been based upon recognition of the fact that war occurs only as the result of disputes, for which there are but two methods of settlement: By armaments or peaceful means. Since 1926, the whole exploration of the subject has emphasized the pacific means of settling disputes in the belief that their development reduces the necessity for armament.

In this connection extensive re-examinations of the means of pacific settlement afforded by the Covenant itself have been made. A French proposal to the Preparatory Commission in 1926 requested investigation of methods which would "enable the Council to take such decisions as may be necessary to enforce the objects of the Covenant

¹ *Official Journal*, VI, p. 138, 446.

² *Treaty Series*, LIV, p. 389-363.

as expeditiously as possible." A committee of the Council drew up a report which was approved by the Assembly in 1926 and which lays down details of procedure under Art. 11 of the Covenant.¹

The Committee on Arbitration and Security brought into the Ninth Assembly in 1928 elaborate reports on the operation of Arts. 10, 11 and 16 of the Covenant.²

Since 1926, pursuit of the solution of the armament problem has advanced along two main lines: (1) Preparation for a conference to reduce and limit armament in a technical sense, and (2) development of the system of pacific settlement with a view to solving the problem of security.

COMMITTEES AT WORK³

Temporary Mixed Commission. The First Assembly in 1920 passed a resolution inviting the Council "to instruct a temporary commission composed of persons possessing the requisite competence in matters of a political, social and economic nature to prepare . . . reports and proposals for the reduction of armaments as provided for by Art. 8 of the Covenant." The Temporary Mixed Commission for the Reduction of Armaments, with the addition of seven civilian members in 1922, functioned until after the Fifth Assembly in 1924.

Coordination Commission. The Coordination Commission was intrusted with the duty of equipping the Temporary Mixed Commission and creating machinery for the continuance of armament work, functions which it performed in a meeting at Geneva, February 16-18, 1925. The commission consisted of the active Committee of the Council⁴—the Council acting as a committee—and of a group of individuals representing the composition of the Temporary Mixed Commission, who were later organized

¹ *Official Journal*, VIII, p. 121; compare *Official Journal*, Spec. Supp. No. 51, p. 21, and *Official Journal*, IX, p. 123.

² *League of Nations*, A. N. 1928 IX.

³ A list of meetings and conferences, together with references to the official reports, will be found in Council, *Memorandum J. Key to League of Nations Documents Printed on Public Sale, 1928-1932*, p. 293 (Geneva, World Peace Foundation, 1933).

⁴ *Official Journal*, V, p. 130A.

as the Joint Commission. The Coordination Commission determined the character of the Preparatory Commission.

Joint Commission on Disarmament. The report of the Coordination Commission¹ on the composition of the Preparatory Commission and the continued existence of its own members other than the Committee of the Council as the Joint Commission on Disarmament. The Council accepted these recommendations on December 12, 1925. The Joint Commission consists of two members each of the Economic, Financial and Transit Organizations, two members of the Employers' Group and two members of the Workers' Group of the Governing Body of the International Labor Office and four members competent to deal with questions connected with industry and transport.²

The **Permanent Advisory Commission on Armaments** is provided for in Art. 9 of the Covenant and was set up by the Council on May 9, 1920. It is made up of military, naval and air officers representing the Governments members of the Council. The commission is divided into three subcommissions, one expert in each branch of armament, and its primary duty is to advise the Council on technical matters. It sits as Subcommittee A of the Preparatory Commission with additional members.³

The **Preparatory Commission for the Disarmament Conference** was established by the Council September 26, 1925, and is composed of:⁴

- (a) Representatives of states members of the Council;
- (b) Representatives of countries chosen among those which, by reason of their geographical situation, occupy a special position as regards the problem of disarmament and which are not otherwise represented on the commission;
- (c) Any state not represented on the commission to submit memoranda and to be heard on them;
- (d) States members of the Council since 1925, the Soviet Union, Turkey and the United States.

¹ *Official Journal*, VI, p. 554.

² *Ibid.*, VII, p. 166, 534.

³ *Ibid.*, p. 633, 535.

⁴ *Ibid.*, p. 164, 1493.

PREPARATION FOR CONFERENCE

The Preparatory Commission for the Disarmament Conference began work in May, 1926, on the basis of finding replies to a series of seven elaborate questions drawn up by the Council on December 12, 1925,¹ which summarized the study given to the subject in the previous six years. Several points were added in the commission and have given rise to subsidiary investigations.

By the end of 1926 the subcommissions had worked up replies² and in March, 1927, the commission itself was able to make from this most impressively complicated series of answers and counter suggestions a synoptic analysis for further negotiation.

One of the subjects resulting in a fundamental difference was that of the principle by which to limit naval cruiser tonnage. Some states wanted a total tonnage fixed without specifying vessel size; others wanted the size of vessels fixed and the total tonnage determined. The United States attempted to solve this difficulty by inviting certain states to a Conference for the Limitation of Naval Armaments at Geneva, June 20-August 4, 1927. Great Britain and Japan attended officially, but it came to no conclusion because the United States and Great Britain were unable to compromise their views on respective requirements.

When the Preparatory Commission met the third time in March, 1927, it studied preliminary drafts of a convention³ and, with many questions still unsettled, passed a draft convention on first reading.⁴ To its November, 1927, session the Soviet delegation presented a project for com-

¹ *Official Journal*, VII, p. 168.

² See Report of Subcommission A (C. 739. M. 278. 1926. IX. 16); Subcommission B. Report No. 1 [Report of the Joint Commission] (C. 738. M. 277. 1926. IX. 15); Committee of the Council (C. 740. M. 279. 1926. 1927. IX. 2) and summary, *Seventh Yearbook*, p. 244.

³ *Documents of the Preparatory Commission . . . Series IV*, p. 358-362 (C. 310. M. 309. 1927. IX).

⁴ *Ibid.*, p. 383; *Official Journal*, VIII, p. 861; *Monthly Summary*, VII, p. 105.

plete and immediate disarmament.¹ This was rejected at the session in March, 1928, after a lively debate.²

The draft convention passed at the March meeting had served to bring out the fundamental points of disagreement between various conceptions of national needs for armament. Each great state is confronted by physical circumstances, peculiar to its situation, which affect its armament ideas. The small states in any case do not rely on armament. The points of disagreement, therefore, did not apply to all negotiators and a solution offered by those concerned with any point would probably prove acceptable to all others for the sake of making progress. It was that which prompted the American delegate in March, 1928, to ask: "Have we or have we not by direct negotiation³ or in any other way achieved a sufficient basis of agreement?" The answer was in the negative, so that the commission adjourned without putting the draft convention to a second reading.

Meantime the Briand-Kellogg pact for the renunciation of war was under negotiation and its signing on August 27, 1928, at Paris — along with the simultaneous work of the Commission on Arbitration and Security — was changing the political conditions in which the armament problem was envisaged. For the fourth time in the Ninth Assembly the pressure of the small states and Germany was exerted to hasten their desire for the reduction of armament to increase their own security. The Assembly urged the differing Governments to seek "agreed solutions" without delay so that the work could succeed. It further called on the president of the Preparatory Commission to "keep in contact with the Governments concerned so that he may be apprized of the progress of their negotiations" and could call the next session early in 1929.

¹ Separate document, C. 65, M. 23, 1928, IX.

² *Documents of the Preparatory Commission . . . Series VI*, p. 239. (C. 165, M. 29, 1928, IX).

³ *Ibid.*, p. 278. (C. 165, M. 29, 1928, IX, G).

⁴ The principal incident of direct negotiation was that between Great Britain and France resulting in what the newspapers called the Anglo-French accord on the cruiser problem and military services. The rejection of its usual terms by the United States left it without a chance of offering a solution to that phase of the problem.

RECENT DEVELOPMENTS

The sixth meeting of the Preparatory Commission was held April 15–May 6, 1929. During the previous season, two things had occurred to affect the conditions under which it met. The first was the failure of direct negotiations. These had taken shape in a formula developed in a note of July 28, 1928, from the British Government to the French Government and which was circulated as a suggestion of agreement to the three other naval states, the United States, Italy and Japan. The United States, in a note dated September 28, declined to accept the formula and the effort at direct negotiation thus fell to the ground.¹ Delays in bringing the treaty for the renunciation of war into force had caused a postponement of the commission's meeting, but at the time it met the majority of the signatories had deposited their ratifications, and its coming into force was only a matter of time.

The Preparatory Commission's sixth session made a real beginning of the first step toward the reduction and limitation of armament. By Art. 8 of the Covenant this involves (1) decision upon a scheme of reduction "to the lowest point consistent with national safety;" (2) acceptance of agreement to this end by Governments in conference; (3) its reconsideration at the end of 10 years. The fundamental character of the task, once accomplished, was indicated by the president of the commission in his closing speech:²

Our convention will possess one essential characteristic which has never been obtained before, and that is, that by reason of its scope and of the number of contracting states, it will be both general and universal.

For the first time in the history of the world, the problem of national armaments will have changed its character. It has

¹ Great Britain, Cmd. 3211, p. 26, 34.

² *Documents of the Preparatory Commission*, . . . Series VIII, p. 197 (C. 195. M. 74. 1929. IX).

hitherto been, and still is, an essentially domestic concern — a matter coming exclusively under the sovereign rights of each state. Henceforth it will become an international question, governed by laws which the states will have freely accepted.

The most vital thing is that we should enter on this path and take the first steps. The later stages will then prove infinitely easier. Let us never forget, gentlemen, the great truth contained in the old Greek proverb that the half is the beginning of the whole.

The commission's sixth session reflected the complications, the seriousness and the difficulties of the armament problem. The commission was spurred on by the receipt of a large number of letters from private organizations and the general public. The debate on the agenda was at first quite pessimistic and involved an extensive discussion of whether the Soviet draft for complete disarmament should form a basis of discussion, it being finally decided that it was impractical to proceed along that line.¹ A discussion of chemical warfare resulted in a resolution of the Council on June 12,² urging states to ratify the protocol prohibiting gas and bacteriological warfare. A German proposal prohibiting the hurling of implements of combat from the air was debated and postponed.

After this pessimistic beginning, a new tone was given to the session. Several proposals for methods of advancing were made in the session of April 19. Among those was a confession of impatience at the slowness of progress by the British delegate, Lord Cushendun, who recognized "that in this sphere the lead should be taken, and must be taken, by the military powers and that the possibility of effective limitation depends upon the reconciliation of their views and policy. We do not, therefore, in this session intend to add to the difficulty of agreement by insisting in every case on our own views."³ On April 22, the United States delegate, Hugh S. Gibson, expressed

¹ Turkish and Chinese proposals on criteria for reduction and the abolition of compulsory service were also tabled.

² *Official Journal*, X, p. 993.

³ *Documents of the Preparatory Commission . . . Series VIII*, p. 42 (C. 195. M. 74. 1929. IX).

the hope that he could contribute in like manner to the labors of the commission. In his statement he said:¹

During the first reading of the draft convention, it was the duty of each one of us to put forward the views of his Government on the various problems . . . and endeavor to persuade [his colleagues] that those views should be adopted. . . . When we come to the second reading, however, a renewal of the old discussions is no longer in order. Our first duty is for each one of us to examine all phases of the problem before us with a view to discovering what measures of concession can be offered by each delegation. Agreement upon a single text can be achieved only by a maximum of such concession . . .

My country's defense is primarily a naval problem. The American Government has found no reason for modifying its view that the simplest, fairest and most practical method is that of limitation by tonnage by categories . . .

The American delegation has urged this view throughout the first reading, but, in view of the inacceptability to some other delegations of our unmodified thesis, my Government has sought . . . some solution which might offer the possibility of compromise and general acceptance. It will be remembered that, during the third session of the Preparatory Commission, the French delegation brought forward a method which was an attempt to combine its original total tonnage proposals with the method of tonnage by categories . . .

In the hope of facilitating general agreement as to naval armaments, my Government is disposed to accept the French proposal as a basis of discussion. All quantitative proposals of any kind should properly be reserved for discussion by a final conference.

My Government is disposed to give full and friendly consideration to any supplementary methods of limitation which may be calculated to make our proposals, the French thesis, or any other, acceptable to other powers, and, if such a course appears desirable, my Government will be prepared to give consideration to a method of estimating equivalent naval values which takes account of other factors than displacement tonnage alone . . .

Since our last meeting, the nations of the world have bound themselves by solemn undertaking to renounce war as an instrument of national policy. We believe (and we hope that our belief is shared by the other nations) that this agreement affirming hu-

¹ *Documents of the Preparatory Commission . . . Series VIII, p. 56.*

manity's will to peace will advance the cause of disarmament by removing doubts and fears which in the past have constituted our principal obstacle.

Any approach to the disarmament problem on purely technical grounds is bound to be inconclusive. The technical justification of armaments is based upon the experience of past wars and upon the anticipation of future wars. So long as the approach to the problem is based upon old fears and old suspicions, there is little hope of disarmament. . . . If we are honest, if our solemn promise in the Pact means anything, there is no justification for the continuation of a war-taxed peace. Great armaments are the relic of another age, but they will remain a necessary relic until the present deadlock is broken and that can be accomplished only by the decision of the powers possessing the greatest armaments to initiate measures of reduction.

. . . I am authorized to state that, on this basis, we are willing to agree to any reduction, however drastic, of naval tonnage which leaves no type of war-vessel unrestricted . . .

My Government believes firmly in its idea that naval needs are relative and that radical general reduction is possible only on the theory of relative needs . . .

. . . My Government has never believed that an effective approach to the problem of disarmament could be made by methods of reduction of armaments alone. It feels that genuine disarmament will follow only from a change of attitude toward the use of force in the settlement of international disputes. It is for that reason that I venture to make this appeal that the countries here represented examine the whole problem afresh in the hope that they will find in general world conditions, and in the solemn obligation they have taken among themselves, a reassurance as to their security, and that they will find in this the confidence to enable them to dispense with the armaments which hitherto have seemed so essential.

The British, Italian and Japanese delegates, among others, responded cordially to these proposals. The French delegate assured his colleagues that his Government was "moved by the very preoccupations to which Mr. Gibson's words bear witness." Respecting the other phase of the problem, he thought "that, if we approach the question of land armaments in that way, our work can not fail to proceed rapidly."

The session continued in that atmosphere. Largely as a consequence of the accommodating spirit exhibited, several of the essential parts of the 1927 draft convention — those dealing with effectives and the limitation of trained reserves, the limitation of land armament material and chemical warfare — were discussed and passed on a second reading, sometimes with the adoption of new texts. It is the duty of the Preparatory Commission to develop a text through two readings and for transmission to the long-planned diplomatic conference. The progress made in the sixth session was largely due to the attitude taken by the delegates which was defined again and again in about the same terms. Mr. Gibson's statement at the beginning of the discussion of trained reserves was typical:¹

We have always maintained that trained reserves should be included with peace-time armaments, since both actually exist in times of peace . . .

In these principles for which we stood during the first reading we still believe. . . . I fully recognize that other delegations which hold opposing views believe in their theses with the same conviction. Therefore, if we are to reach an agreement — if we are to be able to join in a common draft — it will be necessary for concessions to be made not only on the part of one, but on the part of every delegation here present. With this in mind, I am able to declare that the United States Government, as a practical matter, is disposed to defer to the views of the majority of those countries whose land forces constitute their chief military interest, and in the draft convention before us to accept their ideas in the matter of trained reserves.

I venture to express the hope that, as a corollary to this attitude, the delegations of other countries will in like manner make the maximum of such concession as they find possible.

He stated that this was done in no spirit of bargaining and recommended "delegations frankly to explain what concessions they are in a position to make, to lay their cards on the table, and to create a feeling of candor and

¹ *Documents of the Preparatory Commission . . . Series VIII, p. 114 (C. 195. M. 74. 1929. IX).*

harmony that will be conducive to the further success of our work." Delegates generally accepted this definition of method, and throughout technical discussions sought to follow it, important concessions being frequent.

In order to afford some conception of the status of the commission's work, the draft convention as it emerged from the sixth session of the commission is printed in the appendix.

The treaty for the renunciation of war entered into force without limit of time on July 24, 1929. Partly due to the revaluation of national policies which subscribing to it had brought about, the naval states were exhibiting an anxiety to settle their differences so as to permit progress on the general task of agreement. The British Empire and the United States recognized that their own differences were an important part of the deadlock. As a consequence, a conference between the heads of the two states was discussed by the Baldwin (Conservative) Government and eventually took place in October, 1929, when Premier MacDonald (Labor) visited President Hoover in Washington. The direct result of their meeting was the convening of a Conference on the Limitation of Naval Armaments at London, January 21-April 22, 1930, which adjourned after producing a treaty which settled the differences between the British Empire, Japan and the United States. It was expected to be completed by an additional agreement between France and Italy.

The seventh session of the Preparatory Commission was set for November 3, 1930, with a view to resuming attack on the problem after result of this plan was known and following such clarification as might take place in the Eleventh Assembly of the League.

OTHER DECISIONS

The Covenant provides for several reforms in regard to armament in addition to reduction. Action has been taken on these phases of the problem.

Interchange of Information. The Members of the

League undertook in Art. 8 of the Covenant "to interchange full and frank information as to the scale of their armaments, their military, naval and air programs, and the condition of such of their industries as are adaptable to warlike purposes." The Temporary Mixed Commission in 1922 and 1923 published much statistical information. In July, 1923, the Council, on the basis of the commission's investigations, authorized the Secretariat to begin publishing a yearbook embodying this information. The result of this authorization is the annual publication of the *Armaments Year-Book: General and Statistical Information*.

Trade in War Materials. An important phase of armament reduction is the proper control of international trade in war materials. Before the World War certain areas in Africa and Asia were subject to such control. The treaty of St. Germain of September 10, 1919, aimed to bring the previous arrangements up to date, but it was never brought into force¹ owing to the declination of the United States to proceed with ratification. The Temporary Mixed Commission devoted much time to the question and eventually in February, 1924, was able to meet with representatives of the United States and to draw up a new draft convention. The resulting conference was held at Geneva, May 4-June 17, 1925, with 45 states represented.

The convention² for the supervision of the international trade in arms and ammunition and in implements of war, signed at Geneva, June 17, 1925, had not entered into force on December 31, 1929. The object of the convention is to establish a general system of supervision and publicity for the international trade in arms, munitions and implements of war, and a special system for areas where measures of this kind are generally recognized as particularly necessary.

¹ *Treaty Series*, VII, p. 331.

² For full texts see *Official Journal*, VI, p. 1117. The convention has been ratified by China, Denmark, Egypt, France, Netherlands, Poland and Venezuela and acceded to by Liberia. The convention has been signed by: Abyssinia, Austria, Belgium, Brazil, British Empire, Bulgaria, Canada, Chile, Czechoslovakia, Denmark, Egypt, Estonia, Finland, Germany, Hungary, India, Italy, Japan, Latvia, Luxemburg, Netherlands, Norway, Poland, Rumania, Salvador, Siam, Spain, Sweden, Switzerland, the United States, Uruguay and Yugoslavia.

Chap. I defines five categories to which the convention applies — arms of exclusive war utility, arms of possible war utility, warships, aircraft, and other arms.

Chap. II lays down that Governments only shall have the right to export or import arms of exclusive war utility. Exceptions are contemplated in the case of manufacturers of war material and duly authorized rifle clubs or similar associations. Consignments for export of arms of war utility must be accompanied by a license or declaration of the importing Government and the regular publication of statistical returns must be made within two months of the close of each quarter. The trade in warships and aircraft is subject to publicity regulations only. The trade in other arms is free.

Chap. III defines the system to be applied to special zones. These comprise:

(a) A land zone consisting of the African Continent, with the exception of Egypt, Lybia, Tunisia, Algeria, the Spanish possessions in North Africa, Abyssinia and the Union of South Africa, together with the territory under its mandate, and of Southern Rhodesia. This zone includes the adjacent islands situated within 100 marine miles from the coast; it includes further the Arabian peninsula, Gwadar, Syria, Lebanon, Palestine, Transjordan and Iraq.

(b) A maritime zone, including the Red Sea, the Gulf of Aden, the Persian Gulf, and the Gulf of Oman.

To these zones the export of all arms save warships is forbidden unless the contracting party exercising sovereignty, jurisdiction, protection or tutelage over the territory is willing to admit the articles in question for lawful purposes.

Chap. IV contains three provisions of a special nature relating to Abyssinia, to the reservations which a certain number of countries bordering on Russia may wish to make owing to the non-adhesion of Russia, and to countries possessing extraterritorial jurisdiction in the territory of another state.

Chap. V lays down that the convention shall not apply to arms forwarded to the military forces of the exporting country, wherever these forces may be. It is also provided that, in time of war, supervision and publicity, so far as consignment of arms to a belligerent is concerned, shall be suspended.

In the final act the signatories declare that their Governments intend to apply strictly their internal laws and

regulations to prevent fraudulent commerce in arms, and to exchange all information on the subject; they declare further that the convention must be considered as an important step toward a general system of international agreements regarding arms and ammunition and implements of war, and that the international aspect of the manufacture of arms should receive early consideration by the different Governments.

By the declaration¹ regarding the territory of Ifni, signed at Geneva, June 17, 1925, which enters into force with the convention,² the Spanish Government agrees to the inclusion in the special zones of the territory of Ifni (North Africa) and to the application to this territory of the system set forth in Chap. III of the convention, unless and until it notifies the contracting parties of a decision to the contrary.

Chemical Warfare. The protocol³ for the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare, signed at Geneva, June 17, 1925, has been in force for certain states since April 2, 1927. The protocol enters into force for each state on the date of the deposit of its ratification.⁴

In the protocol contracting states recognize that the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilized world, and that prohibition of such use has been made in treaties

¹ *Official Journal*, VI, p. 1154.

² France and Venezuela have ratified and Liberia has acceded. The declaration has been signed by Abyssinia, Austria, Belgium, Brazil, British Empire, Bulgaria, Canada, Chile, Czechoslovakia, Denmark, Egypt, Estonia, Finland, France, India, Italy, Japan, Latvia, Luxembourg, Netherlands, Poland, Rumania, Salvador, Serb-Croat-Slovene State, Spain and Switzerland.

³ *Official Journal*, VI, p. 1159; see the previous conclusions of experts in *Report of the Temporary Mixed Commission*, p. 29 (A. 16. 1924. IX).

⁴ The ratifications and accessions have been: France, May 9, 1926; Liberia, April 2, 1927; Venezuela, February 8, 1928; Italy, April 3, 1928; Soviet Union, April 5, 1928; Austria, May 9, 1928; Belgium, December 4, 1928; Egypt, December 6, 1928; Poland, February 4, 1929; Yugoslavia, April 12, 1929; Germany, April 25, 1929; Finland, June 26, 1929; Persia, July 6, 1929; China, August 7, 1929; Spain, August 22, 1929; Rumania, August 23, 1929; Turkey, October 5, 1929.

At the sixth meeting of the Preparatory Commission in 1929, it was stated that the British, Australian, Canadian, Irish Free State, New Zealand and South African Governments had decided to ratify.

to which the majority of states are parties. With a view to the acceptance of this prohibition as a part of international law, binding alike the conscience and the practice of nations, the contracting states, in so far as they are not already parties to treaties prohibiting such use, accept this prohibition, agree to extend it to the use of bacteriological methods of warfare, and agree to be bound as between themselves according to the terms of this declaration. The high contracting parties further undertake to do all in their power to induce other states to adhere to the protocol.

The protocol has been signed by Brazil, British Empire, Bulgaria, Canada, Chile, Czechoslovakia, Denmark, Estonia, Ethiopia, Greece, India, Japan, Latvia, Lithuania, Luxemburg, Netherlands, Nicaragua, Norway, Portugal, Salvador, Siam, Sweden, Switzerland, the United States and Uruguay.

A series of questions respecting chemical warfare has been answered and sent to the Preparatory Commission, which is developing a chapter on the subject in the draft convention.

Private Manufacture of Arms. The Members of the League by Art. 8, par. 5, of the Covenant "agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections." They lay upon the Council the duty "to advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety."

Preliminary investigations were made by the Temporary Mixed Commission. After the Conference on Control of the Trade in Arms in 1925, the Council transmitted a series of questions on private manufacture to states and prepared a preliminary draft convention.¹ This draft was criticised by Member states, and in March, 1927,² a special Commission on the Private Manufacture of Arms and

¹ *Official Journal*, VI, p. 554, 220; VII, p. 170.

² *Ibid.*, VIII, p. 846.

Ammunitions and of Implements of War, consisting of representatives of states Members of the Council, tried to combine all views in a single draft. It tried again in August, 1928, and in November of the same year, both the Eighth and Ninth Assemblies having spurred it on by the passage of resolutions. The chief difference of opinion was whether suppression of arms manufacture should be confined to private plants or be reinforced by publicity on state manufacture.

A Committee of Experts appointed by the special commission studied the lists of arms, munitions and implements, which it was proposed to supervise, at Geneva, March 11-13, 1929. The special commission itself in a fourth session, August 26-29, succeeded in drawing up a draft convention.¹ The Tenth Assembly recognized that the work of this commission depended somewhat upon the conclusions which the Preparatory Commission might take with respect to publicity concerning implements of war. It, therefore, requested the Council to consider the desirability of convening the special commission to complete the text of the preliminary draft convention after the decisions of the Preparatory Commission on the subject of publicity of manufacture of arms were available.

The main features of the preliminary draft convention are its adoption of the list of arms contained in the convention on the arms trade, to which, however, disused ordnance and revolvers are added. Private manufacture of arms is defined to mean manufacture of these categories "in establishments of which the state is not the sole proprietor" and in establishments to a large extent engaged in their manufacture (except powder, explosives and small arms), "excluding manufacture on the order and behalf of the state." Private manufacturers are to be licensed, and the licenses granted or renewed are to be reported each quarter. The parties are to publish annually a return showing the total production in value, number and weight of the private manufacturers licensed. Full details as to construction of vessels of war are also to be

¹ *Official Journal*, X, p. 1601.

reported. In the preliminary draft convention are various remarks or reservations of states indicating incomplete agreement. The United States, for instance, recorded that in principle it could not prescribe a system of licenses for private manufacture which takes place under the jurisdiction of its component states.

EXERCISE OF RIGHT OF INVESTIGATION

The treaties of peace closing the World War contain an article¹ in the following terms:

So long as the present treaty remains in force Germany [Austria, Bulgaria, Hungary] undertakes to give every facility for any investigation which the Council of the League of Nations, acting if need be by majority vote, may consider necessary.

The Council adopted the scheme of organization with a view to the exercise of the right of investigation on September 27, 1924.²

Investigation shall "cover such demilitarization of territory as may be laid down in the treaties and any or all military, naval and air clauses and particularly: (a) Legislation such as military laws, budgets; (b) strengths; (c) material existing or under construction; (d) training for war; (e) new warship construction." Any Member of the League may communicate information which, in its opinion, calls for exercise by the Council of the right of investigation. Any non-Member of the Council, which is the neighbor of a state subject to investigation, shall be represented in the Permanent Advisory Commission for organizing an investigation. Commissions of investigation shall be constituted from a list of qualified experts appointed by the Governments of:

1. States represented on the Council, except those subject to the right of investigation;

¹ Art. 213 of the treaty of Versailles, Art. 159 of the treaty of St. Germain, Art. 143 of the treaty of Trianon, Art. 104 of the treaty of Neuilly.

² *Official Journal*, V, p. 1992, 165B. The document is C. 541 (1). M. 189 (1). 1924, IX, and is also printed separately.

2. Signatories of the appropriate treaty of peace which border on the state under investigation, and
3. A representative of a non-signatory of the treaties of peace.

Each state furnishes an equal number of experts, and the Permanent Advisory Commission will propose the exact composition of the commission "according to the nature and importance of the investigation." Chairmen of commissions will arrange the order of their work and shall have full latitude respecting its conduct, provided that every local investigation is carried out by at least three experts of different nationalities. The commission will confine itself to the establishment of facts and may call upon the Council for aid and the Permanent Advisory Commission for technical advice or assistance. The Council may provide for continuous investigation in demilitarized zones.

The chairmen of commissions forward their reports to the Council and the Permanent Advisory Commission which will send to the Council a reasoned opinion thereon.

The Council on March 14, 1925, adopted a resolution accepting the report¹ by jurists and representatives of the Permanent Advisory Commission on the ways and means of assisting to members of the commissions the complete execution of their duties. On June 10, 1925, the Council² decided to address to the Austrian, Bulgarian, German and Hungarian Governments a letter expressing its confidence that, should the occasion arise, the stipulations of the peace treaties by which states liable to investigations undertook to give every facility to such effect would be fully carried out.

When the scheme of organization was passed in 1924, the Secretariat had not received the final report³ of the German commission. The question of investigation was postponed on the agenda of the Council from June, 1925, until December, 1926, by which time Germany had become a

¹ *Official Journal*, VII, p. 628.

² *Ibid.*, p. 684.

³ For the other reports see *Official Journal*, V, p. 2811; VI, p. 296; but see IX, p. 294, and, XII, XIII, and X, p. 1276.

member of it. In the interval, a French proposal for the application to the Rhine demilitarized zone¹ of the right had ceased to have a practical bearing because of the entrance into force of the Locarno treaty of guaranty. Both the disarmament clauses of the treaties of peace and the right of investigation attributed by them to the Council were originally directed principally against Germany, in which the Interallied Military Commission of Control was still functioning after German entrance into the League. The Conference of Ambassadors, which had charge of that commission, represented the states allied against Germany in the World War, in whose interest the control was established. The Council of the League in December, 1926, was anxious to inaugurate the impartial system of right of investigation in succession to the system of control by interested parties. This desire became more pressing and appropriate after the admission of Germany to the League.

The Members of the Council that were represented in the Conference of Ambassadors influenced the latter to reach decisions early in December, 1926. At Geneva on December 12, 1926, representatives of Germany, Belgium, France, Great Britain, Italy and Japan — in the course of, but outside of, the Council meeting — reached an agreement based on the fact that of more than a hundred questions, dividing them in June, 1925, only two were outstanding. They agreed to continue negotiations respecting these, and in any case recorded that the Interallied Commission of Control would withdraw from Germany on January 31, 1927.²

Meantime, on December 11, 1926, the Council adopted explanations of the regulations passed in 1924 and 1925, which were intended to make the system more efficient.³

Szent-Gotthard Incident. On January 1, 1928, five carloads of machine gun parts were seized by the Austrian

¹ For the other reports see *Official Journal*, VI, p. 143. The evacuation of the Coblenz sector occurred by exchange of notes of September 10, 1926 (*Treaty Series*, LXII, p. 141).

² For text of the communiqué see *Seventh Yearbook*, Vol. X, p. 260.

³ *Official Journal*, VIII, p. 162.

customs officials on duty at the Szent-Gotthard joint Austro-Hungarian frontier station, which is in Hungarian territory. The goods were billed as "machine parts," and the falsity of the declaration caused widespread comment. The Czechoslovak, Rumanian and Yugoslav Governments requested an examination of the incident by the Council.

The Council heard those concerned on March 7.¹ It then transpired that the machine gun parts had been destroyed by the Hungarian officials in conformity with the provisions of the Bern railroad convention and because, "as long as the preliminary measures have not been voted by the Council, the Hungarian Government retains entire freedom of action." The Council remitted the question to a Committee of Three, who on March 10 considered that further information was necessary. The Council authorized them to undertake investigations. They invited two arms experts to draw up an inventory and detailed description of what remained of the machine gun parts at Szent-Gotthard. Two other experts on international railroad traffic and customs formalities were also called in. The Committee of Three met at The Hague, May 5-7 to draw up a report. On June 7, the Council provided for preliminary measures in case of disputes occurring in the intervals between Council sessions,² as a result of the Hungarian attitude.

The report of the committee of June 7 on the incident itself was inconclusive. The Council regretted that Hungary had considered the matter "exclusively from the standpoint of railway and customs regulations without having found it necessary to concern itself with the question of the final destination of this war material," which the committee had been unable to determine. The Council emphasized the gravity of the incident "and the importance it attaches to such incidents not recurring." The Hungarian representative had drawn attention to the fact that Hungarian action would have been different if

¹ *Official Journal*, IX, p. 387, documents at p. 545.

² *Ibid.*, p. 905.

the convention on the control of trade in arms had been in force. The Council in its resolution emphasized the importance of early ratification of this document.¹

2. Arbitration and Security

Since the 1924 Assembly, attention has been continuously given to realizing the formula "arbitration, security and reduction of armament." The Locarno treaties of 1925 demonstrated its practical value of insuring "peace in one of the most sensitive regions of Europe."² In 1926 all treaties exemplifying the thesis were brought together in *Arbitration and Security: A Systematic Survey*.³ The Assembly that year stated that the principles of conciliation and arbitration and "security by the mutual guaranteeing of states against any unprovoked aggression" should "govern the policy of every civilized nation."

In 1927 the Assembly declared in a resolution:⁴

(1) That all wars of aggression are, and shall always be, prohibited.

(2) That every pacific means must be employed to settle disputes, of every description, which may arise between states;

The Assembly declares that the states Members of the League are under an obligation to conform to these principles.

The Eighth Assembly also adopted a lengthy resolution defining policy on arbitration, security and disarmament. The new feature was provision for the Committee on Arbitration and Security, whose essential duty is "to consider, the lines indicated by the commission, the measures capable of giving all states the guaranties of arbitration and security necessary to enable them to fix the level of their armaments at the lowest possible figures in an international disarmament agreement."⁵ This committee

¹ *Official Journal*, IX, p. 912.

² *Resolutions and Recommendations adopted by the Assembly . . . 1926*, p. 16.

³ Document C. 34. M. 74. 1926. V. An enlarged and improved second edition is C. 653. M. 216. 1927. V.

⁴ *Resolutions and Recommendations . . . 1927*, p. 22.

⁵ *Ibid.*, p. 24-25; for commentary see *Records of the Eighth Assembly. Plenary Meetings*, p. 454, or (A. 108. 1927. IX).

was composed of representatives of all states represented on the Preparatory Commission, whether Members or non-Members of the League, if the latter desired to sit.

The Committee on Arbitration and Security submitted to the 1928 Assembly a series of reports and draft conventions, which were perfected by it. The result was a multilateral General Act, and three model bilateral conventions for conciliation, arbitration and judicial settlement, a model collective treaty of mutual assistance, a collective and a bilateral treaty of nonaggression, and a model treaty to strengthen the means of preventing war.¹

GENERAL ACT

The object of the General Act is to enable states to adopt standard engagements for the pacific settlement of international disputes and to avoid the development of alternative procedure, which will occur if there is no agreed model. Provision for reservations in three categories is made, so that general acceptance of the document is possible and the systematization of exceptions from jurisdiction arranged. The model bilateral conventions offer various combinations of conciliation, arbitration and judicial settlement suitable for states in different relations with each other, but all aimed at building up a network of treaties on standard lines, whatever the extent of engagement taken by the parties.

The General Act for the pacific settlement of international disputes adopted by the Assembly September 26, 1928, came into force on August 16, 1929.² It consists of four chapters:

¹ The texts are in Document C. 536, ME. 163, 1928, IX, and in *Resolutions and Recommendations adopted by the Assembly . . . 1928*, p. 16-59.

² *Treaty Series*, XCIII, Reg. No. 2125. It came into force on the 90th day following receipt of the second accession. Accessions have been: Sweden, May 13, 1929 (Chapters 1, 2 and 4); Belgium, May 18, 1929; Norway, June 11, 1929 (Chapters 1, 2 and 4); Denmark, April 14, 1930. At the Tenth Assembly, the Czechoslovak, Finnish, French, Greek, Irish and Latvian delegates announced the intention of their Governments to accede. On May 21, 1929, Czechoslovakia, Rumania and Yugoslavia signed at Belgrad a tripartite treaty embodying the General Act of Geneva. Its text has been adopted in a number of bilateral treaties.

- I. Conciliation,
- II. Judicial settlement,
- III. Arbitration,
- IV. General provisions.

Accession may cover all four chapters, those on conciliation (I) and general provisions (IV), or those on conciliation (I), judicial settlement (II) and the general provisions (IV). The scope of application of the three methods of pacific settlement is not defined, but the document indicates that conciliation should take place in the first instance, unless the dispute is a conflict between the parties "as to their respective rights," in which case judicial settlement is indicated. If the dispute is not of that character and does not result in a settlement within a month after the conciliation commission has terminated its work, arbitration should be resorted to.

For the rest, the act is a codification of procedure, the general provisions being technically of considerable importance and solving a number of moot points. One of the most interesting of these is the provision in Art. 32 for satisfaction of a judicial settlement or arbitral award which declares in effect that the action of a municipal court is contrary to international law. In some national jurisdictions the action of a municipal court can not be annulled. By Art. 32 the parties under such conditions "agree that the judicial sentence or arbitral award shall grant the injured party equitable satisfaction," thus insuring that justice may be done without setting aside the judgment of the national court.

On conciliation there already exists a standard established by resolution of the Assembly September 22, 1922,¹ which is much less definite and detailed than the text of 1928. However, the 1922 rules have had an extensive effect in providing a basis for many bilateral conventions, the commissions under which are recorded with the Secretariat.²

¹ *Resolutions and Recommendations adopted by the Assembly . . . 1922*, p. 9.

² *Official Journal*, VI, p. 1684, 1777, and subsequently under the caption "Procedure of Conciliation."

MUTUAL ASSISTANCE AND NONAGGRESSION

The three model conventions on mutual assistance and nonaggression are designed for those states desiring them and intended to permit the taking of engagements relative to security on a single standard and without conflict with the Covenant. The principle of them is based on the Locarno Rhine pact. The first two articles are the essential engagement, their substance being that of the Locarno treaty and bearing a close similarity to that of the Briand-Kellogg pact for renunciation of war. Those articles read:

Art. 1. Each of the high contracting parties undertakes, in regard to each of the other parties, not to attack or invade the territory of another contracting party, and in no case to resort to war against another contracting party.

This stipulation shall not, however, apply in the case of:

(1) The exercise of the right of legitimate defense — that is to say, resistance to a violation of the undertaking contained in the first paragraph;

(2) Action in pursuance of Art. 16 of the Covenant of the League of Nations;

(3) Action as the result of a decision taken by the Assembly or by the Council of the League of Nations or in pursuance of Art. 15, par. 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a state which was the first to attack.

Art. 2. Each of the high contracting parties undertakes, in regard to each of the others, to submit to a procedure of pacific settlement, in the manner provided for in the present treaty, all questions whatsoever on which they may differ and which it has not been possible to settle by the normal methods of diplomacy.

Acceptance of these models either for bilateral or multi-lateral conventions has not taken place.

Assembly Action. After perfecting the seven texts briefly described the Ninth Assembly in its resolutions

invited all states to accept the obligations of pacific settlement in the General Act because it was "convinced that the effective machinery for insuring the peaceful settlement of international disputes is an essential element in the cause of security and disarmament." The good offices of the Council are available to bring any negotiations between states to a happy issue.

The Assembly was "convinced that the conclusion between states in the same geographical area of treaties of nonaggression and mutual assistance providing for conciliation, arbitration and mutual guaranties against aggression by any one of them constitutes one of the most practical means that can now be recommended to states anxious to secure more effective guaranties of security." The good offices of the Council are similarly available to states in negotiating such treaties.

MEANS FOR WAR PREVENTION

A draft model of a treaty to strengthen the means of preventing war was considered by the Ninth Assembly and submitted for the consideration of states. This puts in a formal text the understandings which have grown up in practice with reference to steps taken by the Council when an acute matter is before it. The parties would bind themselves in advance to comply with recommendations of the Council in such a way as not to hinder their execution.

The draft of this model treaty was circulated to states, and, as a result of the evidence before it, the Tenth Assembly recorded its conviction that the maintenance of peace would be facilitated by the acceptance of the obligations it contained. The Assembly, therefore, invited the Council to request the Committee on Arbitration and Security to establish a draft general convention on those lines so that Governments could indicate at the 11th session of the Assembly whether they would be prepared to accept such an agreement.¹

¹ *Official Journal*, X, p. 353, 1691.

The Committee on Arbitration and Security examined several other phases of the relationship between pacific settlement and security. One of these resulted in an appeal to states to accept the optional clause of the Statute of the Permanent Court of International Justice. By this clause states bind themselves always to submit disputes of a legal character to the Court.

Between the Ninth and Tenth Assemblies this recommendation of the committee and the General Act were both under consideration by Member states. In the course of the Tenth Assembly, 15 states signed the optional clause as recommended by the committee. These were: Australia, Canada, Czecho-slovakia, France, Great Britain, Greece, India, Irish Free State, Italy, Latvia, New Zealand, Nicaragua, Peru, Siam and the Union of South Africa. These acceptances brought the number of parties to the optional clause up to 42. When the clause is binding upon them, they have the reciprocal right of bringing actions against each other, without prior agreement, upon what are usually defined as justiciable matters.

A fruitful study made by the committee on Arts. 10, 11 and 16 of the Covenant brought into prominence "the fact that the League's first task is to forestall war, and that in all cases of armed conflict or of threats of armed conflict, of whatever nature, it must take action to prevent hostilities or to stop hostilities which have already begun." The examination of these three articles demonstrated that the Covenant offers special guaranties of security which should be relied upon to the extent possible.

FINANCIAL ASSISTANCE

On September 4, 1926,¹ the Council referred a Finnish proposal for the consideration of how states unfavorably placed might be compensated as to their security requirements to the Committee of the Council, the Preparatory Commission and the Financial Committee. The Financial Committee² prepared a report which was circulated for the

¹ *Official Journal*, VIII, p. 224.

² *Ibid.*, p. 137, 222.

considerations of states Members of the League. The Eighth Assembly studied the documents prepared and requested the Council to continue examination of the plan. The Financial Committee then prepared a draft convention¹ for the consideration of the Tenth Assembly, which recommended its completion by the Committee on Arbitration and Security, collaborating with the Financial Committee,² in order to have a text ready for the consideration of a special conference or the 11th Assembly.

As these committees started work, the draft before them provided that financial assistance should be given "in any case of war or threat of war in which the Council of the League of Nations, seized in virtue of the Covenant, decides that, as a measure to restore or safeguard the peace of nations in accordance with the objects of the Covenant, such assistance shall be accorded" to an involved party. The assistance contemplated is in the form of ordinary and special guaranties covering the service of loans. Parties to the convention would obligate themselves to provide guaranties proportional to their contributions to the League budget for the service of loans accruing to the benefit of a party applicant, involved in war or threat of war. The details of the scheme have been carefully elaborated with the intention of establishing an optional system under which contracting parties may lend assistance in the form of credit to injured states.

3. Pacific Settlement of Disputes

By Art. 11 of the Covenant it is "declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends."

By Art. 12 "the Members of the League agree that, if there should arise between them any dispute likely to lead

¹ *Official Journal*, X, p. 684.

² *Ibid.*, p. 1092.

to a rupture, they will submit the matter either to arbitration or judicial settlement or to inquiry by the Council."

Art. 13 deals with the arbitral method; Art. 14 provides for the Permanent Court of International Justice, which affords the method of judicial decision, and also provides that the Court may give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly; Art. 15 deals with the method of inquiry, which does not result in a binding decision; and Art. 17 extends the whole system by invitation to states non-Members of the League.

The system does not contemplate handling of any dispute until the resources of the parties respecting its settlement are exhausted; that is, direct negotiations are recognized as the normal method of adjusting difficulties between nations.

Procedure. Disputes may be brought to the attention of the Council by one or more of the states parties to it or by a disinterested Member of the League.

The jurisdiction of the League does not extend to matters solely of domestic concern.

Parties are heard on a footing of equality, their representatives sitting as Members of the Council at any meeting during the consideration of matters affecting them.

The representatives of states parties to a dispute, even though they are members of the Council, have no vote in deciding the dispute. Decisions are unanimous.¹

When the facts involve a question of law, such as the interpretation of a treaty or the effect of a decision, the Permanent Court of International Justice has in several instances been requested to give an advisory opinion upon the moot point.

The Council has made use of committees of jurists and of committees of inquiry in connection with disputes brought before it.

The Council has instructed the Secretary-General, in the case of a request for investigation or of dispute, to in-

¹ An advisory opinion of the Court has dealt with unanimity. Publications of the Court, Series B, No. 12.

form the parties immediately that, when a question has been submitted to the Council, "it is extremely desirable that the Governments concerned should take whatever steps may be necessary or useful to prevent anything occurring in their respective territories which might prejudice the examination or settlement of the question by the Council." The parties are also requested to reply stating the steps which have been taken.¹

The primary object of the Council is, in the first instance, by processes of conciliation to secure some definite decision which will either solve the difference or advance it toward solution. Frequently disputants reach their own solution between sessions of the Council, which no longer needs to concern itself with the substance of the matter. The regular meetings of the Council make it easy to repeat this process if the direct efforts of the states have not been fruitful.

DISPUTES HANDLED

The following notes indicate the variety and results of disputes brought before the Council:

Aaland Islands. On June 19, 1920, the British Government brought the case of the Aaland Islands before the Council. The dispute lay between Sweden and Finland, which was not yet a Member of the League. The claim was made that the question was within the domestic jurisdiction of Finland. This contention was submitted to a commission of jurists, which found it incorrect and held that the Council was competent to deal with the question. The Council then dispatched a commission of rapporteurs to the Aaland Islands, who presented a very full report on which the Council based its resolution of June 24, 1921.² This recognized Finnish sovereignty over the Aaland Islands, but stipulated that provisions for nonfortification and neutralization of the Archipelago dating from 1856

¹ Resolution of June 7, 1920, *Official Journal*, IX, p. 909-910.

² *Official Journal*, I, p. 248, 249. A list of the meetings and conferences on the subject, together with references to the official reports, will be found in Carroll, Marie J., *Key to League of Nations Documents Placed on Public Sale, 1920-1929*, p. 275 (Boston, World Peace Foundation, 1930).

were to be maintained and that further guaranties for the protection of the islanders should be assured.

In accordance with the resolution, a regional Baltic conference relative to the nonfortification and neutralization of the Aaland Islands was held October 10-20, 1921, and the convention establishing their demilitarization and affording the requisite protection was signed on behalf of the British Empire, Denmark, Finland, Italy, Poland, France, Germany, Sweden and Latvia. The convention entered into force April 6, 1922.¹

Poland-Lithuania. On September 5, 1920, Poland appealed to the Council to prevent war with Lithuania because Lithuanian troops had crossed the provisional frontier assigned to Poland. On September 20 before the Council both agreed to maintain neutrality, and a *modus vivendi*, including a frontier demarkation, was signed on October 7.² Meantime, General Zeligowski, whom the Polish Government declared was acting as a rebel, occupied the city of Vilna, which had a desire, it was alleged, to become Polish. The Council proposed a plebiscite, intrusting its organization to its commission of control, which was in the disputed territory. Direct negotiations under the presidency of a member of the Council failed to bring agreement on two occasions. A neutral zone was then established. Zeligowski left Vilna in November, 1921, but his troops remained. On March 24, 1922, Poland annexed Vilna. In May, 1922, Lithuania asked the Conference of Ambassadors to fix the frontier line. The Council fixed the provisional frontier, in February, 1923, and on March 15 the Conference of Ambassadors, in accordance with the Lithuanian request, fixed a line on that basis. Lithuania asked the Fourth Assembly to consider the matter and withdrew the request at the Fifth Assembly in 1924.

In October, 1927, Lithuania complained to the Council against the expulsion by Polish authorities of several persons from Vilna. Lithuania and Poland, both organized

¹ *Treaty Series*, IX, p. 212.

² *Ibid.*, VIII, p. 181.

after the war, had never established diplomatic relations, and great tension existed between them because Lithuania was not reconciled to Poland's holding of Vilna. The heads of the two Governments came to Geneva in December,¹ and the delicate question of their general relations was threshed out. Lithuania stated to the Council that she "does not consider herself in a state of war with Poland," and Poland recorded that it had no designs against Lithuania. On these mutual understandings the two Governments were recommended to enter into direct negotiations to settle all their difficulties.² In March, June³ and September, 1928, the Council heard the parties and on each occasion learned that Lithuania had resorted to technical objections to delay the diplomatic negotiations, which had, therefore, not made much progress. Both parties, however, admitted their duties toward the Council, which in September passed a resolution to place Polish-Lithuanian relations in general on its agenda, thus forecasting an examination by the Council of the political differences and tension between the parties.

On December 14, 1928, the Council appointed a subcommittee to report on "the practical steps which might be adopted, account being taken of the international agreements in force, to remedy the situation between Poland and Lithuania [as regards freedom of communications and transit] or to lessen its international repercussions." The subcommittee met in March, 1929, and again December 16-20, 1929. At its first meeting it divided into two committees, one to examine the obstacles to freedom of communications and transit between the countries and the other to study the bearing of international agreements in force on the solution of the problem. Their reports were passed upon by the Advisory Committee for Communications and Transit in the spring of 1930 and thence passed to the Council for negotiations looking to a settlement.

¹ *Official Journal*, IX, p. 144.

² *Ibid.*, p. 177.

³ *Ibid.*, p. 225.

Albania. In June, 1921, Albania alleged to the Council that Greek and Serb-Croat-Slovene troops were in its territory. A little later, when the Conference of Ambassadors was fixing the frontier, it requested the Council to appoint a commission to report on the execution of its decision. In November, 1921, press reports stated that Serbian forces were advancing into Albania. Great Britain brought that fact before the Council on the ground that a plan was on foot to detach part of Albania. While the Council was in session on that appeal, the decision of the Conference of Ambassadors as to the Albanian frontiers was issued. The League commission was maintained in Albania until 1923 in order to guide the first steps of the new Government.¹

Eastern Carelia. In November, 1921, disorder broke out in Eastern Carelia, which was granted a form of autonomy under the treaty of peace² between Finland and Russia. Finland brought the matter before the Council, but the Soviet Union claimed it was a domestic matter. The Council referred this question to the Permanent Court for an advisory opinion, which the Court declined to render because the Soviet Union refused to appear. The Council did not pursue examination of the question for the same reason, nor did Finland subsequently complain of the treatment of the inhabitants of Eastern Carelia.

Jaworzina Frontier. The Czechoslovak-Polish frontier in the Jaworzina region was fixed by a decision of the Conference of Ambassadors on July 28, 1920. The delimitation commission laid down a modified line to which Czechoslovakia protested, and the difficulty thus created was referred to the Council. The question hinged on the finality of the 1920 decision, a legal matter on which the Permanent Court was asked for an advisory opinion. On that basis the Council made a recommendation, and the Conference of Ambassadors again asked it to recommend a definitive line, which it did acceptably. The ter-

¹ *Official Journal*, V, p. 546, 843, 924, 1017, 1298.

² *Treaty Series*, III, p. 6.

ritory in dispute was established as the international game reserve of Tatra by the parties.

Iraq Boundary. The treaty of peace with Turkey, signed at Lausanne July 24, 1923,¹ provided that the frontier between Turkey and Iraq was to be laid down by agreement between Turkey and Great Britain. If this was not done in nine months, it was to be referred to the Council of the League, to which it was brought in 1924. A commission of inquiry was dispatched to look over the ground, the Council fixing a provisional line in the interval.² In September, 1925, the Council resumed examination of the question, which was extensively argued.³ A point as to the voting procedure in taking the decision was referred to the Permanent Court for an advisory opinion. The Council thus had a basis for reaching a final decision without the votes of the disputants counting, and it rendered a decision which ran the boundary line through the Mosul district (which contains oil) on December 16, 1925. This line was made definitive by the Council on March 11, 1926. Subsequent negotiations between Great Britain and Turkey resulted in a small cession to Turkey and the completion of an agreement fixing the final line.⁴

Upper Silesia. A plebiscite in the valuable mining district of Upper Silesia resulted in a vote that made the territory look like a German-Polish checkerboard. It fell to the Supreme Council of the Allied Powers to draw the boundary line determined by the plebiscite. They referred the problem to the League, and the Council decided that, since the plebiscite area was an industrial unit, a transitional régime, which would preserve the economic life of the district, was necessary. The Conference of Ambassadors adopted these recommendations on October 20, 1921, and German-Polish negotiators met at Geneva, under the presidency of a Council appointee, to elaborate the very detailed system for the administration of Upper

¹ *Treaty Series*, XXVIII, p. 17.

² *Official Journal*, V, p. 1659.

³ *Ibid.*, VI, p. 1310-1439.

⁴ *Ibid.*, VII, p. 838.

Silesia as an economic whole for a period of 15 years. The German-Polish convention was signed on May 15, 1922,¹ and entered into force on June 3, 1922.

Greece-Italy. The Italian member of a commission of the Conference of Ambassadors, which was fixing the boundary between Albania and Greece, was murdered on the Greek side of the border on August 27, 1923. Italy made demands for amends in a 24-hour ultimatum, which included a stipulation to pay an indemnity of 50,000,000 lire. The Greek reply did not accept all of the demands, including that one, whereat Italian naval vessels occupied the Greek island of Corfu at the mouth of the Adriatic Sea, after a bombardment in which some 20 refugee children lost their lives. On September 1, Greece appealed to the Council under Arts. 12 and 15 of the Covenant. The Italian representative claimed that the question was one for the Conference of Ambassadors; but the Assembly, which was in session, was decidedly, though informally, of the opinion that the League had a responsibility in the affair. On September 6, the Council discussed proposed terms of settlement, but on the objection of the Italian representative failed to pass them. The proposals were then rushed to Paris for the information of the Conference of Ambassadors, which on September 7 substantially adopted them. This decision was accepted by both Greece and Italy. Inquiry on the ground failed to prove that Greece was guiltless of the murder, and the Conference of Ambassadors on September 25 awarded to Italy the indemnity originally claimed by her. Meantime, Italy had voluntarily announced an intention to evacuate Corfu on September 27 and did so. In a political sense this last action was of importance, because in the past such instances had frequently led to forced cessions of territory.

Memel. The Conference of Ambassadors was intrusted by the treaty of Versailles with finally disposing of the territory of Memel. Lithuania was unwilling to accept the terms for its transfer, and the question of bringing about an agreement was referred to the Council. It ap-

¹ The *Convention germano-polonaise* is published separately.

pointed a commission that worked out a convention, signed at Paris, May 18, 1924, by which the British Empire, France, Italy and Japan transferred Memel to Lithuania.¹

Any infraction of the convention may be brought before the Council. On June 9, 1926, a memorandum from the Diet of Memel alleging violation by Lithuania of the Memel convention came before the Council. Lithuania² contested the form of procedure adopted for hearing such complaints.³ A committee of jurists decided that the complaint was not convincing as to the existence of infractions. Accordingly, Great Britain, France, Italy and Japan withdrew their complaint.⁴

Bulgaria-Greece. On October 22, 1925, the Bulgarian minister of foreign affairs telegraphed to the Secretary-General that, as a result of a border fight between sentries, Greek troops had been ordered to advance into Bulgarian territory and were about five miles over the line. He appealed to the League⁵ under Art. 11, par. 1, of the Covenant, by which it is the duty of the Secretary-General to "forthwith summon a meeting of the Council." The Council met at Paris, October 26 at 6 P.M., one member arriving by airplane.

After statements by the Bulgarian and Greek representatives, they were brought to associate with the Council in calling upon the two Governments to give unconditional orders for their troops to withdraw behind their respective frontiers within 24 hours, and to accomplish that within 60 hours.⁶ This was accomplished, and other phases of the difficulty were discussed until October 29, when the Council appointed a commission to investigate on the spot. Both parties agreed in advance to accept the decisions of the Council.

¹ *Treaty Series*, XXIX, p. 85.

² *Official Journal*, VII, p. 1273.

³ *Ibid.*, VI, p. 1305.

⁴ *Ibid.*, VII, p. 1407-1408.

⁵ *Ibid.*, VI, p. 1406.

⁶ *Ibid.*, p. 1409.

The report came before the Council on December 7 and involved a payment of 30,000,000 levas (\$210,000) by Greece to Bulgaria for damage done, and this was duly paid. The report brought out the great danger to peace due to soldiers being continuously in close juxtaposition along a border where tension and the disorder of Bulgarian *comitajis* existed. The Council recommended that two Swedish officers should be attached to the Greek and Bulgarian forces to settle any disputes arising between the border forces, a neutral president to be added in case a question arose. As disorder has not occurred, no president has been appointed.

The report called attention to the fact that the Greek order to suspend operations reached the scene of action only two hours and a half before the attack was timed to begin. The conclusion was that a state of hostilities was narrowly averted by the prompt action of the Council. This circumstance has since led to extensive investigations as to the means of insuring the prompt meeting of the Council in case of emergency and of speeding up any emergency messages it might have occasion to send.¹

Hungary-Rumania. Certain Hungarian optants, affected by the Council's minorities decision of 1923² brought their case before the Mixed Rumanian and Hungarian Arbitral Tribunal established by Art. 239 of the treaty of Trianon. Rumania withdrew its arbitrator. By the treaty, the Council may appoint arbitrators on those tribunals. Rumania made a statement to the Council on March 8, 1927,³ Hungary also presenting its side. A Committee of the Council, having failed to bring the parties together, the conclusions of a committee of jurists on the legal aspects of the question was presented to the disputants. Rumania accepted this report, but Hungary did not, proposing that the Council request an advisory opinion of the Permanent Court as to whether the Mixed Arbitral Tribunal had exceeded its powers. Direct negotiations

¹ *Official Journal*, VIII, p. 226, 1280 f.

² See p. 212.

³ *Official Journal*, VIII, p. 350, 1379, 1411.

failed in September, 1927, and March, 1928. In August, 1928, however, the two parties had been brought to a point where negotiations were resumed, and when the Council met in December, 1928, these were still under way.

Throughout 1929 the question was adjourned from session to session of the Council because of negotiation between the parties being imminent. The settlement which was arrived at was part of the arrangements effected by the New Plan on reparation. The Young Plan of June 7, 1929, recommended that all outstanding questions be regulated between reparation debtors and creditors. As a consequence, the succession states of the former Austro-Hungarian monarchy with others began negotiating on the entire question of property, rights and interests still undecided. These negotiations covered fundamentally matters of which the question which had been before the Council were but a part. By a series of agreements drafted in principle on January 20 and finally signed April 28, 1930,¹ the whole question was resolved by establishing an agrarian fund to which Hungary on one part and Czechoslovakia, Rumania and Yugoslavia on another part, contributed outright, and France, Great Britain and Italy contingently. Claims not settled by the parties or by reference, after an interval, to the Mixed Arbitral Tribunals were to be appealed to the Permanent Court. All awards are against the fund rather than the states in which the property of Hungarians is situated.

Bolivia-Paraguay. At the beginning of its 53d session, the Council learned through the press of attacks on forts in the Chaco district, which was in dispute between Bolivia and Paraguay. On December 11, 1928,² the Council telegraphed to both parties its conviction that the incidents would not become more serious. At the moment both states had delegates in the Pan American Conference on Arbitration and Conciliation which had just opened its sessions at Washington. This conference, by

¹ *Agreements concluded at the Hague Conference, January, 1930.* Parl. Pap., Misc. No. 4 (1930), Cmd. 3484, p. 156; *L'Europe Nouvelle*, May 3, 1930, p. 700.

² *Official Journal*, X, p. 21. See also *Documentation concerning the Dispute between Bolivia and Paraguay*, C. 619. M. 195. 1928. VII. and C. 16. M. 13. 1929. VII.

reason of its character and the engagements between the disputants, who were members of it, immediately set up a committee for consideration of the dispute. Meantime both Bolivia and Paraguay stated their cases to the Council of the League and assured their fellow Member states that they were loyal to the obligations arising under the Covenant. It appeared that the only effective contractual obligation not to resort to war that existed between the two disputants was the Covenant.¹ The Washington conference set up a Committee of Conciliation which resolved the immediate dispute, but in which the parties did not agree to submit the underlying question of a boundary to settlement. In May, 1929, an incident in the disputed territory resulted in complaints to Geneva and an exchange of telegrams in which the two states finally asserted their peaceful intentions.²

The boundary question and that of the resumption of diplomatic relations became the subject of negotiations under the mediation of Uruguay after the report of the Pan American Committee of Conciliation. On January 20, 1930, Bolivian and Paraguayan troops encountered each other in the Chaco, a Paraguayan soldier being killed. Paraguay reported the incident to Geneva, and in a series of telegrams complained of the Bolivian attitude. The acting president of the Council conducted a correspondence with the representatives of both states and finally received assurances from their respective ministers for foreign affairs that neither country would disturb the peace.³ Under the auspices of Uruguay a full settlement was reached and relations were resumed between the two countries.

¹ *Official Journal*, X, p. 204, 205.

² *Ibid.*, p. 577.

³ *Correspondence relating to the Dispute between Bolivia and Paraguay*, C. 127, X, at 153A, 171.

V. RELATIONS BETWEEN STATES

THE work of the League of Nations is conducted through its Assembly as a periodic consultative body; the Council as a continuously directing organ; the technical organizations, commissions, committees and sub-committees consecutively exploring definite fields of interest to Member states, working toward agreement by the states in these fields or managing the matters on which agreements have been reached; diplomatic conferences assembled by the Council, usually on the suggestion of the Assembly, in which Member states and others define their relations with each other on specific subjects of mutual concern; and the permanent Secretariat whose functions are to draft, compile and record for all of these and which consequently serves under the Secretary-General to coordinate all activities.

The daily functioning of some or all of these organs in the course of years has brought the public men of all countries increasingly into contact at Geneva. The mere acquaintance of those who conduct the foreign relations of various countries with each other has greatly facilitated the handling of their own affairs. Geneva affords a neutral ground where ministers of foreign affairs and others meet as man to man. All representatives of Members of the League meet on common bases with respect to their undertakings, agreements and engagements toward each other under the Covenant. It is, therefore, easy for them to discuss matters which concern their own Governments more frankly and freely in the Assembly or in their chance meetings than they could do otherwise.

This feeling of confidence has manifested itself in a number of ways. Many outstanding questions between individual states have been solved by using the opportunities of meeting afforded at Geneva. Geneva meetings have been frequently used as the forum from which to make

announcements intended for the world or to propose subjects for future negotiation or realization. In another direction equal rights and obligations of Members of the League under the Covenant have encouraged Members to bring to the attention of their peers matters which otherwise might have resulted in considerable controversy.

THE BAHREIN ISLANDS

On May 20, 1927, the British Government and the king of Hejaz and Nejd, the Sultan Ibn Saud, signed a treaty at Jeddah by which the latter "undertakes to maintain friendly and peaceful relations with the territories of Kuwait and Bahrein, . . . who are in special treaty relations with His Britannic Majesty's Government." When this treaty came to the attention of the Persian Government a letter was addressed on November 22, 1927, to the British minister at Teheran in which it was stated that "as Bahrein is incontestably in Persian possession," the reference to it in the treaty "constitutes an infringement of the territorial integrity of Persia and is incompatible with the good relations which have always existed between the two friendly neighbor states." Persia transmitted this protest to the Secretary-General, who circulated it to Member states. In reply, Great Britain transmitted its answer to the Persian protest to the same official for like treatment.¹ The substance of this note was that British treaty relations with the successive sheiks of Bahrein had existed since 1820 and that Persia's prior control in the islands had not been reestablished since 1783. In a further reply of August 2, 1928, also circulated to Members of the League, Persia took up these and other points in detail, concluding with the maintenance of its protest and asserting that Persia was "the legitimate sovereign of the Islands of Bahrein."²

Persia reverted to the matter again in a note to the British minister dated January 5, 1929, by which the latter was informed that "no passports will be issued to

¹ *Official Journal*, IX, p. 605.

² *Ibid.*, p. 1360.

Persians going to Bahrein," and that any responsibility for damages suffered by Persians would rest upon the British authorities requiring such a condition.¹ The British Government on February 18² reviewed at length the historical relations between Bahrein and Great Britain and Persia and asserted that the "present antiquated claim of Persia could not be sustained." It expressed its surprise that Persia should imagine that the terms of Art. 10 of the Covenant could be construed to "lay an obligation on Members of the League to support Persian pretensions to an island, which is separated from Persia by the whole width of the Persian Gulf and over which Persia has exercised no authority for 145 years."

PROTEST OF ETHIOPIA

The Secretary-General received from the Ethiopian Government a note dated June 19, 1926, accompanied by copies of notes exchanged by the British and Italian Governments and by them communicated to the Ethiopian Government, copies of its replies to this notification and the text of its protest against the agreement resulting from the above correspondence.³ Ethiopia stated that on its admission to the League it was "not told that certain Members of the League might make a separate agreement to impose their views on another Member" and that in its view the Anglo-Italian agreement "conflicts with the essential principles of the League of Nations." The agreement referred to was an exchange of notes of December 20, 1925, by which Great Britain and Italy reciprocally recognized the exclusive character of each other's influence in certain portions of Ethiopia. In case Great Britain should secure a concession for a barrage on Lake Tsana and in case Italy should secure a concession to construct and operate a railway joining Eritrea and Italian Somaliland across Ethiopian territory, each engaged to support the claim of the other with the Ethiopian Government.

¹ *Official Journal*, X, p. 351.

² *Ibid.*, p. 798.

³ *Ibid.*, VII, p. 1517.

Ethiopia felt "that, in agreeing to support each other in these matters, and in giving us a joint notification of that agreement, the two Governments are endeavoring to exert pressure on us in order to induce us to comply with their demands prematurely." As a consequence, the heir to the throne desired to "hear from the Members of the League whether they think it right that means of pressure should be exerted upon us which they themselves doubtless would never accept."

The British Government on August 3 regretted that the communication of the Anglo-Italian notes to Ethiopia had resulted in their purport being misconstrued and intentions being "attributed to the British and Italian Governments which they have never entertained." There was nothing in the notes "to suggest coercion or the exercise of pressure on the Ethiopian Government." They did not reserve any part of Ethiopia to the economic influence of either state but only recognized that condition between Great Britain and Italy, which "recognition can not affect the rights of third parties or bind the Government of Abyssinia."

The Italian letter of August 7 to the Secretary-General took the same line, holding that the notes "simply constitute an agreement as to procedure . . . with a view to coordination of certain economic interests" and that the application of the agreement "would naturally be subject to the decisions of the Abyssinian Government and the latter's recognition that these interests were in keeping with those of Abyssinia." The notes were intended "to avoid competition which might imperil the success of these enterprises and hinder that development of local resources which it may well be in the interests of Abyssinia to assist and promote."

On September 4 Ethiopia stated to the Secretary-General that the two states had in the interval "endeavored to allay its apprehensions by emphasizing their friendly intentions." In its view, "under Art. 20 of the Covenant they had no right to contract such an agreement; but as they had, of course, no intention of violating that article,

their agreement could have no legal force in our regard and must be deemed to be null and void." However, Ethiopia would have felt no further apprehension had not the two states brought the agreement to its notice on the same day, a circumstance which "could only be interpreted as the first symptom of the intention to exert pressure." Since the notes exchanged had already been registered for publication in the *Treaty Series*, the Ethiopian Government requested the addition of its present letter to the notes as there printed; so that all Members of the League would know that "the Imperial Government retains, as the British and Italian Governments themselves have stated, full and complete freedom to decide as to requests which may be made to it, and has a perfect right to judge what is in the interest of Abyssinia."

The matter having reached this point, Ethiopia did not request that it be placed on the agenda of the Council.

The Secretary-General circulated the entire correspondence to all Members of the League and published it in the *Official Journal*. It was, however, found necessary to rule that the Ethiopian letter of September 4 was a unilateral declaration and consequently could not be registered and published in the *Treaty Series* as a treaty or international engagement within the meaning of Art. 18. Nevertheless, "a suitable reference will be inserted in the *Treaty Series*¹ at the end of the text of the notes exchanged between the British and Italian Governments."

A FEDERAL BOND IN EUROPE

The continent of Europe contains 27 Members of the League of Nations, most of whom speak different languages, all of whom have different cultural and historical backgrounds and economic and social problems. On September 5, 1929, in reviewing the work of the League to the Tenth Assembly, Aristide Briand, prime minister of France, said:²

¹ Vol. I, p. 282.

² *Records of the Tenth Assembly, Plenary Meetings*, p. 52.

I think that among peoples constituting geographical groups, like the peoples of Europe, there should be some kind of federal bond; it should be possible for them to get into touch at any time, to confer about their interests, to agree on joint resolutions, and to establish among themselves a bond of solidarity which will enable them, if need be, to meet any grave emergency that may arise. That is the link I want to forge.

Obviously, this association will be primarily economic, for that is the most urgent aspect of the question, and I think we may look for success in that direction. Still, I am convinced that, politically and socially also, this federal link might, without affecting the sovereignty of any of the nations belonging to such an association, do useful work; and I propose during this session, to ask those of my colleagues here who represent European nations to be good enough to consider this suggestion unofficially and submit it to their Governments for examination, so that those possibilities which I see in the suggestion may be translated into realities later — perhaps at the next session of the Assembly.

One of the principal responses to this suggestion was made by the late Gustav Stresemann, foreign minister of Germany, who emphasized the economic disorganization of Europe. He said:¹

How many things there are that appear so extraordinarily absurd about Europe and its construction, from the economic point of view! It is absurd to me that Europe should appear not to have progressed, but to have gone back. Look at Italy. We can scarcely imagine there being no united Italy, or the different parts of what we now call Italy being separate economic entities and fighting against one another. Nor can we conceive without a smile what Germany was like before the Customs Union, when merchant ships from Berlin were held up on the Elbe because some other customs system began at the frontier of Anhalt. Just as these are ideas which strike us as quaint and medieval and which we have long outgrown, so there are many things in the new Europe which give a very similar impression.

. . . Is it not absurd that modern invention should have reduced the journey from South Germany to Tokio by 20 days, while in Europe itself hours are wasted stopping at frontiers for customs

¹ *Records of the Tenth Assembly, Plenary Meetings*, p. 70.

inspections, as if Europe were a sort of little huckster's shop still open beside the big world emporium. New industries are founded for reasons of national prestige; they must be protected, must seek new markets and are rarely able to find profitable ones in their own country.

Where is the European coinage, where are the European stamps that we need?

Are not these subdivisions born of national prestige long since out of date, and do they not do our continent an immense amount of harm, not only in the relations between various countries, but also in those between Europe and other continents?

On M. Briand's invitation the representatives of the 27 states concerned met at luncheon on September 9, 1929, and compared their views. As a result, the French Government was intrusted with the task of preparing a memorandum of proposals for the consideration of the Governments. This was issued to them on May 17, 1930, on the day that the New Plan for reparation settlement entered into force.

APPENDIX

DRAFT CONVENTION FOR DISARMAMENT¹

[The Preparatory Commission for the Disarmament Conference has devoted six sessions to reconciling conflicting views on the principles to be adopted for realizing the reduction and limitation prescribed by Art. 8 of the Covenant. The seventh session of the commission will convene on November 3, 1930, when further agreement will be sought. At that time effort will be made to complete the draft convention by finishing the second reading of that part of the text below already adopted on first reading at the third session of the commission (March 21–April 26, 1927) and possible revision of the second reading (April 5–May 6, 1929). The draft convention, when completely determined on second reading, will according to expectations be submitted to a diplomatic conference for final consideration.]

[The appended text shows the status of agreement and the substance of the draft convention after the sixth session of the commission, that is, partly accepted on first reading and partly on the second reading.]

PREAMBLE (1st reading)

<i>British Draft</i>	<i>French Draft</i>	<i>German Draft</i>
Names of the high contracting parties.	List of high contracting parties.	Whereas heavy armaments constitute the most serious menace to the peace of the world;
Persuaded that the maintenance of peace requires the reduction of armaments to the lowest point consistent	In view of Art. 8 of the Covenant of the League of Nations; Whereas the reduction of armaments must be in	And whereas Art. 8 of the Covenant of the League of Nations provides for a

¹ Compiled from *Documents of the Preparatory Commission for the Disarmament Conference . . . Series IV*, p. 398, and *Series VIII*, p. 222 (C. 310. M. 109. 1927. IX. 5 and C. 195. M. 74. 1929. IX. 3).

with national safety and the enforcement by common action of international obligations;

Considering that all Members of the League of Nations are already pledged by Art. 8 of the Covenant of the League to the acceptance of the principle enunciated above:

Realizing that the purpose of the limitation of armaments by international agreement is to diminish the risk of aggressive action by one state against another and that all agreements for limitation of armaments should be construed in the light of that purpose:

Believing that, in order to obtain the greatest possible advantage from a reduction and limitation of armaments, such reduction and limitation must cover military, naval and air armaments and must embrace as many nations as possible:

accordance with general conditions of security and the special conditions of each state:

And whereas the treaty of mutual assistance and the protocol for the pacific settlement of international disputes, which were intended to define more precisely the operation of Art. 16 of the Covenant of the League of Nations, have not been applied;

And whereas the general guarantees resulting from the Covenant still exist;

And whereas regional agreements based upon the principles of the Covenant and arranging for mutual assistance between the signatory states in the event of attack have been successively concluded and have resulted in improved conditions of security for a number of states:

Consider that it is now possible to contemplate a first step

general reduction of armaments;

The high contracting parties have resolved to conclude a convention as a first step toward the accomplishment of this purpose, to be followed by successive measures with a view to further disarmament, and have appointed

Determined to alleviate to the greatest possible extent the heavy burden which expenditure on armaments is imposing upon the economic life of the world, and thus lowering its standard of living:

Have resolved to conclude a convention with a view to accomplishing these purposes and have appointed as their plenipotentiaries:

The President...

Who, having communicated their full powers, found in good and due form, have agreed as follows:

toward the limitation and reduction of armaments laid down in Art. 8 of the Covenant.

And, having decided to conclude a convention for this purpose, have appointed as their plenipotentiaries...

Who, having deposited their full powers found in good and due form, have agreed upon the following provisions:

CHAPTER I — EFFECTIVES¹

ARTICLE A (2d reading)

The high contracting parties agree to limit to the effectives determined in the tables enumerated below and annexed to the present convention the effectives (land, sea and air) in service in their armed forces, or in formations organized on a military basis.

I. *Land Armaments*

Table I. — Maximum armed forces stationed in the home country.

Table II. — Maximum armed forces stationed overseas (optional).

Table III. — Maximum of the total armed forces of the H. C. P.

Table IV. — Maximum of the forces belonging to formations organized on a military basis stationed in the home country.

Table V. — Maximum of the forces belonging to formations organized on a military basis stationed overseas.

II. *Naval Armaments* (1st reading)

Table VIII.² — Maximum armed forces.

Table IX.³ — Maximum forces belonging to formations organized on a military basis.

(Discussion of text of first reading, and the reservations relating thereto, adjourned.)

¹ *Observations and reservations* (1st reading):

The German delegation makes a general reservation in regard to Chap. I as a whole which, contrary to its view, does not contain any limitation of reserves given military training, registered, and compelled by law to serve in case of war, although in its opinion these reserves, while non-existent in professional armies, form the decisive factor as regards personnel in war, in countries having a conscript system.

The British delegation reserves the opinion of its Government as to the limitation of trained reserves. [Position given up, April 27, 1929, *Series VIII*, p. 123.]

The delegation of the United States of America makes a general reservation on the following provisions of Chap. I as regards the inclusion of formations organized on a military basis and the exclusion of trained reserves. ["As a practical matter," conceded this attitude, April 26, 1929, *Series VIII*, p. 114.]

² The delegations of the British Empire and the United States of America only accept the limitation of naval effectives provided such limitation is generally accepted and provided also that a satisfactory agreement is reached respecting the limitation of warships.

³ The delegation of the British Empire considers Table IX unnecessary.

III. *Air Armaments* (2d reading)

Table I.—Maximum armed forces stationed in the home (optional) country.

Table II.—Maximum armed forces stationed overseas (optional).

Table III.—Maximum of the total armed forces of the H. C. P.

Table IV.—Maximum of the forces belonging to formations organized on a military basis stationed in the home country.

Table V.—Maximum of the forces belonging to formations organized on a military basis stationed overseas.

ARTICLE H (2d reading)

The tables relating to land armaments mentioned in Art. A above, shall indicate a maximum number of officers which each H. C. P. shall undertake not to exceed.

The said tables further fix a maximum number of soldiers, other than officers, who may have completed more than x^1 years of actual service with the colors.

In conscript armies the number of men, whose service exceeds the legal period in force in their respective countries but is less than x^1 years, shall be shown for each H. C. P. in the annual statements for which provision is made in Art. I A of Chap. V.

The tables relating to air armaments mentioned in Art. A shall indicate, in the form of aggregate figures for officers, noncommissioned officers and men together, the maximum number of soldiers who may have completed more than x^1 years of actual service with the colors.

The number of men of the class mentioned in the second and fourth paragraphs of the present article who are actually with the colors shall be shown every year for each H. C. P. in the statements for the preparation of which provision is made in Art. I A of Chap. V.

Each country may, if it so desires, show for purposes of information, in a special column in publicity table I A of Chap. V, the number of recruits not trained as defined in the national legislation who are embodied in the effectives of its armed forces.

(To be discussed later as far as naval effectives are concerned.)

¹ This figure will be determined by the duration of the longest period of actual service with the colors which is in force in the conscript armies of the H. C. P. at the time of the signature of the convention.

ARTICLE C (2d reading)

By "formations organized on a military basis" shall be understood police forces of all kinds, gendarmerie, customs officials, forest guards, which, whatever their legal purpose, can be used without mobilization, by reason of their cadres, establishment, training, armament, equipment, as well as any organization complying with the above condition.

ARTICLE D (2d reading)

By "mobilization" within the meaning of the present convention shall be understood all the measures for the purpose of providing the whole or part of the various corps, services and units with the personnel and material required to pass from a peacetime footing to a war-time footing.

ARTICLE F (1st reading)

Each of the high contracting parties may, within the limits fixed by the tables relating to land armaments in Art. A, and should the conditions affecting its security so require, modify the distribution of the said forces between its home territories and overseas territories.

Any modification in this distribution shall be shown in the annual statements of particulars, the preparation of which is provided for in Art. I A of Chap. V below.

ARTICLE E (2d reading)

When drawing up the tables mentioned in Arts. A (Chap. I) and I A (Chap. V): by "effectives in service in the armed forces" and by "effectives in service in the formations organized on a military basis" shall be understood the average daily effectives reduced by dividing the total number of days' duty by the number of days in the budgetary year.

(The discussion of this article as far as naval and air effectives are concerned has been reserved.)

ARTICLE I¹ (1st reading)

In each contracting state having the conscription system, the total period of service which the annual contingent is compelled to serve shall not exceed the figure accepted by each of the high contracting parties.

For each man the total period of service shall be the total number of days of active service and of days of service during the periods of instruction which he undergoes.

(Discussion of the text adopted at first reading, and of German proposal, Doc. C. P. D./174 (1)² adjourned.)

CHAPTER II — MATERIAL

SECTION I — LAND ARMAMENT³ (1st reading)

[A resolution submitted by the delegations of France and the United States on May 4, 1929, and adopted 22 to 2, read:

["The Preparatory Commission for the Disarmament Conference,

["having considered the systems of direct limitation of material in service and in stock,

["having noted that the system of indirect limitation (limitation of the expenditure on material) did not meet with general assent:

["decides

["that the limitation and reduction of material must be sought by means of publicity of expenditure, which will be dealt with in examining Art. DA of the text adopted at the first reading."]

¹ This article has not been discussed in connection with naval and air effectives.

The delegation of France declares that the clauses of this article must apply in the same conditions to land, naval and air effectives.

² The German proposal, made May 1, 1929 (*Soviet VIII*, p. 154), reads:

"In each contracting state having the conscription system, the annual contingent and the total period of service which the annual contingent is compelled to serve shall not exceed the figure accepted by each of the high contracting parties.

"For each man the total period of service shall be the total number of days of active service and of days of service during the periods of training which he undergoes. The period of active service shall be shown separately.

"No register shall be kept of persons whose military obligations are terminated."

³ *Observations and Reservations.* — The delegation of the United States of America makes a general reservation on the failure to include provisions for the limitation of material both in the hands of forces serving with the colors and reserve material of land and air forces. [*Wichitans* as to "material in store," May 1, 1929, *Soviet VIII*, p. 162.]

ARTICLE TA (1st reading)

*German Draft*¹

The high contracting parties agree to limit the maximum material of their land forces in service and in reserve to the figures fixed in Table . . . , annexed to the present convention.

French Draft

In each of the contracting states, the total expenditure on the upkeep, purchase and manufacture of war material in the strict sense of the term, for the duration of the present convention shall be limited for the land, naval and air armament to the respective sums fixed in Columns X, Y and Z of Tables² (home forces and formations of the home country organized on a military basis) and . . . (overseas forces and their reinforcements and overseas formations organized on a military basis) annexed to the present convention.

The said sums shall be divided by the number of years for which the present convention remains in force, and, in each of the contracting states, the annual expenditure on the upkeep, purchase and manufacture of war material in the strict sense of the term shall not exceed the figure laid down for each year; nevertheless, sums not expended during one year may be carried forward to the following year and added to the sums fixed for that year.

TABLE

Material in Service and in Reserve	Maximum Number of Arms	Quantity of Ammunition for the Various Arms (Rifles, Machine-guns, etc.)
1. Rifles or carbines . .		
2. Machine guns and automatic rifles .		
3. Guns, long and short, and howitzers of a caliber below 15 cm. .		
4. Guns, long and short, and howitzers of a caliber of 15 cm. or above		
5. Mortars of all kinds . .		
6. Tanks . . .		
7. Armored cars .		

¹ The delegations of Italy and Japan make a general reservation as regards limitation of material proposed in Art. TA (German draft).

² The tables referred to correspond to the model statements provided for in the report of the budgetary experts. Their definitive form depends on the final conclusions of these experts. (Compare *Subcommission B. Report No. III, C. P. D. 40, 1927, IX. 4.*)

SECTION II — NAVAL ARMAMENTS¹ (1st reading)

[The text of this section is materially affected by the principles contained in the treaty for limitation and reduction of naval armament signed at London, April 22, 1930.]

ARTICLE NA

British Draft

The high contracting parties agree to limit to the figures laid down the number and tonnage of all the ships in each of the classes specified in Annex. . . .

French Draft²

The limitation of naval armaments agreed to by each of the high contracting parties is shown in the annexed Table X.

The figures in column I of this table represent the total tonnage that each of the high contracting parties considers it essential to attain for the purposes of security and the defense of its national interests.

The figures in column II represent the total tonnage that each of the high contracting parties considers it necessary to complete before the expiry of the convention.

Italian Draft

Each of the high contracting parties, within the limits of the total tonnage which it undertakes not to exceed, may distribute and arrange its tonnage to the best advantage for its national interests, subject to communicating to the Secretariat of the League of Nations, at least six months before laying down the keel, the characteristics of each vessel of war which it intends to construct, in conformity, for example, with Art. XVI of the treaty of Washington.

¹ The German delegation declares that it is necessary to limit naval material in reserve in addition to floating material.

² The French delegation points out that the accompanying French text constitutes the draft for reaching a compromise, which, after discussion and with a view to finding a formula for agreement, it has substituted for its original draft, which included only the first four paragraphs of this text.

The figures in column III represent, for each of the high contracting parties, the division of the total tonnage stated by it in column II into total tonnage by groups.

These total tonnage groups apply to all ships of a similar nature in the following manner: (a) capital ships; (b) aircraft carriers; (c) surface ships of less than 10,000 tons; (d) submarines.

Each of the high contracting parties, while keeping within the limits of total tonnage stated in column II, can alter such division as it deems necessary for its security, subject to informing the Secretariat of the League of Nations of the changes brought to the division of its total tonnage, at least one year before laying down the portion of the tonnage which is to be transferred.

Note. — Each of the high contracting

parties states in column III the division of its total tonnage, either into the four groups of vessels as stated in paragraph 4, or only into those groups which it considers necessary for its needs of security.

TABLE X¹
ANNEX TO ART. NA OF FRENCH DRAFT
Total Tonnage of Warships

I Tonnage Essential for the Purposes of Security and the Defense of National Interests	II Tonnage to be Completed before the Expiry of the Treaty	III Division into Total Tonnage by Groups of the Total Tonnage stated in Column II			
		TOTAL TONNAGE OF			
		Capital Ships	Aircraft Carriers	Vessels under 10,000 Tons	Submarines
		a.	b.	c.	d.

¹ The delegations of the United States of America and Italy make a general reservation concerning this table.

ARTICLE NB

British Draft

The high contracting parties agree to limit to the figures laid down in Annex — for each class of ship the maximum tonnage of any one ship and the caliber of the largest gun that may be mounted thereon.

French and Italian Draft

The high contracting parties agree to limit to the figures laid down in Annex — the tonnage of the largest vessel of war and the caliber of the largest gun mounted in any vessel of war.

ARTICLE NC

British Draft

The high contracting parties agree to limit to the figures laid down in Annex — the maximum diameter of the largest torpedo tube carried by any ship.

ARTICLE NE

French Draft

In assessing total tonnage a fraction only equal to — per cent of the real tonnage shall be calculated in the case of vessels of war which have exceeded the age limit indicated in Table — of the Annex.

ARTICLE ND

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

This assessment shall be in metric tons.

ARTICLE NF

The high contracting parties undertake that, except in case of loss, no vessel of war shall be replaced before having reached the age limit indicated in Table of the Annex. The age of units shall be counted as from the date of their completion.

ARTICLE NG

With the exception of those ships which, in order to effect economy and specially mentioned in the convention as being allowed to be converted into a type of warship other than that for which it was originally designed, no ship which has been replaced may be reconverted into a vessel of war.

ARTICLE NH

No preparation shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6 inches (182 millimeters) caliber.

ARTICLE NI

No vessel of war constructed within the jurisdiction of any one of the contracting parties for a noncontracting power shall exceed the limitations as to displacement and armament prescribed by the present treaty for vessels of a similar type which may be constructed by or for any of the contracting powers; provided, however, that the displacement for aircraft carriers constructed for a noncontracting power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

ARTICLE NJ

In the event of a contracting power being engaged in a war, such power shall not use as a vessel of war any vessel of war which may be under construction within its jurisdiction for any other power, or which may have been constructed within its jurisdiction for another power and not delivered.

ARTICLE NK

Each of the contracting powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign power.

SECTION III — AIR ARMAMENTS

ARTICLE AA (2d reading)

Each of the H. C. P. undertakes to limit the air material in service in accordance with the figures laid down in the following tables:

Table A. — The maximum number and total horse-power of aeroplanes and maximum number, total horse-power and total volume of dirigibles in service in their armed forces.

Note: Any of the H. C. P. who so desire may annex to Table A the following tables for limitations similar to those in Table A:

Table A (1). — Aeroplanes and dirigibles in commission in the armed forces stationed in the home country.

Table A (2). — Aeroplanes and dirigibles in commission in the armed forces stationed overseas.

Table A (3). — Aeroplanes and dirigibles in aircraft carriers.

Table B. — The maximum number and total horse-power of aeroplanes and maximum number, total horse-power and total volume of dirigibles in service in their formations organized on a military basis.

The limitation shall apply to aeroplanes and dirigibles capable of use in war employed in commission in the land, sea and air forces, or in the formations organized on a military basis.

Note: Any of the H. C. P. who so desire may annex to Table B the following tables for limitations similar to those in Table B:

Table B (1). — Aeroplanes and dirigibles in commission in the formations organized on a military basis stationed in the home country.

Table B (2). — Aeroplanes and dirigibles in commission in the formations organized on a military basis in oversea territories.

ARTICLE AC (2d reading)

Hours-power shall be measured according to the rules . . . (to be established by the conference).

The volume of damages to be expressed in cubic meters.

ARTICLE AD¹ (1st reading)

The limitations laid down are accepted by each high contracting party in the light of the present development of civil aviation in other countries.

(Reserved for discussion on 2d reading during the examination of Article ZD.)

ARTICLE AE (2d reading)

1. The H. C. P. shall refrain from prescribing the embodiment of military features in the build of civil aviation material so that this material may be constructed for purely civil purposes, more particularly with a view to providing the greatest possible measure of security and the most economic return. No preparations shall be made in civil aircraft in time of peace for the installation of warlike armaments for the purpose of converting such aircraft into military aircraft.

2. The H. C. P. undertake not to require of civil aviation undertakings that they should employ personnel specially trained for military purposes.

They undertake to authorize only as a provisional and temporary measure the seconding of personnel to, and the employment of military aviation material in, civil aviation undertakings.

3. The H. C. P. undertake not to subsidize, directly or indirectly, air lines principally established for military purposes instead of being established for economic, administrative or social purposes.

4. The H. C. P. undertake to encourage as far as possible the conclusion of economic agreements between civil aviation undertakings in the different countries.

¹ The German delegation makes a reservation regarding Art. AD, in view of the fact that the development of a system of parallel communication can not be taken as a starting point for armaments, except where this means of communication is of real military importance.

The delegation of the Argentine makes a reservation regarding Art. AD.

The delegations of the United States of America make a general reservation on the inclusion of provisions having limitations upon the present development of civil aviation in other countries.

CHAPTER III — BUDGETARY EXPENDITURE

ARTICLE DA ¹ (1st reading)*French Draft*

The total annual expenditure counted per budgetary year and allocated according to Tables — (home forces and formations of the home country organized on a military basis) and — (overseas forces and their reinforcements and overseas formations organized on a military basis), shall not exceed the figures approved by the several contracting states in the present convention and mentioned in the said tables.

CHAPTER IV — CHEMICAL ARMS (2d reading)

The H. C. P. undertake subject to reciprocity, to abstain from the use in war of asphyxiating, poisonous or similar gases, and of all analogous liquids, substances or processes.

They undertake unreservedly to abstain from the use of all bacteriological methods of warfare.

¹ The British, Italian and Japanese delegations consider that budgetary limitation should be effected solely by publicity.

The delegations of the United States and Germany make a general reservation on the inclusion in the present draft convention of any limitation of budgetary expenditure.

CHAPTER V—MISCELLANEOUS PROVISIONS

SECTION I—ORGANIZATION (1st reading)

ARTICLE OA¹*French Draft*

There shall be set up at the seat of the League of Nations a "Permanent Disarmament Commission" consisting of one representative of each of the following high contracting parties:

- (a) The high contracting parties, members of the Council of the League, for the duration of their term of office on the Council.
- (b) The United States of America and the Union of Socialist Soviet Republics.
- (c) (List of high contracting parties to be appointed by the conference.)

To the members of the Permanent Disarmament Commission shall be attached military, naval and air experts, and experts qualified in the branches subject to the limitations provided for in the present convention.

The Permanent Disarmament Commission shall be summoned by the Secretary-General of the League of Nations.

¹ The statement made by the American delegation on April 13, 1927 (*Series IV*, p. 273), indicates the views of the American Government on certain points as regards the application of the convention.

In the event of their not sitting on the Permanent Disarmament Commission, the high contracting parties shall be entitled to be represented at discussions which concern them. In such case, their delegates may demand that, in the commission's report, account should be taken of the opinion or suggestions put forward by them, if necessary in the form of a special report.

SECTION II — EXCHANGE OF INFORMATION (1st reading)

ARTICLE IA¹

Each of the high contracting parties shall prepare on the model of Tables I, II, III, V, VIII and X [Air armaments, Table I of 2d reading] mentioned in Art. A (Chap. I) and of Table IV annexed to the present convention (overseas forces), an annual statement of the average daily effectives on service with its armed forces, and on the basis of Tables VI, VII, [i.e., Land armaments, Tables IV and V of 2d reading], IX, and XI [Air armaments, Tables IV and V of 2d reading] mentioned in Art. A (Chap. I) a statement of the actual effectives on service in its formations organized on a military basis.

The statements laid down in the present provision shall be forwarded to the Secretary-General of the League of Nations within three months after the close of the budgetary year.

¹ The form and the number of tables have not been decided as regards naval and air armaments.

The German delegation makes a reservation concerning this article, the tables mentioned therein not providing for publicity regarding trained reserves.

The Italian delegation makes a reservation and does not agree to all the distinctions referred to in these tables.

ARTICLE IB ¹*Netherlands Draft*

Each of the high contracting parties shall prepare an annual statement of the number (weight) of arms and ammunition and implements of war in service and in reserve in its land, naval and air forces distributed between the following twelve headings and existing on the date of December 31 of the preceding year:

1. Rifles, muskets, carbines (number).
2. (a) Machine-guns, automatic rifles and machine-pistols of all calibers (number);
(b) Mountings for machine-guns (number);
(c) Interrupter gears (number).
3. Projectiles and ammunition for the arms enumerated in Nos. 1 and 2 above (number).
4. Gun-sighting apparatus including aerial gunsights and bombsights, and fire-control apparatus (number).
5. (a) Cannon, long or short and howitzers, of a caliber less than 5.9 inches (15 cm.) (number);

¹ Owing to the various considerations brought forward by the Japanese delegation at the meeting of the commission on April 21, 1927 (*Series IV*, p. 304), it formally opposes this proposal, and also the proposal of the German delegation opposite Art. TA (Chap. II).

- (b) Cannon, long or short, and howitzers, of a caliber of 5.9 inches (15 cm.) or above (number);
 - (c) Mortars of all kinds (number);
 - (d) Gun carriages (number), mountings (number), recuperators (number), accessories for mountings (weight).
6. Projectiles and ammunition for the arms enumerated in No. 5 above (number).
 7. Apparatus for the discharge of bombs, torpedoes, depth charges and other kinds of projectiles (number).
 8. (a) Grenades (number);
(b) Bombs (number);
(c) Land mines, submarine mines, fixed or floating depth charges (number);
(d) Torpedoes (number).
 9. Appliances for use with the above arms and apparatus (number).
 10. Bayonets (number).
 11. Tanks and armored cars (number).
 12. Arms and ammunition not specified in the above enumeration (number and weight).

With a view to the exchange of information as provided for in the present section, the statement laid down in the present provisions shall be forwarded to the Secretariat of the League of Nations before March 1 of the year following the year to which it refers.

ARTICLE IC

If the construction of any vessel of war for a noncontracting power is undertaken within the jurisdiction of any of the contracting powers, such power shall promptly inform the Secretary-General of the League of Nations and shall publish in its Official Journal the date of the signing of the contract and the date on which the keel of the ship is laid, as well as the following specifications: the standard displacement in metric tons, the length of the water line, the extreme beam at or below water line, the mean draft at standard displacement; the date of completion of each new ship and its standard displacement in metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft standard displacement at time of completion.

ARTICLE IG¹

Each of the high contracting parties shall communicate to the Secretariat of the League of Nations the name and the tonnage of any vessel constructed in accordance with Art. NH (Chap. II). With regard to existing vessels of this type, this communication shall be made within two months after ratification of the present treaty. With regard to vessels to be constructed the communication shall be made on the date of completion.

¹ The delegations of the British Empire and Italy reserve their opinion concerning this article.

ARTICLE ID ¹*Italian Draft*

Each of the high contracting parties shall prepare an annual statement showing the maximum figures attained during the year in respect of the number and total horse-power of aircraft, and the number, total horse-power and total volume of dirigibles in commission according to their distribution laid down in Art. AB (Chap. II, Sec. III — Air Armaments).

French Draft modified

Each of the high contracting parties shall prepare an annual statement showing the maximum figures attained during the year in respect of the number and total horse-power of aircraft, and the number, total horse-power and total volume of dirigibles in commission according to their distribution as laid down in Art. IA of the present chapter.

ARTICLE IE ²

In order to insure publicity in the matter of civil aviation, each of the high contracting parties shall prepare an annual statement showing the total number of civil aeroplanes and dirigibles registered in the territory under jurisdiction of each of the high contracting parties.

PREAMBLE TO ARTICLES DA AND DB (1st reading)

Whereas it is in the general interest that the expenditure on armaments should be limited, and

Whereas the high contracting parties are not agreed at present on any satisfactory method of accomplishing this object, and

Whereas the high contracting parties consider that as a preliminary to such limitation of expenses full publicity should be secured so that on a future occasion it may be possible again to approach this question with better hope of success,

The high contracting parties agree to arrange for the publicity of their military, naval and air expenditure in accordance with the provisions contained in the two following articles.

¹ The German delegation makes a reservation concerning this article, considering that publicity should be applied to all aerial war material, and hence to material in reserve and stocks of material.

² The German delegation reserves the right to give its definite opinion at the second reading.

ARTICLE DA ¹ ² (1st reading)

Each of the high contracting parties will communicate to the Secretary-General of the League of Nations, in a model form, a statement of the amount proposed to be expended on its land, naval and air armaments in the current financial year.

This communication shall be made not later than — months after the entry into force of the legal provisions authorizing the expenditure.

ARTICLE DB ² (1st reading)

Each of the high contracting parties will communicate to the Secretary-General of the League of Nations, in a model form, a statement showing the amount actually expended on its land, naval and air armaments during the preceding financial year.

This communication will be made not later than — months after the close of the financial year.

ARTICLE IF (1st reading)

French Draft

The Permanent Disarmament Commission shall be responsible for centralizing all the information supplied by the high contracting parties to the Secretary-General of the League in execution of the provisions of Arts.

¹ In putting forward this article, the Preparatory Commission takes note of the fact that the work of the Committee of Experts on Budgetary Questions is not complete, and that they hope to produce a relatively simple schedule. The Preparatory Commission is of opinion that the model statement should be as simple as possible consistently with the achievement of its object.

The German delegation has accepted the principle of the simplification of the model statement on condition that the model statement is employed exclusively for the publication of expenditure on national defense and not for purposes of comparison and limitation.

The Italian delegation reserves its opinions concerning Art. DA until it has examined the model statement in question.

The British delegation makes a reservation with regard to the second paragraph of this article.

² *Note by the Secretariat.* — In order to avoid confusion between Article DA in Chap. III and the Arts. DA and DB above, these last-named should be relettered to conform with the series IA, IB, etc.

IA, IC, IG, ID and IE, DA and DB of the present chapter and also for collecting, with regard to matters subject to the limitation provided for in the present treaty, or which may appear to it suitable to form the object of fresh treaties, all particulars it may consider necessary to the performance of its mission as defined below.

The commission shall be responsible for studying, on the basis of these data, such progress as may be accomplished in regard to the limitation and reduction of armaments. Its attention shall be devoted in particular to following in the annual budget statements supplied by the high contracting parties the increase or reduction in the amount of the material in their possession which it has not been possible to limit directly in the present convention.

Each year the Permanent Disarmament Commission shall make at least one report on the questions which it is engaged in studying. This report shall be published simultaneously with dispatch to all the high contracting parties and to the Council of the League. Each member of the commission shall be entitled to demand that account shall be taken in this report of the opinions or suggestions put forward by him, if necessary in the form of a special report.

SECTION III — DEROGATIONS (1st reading)

ARTICLE XA

British Draft

The provisions of the present convention shall not prevent any of the high contracting parties from increasing its land, naval or air armaments beyond the agreed figures:

- (1) If a war in which it is a belligerent has broken out, or
- (2) If it is threatened with a rebellion, or
- (3) If this increase is effected with the consent of the Council of the League of Nations.

Notice to all the other high contracting parties shall be given by the party increasing its armaments in pursuance of this article.

Subject to any agreement to the contrary by the parties to this convention, a high contracting party increasing its armaments in pursuance of the first paragraph of this article shall, when peace is restored or the rebellion has come to an end, reduce its armaments to the amounts agreed upon.

French Draft

If one of the high contracting parties is compelled by the unjustified aggression of another power to resort to the measures of mobilization referred to in Art. D (Chap. I), it shall immediately inform the Secretary-General of the League of Nations and shall *ipso facto* be released for the duration of the conflict from the obligations which it incurs under the present convention.

If the high contracting party is a Member of the League of Nations, it shall remain subject to the general obligations of the Covenant and to the decisions of the Council. The Secretary-General of the League of Nations shall be responsible for summoning the Council as quickly as possible.

SECTION IV — PROCEDURE WITH REGARD TO COMPLAINTS AND
REVISION (1st reading)

ARTICLE ZA

British Draft

The high contracting parties recognize that any violation of the provisions of this convention is a matter of concern to all the parties. If any party to the convention is of opinion that another party to the convention is maintaining armaments in excess of the figures agreed upon, or is making such changes in its armaments, or is embarking on such preparations as are likely to disturb international relations or the good understanding between nations, or is in any way violating the provisions of the convention, it may bring the matter to the notice of the other parties to the convention.

Each of the high contracting parties agrees that, on receipt of any such notification by another party to the convention, it will cooperate in such measures as may be thought desirable by the parties which are mentioned in Art. EB of the present chapter, or represented in the Council of the League, but excluding the party against which the complaint is made, for investigating the facts, and that it will join in such action as may be deemed wise and effectual to safeguard the peace of nations.

French Draft

If, during the term of the present convention, a high contracting party considers that the requirements of its national security are materially affected by any change of circumstances, it shall lay the matter before the Permanent Disarmament Commission through the Secretary-General of the League of Nations with a view to the possible revision of the limitations it has accepted.

The Permanent Commission shall examine the arguments adduced by the high contracting party and shall be obliged to report thereon. The report shall be addressed to the Council of the League.

The high contracting party making the application shall take part in the examination of its application by the Permanent Disarmament Commission. Its delegate shall not be allowed to take part in the drafting of the report and may only require that the latter shall take into account the opinions or suggestions put forward by him, if necessary in the form of a special report.

If, in the application which it has submitted to the Permanent Disarmament Commission, the

Provided that no investigation within the limits of the territory of any of the high contracting parties shall be made without its consent.

high contracting party has indicated, as a new circumstance affecting its national security, facts which concern one of the high contracting parties members of the commission, the delegate of the latter shall be subject to the same rules as the delegate of the high contracting party making the application.

ARTICLE ZE

If, during the term of the present convention a high contracting party considers that the requirements of its national security are materially affected by any change of circumstances, it may be authorized to exceed the limits for armaments fixed under the present Convention by a unanimous decision of the following high contracting parties.

This provision shall not affect the rights or obligations of the contracting parties arising out of their membership of the League of Nations.

ARTICLE ZB

French Draft

The Permanent Disarmament Commission may decide by a two-thirds majority that an inquiry is necessary to verify the existence of any of the circumstances adduced by a high contracting party as affecting its national security. The inquiry shall be carried out under the conditions laid down in regulations to be drawn up as soon as the present convention enters into force.

(a) If the Permanent Commission is notified by a high contracting party of the existence of circumstances materially af-

fecting its national security in consequence of a grave transgression of the Convention of the Limitation of Armaments, it shall call upon the power or powers referred to in the application who are not already sitting on the commission to take part in its proceedings under the conditions laid down in Art. OA of the present chapter.

(b) The Permanent Commission shall decide by a two-thirds majority, excluding the parties to the dispute, whether the inquiry is to be conducted only by an examination of official documents which have been communicated to it, or whether the nature of the facts alleged necessitates an inquiry on the spot.

The high contracting parties undertake to afford every assistance to this inquiry, particularly in their respective territories.

(c) The members of the Committee of Inquiry shall be selected by the Permanent Commission from a list of experts duly qualified in the different branches, subject to the limitations provided for in the present convention. The Permanent Commission shall also appoint the chairman of the Committee of Inquiry. The list of experts shall be drawn up in pursuance of the proposals of the governments signatories of the present convention.

The state involved and the party making the application may only be represented in the Committee of Inquiry in a purely advisory capacity.

The experts appointed by the Permanent Commission may in no case be subject to the authority of any of the parties to the dispute.

(d) The Permanent Commission shall fix the points on which the inquiry shall bear. If it is decided that the inquiry may be conducted simply by a study of documents, the Committee of Inquiry shall meet immediately. If, in the course of its proceedings, it needs to consult documents which are not yet at its disposal, its chairman shall address a request for such documents to the Secretary-General of the League, to whom the states concerned shall forward them as soon as possible.

If, in the opinion of the Permanent Commission, the nature of the infringement necessitates an inquiry on the spot, the chairman of the Committee of Inquiry shall himself fix the date on which it shall begin such investigation. The state concerned shall be immediately notified by the Secretary-General of the League of Nations.

(e) The chairman of the Committee of Inquiry shall make a report to the Permanent Commission, in which he shall confine himself to recording the ac-

tual facts; the Permanent Commission alone shall pronounce on these facts. If differences of opinion have arisen among the experts, mention must be made of them in the report.

ARTICLE ZC

French Draft

In pursuance of the Permanent Commission's report referred to in Art. ZA above or in the inquiry provided for in Art. ZB above, if any, the Council of the League of Nations, acting in virtue of Art. 8, par. 4, of the Covenant of the League, may authorize a high contracting party to exceed, within specific limits and for a specific time, the limitations laid down in the present convention.

In cases of urgency, the matter may be laid before the Council direct, which may take a decision, if it thinks necessary without previous inquiry or report.

ARTICLE ZD¹

French Draft

If, during the term of the present convention, civil aviation in one or more of the contracting countries, or military or civil aviation in one or more of the nonsignatory states, experiences such a development as to constitute a possible danger

¹ The British delegation reserves its opinion until the second reading as to the desirability of this proposal.

to the security of some of the high contracting parties, the latter shall report this change of circumstances to the Permanent Disarmament Commission under the conditions laid down in Art. ZA above.

SECTION V — RATIFICATION — ENTRY INTO FORCE — DENUNCIATION (1st reading)

ARTICLE EA ¹

The present convention shall not affect the terms of previous treaties, under which certain of the high contracting parties agreed to limit their military, naval or air armaments, and have thus fixed in relation to one another their respective obligations and rights in this connection, the present convention being within these limits inapplicable between the said powers.

ARTICLE EB

The present convention shall be ratified by the high contracting parties in accordance with their respective constitutional methods. The instruments of ratification shall be deposited at Geneva.

It shall come into force for each party whose instrument of ratification has been deposited as soon as the instruments of ratification have been deposited by (list of states to be drawn up by the conference).

ARTICLE EC ²

The high contracting parties agree to accept reservations which may be made by Estonia, Finland, Latvia, Poland and Rumania at the moment of their signature of the present convention, and which shall suspend, in respect of these states, the application of Arts. — of the present convention until the accession of Russia to the present convention under the same conditions as the above-named powers.

¹ The German delegation makes a general reservation with regard to Art. EA, in view of the fact that the draft convention does not yet show whether certain fundamental conditions will be fulfilled; these conditions were formulated during the proceedings at the third session of the Preparatory Commission and without them Germany could not regard the convention as a first step toward general disarmament. In addition, guaranties should be given that this first step will be followed, at suitable intervals, by other steps toward the progressive reduction of armaments.

² The Swedish delegation reserves its opinion on the question until the second reading.

ARTICLE ED

Each of the high contracting parties undertakes that, as soon as the convention has come into force for it, it will begin the necessary measures for carrying the provisions of the convention into effect.

ARTICLE EF¹

The present convention shall remain in force for — years as from the exchange of ratifications.

In case none of the high contracting parties shall have given notice to terminate two years before the expiration of the said period, the provisions of the convention shall continue in force until the expiration of two years from the date on which such notice shall be given by one of the parties.

If the party by which such notice is above given is among those to be mentioned in the last paragraph of Art. EB all the high contracting parties shall, within one year of the date of the notice, meet in conference to consider the continuance of the provisions to be terminated. In the event of any such conference failing to come to an agreement, accepted by all the parties other than the party which has given the notice, as to the continuance of the provisions to be terminated, or as to the substitution of others, they will terminate on the expiration of the two years provided for in the notice.

If the high contracting parties, other than the party which has given notice to terminate, agree upon the terms of other stipulations in substitution for those to be terminated, the latter shall continue in force for all parties other than that which gave the notice until the coming into force of the new stipulations.

If the party by which notice to terminate is given is not among those to be mentioned in the last paragraph of Art. EB above, the convention will remain in force for all high contracting parties other than that by which the notice was given.

Notices under this article shall be given to the Secretary-General of the League of Nations and shall be deemed to have been given on the day on which the notice was received by him.

¹ Reservation by the British delegation, which considers that different periods ought to be prescribed for air and land armaments on the one hand, and naval armaments on the other hand.

Reservation by the French and Italian delegations regarding this question, requiring equal treatment for all three categories of armaments.

LATIN AMERICAN
RELATIONS 341.1
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WITH THE
LEAGUE OF NATIONS

By WARREN H. KELCHNER, PH.D.



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LATIN AMERICAN RELATIONS

WITH THE

LEAGUE OF NATIONS

BY WARREN H. KELCHNER, PH.D.

I. INTRODUCTION

INTERNATIONAL organization has come to be an important, even vital, factor in the life of states. The creation of the League of Nations marked the farthest advance in this direction and since 1920 the League has become firmly established as an integral part of the international fabric. Although political questions were included in the jurisdiction of the League, its chief importance has come to be associated with its functional activities.

The administrative value of international institutions is now accepted by most nations as an essential concomitant of community activity. Separate international offices or bureaus had been established during the half century prior to the outbreak of the World War but these dealt with specific fields, as for example, the Universal Postal Union. International organization had developed in the Americas since 1890 on the basis of a community of interests among the nations concerned.

All of the Latin American countries entered the League of Nations with the exception of Ecuador and Mexico, and most of them have participated in its program. The League conformed to that idealism which the Latin Americans have repeatedly expressed during the century of their existence.

A great orator once said, "Man stands with paradise behind him and before him, between a great recollection and a great hope." To Latin America this was in a sense true of the League. On the one hand, they recalled the scheme of Bolívar for a family of nations, and on the other they appealed to the hope of a future which might be ruled by justice and good will. The creation of the League gave rise to new relationships, to new influences, to greater co-operation and to new problems of international coordination. It is with their effect in the Latin American republics that the present study is concerned. The relations which the nations forming the Pan American regional grouping have with the world institution are of considerable importance, for it is generally recognized that the republics of Latin America enjoy a very different international status than they did two decades ago.

With the quickening of consciousness following the Great War, there developed as a natural corollary an appreciation of the advantage of closer relations between the various republics, and a more profound realization of what is referred to as American solidarity. Just as the preoccupations of Europe during the Napoleonic war had enabled Latin America to achieve political independence, so did the Great War give the Latin American republics their first real appreciation of their capacity for self-development and regional cooperation.

The League of Nations, as an international entity, is exercising to-day a great moral and material force. It is a going institution and the most elementary logic "advises us to utilize it when its objects coincide with the purposes of America."¹ However, countries representing approximately half of the total population and territory of America have ceased to cooperate fully with the Geneva institution, while the largest, Brazil, definitely severed its connection on June 12, 1928. In the Caribbean area, Costa Rica has withdrawn, while Mexico has never ratified the Covenant. Thus, countries representing approximately half of the

¹ Bruns, Baltazar, *Anteproyect of Statutes for the Association of American Countries* (Montevideo, 1923).

total area and total population of Latin America are not members.¹

Reasons for changes of attitude toward the League of Nations are given careful consideration in this study, and an attempt is made to evaluate the importance which the League plays in the relations of the several Latin American nations. The study considers in detail the reasons and the circumstances of entrance, the type and extent of the participation of the several Governments in the League organizations, and the nature and kind of cooperation which each nation has accorded the numerous activities of the League. Understanding by the reader of the structure of the League itself is assumed in the narrative. The subject is one so dependent for its elucidation on detail that a study of this kind can not adequately treat of every recorded action. However, consideration of the participation of these states at Geneva should exhibit both their own international attitude and their contribution to the League's work.

In the following pages light will be thrown upon many questions, among which are the following:

Reasons which prompted the Latin American republics to enter the League of Nations.

What do they get or expect from their membership in the Geneva institution?

Why are five nations representing 65% of the total area and 60% of the population of Latin America not Members of the League or uncertain in their relationship to it?

Is there a community of interests among those nations which are Members of the League or those which are outside?

Is there a basis which insures participation by South America as a continent?

¹ Costa Rica and Mexico in the Caribbean group have 2,013,000 sq. km. out of 2,791,000 and 15,493,000 population out of 31,690,000. In South America, Brazil and Ecuador occupy 8,818,000 out of 18,917,000 sq. km. of area and possess 39,970,000 out of 78,688,000 of population (*International Statistical Year-Book*, 1928, p. 14, 15).

In grand total, 10,841,000 sq. km. out of 21,708,000 are occupied by non-Members and 55,463,000 out of 110,378,000 of population. Argentina, which is a Member of the League at Geneva and in a state of flux on the matter at Buenos Aires, would bring these totals up to 13,638,000 for area and 66,110,000 for population.

Do Latin American republics want American problems settled at Geneva?

There can be no more positive aim in the modern world than the establishment of peace on firmer international foundations. The universal desire and hope for the dawn of a new era was doubtless intensified by the great sacrifices made by the nations during the Great War. All of these desires can not be realized in a day, but can be brought about only by a gradual process of evolution. The direction of international life along the path of justice and order has taken on a new and greater importance. The nations have turned with a renewed conviction to the efficacy of international organization for bringing about the maintenance of peace and the insurance of the common interests of all. International organization has become a vital part of the political and economic life of the world and with it has developed a keener sense of the oneness of humanity and the interdependence of nations. The establishment of the League of Nations carried international organization to a new stage. It gave opportunity for new relationships, new influences, greater cooperation, and new problems of orientation and coordination.

Few nations have experienced a more profound change during the past few years than those of Latin America. Their economic position has taken on a greater importance, their international status has been improved, and their sense of their own importance and potentialities has been greatly enhanced.

A sense of common interests, common problems and common ideals among the American nations has been an important feature of their membership in the League of Nations. This solidarity has been manifested at various League meetings by concerted action. Unofficial meetings of American delegates to the League have often taken place for the purpose of discussing the interests of America and of formulating policies best suited to serve their needs. Solidarity among the South American republics is, therefore, an influence in their relations with the Geneva organ-

ization. The Director of the International Labor Office in his report for 1927 indicated that it was disturbed at the action which the American nations were taking in regard to the codification of American international labor laws. "The representatives of South America," he said, "have always manifested in the International Labor Organization such a sense of international solidarity that it is not considered an indiscretion here to appeal to the wisdom of their statesmen to secure the necessary amendments to the original draft," of the American Institute of International Law.¹

Latin American delegates at Geneva have been active and in accord regarding: Proposals to place the League more in harmony with their theory of "equality of states,"² the demand for reallocation of the budget in their favor, greater representation for America on the Council, questions of administrative organization, promotion of intellectual cooperation, and the advancement of humanitarian enterprises. There has also been a general consensus that purely American problems could be considered and dealt with in America. A common attitude has been taken toward the development of different types of liaison between America and the League.

They have interested themselves in the settlement of European questions as they came before the Assembly³ or Council, but have not found it necessary to bring their own disputes before those bodies. Much of their own treaty structure is negotiated under the auspices of the Pan American conferences.⁴ Problems of health are largely considered through the Pan American Sanitary Bureau, which cooperates with the Health Section of the League. Labor information from America is secured through the Pan American Union as well as directly from

¹ International Labor Conference, *Tenth Session, 1927*, Vol. II, p. 9.

² See Francisco J. Utrata's remarks, *infra*, p. 111.

³ Latin American states have repeatedly referred to inter-American cooperation at League meetings. They have pointed with pride to their regional action, and their discussion of disarmament, intellectual cooperation, arbitration, codification of international law, sanitation, municipal affairs and a number of others is always linked with what has already been done in America.

the states. Problems of finance, commerce, uniform legislation, child welfare, municipal organization, consular procedure, etc., etc., are mostly considered in the International Conferences of American States or in special inter-American conferences. With such possibilities for regional agreement in being, Latin America naturally looks at the League in its broader and more general aspects.

It can be said that idealism and considerations of prestige played a relatively larger part in acceptance of the League by the American republics than was true of most other countries. It can scarcely be said that vital necessity was the chief reason for the entrance of any Latin American nation. The absence of important interests explains very largely the inconstancy of the cooperation by many Latin American nations. One could hardly imagine Belgium or Poland withdrawing from the League because its program was not accepted. Only nations which have few vital interests at stake in the League could adopt such a policy as that pursued by Argentina and Brazil. Peru and Bolivia were not seriously affected by their inactivity in the League. This would probably not be true of Austria, Yugoslavia, France, China, Persia or the South African Unions. Spain reconsidered its withdrawal and returned; not so with Brazil.

The South American Governments are, therefore, more or less free to cooperate with the League or not. Argentina has not been fully cooperating since 1920, nor Peru between 1921 and 1929. The individual interests of a nation often outweigh considerations of idealism, prestige and cooperation. Thus opportunism may dictate policy. Inconstancy may likely continue to characterize the cooperation of many Latin American republics, while consistency of participation will probably characterize the policy of certain others.

There has been no common understanding among the republics which has withheld their full cooperation. Argentina considered that the League should be universal.

Brazil withdrew because it did not obtain a permanent seat on the Council, but its claim was opposed by most of the other American republics as it would have set up a distinction between large and small nations in Latin America and would probably have prevented Argentina from ever returning. Peru and Bolivia ceased to participate in the League's activities because it did not consider the Tacna-Arica problem. Costa Rica withdrew over questions of finance. The Latin American nations feel that they can profit by the studies and investigations of the League, and they freely sign conventions made under its auspices even if they do not complete the agreement by ratification. Although they will probably not have much occasion to bring purely American problems before the League, they feel that there is a moral obligation to assist in the effort toward the organization of the world for the maintenance of peace. They consider the League as an agency for the promotion of better relations between nations and they feel that it should, therefore, be fostered. In the League they saw a hope and a possibility for better understanding. As parts of the world family, their membership is not only a question of benefits to be derived but of living up to the responsibilities incident to community life.

One service which the Latin American countries has rendered to the League is to restrict the "European tendency" and aid in maintaining its character as a world institution. The reorganization of the nonpermanent seats on the Council by the Seventh Assembly and the granting of three of them to America is an example.

Although in general the average citizen in the Latin American countries has little more than an academic interest in the League, it is reasonable to suppose that as its work becomes more universal in the technical and humanitarian fields, there will be a corresponding expansion of interest among Latin Americans as a whole in its activities. The League will increase in strength and significance among Latin Americans just so far as the

conviction spreads among them that it is an advantageous and useful instrument.

The Latin American republics are not especially interested in European problems, but are indirectly interested in the way they are decided. They will probably continue to cooperate with the League in matters of world interest and to pursue a continental policy in matters of general American concern. International organization, then, is not at stake, but rather the form which that cooperation may take.

The American republics get a theoretical protection from the League which might some time be translated into practice. Membership gives prestige by placing their delegates with the delegates of the leading states. If the necessity should arise, the League might be used as a possible counterpoise against the preponderant influence of the United States in the Western Hemisphere.

There is no inherent difficulty, however, in two American nations agreeing to submit a dispute either to a non-American or to a group of non-Americans or to a selected group such as the Council of the League of Nations. South American nations have chosen Europeans to act as arbiters on different occasions, and there could be no cause for objection if it should be done again. These nations, however, prefer to settle their problems themselves or with the aid of their neighbors, but they could offer no serious objection if disputants among them should choose to follow another course. The engagements of the Covenant bind them of their own volition, and the Bolivia-Paraguay dispute shows that there is a sensibility of the obligation.

There is no inconsistency between the Pan American organization and the world organization at Geneva. Especially do they supplement each other along lines of health, education, labor, social welfare, etc. Cooperation between the two organizations would be of benefit to each, and there is little reason why they should not functionally supplement and assist each other in technical, social, intellectual, humanitarian and scientific fields. Any aid in the

solution of such problems should be welcome, and elimination of duplication of effort should be encouraged. Special conditions in one part of the world frequently allow a solution of a problem different from that which could be applied to the world in general. Such solutions on a regional basis should be fostered. If such efforts prove successful in a particular section, the experience obtained in that limited field may prove of importance in devising a solution on a world scale.

The two organizations cooperate in some respects, and there is small reason why such cooperation should not be developed along other lines. The League and the Pan American Union have practically the same purposes but are built upon entirely different bases. The one is the product of years of evolution and is a loosely formed organization, still without effective treaty basis; the other is the result of a conscious effort to establish an international structure, founded upon enunciated principles and undertakings accepted by the Member states. The American organization is more supple and flexible but is more restricted and limited in the scope of its work than the League.

Does not a hopeful opportunity lie ahead for the establishment of a regular and efficient liaison between the League of Nations and the Pan American Union? Organized cooperation between them may well offer an avenue for a wholesome development in international organization, reinforcing the moral bond between those nations which are working toward common ideals of universal justice and fraternity.

II. ENTRANCE INTO THE LEAGUE OF NATIONS

1. General Influences

A CONSIDERATION of the entrance of the Latin American nations into the international organization at Geneva must deal with (1) the reasons for accepting membership, (2) the factors leading up to such admission, and (3) the method of acquiring membership. Certain general influences affected the attitude of the Latin Americans as a whole.

The idea of a League of Nations received the general approval of the Governments of the Latin American countries, and the prompt action of most of their legislatures in approving the original Covenant gave proof that the idea struck a responsive chord throughout South and Central America. Although the countries had not been united in regard to the world conflict they found themselves, with a single exception, in full accord with the effort "to promote international cooperation and to achieve international peace and security."

Nine of the Latin American nations — Bolivia, Brazil, Cuba, Guatemala, Haiti, Honduras, Panama, Peru and Uruguay — became original Members of the League of Nations by virtue of ratification of the treaty of Versailles. Six others — Argentina, Chile, Colombia, Paraguay, Salvador and Venezuela — became original Members by acceding to the Covenant as a separate document within two months of its coming into force. Nicaragua later ratified, and the Dominican Republic and Costa Rica were admitted to membership in 1920 and 1924, respectively. Ecuador and Mexico have never become members.

One of their most important incentives was tradition, which has always played a prominent rôle with them. Arbitration, cooperation and judicial settlement of disputes have been the three watch-words of the American republics

in their international relations. It was therefore natural that they should accept the Covenant as the most advanced step yet taken to give these principles universal application. They had advocated these principles and urged the acceptance of obligatory arbitration at the Second Hague Peace Conference. In the League they saw a step in advance. The promotion of international cooperation and the achievement of peace and security by the acceptance of obligations not to resort to war; by the prescription of open, just and honorable relations between nations; and by the maintenance of justice and a scrupulous respect for all treaty obligations, seemed to most Latin Americans the adoption for the world of the very principles which they had acclaimed since their independence.¹ Their traditional policy was to be accepted by the nations of the world in the League Covenant.

Another factor which influenced the American republics was that of continental solidarity. The World War had altered their position in the family of nations, and their increased realization of interdependence led to renewed faith in their traditional scheme for international cooperation. Although they had not acted in unison in regard to the war, yet there developed during the conflict an increased sense of American continentalism, which became a dynamic force in the international relations of the Western Hemisphere. Practically all of the 13 republics which took action favorable to the United States and the allies referred to "traditional friendship", "American solidarity" or "continental solidarity." The spontaneity with which most of these American Governments joined the ranks after the United States entered the conflict is explained by this influence. Its degree varied in the different countries, yet it can be said that the idea of continentalism was important in at least ten of the Latin American Republics.

Although continental solidarity had not brought concerted action in regard to the war, it was a decided factor

¹ Alvarez, Alejandro, *Le Droit international américain* (Paris, 1910); Urrutia, Francisco, *La Evolucion del principio del arbitraje en América* (Madrid, 1920); Moore, John Bassett, *The Principles of American Diplomacy* (New York, 1918).

in bringing about an almost unanimous acceptance of the program for world peace. The relative importance of the ideas of united action, of interdependence, and of cooperation varied, of course, in the different countries, being stronger in Brazil, Bolivia, Peru, Uruguay and most of the Central American Republics. This will be considered in detail a little later.

Another factor which influenced the Latin American nations to accept the League was that intangible thing which we call prestige. Although difficult to define and susceptible of varying interpretations, it is an important consideration in the affairs of states. The war brought a new sense of their potentialities to Latin Americans. The war had not only led them to realize their own importance in the world economic scheme but it also impressed upon Europeans the economic and other possibilities of the countries of that hemisphere. The vital importance of Argentine wheat, of Brazilian manganese, of Chilean nitrates, was forcefully brought home to a number of the countries of Europe during the great struggle. The American republics were no longer on the margins of international affairs. They emerged from the war period with their authority and prestige greatly enhanced.

The opportunity was given them to participate on the basis of equality with the most powerful nations of the world in the new experiment of international organization. The delegates of Paraguay and Nicaragua could be represented in the Assembly of the League on a basis of equality with those of the British Empire. This was a situation which had never before been possible outside the Western Hemisphere and the Latin American was not one to overlook the opportunity. The delegates of small states have proved on many occasions to be extremely able negotiators in connection with the work of the League.¹

It was obvious that representation of one of those countries on the Council of the League, or the election of a

¹ Such men as J. Gonzalez Gutierrez of Salvador and Francisco José Utrera of Colombia, Enrique Villagra of Chile, Alberto Guzman of Uruguay, and Amador de Aguirre of Basque were of Cuba may be mentioned.

national as president of the Assembly, would attract the attention of the world. This factor of prestige undoubtedly played a part in the determination of their policies toward the League and has unquestionably influenced participation during the years which have elapsed since its inauguration. What chance would a delegate from Uruguay or one from Salvador have had to sit in the executive organ of any world institution under the international system outside the American hemisphere prior to 1920? Where had the smaller nations ever been given a forum in which they might voice their grievances? When had the smaller nations ever been given a real voice and responsibility in the problems affecting the peace of the world? A new hope was given to these countries in the League of Nations and it was but natural that they should align themselves in the advancement of this idea.

Another factor was the sympathy of the intelligentsia toward Europe, and especially toward France. The culture, the art and the literature of Latin America are closely allied with those of France. French is spoken by all educated Latin Americans. French textbooks are used extensively in the college, while students who go to Europe usually make France their second homeland. The admiration and affection for that country are almost traditional in practically all of the Latin American Republics. The French way of doing things, the fondness for graceful and rhetorical expression, the gaiety of the French spirit and the artistic temperament, all appeal to the sensitive Latin Americans.

A further factor which influenced several Republics of Latin America to enter the League was the possible protection which it might afford. The guaranty of territorial integrity and the existing political independence against external aggression as promised in the League Covenant were acclaimed by Latin America. There is no doubt that those who feared the United States saw in the League a possible protection against encroachments by the North American republic. The League of Nations afforded to the Latin Americans a hope of a possible counterpoise

against the predominant influence of the United States. Although most of the republics are opposed to the consideration of purely American affairs by the League of Nations, yet it gives them a possible weapon which might be used in case of emergency. In other words, the League serves as a card which a Latin American republic might play in case of necessity. They heartily approved the right which each Member has under Art. 11 of the Covenant to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threaten to disturb international peace. This was soon translated into practice when they witnessed a delegate from a small state, Bellegarde of Haiti, bring a member of the British Empire (the Union of South Africa) to account regarding its treatment of the natives in South West Africa. Would this not serve as the basis of a hope among certain American Republics in regard to their relationships with any major power?

Another factor which influenced the Latin American republics to accept the League of Nations was idealism. The addresses of President Wilson strongly appealed to the Latin Americans and they responded to their conception of a world organized upon the basis of peace, justice and self-determination. Their fervent desire to collaborate in the organization of world peace was undoubtedly a strong moral influence in prompting their cooperation with the League of Nations, for they saw in it a guaranty for the future of international relations and the promotion of peace. It was with pride and satisfaction that they accepted the invitation to participate in such an enterprise. They were prepared to accept their new international obligations and responsibilities and acquiesce in the new international order and they have since been partisans of all efforts to give the Geneva institution greater scope.

They saw in it a step toward the establishment of a rule of law among nations. The conception of an international law binding upon the governments of the world was an idea which naturally appealed to the idealism of the

Latin American. That aspiration for a world more enlightened, — a world in which the cooperation of men and nations rather than the rivalry and the aggrandizement of one at the expense of another should be the guiding aim, — was to them worthy of support. They felt that a League to establish the normality of peaceful relations in international life was certainly an undertaking worthy of the approval of all. It would serve to create an atmosphere of confidence and fraternity which would tend to prevent wars by modifying the state of mind of peoples and governments. They considered that the attention of men of good will should be directed to the promotion of that international atmosphere in which reciprocal confidence should prevail in the development of activities for the common welfare. The League was looked upon as a tranquilizing influence which might create a spirit of tolerance, confidence and respect, looking to the future well-being of humanity. They accepted the League in a spirit of loyal cooperation as an effort to avoid the appeal to arms by the nations of the world. They considered the League as an institution capable of intervening in the conduct of nations by focusing public opinion and in this way bringing a greater moral force to bear upon a particular situation than was possible under the old system. Thus the enthusiasm manifested by the Latin American countries toward the League of Nations was due in part to the fact that its principles were entirely in accord with the idealistic traditions of Latin America.

2. Attitude in the Great War

The entrance of the Latin American countries into the League of Nations was also conditional upon certain special factors. The most important of these were connected with their respective policies in regard to the Great War. The attitude of the Latin American Governments toward that conflict is important because of: (1) the resulting development of the sentiment for world

interdependence and cooperation, and (2) the Covenant of the League of Nations, as an outgrowth of the peace settlement, was made an integral part of the peace treaty.

During the early days of the war the Latin American Governments remained neutral and concerned themselves with safeguarding their position. Some made efforts to secure the adoption of a continental policy of neutrality, but these attempts failed to lead to any practical results. When the United States severed diplomatic relations with Germany on February 3, 1917, a new situation arose and many of the Latin American Governments, sensible of a continental solidarity, followed its lead. Thirteen of the 20 republics officially demonstrated their solidarity either by declaring war or by severing diplomatic relations with Germany.¹ Brazil, the largest Latin American nation, Cuba, Costa Rica, Guatemala, Haiti, Honduras, Nicaragua and Panama entered the war on the side of the allies; Bolivia, Ecuador, Dominican Republic, Peru and Uruguay broke off diplomatic relations with Germany. Argentina, Chile, Colombia, Mexico, Paraguay, Salvador and Venezuela remained neutral throughout.

The attitude of the various Latin American Governments in regard to the Great War, although possessing a surprising degree of similarity, was by no means uniform. It differed both in degree and importance in the different states.

A. SOUTH AMERICAN REPUBLICS

Brazil

Of the South American nations, Brazil played the most important part in the war. Animated by a spirit of continental solidarity, with its neutral rights violated and its interests jeopardized, Brazil joined the *United States and the Allies* and became the foremost of the belligerent Latin American nations.

¹ An excellent treatment of the policies of the Latin American countries is found in *Latin America and the War* by Percy Alvin Martin (Baltimore, 1925). The decrees of neutrality and severances of relations are printed in Naval War College. *International Law Topics*, 1916, and *International Law Documents*, 1917 and 1918.

It was rather difficult to envisage at the beginning of the Great War what might be the attitude of Brazil. The large number of German colonists in Southern Brazil, estimated at anywhere from 350,000 to 500,000, might have been expected to exert considerable pro-German influence. The Government and people, however, soon gave clear indications that their sympathies were overwhelmingly on the side of the Allies. Within a week after the outbreak of the War, the Brazilian Chamber of Deputies passed a motion recording its opposition to the violation of treaties and to acts violating the established principles of international law. Less than a year later (March, 1915), the Brazilian League for the Allies was founded under the presidency of the eminent statesman, Ruy Barbosa. Its activities included educational conferences, petitions of protest against Germany's war methods, and the raising of funds for the Brazilian Red Cross.

It was at a meeting of this organization to raise funds for the establishment of a Brazilian hospital in Paris that President Ruy Barbosa expressed regret that the United States had not seized the opportunity to assure itself first place among the nations by grouping about itself all the peoples of the American continent as a protest against the invasion of Belgium and by entering the struggle to defend the validity of international engagements.¹ Brazil followed with keen interest the relations between the United States and the belligerents.

The economic crisis which followed the opening of hostilities had a profound effect upon its attitude. Brazil was hard hit by interference with the sale of its agricultural exports. The British blockade cut off its market in Central Europe (Germany being in 1913 second in imports and exports of Brazil), while the submarine warfare carried on by the Central Powers threatened its remaining European markets. Thus Brazil found its trade and commerce threatened with paralysis. Its merchant marine was endangered. Its finances were thrown into disorder and

¹ Gaston, Gaillard, *Ambriqne latine et Europe occidentale* (Paris, 1918), p. 44.

the treasury's chief source of revenue was materially cut off, since a good percentage of public revenues was secured from customs duties. The development of Brazil into an important exporter of staple foodstuffs demonstrated that the country could be self-sufficient and could even enter the world market. Confidence and self-reliance were thus engendered in the country's economic position.

Following the outbreak of the war, the policies of the United States and Brazil toward the belligerents paralleled each other to a marked degree. An extraordinary degree of patience and forbearance characterized Brazilian action under trying conditions. The Government insisted upon and maintained respect for neutral rights. On May 1, 1915, the Brazilian steamship *Rio Branco* was seized and sunk by a German submarine off the coast of England. This aroused deep indignation and called forth a strong protest from the Brazilian Foreign Office. An apology with promise of payment by Germany eased the situation.

Portugal, Brazil's mother country, entered the war in 1916 and this aided in crystallizing sentiment in favor of the Allies.

In July, 1916, Ruy Barbosa went to Buenos Aires as special ambassador to the centenary of Argentina's independence. In the course of his speech he outlined his country's position in the European conflagration in the following uncompromising manner: "No nation can be a law unto itself. None can be an indifferent spectator in this world tragedy. Neutrality entails obligations. Between those who destroy law and those who uphold it, neutrality is not permissible. Neutrality does not mean attempting the impossible: it means impartiality, and there can be no impartiality between right and justice on the one hand and crime on the other. To demand the observance of those precepts on which the conscience of nations reposes, to demand respect for treaties, is not to break neutrality but to respect it."¹ This was approved by the Brazilian Congress on July 17 when both branches

¹ *Jornal de Commercio*, July 18, 1916.

voted by a large majority that the speech be published and made a part of their proceedings. Senhor Pedro Moacyr in presenting the motion in the lower house said: "It is absolutely necessary that we align ourselves with the forces of civilization, menaced with destruction." This declaration of sympathy called forth expressions of deep gratitude from France and Belgium.

On the other hand, the work of German agents in Brazil, the failure of Germany to settle for large quantities of coffee stored in Hamburg, and finally, the declaration of unrestricted submarine warfare brought relations to the breaking point. In its reply to the German declaration the Brazilian Government felt that, "it is its duty to protest against this blockade, as in fact it does protest, and, therefore, it leaves to the Imperial German Government the responsibility for all events which may happen to Brazilian citizens, merchandise or ships as a result of the abandonment of the principles recognized by international law or by conventions to which Brazil and Germany are parties."¹

On April 5, 1917, the Brazilian steamer *Parana* was sunk off the coast of France by a German submarine. The next day the United States declared a state of war with Germany, and on April 11, the Brazilian Government handed Herr von Pauli, the German minister, his passports.²

A decree of technical neutrality was issued April 25, 1917, in the war between the United States and Germany.³ On May 22, President Braz P. Gomes urged Congress to revoke the decree. In his speech he pointed out that "the Brazilian nation, through its legislative organ, can without warlike intentions, but with determination, adopt the attitude that one of the belligerents forms an integral part of the American continent, and that to this belligerent we are bound by a traditional friendship and by a similarity of political opinion in the defense of the vital interests of

¹ Note from Brazilian Minister to German Secretary of State for Foreign Affairs, February 9, 1917, *Brazilian Green Book*, p. 19, authorized English version by Andrew Boyle (London, 1918).

² *Ibid.*, p. 30.

³ *Ibid.*, p. 39.

America and the principles accepted by international law."¹ The decree of neutrality was annulled June 1, 1917. In a circular note of June 2, to all capitals to which the republic was accredited, the policy of continental solidarity was announced, thus giving expression to that cordial relationship which has existed with the United States since the founding of the Republic. The note was a display of friendship toward the great northern Republic which "has been the axis of Brazil's continental policies since imperial times,"² and said:³

The republic has thus recognized that one of the belligerents is an integral part of the American continent, and that we are bound to this belligerent by a traditional friendship and by a similarity of political opinion in the defense of the vital interests of America and the principles accepted by international law.

Brazil never had, and still has not, warlike ambitions, and if she always abstained from any partiality in the European conflict, she could not remain indifferent to it, when the United States were drawn into the struggle without any interest therein but in the name alone of respect for international law, and when Germany extended indiscriminately to ourselves and other neutrals the most violent acts of war.

If hitherto the relative lack of reciprocity on the part of the American republics has withdrawn from the Monroe doctrine its true character, permitting a scarcely well-founded interpretation of the prerogatives of their sovereignty, the present events, by placing Brazil, even now, at the side of the United States, in the critical moment of the world's history, continue to give our foreign policy a practical form of continental solidarity — a policy indeed which was that of the old régime on every occasion on which any of the other friendly sister nations of the American continent were in jeopardy.

The final break came on October 26, 1917, when a resolution recognizing a state of war with Germany was passed

¹ Note from Brazilian Minister to German Secretary of State for Foreign Affairs, February 9, 1917, *Brazilian Green Book*, p. 40, authorized English version by Andrew Boyle (London, 1918).

² *Monroe Doctrine Centenary* (Rio de Janeiro, 1924).

³ *Brazilian Green Book*, p. 48-49.

unanimously by the Senate and with only one dissenting vote in the Lower House. Thus Brazil took the lead among the Latin American countries in declaring war on Germany, following the example of the United States; the act was of importance in demonstrating a solidarity between the two largest countries in America. In this it broke away from the A B C combination and placed itself in a position as political leader in South America, affiliated with the United States of North America.

Uruguay

From the very outbreak of the war, the sympathies of Uruguay were for the Allied cause. The Uruguayans are a homogeneous people, almost entirely of European origin. Its economic life has been closely associated with the British interests while cultural and intellectual life has been closely affiliated with that of France. The people sympathized with the cause of France and Italy, while the heroism of Belgium evoked the greatest admiration. Uruguay, however, did not become involved in any diplomatic controversies with the belligerents. During this difficult period, Uruguay was fortunate in having as its Minister of Foreign Affairs, Dr. Baltasar Brum, one of the most eminent and capable statesmen of South America.

The Government issued its decrees of neutrality August 4, 1914.¹ A few days later rules of neutrality were issued which would be enforced in the ports and territorial waters of the country.² These rules were modified by later decrees.

The reply of Dr. Brum, minister of foreign affairs, to the notification by Germany of unrestricted submarine warfare is a classic of ability and tact. "The Uruguayan Government," he said, "feels it incumbent to point out to the German Government that it can not admit for its nationals, for its commerce and its ships, the restrictions which are

¹ Republica Oriental del Uruguay, Ministerio de Relaciones Exteriores, *Disposiciones sobre Neutralidad (1914-1915)* (Montevideo, 1915).

² *Ibid.*, p. 7-11.

imposed upon it by the indefinite zone of blockade and the methods of the submarine campaign.

"It still ventures to hope that the Imperial Government will confine its action within the limits of law, respecting those principles of humanity and justice so frequently sustained by its leading thinkers, principles which constitute the basis of the friendly relations which our two countries have cultivated without alteration; none the less, in spite of this hope, it reserves to itself the right — which the great German internationalist characterized as 'indisputable' — to employ the proper measures against procedures contrary to international usages, as well as against the arbitrary excesses with which it is threatened."¹

Uruguay on February 6, in its reply to the announcement by the United States of the severance of diplomatic relations with Germany said "the Uruguayan Government, which on a previous occasion gave its adhesion to the efforts made by the United States in defense of the rights and interests of neutrals, recognizes the justice and nobility of the sentiments which in this emergency have guided President Wilson."² It maintained its neutrality, however, but extended moral sympathy to the United States,³ the Chamber of Deputies passing on April 12, 1917, the following motion by a large majority: "The Chamber of Deputies of Uruguay sends a fraternal greeting to the representatives of the American people who, as paladins of right and justice, . . . are embarking upon the terrible struggle which casts its shadow over the whole world."⁴

The doctrine of American solidarity was championed by many prominent Uruguayans, among whom was the distinguished writer and scholar, Dr. Juan Zorilla de San Martín.⁵ The adherence of Brazil, June 1, 1917, to the doctrine of continentalism led the Uruguayan foreign office

¹ *Memoria de Relaciones Exteriores* (Montevideo, 1916-1918), p. 414-419.

² *Ibid.*, p. 421.

³ *Ibid.*, p. 432.

⁴ *Republica Oriental del Uruguay, Diario de las Sesiones de la Camara de Representantes*, Vol. 253, p. 450 (Montevideo, 1917).

⁵ *El Siglo*, Montevideo, June 16, 1917.

to send the remarkable note of June 13, 1917, in which Dr. Brum urged that a congress of the American states formulate a united moral front against Germany. He said:¹

The Uruguayan Government, after examining Your Excellency's note, takes pleasure in stating that it sympathizes with the ideals to which the said communication refers, and reiterates once more its urgent desire that the policy of America through a congress of all its peoples, should give expression once and for all in judicial formulas or practical actions to the fertile aspirations of continental solidarity.

United as are the nations of the New World by the eternal bonds of democracy and by the same notions of justice and liberty, the logic of principles and interests, the better to insure the efficacy of the former and the free development of the latter, should of necessity make, in view of the events which are affecting the world to-day, for a close unity of action, in such a way that every act perpetrated against one of the countries of America with violation of the principles universally recognized by international law, should constitute an aggression to all and call for a united resistance from them.

The famous decree of June 18, 1917, proclaiming the doctrine of American solidarity received hearty approval from many of the American republics, and was as follows:²

Considering that in various communications the Government of Uruguay has proclaimed the principle of American solidarity as the criterion of its international policy, understanding that the grievance against the rights of one country of the continent should be considered as a grievance by all and provoke them to uniform and common reaction;

Second, that in the hope of seeing an agreement in this respect realized between the nations of America which may make the practical and efficient application of such ideals possible, the Government has adopted a watchful attitude with reference to its action, although it has signified in each case its sympathy with

¹ *Brazilian Green Book*, p. 56.

² *Naval War College, International Law Documents*, 1917, p. 249; Baltasar Brum, *The Peace of America*, p. 25-26 (Montevideo, Imp. nacional, 1923); in Spanish, *Memoria de Relaciones Exteriores*, 1916-1918, p. 439-440.

the continental nations which have seen themselves obliged to abandon their neutrality;

Considering that, as long as such an agreement is not made, Uruguay, without acting contrary to its sentiments and convictions, could not treat the American nations which in defense of their own rights find themselves compromised in an intercontinental war, as belligerents; and

Considering that this criterion is shared by the Honorable Senate, The President of the Republic

At a general cabinet meeting

Decreases:

First. To order that no American country which in defense of its own rights should find itself in a state of war with nations of other continents will be treated as belligerents.

Second. That it is ordered that existing decrees which may be in opposition to this resolution are to remain without fulfillment.

Third. Let it be communicated, published, etc.

Although Uruguay revoked its neutrality in favor of the United States, it did not break off diplomatic relations with Germany until three months later. This was probably due to hope for a concerted action regarding a rupture of diplomatic relations. President Viera pointed out before the Uruguayan Congress on February 15, 1918, that, "if the principle of continental solidarity were accepted by the various American states and efforts were made to put it into effect, Uruguay would proceed to a rupture of relations and even to war."¹

On July 12, 1917, an opportunity was afforded to testify Uruguay's friendship for the United States when the American fleet, under Rear-Admiral Caperton, arrived at Montevideo. Although still neutral, the rules regarding the length of sojourn of belligerent vessels were waived.

Uruguay could not safely break with the central powers as long as neither of its two neighbors had entered definitely into the conflict. The strong German colony in Rio Grande do Sul just north of Uruguay was a source of uneasiness. Uncertainty regarding the attitude of Argentina was a

¹ *Memoria de Relaciones Exteriores, 1916-1918*, p. xxii.

cause of anxiety, and President Viera inquired of President Irigoyen as to whether Uruguay could count on the support of Argentina in case of an attack by the German colonies.¹

In a message to the Legislative Assembly President Viera requested the severance of diplomatic and commercial relations with Germany. He said in part: "... The republic adopts a measure of such transcendental import without having any particular grievance to vindicate, without any direct offense of which she may complain. Her action, superior and calm, is based solely on the principle of high solidarity with the defenders of right and justice, who are at the same time the stalwart defenders of the sovereignty of the small nations, the self-sacrificing champions of world democracy."² On October 7, 1917, diplomatic and commercial relations were severed between the Republic of Uruguay and the German Empire.³ German ships in the harbor of Montevideo were taken over and were leased to the Emergency Fleet Corporation of the United States.⁴

Uruguay, then, translated the nebulous doctrine of continental solidarity into a national policy. As a protest against German violation of international law it abandoned neutrality without national interests being directly jeopardized. Its statesmen recognized obligations of American cooperation and proceeded to direct their efforts toward the promotion and development of a united continent in behalf of the principle of American solidarity.

Peru

Continental solidarity continued to be one of the most important principles of the foreign policy of Peru in regard to the European War. Peru had been the chief promoter during the 19th century of the early inter-American con-

¹ *Memoria de Relaciones Exteriores, 1916-1918*, p. xxix.

² *Ibid.*, p. 526-527.

³ *Ibid.*, p. 529-530.

⁴ *Diario de Sesiones de la H. Cámara de Senadores*, Vol. 112, p. 44 f.

ferences and has steadfastly championed the cause of a united America. The relations between Peru and the United States have been characterized by friendship and good will and it was therefore natural that Peru should be found on the side of the United States in the world struggle.

Peru proposed in August, 1914, that the American republics define the rights of neutrals and adopt a common policy toward the war. Similar proposals from other sources were considered by the Governing Board of the Pan American Union. A commission was appointed to study the problem but to no result.

In its reply of February 9, 1917, to Germany's announcement of unrestricted submarine warfare, Peru denied Germany's claim "because the Peruvian Government considers it opposed to international law and the legal rights of neutrals. The recent odious case of the *Lorton* which resulted in a claim by my Government, proves the error and injustice of the submarine campaign, now generalized in an unacceptable form by the closure of enormous zones of free seas, with serious danger to the lives and interests of neutral countries."¹

The Peruvian reply of June 28, 1917, to the Uruguayan decree of June 18 declared in favor of the principle of American solidarity and accepted it as the key-note of its international policy.² President Prado in his message to the Peruvian Congress July 28, 1917, announced the adherence of Peru to the principles of justice and right set forth in President Wilson's message to Congress of April 2. He approved the attitude which the Governments of Brazil, Cuba, Bolivia, Panama and Uruguay had taken in regard to the war.³ The Senate declared on September 8, 1917, that "the international policy of Peru should derive its inspiration from the principle of solidarity of

¹ de Lavalle, Juan Bautista, *El Peru y la Gran Guerra* (Lima, 1919), p. 14.

² Republica Oriental del Uruguay, *Memoria del Ministerio de Relaciones Exteriores, 1916-1918*, p. 466-467.

³ Lavalle, *op. cit.*, p. 15-18; Naval War College, *International Law Documents, 1917*, p. 197.

the peoples of the continent with the United States in harmony with the ideals of international justice proclaimed by President Wilson."¹

The failure of Germany to grant satisfactory reparation for the sinking of the *Lorton* on February 5, 1917, together with the idea of continental solidarity, led the Peruvian Congress to pass a resolution on October 5, 1917, by a vote of 105 to 6 to sever diplomatic relations with Germany. Although many were in favor of a declaration of war, the Government never took that step.²

A note sent by the minister of foreign affairs to the United States, explaining the causes for the severance of diplomatic relations, said in part:³ ". . . When the conflagration spread to the American continent, notwithstanding the efforts exerted for nearly three years by the United States to keep that great people out of the conflict, Peru was confronted by new duties springing from its passionate desire for the continental solidarity that has ever been the goal of its foreign policy, and by the necessity of defending its rights from the new form of maritime warfare set up by Germany." The note indicated this as the reason for announcing adherence to the principles proclaimed by President Wilson instead of immediately breaking off diplomatic relations. "It was the Peruvian Government's wish that the policy of the whole continent be a concerted ratification of the attitude of the Washington Government which took up the defense of neutral interests and insisted on the observation of international law. But the course of events did not result in joint action; each country shaped its course in defense of its own invaded rights as it was individually prompted in its adherence to the principles declared by the United States."

¹ Lavalle, *op. cit.*, p. 19.

² de Lavalle, Juan Bautista, "The Severance of Diplomatic Relations between Peru and Germany", *American Journal of International Law*, XII, p. 610.

³ Naval War College, *International Law Documents*, 1917, p. 198; *Boletín del Ministerio de Relaciones Exteriores*, Año XVI, No. LXI, p. 54.

Bolivia

Being land-locked and possessing no merchant marine, Bolivia did not have its interests endangered by the German submarine campaign. On the other hand, the Bolivian foreign policy revolved about Pan Americanism as one of its poles and this proved to be of sufficient strength to make Bolivia an ardent supporter of united American action in regard to the European conflict.

The Bolivian minister of foreign affairs on February 5, 1917, stated that "the Government of Bolivia considers entirely proper the noble and lofty attitude assumed by the Government of the United States, which is in accord with the rights of neutral countries to safeguard their own interests and those of civilization and humanity. The Government of Bolivia, therefore, frankly indorses the stand taken by the United States."¹

Bolivia inaugurated a movement to bring about a collective protest against the German submarine campaign. On February 7, 1917, the minister of foreign affairs sent a note to the American Republics in which he said that he thought it was "indispensable to formulate a collective protest on the part of all, or at least of some, of the South American states against the plans of Germany, as communicated officially to the Government at Washington."² These efforts did not lead to practical results.

On April 13, 1917, a week after the declaration of war by the United States, the Bolivian Government handed the German minister his passports.³ Bolivia remained in this relation for the remainder of the conflict and was represented at the Peace Conference.

¹ Republica de Bolivia, *Memoria que presenta el Ministro de Relaciones Exteriores y Culto, Dr. Placido Sanchez al Congreso Ordinario de 1917*, p. 30-31.

² Republica del Ecuador, *Informe que el Ministro de Relaciones Exteriores presenta a la nacion*, 1917, p. 251.

³ *Ibid.*, p. 162-164.

Ecuador

Ecuador, like Bolivia, possessed no merchant marine. Like the other nations on the Pacific, it was removed from the area of hostilities and hence its national interests were not directly imperiled by the war operations.

Ecuador was a partisan of American solidarity and proposed the summoning of a congress of neutrals at Montevideo to consider an "agreement on means for the guaranty of the rights of neutrality and a possible moderation of the rigors of the struggle."¹ No practical results came from this proposal, and on December 7, 1917, Ecuador formally broke diplomatic relations with Germany.² In the memorandum to the diplomatic corps the Minister of Foreign Affairs said that "the rupture of relations with Germany signifies that Ecuador, whose doctrine has always been that of American solidarity, is united in heart and thought with her sister Republics of the continent."³

Argentina

The remaining South American Governments — Argentina, Chile, Colombia, Paraguay and Venezuela — maintained neutrality throughout the war. It can safely be said that the policy of no South American republic toward the League of Nations was more influenced by its Great War policy than that of Argentina. The attitude of Argentina toward the war was naturally regarded with great interest not only because it was the largest and most influential Spanish speaking country of America but also because of its tremendous economic strength, which was of vital importance to the belligerents. The Government listed itself as a neutral at the beginning of the war, a position maintained throughout the conflict.

¹ *Republica del Ecuador, Informe que el Ministro de Relaciones Exteriores presenta á la nacion, 1915, p. 249-250.*

² *Ibid.*, 1918, p. 228-230.

³ *Ibid.*, p. 230-232.

There were, however, repeated and unquestionable evidences of popular sympathy for the Allies. The two most influential newspapers were strongly pro-Ally. The very large Italian population naturally championed the cause of the motherland. The strong British interests, the result of a century of commercial and financial penetration, were imbedded in the entire economic structure of the country and were, of course, pro-Ally. The intelligentsia was largely linked to France. The war proved to be extremely profitable; Argentine products, — meat, wool, hides and grain, — found a ready market in Europe at high prices.

The entrance of the United States did not have the same effect in Argentina as it had in Brazil. The traditional policy of the country toward the United States had not been as cordial as that of Brazil. The declaration of war by the United States, however, called forth a statement from the Argentine Government to the effect that it recognized "the justice of the decision, founded as it is upon the violation of the principles of neutrality established by the rules of international law, which have been considered definite accomplishments of civilization."¹

When the *Monte Protegido* was sunk by a German submarine the latter part of the same month, the Government demanded reparation, which the German Government promised. This was followed by the sinking of two more Argentine ships, *Oriana*, June 6, and *Toro*, June 22. Germany promised to pay for the losses and on August 30, 1917, Argentina informed Germany that it considered the affair closed. Upon the publication² on September 8, 1917, of the intercepted Luxburg cablegrams by the United States, anti-German riots and attacks upon German houses took place, while the Senate by a vote of 23 to 1 and the Chamber of Deputies by a vote of 53 to 18 favored a severance of diplomatic relations. Luxburg, the German chargé d'affaires,

¹ Note of April 11, 1917, by Ambassador Naón, to the State Department (Naval War College, *International Law Documents*, 1917, p. 37).

² United States, Committee on Public Information, *Official Bulletin*, I, No. 102, p. 1.

fares, was given his passports September 12; but with the disavowal by Berlin of Luxburg's actions, President Irigoyen considered the incident closed.

Luis Maria Drago, former minister of foreign affairs and author of the Drago doctrine, in an article in *La Razón*, April 10, 1917, strongly urged a break. He said:

Such action was justified by the German notification that it prohibited all ships from crossing a war zone arbitrarily established on a free sea against all conception of international law. The situation is aggravated to-day. The war between Germany and America is a struggle of democracy versus absolutism and no American nation can remain neutral without denying its past and compromising its future. How can Argentina break the bonds of solidarity with its Latin brothers and abandon its traditional policy to remain in an isolation which nothing would justify. We should constitute the material and moral union of this continent for the defense of law and democratic principles in international relations.¹

It was likewise true that Ambassador Naón and the President differed radically regarding the attitude which Argentina should take. The ambassador favored a break with Germany to uphold the rights of Argentina and supported a policy of Pan Americanism and continental solidarity. He visioned a peace conference at the close of the war which would probably regulate the economic cooperation of the world for the future and pointed out that, if Argentina should remain neutral, it would not be able to participate in such an important conference.

The President did not consider an attack upon one member of the continental bloc as an attack upon all. Before the Chamber of Deputies on September 22, 1917, he urged that each country should decide the issue according to the circumstances in each case. He felt that he, being away from the direct influences of the strife, was better able to view the developments with impartiality than diplomatic representatives in the belligerent countries. Above all, the President was too independently minded to follow

¹ Translated from *La Razón*, Buenos Aires, April 10, 1917.

in the wake of the United States.¹ Irigoyen as a man of definite opinions and of determination, felt that only the national interests of the country should decide the action of his Government. To him war meant active cooperation and not simply a declaration of sympathy. Argentina was a great nation, — the leading Spanish nation in America — and its action should be worthy of that position. The idea of playing an important rôle with Spain at the Peace Conference was fostered. The absorption of energies and resources by entrance into the war would have delayed the carrying out of the social and economic reforms to which the Radical Party had been pledged.

President Irigoyen attempted on two different occasions to convene a conference of neutral Latin American nations. Both efforts failed, Mexico being the only state which received the idea with any degree of enthusiasm. On August 1, the German minister wrote: "The President has at last made up his mind to conclude a secret agreement with Chile and Bolivia regarding a mutual rapprochement for protection *vis-à-vis* North America before the conference idea is taken up again."²

Whatever difference of opinion may exist, in the light of facts since revealed, regarding the judgment or the relative weight which the President gave to the various factors, his sincerity in doing what he considered to be the best for his country can scarcely be questioned. He obeyed what he believed to be the dictates of patriotism and sound domestic policy.

Chile

Neutrality during the World War seemed to be the logical policy for Chile. The country was far removed from the center of hostility and its merchant marine was largely engaged in quarters other than the war zone.

¹ On October 1, he was reported as having stated that "Argentina can not be dragged into the war by the United States and the nation must take the place it deserves on the American continent." (*Christian Science Monitor*, October 1, 1917.)

² *Latin America and the War*, Percy Alvin Martin, p. 255 (World Peace Foundation, II, No. 4, August, 1919).

Hence its neutral rights were not seriously jeopardized either by the blockade or by the unrestricted submarine campaign. On the other hand, the great demand for Chilean nitrates ushered in a period of unprecedented prosperity. Martin summarizes the situation thus: "To many Chileans neutrality seemed both logical and profitable."¹

After the United States and Brazil entered the war and after the appeal for continental solidarity by Uruguay, Chile continued to adhere to its policy of neutrality, and preferred this policy to that of American solidarity. It can be said that German propaganda and the strong and influential German colony played an important part in formulating the Chilean policy regarding the war.

Other States

Colombia adopted the policy of neutrality August 13, 1914.² The Colombian Government expressed itself in sympathy with the policy of solidarity in its reply of February 28, 1917, to the proposals of Bolivia, Ecuador and Mexico. It suggested that the Ecuadorian, Bolivian and Mexican legations at Washington be authorized to discuss the matter with the representatives of other neutral states and if it should seem feasible, plans should be made for a conference in Uruguay.³

Later Colombia abandoned the idea of continental unity. She declined the invitation of Argentina both in respect to a congress in favor of peace and as to a conference of neutrals.⁴

The resentment entertained in Colombia against the United States undoubtedly influenced the attitude of the Government. The treaty of April 6, 1914, had not yet been approved by the Senate of the United States and the bitterness which had been engendered by the severance

¹ *Latin America and the War*, Percy Alvin Martin, p. 256 (World Peace Foundation, II, No. 4, August, 1919).

² *Republica de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso, de 1915*, p. 35; Naval War College, *International Law Topics*, 1916, p. 35.

³ *Ibid.*, 1917, p. 28.

⁴ *Ibid.*, p. 10.

of Panama was still present. The fairly strong German propaganda took advantage of the situation and false rumors so persistently prevailed that United States troops had landed on Colombian territory, that formal demands for an investigation were made by the Colombian minister at Washington.¹

Paraguay was little affected by the war and, since it was not influenced by continental policies, saw no occasion to take any definite stand in favor of either group of belligerents. However, sympathy was expressed for the principle of American solidarity in replying to the Uruguayan decree.

Venezuela also maintained a policy of neutrality throughout the conflict, although there seemed to be much popular sympathy for the Allies. General Juan Vicente Gomez, however, was still the ruling force in Venezuela and like Irigoyen of Argentina he succeeded in remaining aloof from the conflict. Economically, Venezuela enjoyed relative prosperity and was far from the zone of war activities. In addition, General Gomez has been accused of pro-German leanings similar to those of Carranza in Mexico.

B. CARIBBEAN REPUBLICS

Continentalism played a more important part in the formulation of the war policies of the republics of the Caribbean area than of the South American continent. This was largely due to the influence of the United States in this region, which could not but affect the policies of a number of these countries.

Cuba

The attitude of Cuba was the most active, spontaneous and aggressive of any of the Caribbean republics. Its interpretation of the treaty of 1903, considerations of national defense, a sense of international responsibilities and a sentiment of continental solidarity combined in

¹ *Republica de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso, de 1917, p. 103-107.*

prompting the Cuban Government to enter the conflict after the United States. It might even be said that Cuba was the only Caribbean republic to take anything like an active participation in the war.

Cuba took its stand beside the United States in regard to Germany's submarine policy and severed diplomatic relations with the Imperial German Government.¹ On April 7, 1917, the day after the United States declared war, the Cuban Congress unanimously adopted a joint resolution to the effect that a state of war existed between the republic of Cuba and the German Empire. President Mario G. Menocal in his message to Congress declared that the republic of Cuba could not remain indifferent to the "stupendous violations of international law." And he also said:

Nor can [the republic of Cuba] by any means decorously remain aloof from the stand nobly and courageously taken by the United States to which we are bound by sacred ties of gratitude and fraternity.²

Regarding the influence of the United States upon the policy of Cuba, Mr. Martin has said that "history offers few examples of a more spontaneous manifestation of loyalty and gratitude than that afforded by Cuba voluntarily placing her man power and her material resources at the service of the United States and the Allies in the world struggle."³ On April 7, 1917, Dr. José Manuel Cortina declared before the Cuban Chamber of Deputies: "We go to fight as brothers beside that great people who have been ever the friends and protectors of Cuba, who aided us during the darkest days of our tragic history, in moments when opposed by enormous strength we had nearly disappeared from the face of the earth, when we had no

¹ *Boletín de Información* publicado por la Comisión nacional cubana de Propaganda por la Guerra y de Auxilio a sus Víctimas, June, 1920, p. 496.

² *Boletín Oficial de la Secretaría de Estado*, April, 1917, p. 207-211.

³ Martin, Percy Alvin, *Latin America and the War*, p. 249 (World Peace Foundation, II, No. 4, August, 1919).

other refuge, no other loyal and magnanimous friend than the great North American people."¹ Yet Cuba did not blindly follow the United States, although its example played an important part in the formulation of Cuban policy.

Cuban participation in the war was loyal and generous, although necessarily restricted by a limited capacity. On August 3, 1918, a bill was passed providing for compulsory military service. There was also considerable cooperation with the United States regarding the sending and receiving of troops for military instruction.² On August 21, 1917, the Cuban Government turned over to the United States the four German vessels which were interned in Cuban waters.³ The President was soon authorized to send troops and military missions abroad, although no troops landed in Europe before the armistice. An efficient censorship was established with the cooperation of United States experts. The Cuban Government cooperated very effectively with the United States Food Administration and on October 6, 1917, President Menocal decreed that the export regulations of the United States should apply to all exports of Cuba.

Central America

Five of the six Central American republics, viz., Panama, Guatemala, Honduras, Nicaragua and Costa Rica declared war against Germany shortly after the entrance of the United States into the world conflict. The community of interest between Panama and the United States was officially recognized as early as February 23, 1917, when the National Assembly unanimously adopted a resolution of sympathy with the purposes and ideals of the United States.⁴ The resolution noted that Panama was bound to

¹ *From American Magazine*, XXVI, No. 1, November, 1917.

² *C. S. (Official Bulletin)*, September 28, 1918, p. 176, col. 1.

³ *Boletín de Dependencias*, published by the Comandante general cubana de Dependencias para la Guerra de Atrás, 8, via Valencia, II, Número 1, p. 28.

⁴ *Boletín de Panamá*, *Ministerio general de Instrucción de Dependencias Económicas de la Dependencia Americana*, *Número 1*, on sus sesiones ordinarias de 1917, p. 3.

the United States "not only by common interests, but also by bonds of affection and gratitude, and by the fact that both peoples have been influenced by the same ideals of international justice."

On April 7, 1917, the day following the Washington declaration of war, the President of Panama proclaimed common cause with the United States. The President declared that: "Our indispensable duty in this tremendous hour of history is of a common ally, whose interests and existence as well are linked indissolubly with the United States. As the situation creates dangers for our country, it is the duty of the Panaman people to cooperate with all the energies and resources they can command for the protection of the canal and to safeguard national territory."¹ Throughout the remainder of the war the Government of Panama cooperated closely with that of the United States, although not as an active participant.

Despite the strong German interests in Guatemala, President Cabrera severed diplomatic relations with Germany on April 27, 1917. In officially informing the United States of this action, the Guatemalan minister to the United States declared: "Guatemala takes the greatest pleasure in offering to the United States of America her territorial waters, her ports and railroads, for use in common defense, as also all elements which may be available for the same purposes." Admiral Caperton, who was sent to thank President Cabrera for this action reported the following reasons: (a) "Fear of aggression by Mexico and Salvador; (b) opportunity to increase the friendship of the United States, with consequent advantages in trade and protection; (c) opportunity to confiscate large German estates; (d) desire to strengthen Cabrera's administration."² On April 22, 1918, the Guatemalan Government formally declared war against the Imperial German Government. The resolution of the National Assembly provided

¹ *República de Panama, Memoria por presents al Secretario de Relaciones Exteriores de la Asamblea Nacional Tenida en sus sesiones ordinarias de 1917*, p. 5-6. Ximel Rey, *College, International Law Documents, 1917*, p. 154.

² *Sen. Doc. 285, 66th Cong., 2d sess., p. 3212.*

that "continental solidarity, the geographical position of the country and the bonds, historical and international, existing between the United States and Guatemala, indicate the form of conduct to be followed in the present case," and led Guatemala to assume the same belligerent attitude.

From the beginning of the European War, Nicaragua like Panama, closely pursued the policy of the United States. It will be recalled that the Bryan-Chamorro treaty had just been negotiated and that Nicaragua had received the tacit support of the United States in its attitude toward the cases brought against it before the Central American Court of Justice. United States marines were maintained in Managua, while the collection of customs was supervised by a citizen of the United States. It was therefore natural that war policy should have been in close harmony.

On May 18, 1917, the Nicaraguan Congress decreed severance of diplomatic relations with Germany and authorized the President to grant to the United States the use of its territorial waters and its means of communications.¹ On May 6, 1918, Nicaragua declared war against Germany and Austria-Hungary and proclaimed solidarity with the United States and the other Latin American republics which had entered the conflict.²

The policy of Honduras was also in conformity with that of the United States. Following the severance of diplomatic relations between the United States and Germany, Honduras on May 17, 1917, took similar action. The minister of foreign affairs in notifying the United States of its action said that Honduras, being "impelled by the cordial friendship which exists between Honduras and the United States by common interests and the sentiment of American solidarity," had resolved to "adhere to the cause" which the Government of the United States

¹ Republica de Nicaragua, Ministerio de Relaciones Exteriores, *Memoria presentada al Congreso Nacional . . . 1917*, II, p. 57-58.

² *Memoria . . . 1918*, I, p. xxix and 239.

maintained in the conflict.¹ Over a year later (July 19, 1918), Honduras declared war against Germany by presidential decree.

The attitude of Costa Rica toward the World War was complicated by internal conditions. The *coup d'état* of 1917 overthrew the Gonzalez Government and established the Tinoco régime, whose Government was not recognized by the United States or the Allied Governments. The larger Latin American Governments also refused recognition. Despite the fact that Germany recognized the new Government, the Tinoco administration early in 1917 offered the use of its territorial waters of Costa Rica to the Allies. On April 12 it declared support of the United States.² Diplomatic relations with Germany were severed on September 21, 1917. War was formally declared on May 24, 1918. The United States and the Allies, nevertheless, consistently refused to recognize the Tinoco Government. Hence the anomalous situation whereby Costa Rica, although officially at war with Germany, was not recognized as a member of the Allies.

The only Central American Government which did not declare war against Germany was that of Salvador. The influence of the United States was less marked in this republic than in any of the other six isthmian states. Then, too, Salvador was disappointed at the disregard by the United States of the decision of the Central American Court of Justice in its case against Nicaragua concerning the Fonseca Bay naval base.³

Salvador, however, maintained a policy of benevolent neutrality toward the United States and the allies in recognition of the "solidarity which binds it to the great republic of the north." Although technically neutral, it allowed vessels of the United States to use its ports with the same

¹ República de Honduras, *Memoria del Secretario de Estado en el Despacho de Relaciones Exteriores . . . presentado al Congreso Nacional, 1916-1917*, p. 162.

² Naval War College, *International Law Documents, 1917*, p. 77.

³ República de El Salvador, *Memoria de Relaciones Exteriores, Instrucción Pública y Justicia correspondiente al año de 1917*, p. 19; see also note of October 6, 1917, Naval War College, *International Law Documents, 1917*, p. 210.

rights and privileges as ships of Salvador. This policy was prompted by the fact that Salvador was a member of the Pan American family of nations and did not regard the United States, — a comember, — in the same light as other belligerents.¹ Salvador maintained this attitude throughout the remainder of the conflict.

Dominican Republic

The Dominican Republic withdrew the exequaturs of German consuls in that country in July, 1917, and since Germany did not have a minister in Haiti, this action was regarded as a severance of diplomatic relations. It should be noted, however, that the marines of the United States were occupying the republic at that time.

Haiti

United States marines had occupied Haiti in 1915 and the established Haitian Government was consequently in complete harmony with its big brother. The sentiment of the country was strongly pro-French. The President recommended a break with Germany shortly after the United States entered the war but the National Assembly refused to take such action. Although the Assembly was dissolved on June 19, 1917, war was not declared until July 12, 1918.

Mexico

In many respects the attitude of Mexico in the war more nearly resembled that of Argentina than of any other American republic. It maintained an official neutrality from the first. The Vera Cruz episode, the Villa expedition, the strong German influence and the attitude of President Carranza toward the United States, all contributed to a determination to maintain a technical neutrality.

¹ Republica de El Salvador, *Memoria de Relaciones Exteriores, Instruccion Publica y Justicia correspondiente al año de 1917*, p. 19; see also note of October 6, 1917, Naval War College, *International Law Documents*, 1917, p. 210.

Strong German propaganda flourished and Mexico was the center of an efficient German espionage system. Although President Carranza repeatedly asserted that his Government was strictly adhering to neutrality, the allies entertained considerable doubt regarding the actual situation. This suspicion was fortified by the Mexican proposal on February 12, 1917, to all other neutral Governments, that the groups of contending powers be invited to bring the war to an end. "If within a reasonable term peace could not be restored . . . the neutral countries would then take the necessary measures to reduce the conflagration to its narrowest limits by refusing any kind of implements to the belligerents and suspending commercial relations with the warring nations until the said conflagration shall have been smothered."¹ This proposal was made 13 days after the inauguration of unrestricted submarine campaign and seven days after the United States broke diplomatic relations with Germany. Such a plan would have hampered the allies and worked to the advantage of the central powers. The proposal led to no tangible results.²

The famous Zimmermann dispatch of January 19, 1917, indicated that Germany was confident of Mexican sympathy. Although the Mexican chargé d'affaires at Washington formally denied any implication of his Government in the affair, President Carranza refrained from making any statement. Carranza's suspicion of the United States was in evidence on many occasions and was one of the factors which influenced Mexico's war policy.

3. Method of Acquiring Membership

The Covenant of the League of Nations was Part I of the treaties of peace and hence the method by which the Governments acquired membership in the League of Na-

¹ Department of State, *Diplomatic Correspondence with the Belligerent Governments relating to Neutral Rights and Duties. European War, No. 4*, p. 349-351.

² Attitude of the United States, see *ibid.*, p. 351.

tions varied in accordance with their respective status in the war. All of the American Governments which had declared war or severed diplomatic relations with Germany were represented in the Peace Conference, except Costa Rica and the Dominican Republic. The neutral republics had no official voice in drafting the Covenant. This fact led Argentina to propose a radical change in the organization of the League at the First Assembly in 1920.

Eleven of the 13 Latin American republics which had severed relations with Germany were represented at the Peace Conference and signed the treaty of Versailles. All of these except Ecuador ratified the treaty and thus became original members of the League of Nations. Costa Rica was admitted in 1920 by the First Assembly. The remaining seven republics, those which had remained neutral during the conflict, were not represented at the Peace Conference although all except Mexico were invited to accede to the Covenant, which they all did. Thus the First Assembly saw all of the Latin American republics Members of the League except Mexico, Ecuador and the Dominican Republic. The Dominican Republic was admitted as a Member on September 29, 1924.

With the signing of the armistice, Brazil stood as the champion and leader of the Latin American countries. The Brazilian plenipotentiary to the Peace Conference was made a member of the Commission on the League of Nations. At his request Art. 26, par. 2, was added to the Covenant to the effect that a state shall cease to be a member of the League if any amendment shall be added to which it does not wish to be bound.¹ When 14 nations deposited the procès-verbal of their ratification in the French Foreign Office at Paris January 10, 1920, Brazil became one of the first Members of the League of Nations. She was named by Art. 4 of the Covenant as a member of the League Council to serve until the Assembly should elect the nonpermanent members.

¹ *Protocole de la Conférence des Préliminaires de Paix, No. 5.*

Cuba

Cuba was represented at the Peace Conference by the distinguished jurist and statesman, Dr. Antonio Sanchez de Bustamante, who interested himself in the rights of smaller nations. He was partly responsible for the provision in the Covenant which allows a member to withdraw after two years' notice, provided all its obligations under the Covenant have been fulfilled. On February 4, 1920, the Cuban Congress approved the treaty of Versailles and on March 8, 1920, the ratification was deposited at Paris. Some Cubans questioned the advisability of taking action not in harmony with the United States but the great majority favored independence in foreign policy in harmony with what they considered the best national interests.

Peru

Peru, having broken diplomatic relations with Germany, was a member of the Peace Conference.

The treaty of Versailles was submitted to the National Assembly on September 25, 1919, by the minister of foreign affairs.¹ The Comisión diplomática, to which it had been referred, reported favorably on November 17, 1919; the same day it was unanimously approved by the Assembly after several speeches favoring ratification had been made. Ratification, however, was not deposited until March 9, 1920.

The discussion — not debate — seemed more to emphasize approval than to examine the subject. Ratification was a foregone conclusion; as the minister in opening the discussion said: "It is not necessary to tire the Senators and Representatives with any analytical study of the various articles of the treaty."² An analysis of the speeches reveals that the members of the Assembly³ agreed upon one

¹ *Diario de los Debates de la Asamblea Nacional*, 1919, p. 15.

² *Ibid.*, p. 785.

³ The assembly was constituent and produced the revision of the national constitution adopted January 18, 1920.

thing, viz., the conviction that the League would take cognizance of the problem of Tacna and Arica and give them justice, as they viewed it. Thus they saw the League as an instrument which would compel the revision of the treaty of Ancón and restore to Peru its lost provinces.

It can be said in general that Peru labored under an illusion regarding the purposes of the League. The preamble's statement that the nations agree to the Covenant "in order to achieve international peace and security by the maintenance of justice and a scrupulous respect for all treaty obligations" meant to a Peruvian but one thing as far as the "Pacific Problem" was concerned. Tarapaca had been alienated by force while the principle of self-determination, although provided for in the treaty of Ancón, had never been put into effect in Tacna and Arica. Peru envisaged a vindication of the policy pursued toward its neighbor to the south, a plebiscite with full liberty to vote. No better statement of the Peruvian position can be found than in the words of the minister of foreign affairs in his opening speech before the National Assembly. He said:¹

This treaty needs no defense. It is universal and permanent, it does not signify the imposition of victor over vanquished, but the determination of principles which are going to try to give justice to the world. Peru has international problems to settle, questions of limits with some of its neighbors. . . . The treaty offers us the security that these questions will be discussed and solved peacefully. It offers us the security that there will be no trouble in these discussions and the result will correspond to justice and the interests of the parties concerned. It promises us, that the international problem, essentially linked to the dearest sentiments of the country, also will be solved according to the sacred rights of nations. . . . The treaty assures a just and rational solution according to principles of self-determination. The conditions in which the plebiscites have been organized for resolving the political problems of Europe reveals clearly that, in our diplomacy with the republic to the south, we have had the right to say that reason was on our side, to sus-

¹ *Diario de los Debates de la Asamblea Nacional*, 1919, p. 791.

tain what were conditions indispensable to organize the plebiscite. . . . We are able to say that the great treaty which has for its object the maintenance of peace and justice in the world also sup-ports in all events, the satisfaction of the nationals.

Sr. Valcarcel, president of the Comisión diplomática, which reported favorably to the Assembly after considering the treaty in committee said:¹ "Forty years have passed and yet notwithstanding repeated demands for justice, we have not been able to secure our territory. We have to-day the League of Nations and those who have suffered from the brutalities of force for 40 years . . . can not doubt that justice will be given us."

Sr. Prado Ugarteche spoke of the mutilations imposed by violence which must be repaired, while Sr. Mastría said that "the Covenant of the League of Nations contains for Peru two fundamental points of international law . . . , one on plebiscite . . . and the other, the inalienable right of nations to recover at any time and in whatever form, the territories which were taken from them by violence. . . . The treaty of Versailles defines the perfect right of Peru to recover for all time and in whatever form the territory of Tarapaca."² Sr. Salazar Oyarzabal of the opposition party in favoring the treaty said: "The Covenant of the League of Nations prepares for Peru the best means for the recovery of that which the Peruvian people have to hope for."³

It is interesting to note that not one of the speeches made during the consideration of the treaty voiced any opposition or expressed a doubt regarding the efficacy of the new world organization for solving American problems. The treaty was approved unanimously⁴ the day it was brought up for discussion, after which a resolution was passed to send a message to President Wilson.

¹ *Diario de los Debates de la Asamblea Nacional*, 1919, p. 293.

² *Ibid.*, p. 296.

³ *Ibid.*, p. 302.

⁴ *Ibid.*, p. 302.

In the closing session of the Assembly, December 27, 1919, a resolution was passed which had been signed by all members who signed the revised Constitution. It reads as follows:¹

The National Assembly of 1919, the only constituent body meeting since the war with Chile, and which has approved the Covenant of the League of Nations, before its adjournment considers it its unavoidable duty to declare before America and the world in the name of Peru:

1. That the dismemberment of the department of Tarapaca, the richest territory of America, constitutes a conquest of territory and thus is an act of iniquity and of force that does not have a precedent in the history of the modern world.

2. That the treaty of Ancón has been violated by the conqueror in not fulfilling the clause which provided for a plebiscite in the provinces of Tacna and Arica in 1893.

3. That in virtue of this Chile not only conquered by aggression during the war but it pretends to conquer by violent retention in peace.

Hopes that the patriotism of the Congress and of the Government will use all of its power and influence with a view that the League of Nations and the action of the interested powers will, according to justice, protect the just, legitimate and imprescriptible claims of Peru.

Mariano H. Cornejo, the president, said in his closing speech that: "The League of Nations, which you approved, fired by emotions and seconded by popular patriotism, free from the obstacles of oligarchy, will resolve without a doubt, the international problem of Tacna-Arica."² This statement was received with long and unanimous applause, which evidenced the sincere approval of the Constituent Assembly.

Argentina

Argentina, not having been a member of the Peace Conference, did not assist in drawing up the Covenant of the League, except in attending the two informal meetings of

¹ The signatories numbered 122, 30 senators and 92 representatives.

² *Diario de los Debates, Asamblea Nacional, 1919, Vol. 2, p. 1565-1567.*

the neutrals with the subcommittee of the drafting committee.¹ Two factors are important. First, Brazil was in a very favorable position, while Argentina was not. Second, the President had envisioned his country as playing a prominent rôle as one of the leading neutrals in organizing the new world order which was being talked about. Hipólito Irigoyen may have had too exalted an opinion of the place which Argentina held in the family of nations. His international perspective may have been influenced by his intense nationalism. He spoke of a world conference of all nations rather than of the victors. Such a conference to discuss impartially an ideal world organization, however, was far from realizable in a war atmosphere and it is now generally admitted that the League or any association would not have been created if its charter had not been made at the Peace Conference.

Argentina was the first South American republic to accept the invitation to accede to the Covenant. The minister for foreign affairs, Honorio A. Pueyrredon, on July 12, 1929, sent the minister at Paris, Marcelo T. de Alvear, the following instruction:²

In accordance with Art. 1 of the Covenant of the League of Nations, the Executive Power has decided to adhere to it without any reservation. Publish this decision. Please deposit with the Secretariat the appropriate communication.

Minister de Alvear notified the Secretary-General on July 18 and 29 of Argentina's adherence.³

The Argentine action was premature. Sir Eric Drummond informed the minister by note of July 23, 1919,⁴ that the League had not yet been legally constituted and that he could not then carry out his duties as Secretary General

¹ See David Hunter Miller, *The Drafting of the Covenant*, I, p. 303; II, p. 592.

² Juan B. Sivori, *La Liga de las Naciones, su origen y la obra realizada en la República Argentina*, p. 503 (Buenos Aires, 1928).

³ *Official Journal*, 1920, p. 13-14.

⁴ Juan B. Sivori, *La Liga de las Naciones, su origen y la obra realizada en la República Argentina*, p. 504 (Buenos Aires, 1928).

respecting adherence.¹ The Secretary-General asked if it was the desire of Argentina to adhere as soon as the necessary ratifications should be made. The Argentine minister at Paris, Sr. Alvear, replied on July 29, that such was the interpretation to be given to the note of July 18; the Government "will ratify this adhesion as soon as the Chambers have given their approval."²

On the entrance of the treaty of Versailles into force on January 10, 1920, Premier Clémenceau of France addressed to President Irigoyen a formal invitation to adhere to the Covenant of the League.³ On the 16th the Argentine President replied: "I take pleasure in transmitting to Your Excellency the formal ratification of the Argentine Government under the conditions of adhesion expressed in the note of July 18, 1919, addressed to the Secretary-General of the League by our representative in France." On January 10, moreover, Sir Eric Drummond informed the Argentine minister of foreign affairs that "in accordance with my reply of July 23, 1919, to your note dated July 18, I have in due form notified the Governments of all the other states which have ratified the treaty or adhered to the Covenant, and so are Members of the League, that the Argentine Republic has deposited in the Secretariat a declaration of adhesion." On February 11, Honorio Pueyrredon, the minister of foreign affairs at Buenos Aires, acknowledged this dispatch in the customary form of repeating its content.

The Congress had not been consulted respecting this action, and its first official notice of Argentine membership in the League was the presidential message of September 23, 1920, which requested approval of delegates to the First Assembly.⁴ In commenting upon the message, *La Prensa* on September 26, 1920, criticized the President and insisted

¹ República Argentina, Ministerio de Relaciones Exteriores y Culto, *Boletín de la Liga de las Naciones*, No. 1, 1920, p. 45.

² *Ibid.*, p. 45-46.

³ Juan B. Sivori, *La Liga de las Naciones, su origen y la obra realizada en la República Argentina*, p. 506 (Buenos Aires, 1920).

⁴ República Argentina, Ministerio de Relaciones Exteriores y Culto, *La República Argentina ante la Liga de las Naciones, 1922*, p. 149.

that he comply with the constitutional requirements and submit the Covenant to Congress.¹

The Argentine Congress had not approved the Covenant when the Argentine delegation was admitted to the First Assembly of the League. It does not appear in the official documents or in the press that any doubts were expressed regarding the credentials of the Argentine delegation which, in any case, would be issued by the executive rather than the legislative branch of the Government. A careful examination of the documents, private correspondence and press reports furnishes no evidence that the Argentine Foreign Office had anything more than a rather hazy and general conviction that the League should be a theoretically ideal organization. There seems to be abundant evidence (1) that no serious and exhaustive study had been made or any definite plan or proposal formulated for a change in the Covenant; (2) that the chief executive had not consulted the legislative authority; (3) that there was a considerable amount of criticism of the President's attitude; and (4) that many were skeptical regarding the Covenant in view of the objections which had been brought out in the United States and Switzerland. Much space was given to these objections in Argentine official publications, although no definite plan appeared to represent the Argentine point of view.

Chile

Chile proposed a definite program and cooperated in formulating plans in accordance with their views. On March 19, 1919, authorization was cabled to the legation in Paris manifesting acceptance of the "general ideas regarding the organization of the League of Nations to assure peace by international cooperation and maintain a scrupulous respect for the existing treaties, affirming at the same time the principles that constitute the American rights as proclaimed in all of the Pan American conferences."²

¹ *La Prensa*, Buenos Aires, September 26, 1920, p. 9.

² L. Barros Borgoño, *The Problem of the Pacific and the New Policies of Bolivia*, p. 20 (Baltimore, 1924).

On October 4, 1919, the President in a message presented to the Senate the question of acceptance of the Covenant. After reviewing its general provisions, he proposed a resolution to "authorize the President of the Republic to require the acceptance, on the part of Chile, of the Covenant of the League of Nations."¹ At the request of the minister of foreign affairs, Luis Barros Borgoño, preference was granted to the project, an unusual procedure requiring a unanimous vote. This procedure was requested on account of "the importance and the urgency of the affair." Moreover, "the Argentine Republic has already given (*prestado*) its adherence in the manner required by the Covenant, *i.e.*, without reservation."² The minister sketched the traditional policy of Chile as one of conciliation and arbitration. Approval of the League was, he said, "destined to establish among the nations a new régime of cooperation and friendly agreement . . . and which is able to be, and must always be, the instrument of peace and sincere rapprochement among all the people." His concluding sentence was, "as stated before, the Republic of Argentina has already given its complete acceptance."³

On October 20, 1919, the Committee of Foreign Affairs reported that it had unanimously recommended on October 16 the acceptance of the Covenant by Chile. On October 27, the Congress accepted the Covenant, reserving (Art. II) "the right to consider modifications or safeguards which the signatory nations might make which have not yet ratified it" and directed the minister (Art. IV) to publish the official text.⁴ The Chilean minister in London notified the Secretary-General on November 4, 1919, of his Government's action.

The minister of foreign affairs was apparently spurred on by the fact that Argentina had already given its ad-

¹ *El Comenio de la Liga de las Naciones*, p. 16 (Santiago, Chile, 1920).

² *Ibid.*, p. 17.

³ *Ibid.*, p. 25-26.

⁴ *Boletín de las Leyes y Decretos del Gobierno*.

herence, but could hardly have been acquainted with the real position in Argentina. According to Antonio Huneeus Gana, Argentina did not even apprise Chile of its attitude toward the League, even at the conference of the Chilean delegates with President Irigoyen before they sailed from Buenos Aires to attend the first League Assembly. Hence, it would seem that the Government of Chile was misled regarding the adherence of Argentina to the League.

Other States

Uruguay was represented at the Peace Conference, where Juan Antonio Buero announced his perfect accord with the League of Nations Covenant at the fifth plenary session.¹ Uruguay promptly ratified on October 24, 1919, and was one of the nations to deposit its ratification in Paris on January 10, 1920.

The delegate from Honduras, ex-President Policarpo Bonilla, urged that the reference to the Monroe doctrine in Art. 21 of the Covenant be stated more clearly. His proposal did not meet with approval, and it does not appear that it received any serious attention.² Honduras did not become a member until November 3, 1920.

Guatemala and Panama became members on January 10, 1920. Guatemala had ratified on October 2, 1919, and Panama on January 8, 1920. The Nicaraguan Congress accepted the treaty April 7, 1920, and effected ratification on November 3, 1920. The National Assembly of Haiti approved on June 5, 1920, and the Government became a member June 30, 1920.

The two American nations which had neither severed diplomatic relations with Germany nor declared war, viz., the Dominican Republic and Costa Rica, were not represented at the Peace Conference. Costa Rica sought to be admitted to the conference but failed. As noted above, the United States and Allies had refused to

¹ *Protocole de la Conférence des Préliminaires de Paix*, No. 5, p. 9. (See Hearings before the Committee on Foreign Relations, U. S. Senate, 1919.)

² *Ibid.*, p. 21.

recognize the Tinoco Government and therefore to them it had no official international standing. The Tinoco Government was soon overthrown and a constitutional government reestablished. On December 1, 1920, Costa Rica applied for admission and on December 16, 1920, the First League Assembly unanimously admitted it to membership.¹

The Dominican Republic was occupied by the United States. After the United States withdrew in 1924, the Dominican Government requested admission to the League in a telegram to the Secretary-General on September 23, 1924. The Dominican Republic was admitted by the Fifth Assembly on September 29, 1924.²

The six republics which had maintained neutrality accepted the invitation to become members. Mexico was not invited to accede to the Covenant. This was probably due to its attitude during the war and to its policy toward foreigners and their property. President Carranza referred to Mexico's status in his message to Congress September 1, 1919, in the following manner:³

When the struggle was over, the Governments of the Allied powers met to constitute a League of Nations, to which it was said that almost all countries would have access under certain conditions; all were invited except a few, Mexico among them, and our Government has done nothing, nor will ever do anything, to enter into that international society, because the bases upon which it was formed do not establish, either as to its functions or as to its organization, a perfect equality for all nations and races . . .

Señor Edwards of Chile, as president of the Third Assembly, on September 30, 1922, declared: "Need I say with what joy the League will welcome the great Mexican nation into its circle whenever she feels that the time for joining us has come? For the Latin American nations the

¹ *Records of the First Assembly, Plenary Meetings*, p. 584.

² *Records of the Fifth Assembly, Plenary Meetings*, p. 189.

³ *Diario Oficial*, September 1, 1919, p. 28 (Informe Presidencial).

collaboration of a sister republic . . . will be of greatest value."¹

An invitation was extended but it was refused on September 14, 1923. The reply stated that as long as the Mexican Government remained unrecognized by Great Britain, "Mexico will be forced to decline suggestions that she apply for admission to the League."² Since that time there have been many expressions before the Assembly by Latin delegates of the hope that Mexico might join but no action has ever been taken. In December, 1929, Mexico accredited an observer to Geneva to follow League of Nations activities.

The neutrals were invited by the Commission on the League of Nations of the Peace Conference to meet for an expression of views on the proposed organization. Two rather informal meetings were held on March 20 and 21, 1919, with a subcommittee of that commission. Argentina, Salvador and Chile were represented at the meetings by their respective diplomatic agents in Paris.

Salvador approved the principle of the League of Nations and expressed the hope that it would guarantee the integrity and autonomy of the smaller nations. However, it hesitated to join on account of uncertainty regarding the meaning of Art. 21, which provides that nothing in the Covenant "shall be deemed to affect the validity of international engagements . . . such as the Monroe doctrine." It requested the United States on December 14, 1919, to define more clearly the scope and character of that doctrine.³ On February 26, 1920, the United States replied by referring to President Wilson's speech of January 16, 1916, before the Pan American Scientific Congress. This seemed to satisfy the Government of Salvador for on March 5, 1920, it adhered to the Covenant of the League by executive

¹ League of Nations, *Records of the Third Assembly* (1922), Part I, p. 393.

² Great Britain recognized the Calles Government in 1923.

³ Republica de El Salvador, Ministerio de Relaciones Exteriores, *Libro Rosado*; contiene la actuacion de la cancilleria salvadorena relativa a la aceptacion y adhesion de El Salvador al pacto internacional Liga de las Naciones, p. 36 (San Salvador, 1920).

decree. Adhesion was deposited March 10, 1920, and the Legislative Assembly ratified the action the next day.¹

Paraguay adhered to the Covenant on October 29, 1919,² and filed the proper instrument on December 26, 1919.

Venezuela accepted the Covenant and became a Member on March 3, 1920.

Colombia adhered February 16, 1920. The letter to the Secretary-General stated that it desired to adhere to the Covenant, but did not wish this action to constitute a recognition of the independence of Panama. The Council of the League³ on February 12, 1920, authorized the Secretary General to acknowledge the proposal "without expressing any opinion on the point at issue." The letter of accession was circulated to all Members of the League.

¹ Republica de El Salvador, *Diario Oficial*, March 19, 1920.

² *Official Journal*, I, p. 14.

³ *Procès-Verbal of the Council, Second Session, 4th meeting, p. 4.*

III. PARTICIPATION IN THE LEAGUE

1. South American Republics

BRAZIL

THE relations of Brazil with the League are probably the most interesting of any Latin American country on account of its prominent rôle in the organization of the institution and its energetic and consistent cooperation during the first five years. Brazil attracted world-wide attention by its attitude toward the reorganization of the Council during the Extraordinary Session of the Assembly in March, 1926, which was followed by its notice of withdrawal.

Brazil accepted the purposes of the League of Nations as worthy of trial, and was honored by being made a member of the League Council. In his address on the occasion of Secretary Colby's visit to Rio de Janeiro in December, 1920, President Pessoa expressed regret that the United States had failed to ratify the treaty of Versailles. Brazil, he declared "is naturally very much interested in the beneficial purposes of the League of Nations. Therefore, it is a matter of regret that the United States, which took the leading part in that great project, has not retained it."¹

Dr. Nuno Panheiro expressed the attitude of Brazil in March, 1921, thus: "The North American Union, having repudiated, in part, the work of Mr. Wilson in the Peace Conference, thus left Brazil alone to represent America in the place where it formerly stood side by side with the United States. Not that this changes in any degree Brazil's sentiment toward, and solidarity with, the United States. On the contrary, Brazil rejoices in being able, in the absence of the United States to interpret in the international conventions (*sic*) in Europe the spirit and

¹ *Independent*, Jan. 8, 1921, Vol. CV, p. 49.

ideals of America, whose exponent heretofore has always been the great Republic of the North."¹

By Art. 4 of the Covenant Brazil was made a member of the Council to serve until the Assembly should elect the non-permanent members. M. Gastão da Cunha, the Brazilian ambassador in Paris, was designated to represent his Government on the Council. His tact and ability won recognition both in the Council and in the Assembly, and during the first year he was made rapporteur on a number of important questions, such as the constitution of the international body for health problems, traffic in women and children, typhus in Poland, and Eupen and Malmédy. He served as one of the three Brazilian delegates to the First Assembly. His proposal before the Assembly² for the organization of the technical organizations was adopted. It might be of interest to note that on November 20, 1920, at the second meeting of the Sixth Committee, Senhor da Cunha submitted a resolution to the effect that the private manufacture of war material of every kind, intended for use on land or sea or in the air, be made a state monopoly, and that all private enterprises and interests be prohibited. He urged that the Assembly call upon all states Members of the League of Nations to introduce into their national legislatures the measures necessary to put an end to private manufacture of armaments.³ This began the consideration of a question posed in the Covenant.

M. Gastão da Cunha in the second year was president of the Council during the trying days when that body was considering the Polish-Lithuanian controversy. It was during this year that the problem of the deportation of women and children in Turkey and the neighboring countries was considered and the Brazilian delegate took a prominent part in it. The Second Assembly elected Brazil

¹ Dr. Nuno Paubeiro, "Brazil and Latin America confronting the League of Nations and Imperialism of North America," *Pan American Magazine*, March, 1921, p. 197.

² *Records of the First Assembly, Plenary Meetings*, p. 336.

³ *Ibid., Meetings of Committees*, II, p. 252.

as a nonpermanent member of the Council by the largest vote received by any member, 38 out of a possible 41.¹

Rodrigo Octavio de Langaard Menezes, Undersecretary of State for Foreign Affairs, served as a Brazilian delegate to the First Assembly and as one of the six vice-presidents was a member of the General Committee. He was appointed to the Fifth Committee which at this session was one of the most important, having to do with the admission of new members. At the 27th plenary meeting on December 16, 1920, Senhor Octavio, as rapporteur for the Fifth Committee, after reviewing the facts stated that the committee could not recommend that all states be admitted by the League. This stand of the Brazilian delegation against universal admission is interesting since the Argentine delegation had sponsored the proposition that all nations should be admitted without question, whether they wished to be or not. The Assembly's acceptance of the report led Argentina to withdraw its delegates.

Brazil participated in defining the powers and organization of the League. In the First Assembly on a proposal that the committees of the Assembly be made permanent, Octavio observed "that the permanent committees would deprive the Council of the executive authority, that the position of a representative to the Assembly was that of a mandatory and did not permit him to depart from his instructions; and since the mandate terminated with the session of the Assembly it was impossible to understand how members could continue to consider themselves as delegates after the Assembly had risen." This became the recognized principle.

The third delegate to the First Assembly was Raul Fernandes, a member of the Federal House of Representatives and former plenipotentiary to the Peace Conference. Dr. Fernandes has probably added more to the prestige and influence of Brazil by his work in connection with the League than any other one Brazilian. He was a valued member of the Advisory Committee of Jurists to draft

¹ *Records of the Second Assembly, Plenary Meetings*, p. 898.

the scheme for the Permanent Court of International Justice. This committee of ten legal experts met at The Hague June 16, 1920, and formulated the draft scheme for the organization of the World Court. As a delegate to the Assembly he was a member of the Third Committee which had to do with the organization of the Permanent Court of International Justice.¹ Still more important, he was one of five members of the Assembly, who, together with five additional legal experts, made up the Jurist's Committee that studied the plans submitted by the Hague Committee to the Council.² One needs but glance through the Records of the First Assembly to get an idea of how prominent Dr. Fernandes was in the formulation of the scheme for the World Court. He fought for establishing the Statute of the Court by a simple vote of the Assembly rather than by a separate convention and won in his contention.³ At The Hague he had lost his proposal for the publicity of dissenting opinions, but won his point before the committee and the Assembly.⁴

Dr. Fernandes performed a great service when the Assembly was nearing a deadlock over the question of compulsory jurisdiction of the Court. On this subject two opposing views were taken: One side, the majority of which were small states, favored compulsory jurisdiction, while the great "powers" opposed such jurisdiction. As unanimity was required, the supporters of obligatory jurisdiction (who constituted the larger number) found themselves face to face with a deadlock. At this perplexing moment, Dr. Fernandes proposed retaining both the provisions of the Advisory Committee for compulsory jurisdiction, which he had favored, and those of the Council, leaving it to each state, in ratifying, to choose between compulsory and voluntary jurisdiction. This compromise saved the situation and the Statute was adopted so as to enable the Members to accept compulsory jurisdiction by means of the

¹ *Records of the First Assembly, Plenary Meetings*, p. 19.

² *Ibid.*, *Meetings of Committees*, I, p. 332.

³ *Ibid.*, p. 298.

⁴ *Ibid.*, p. 374.

Optional Clause when ratifying the protocol of signature if they so desired. "Dr. Fernandes," said Rodrigo Octavio, "succeeded in winning the admiration and respect of his colleagues on the Advisory Committee at The Hague, and both there and later in Geneva he gaveuster to the name of Brazil."¹

Regarding the question of amending the Covenant of the League, Dr. Fernandes strongly favored a majority rather than a unanimous vote. He contended that the acceptance of an amendment by a majority vote in the Assembly would not infringe in the least upon the sovereignty of such states as rejected the amendment, for as he pointed out, according to Art. 26, every Member was free to dissent from an amendment, in which case it would cease to be a Member of the League. They would not, therefore, bind a state by a vote to which it did not agree. This provision had been inserted in the Covenant, Dr. Fernandes said, at the suggestion of M. Epitacio Pessoa, the Brazilian delegate to the League of Nations Commission. Dr. Fernandes was probably the outstanding figure in the discussion of the question and as a result, he drafted the amendments to Art. 26 of the Covenant which are now before the Members for ratification. These embodied the proposals of a number of delegates and were voted at the Second Session of the Assembly in 1921, as follows:²

Amendments to the present Covenant the text of which shall have been voted by the Assembly on a three-fourths majority, in which there shall be included the votes of all the Members of the Council represented at the meeting, will take effect when ratified by the Members of the League whose representatives composed the Council when the vote was taken and by the majority of those whose representatives form the Assembly.

If the required number of ratifications shall not have been obtained within 22 months after the vote of the Assembly, the proposed amendment shall remain without effect.

¹ "Covenant of the League of Nations," *Inter-American*, Vol. V, p. 324.

² *Resolutions and Recommendations adopted by the Assembly during the Second Session*, p. 9-10 (*Official Journal*, Spec. Sup. No. 6).

The Secretary-General shall inform the Members of the taking effect of an amendment.

Any Member of the League which has not at that time ratified the amendment is free to notify the Secretary-General within a year of its refusal to accept it, but in that case it shall cease to be a Member of the League.

Dr. J. A. Barboza Carneiro has been an expert connected with the Brazilian delegation since the First Assembly. He was prominent in the drawing up of the scheme for the allocation of the League's expenses. He was also a member of the committee on the organization of the Secretariat and a delegate to the International Financial Conference at Brussels. At the Second Assembly Dr. Barboza Carneiro urged the creation of an office of the Secretariat in Latin America and as a result the study ending in establishing the Liaison Bureau was undertaken.¹

When the Second Assembly and Council of the League of Nations on September 14-15, 1921, proceeded to the election of the Judges of the Permanent Court of International Justice, Brazil's nomination included the American statesman, whose Pan American policy had received the hearty support of all Latin America, — Elihu Root. When the Court was finally constituted, the Brazilian legal system was honored by the eminent statesman and jurist, Ruy Barbosa, being elected a judge. Senhor Barbosa died March 1, 1923, and the vacancy was filled September 10, 1923, by the election of Epitacio da Silva Pessôa, former President of Brazil.

We shall refrain from recording full committee assignments in considering participation of the various delegations in the Assembly. As each nation is entitled to a delegate on each of the six committees of the Assembly, the delegates of each country are necessarily members of one or more committees. Unless they took a reasonably active part in the work of the committee, no further personal mention of them will be made. When a nation is represented by only

¹ See p. 142.

one delegate, which is the case with some of the nations, for example, Salvador, Paraguay or Guatemala, that delegate may divide his time and attention as he so desires.

Senhor don Domicio da Gama, the Brazilian ambassador in London, headed the delegation to the Third Assembly. The other two delegates were likewise new — R. Regis de Oliveira, ambassador to Mexico, and J. Raul do Rio Branco, minister to Bern. In this Assembly Brazil played a rather passive rôle. Senhor da Gama as president of the Council was provisional president of the Assembly and in that capacity made the opening address. Senhor Regis de Oliveira reiterated before the Third Committee the argument on reduction of armaments which, as previously presented, indicated that Brazil could not reduce its military force. Brazil was reelected as a nonpermanent member of the Council for the ensuing year by 42 out of 46 votes cast, the highest number received by any state, despite the absence of five Latin American members.¹

Afranio de Mello-Franco headed the Brazilian delegation to the Fourth Assembly. Senhor de Mello-Franco had been president of the Brazilian delegation to the Fifth Pan American Conference, was a member of the Permanent Court of Arbitration at The Hague, had been minister to Bolivia and had also held important governmental positions in Brazil. He was made chairman of the Fifth Committee and ex-officio vice-president of the Assembly. Senhor de Mello-Franco was accredited to the League of Nations with the rank of ambassador and was head of the Permanent Brazilian delegation to the League of Nations. He served as representative on the Council and in that capacity led the fight for a permanent seat for Brazil in 1926. The other delegates at the Fourth Assembly were Raul do Rio Branco, minister to Bern, and Frederico de Castello Branco-Clark, minister to Venezuela and deputy minister on the Permanent Delegation to the League of Nations. The part played by the Brazilian delegation in this Assembly was again a passive one.

¹ *Records of the Third Assembly, Plenary Meetings*, p. 383.

The delegation to the Fifth Assembly consisted of the two ranking members of the Brazilian Permanent Delegation to the League of Nations, Senhores Mello-Franco, ambassador to the League, and Castello Branco-Clark, deputy minister, together with Raul Fernandes, who had been very valuable in the first two Assemblies, and now became prominent in the discussion of the First Committee relating to the pacific settlement of disputes. Brazil had urged in preceding Assemblies its special position in regard to the question of disarmament. In the Fifth Assembly special stress was laid upon this proposition by Senhor Castello Branco-Clark in the Third Committee.¹

Senhor de Mello-Franco spoke before the Assembly regarding reduction of armaments and the treaty of mutual guaranty. Speaking of the draft treaty he said:²

An attempt was made to devise some organic form for this mutual assistance, and the obligation to assist a state in the event of attack was, in principle, restricted to other states in the same continent. This restriction, which would have left Australia without assistance, would also have rendered the treaty inoperative as far as American states are concerned. This becomes strikingly evident when we remember that the United States do not belong to the League.

Moreover, the American countries that are Members of the League are not armed, and would in the event of aggression be unable to give any assistance to the country attacked, whoever the aggressor might be.

He pointed out that it is practically impossible for one American state to give assistance to another because of the lack of military and naval force, the great distances between the nations and the topography of the continent. Speaking of the Gondra treaty which had been signed at the Fifth International Conference of American States at Santiago, he said: "This treaty, which was ratified by several other states, including the United States, really

¹ *Records of the Fifth Assembly, Minutes of the Third Committee*, p. 69 (*Official Journal*, Spec. Sup. No. 26).

² *Ibid.*, *Plenary Meetings*, p. 72 (*Official Journal*, Spec. Sup. No. 23).

readers it needless for the American states to adhere to a treaty of mutual guaranty as a protection against the danger of an act of aggression in that continent on the part of an American country."

Senhor Barbosa Carneiro was again an expert attached to the delegation and was prominent in the discussions of the Fourth Committee, before which he urged that Latin Americans should have precedence for appointments in the Secretariat in view of the fact that Latin America was inadequately represented on the permanent staff.¹

The same delegation represented Brazil at the Sixth Assembly. Once again Brazil noted the peculiar position of the American nations and pointed out anew that regional pacts of security were of little or no concern to them but that intercontinental agreements were to the American states the means upon which peace depends. This point of view was presented before the plenary Assembly by Senhor Fernandes and before the Third Committee by Senhor Castello Branco-Clark. The latter pointed out that the A B C powers — the most powerful of the Latin American nations — possessed smaller armaments than even the least armed European groups. Senhor Fernandes asserted of the American states:²

We have no concern with regional pacts of security, for the peace of our continent is based upon unshakable moral foundations, and in the outcome not of exceptional political foresight, but of the geographical and economic causes which mould our history. On the other hand, we have urgent need of intercontinental pacts, for there is a constantly increasing influx of foreign labor and foreign capital. Both are coming, or have already come, from populous and wealthy regions — largely from Europe, and, to an extent which may become very considerable, from the Far East.

Any international disputes in which we may be concerned will therefore be the outcome of these intercontinental relations and will, by reason of their very origin, be legal rather than political in

¹ *Records of the Fifth Assembly, Minutes of the Fourth Committee, p. 24 Official Journal, Spec. Supp. No. 171.*

² *Records of the Sixth Assembly, Plenary Meetings, p. 13 Official Journal, Spec. Supp. No. 179.*

character. Our security thus requires that such legal disputes should be settled by judicial means, either by compulsory arbitration or, preferably, through the Hague Court. . . .

It is only too obvious that in the system of regional pacts room can hardly be found for the intercontinental agreements upon which our peace depends. There is, of course, an indirect way out of the difficulty — a means we employed before the existence of the League; I refer to partial arbitration treaties. But these conventions are independent of the League and do not include all the guaranties given under the Covenant.

Brazil favored the conclusion of special agreements for the limitation of armaments within the general organization of the League, and such other agreements between the parties as would grant additional general guaranties against any act of aggression. Consequently, agreements for limiting armament together with a general system of guaranties in the spirit of the Covenant formed the common aim of South American countries.

One of the most important controversies with which Brazil was connected in the League of Nations was that which related to the admission of Germany as a permanent member of the Council. Germany requested the attitude of the Council members regarding a permanent seat for Germany in a note sent to the Members of the League Council in September, 1924. Brazil replied December 1, 1924, with a note which contained the following:¹

The Brazilian Government is of opinion, however, that the concrete questions arising out of the desires expressed by Germany are such as can not be dealt with by individual Governments as between themselves; they should rather be stated and discussed as a whole by the Members of the League and within the League in order that the various aspects of these questions and the views of the other Members should be fully made known. The German Government may be sure, however, that we shall examine impartially and in a conciliatory spirit the desires it expresses in its memorandum dated September 29, 1924, and that we are resolved to find satisfactory solutions for all questions and all just claims, without prejudice to

¹ Seventh Yearbook of the League of Nations (World Peace Foundation, Boston, 1927), p. 145.

the engagements undertaken by Brazil and to the true doctrine of international law, so far as the latter is applicable in each individual case.

This is not the place to discuss the difficulties which preceded the entry of Germany into the League. Suffice it to say that there was evidence of an understanding which grew out of the Locarno meetings, that France would support the claim of Poland for a permanent seat on the Council when Germany was admitted. An assurance had been made by Great Britain to support the renewal of Spain's claim for a permanent seat "under suitable circumstances." Brazil, lacking the support of any large state, renewed its claim to a permanent seat largely on the grounds of continental interests. Chile had proposed this at the Fourth Assembly in 1921.¹ There is little question that Brazil felt it was a duty to maintain the rights of the American continent and to claim to be the logical heir to the place which the United States had renounced.

Brazil may have had an exalted opinion of its position and may have misjudged the support of the remaining members of the American family of nations for the demand for larger representation on the Council. Brazil probably erred when it made its own claim for a permanent seat an essential condition of that adequate representation.

Brazil pointed to the lack of permanent representation of America on the Council and stressed the point that the absence of the United States gave a special importance to its own position. The peculiar territorial position of Brazil was emphasized. It touches every South American country except Chile and Ecuador and is the largest and most populated country of Latin America. It is the only Portuguese country on the continent and if its nonpermanent seat went to another country,² Portuguese America would not be represented. This argument undoubtedly reflected the feeling which exists between Spanish and

¹ See *infra*, p. 86.

² In practice only Latin American Nations were then represented on the Council.

Portuguese America. Brazil has consistently fought for the "principle of equality" of representation of states in international bodies. In 1907 at the Second Hague Peace Conference Ruy Barbosa led the attack upon every plan for the establishment of a court of arbitral justice upon any other basis than the absolute "equality of states." In 1919 its delegate had advocated the principle in the commission which drafted the Covenant, and now, with six years of experience and under changed conditions, Brazil once again entered the plea.

The meeting of the Council and the Extraordinary Session of the Assembly in March, 1926, led to long and arduous "Locarno conversations" in an effort to solve the problem raised by the claims of Germany and others to be permanent members of the Council. These conversations were held outside of the regular Council meetings and were private. There is evidence, however, that the claims of Poland, to which Briand was especially sympathetic, and the claim of Spain, toward which Great Britain was cordial, were given the chief consideration. Locarno statesmen were the principal persons in the League Council and Assembly and to them, the European problem was all important. The Locarno agreements had to be carried out even at the expense of other more or less justified claims.

As Brazil had a voice on the Council and hence could block any compromise, its attitude was of course reckoned with, but it does not appear that any serious efforts were made to reconcile its claim. This might be gathered from the press reports and from Senhor de Mello-Franco's address before the Assembly. The efforts of the Council statesmen were chiefly directed toward inducing him to acquiesce in their formula and to accept their solution. The plan formulated provided that Sweden should resign its place on the Council to give place for the Netherlands, thus maintaining the influence of northern Europe and enabling a friend of Germany to be on the Council. Czechoslovakia would relinquish its seat, which would be filled by the election of Poland. Spain and Brazil were already on the

Council and hence it was thought that they would be satisfied.

Brazil declined to forego insistence on a permanent seat, demanding a larger American representation on the Council. This position was logically strong, but the claim was not rested there. Brazil assumed that since it was an "integral part of America," it had an "equal" right with the other American countries to formulate this claim; the logical consequence of a community of interests, as of an abstract condominium, being that a joint owner may defend joint property as if it were his own, *re sua propria agitur*. Brazil was confident that the American states would support its claim. But its rôle of self-appointed spokesman and defender of America did not appeal to them. They all favored larger American representation on the Council and would probably have favored the elimination of permanent seats altogether, but they would not go with Brazil in its claim to be the leader of America and as such holder of the special privilege of a permanent seat on the Council.

The Latin American countries manifested opposition to a permanent seat for Brazil on the ground that it would be contrary to the principle of equality which had always been maintained among the American nations. They were agreed that three Council states should be elected from the American Members but without any restriction or provision that any one nation or group should always be represented. They were opposed to any plan which would grant a special position to any American nation. The delegations at the special session from Chile, Colombia, Cuba, Guatemala, Nicaragua, Paraguay, Dominican Republic, Salvador, Uruguay and Venezuela met on March 17 to exchange views. After this meeting they sent the following note to the Brazilian delegation:¹

The American delegations . . . having exchanged their views in a spirit of the utmost cordiality and solidarity, and, having heard the information which M. Guani and M. de Mello-Franco, members

¹ *Records of Special Session of Assembly, March, 1926, Plenary Meetings, and Meetings of Committees*, p. 29 (Official Journal, Spec. Sup. No. 42).

of the Council, have been good enough to give them, have decided as follows:

The American delegations, conscious of the gravity of the League's present situation, regardful of the interests of world peace, and realizing how essential it is that the American states should exert their influence to bring about the reconciliation of the peoples of Europe, desire to express to His Excellency M. de Mello-Franco the hope that Brazil will take such steps as she may consider most opportune to bring about unanimity in the Council and so remove the difficulties which stand in the way of its decision.

Senhor de Mello-Franco, the delegate of Brazil, presented his Government's position at the third plenary meeting of the Assembly on Wednesday March 17, 1926.¹ He said that Brazilians had been in accord with the principles enunciated in their Government's reply to the German memorandum and noted that Brazil had taken no part in the difficult work of negotiating a solution of the problem which would be acceptable to the various political interests at stake. Brazil preferred, he said, to avoid compromising the fundamental principles of League organization which had been laid down in its reply of December 1, 1924. "We still maintain", he said, "that the reform of the present constitution of the Council is not a matter which concerns certain European states only; we think that this question is of such vital importance to the League that it can not be solved by means of special agreements between individual Members, but that every state without exception must be heard in order that, before a solution is adopted, the views of all may be known.

These principles, which we are proud to have championed, are based on the foundations of the Covenant itself and on the juridical equality of sovereign states."² He emphasized that the work of Locarno should be brought within the framework of the League and not the League within the political framework of Locarno. He reaffirmed the Brazilian contention that in virtue of their right as an

¹ *Records of Special Session of Assembly, March, 1926, Plenary Meetings, p. 25.*

² *Ibid., p. 25.*

American nation, they claimed that America should be represented more equitably and more fully on the Council.

The Brazilian instructions, however, were "irrevocable and final" and consequently the veto of Brazil on the Council prevented the plan from being adopted and Germany, of course, refused to be admitted without being given a permanent seat. Thus, the intransigence of Brazil led to the adjournment of the Assembly without having fulfilled the purpose for which it was called. Brazil was criticized severely for insisting upon a permanent seat on the basis of national aspirations for the leadership of Latin America.

Elizen F. de Montarroyos represented Brazil on the Committee for the Composition of the Council which drafted the plan for reallocating Council seats. This was submitted to the Council June 10, 1926.

The Brazilian representative on the same day presented to the Council¹ his Government's views in regard to the composition of the Council. He said that Brazil had defended the thesis of equality of treatment for great and small states in regard to the composition of the Council before the Commission of the Peace Conference in 1919. Certain factors had convinced Brazil that it was necessary to proceed to a reorganization of the Council based upon the principle of equality. These factors were: "The international political evolution which had not ceased as a consequence of the creation of the League of Nations; the development of the legal construction of the Covenant; the gradual substitution of a mentality arising from a state of war by another mentality more consonant with the state of peace; the abandonment of the militarist conception of a great power . . . ; the increase in the number of the Members of the League of Nations."

For these reasons Brazil had again taken up the thesis which it had defended at the Peace Conference. Then he said:

¹ *Official Journal*, VII, p. 887-889.

If there are problems, which more particularly concern Europe and in the solution of which the states of the Continent of Europe have a common interest, it can not be denied that there exist also in America special rules of continental policy, a special organization composed of the American states, a closer cooperation of the interests which they have in common, a union of sister republics, assumed by more intimate bonds than those of a mere concert between powers, and, lastly, a doctrine the existence of which has been recognized by Art. 21 of the Covenant.

Without in any way opposing the idea of the unity and universality of international law, it is necessary not to lose sight of the fact that, politically, the separation of the continents is a reality, and that there exist, in respect of the conditions proper to each of them, legal rules having a character which is more continental than universal.

He pointed out that Europe was permanently represented on the Council by three states and would soon have four; Asia with five states in the League had a permanent representative, while 17 Ibero-American states had none. He continued:

Brazil has never claimed the right to represent the other American states on the Council, nor would such a representation be possible.

On the other hand, it is impossible to dispute the right of Brazil to formulate a claim founded on continental considerations, as this right springs from the community of interests, from which it follows that each of the associated parties is at liberty to ask for the necessary legal protection of the above interests. . . .

It is necessary, therefore, to sweep away all ambiguities and to affirm categorically that the object of the Brazilian claim was essentially continental in character, based on the *co-impetration* of the territory of which Brazil is a portion and on the inalienability of certain interests, without there being any question of a political representation of the other states of the continent.

Senator de Melo-Franco concluded by renouncing his place on the Council as representative of Brazil; Sr. Guani of Uruguay expressed his regret and said that,

¹ *Official Journal*, VII, 1924, p. 872-884.

although Brazil and Uruguay differed as regards the question of the permanent seats, they were in accord as to the demand that the American Continent should have more equitable representation on the Council.

The Brazilian resignation of the Council seat was not specifically acted upon and on June 12, 1926, the telegram of withdrawal from the League was received by the Secretary General.¹ The Seventh Assembly elected Chile, Colombia and Salvador as the three American states on the Council.

Since withdrawal, Brazil has continued to cooperate in some respects somewhat similar to the way Argentina and the United States have been working with the various League activities. President Washington Luis said on May 3, 1927, that "the withdrawal of Brazil from the League did not signify lack of appreciation for the great ends which that international institution pursues nor disinterestedness in the work which it has realized", and accepted the invitation to attend the International Economic Conference opening May 4, 1927.²

The attitude of Brazil regarding the Council crisis was not merely a question of *amour propre* but was also a symptom of the increasing reluctance of non-European states to allow European "powers" to dominate the League and to practically monopolize the permanent seats. The veto of Brazil and its subsequent notification of intention to withdraw was in part a challenge both to European dominance in the League and to the attitude which still persists that Europe is the exclusive champion of civilization, culture, influence, and power.

The reorganization of the Council has not materially changed the situation. It met the desires of the other South American republics but it did not satisfy the demands of Brazil.

At the March, 1928, meeting of the Council, Sr. Urrutia (Colombia), the president of the Council, drew the attention

¹ *Official Journal*, VII, 1926, p. 1004.

² *La Nacion*, May 4, 1927, p. 2.

of his colleagues to the fact that Brazil and Spain would cease to be Members in June and September respectively and proposed that the Council invite those countries to continue as Members. The Council adopted a resolution on March 9 authorizing the president to communicate with these two Governments.¹

The note sent by Sr. Urrutia as president of the Council recalled the rôle which Brazil had played in the League of Nations and in the movement for international peace and cooperation. He noted the problems of a world character which were being dealt with by the League, such as those relating to world economic organization, those of security and the reduction and limitation of armaments and then asked: "Will not Brazil come to the League's aid alike with her idealism and her practical wisdom? Will she discontinue her cooperation in all the other work — technical, intellectual and social — in which she has hitherto taken part as a Member of the League?"²

Sr. Urrutia noted that, in view of the fact that he himself was a citizen of one of those countries of the New World which have done so much and may yet do so much to realize the great ideal of international organization and peace, "he felt bound to associate himself with the views of the Council, with especial sympathy."

Spain recalled its notification of withdrawal as a result of this invitation, and its claim for a permanent seat was substantially met through the new provision concerning eligibility for re-election.

The reply of the Government of Brazil to the invitation of the Council was dated April 9, 1928. It said in part:³

On June 10 and 12, 1926, Brazil announced her intention of withdrawing from the League of Nations, setting forth fully the grounds for her action. The facts which preceded that decision of the Brazilian Government are well known. The widest publicity was given

¹ *Official Journal*, LX, p. 405.

² *Ibid.*, p. 534.

³ *Ibid.*, p. 778.

to the outcome in its diverse phases, and to all consequences arising by it.

The Government now responsible for the policy of Brazil, duly considering the subject, both from the political and from the moral standpoint, reviewing all the documents of the case, with the sole purpose of being loyal to the duties and responsibilities of this country, finds no determining factor for abstaining, under such delicate circumstances, a situation which had already been clearly defined, since the obligations which brought it about are nowise changed.

If, therefore, collaboration with the League of Nations implies participation as a Member thereof, the Brazilian Government is the first to regret that the present circumstances should not allow such collaboration.

It would appear to me, however, that it is not only by occupying a seat in the Assembly or in the Council that a country can collaborate with the League of Nations. Such countries collaborate as recognize its services to civilization and to humanity. Countries that do honor to the great organizations created by the League of Nations, amongst which the Permanent Court of International Justice stands foremost, and join in the undertakings through which the League of Nations strives for universal welfare by working out problems of general interest, rightly consider themselves collaborators. Lastly, it is clear that support is also brought to the League of Nations by those countries that preach and practice, in whatever part of the world they may live, to the utmost of their power the true policy of preserving peace, in no matter what emergency, by the employment of juridical solutions, by their disinterestedness, by their anxiety and by their spirit of justice and of concord.

Collaboration being thus understood, I beg Your Excellency and the Council to consider my country one of the most devoted co-operators of the League of Nations, and if, in the future, Brazil finds it possible to return thereto, she will only have ground for rejoicing both at the honor of being once more a Member and at the facts in consequence of which her return to that great institution will have been made possible. Brazil sincerely wishes that the blessings of mankind may be showered ever increasingly upon the League of Nations.

Sealor Barbosa Lima Sobrinho in an editorial of the *Journal do Brasil*, March 13, 1926, said that "the sentiment of national dignity and justice requires [Brazil] to assume

an attitude of protest. If the national dignity will require our withdrawal from the League, the Brazilian nation will applaud the attitude since it will free us from a European organization where there is little use made of the American nations. About the only use made of the American nations is on the list of contributions."¹

All official connections with the League were severed on June 12, 1928, when Brazil allowed its withdrawal to become effective. That event removed from the League family the most populous and the largest Latin American nation. It was also the second nation definitely to withdraw from the Geneva organization, the first having likewise been a Latin American nation, — Costa Rica.

Some leading statesmen in Brazil favor a return to the League. In the opinion of certain influential Brazilians, the tactics employed in the Council crisis were diplomatically unfortunate and its withdrawal creates greater disadvantages to Brazil than to the League. Time alone can determine this and furnish the opportunity for Brazil to gracefully retrace its steps if it should so desire.

CHILE

Chile was ably represented at the First Assembly of the League by Antonio Huneeus Gana, and M. Manuel Rivas-Vicuña. Señor Huneeus was an outstanding Spanish American delegate at the First Assembly and was elected chairman of the Fifth Committee, which dealt with the admission of new states. He was therefore a vice-president *ex-officio* of the Assembly and a member of the General Committee. During the course of the Assembly he favored the adoption of Spanish as an official language of the League. In considering the application of Costa Rica for admission Señor Huneeus expressed the sincere desire of Chile to see all of the Latin American states Members of the League of Nations.²

¹ *Jornal do Brasil*, Rio de Janeiro, March 13, 1926.

² *Records of the First Assembly, Plenary Meetings*, p. 582.

In this First Assembly one of the main reasons for Chile's adherence was demonstrated. This reason was recently stated to the present writer by a prominent Chilean in this fashion: "Chile must be there to protect her interests, if and when they are brought up." Early in the session the Bolivian and Peruvian delegations requested that the treaties of 1883 and 1904 with Chile be revised by the League of Nations. Thus, as Luis Barros Borgoño says, "the Problem of the Pacific was for a few hours the enforced topic for discussion at that Assembly."¹

The Peruvian minister at Paris, M. H. Cornejo, in a letter, November 1, 1920, to the Secretary-General of the League requested to have this matter placed on the agenda of the Assembly. This letter was in part as follows:²

. . . Peru requests the Assembly . . . to reconsider and revise the treaty of October 20, 1883, between Chile and Peru.

In making this request Peru invokes Arts. 15 and 19 of the treaty of Versailles.

The treaty of 1883, which took from Peru the Department of Tarapaca, was imposed and maintained by force, and has not even been carried out by Chile as regards its essential provisions.

This agreement provided that the occupation of the provinces of Tacna and Arica was to be temporary and was to terminate, subject to a plebiscite, in 1893. Since that time Chile has remained in occupation of this territory by force of arms, from time to time expelling Peruvians. . . .

Peru submits this request in agreement with Bolivia, the interest of their two countries being bound together by the history and circumstance of this question. . . .

Numerous facts show that the agreement which Peru is desirous of having reconsidered and amended involves a serious danger of war. The most recent of these events are the forcible expulsion of Peruvians from the conquered and the occupied provinces and the mobilization of the Chilean army, which is concentrated on the frontiers of Peru and Bolivia.

¹ L. Barros Borgoño, *The Problem of the Pacific and the New Policies of Bolivia* (Baltimore, 1924), p. 3.

² *Records of the First Assembly, Plenary Meetings*, p. 596.

Peru wishes to reserve the right to place before the Assembly legal evidence in support of its claim.

I would therefore beg you to place this matter upon the agenda of the Assembly, in order that the procedure laid down by the treaty of Versailles may be followed.

The Bolivian delegation in a letter to the Secretary-General of even date (November 1, 1920) likewise requested that the matter be placed on the agenda of the Assembly. In this letter the delegates announced that:¹

Bolivia invokes Art. 19 of the treaty of Versailles with a view of obtaining from the League of Nations the revision of the treaty of peace signed between Bolivia and Chile on October 20, 1904.

In support of this request, Bolivia, while reserving the rights to offer proofs and declarations at a suitable moment, would submit the following facts:

- (1) That the treaty was imposed upon her by force;
- (2) Failure to carry out certain fundamental articles of the treaty which aimed at securing peace, for which failure Chile was to blame;
- (3) This state of affairs involves a permanent menace of war. This may be proved by the present mobilization of large army corps, which is being carried out by Chile on the Bolivian frontier, in spite of the fact that these countries are at peace;
- (4) As a result of the treaty of 1904, Bolivia is now entirely shut in and deprived of all access to the sea.

We wish to state here that we are now acting in full agreement with Peru, with which country Bolivia considers herself bound in this respect by historical and political ties, and by common interests arising from the war and from their alliance of 1879.

Art. 19 of the Covenant, above referred to, provides that "the Assembly may from time to time advise the reconsideration by the Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world."

At the second plenary meeting of the First Assembly, November 15, 1920, the president noted the following

¹ *Records of the First Assembly, Plenary Meetings*, p. 295.

items which had been sent in after October 15, for consideration by the Assembly:

(1) The Peruvian request for the revision of the treaty between Chile and Peru of 1883;

(2) Request of the Bolivian Government for the revision of the treaty between Bolivia and Chile of 1904.

The president remarked that he "should mention as regards the requests of the Peruvian Government and the Bolivian Government that the delegates of these two Governments have informed us that they wish first of all to examine the question between themselves. The discussion of this question by the Assembly should therefore be provisionally adjourned."¹

It is well known that this action of Peru and Bolivia in not pressing their claims was the result of pressure and pleadings by other delegates to the Assembly. The League had just been born and it was not yet sure of itself or its possibilities. Then, too, the opposition in the United States toward the League and its possible intervention in America was not conducive to any positive policy of attacking American problems, and especially a question which was loaded with so much political dynamite. And so the story goes that statesmen walked the corridors of the League Secretariat at Geneva with the delegates of Peru and Bolivia begging them not to press the issue.

Peru by letter of December 2, 1920, to the Secretary-General, withdrew the request which it had made on November 1.² The president of the Assembly at the 26th plenary meeting December 16, 1920, acknowledged the receipt of a communication from the Bolivian delegation "that in view of the fact that the close of the Assembly is very near, and that it is impossible to go into so very delicate a problem here, it provisionally reserves the question raised in its letter of November 1 and requests that this question should be placed on the agenda of the next session of the Assembly."

¹ *Records of the First Assembly, Plenary Meetings*, p. 53.

² *Ibid.*, p. 580.

The president, in accordance with Art. 4, par. (c), of the Rules of Procedure, requested the Secretary-General to place this question on the agenda of the next session of the Assembly.¹

Señor Humeus for Chile at once protested against this action as being in any way an interpretation of the competency of the Assembly to deal with the dispute between Bolivia and Chile and stated that Chile considered "that neither the League of Nations nor the Assembly could interfere in these affairs."

The *Monthly Summary* of the Information Section of the Secretariat in reporting the provisional agenda for the Second Assembly defined the "request for mediation by Bolivia in its dispute with Chile" as one of the "important questions which the Members of the League will be called upon to deliberate."² No mention was made of this paragraph in the agenda; "Chile in letters dated December 17, 19 and 28, 1930, requested that notification should be made of her opposition, by moving the previous question, to the proposal of Bolivia to include this item in the agenda of the Assembly."³ The Chilean delegate to the League of Nations in a letter dated June 13, 1931, protested against this omission, and in consequence the Secretary-General caused the full text of the agenda item to be inserted in the *Monthly Summary*.

The Chilean letter lodged "a formal protest against even the insertion of this matter in the agenda, on the ground that it was not within the competency of the League of Nations. Thus, in our opinion, the Members of the League will not be called upon to discuss this question; and, further, the request made is not for notification but for the insertion of a question in the agenda." In reply to the Chilean objection to the insertion of this question on the agenda for the Second Assembly the

¹ *Annals of the First Assembly, Primary Meetings, p. 528.*

² *Monthly Summary, 1931, p. 13.*

³ *Ibid., p. 69; Annals of the Second Assembly, Primary Meetings, p. 58.*

Peruvian Government in its letter of July 29, 1921, to the Secretary-General said: ¹

The question submitted by the Bolivian delegation to the Assembly is not one of placing a matter on the agenda, since it is sufficient for a delegate to propose a question for it to be immediately placed on the agenda of the Assembly, as is laid down in Art. 4, par. (e), of the Rules of Procedure.

At the sitting referred to, the Chilean delegation raised the previous question with regard to competency and subsequently even declared its intention of opposing the placing of the question on the agenda of the next or of any other Assembly. The situation was made quite clear by M. Hymans in his notes of December 15, 1920, to the Bolivian delegation, and of December 18 to the Chilean delegation.

It is therefore evident that the Bolivian request as formulated, and also the opposition of Chile, must form the subject of discussion by the Assembly, whose duty it will be to take a decision in the matter. Meanwhile, it is desirable that the precise terms of the requests of the two parties should be retained in their present form.

Thus the Tacna and Arica problem appeared on the agenda for the Second Assembly of the League of Nations. Carlos V. Aramayo of Bolivia noted before the fifth plenary meeting of the Second Assembly, September 7, 1921, that in a "note addressed to the Secretary-General on November 6 the Bolivian delegation pointed out that its object was rather to bring about a general investigation of the situation, and that the revision of the treaty was but a means to that end. . . . To-day the people of Bolivia look to the League of Nations not for redress . . . but at least for a measure of justice. There can be no hope of lasting peace on the continent of South America while the situation of to-day is allowed to endure."² He goes on to assert that a denial of the competency of the Assembly to deal with the matter "would amount to a negation of the League's very reason for existence."

¹ Document A. 11. 1921.

² *Records of the Second Assembly, Plenary Meetings*, p. 49.

Demetrio Canelas, another Bolivian delegate, in an address before the Assembly said: "In reality, Chile refuses to recognize any intervention on the part of the League of Nations in the affairs of the New World. It is thus not only Bolivia's request which is at issue, but the whole question of what the sphere of the League of Nations should be." He argued for the submission of the matter to a committee of examination and concluded: "Should we find, in this case, when we are only asking for the application of the Rules of Procedure, that the doors of the Assembly are closed against us, we shall be forced to the conclusion that we entered the League of Nations relying on false illusions."¹

Chile opposed energetically and very ably the revision of the treaty of 1904 by the League. Great credit is due to the Chilean delegation and especially to Agustín Edwards for the able argument presented September 7, 1921, before the Assembly. Señor Edwards questioned the competency of the League "to revise treaties, and especially treaties of peace."² He declared that the request was "in flagrant contradiction to the first principles of the law of nations and with the essential objects, the letter and the spirit of the Covenant of the League of Nations. The international political and legal system upon which the relations of all civilized people are based . . . would utterly collapse." He analyzed the meaning of Art. 19 of the Covenant.³ If the grounds of Bolivia were well founded, he said, "the League would be faced with the task of remaking the map of the world."

The president proposed that further discussion of the matter be postponed to a later meeting.

The question of the relevancy of Art. 19 of the Covenant was taken up at the 22d plenary meeting, September 28, 1921, when a special committee of jurists, appointed by the General Committee of the Assembly, made its report.

¹ *Records of the Second Assembly, Plenary Meetings*, p. 50, 52.

² *Ibid.*, p. 45-49.

³ On this point see also the legal authorities in *Borghetto*, *op. cit.*

This committee consisted of M. Vittorio Scialoja (Italy), M. Urrutia (Colombia) and M. Manuel de Peralta (Costa Rica).¹ The report was favorable to Chile and decided² that, in its present form,

The request of Bolivia is not in order, because the Assembly of the League of Nations can not of itself modify any treaty, the modification of treaties lying solely within the competence of the contracting states.

Following a statement by the Chilean delegate, Sr. Aramayo, the Bolivian delegate, stated that the petition would be presented anew at a later date. Sr. Aramayo then read a note in which it was declared that:³

The Bolivian delegation regrets that the committee thought fit to express an opinion on the question whether this request was in order or not, a question which had not been submitted to it, more especially as the committee, taking into account certain expressions of doubtful meaning in the request of November 1, 1920, does not seem to have paid attention to the supplementary documents, viz., the letter of November 6, 1920, and the memorandum of September 12, 1921, in which the true meaning of the Bolivian request was set forth.

It was clear from these documents that the Bolivian Government had no intention of asking the League of Nations to proceed, of itself, to an immediate revision of the treaty of 1904, but that it simply desired that the League should ascertain, by means of a searching inquiry, whether the situation justified an invitation to the two states to proceed to a further consideration of the treaty for reasons laid down by the Covenant itself. . . .

Sr. Aramayo, referring to the Chilean statement of readiness to open direct negotiations with Bolivia, said: "If Bolivia agreed to resume the conversations which had not yet been able to achieve results, it would only be under the aegis and moral sanction of a high tribunal such as that represented by the League of Nations."

¹ *Records of the Second Assembly, Plenary Meetings*, p. 261.

² *Ibid.*, p. 466.

³ *Ibid.*, p. 468.

Lord Balfour of the British Empire expressed the sentiment of the League in this matter when he said, in referring to the possible repetition of the Bolivian demand, that: "We may surely all hope, and hope with profound confidence, that that necessity [of renewing an appeal to the League of Nations] will never again arise." The president closed the subject by recording that "the dispute can no longer be discussed here" since the Bolivian request was withdrawn. All would follow the joint efforts of the parties to settle the question.

With that the problem of the Pacific was considered a closed incident so far as the League was concerned. Chile, however, realized that there was always a possibility that the question might be put upon the table at any time inasmuch as every Member has, as Mr. Balfour said, an inalienable right to present an appeal to the League for consideration.¹ Thus Chile, having entered the institution in a rather hasty manner, found itself at the very outset called upon to defend itself. True, it received a favorable decision but the incident revealed the danger of a different decision at another time, under different circumstances.

Since 1921 Chile has remained in the League and has continued to consistently cooperate through it. One influential Chilean expressed the opinion to the writer that he believed that the League had been pampering them. At any rate, Chile has been quite fortunate in its relations with the Geneva institution, and there has been no reason, which would suggest the idea of a withdrawal or any excuse which would justify a retirement.

Chile has been represented at Assemblies of the League by its diplomatic agents accredited to various European Governments, although they have been supplemented at times by persons outside of the diplomatic service.

Agustín Edwards, envoy extraordinary and minister plenipotentiary in London and former President of the

¹ Through the good offices and suggestions of the United States, diplomatic relations were resumed between Peru and Chile in 1928 and a settlement of this long standing dispute was effected by direct negotiations. The settlement was announced by President Hoover in May, 1929.

republic, headed the Chilean delegation to the Second, Third and Fourth Assemblies while the Chilean ministers at Bern and Vienna were the other delegates. Alejandro Alvarez, the secretary of the American Institute of International Law, was associated with the delegation to the Second Assembly. Señor Edwards in the Second Assembly was elected chairman of the Fourth Committee (Finance and Internal Organization) and was consequently ex-officio vice president of the Assembly. In the First Committee he voiced the unanimous opinion of Latin America when he urged a larger representation for America on the Council of the League.¹

Manuel Rivas-Vicuña occupied himself in the Second Committee with questions of the Health Organization. Before the Third Committee, which considered the problem of armaments, he pointed out that Chile was one of the four nations that had ratified the convention of Saint Germain-en-Laye relative to the manufacture of and traffic in arms and munitions, and brought to the attention of the committee the agreement which Chile had made with Argentina, May 28, 1902, concerning the limitation of armaments.² He outlined for this committee the attitude which his Government was to pursue regarding the question of disarmament. He advocated regional agreements on armaments and suggested "that an attempt might be made to confine these agreements to certain parts of the world" and thus "form in the world large tranquil zones."³ Thus he urged that the idea of regional agreements was the most feasible and practical solution of the intricate and difficult problem of armament. This was different from the Brazilian attitude which we have already considered.

Sr. Alvarez in the First Committee urged a complete revision of the Covenant.⁴ Such an attempt to redraft the whole structure was deemed to be inadvisable and

¹ *Records of the Second Assembly, Meetings of the Committees, I, p. 120.*

² *See World Peace Foundation, IV, No. 5, p. 404.*

³ *Records of the Second Assembly, Meetings of the Committees, I, p. 402.*

⁴ *Ibid., p. 114.*

premature, and the proposal was reserved for the next Assembly, where it did not reach the agenda. From the records of the meeting and his writings before and after the 1921 Assembly, one can reasonably assume that his views were personal rather than part of the official program of the delegation.

When the Council and Assembly came to elect the judges of the Permanent Court of International Justice, Sr. Alvarez was a nominee for that position. By the voting in the Assembly, he was chosen by the requisite absolute majority first for judge and then for deputy judge. The Council, however, had not selected him. By the concurrent ballotings of the Assembly and Council 11 judges and three deputy judges were chosen, there being one deputy judge to select. The Assembly voted for Sr. Alvarez and the Council for Baron Descamp (Belgian). Consequently a joint conference was required in order to arrive at an agreement. This committee was composed of three members of the Assembly and three members of the Council, each group elected by their respective bodies. The Assembly selected Motta (Switzerland), Van Swinderen (Netherlands), Zahle (Denmark), while the Council appointed Hymans (Belgium), De León (Spain) and Koo (China). As a result of this joint conference M. Beichmann (Norway) finally was elected instead of either Sr. Alvarez or Baron Descamps.¹ The consistent majority which Sr. Alvarez received in the Assembly balloting was attributable in part to the votes of Latin American states.

The next year (1922) Sr. Edwards, president of the Chilean delegation, was elected president of the Assembly. Mere observation from then on has been replaced by ardent cooperation. The position and prestige of Chile had been raised in the family of nations, and to the Chileans the selection of their first delegate to the high position of presidency of the world congress was not only a great honor but a recognition of the position which Chile holds

¹ *Records of the Second Assembly, Plenary Meetings*, p. 251 ff., 272, 281.

in the world. In referring to the distinction which the Assembly had bestowed upon the American nations by electing him to that high position, Sr. Edwards, in accepting the honor, said: "The American nations . . . can not but feel lively satisfaction at receiving from the Assembly a proof that they are regarded as an essential factor in the maintenance of international peace and justice and in shaping the destinies of the world."¹

In 1923 the International American Conference which met at Santiago refused to create an American League of Nations. By this time Chile was not as strong an advocate of an American League as it had apparently been in the early days of 1921. Chile expressed through Sr. Edwards, its chief delegate, the position that the American institution, whatever it might be, should not be in any way opposed to the League.

Chile, enjoying an enhanced prestige, entered more actively into the deliberations of the Fourth Assembly than during any previous one. Sr. Edwards again headed the delegation. Before both the Assembly and the Third Committee of the Fourth Assembly he developed the Chilean thesis regarding armament with marked ability and unusual clarity. He pointed out that the problem of disarmament in America is entirely different from what it is in Europe. On September 7, 1923, he noted before the Third Committee that "in Europe the problem of the reduction of armaments is a political and an economic one, whereas in Latin America the economic outweighs the political aspect of the question." He drew a comparison between Spain and the A. B. C. group. In 1922, he said, Spain had spent £27,647,000 on naval and military armaments. In 1921 Argentina had spent £7,447,000, Brazil £5,215,000, and Chile £4,254,000, a total of £16,916,000. The three had spent only 60% of what Spain alone had appropriated for military purposes. In 1921 the 17 other Latin American countries had spent £26,498,000, making a total for all American Member States of only £43,414,960.

¹ *Records of the Third Assembly, Plenary Meetings, p. 24.*

The 20 countries of Latin America spent an amount approximately equal to the combined expenditure of the three Scandinavian countries and Spain, four neutral and comparatively unarmed countries. He indicated that the burden of armament per capita was four times as heavy in the case of the least armed countries of Europe as in that of the most fully armed countries of Latin America and pointed out, therefore, that the armament was not in proportion either to their territories, population, trade or resources.¹

During the 1923 meetings there were many reflections from the Santiago Conference of American States. In a speech before the sixth plenary meeting of the Assembly September 12, 1923, Sr. Edwards indicated that the Santiago conference had accomplished little in regard to armament; in fact, it had nothing to accomplish. "The problem, as it presented itself to the American continent was not," he said, "as in Europe, one of special urgency; it resolved itself merely into the question of discovering means to prevent the competition of armaments from spreading to America. When the Chilean Government placed this question on the agenda of the Pan American Conference it had in mind, not so much a reduction of armaments, as the possibility that they might increase in the future."² He pointed out that 17 of the 20 republics were in fact disarmed and the three other states, although they had naval and military forces, had a policy essentially pacific. He called attention to the fact that Chile and Argentina had settled all of their international disputes by means of arbitration, while Brazil had practised arbitration since the beginning and had even embodied the principle in its Constitution. He reminded the Assembly that the situation aimed at by the treaty of mutual guaranty, which was then before the Third Committee of the League, was the establishment in Europe of what had been a fact in America for a century.

¹ *Records of the Fourth Assembly, Minutes of the Third Committee*, p. 13 (*Official Journal, Spec. Sup. No. 16*).

² *Ibid.*, *Plenary Meetings*, p. 36 (*Official Journal, Spec. Sup. No. 13*).

The Chilean interpretation of the obligation under Art. 10 of the Covenant was brought out by Sr. Edwards during the discussion in the First Committee on the Canadian amendment. He urged that, "in order to decide what share each country should take in any action for the maintenance of the present territorial integrity and political independence of all Members of the League, it was essential to take account of the political and geographical situation of each. The Chilean view was that, without the approval of Parliament, the country never had been, and never would be, obliged to commit any act of war in fulfilment of the obligations imposed by Art. 10 in its present form; for it had never at any time been possible for Chile to contract an international obligation in contravention of her Constitution."¹

Before the First Committee Chile again took up the Latin American contention for increased Latin American representation on the Council. A change proposed two years before had been supported by the Latin American and Canadian representatives. Chile suggested on September 25, 1923, that Brazil and Spain be given permanent seats on the Council and stressed the importance of rotation for the nonpermanent members.² To the objection of M. Politis that this would make the Council too large to function properly, Sr. Edwards replied that, although that objection might hold good so far as Europe was concerned, it did not apply to America, where the Administrative Council of the Pan American Union comprised 21 members and yet fulfilled its purpose admirably.³

Chile proposed at the tenth plenary meeting a resolution that the Assembly⁴

Invites the Governments of the States Members of the League to give favorable consideration, as regards travel by land or water and

¹ *Records of the Fourth Assembly, Minutes of the First Committee*, p. 13 (*Official Journal*, Spec. Sup. No. 14).

² *Ibid.*, p. 37.

³ *Ibid.*, p. 39.

⁴ *Ibid.*, *Plenary Meetings*, p. 57.

passport and customs regulations, to the question of the facilities they can provide for those groups of Boy Scouts and Girl Guides which belong to a registered national Boy Scout Association of any state Member of the League, when such groups are traveling from the territory of one state Member to or through the territory of another state Member.

This was favorably reported by the Fifth Committee, of which Sr. Valdes-Mendeville of Chile was rapporteur, and was adopted by the Assembly.¹ At the next Assembly Belgium, Bulgaria, China, Czechoslovakia, Greece, Hungary and Italy reported that they were prepared to grant a reduction of railroad fares to Boy and Girl Scout groups by as much as 50%. No Latin American Government, however, had acted favorably regarding the proposal.

At the Sixth Assembly (1925) Chile was represented by Emilio Bello Codesido, Enrique Villegas and Elidoro Yañez—all eminent statesmen and diplomats. Two important proposals were presented by the Chilean delegates at this Assembly.

One related to a conference of press experts to consider means whereby the press of the world might cooperate in the work of disarmament and peace. This proposal may have been the outgrowth of the resolution of the Fifth Pan American Conference in 1923 providing for a Pan American Conference of Journalists, which was to meet in Washington the following April. Sr. Yañez stressed the importance of the unifying influence of the press as a guide to public opinion and its moral influence over Governments. His resolution invited the Council to convene a committee of experts of the press to insure more rapid and less costly transmission of news with a view to reducing risks of international misunderstandings.² This was adopted by the Assembly, September 25, 1925,³ and resulted in an important Conference of journalists in 1927 which had far-reaching effects.

¹ *Records of the Fourth Assembly, Plenary Meetings*, p. 122.

² *Records of the Sixth Assembly, Plenary Meetings*, p. 98.

³ *Ibid.*, p. 138.

The other Chilean proposal likewise concerned means of developing public opinion as the best and most practical method of bringing peace. This proposal invited the Council "to submit to careful consideration the replies already received by the Secretariat concerning the instruction of children and youth in the principles of peace and the ideals of the League of Nations, with a view to convening, if necessary, a conference of school teachers to study the best means for creating a spirit of world fraternity in schools."¹ It might be noted in this connection that the Fifth International American Conference had adopted a number of resolutions on education of which one called for a university conference and another suggested that the curricula of the primary schools include a course on "continental fraternity." The Educational Section of the Pan American Union had been devoted to this purpose for a number of years.

The Chilean proposal, together with similar ones presented by Haiti, Poland and Uruguay, was referred to the Committee on Intellectual Cooperation in order that it might prepare a program as to the best means of carrying out the proposition. Permanent coordination of such educational activities has resulted.

During the following years circumstances in the League were not as favorable to Chile as during 1923 to 1925. Although the ardor shown for the League by its plenipotentiaries did not cool, it did not prove interesting to the average Chilean. There was voiced occasionally a doubt as to the utility of the League to Chile, as in the Chilean Congress of 1926 when the advisability of expending 600,000 gold pesos annually on the League was questioned. The minister of foreign affairs assured the Legislature that he would endeavor to keep to a minimum the expenses for the League by selecting in so far as possible representatives who were in Europe to act as delegates to League meetings.

Chile had given its adherence to the League in a spirit of collaboration for betterment of the world. It was

¹ *Records of the Sixth Assembly, Plenary Meetings*, p. 395.

convinced that the League was a step in advance in the attempts to avoid war. Chile did not expect to play a predominant rôle in the League and hence did not consider the League relationship to involve a question of *amour propre*. Its chosen rôle was to lend every effort to the development of the League in conformity with American ideals without taking an uncompromising stand for a definite type of reorganization.

Chile has remained loyal to the idea of continentalism from the beginning. The Government in accepting the Covenant, March 19, 1919, affirmed "the principles that constitute American rights proclaimed in all of the Pan American Congresses." Sr. Huneeus, first Chilean delegate to the First Assembly, in an interview with the correspondent of *La Nación* November 24, 1920, said that: "We are animated by the proposition to proceed to the performance of our task, in accord with the other South American Governments . . . in the affairs which concern the politics and commerce of our continent, round about which exists a unity of interests."¹

Chile has always cooperated with Latin Americans in the League. In 1925 it renounced a Council seat in favor of Brazil with the understanding that in 1926 the system of rotation would be inaugurated. In 1926 it supported the stand of Brazil for a permanent seat, feeling that such a procedure would enhance American influence and prestige in the League and be a step toward a more equitable equilibrium between Europe and America. With the intransigent attitude of Brazil and its subsequent withdrawal from the League, Chile became the logical and undisputed American candidate for a Council seat in 1926. Its election added a new cause for interest in the League. Chile considered the Council as reorganized in 1926 with three American members a great improvement over the previous make-up.

Enrique Villegas, the minister at Paris represented Chile on the Council during its term, 1926-29. As a representative on the Council he served as rapporteur on the super-

¹ *La Nación*, Buenos Aires, November 25, 1920, p. 1.

vision of the private manufacture of arms and ammunition, the manufacture of aircraft in the territory of the Free City of Danzig, the expenses in connection with the post of the High Commissioner for Danzig, the municipal loan for Danzig, a port d'attache for Polish warships for storage and transport of war material in Danzig, settlement of Armenian refugees and the Preparatory Commission for the Disarmament Conference.

We can say that Chile has been consistent in two respects regarding its membership in the League of Nations. First, it has steadfastly insisted that American problems should be reserved for solution in America unless all parties concerned agree otherwise; and, secondly, it has maintained that the Geneva institution is a step in advance in the accumulation and organization of statistical, sociological, juridical, intellectual and economic information, and hence deserves hearty collaboration.

ARGENTINA

The relations of Argentina with the League of Nations are the most uncertain of any nation in Latin America. They have been complicated by a conflict between internal and external considerations, more marked than in any other of the republics south of the Rio Grande. Politically, Argentina has been in a state of flux during the existence of the League of Nations, and this fact has left its mark upon the policy of the Government. The amount of participation has been small and, therefore, easy to evaluate, but any attempt to explain the policy of the Government is difficult.

Argentina through its diplomatic representative at Paris gave notice of its adherence to the Covenant of the League on July 18 and 29, 1919.¹ It was represented at the First Assembly by Honorio Pueyrredon, minister of foreign affairs, Marcelo T. de Alvear, minister in Paris, and F. F. Perez, minister in Vienna. There has been considerable discussion regarding the position of this Argentine dele-

¹ *Official Journal*, I, p. 13-14; see *supra*, p. 47.

gation since the legislature had not approved the Covenant.¹ The Argentine delegation was admitted without any doubts being expressed regarding the powers or credentials of the Argentine delegation. This was natural.

The unconditional adherence of Argentina to the Covenant was made by the ordinary method of procedure. The Chief Executive is the qualified authority to conduct the foreign relations of the country and the Secretary-General of the League had no reason for questioning his action but accepted it as that of the Government. Even if there were doubt on this point, the Legislature authorized the President, without reservation, to accredit delegates with full powers to the Assembly. The attitude of the Assembly was, therefore, that the powers of the Argentine delegates were in due form. This was evidenced by its acceptance of the credentials and by the election of Sr. Pueyrredon as vice-president of the Assembly.

This was in accordance with practice:

It is not the business of one government to interpret the constitutional limitations of another, or to take notice of them without authentic information. Recognition of a foreign government, even if only as a *de facto* government, implies recognition of its ministers and diplomatic representatives as authorized agents. Authorities being once verified as in due form, there can be no question of going behind them into matters of domestic politics. As a matter of fact the greatest trouble of diplomatists has often been in dealing with nominally autocratic rulers whom their ministers had no power to bind, and whose final decision might depend on the person who last had the opportunity of button-holing them. With a parliamentary government one can see the machine at work. But in the strict theory of international law the government of every state is as regards every other state an indivisible and impenetrable monad.²

¹ According to Art. 86, Sec. 14, of the Constitution of Argentina the President makes and signs treaties with foreign countries, but Art. 67, Sec. 19, gives Congress the power to approve or reject the treaties concluded with other nations. (José Ignacio Rodríguez, *American Constitutions*, I, p. 115, 124; República Argentina, *Diario de Sesiones (Anexo)* (Buenos Aires, Imperial del "Commercio del Plata", 1860).

² Pollock, Sir Frederick, *The League of Nations*, London, 2d edition, p. 100.

The Report of the Secretary-General on the Work of the Council was brought to debate at the fifth meeting of the Assembly November 17, 1920. Sr. Pueyrredon in his speech referred to "diplomatic belligerency," which left an unfavorable impression. He proceeded to develop the idea of a universal league and said the Argentine republic regarded it as essential that all sovereign states should be admitted to the League of Nations. Sr. Pueyrredon proceeded to submit a brief summary of the principles which Argentina had followed in international affairs both in time of peace and during the late war, in order to emphasize the harmony between those principles and the point of view he was about to indicate. Regarding the admission of all states, he said:¹

The strength of the League lies in the incorporation of the greatest number of Members; the fewer the states outside it, the more numerous will be those submitted to its discipline and ready to carry out the duties which it imposes upon them. The non-admission of certain countries might be the cause of dangerous antagonisms . . . The League would appear, quite unjustly, to be an alliance formed to conclude the late war, and not, as it is in reality, a powerful organization to maintain peace.

He did not propose a motion or resolution embodying the principles which he enunciated. Instead he said: "We are speaking merely on behalf of principles." In Argentine opinion it was necessary that the election of all the Members of the Council be by the Assembly in conformity with the principle of the equality of states. He favored compulsory arbitration and declared that Argentina was a partisan of a court of justice equipped with judicial powers. His Government considered it absolutely essential that the League of Nations should contemplate the creation of a permanent organization for economic co-operation between states in order to safeguard and improve the conditions of the people of each country.

¹ *Records of the First Assembly, Plenary Meetings*, p. 90.

None of these proposals was new. The first idea, — that of universality — was considered in the well-thought-out and elaborate Swiss plan submitted to the Swiss Federal Assembly, August 4, 1919.¹ This is also true of equality of states. The plan for rotation appeared in the Danish plan proposed March, 1919, and presented to the First Assembly.² Norway had proposed a detailed project in March, 1919, for complete arbitration which was officially presented to the First Assembly.³

The Fifth Committee (admission of new Members) elected as its chairman Antonio Huneeus Gana of Chile. The Argentine delegate on the committee was Señor Pueyrredon. The chairman announced at the second meeting, November 30, that the Secretariat had received a proposal from Argentina to the effect that states which had not been admitted to the League might, with the consent of the Council, sit in the Assembly without being entitled to vote, and proposed to reserve this question.⁴ At the fifth meeting, December 2, the chairman read the proposal submitted by the Argentine delegation as follows:⁵

The strength of the League of Nations depends on its including the greatest possible number of states; the fewer the states outside it, the greater will be the number of the Members pledged to carry out its discipline and to perform the duties which it imposes. The non-admission of a number of states might lead to dangerous antagonisms, be the cause of the formation of a League of States outside the League in rivalry to it, and lead to constant anxiety for the peace of the world.

The Argentine delegation, therefore, proposes: That all sovereign states recognized by the community of nations be admitted to join the League of Nations in such a manner that if they do not become Members of the League this can only be the result of a

¹ *The Swiss Commentary on the Covenant*, p. 104 (this Series, III, No. 3).

² *Records of the First Assembly, Meetings of Committees*, I, p. 68.

³ *Ibid.*, p. 73.

⁴ *Ibid.*, II, p. 160.

⁵ Item on records: "The committee took note of this document," *Records of the First Assembly, Meetings of Committees*, II, p. 224.

voluntary decision on their part. (Signed) H. PUEYRREDON.
December 4, 1920.

At the sixth meeting, December 4, Chairman Huneus¹ pointed out "that Sr. Pueyrredon's motion was for the Assembly to deal with and that the committee could not take any decision in respect of it." But in giving his opinion on the order of day, he placed before Sr. Pueyrredon's proposal one of Lord Robert Cecil, though it was never taken up. Sr. Pueyrredon did not enter into the discussion during the nine meetings up to December 13, 1920.

At the twelfth plenary meeting, December 2, when the report of Committee No. 1 on amendments to the Covenant was before the Assembly for discussion, neither Sr. Pueyrredon nor any of the Argentine delegation expressed any opinion regarding the report,² which recommended that the proposed amendments to the Covenant, — those of the Danish, Norwegian and Swedish Governments, — should be referred to a committee for report before the next Assembly. The Argentine delegation had not then presented its motion to the Committee.³

The Assembly voted a resolution embodying the recommendations of the first committee, with Argentina and Paraguay dissenting. Sr. Pueyrredon then remarked that he had voted against the motion because it did not permit amendments to the Covenant to be discussed during the course of the present Assembly.⁴ M. Viviani of France pointed out that unanimity was not necessary for a vote on a question of procedure. To the statement of the president that this was a question of procedure which could be settled by a simple majority, Sr. Pueyrredon agreed.⁵

¹ *Records of the First Assembly, Meetings of Committees*, II, p. 189.

² *Ibid.*, *Plenary Meetings*, p. 248-260.

³ *Ibid.*, p. 246.

⁴ *Ibid.*, p. 260; for explanation of the Paraguayan vote, see p. 262.

⁵ It was generally understood that there was a disagreement among the Argentine delegates, of whom Sr. Pueyrredon was the only one in the Assembly at the vote. Sr. Peres did not attend and Sr. Alvarez left a few minutes before the vote was taken. (*La Nación*, December 4, 1920.)

At the 13th plenary meeting, December 4, the president read the following proposal from the Argentine delegation:¹

That all sovereign states recognized by the community of nations be admitted to join the League of Nations in such a manner that if they do not become members of the League, this can only be the result of a voluntary decision on their part.

The discussion on the motion was referred to the next meeting in accordance with the Rules of Procedure; to this Pueyrredon did not object. Under exceptional circumstances, the Assembly may place additional items on the Agenda and by a two-thirds majority of the Assembly may consider it immediately, but this was not requested. That same day, Sr. Pueyrredon handed M. Hymans, president of the Assembly, the Argentine notification of withdrawal.

Two days later at the next plenary meeting, December 6, the letter of withdrawal of the Argentine delegation was read to the Assembly. In this letter the president of the Argentine delegation, — for the letter was signed by Pueyrredon alone, — said that his country "agreed, unhesitatingly, to participate in the work of the League. . . . We accordingly prepared a series of drafts, which were expounded in the statements read in the plenary Assembly on November 17. In these drafts, certain amendments to the Covenant were proposed."²

The letter continues: "These were our proposals: admission of all sovereign states; admission of small states, but without the right of voting; the Council to be constituted by election on democratic lines; obligatory submission of disputes to the courts of arbitration and justice. *All these amendments . . . were presented by us to the Assembly as Argentina's contribution to the great work.*"

It is extremely difficult to follow Sr. Pueyrredon in this matter. It is equally difficult to follow his logic that "we [Argentina] should be lacking in consistency if, after

¹ *Records of the First Assembly, Plenary Meetings*, p. 264.

² *Ibid.*, p. 276.

having firmly upheld certain principles in our declarations and in the committees, we failed to adopt the only course which appears to us to be reconcilable with the convictions which induced the adhesion of our Government to the great idea of a League of Nations.

"The chief aim of the Argentine Government in sending the delegation, of which I have the honor to be head, was to cooperate in the work of drawing up, by means of amendments to the Covenant of the charter, in which we hoped it would be possible to embody the ideals and principles which Argentina has always upheld in international affairs, and from which she will never deviate. When once this aim has disappeared, owing to the postponement of the amendments, the moment has arrived for Argentina's cooperation in the work to cease. The adoption or rejection of the lofty principles contained in the amendments which have been presented to the League would have served to demonstrate to our country, and to public opinion, by what permanent rules of conduct the League of Nations was likely to be guided."¹

This attitude would seem to indicate inexperience in the workings of international conferences. It is true, as Lord Robert Cecil pointed out, "that if every member of the Assembly were to take the line which the Argentine delegation has taken, no progress would have been possible. No Assembly can exist; no Assembly can function, if, because some decision as to the procedure on a particular resolution is arrived at, the author of that withdraws all his assistance from the deliberations of the Assembly."²

It is difficult to understand the motives of the Argentine President for the policy which was pursued in regard to the League of Nations. The following are some of the factors which undoubtedly influenced him, although it is impossible, as yet, to attempt an evaluation of the importance of each: Lack of information; failure to have a critical study of the Covenant made from the Argentine point of view; failure

¹ *Records of the First Assembly, Plenary Meetings*, p. 277.

² *Ibid.*, p. 278.

to formulate a definite plan or definite proposal embodying the President's ideas; desire to act as the spokesman for the Latin American countries in the League;¹ the presence of Brazil on the Council and the impossibility of Argentina being accorded a seat under the Covenant in its original form; the doubt expressed by many people in Argentina; the disapproval by many Argentinians of the lone rôle played by the President contrary to the Constitution; the independence of Irigoyen; and the objections in the United States to the League and its refusal to ratify the Covenant.

The Argentine motion and the Canadian motion, both of which had been presented December 4, were taken up December 6, after the Argentine delegation had withdrawn. Mr. Branting of Sweden moved that the amendments be referred to the Committee on Amendments, which would study all the amendments and report to the Second Assembly.² The Assembly adopted the motion, and the Argentine amendment, together with all others, was accordingly referred to the committee.

The Secretary-General sent a note to Argentina, January 22, 1921, asking if it wished all or part of the other propositions which were not officially presented by the Argentine delegation to the Assembly also considered by the Committee on Amendments.³ Sr. Pueyrredon replied two months later, March 31, 1921, that all had been presented officially by the Argentine delegation and that he simply wished to correct the error.⁴ To this the Secretary-General replied May 20, 1921, in detail as to each proposition and showed that the only official proposal before the Assembly was that of December 4, 1920. He said that suggestions had been made before the committees and that propositions to committees could in no way be considered as having been presented as proposals for amendments to the Covenant.⁵ With this, the matter was dropped.

¹ Note of October 16, 1920, to Colombia.

² *Records of the First Assembly, Plenary Meetings*, p. 280.

³ *República Argentina, Memoria de Relaciones Exteriores y Culto, 1921-22*, p. 47.

⁴ *Ibid.*, p. 48.

⁵ *Ibid.*, p. 50.

The Second Assembly considered the Argentine proposal in conjunction with other amendments. At the first meeting of the First Committee, Sr. Urrutia of Colombia proposed the postponement of its consideration until the arrival of the Argentine delegation. He said that all American countries wished to see the League of Nations undergo a liberal and progressive evolution and, for that reason, they favored the Argentine proposal.¹ However, the Colombian proposal was rejected and the Argentine delegation did not arrive in Geneva during 1921. Sr. Edwards of Chile stated that he had instructions to support the Argentine proposal. The Rumanian delegate said the Argentine proposal was not simply an amendment to the Covenant, it was a fundamental transformation of the spirit of the League and pointed out that to oblige a nation to become a member would be a derogation from its sovereignty. M. Noblesse (France) said it would destroy the very essence of the League, which would then rest upon an absolutely different basis from that which its founders had intended. Dr. Fernandes (Brazil) pointed out the difficulty of such a provision in view of the sanctions. "Practically", he said, "the situation would be that a state had undertaken, without any act of its own will, but by an act to which it was completely a stranger, obligations, the failure to observe which would result in the sanctions. This would be an absurdity, a legal impossibility. The Argentine proposal consequently could not be accepted, either at the present time or in the future."² At the second meeting Dr. Fernandes' draft report harmonizing the divergent views was adopted.

The report of the First Committee stated that, ". . . the Argentine Republic was undoubtedly actuated by the highest motives . . . and if the actual moral and political conditions of the world were of a nature to support the ideal, . . . the difficulties of a purely legal value, . . . might perhaps be removed." It pointed out the difficulty that "the actual quality of 'Sovereign states recognized

¹ *Records of the Second Assembly, Meetings of Committees*, 1, p. 10.

² *Ibid.*, p. 8.

by the community of nations' . . . does not express a well-defined idea. . . . Some states are recognized *de facto* and not *de jure*; some are recognized only by certain other states." It concluded that "the idea of universality, . . . which, in theory, deserves full approval, appears nevertheless to be incompatible with the actual conditions of the world, and can not therefore be accepted at the present."¹

M. Scialoja (chairman of the First Committee) reported at the 30th plenary meeting of the Second Assembly in favor of postponement, first, because conditions might change, and, second, because the regrettable absence of Argentine delegates would prevent discussion of their motion, which was worthy of the most thorough consideration. The following resolution was adopted unanimously by the Assembly:²

Though several of the difficulties involved in the Argentine proposal might be remedied by textual changes, the committee reluctantly states its opinion that, in view of the regrettable absence of the delegation of the Argentine Republic, and until the principle contained in its proposal can be accepted, any decision on the amendment moved by the Argentine Republic should be postponed.

President Irigoyen in his message to Congress May 20, 1921, simply stated that because of the non-acceptance of the ideas which it held to be essential, the Argentine delegation had withdrawn from the Assembly.³ This is the last document appearing in the *Memoria* and it can be assumed that the matter was considered closed. Nothing appears in the documents for the following year while the next document referring to the situation was the message of the President to Congress June 6, 1923.⁴

During the remainder of his term of office, President Irigoyen apparently ignored the League of Nations.

¹ *Records of the Second Assembly, Meetings of Committees, I, p. 181.*

² *Ibid., Plenary Meetings, p. 818.*

³ *Revista Argentina de Ciencias Políticas (Buenos Aires, 1921), Tomo XXII, p. 212.*

⁴ *Memoria, 1923, p. 36.*

Argentina failed to meet its budget quota and did not cooperate in any League activities. It even refused to participate in the International Labor Conference in 1921 and 1922, and did not send the answers, which were prepared, to the questionnaire sent out by the International Labor Office.¹

When Dr. Marcelo T. de Alvear became President in 1922, many thought that the unusual position of Argentina in regard to the League of Nations would be regularized. Dr. Alvear had been a member of the delegation to the First Assembly and had not approved of the withdrawal.² President Alvear urged Congress, June 2, 1923, to provide an appropriation for the payment of the Argentine quota to the League budget. This was provided for and on June 10, 1924, Argentina paid its back contributions, including contributions toward the budgets of 1922 and 1923, although Argentine quotas had not been included in them.

President Alvear in a special message to the Congress on August 19, 1924, presented the question of the adherence of Argentina to the League of Nations.³ The Committee of Foreign Affairs considered the President's message on August 29, 1924, and on September 17, 1924, reported a resolution to the effect that it was premature to take definite action on such an important matter.⁴ The next year the committee considered the League question on July 17, 1925.⁵ It was further postponed on two successive occasions.⁶ In the session of 1926 the Argentine status in the League was finally taken up by the committee a few days before the close of the session, but again no action was taken.⁷ In his repeated recommendations President Alvear

¹ *La República Argentina en la Organización Internacional del Trabajo*, Ministerio de Relaciones Exteriores y Culto, 1925, p. 75, 91, 95.

² *La República Argentina ante la Liga de las Naciones*, Ministerio de Relaciones Exteriores y Culto, 1922, p. 213, 237.

³ *República Argentina, Diario de Sesiones de la Cámara de Diputados*, 1924, p. 337.

⁴ *Diario*, Tomo 6, 1924, p. 69.

⁵ *Ibid.*, 1925, Tomo 2, p. 629.

⁶ *Ibid.*, Tomo 4, p. 443; Tomo 5, p. 28.

⁷ *Ibid.*, 1926, Tomo 6, p. 302.

was constantly supported by the minister of foreign affairs, Sr. Gallardo.¹

As a result of the presidential election in 1928, Sr. Irigoyen was returned to power and there seems little likelihood of a change of policy under his presidency.

During the last three years of President Alvear's administration there was increased cooperation with the League. Argentina paid its budget quota from June 10, 1924, through 1929. On September 8, 1924, the Government of Argentina registered its first treaty with the League Secretariat,² the arbitration treaty with Venezuela.

Argentina appointed a permanent observer at Geneva (the minister at Bern) to keep the Government informed on the activities of the League. He attended the Ninth Assembly (1928), but this practice has not been followed since that time. A Bureau on the League of Nations has been established in the Ministry of Foreign Affairs since May 3, 1921. Beginning with the fifth session of the International Labor Conference in 1923, Argentina resumed representation at the annual conferences of that organization.³

The invitation from the League to accept a place on the Committee on Composition of the Council was the occasion for a renewed effort by President Alvear and Minister Gallardo in the message of March 24, 1926, to have the Legislature regularize Argentine relations with the League. The cabinet meeting of April 21, 1926, considered the question of sending representatives to the League of Nations Commission on the Composition of the Council and to the Preparatory Commission for the Disarmament Conference.⁴ The decision was reached that Argentina was a Member of the League of Nations from the international point of view and that the fact that Congress

¹ República Argentina, *Camara de Diputados de la Nación*, Orden del Dia, 1924, No. 14; Orden del Dia, 1925, No. 69; Orden del Dia, 1926, No. 70.

² *Treaty Series*, XXVIII, p. 287.

³ *La República Argentina en la Organización Internacional del Trabajo*, Ministerio, de Relaciones Exteriores y Culto, 1925, p. 97, 113, 127, 129.

⁴ *La Nación*, April 21, 1926, p. 1.

had not yet approved it in accordance with the Constitution, would not prevent the cooperation of delegates in the work of the commissions.¹ This was by virtue of Art. 86 of the Constitution, which grants executive powers to the President of the Republic.

Renewed effort to interest Argentina in a return to League meetings was conspicuous at the Ninth Assembly, when during the 16th plenary meeting Sr. Guerrero of Salvador observed that he had had the privilege of working side by side with the delegation of Argentina at the Sixth International Conference of American States and expressed the hope "that, at the next ordinary session of the Assembly, we may have the privilege of welcoming back, not only the delegation of Costa Rica, but also that of the Argentine Republic."² This was the signal for a general outpouring of compliments and the expression of the hope that Argentina would soon return to the deliberations of the League.

PERU

On November 8, 1920, Peru presented a petition to the League of Nations requesting the revision of the treaty of 1883 between Chile and Peru, involving the "question of the Pacific."³ It had been rumored that this would be done but many felt confident that the Government of Peru could be persuaded to desist, at least for the time being. Pressure was brought to bear upon the Peruvian delegates and on December 2, 1920, they withdrew the petition, reserving, of course, the right to present it anew at a convenient time.

The Assembly not only hesitated to consider the Tacna-Arica question but the chance of its ever considering it was, to say the least, remote. Peru had seen the League as a noble institution which would mete out justice and

¹ *La Nación*, April 24, 1926, p. 1.

² *Records of the Ninth Assembly, Plenary Meetings*, p. 131 (*Official Journal*, Spec. Sup. No. 64.)

³ On the question in general, see Graham H. Stuart, *The Tacna-Arica Dispute*, p. 7-34 (*World Peace Foundation*, X, No. 1).

undo the injustice which had been imposed upon nations by force and violence. To the Peruvian mind there was but one just solution of the "Pacific problem." Hence, when Peru realized that the League would not or could not follow what in its conception were the dictates of justice and right, Lima not only sustained a great disappointment, but the fact dawned rather suddenly that the organization was not what some Peruvians had supposed it to be. The position of the United States in regard to the League was an important factor. The close relationship between Washington and Lima is well known. Peru had great admiration for President Wilson, who was called in the resolution passed by the Constitutional Assembly, "the great American." The absence of the United States, — recognized in Peru as the leader of the American continent and proclaimer of America for Americans, — influenced the framing of a new policy. Since Tacna and Arica was the focal point of all Peruvian foreign policy and since Geneva would not consider it, there was but one logical move, — that of looking elsewhere.

Peru's interest in the League waned even more rapidly than it developed. The Government, however, maintained the *status quo* and hoped that the pending Bolivian petition might still allow a solution at the Second Assembly. Thus, Bolivia was not only urging its own case but also advocating indirectly the cause of Peru; they had worked together in presenting their claims. The Bolivian petition was withdrawn from the Second Assembly. This ended the new policy of the Peruvian Government. During the previous year a new orientation in anticipation of a possible failure at Geneva had been taking place. Eyes were turned to Washington and ears were tuned to the White House instead of to the Palace of Nations, and hence when the decision was taken in Geneva, Peru was definitely on the road of "America for Americans."

¶ The history of the negotiations leading to the convention naming the President of the United States as arbiter of the Tacna and Arica question would lead us afield, but suffice

it to say that Peru from then on looked to Washington for the solution, with a consequent cooling of admiration for the world institution.

The participation of Peru from 1920 to 1929 was, therefore, slight. Its delegates, the ministers at Paris, Madrid and Brussels, respectively, played a passive rôle. They are recorded in the First and Second Assemblies as favoring certain general propositions such as compulsory arbitration. The Government proposed a delegation for the Third Assembly but subsequently decided not to be represented.¹ It sent no other delegation to any of the Assemblies until 1929.

It did not pay the budget quotas until 1928, when 1,461,771 francs had accrued, but never proposed to give definite notice of withdrawal at the end of two years in accordance with the Covenant. Lima had relatively little to do with the League Secretariat, with which it carried on a comparatively light correspondence. Beyond furnishing information requested, it did not cooperate with the League from 1921 to 1928. Several leading Peruvians even expressed the opinion that Peru was not a Member of the League.

The country was in a position to resume activity at any moment and was maintaining the *status quo*. It had nothing to lose by this procedure, while there was a possibility of some eventuality arising in which it would be advantageous to have official bonds with the world organization. It is important to note that there was no evidence of opposition or antagonism to the League and that absence was simply the result of circumstances.

When the problem of "national interests" was solved,² the considerations which led to Peruvian adherence came to the fore. Many prominent Peruvians had expressed the opinion that Tacna and Arica was their most important problem and since the League would not act regarding America, they could have nothing to do with Geneva until

¹ *Records of the Third Assembly, Plenary Meetings*, p. 13.

² The treaty between Chile and Peru settling the Tacna-Arica question was signed at Lima, June 3, 1929.

that matter was settled. Then, too, the favorable position which Chile enjoyed as a member of the Council was also a factor. The renewal of diplomatic relations with Chile and the solution of the Tacna-Arica problem completely changed the situation.

Peru sent a delegation to the Tenth Assembly in September, 1929, and was immediately elected as a nonpermanent member of the Council to occupy the seat just vacated by its late rival Chile. This opened a new page in Peru's relations with the League of Nations.

URUGUAY

The rôle which Uruguay has played in the League of Nations, although not a prominent one, has been at least worthy. One of the original Members, Uruguay, has been represented at every Assembly and has fully cooperated with Geneva. The same attributes which have won for Uruguay admiration on the American continent have likewise commanded the respect of the world at Geneva. If it can be said that some states have sought national advantage through the League, such a charge can not be brought against the Republic of Uruguay. It has ever held the view that all matters shall be decided from the point of view of the advantages accruing to the Members as a whole rather than to any individual nation.

Uruguay has been represented in the Assembly meetings and the Council sessions almost entirely by diplomats accredited to European nations. Alberto Guani, minister at Brussels and later minister in France, was the Uruguayan delegate to the Council during the years that Uruguay was a nonpermanent member, with but two exceptions. Benjamin Fernandez y Medina, the minister in Madrid, has been a delegate to all Assemblies except the second.

Uruguay was elected by the Third Assembly to a nonpermanent seat on the Council and was represented for the first time at the 23d session, January 19-February 3, 1923. It was also elected by the Fourth and Fifth As-

semblies, its term of office ending in 1926. The Uruguayan delegate fulfilled his duties with tact and ability in the many delicate problems which the Council was called upon to consider.

Uruguay has been very prompt in its payment of the League quotas. This can be considered as a particular virtue in view of the fact that the preponderant number of delinquent members are American states. In fact, Uruguay is one of the few Latin American states which has not been in arrears at some time during the League's existence.

At the First Assembly, Dr. Juan Carlos Blanco, minister at Paris and head of the delegation, was elected as vice-president on December 11, 1920, to fill the vacancy created by the withdrawal of Sr. Pueyrredon of Argentina. Sr. Fernandez y Medina was elected vice-president by the Fourth Assembly. By his continuous service he has established a reputation which is recognized by his frequent appointment to serve as rapporteur. In that capacity he served in the Fifth Assembly on the question of an international federation for the mutual assistance and relief of peoples overtaken by disaster. He proposed the constitution of a committee appointed by the League and the Red Cross to elaborate the scheme, which was adopted. He likewise interested himself in the question of protection of children.¹ He proposed to the Fifth Committee a resolution that Latin America should be appointed to the Advisory Committee on Traffic in Opium.² This was adopted by the Assembly,³ and the Council appointed Bolivia on December 10, 1924.

Education has interested Uruguay. A resolution provided that the Assembly recommend that the Council instruct the International Committee on Intellectual Cooperation to prepare a draft text on the objects and work of the League which would serve as a model in the schools of all countries for teaching the conception of solidarity and

¹ *Records of the Fifth Assembly, Meetings of Committees, Minutes of the Fifth Committee*, p. 72-74 (*Official Journal*, Spec. Sup. No. 28).

² *Ibid.*, p. 16, 17.

³ *Ibid.*, p. 116.

international cooperation, in connection with the League of Nations.¹

This matter was remitted to the Sixth Assembly on the recommendation of the Agenda Committee² and referred to the Committee on Intellectual Cooperation, along with other proposals. The Committee submitted them to a subcommittee of experts, which determined the best methods to procure the desired results.³ At the Sixth Assembly, Uruguay proposed that the Council authorize the Committee on Intellectual Cooperation to prepare a document for the teaching profession to explain the organization, aims and work of the League.⁴ This proposal was adopted by the Assembly in a resolution September 22, 1925.⁵ The publication was issued in 1929 and a survey of the teaching done is issued twice a year.

Another subject brought up by Uruguay was that of telegraphic services. It proposed that the Assembly voice the hope that the Conference of the Universal Telegraphic Union would consider giving the journalists who followed the work of the League, the largest facilities regarding rates and services, in order to assure the greatest possible diffusion of news concerning its work and activities.⁶

Uruguay has been a consistent partisan of arbitration in America, at The Hague and in the League.

Dr. Blanco spoke in favor of compulsory arbitration at the First Assembly.⁷ On September 14, 1925, Sr. Enrique Buero said that from Uruguay's point of view compulsory arbitration is the very heart and essence of the Geneva Protocol. He pointed out that the Latin American coun-

¹ *Records of the Fifth Assembly, Meetings of Committees, Minutes of the Fifth Committee*, p. 183 (*Official Journal, Spec. Sup. No. 28*).

² *Ibid.*, *Plenary Meetings*, p. 186 (*Official Journal, Spec. Sup. No. 23*).

³ *Records of the Sixth Assembly, Plenary Meetings*, p. 105 (*Official Journal, Spec. Sup. No. 33*).

⁴ *Ibid.*, *Meetings of Committees, Minutes of the Second Committee*, p. 94 (*Official Journal, Spec. Sup. No. 35*).

⁵ *Ibid.*, *Plenary Meetings*, p. 105 (*Official Journal, Spec. Sup. No. 33*).

⁶ *Ibid.*, *Meetings of Committees, Minutes of the Second Committee*, p. 20 (*Official Journal, Spec. Sup. No. 35*).

⁷ *Records of the First Assembly, Plenary Meetings*, p. 448.

tries were mutually bound by treaties of arbitration which are in keeping with the principles of the Protocol and expressed the hope that there might be a systematic increase of general arbitration treaties throughout the world. "In this sense we may justifiably say that the international policy of the Latin American countries may be regarded as a continental application of the principles of the Covenant of the League."¹ Sr. Buero presented a resolution to the Sixth Assembly requesting the Council to undertake a study of the Statute of the Permanent Court of International Justice with a view to widening the jurisdiction of the Court. This was placed on the Agenda for 1926.²

In a letter read to the Assembly September 16, 1926, Uruguay withdrew its candidacy for a nonpermanent seat on the Council. In this letter the Uruguayan delegation opposed the practice of Latin American group meetings imposing their nomination upon members of the group. It noted that such a meeting for Latin America, with Argentina, Mexico, Brazil, Peru, Ecuador, Bolivia, Costa Rica and Honduras absent, could not competently interpret the real aspirations of all the countries. Such meetings could lead to no more than an unofficial exchange of views.³ "The Assembly, and the Assembly alone, possesses the right, the power and the authority necessary to select candidates."

COLOMBIA

Colombia has played a reasonably active part in the activities of the League. Dr. Francisco José Urrutia, the Colombian minister at Bern and Madrid, has represented his country at each and has, therefore, profited by the experience and contacts which are assets in a world assembly as well as in a national parliament. At several sessions of the Assembly he has been the only delegate.

¹ *Records of the Sixth Assembly, Plenary Meetings*, p. 71-72 (*Official Journal, Spec. Sup. No. 33*).

² *Ibid., Meetings of Committees, Minutes of the First Committee*, p. 24 (*Official Journal, Spec. Sup. No. 34*).

³ *Records of the Seventh Assembly, Plenary Meetings*, p. 82 (*Official Journal, Spec. Sup. No. 44*).

Dr. Urrutia and Dr. Antonio José Restrepo occupied themselves at the First and Second Assemblies with questions of procedure. Dr. Urrutia's remarks regarding the unanimity rule are interesting. He divided resolutions into three categories, each to have its own procedural requirements. He thought that resolutions which are to amend or introduce new clauses into the Covenant should be passed by unanimity; that resolutions which aim at developing principles of the Covenant along practical lines should be passed by a two-thirds vote; and that resolutions dealing solely with procedure would require only a majority.¹

Dr. Restrepo favored the immediate admission of Estonia, Latvia, Lithuania and Georgia at the First Assembly, contrary to the recommendations of the Fifth Committee, of which he was a member.²

Dr. Urrutia was prominent in the discussions in the Third Committee on the Statute of the Permanent Court of International Justice. Again he occupied himself with matters of procedure. He was and has been always in favor of greater Latin American representation and proposed to amend Art. 3 of the Statute to make a court of 15 judges and six deputy judges, to be allocated as follows:

8 judges and 3 deputy judges of European nationalities.

5 judges and 2 deputy judges of American nationalities.

2 judges and 1 deputy judge of Asiatic or African nationalities.

The Colombian delegates have frequently spoken before the Assembly on arbitration, admission of new members, the principles which Argentina proposed in 1920, the Permanent Court, and greater democratization of the League. On this latter subject Señor Urrutia on September 11, 1925, made the following suggestions for "democratization" by "effective means" under the Covenant:³

¹ *Records of the First Assembly, Plenary Meetings*, p. 257.

² *Ibid.*, p. 616.

³ *Ibid.*, p. 490, 583; *Records of the Second Assembly, Plenary Meetings*, p. 816-817; *Records of the Fifth Assembly, Plenary Meetings*, p. 76-77, 102 (*Official Journal, Spec. Supp. No. 23*); *Records of the Sixth Assembly, Plenary Meetings*, p. 48-49 (*Official Journal, Spec. Supp. No. 33*).

The chief of these, in my opinion, consists in giving the League powers, as wide as the Covenant will permit, to enable it to express its desires by real resolutions and not by mere recommendations or requests addressed to the Council.

Once invested with these powers, the Assembly would itself enact the Statutes of the principal technical bodies of the League — such as the Committee on Intellectual Cooperation, for example — according to the procedure adopted by the Barcelona Conference in regard to the Organization of Communications and Transit.

In the same way, the Assembly would in future possess the right to nominate the members of these bodies, which would then have the weight of its authority, and the Council would be relieved of a very complex part of its work, which, nevertheless, it carries out most conscientiously. . . .

One of the most valuable results of the democratization of the League would be to hasten the day when it will include all the nations of the world and particularly those American states whose absence we still deplore.

Although opposing increases in expenses, Colombia has paid allotments to the League budget regularly and is therefore in good financial standing with the Geneva institution.

At the Seventh Assembly Colombia was elected as a nonpermanent member of the Council for three years.¹ Dr. Urrutia represented his country on the Council beginning with the 42d session on September 16-20, 1926. In the Council meetings the Colombian representative fulfilled his task with credit. Dr. Urrutia called the attention of the Council to the "Extensive and remarkable effort at codification of international law which had been made during the past few years by the Pan American Union,"² and urged that the League's committee should consider the results of the efforts which had been made in the Western Hemisphere. During 1927 he served as rapporteur on the Financial Committee, on protection of minorities in Upper Silesia, on the Communications and Transit Conference, and on the legal position which would

¹ *Records of the Seventh Assembly, Plenary Meetings*, p. 82 (*Official Journal, Spec. Sup. No. 44*).

² *Official Journal*, VIII, p. 1452.

arise from economic sanctions. In the next year he was rapporteur for the very delicate series of minorities questions.

In 1927 the Colombian Government established a special section in the Ministry of Foreign Affairs to deal with all matters connected with international organizations such as the League. Colombia also has a permanent representative accredited to the League.

VENEZUELA

Venezuela has been represented at each session of the Assembly of the League by delegates who have been largely diplomatic representatives accredited to some of the European nations. It has established a League of Nations Bureau in the Ministry of Foreign Affairs.

The action of the Venezuelan delegations has been in regard to such subjects as compulsory arbitration, the adoption of Spanish as an official language, finances of the League, intellectual cooperation, and reorganization of the Council. Dr. Rodriguez favored compulsory arbitration in a long speech before the First Assembly¹ and Cesar Zumeta, minister at Rome, was rather prominent in the discussions of the Fourth Committee (finance) of the Third Assembly in regard to the Latin American office and the Health Organization.

In the same committee of the Fourth Assembly he opposed coercive measures against states which were in arrears in their contributions. It might be noted that Sr. Zumeta and Dr. C. Parra-Perez, chargé d'affaires at Bern, have represented their country in all sessions of the Assembly except the first two.

Dr. Parra-Perez urged in the Fifth Committee of the Fourth Assembly that a Spanish American be named on the Committee on Intellectual Cooperation. He later joined France and Rumania in a resolution to have the Slav group, the Spanish speaking American group and the

¹ *Records of the First Assembly, Plenary Meetings, p. 166-169.*

Asiatic group each represented on that committee.¹ He also spoke before the Assembly in favor of enlargement of the committee, saying:²

We do not seek to revolutionize or disturb; our aim is to share in the work for the improvement of intellectual relations between the nations; but, in so doing, we consider that due attention should be paid to the rights of these eighteen countries beyond the ocean, which . . . own as a common heritage three great human attributes—thought, creed, language.

At the Sixth Assembly in 1925 Sr. Zumeta proposed that from 1926 there should be applied the principle of rotation,³ to obviate the reelection of the same nonpermanent members of the Council.

The Ninth Assembly elected Venezuela as a nonpermanent member of the Council for three years, in succession to Colombia, whose term expired in September, 1928. The Venezuelan representative has been Sr. Zumeta, who has been rapporteur on humanitarian and refugee questions and international bureaus.

BOLIVIA

The participation of Bolivia in the Assembly has been irregular and somewhat passive, with the exception of the attempt to have the League consider⁴ a revision of the treaty of 1904 between Chile and Bolivia. The Bolivian delegation gave up that effort during the Second Assembly and the Government failed to accredit delegates to the Third Assembly until after the opening of the meetings, and then only by telegram. Although this was not the customary form of credentials, they were accepted. The

¹ *Records of the Fourth Assembly, Meetings of the Committee, Minutes of the Fifth Committee*, p. 34 (*Official Journal, Spec. Sup. No. 18*).

² *Ibid.*, *Plenary Meetings*, p. 904 (*Official Journal, Spec. Sup. No. 13*).

³ *Records of the Sixth Assembly, Plenary Meetings*, p. 160 (*Official Journal, Spec. Sup. No. 33*).

⁴ See p. 76.

Fourth Assembly saw Bolivia join Argentina and Peru in the rank of absentees and for several years the country failed to be represented at the Assemblies.

Bolivia sent a delegation to the Tenth Assembly (1929).

One reason for sending a delegation to that Assembly was to have representatives present for the consideration of an application made by President Hernando Siles on June 29 for the assistance of the Health Committee in the reorganization of the sanitary service of the country. The request was that an expert be delegated by the Health Committee to cooperate with the Bolivian director general of health at La Paz in the scientific organization of that work. After a preliminary period of six to eight months the Health Committee would select a technical cooperator to work with the Bolivian official for two years. The Council on August 31 replied favorably to the President's letter and expressed its satisfaction that the Bolivian Government had solicited the aid of the Health Organization, to which it intrusted the carrying out of the program. Señor Alberto Cortadellas, representative of Bolivia in the Council proceedings, stated that the letter of the President showed how much his Government appreciated the general work done by the League and "the meaning and great importance, for each Member of the League, of the assistance which that organization could give through the instrumentality of its technical organizations in the development of national institutions."¹

At the moment the request was acted upon Bolivia was in arrears on the budget quotas since 1923, a total balance of 630,772.03 Swiss francs being due.

The dispute between Bolivia and Paraguay, which had come to the cognizance of the Council in December, 1928, is dealt with in a connected narrative in a subsequent chapter.²

¹ *Official Journal*, X, p. 1453; see letter of the President at p. 1587.

² See p. 179.

PARAGUAY

The participation of Paraguay in the League has been almost entirely of a passive nature. It has been represented at each of the Assemblies by the minister at Rome or by the chargé d'affaires at Paris. In none of the Assemblies, however, have the delegates taken a prominent part. It might be noted that the credentials of the delegate to the Fourth Assembly were not presented until the 15th plenary meeting, although the delegate accredited to the meeting was Dr. Caballero, the chargé d'affaires at Paris, who was also the diplomatic representative charged with permanent relations with the League.

2. Caribbean Republics

CUBA

The most prominent, most active, and most consistent participant of the Caribbean area in the work of the League is unquestionably the Republic of Cuba. It is the only Government of this region which has sent a complete delegation to Assemblies and they have likewise been the most distinguished while the eminent Cuban jurist, Dr. Antonio Sanchez de Bustamante, is a member of the Permanent Court of International Justice. Cuba has heartily cooperated in the ratification of League conventions,¹ and has regularly attended special technical conferences held under League auspices. It has a permanent representative accredited to the League.

In 1927 the Cuban Society of International Law appointed a commission for the scientific investigation of the nonpolitical activities of the League.² This commission serves as a technical advisory body to the League of Nations Section of the Cuban Department of State in regard to all matters submitted by the League. This "Cuban League of Nations Commission" also arranges lectures on

¹ See *infra*, p. 162 *f.*

² *Official Journal*, VIII, p. 1533.

the aims and work of the League in an effort to develop a real popular interest in it.

Most of the Cuban delegates to Assemblies have been diplomatic agents accredited to European Governments. At the First Assembly, Dr. Aristides de Agüero y Bethancourt, minister to Germany, headed the delegation and was assisted by the ministers to France and Italy. This delegation favored compulsory arbitration, the designation of Spanish as an official language of the League, and the reeligibility of nonpermanent members of the Council. The chief of the delegation protested against the assertion which was being made in certain organs of the press that "the countries from the other side of the Atlantic are incapable of understanding European ideals, and of contributing in a useful and sincere manner to the common work that has been undertaken." "Gentlemen of the Press," he said, "we come with sincere intentions to do our share of the common task."¹ In stating the differences between Europe and other regions, Señor Agüero y Bethancourt said:

We all know that problems have arisen here which do not affect the Old World but are very real to the New World. I ask the illustrious representatives of the Old World to say frankly whether they are in a position today to find a solution for the problems of this kind which have been submitted by several Members to the Assembly. I hardly think so, for the great powers of the Old World have great interests and immense problems which occupy all their time and do not allow them to concern themselves with the interests of other continents. If the powers of the other continents do not come here to help in the solution of these problems, it will not be possible to find for them a solution which will be just and founded on right.

There is no doubt that Cuba has profited from its affiliation with the League of Nations, which has exalted its international importance. In an address delivered at a banquet of the Cuban Society of International Law at Habana on March 5, 1922, Señor Cosme de la Torriente

¹ *Records of the First Assembly, Plenary Meetings*, p. 428-430.

said: "The great advantage that Cuba has gained by becoming a Member of the League of Nations, the great advantage that we have obtained in having Cuba represented by Dr. Bustamante in the Permanent Court of International Justice, lies in the fact that from day to day the world will become more convinced that Cuba is a country well prepared for independence."¹

The head of the Cuban delegation, Señor Cosme de la Torriente, was elected President of the Fourth Assembly. This was a distinction recognizing the loyal support which Cuba had given to the League. With the possible exception of Chile, Cuba had given the most consistent and hearty support of any American Member, and it was natural that the second American to be elected president of a League Assembly should have been a Cuban.

The Cuban delegation proposed to the Fourth Assembly:²

In order to give a more general character to the recommendations of Pan American conferences, the Cuban delegation begs to submit to the Assembly of League of Nations the following proposition:

The Assembly decides to accept with the greatest sympathy the principle of closer municipal relations which the Santiago conference recommended to the members of the Pan American Union for adoption, in view of the fact that the maintenance of direct relations between the important municipalities of various countries is a new form of cooperation between peoples which will contribute largely to diffusing the ideals which led to the creation of the League of Nations and which guide its work.

This was placed on the agenda of the Fifth Assembly, which directed the Secretariat to study the question. No practical means of accomplishing the object was found.

Señor de Agüero y Bethancourt has been a delegate to every Assembly and has been otherwise active in the League's work. He was rapporteur on the question of Greek and

¹ *International Conciliation*, September, 1922, No. 178.

² *Records of the Fourth Assembly, Plenary Meetings*, p. 94 (*Official Journal, Spec. Sup. No. 13*).

Armenian refugees at the Third Assembly. At the Sixth Assembly he recalled that a representative of the League Health Organization had visited Cuba at the time of the Pan American Sanitary Conference and had discussed means of developing cooperation in health matters. The Cuban delegate proposed that the Health Committee organize an interchange of personnel in Latin America.¹ The complete delegation to the Seventh and Eighth Assemblies did not take a prominent part in the proceedings. The Council at the 44th session invited Señor de Agüero, who was chairman of the Advisory and Technical Committee for Communications and Transit, to preside over the Third General Conference on Communications and Transit, which he did.²

Cuba was elected to the Council in 1927 and Señor de Agüero was its representative at the 47th session. At the 48th session he was made rapporteur on the establishment of an Administrative Staff Tribunal and on the appointment of an auditor and deputy auditor of the League of Nations. He favored extending the activities of the Health Committee to other Latin American countries. He was also rapporteur upon the appointment of two members of the Supervisory Commission, and also on the appointment of members on the Board of Management of the Staff Provident Fund. At the 49th session Señor de Cespedes, the Cuban representative, was rapporteur on the question of the Conference Hall, on the expenses of the Committee of Inquiry on the Bulgaro-Greek incident and on the expenses of military attachés in carrying out the mission on the Polish-Lithuanian frontier, as well as on health problems. He was also rapporteur on the Library of the League and the Staff Provident Fund. At the 50th session Señor de Agüero y Bethancourt was president of the Council and was rapporteur on the report of the Committee on the Allocation of Expenses and on the

¹ *Records of the Sixth Assembly, Meetings of Committees, Minutes of the Second Committee*, p. 21 (*Official Journal*, Spec. Sup. No. 35).

² *Official Journal*, VIII, p. 381.

budget for 1929. During this session the Szent-Gothard incident was before the Council and it was the draft resolution which the president proposed that was adopted by the Council on this matter. At the 51st session he was rapporteur on the Transfers in the Budget for 1928 and certain other matters relating to the budget. Señor Orestes Ferrara represented Cuba at the 52d session.

Cuba sent a rather imposing delegation to the Ninth Assembly, including four substitutes and five secretaries. Señor Ferrara in the discussions on the codification of international law¹ in the First Committee called attention to the work which had been done in America in this field. He proposed that any work of codification should be prefaced by a declaration regarding the rights and duties of states. This was obviously a reflection from the International American Conference which had been held in Habana during the early part of that year. The Assembly recommended that the Committee of Experts on the Codification Conference examine the possibility of formulating such a declaration.² Its report on the subject³ resulted in no positive action.

Another proposal of Señor Ferrara likewise had its origin at the American conference. He urged that the Council be requested to consider the advisability of recommending that the Governments include women in their delegations to the forthcoming Conference on the Codification of International Law. He noted that the Habana conference had established an Inter-American Commission of Women with the task of preparing the necessary documentation for a study of the question of civil equality. The Assembly adopted a resolution expressing the hope that the Members would consider the desirability of including women in their delegations, at least for the consideration of questions of nationality.

¹ *Records of the Ninth Assembly, Meetings of the Committees, Minutes of the First Committee*, p. 16-17 (*Official Journal*, Spec. Sup. No. 65).

² *Ibid.*, *Plenary Meetings*, p. 143 (*Official Journal*, Spec. Sup. No. 64).

³ *Official Journal*, IX, p. 858.

PANAMA

The attendance of Panama at the League Assembly has been constant and consistent. At each session its delegates have, for the most part, been diplomatic agents. Generally two delegates out of a possible three have been in attendance. In no session, however, has any delegate taken an active part.

At the First Assembly the Panaman delegation favored compulsory arbitration and took part in the discussions on the Permanent Court of International Justice. It proposed a clause providing for economic sanctions in case a decision of the Court were not complied with, which was not accepted. It also protested against the scale of contributions to the League.

In February, 1921, only a few months after Costa Rica had been admitted to the League, a border dispute arose between it and Panama. The boundary had been in dispute for a long time and had been the subject of arbitration by President Loubet of France in 1900 and of an award by Chief Justice White of the United States in 1914.¹ Panama had refused to accept this award, on the ground that it did not conform with the *compromis*. On February 21, 1921, the day on which the Council of the League convened in Paris, Costa Rica seized the Coto territory assigned to it under the Loubet award. The village of Puerto Nuevo was occupied, but Panama recaptured the region and took a number of Costa Ricans prisoners. A state of tension resulted which threatened the peace of the isthmus. Feeling ran high and a mob assaulted the Panaman legation in San José. Costa Rica reinforced the troops on the frontier and Panama proceeded with military preparations.

The Secretary-General of the League, acting upon reports in the newspapers, instructed the Secretariat on February 28, 1921, to collect information on the differences between Panama and Costa Rica. On March 1 the Council agreed that it was unnecessary to send a telegram already

¹ *Foreign Relations of the United States, 1914*, p. 1050.

prepared, since the press reported a satisfactory solution.¹ Newspaper reports continued disquieting, and at the close of its session on March 4, the Council brought these reports by cable to the attention of both "Members of the League who have solemnly and publicly subscribed to the high principle and obligations of the Covenant" and requested information as to the facts.²

A few minutes after, a telegram, sent from Panama on March 2 and relayed from Geneva on the 3d, was received by the Council. It denounced the acts of Costa Rica and expressed confidence that they deserved "the punishments prescribed in such cases by the Covenant of the League."³ This cablegram notified the Council that the United States had tendered its good offices and that Panama had accepted. The Council immediately expressed its pleasure "to know that the United States Government have offered their good offices and that these have been accepted by the Government of Panama."⁴ An additional protest from Panama against "the acts of arbitrary violence for which Costa Rica is responsible" was received in Paris March 5.

During this time the Panaman legislature and executive had adopted war measures and the presidential residence had even been assailed because the President was believed to be lukewarm. The United States had immediately protested against the use of force by either disputant. Panama inquired of the United States regarding its understanding of its obligations to maintain the independence of Panama in the light of the treaty of November 18, 1903.⁵ On March 4, the United States called upon the two countries to refrain from hostilities and tendered its good offices, Secretary Hughes reminding the parties that in 1915 they had agreed to submit disputes to the mediation of the United States.⁶

¹ *Minutes of the 12th Session of the Council*, p. 27.

² *Ibid.*, p. 199; *Official Journal*, II, p. 215.

³ *Official Journal*, II, p. 214.

⁴ *Ibid.*, p. 215.

⁵ Malloy, *Treaties, International Acts, etc.*, p. 1349.

⁶ *Foreign Relations of the United States*, 1915, p. 1131.

On March 8, the Secretary-General was informed by Costa Rica "that, thanks to the mediation of the Government of the United States of America, the dispute between Costa Rica and Panama is virtually at an end." The acting president of the Council, Dr. Gastão da Cunha (Brazil), was quick to express his satisfaction at the acceptance of the mediation of the United States and to add that the Council considered "the dispute in the process of settlement."¹ Dr. da Cunha stated that the United States had always exercised a good influence in Central American affairs, and that in the present case the Council could only give the United States an opportunity to do something before itself taking any action.²

Panama objected by cable to the Secretary-General on March 8 to the position of the United States as mediator in insisting that the White arbitral award of 1914 be accepted. Panama held it to be unacceptable. The League reply was confined to expressing satisfaction "that an honorable settlement of the dispute, in accordance with the spirit of the Covenant, is in sight."³

On March 7 an armistice was effected between Costa Rica and Panama, and on March 17 Secretary Hughes informed the Panaman Government that the White award should be respected. On August 24, the United States and Costa Rica announced the appointment of a commission of engineers to delimit the boundary. Panama refused to appoint a member.

Two subjects which have found Panama always in harmony with other Latin American delegations at Geneva have been budget quotas and the election of Council members. The delegate at the Third Assembly, Dr. Amador, chargé d'affaires in Paris, opposed the increase of the League budget, while the other delegate, Señor Antonio Burgos, minister at Rome and Bern, proposed that the permanent

¹ *Official Journal*, II, p. 218.

² *New York Times*, March 8, 1921.

³ *Official Journal*, II, p. 219.

members of the Council be elected by the Assembly.¹ Señor Burgos alone represented Panama at the Fourth Assembly.

At the Fifth Assembly Panama urged its claim for a lower quota. The Government pointed out that, although the scale of the Universal Postal Union was adopted for the first two years, it was understood that, when the new scale entered into force, states overcharged under the old scale would be entitled to a retroactive refund. A sub-committee considered the request from the legal aspect and decided that, inasmuch as the claim was based solely on recommendations not resolutions, the League was not bound to repay budget contributions by any decision of the Assembly. The recommendation was that the claim be not entertained.² When the report was presented to the Fourth Committee, Señor Narciso Garay read a long memorandum, couched in rather forceful terms and not in every respect conciliatory. Certain personal references led the Secretary-General to state that he was not able to accept some of the statements of the delegate from Panama. The Uruguayan delegate, in a conciliatory manner, then proposed a resolution to the effect that the Secretariat be instructed to enter into negotiations with Panama for the purpose of seeking a solution. In making this proposal he called attention to the fact that the annual contributions might cease altogether if the question should be definitely decided against Panama. The proposal was defeated, 20 to 7. The committee finally adopted a solution which was unanimously adopted by the Assembly as a resolution on September 26, 1924, in these terms:³

The Assembly, being aware that it will be causing to one of the most devoted and most esteemed Members of the League a comprehensible disappointment, and being convinced, nevertheless, that its decision implies no injustice:

¹ *Records of the Third Assembly, Plenary Meetings*, p. 225.

² *Records of the Fifth Assembly, Meetings of the Committee, Minutes of the Fourth Committee*, p. 74 f. (*Official Journal*, Spec. Sup. No. 27).

³ *Resolutions and Recommendations adopted by the Fifth Assembly*, p. 34.

Decides not to entertain, in the present circumstances, the claim of Panama, which might, however, receive further consideration at some future Assembly.

This was indorsed by the Panama delegation¹ which brought the matter up the following year. The adjustment was finally made by a general distribution of pro-rated surplus to all Member states concerned.

The treaty signed on July 28, 1926, between the United States and Panama aroused opposition in the Panaman Congress. Art. XI of that treaty provided² that the "Republic of Panama will consider herself in a state of war in case of any war in which the United States should be a belligerent; and in order to render more effective the defense of the Canal will, if necessary in the opinion of the United States Government, turn over to the United States in all the territory of the Republic of Panama, during the period of actual or threatened hostilities, the control and operation of wireless and radio communications, aircraft, aviation centers and aerial navigation." It would also give the United States the authority to direct and control "all military operations in any part of the territory of the Republic of Panama" during actual or threatened hostilities. The treaty was not ratified by Panama.

Under Art. 12 of the Covenant, Panama agrees to submit to pacific settlement all disputes which might lead to a rupture, and in no case to resort to war until three months after a decision. According to the letter of the Covenant the treaty might conflict with it, but the United States occupies a special position in regard to the Canal, which it built and considers an essential to its national defense. This special relationship is analogous to the relationship of Great Britain to Egypt in regard to the Suez Canal. On November 19, 1924, Great Britain³ announced to Members of the League that it would insist upon main-

¹ *Records of the Fifth Assembly, Plenary Meetings*, p. 171 (*Official Journal, Spec. Sup. No. 23*).

² *Sen. Exec. Doc. B, 69th Cong., 2d sess.*

³ *Official Journal, VI, p. 302.*

taining "the special relations between Egypt and itself long recognized by other countries" and would regard as an unfriendly act "any attempt at interference in the affairs of Egypt."

At the Eighth Assembly the Panaman delegate, Dr. Eusebio A. Morales took the opportunity to explain the position of his country before the 11th plenary meeting. He pointed to the unique geographical position of Panama and gave assurance that the people of Panama were confident that the work of the League was sound and profitable. He argued the case against regional leagues and referred especially to "the mistaken idea that there is a single spirit representative of America" and to the illusion of "common continental interests."¹

"The League of Nations, in the universal form in which it exists to-day," he said, "presents, as far as the weaker states are concerned an aspect the essential importance of which has not yet been fully realized — I mean the moral aspect, the influence of reason and justice in the formation of a stern world public opinion in the face of which arms and armies are impotent." He referred to the Assembly as "the only forum before which those in need of protection and support may proclaim their wrongs, confident that at least the opprobrium of humanity's silent censure may fall upon the oppressors." He suggested that the League inaugurate "the practice of inviting the Members of the League to meet in Geneva from time to time and explain, possibly without any definite intention of their discussion or settlement, circumstances and conditions which in any way influence their international life. . . . Panama desires to inaugurate this practice as a proof of her profound respect for the League, and as the best means of explaining certain facts which have been misrepresented in the press of various countries, in regard to the relations and links existing between Panama and the United States."

He outlined the situation and the controversy then existing between Panama and the United States. Regard-

¹ *Records of the Eighth Assembly, Plenary Meetings*, p. 100-103 (*Official Journal*, Spec. Sup. No. 54).

ing the treaty of 1926 he answered in the following manner the criticism that it violated the Covenant:¹

During the discussion of this convention, Panama enjoyed full liberty of action, and, despite the fact that the negotiations took place between one of the most powerful and one of the weakest countries in the world, there was not the slightest tendency to impose onerous or humiliating conditions upon Panama. On the contrary, these negotiations were marked throughout by a spirit of mutual consideration and respect, a fact which, in itself, is deserving of mention so that it may be fully appreciated. . . .

There is, however, a serious question in regard to which no compromise is possible between the two Governments, because it can not be settled unless one of the parties changes its views wholly and completely and adopts the other's view.

The United States maintains that Panama has transferred to it its right of sovereignty over the Canal Zone, while Panama maintains that it has only granted to the United States such rights and authority as that country would possess if it were, in fact, the sovereign power, for the specific purpose of constructing, maintaining, operating, sanitating and protecting the Canal.

Panama takes the view that sovereignty does not consist of one right only but of many rights, and that accordingly it was within its power to grant the United States the right to administer justice, to maintain order, to sanitize and protect the Canal Zone, but neither in intention nor in fact did it grant to that country the whole of its sovereign rights. Sovereignty is too essential and important a thing to be transferred by implication. Although it may be argued that the sovereign rights retained by Panama over the Canal Zone are but a shadow, they are yet substantial enough to prevent the United States from having a legitimate claim or title to transfer the Canal Zone or the Canal itself to any other country, and this is sufficient to justify Panama in its view. . . .

As Panama sees it, [Art. XI] can have no other meaning than that, under its terms, it offers its assistance for the defense of a part of its own territory in which another country possesses vital interests. Panama maintains that it has not renounced or transferred to the United States the whole of its sovereign rights over the Canal Zone, and that, consequently, if the Panama Canal were attacked by any other country, it is the right and duty of Panama

¹ *Records of the Eighth Assembly, Plenary Meetings*, p. 102 (*Official Journal, Spec. Sup. No. 54*).

to defend it. This is a purely defensive provision to meet the eventuality of an attack on the Panama Canal involving the United States as a belligerent — an eventuality which we hope will never occur. It does not refer to a conflict involving Panama as one of the principal parties, in which case the Covenant of the League provides, in Arts. 12 and 13, as amended in 1921, the procedure to be followed for the settlement of the dispute before a final resort to war. On the contrary, it relates to the defense by Panama of its territory in the event of a war arising out of a dispute in which it is not directly involved.

Panama maintains, therefore, that, even if the treaty in regard to which negotiations are still proceeding at Washington should be finally approved and ratified, with the inclusion of the clause relating to her cooperation in the defense of the Canal, that treaty would not constitute any violation of the engagements she has contracted under the Covenant. In that event, however, the matter will be considered when the treaty is registered with the Secretariat of the League.

The United States has been accused of forcing Panama to accept this clause, but my Government solemnly declares this allegation to be false. The essential part of the clause was proposed by the Panama Government as a proof of solidarity with the United States in regard to the defense of the Canal and of its own territory, and was accepted by the latter country in a magnanimous spirit and with a clear comprehension of the intention underlying Panama's proposal.

Such is the explanation which my Government desires to give to the Assembly of the League of Nations, in order to define its attitude to the League and to serve as an authoritative statement regarding the development of its special relations with the United States.

Panama was represented at the Ninth Assembly by the minister at Paris. He called the attention of the Assembly to the fact that Panama was endeavoring to establish an international organization which will provide for an intellectual center for all the movements and ideals of the American continent as a means of diffusing culture and intellectual moral cooperation throughout the world. He appealed to the delegates to obtain universal free postage for books of an educational and scientific nature as well as

books exchanged between libraries. "I am sure," he said, "that such an institution will be regarded by the League as a means of supplementing its work and of encouraging the American nations to take a more active interest in its achievements. Our republics have many problems — economic, social and other — which differ in some respects from those which the League has hitherto solved; but all problems of an intellectual character the solution of which is undertaken at Geneva are of real interest to those American nations."¹

SALVADOR

The relation of Salvador with the League has experienced a marked change. It was represented at the First Assembly by J. Gustavo Guerrero, minister to Spain and Italy. It then failed to send a delegation to the Second or Third Assembly, but has since been represented in each of the annual meetings.

During the first few years of the League, Salvador engaged in a delicate and at times embarrassing controversy regarding finance and certain of its legal phases. Successive postponements of the question prevented any definite decision having been made before the situation was righted in the natural course of events.

The minister of foreign affairs of Salvador on June 26, 1920, in a communication to the International Labor Office declared that, although his Government had acceded to the Covenant, it did not consider itself bound by the treaty of Versailles and hence not obligated by the provisions regarding the International Labor Organization.² The Labor Office on September 28, 1920, informed Salvador of its reasons for considering Salvador a member and therefore obliged to fulfill the obligations imposed by Part XIII of the treaty.³ Salvador never replied to this communication.

¹ *Records of the Ninth Assembly, Plenary Meetings*, p. 52-53 (*Official Journal, Spec. Sup. No. 64*).

² *Records of the Third Assembly, Meetings of Committees, Minutes of the First Committee*, p. 102.

³ *Industry, Governments and Labor* (World Peace Foundation, XI, Nos. 4-5, p. 36).

The Council considered the question of Salvador's contribution on September 2, 1921, and referred it to the Assembly which in turn referred it back to the Council. On January 14, 1922, the Council, taking note of the covenant of 1921, between Salvador, Guatemala and Honduras to form a union of Central America,¹ decided to postpone the matter until the Secretary-General would be able to present the necessary information on the subject.² On May 10, 1922, Salvador took exception to the inclusion of expenses for the International Labor Office in the budget of the League. Salvador had never questioned the right of the League to bear the expenses of the Labor Office and, although it was represented at the First Assembly when the legal relations between the League and the Labor Organization were considered, made no objection to the budget which was then unanimously adopted. The question was referred to the First Committee, which decided that the obligation to bear the expenses of the Labor Organization was a fundamental obligation of the League of Nations and hence was binding upon states which had acceded to the Covenant.

Salvador also objected to the expenses of the League which were not in the strict sense connected with the working of the Secretariat and urged that since the Covenant only mentioned that the expenses of the Secretariat should be allocated, all other expenses were thereby excluded. Salvador also claimed that the financial obligation had been imposed upon it "entirely without its participation." The committee decided against this claim and held that all Members were obligated to contribute to all the legally incurred expenses of the League. The report of the committee stressed the fact that no objection had been made at the First Assembly when the budgets had been approved. The Assembly merely referred this report to the Council without discussion. This same Assembly adopted the revised scale for the allocation of expenses

¹ League of Nations, *Treaty Series*, V, p. 10.

² *Official Journal*, III, p. 106.

which the special committee had proposed. This reduced the quota for Salvador to 1 unit and the next Assembly (Fourth, 1923) provided for an adjustment in favor of it and other countries. This apparently satisfied Salvador, which resumed attendance at the Fourth Assembly.

Although it has been represented by only one delegate and in each case by the same individual, he has progressively entered more and more actively in the proceedings of the Assembly. The advantages of sending the same delegates year after year are apparent and Señor Guerrero has become one of the most active and well-informed Latin Americans in the work of the League. He was the most active Central American delegate to the Seventh Assembly where he entered the committee discussions on the private manufacture of arms and ammunition. He spoke before the Assembly in favor of organizing the Council in accordance with the principle of the equality of states and called upon the leading states to renounce their permanent seats on the Council.

This Assembly elected Salvador as a nonpermanent member of the Council for one year.¹ Señor Guerrero was the representative during this service. He was rapporteur on the question of the Memel convention at the 42d session. At the 43d session he was rapporteur regarding the competence of the European Commission of the Danube and proposed the resolution, which was accepted by the Council, that the Permanent Court of International Justice be requested to give an advisory opinion on certain questions relative to the matter. He was also rapporteur on the various transit questions before the Council. At the 44th session he reported further on the railway questions, on identity documents for persons without nationality, on the Third General Conference on Communications and Transit and on the appointment of a commissioner intrusted with the duty of carrying out the provisions of Art. 107 of the treaty of Lausanne. At the 46th session he was rapporteur on communication with the League in

¹ *Records of the Seventh Assembly, Plenary Meetings*, p. 82 (*Official Journal, Spec. Sup. No. 44*).

Time of Crisis and the work of the Third General Conference on Communications and Transit.

At the Eighth Assembly Señor Guerrero again represented his country as the only delegate and again was the most active Central American. He was rapporteur on the question of the cost of living and adjustment of salaries. He was in favor of credits for the liaison with Latin America. He, of course, favored the program for codification of international law, being a member of the Committee of Experts. He supported the proposal to lend financial aid to states victims of aggression. At the Ninth Assembly Dr. Guerrero was the most active of the delegates attending from the Caribbean region. As rapporteur he proposed a draft resolution in regard to overcoming the obstacles which had prevented the holding of a conference on the private manufacture of arms so that it might be convened during 1929. He was rapporteur on the radio-telegraphic station for the League of Nations. He was also prominent in discussions of the First Committee on codification of international law.

At the Tenth Assembly, Señor Guerrero was elected president. His long experience had acquainted him fully both with the problems confronting the League and with the League machinery.

Salvador has established a special section in its ministry of foreign affairs with the special duty of conducting League of Nations matters.

COSTA RICA

In the first five sessions of the Assembly, Costa Rica was represented by a single delegate — Manuel de Peralta, minister in Paris. With the exception of such questions as budget quotas, he took little part in the proceedings.

Costa Rica failed to make its annual contributions and the Fifth Assembly adopted a resolution on September 26, 1924, inviting the Secretary-General "to make further urgent representations to Costa Rica, Honduras, Nicaragua,

Peru and Bolivia" regarding their contributions in arrears.¹ On December 24, 1924, the Costa Rican minister in Paris notified the Secretary-General of the intention of his Government to withdraw from the League, effective January 1, 1925, so that it would cease to be a member on January 1, 1927.² He inclosed a remittance for \$18,667.87 representing the quotas due for the years 1921 to 1925.

The Sixth Assembly adopted a resolution of regret at this action. The French delegate in presenting the resolution on September 22, 1925, said that "the settlement by the Assembly of what is purely an administrative matter led the Republic of Costa Rica to think that the League meant to offer it an affront."³ Costa Rica ceased to be a member on January 1, 1926.

Señor Urrutia of Colombia as president of the 49th session of the Council suggested that Costa Rica be invited to reconsider its action. The Council authorized the president to communicate with Costa Rica and he forwarded a letter expressing the satisfaction which the members would feel if Costa Rica would reverse its decision and participate once more with the League.⁴ On July 18, 1928, the Government of Costa Rica in a letter to the President of the Council pointed out that "the Government of Costa Rica desires, before deciding to accept the invitation . . . , to know the interpretation placed by the League of Nations on the Monroe doctrine and the scope given to that doctrine when it was included in Art. 21 of the Covenant."⁵ The letter stated that Costa Rica "regards the noble aims pursued as worthy of support" and that it "would feel honored to cooperate" in the humanitarian and constructive work.

¹ *Records of the Fifth Assembly, Plenary Meetings*, p. 168 (*Official Journal, Spec. Sup. No. 23*).

² *Monthly Summary*, V, 1925, p. 8.

³ *Records of the Sixth Assembly, Plenary Meetings*, p. 101 (*Official Journal, Spec. Sup. No. 33*).

⁴ *Official Journal*, IX, p. 432.

⁵ *Ibid.*, p. 1607.

On September 1, 1928, the president of the Council, then Hjalmar J. Procopé of Finland, forwarded a reply. This telegram said in part:¹

Art. 20 stipulates that "the Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof . . ." Art. 21 gives the states parties to international engagements the guaranty that the validity of such of these engagements as secure the maintenance of peace would not be affected by accession to the Covenant of the League of Nations. In declaring that such engagements are not deemed incompatible with any of the provisions of the Covenant, the article refers only to the relations of the Covenant with such engagements; it neither weakens nor limits any of the safeguards provided in the Covenant. . . .

In regard to the scope of the engagements to which the article relates, it is clear that it can not have the effect of giving them a sanction or validity which they did not previously possess. It confines itself to referring to these engagements, such as they may exist, without attempting to define them: an attempt at definition being, in fact, liable to have the effect of restricting or enlarging their sphere of application. Such a task was not one for the authors of the Covenant; it only concerns the states having accepted *inter se* engagements of this kind.

Shortly thereafter the president of the Council received a telegram to the effect that on September 6, 1928, the Costa Rican council of ministers had agreed "to submit the matter [of resuming membership] to the Constitutional Congress, requesting it to vote the necessary funds for the payment of the contribution involved."²

On July 8, 1930, the Congress voted to leave the time and conditions of fresh entrance into the League to the discretion of President Gonzalez. The Congress by a vote of 29 to 11 voted an appropriation of \$20,000 to meet quotas of the League budget when the President acts.

¹ *Official Journal*, IX, p. 1608.

² *Records of the Ninth Assembly, Plenary Meetings*, p. 130 (*Official Journal*, Spec. Sup. No. 64).

HAITI

Haiti has had a delegation at each session of the Assembly, a record of which only Cuba and Panama of the Caribbean area can also boast. With the exception of the First Assembly, where it had a full delegation, Haiti has been represented by a single delegate, in practically all cases the minister at Paris.

In the fourth plenary meeting of the Third Assembly the delegate from South Africa laid on the table a "Report of the Administrator of South-West Africa on the Bondelzwart Rising, 1922." He informed the Assembly that the Government of South Africa had appointed a special commission of investigation and inquiry and expressed the hope that judgment regarding charges made in the press against the officers and men engaged in suppressing the uprising would be suspended until its report could be published.¹

At the seventh plenary meeting, Louis Dantes Bellegarde, the Haitian delegate, mounted the rostrum and, expressing hesitation in speaking because of "the modest position of the republic of Haiti in this Assembly," praised the League for the work which it was accomplishing. In concluding his address he called attention to the press reports of a punitive expedition against the Bondels Hottentots. He asked that the League, through the Permanent Mandates Commission, obtain all possible information and concluded: "That women and children should have been massacred in the name of the League of Nations and under its protection is an abominable outrage which we can not suffer."² He submitted a resolution that the Assembly express³

(a) Its profound satisfaction with the official statement made by Sir Edgar Walton, delegate for South Africa, that a full and im-

¹ *Records of the Third Assembly, Plenary Meetings*, p. 38.

² *Ibid.*, p. 76.

³ *Ibid.*, p. 81.

partial inquiry will be made into all the facts of the Bondelzwart rebellion and its repression;

(b) The confidant hope that the Permanent Mandates Commission, at its next session, will consider this question and be able to report that satisfactory conditions have been established; and that, in the meanwhile, the mandatory power will make every effort to relieve the suffering of the victims, particularly the women and children, and that it will insure protection and restitution of the remaining livestock, and, in general, the restoration of the economic life in the Bondelzwart district.

He later said before the Assembly that

It is for the good of the backward populations in the mandated territories, . . . and in order to raise the inhabitants to a consciousness of their dignity as human beings, that the League has instituted the mandate system and has undertaken to control the administration of these territories. We must, therefore, strive to administer the mandated territories in the best possible manner, and thus create an organization which may serve as an example to all colonial powers.¹

Bellegarde urged both before the Sixth Committee and the Assembly that the inhabitants of mandated territories be given more direct means of transmitting petitions when they believed themselves to be victims of ill-treatment or injustice.

The Assembly, in adopting the Haitian resolution, concluded with the hope that the right of petition might be defined so as to insure that:²

(a) All petitions emanating from inhabitants of mandated areas will be sent to the Permanent Mandates Commission through the intermediary of the local administration and of the mandatory power;

(b) No petition concerning the welfare of the inhabitants of mandated areas emanating from other sources will be considered by the Permanent Mandates Commission before the mandatory power has had full opportunity of expressing its views.

¹ *Records of the Third Assembly, Plenary Meetings*, p. 155-156.

² *Ibid.*, p. 166.

The Haitian delegate to the Fourth Assembly said that it was as a result of M. Bellegarde's "vivid description of the situation in the Bondelzwart district" that the Assembly ordered an inquiry.¹ It certainly directed attention to a deplorable situation, served to focus public opinion and impress upon the mandatory states their international responsibilities. In July, 1923, the Permanent Mandates Commission considered the Bondelzwart rebellion at length in accordance with the resolution of the Assembly, and its conclusions were critical of the administration of the South-West African mandate.²

The Haitian delegate proposed to the Sixth Assembly that Members of the League be invited to undertake a revision of their histories "so as gradually to reduce the number of pages devoted to military events and especially those passages in which wars of conquest are justified and held up for admiration."³

The Records of the Eighth Assembly contain only a reference to the delegation of Haiti, while those of the Ninth contain a letter expressing Haiti's approval of the reeligibility of Spain on the Council, the delegate having been absent when the question was voted on.

DOMINICAN REPUBLIC

The Dominican Republic was not a Member of the League of Nations until 1924. In a speech before the Fifth Assembly the delegate said: "The Dominican Republic, having reestablished its self-government,⁴ considers that the first of its international duties is to take its place in the League of Nations as a fresh declaration of its intense desire to remain a completely independent sovereign state."⁵

¹ *Records of the Fourth Assembly, Plenary Meetings*, p. 91 (*Official Journal, Spec. Sup. No. 13*).

² See special report, *Official Journal*, IV, p. 1396.

³ *Records of the Sixth Assembly, Plenary Meetings*, p. 88 (*Official Journal, Spec. Sup. No. 33*).

⁴ By reason of the convention of June 12, 1924, with the United States (*United States Treaty Series, No. 729*).

⁵ *Records of the Fifth Assembly, Plenary Meetings*, p. 186 (*Official Journal, Spec. Sup. No. 23*).

The republic has been represented in each of the following Assemblies by a single diplomatic agent, who has not taken an active part in the discussions. At the Seventh Assembly he voiced opposition to permanent seats on the Council. The *Records of the Eighth Assembly* merely list the delegation, while the only action recorded at the Ninth was an expression of the gratitude of the American delegations that Spain had resumed its place in the League. The delegation has invariably consisted of either the minister or chargé d'affaires in Paris, the latter being the permanent representative accredited to the League.

GUATEMALA

Guatemala has been rather inconstant in representation at the annual Assembly. It accredited a full delegation to the first in 1920 but sent no delegate to the Second, Fourth and Fifth Assemblies. At the others the delegation was less than the three representatives permitted. A Guatemalan diplomatic agent in Europe has generally represented his country. No reference occurs to participation in the discussions of the plenary sessions of the committees in 1926 or 1927. The Ninth Assembly records a Guatemalan letter expressing approval of the reeligibility of Spain to the Council, the delegate not being present when the matter was acted upon. Guatemala has named its minister at Paris as the representative accredited to the League.

NICARAGUA

Nicaragua has been more or less sporadic in its participation. Although represented at the First Assembly by the chargé d'affaires in Paris, it failed to send a delegation to the Second, Third or Fourth Assemblies. Since that time it has had one or two delegates at each session. It has a permanent representative accredited to the League, who served as delegate at the Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Assemblies. In none did the delegation take any active part.

On August 31, 1929, Nicaragua owed for compounded arrears and for budget quotas from 1923 amounting to 203,364.21 Swiss francs.

HONDURAS

The rôle of Honduras in the League has been characterized more by nonparticipation than by participation. With the exception of the Fourth Assembly, where it was represented by the chargé d'affaires in Paris, it refrained from sending delegates until the Tenth Assembly, and has cooperated very little with Geneva.

On August 31, 1929, Honduras owed for compounded arrears and for budget quotas from 1923 amounting to 190,958.72 Swiss francs.

3. Summary

While 18 of the 20 Latin American republics have been Members, and 16 are still Members, only 13 actively cooperate in the League's work.

All the Latin American states were Members of the League at the First Assembly in 1920 with the exception of Ecuador, Mexico and the Dominican Republic, although the Argentine delegation withdrew December 6, 1920. At the Second Assembly six Latin American Member states were absent: Argentina, Guatemala, Honduras, Nicaragua, Peru and Salvador. The Fourth and Fifth Assemblies saw Bolivia join Argentina and Peru among the absentees from South America while at the Fifth Assembly Paraguay did not officially accredit its delegate until the 15th plenary meeting. Salvador returned to the Fourth Assembly while the Dominican Republic was admitted as a Member by the Fifth Assembly in 1924.

Argentina, Bolivia, Costa Rica, Guatemala, Honduras and Peru were not represented at the Sixth Assembly nor at the Extraordinary Session of March, 1926. From the Seventh Assembly one more South American nation, Brazil, absented itself while Guatemala was again represented.

The same nations were likewise absent from the Eighth Assembly, while Costa Rica had definitely withdrawn on January 1, 1927. On June 12, 1928, Brazil's withdrawal became effective, the first large state and the second American nation to withdraw. The Ninth Assembly found only five South American states represented, viz., Chile, Colombia, Paraguay, Uruguay and Venezuela, with five not participating. In the Caribbean region Mexico and Costa Rica were not Members while Honduras was not participating. With the exception of Cuba, the participating Governments of this region, however, have been generally represented at the Assemblies by a single delegate. The more constant participation of the Caribbean republics as compared with the South American republics in many cases has been counteracted by inactivity and by representation by single delegates who often remain away from meetings.

The Tenth Assembly in 1929, however, saw all Members of the League except the Argentine represented by delegations. Peru and Bolivia, although not previously participating, sent delegations, and Peru was elected as a non-permanent member of the Council. Honduras also returned.

In regard to Latin American representation on the Council, Brazil occupied a nonpermanent seat during the first 40 sessions (January 16, 1920, to June 10, 1926). From 1923 to September 16, 1927, Uruguay was a nonpermanent member. Since 1926 Latin America has always been represented on the Council by three states. From the point of view of Latin American cooperation the adoption of that rule was important, although accompanied by the withdrawal of Brazil — the largest Latin American country. Chile, as a result of the rule, secured a three-year term in 1926, Salvador a one-year seat, while Colombia was reelected for two years at the same time. Cuba was elected for three years in 1927, Venezuela in 1928 and Peru by the Tenth Assembly in 1929.

The South Americans have consistently demanded a larger representation on the Secretariat. During recent

years there have been a few Latin Americans appointed to the Geneva staff.

The Latin American Member states have shown a desire to make the League a success. In the early days European problems growing out of the Great War occupied much time of the Council and the Assembly, which has since been directed more and more to world problems of a technical nature. In the early years the question of the Saar, Danzig problems, reconstruction of Austria and Hungary, repatriation of prisoners of war, Aaland Islands, the dispute between Poland and Lithuania, Upper Silesia, Greek refugees, mandates, etc., demanded the attention of the League; since Latin American states had little direct interest in them, Latin Americans were on that account in demand as rapporteurs on these problems. Matters of this type, however, arouse little public interest in Latin America except in a general way.

The absence from the agendas of questions of immediate interest to Latin America has been due in part to the fact that the group of states has not been concerned with many questions of pressing importance to the rest of the world. The reduction of armaments was of comparatively little interest to Latin American states. The conferences on communications and transit, the conference on simplification of customs formalities, the Economic and other conferences elicited no great amount of enthusiasm¹ because

¹ First Conference on Communications and Transit (1921), the following Latin American Governments were represented: Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Guatemala, Haiti, Honduras, Panama, Paraguay, Uruguay and Venezuela.

Second Conference on Communications and Transit (1923), Latin American Governments represented: Brazil, Chile, Colombia, Cuba, Salvador, Uruguay and Venezuela.

Third Conference on Communications and Transit (1927), Latin American Governments represented: Colombia, Cuba (Señor Agüero de Bethancourt, president), Ecuador, Nicaragua, Panama, Salvador, Uruguay and Venezuela.

Conference on Trade in Arms and Ammunitions (1925), Latin American Governments represented: Brazil, Chile, Colombia, Nicaragua, Panama, Salvador, Uruguay and Venezuela.

International Economic Conference (1927), Latin American Governments represented: Brazil, Chile, Colombia, Cuba, Guatemala, Nicaragua, Panama, Salvador, Uruguay and Venezuela.

International Conference for the Abolition of Import and Export Prohibitions and Restrictions (1927), Latin American Governments represented: Chile, Colombia and Cuba.

they did not cope with the immediate problems of American states, which on such subjects have held their own conferences under agendas adjusted to their own peculiar needs. The creation of the Permanent Court of International Justice, the Committee for Communications and Transit, the Permanent Health Organization, the International Institute of Intellectual Cooperation, etc., are of universal interest, and command a cooperation in Latin America quite comparable with that of other similarly developed countries.

Steps were taken in 1927 to bring about a closer cooperation between the League of Nations and Latin America. Members of the Secretariat visited Latin America in the mutual interests of the Health Organization and the states visited. The League's tendency since 1927 has been to give more and more attention to questions of world scope. This has been possible by the gradual elimination of problems growing out of the Great War. The increased participation of Latin American republics at the Assembly of 1929 was undoubtedly partially the result of these two factors.

IV. SPÉCIAL PHASES OF COOPERATION

THE cooperation of the South American countries through the League of Nations has been neither uniform nor universal. A number of the republics have evinced a sincere desire to further the work of the League within the limits of their capacity. They have not played a decisive rôle in its activities on account of their limited interests, yet the part they have taken has not lacked either dignity or importance. Their cooperation has been in some respects constant and loyal while in others it has been vacillating and uncertain.

In the preceding pages we have discussed in detail the activities of the respective countries. Here various subjects are treated either because they relate generally to the group of countries or require detailed examination.

1. Liaison Office

Liaison offices in connection with the League of Nations may be considered as of four types, each distinct in manner of appointment, in official relationship with the Secretariat and with Member states. These types are: (1) Sub-offices of the League Secretariat; (2) Liaison offices of the Information Section; (3) Liaison Bureaus of Member states; and (4) the Latin American Liaison Bureau.

(1) The first type is referred to in League documents and in the early budget schedules as Liaison Offices but are now designated as Suboffices. The London and Paris Suboffices are the only examples. These were created on the initiative of the League, are financed from the League budget and to all intents and purposes are essentially branches of the Geneva Secretariat. Their purpose can be gathered from the statement of the Secretary-General to the Fourth Committee of the Third Assembly. He

explained that the Paris Office was important as a center of distribution, since, in view of the high postal rates in Switzerland, a large amount of Secretariat mail was dispatched from the permanent office at Paris. He also gave as a reason for its maintenance, economies in telegrams resulting from the use of the telephone between Geneva and Paris. Members of the Secretariat were often compelled to go to Paris to interview members of the Council, many of whom reside there. The importance of having official documents available for consultation was quite apparent.¹

(2) The Liaison Offices of the Information Section are outposts of that section of the Secretariat for the gathering and dissemination of information. They are considered as branches of the section, the personnel being members of the Secretariat working in the field. One important task of such offices is the maintenance of close relations with the press. There are at present offices in London, Paris, Rome, Tokio and Berlin and correspondents in Budapest, the Hague, while one for Turkey is located in Geneva.² In recommending the creation of a Liaison Office in Tokio the Secretary-General said that its purpose would serve to keep the associations working for the League and the press in the various countries of the Far East supplied with reliable information concerning the work at Geneva.

(3) The third type of Liaison Bureaus are organized by states Members of the League in their respective capitals or at Geneva. The purpose of these bureaus is to provide for the coordination and the unification of relations between all the governmental services in their respective countries on the one hand, and the Secretariat, International Labor Office, the Council and the various commissions and conferences arising out of the League, on the other hand. These bureaus are financed by each country as part of a

¹ *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 66-67.

² *Official Journal*, IX, p. 1861-1862. A correspondent for China is contemplated.

governmental office, usually the ministry of foreign affairs, and act as channels of communication between the Secretariat of the League and the governmental departments concerned.

The existence of the League of Nations results in an almost continuous series of conferences and committee meetings at which Member and non-Member states find it advantageous to have representatives. As a consequence, many states, especially those geographically distant from Geneva, have found it convenient for the conduct of their international relations to make regular provision for representation at Geneva. This type of bureau was considered by the Second Committee of the Second Assembly, which recommended the establishment of similar offices in as many of the capital cities of the world as possible.¹ It pointed out the useful functions which such bureaus could perform and noted the resulting economies in personnel, time and labor. Greece was the first Member to create a permanent bureau accredited to the Secretariat. Its bureau was established in connection with the Greek legation at Paris on January 1, 1921.² The purposes of such representatives were described in a letter by the prime minister of Canada, Mr. MacKenzie King, to the Secretary-General on December 18, 1924. The Canadian Government had decided to create a permanent Dominion of Canada Advisory Office at Geneva "in order to establish and maintain as close relations as possible with the Secretariats of the League of Nations and the International Labor Office." Such an office would enable the Government of Canada to be continually informed "in regard to matters arising from time to time within the sphere of activities of such organizations . . . and generally to act in such matters in an advisory capacity to the Government of Canada and to the Canadian delegates to conferences, and should occasion require, to act as the Gov-

¹ *Records of the Second Assembly, Meetings of the Committees, Minutes of the Second Committee*, p. 180.

² *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 66, 67.

ernment might determine in substitution for a governmental delegate."¹

There has been little uniformity in the rank of representatives accredited to the League. Some governments have accredited permanent representatives with the rank of ambassador, as for example, Brazil. Others have designated ministers, while still others have appointed a secretary attached to a diplomatic post in one of the European capitals, mostly Bern or Paris. The choice of title to designate a government's representative abroad is fundamentally an affair of each individual state and belongs primarily to the domain of constitutional law. Little significance attaches to the title of the permanent representatives at Geneva. A number of countries maintain a separate diplomatic post at Geneva with its own personnel, distinct from missions to Governments. This was true of Brazil before its withdrawal, and also of Poland, Canada and others. Other countries assign the functions to a special bureau in a legation at one of the European capitals, instances being the Colombian minister at Bern and the Paraguayan minister at Paris.

Diplomatic agents accredited to the League enjoy diplomatic privileges and immunities, although these are not granted by the League but are extended by the Swiss Government. The letter of credence is presented to the Secretariat, which accepts and officially notes it. This procedure is neither new nor novel, although it differs in some respects from that followed by a government in receiving a diplomatic agent of another state. It is essentially the procedure of international conferences. After the full powers of the delegates to a conference have been found to be in good form, the foreign office of the country in which the conference is held usually receives them and in turn grants diplomatic privileges and immunities to those entitled to them. This was true of the Portsmouth Conference where the Japanese and Russian plenipotentiaries possessed full powers to participate in the conference, while the immunities

¹ *Monthly Summary*, V, p. 7.

were necessarily granted by the United States Government in whose territory the conference was held. The only difference, therefore, in regard to diplomatic agents accredited to the League is that the element of permanency has been added. Instead of the privileges being granted for the duration of a particular conference, the diplomatic agents accredited to the League are granted immunities for the duration of their mission.

The Latin American countries which have accredited permanent representatives to the League are Argentina, Chile, Colombia, Cuba, Dominican Republic, Guatemala, Mexico, Nicaragua, Paraguay and Venezuela.¹ Brazil had an ambassador accredited to the League before its withdrawal.

Chile appointed Emilio Bello Codesido in April, 1925, as its permanent representative with the rank of ambassador.² Señor Codesido had held many prominent positions previous to his Geneva appointment, among which were minister of foreign affairs, president of the Council, temporarily Chief Executive authority in Chile, former member of Parliament and a delegate to the Pan American conferences.

In May, 1925, the Government of Argentina informed the Secretary-General that it had accredited Julian Enciso, first secretary of embassy, as its permanent representative to the League of Nations. The decree nominating Señor Enciso to the post stated that this appointment was made in view of the importance for the Argentine foreign ministry to obtain, through a diplomatic representative dealing exclusively with such questions, detailed and full information on all activities of the League of Nations.³ Maintenance of the post has, however, been irregular.

Brazil had as its ambassador⁴ at Geneva the eminent statesman Afranio do Mello-Franco, who had been deputy,

¹ *Nine Years of the League of Nations, 1920-28*, p. 19. (World Peace Foundation, XII, No. 1.)

² *Monthly Summary*, V, p. 107.

³ *Ibid.*, p. 127.

⁴ The rank was of advantage during his representation in the Council.

minister of foreign affairs, ambassador to Bolivia, president of the Brazilian delegation to the Fifth International Conference of American States at Santiago, and was a member of the Permanent Court of Arbitration.

Thus the A. B. C. states were all represented in Geneva at the same time by permanent representatives of high standing and wide experience.

(4) The fourth type of liaison bureau is unique in many respects. The Liaison Office of Latin America is the only one of its kind and is entirely different from any of the other types. The circumstances under which it was created throw light upon the whole problem of Latin American relationship with the institution at Geneva.

Latin American states have been in accord since the creation of the League in advocating greater national representation in the Secretariat and the International Labor Office, and greater effort to spread information in their countries concerning the League. In May, 1921, there were two Latin Americans in the Secretariat, a Uruguayan in the Mandate Section and a Peruvian in the Information Section, while a Brazilian was an administrative officer in the International Labor Office.¹ Señor Amador of Panama called the attention of the Fourth Committee of the Third Assembly to the fact that there was in the Secretariat at that time only one national of the numerous South American Members of the League.²

Delegates of Latin American states frequently declared during the First Assembly and the Barcelona Conference on Communications and Transit that it would be of great advantage if steps could be taken to facilitate the spread of League information in South America. They voiced a common conviction that something should be done to strengthen cooperation between the Secretariat and those republics to disseminate knowledge of the League's work throughout the various republics. This demand seemed to be somewhat unusual, as it amounted to asking the League

¹ *Official Journal*, II, p. 381-395, 398-404.

² *Records of the Third Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 63.

to undertake propaganda work in its own behalf. In other countries this function was being performed by private organizations of interested citizens such as the League of Nations' Union in England, L'Association pour la Société des Nations in France, and the League of Nations Association in the United States. In 1929 only Argentina, Chile, Cuba and Haiti had such societies.

The committee which inquired into the organization of the Secretariat in 1920-21 was of the opinion that the Governments concerned and the Secretary-General should consider the form which the proposed relations should take, especially in view of the great distance which separates South America and Geneva. In order to obtain the necessary data, the Secretary-General decided to send two members of the Secretariat to South America. Their duties were to obtain from the various Governments which they visited, facts and views as to the best method of distributing information in Latin America concerning the League and as to the possibility of establishing an information bureau of the Secretariat there for the purpose. They were also instructed to place themselves at the disposal of the various Governments regarding any League business.¹

The matter was taken up in the Second Assembly, although nothing definite could be done regarding actual organization before the report of the League mission was received. The Committee of Experts on Organization of the Secretariat recommended that a special branch should be attached to one of the central sections of the Secretariat to deal with all matters concerning Latin America. The staff should be drawn from Latin American states, a greater number of whose nationals should be employed in the Secretariat.² Sir Herbert B. Ames, financial director of the League, urged before the Fourth Committee of the Second Assembly the establishment of a Liaison Office on economic grounds, particularly the great saving to be made in cable tolls. He stated that one of the last cablegrams had cost

¹ *Monthly Summary*, I, p. 65.

² *Records of the Second Assembly, Meetings of the Committees, Minutes of the Second Committee*, p. 221.

15,000 francs, 70% of which was for Latin American countries. Prince di Scalea of Italy urged the establishment of an office for political and moral reasons. "Such offices", he said, "would help to give the League that political force which would enable it to guide public opinion in all countries." M. Noblemaire of France favored the proposal on account of its moral influence. "Latin America," he said, "complained of being out of touch with the League and the project might result in prompter payment of certain contributions which were overdue."¹ M. Adatci of Japan begged the committee to consider the serious results of an unfavorable vote. The committee favored establishing an office in Latin America by a vote of 14 to 3. The Assembly approved the report and provided 53,065 Swiss francs in its 1922 budget for a "South American office which was to be organized."²

The Secretary-General submitted a memorandum to the Council which was approved May 11, 1922.³ He pointed out the results of the journey undertaken in 1921 by the two members of the Secretariat. He was not able to make a definite recommendation as to the seat of the office. However, it was essential to give effect as soon as possible to the spirit of the Assembly's decision by making an effort to improve the liaison between the central organizations of the League and the states of Latin America. He, therefore, proposed to set up a small office immediately at Geneva, the members of which would be chosen by the Secretary-General from nationals of Latin American states. The appointments would have a provisional character and would terminate at the expiration of one year, so that the Third Assembly would remain free finally to fix the seat of the office.

The Secretary-General in his report to the Third Assembly stated that the correspondence that had followed the action of the Council on May 11, 1922, between the Secretary-General and the representatives of some states

¹ *Records of the Second Assembly, Meetings of the Committees*, II, p. 65.

² *Official Journal*, II, p. 1048.

³ *Ibid.*, III, p. 559.

showed that, although there was the greatest sympathy for the scheme, there was no general desire that appointments should be made immediately. He therefore decided to wait for the Third Assembly in order that the representatives of all of the Latin American states might be consulted on this matter, in which they were so much concerned.¹

Señor Zumeta of Venezuela, in reply to the chairman of the Second Committee, stated that, "in view of the difficulty of choosing between the 19 states of Latin America, it had been judged by the mission that it would be more efficient and economical if a Liaison Office were established in Geneva. The decision of this question had been left to a committee formed by the various delegates of the Latin American states represented at the Third Assembly. This committee had agreed that two delegates of two Latin American states should each year form part of the staff of this office, returning afterward to South America to act as liaison officers. This system of rotation would allow all of the Latin American republics to be represented within a period of seven years."² He, therefore, proposed on behalf of the Latin American Republics represented at the Third Assembly that Item 6 (b) 3 "South American Office (53,065 francs)" and the estimate in Item 3 (c) "South American office salaries, wages, etc. (44,650 francs)" should be suppressed and replaced by a single Item, "Liaison Office with Latin America (97,715 francs)."³

M. Reveillaud of France supported M. Zumeta's proposal. In doing so he noted that "instead of the office in Latin America provided for by the Second Assembly, it was now proposed to create at Geneva a center of instruction for young men from the various states of Latin America. Nothing could be more useful than this excellent method of meeting the criticism that the general public in Latin America was not conversant with the activities of the League."⁴ M. Modzelewski of Poland agreed with the

¹ *Records of the Third Assembly, Plenary Meetings, II, p. 92.*

² *Ibid., Meetings of the Committees, Minutes of the Fourth Committee p. 66.*

³ *Ibid., p. 68.*

⁴ *Ibid., p. 67.*

French delegate, remarking that the course proposed would to some extent meet the complaint that Latin America was not sufficiently represented on the Secretariat. Colonel Ward of the British Empire pointed out that the decision of the Supervisory Commission had apparently been to create a branch office in Latin America but that the proposal was of a totally different character.¹ The Secretary-General explained that the mission had been unable to recommend a definite site for the office. In view of the difficulties of communication in Latin America, the mission had recommended that it would be desirable to establish an office in Geneva. Without further discussion, the committee adopted the item, with a modification proposed by M. Zumeta reducing the total to 74,000 francs.

The Third Assembly approved the report of the Fourth Committee that "upon the proposal of all delegations of the Central and South American countries, . . . the Liaison Office with Central and South America should be established in Geneva and not in America. The adoption of a roster would enable the republics in Central and South America to be represented by officials of each nation in turn."²

The establishment of an office of this character was, therefore, not the result of League action but of the interested states themselves. While its purpose was to be entirely different from the London or the Paris offices, it belonged to the same general category and was to be established by the League, financed from the League budget, and really a part of the Secretariat. Instead of serving as an administrative branch of the Secretariat, it was to be a training school for young Latin Americans, who, upon the completion of their apprenticeship would return to their home lands to tell of the institution. This, then, was the method chosen by the Latin Americans to combat the lethargy of their publics regarding the League and its activities. Though it was out of keeping with the League

¹ *Records of the Third Assembly, Meetings of the Committee, Minutes of the Fourth Committee*, p. 67.

² *Ibid.*, *Plenary Meetings*, II, p. 220.

idea of not conducting propaganda, the plan afforded an opportunity to meet a desire for greater American representation on the staff of the Secretariat and the International Labor Office when appropriate candidates were put forward.

Venezuela and Panama were first chosen by the Latin American states to propose nationals to the Secretary-General as members of the Office, and Manuel Arocha of Venezuela and Cristobal Rodriguez of Panama were appointed for two years. They were assisted by Julian Nogueira, a Latin American member of the Information Section. The bureau started work January, 1923, under regulations approved by the Secretary-General.

The Report to the Fourth Assembly on the work of the Secretariat¹ noted that the Secretary-General had made a practice of consulting the bureau on any question of interest to the Latin American countries and on all such matters the various sections of the Secretariat had invited its cooperation and aid. The bureau had "by means of personal communications assisted the Secretariat in keeping the Governments informed of the progress of such questions as unfair competition, the traffic in opium, amendments to the Covenant, disarmament and the treaty of mutual guaranty. It has given practical attention to the work of the technical organizations of the League, obtaining by similar methods, information concerning epidemiological conditions in Latin America, facilitating the association of Latin American doctors and the interchange of public health officers to be held in the United States in the autumn of 1923, and helping the cooperation of the Latin American Governments in the International Customs Conference to be held in Geneva in October next and in the work of the Organization for Communications and Transit."

The report continued that "the bureau has aided the Information Section of the Secretariat to keep in touch with events and with public opinion in the Latin American countries and to spread information in these countries on

¹ *Records of the Fourth Assembly, Plenary Meetings*, p. 322 (*Official Journal, Spec. Sup. No. 13*).

the work of the representatives of Latin America on the Council and on the various committees of the League. . . . The bureau has also placed itself at the disposal of the Latin American diplomatists accredited in Europe and the United States for the purpose of supplying information regarding the work of the League, and it has, with the same end in view, entered into correspondence with the universities, chambers of commerce, academies and similar institutions in Latin America." The bureau had arranged for a Spanish edition of the *Monthly Summary* to be specially prepared in order to emphasize matters of particular interest to the Latin American countries. The work of the bureau had been of great value to the Secretariat, and the Secretary-General had every reason to believe that it had also been appreciated by the Governments of the Latin American states.

The Fourth Assembly passed a resolution September 28, 1923, intrusting the Secretary-General with the task of studying a scheme for reorganization of the Latin American Bureau, and requesting him to submit the draft to the Members of the League so that the Fifth Assembly might be able to take action. The Assembly noted that the development of this bureau offered an effective means of reinforcing an essential liaison between the governments and the central organs of the League of Nations.

On the same day the Latin American delegates sent a letter to the Secretary-General in which they gave the principles which the delegates had agreed upon as a possible basis for reorganization. This plan was signed by delegates from Brazil, Chile, Colombia, Costa Rica, Cuba, Haiti, Panama, Honduras, Paraguay, Uruguay, Salvador and Venezuela and contained the following provisions:¹

1. A new Under-Secretary-General, a native of Latin America, will be appointed; his duties, in addition to those assigned to him by the Secretary-General, will be to direct the Latin American Bureau.

¹ *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 323 (*Official Journal*, Spec. Sup. No. 27).

2. The number of members of the bureau will be increased from two to three, appointed for three years; subsequent vacancies will be filled each year, so that the strength of the bureau will never be less than three.

3. Considering that there should be a Latin American member in the principal sections of the Secretariat, the delegates of the Latin American states hope that, as vacancies arise in the sections, the Secretary-General will endeavor to fill them by appointing nationals of the Latin American countries, possessing the necessary qualifications, that he will give the preference when filling vacant posts to the members of the Latin American Bureau and that he will, so far as possible, insure fair representation to the various Latin American countries.

4. As soon as the permanent Secretariat contains a fair proportion of Latin American members, the question of maintaining or reorganizing the bureau will be considered.

They also recommended that the present members of the Latin American Bureau be appointed for a term of three years.

The work accomplished by the Latin American Bureau during the first two years of its existence falls into two parts. The first was the work of confidential and personal contact, the object of which was to strengthen the bonds between persons in Latin America and the Secretariat so as to achieve a better mutual understanding, to exchange information and to give such explanations as were necessary in order to facilitate the common task. It was also to acquaint the people of Latin America with the work of the League and to keep the League in touch with the aspirations of the Latin American countries. The Secretary-General noted in his report to the Assembly that the bureau "has been very highly appreciated by the Secretary-General and the Secretariat of the League who have more than once had occasion to note the excellent results achieved."¹

The second task was that of collaboration with the technical sections of the Secretariat. The bureau was able to spread its activity to all its sections, so far as concerned

¹ *Records of the Fifth Assembly, Plenary Meetings*, p. 380-381 (*Official Journal*, Spec. Sup. No. 23).

their relations with governments, with public and semi-public institutions and with individuals in Latin America. The members of the bureau, in accordance with rules approved by the Secretary-General, are consulted in regard to all communications to or from Latin America.

The Secretary-General pointed out in his report to the 1924 Assembly that "the bureau has made particular efforts to assist the section of the Secretariat which deals with intellectual cooperation, having regard to the importance which the Latin American countries attach to these questions. The bureau has obtained the collaboration of several of these countries, which have sent valuable information on the present position in regard to intellectual, educational and legal developments and the progress of natural sciences, and the bureau has received assurances that similar information will be regularly supplied in future." The activity of the bureau was particularly effective as regards the statistical publications of the Economic and Financial Sections.¹ The report noted that the bureau had obtained epidemiological information, for the regular publications of the Health Section. This section also had taken the suggestions of the bureau in securing the collaboration of doctors in interchanges of the health staffs, and 15 Latin American doctors had already taken part in them. Through the efforts of the bureau the regular sale of League publications had been organized in the Latin American countries and agencies had been established in the greater number of them. An example of the usefulness of the bureau was given by M. Reveillaud, chairman of the Committee on the Allocation of Expenses, during the debate in the Fourth Committee.

Thus, after it had made numerous unsuccessful endeavors to obtain the budgets of the Latin American states, the Committee on the Allocation of Expenses had had the happy idea of applying to that office. Within a remarkably short space of time—less than two months—the office had supplied it with ten budgets.

¹ *Records of the Fifth Assembly, Plenary Meetings*, p. 380-381 (*Official Journal*, Spec. Sup. No. 23).

This was a noteworthy indication and he had particular pleasure in thus bearing witness in the presence of the Fourth Committee to the value of the Latin American office.¹

A memorandum submitted to the Fifth Assembly gives the attitude of the Secretary-General regarding reorganization of the bureau in connection with the letter of September 28, 1923. Originally the chief function of the bureau had been to create particular facilities of liaison between the Latin American states, Members of the League, and the Secretariat. When it was finally determined that the seat should be at Geneva, a main consideration was that members of the bureau, after having spent two years in the Secretariat, would return to their several countries and that therefore, by degrees, the various Latin American states would have at their disposal men who were accustomed to the work of the Secretariat and who had a full comprehension of the various activities of the League. "As the greater part of the permanent members of the Secretariat had, by an Assembly decision, received contracts for a considerable period, it was then unlikely that within the next few years there would be more than a small number of vacancies occurring in the Secretariat and therefore it would hardly be practicable to insure for some time to come the presence of an adequate number of nationals of the Latin American states on its permanent staff. During this period the creation of the bureau would at any rate enable the different Latin American states, members of the League, to have in turn a national on the League Secretariat."² He was in accord with the views indicated by the Latin American delegates that vacancies in the Secretariat should be filled by nationals of Latin America in so far as possible, but he doubted whether citizens of the Latin American countries should receive preferential rights regarding such vacancies. The memorandum continued:³

¹ *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 30 (*Official Journal*, Spec. Sup. No. 27).

² *Ibid.*, p. 319.

³ *Ibid.*, p. 322.

The Secretary-General is strongly of opinion that the appointment of an Under-Secretary-General from a Latin American state would be in the general interests, not only of the Secretariat but of the League as a whole . . . [But he] is inclined to doubt whether an immediate appointment would really be the most advantageous. The possibility, which the Secretary-General hopes may arise, of closer cooperation by the Government of the Argentine with the work of the League and of the entrance into the League of further Latin American states, would appear to deserve attention in contemplating changes of a radical nature in the relations of the Secretariat with Latin American countries. Moreover, additional pressure of work on the Secretariat resulting from increased membership of the League might easily make certain internal rearrangements imperative. In any case, it seems probable that, in the not too-distant future, events may necessitate a considerable reorganization of the higher posts in the Secretariat. It will be realized that it is in connection with such a reorganization that the appointment of a new Under-Secretary-General could most easily be made.

There is one further consideration to which, though it will certainly not have escaped the notice of the Assembly, the Secretary-General nevertheless ventures to draw attention. If and when the Assembly decides upon the appointment of an Under-Secretary-General of Latin American nationality, it will be understood — in conformity with the principle whereby all members of the Secretariat are, under the Secretary-General, responsible to the Council and the Assembly of the League as a whole and not to the Governments of their respective countries — that this decision is taken in the general interests of the League and not in the particular interests of Latin American countries. The Assembly will consequently realize that the first duty of the Secretary-General when called upon to give effect to the decision envisaged above, will be to assign to the new Under-Secretary-General a sphere of work of an international character fully commensurate with the importance of the post. The letter of the Latin American delegates recognizes . . . that the direction of the Latin American Bureau, even reformed along the lines proposed, would not in itself be a sufficient responsibility for an official of the rank of Under-Secretary-General, especially in view of the possible provisional nature of the bureau to which attention is called in the fourth principle set forth in the letter. . . . Consequently, until circumstances make possible the internal reorganization to which reference has been made, the definition of the functions which the new Under-Secretary-General

might properly be called upon to discharge would evidently present appreciable difficulties.

The question of reorganization of the Latin American Bureau was considered by Subcommittee E of the Fourth Committee.¹ The report of the Fourth Committee to the Assembly² noted that Latin America could not be accorded exceptional treatment and stated that:

The principle of equality, which should be and is the basis of all our work and discussions, must also be applied to the present question. It is, therefore, essential that the nationals of Latin America should as soon as possible be brought . . . under the general law, and that they should be distributed among the sections, taking their share in all the branches of the Secretariat's work. The committee fully realizes that, apart from official and diplomatic relations — which have their regular mediums in the permanent representative bodies at Geneva, the diplomatic missions in the various capitals, and the foreign offices or ministries of foreign affairs, — the members of the Secretariat constitute natural and in many cases valuable, if unofficial, links between their own countries and the organization which they serve. Latin America also should therefore be brought into line with this system as soon as possible. The committee realized, however, that this change could not be made immediately. A period of transition would have to be allowed in order to pass from the position which we have called an exceptional one to a desirable and normal condition of affairs.

The Fifth Assembly adopted a plan for such a transitional reorganization, as recommended by the Fourth Committee in the following resolution of September 29, 1924:³

1. The number of members of the Latin American Bureau shall be increased from two to three.
2. The term of service of the members of this bureau shall be increased from two to three years.

¹ *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 62 (*Official Journal, Spec. Sup. No. 27*).

² *Ibid.*, p. 318.

³ *Ibid., Plenary Meetings*, p. 185 (*Official Journal, Spec. Sup. No. 23*).

3. The Secretary-General shall, when vacancies occur in the general services of the Secretariat, endeavor to secure more appropriate representation for the Latin American states, provided always that the candidates for these posts possess the necessary qualifications.

4. It is understood that the Latin American Bureau, which was constituted in order to meet particular exigencies must not be regarded as a permanent organization. It is desirable that nationals of Latin American countries should be admitted as permanent members in such a way that one of these nationals shall be appointed in each section of the Secretariat.

5. In order that the above scheme may be carried out as rapidly as possible, the Secretary-General shall have power to substitute, upon their expiration or even previously, for the contracts of officials of the Latin American Bureau, contracts as permanent members of section, utilizing for this purpose the funds allocated to the Latin American Bureau, or, if the Bureau cease to exist, a special credit to the same amount, which shall be duly allocated.

The Report to the Sixth Assembly on the work of the Council and the Secretariat noted that the bureau had become a regular and normal part of the Secretariat and it was no longer considered necessary to describe it separately.¹ The budget in Chapter II, Item 6, provided 116,072 gold francs for the Latin American Liaison Office.²

This, however, did not silence the Latin Americans in their demand for a larger representation on the permanent staff. M. Barboza Carneiro of Brazil pointed out before the Fourth Committee of the Sixth Assembly the discrepancy between Latin American representation and that of other nations. He said that his appeal, every time credits for the Latin American Office came up for discussion, was assuming the character of a *leit-motiv*. He had explicit instructions to call the attention of the committee to the situation regarding the proportion of Latin American nationals employed in the Secretariat and the International

¹ *Records of the Sixth Assembly, Plenary Meetings*, p. 340 (*Official Journal*, Spec. Sup. No. 33).

² *Ibid.*, *Meetings of the Committees, Minutes of the Fourth Committee*, p. 19-20 (*Official Journal*, Spec. Sup. No. 37).

Labor Office.¹ In a comparison between the contributions made by that group of states and the amount paid for salaries of Latin American officials, he noted that Latin America was paying to the League annually 3,271,495 Swiss francs of which only 4.6% went as payment of salaries for the eight officials who were its nationals (150,700 Swiss francs). He contrasted these figures with those of other countries. He said there were ten Austrian nationals in the League offices, receiving an annual total salary of 139,509 francs, or 576% of the states contribution. Great Britain paid annually 2,132,530 francs; 204 officials of British nationality received 2,949,164 francs, or 133% of that contribution. France contributed 1,890,197 francs, while French officials received 2,317,039, or 122% of the country's quota. The Brazilian urged that the Secretary-General should give an assurance that no appointments would be made in the future without the Governments of the Latin American republics being notified that there was a vacancy. He stated that this had become a very serious matter and he felt sure that he was expressing the opinion of the other republics.²

The Secretary-General in reply noted that the provision for posts in the Secretariat had been a serious problem for some time. "The Liaison Office," he said, "had been created with the double purpose of strengthening the contact with those distant countries and at the same time serving as a kind of training school where Latin Americans might gain such experience of the activities of the League as might qualify them in due course for permanent appointments in the Secretariat."³ He stressed the point that members on the Secretariat were not representatives of the Member states and noted the danger of gauging appointments according to contribution. He then noted that two Latin Americans had been added to the staff the previous

¹ *Records of the Sixth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 19 (*Official Journal, Spec. Sup. No. 37*).

² *Ibid.*, p. 20.

³ *Ibid.*, p. 20-21.

year, — a Chilean to the Health Section and a Colombian to the Latin American Bureau.

A proposal to limit the appointing power of the Secretary-General was defeated in the Fourth Committee, which did approve the proposal that members of the Latin American Office should be eligible for renewal after the expiration of their term of office.¹

The question was again considered at the Seventh Assembly. In the Fourth Committee there appeared a difference of opinion among the Latin Americans themselves. Señor Zumeta of Venezuela declared that Señores Guerrero, Urrutia and Villegas were the authorized spokesmen for eleven of the Latin American delegations to consider how arrangements for this service could be adapted to the requirements of liaison between the Secretariat and each of those countries individually.

This was objected to by Señor Fernandez y Medina of Uruguay on the ground that the League could contain no group or organization calling itself "Latin American group." Such a group, he said, could never be recognized by the League. Since the Members were sovereign states, no group or entente could be formed except by a formal agreement among the Governments concerned. Such conversations as took place between delegates when they met in Geneva were friendly interviews which did not confer on anyone the right to speak on behalf of others on questions affecting the organization of the budget of the League. It was the representatives of the individual states who must be consulted. This, he emphasized, was a constitutional principle which could not be ignored. He said the Government of Uruguay considered that the existence of a Latin American Liaison Bureau was incompatible with the conception of the Secretariat of the League. If the bureau were retained, it should be noted that Uruguay was opposed thereto. He argued with much force for the respect due to the right of the Secretary-General to be entirely free

¹ *Records of the Sixth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 253 (*Official Journal*, Spec. Sup. No. 37).

from interference in the selection of the staff.¹ Señor Zumeta agreed that the Latin American Bureau should be suppressed, the Secretary-General to use his discretion in regard to the matter. Upon the suggestion of the Japanese delegate, the item was changed to "Latin American Liaison Service" in place of "Latin American Liaison Bureau." The heading finally accepted and recommended to the Assembly was "Liaison with Latin America." In 1927 C. Rodriguez, of Panama, was permanently assigned to "Liaison with Latin America."²

There was likewise recommended a credit of 30,000 francs for "technical investigations to be undertaken in Latin America," in recognition of the advantages to be derived from interesting those countries more directly in the technical activities of the League. The expenditure for the "Liaison with Latin America" was 101,691 Swiss francs in 1927 and 128,618 in 1928, while the estimate in the budget for 1929 was 220,185 and 321,162 for 1930.³ The later figures included 100,000 francs for technical investigations in Latin America by the Health Committee in 1929 and 200,000 in 1930.

The Latin American Bureau was thus freed of its anomalous character and gradually incorporated into the permanent Secretariat. It developed from a training school for Latin American nationals into an office with a permanent staff of three persons, the chief purpose of which is to deal with problems affecting Latin America and with correspondents of its own. In this form it will undoubtedly continue to serve a useful purpose in harmony with the whole League organization.

2. Participation in Conventions

Altogether, the machinery of the League of Nations has produced in 10 years nearly 100 multilateral conventions in addition to many protocols, treaties and conventions for

¹ *Records of the Seventh Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 24-25 (*Official Journal, Spec. Sup. No. 48*).

² *Official Journal*, VIII, p. 422.

³ *Ibid.*, X, p. 1340.

such specific purposes as the reconstruction of Austria, the protection of minorities or sanitary organization. Some of these documents, though of genuine international importance, on the face of them have little or no interest for the Latin American states, an instance being the agreement for the preparation of a transport card for emigrants of June 14, 1929. The Latin American interest in the migration of population is immigration rather than emigration. Other questions such as the convention of April 20, 1921, on the régime of navigable waterways of international concern may have slight interest to countries without waterways and those without shipping interests. There are, consequently, many reasons why Latin American states should be relatively less interested in intrinsically important conventions than some other states.

Nevertheless, Latin American states as a group often disregard legal precision with respect to international agreements. Costa Rica, for instance, promptly signed the Protocol of Signature of the Statute of the Permanent Court of International Justice and its optional clause in 1921 and nine years later had not ratified. Many other instances of such delays could be cited. Latin American states are generally slow in such matters, partly due to the fact that many of them have only biennial sessions of the congress whose approval is required. However, Latin American states very frequently follow the terms of agreements which they have signed without formal action. This habit accounts in part for the large discrepancy which exists between the signatures which they affix to conventions and the ratifications which they deposit.

With these considerations in mind, it should nevertheless be understood that states have many reasons to debate concerning the value of international engagements to themselves, and no general conclusion should be drawn respecting the inaction of a state in any particular case until examination of the circumstances has been made.

The amount of action taken by the various Governments on proposed amendments to the Covenant is interesting

because the Latin American nations were not entirely pleased with the original draft and favored bringing the League more nearly in harmony with their theory of "equality of states."

The protocol of amendment to Art. 4 of the Covenant (increasing the elective members of the Council) was ratified by 38 states, only seven of which were Latin American. Brazil, Cuba, Haiti, Salvador, Uruguay and Venezuela were the only American states to take the required constitutional action before the amendment went into force on July 29, 1926, Chile having ratified on August 1, 1928.¹ Due to the membership of Brazil and Uruguay on the Council it was necessary for them to take official action before the amendment could be made an integral part of the Covenant. That responsibility probably hastened their action. The amendment to Art. 6 (giving the Assembly control over budget quotas) was ratified by only the two American Governments on the Council before it came into force August 13, 1924, with a total of 36 ratifications. The Brazilian ratification brought it into force. Later Chile, Salvador and Venezuela ratified it.

On September 26, 1924, the amendments to Arts. 13 and 15 (including the judicial method in the forms of pacific settlement) were made a part of the Covenant. Of the 34 ratifications only the Governments of Brazil, Cuba and Uruguay were included. Chile, Haiti and Venezuela ratified each of them after they were in force.

In the 1929 Assembly Great Britain and Peru proposed changes in these articles to bring them into harmony with the general treaty for renunciation of war (pact of Paris). The Peruvian representative, Mariano H. Cornejo, presented a definite proposal to the Council and as a member of the Committee to study the question of amending the Covenant took an active part in developing the proposed changes.

Regarding amendments which have not yet been ratified by a sufficient number of states to make them a part of the

¹ The details are derived from the list published by the Secretariat of the League, the latest available one being in *Official Journal*, X, p. 1773.

Covenant, the same situation prevailed. The six protocols for amending Art. 16 (economic sanctions) have been ratified by Brazil, Chile and Uruguay, all of which have been on the Council. The protocol which was passed by the Fifth Assembly had been ratified by only Salvador, while only Chile had ratified the protocol adopted by the Sixth Assembly in 1925. Art. 26 determines the method of amending the Covenant. It received no more attention from the Latin American Governments. Brazil, Chile, Cuba, Haiti, Uruguay and Venezuela had ratified the three amendments to the article when a total of 35 ratifications were on file at the Secretariat. Protocol 13 providing for the addition of a new paragraph to Art. 26 received favorable action by the same Governments.

The amendment to Art. 393 of the treaty of Versailles concerning the composition of the Governing Body of the International Labor Office was ratified by Cuba on September 7, 1925, by Haiti on November 2, 1925, by Uruguay on April 28, 1928, by Salvador on May 4, 1928, and by Chile on August 1, 1928.

We therefore see that the majority of Latin American states have not taken official action regarding change of the Covenant. All of them, however, which were represented at the Assemblies which passed the protocols for amendments, voted in favor of them. Since none of these countries has refused to be bound by the amendments in force, we can assume that the reason for nonratification was not opposition to the amendments but simply governmental lethargy. The American states have repeatedly advocated changes in the League organization and have urged further democratization of the institution. They have limited themselves to an expression of a desire rather than developed a sufficiently deep interest to prompt affirmative action.

In addition to amendments to the Covenant, the Permanent Court of International Justice may be assumed to have a general interest for all Latin American states. The Protocol of Signature covering its Statute has been ratified

by Brazil, Chile, Cuba, Haiti, Panama, Uruguay and Venezuela; it has been signed but not ratified by Bolivia, Colombia, Costa Rica, the Dominican Republic, Guatemala, Nicaragua, Paraguay, Peru and Salvador. Nicaragua and Peru signed it only in September, 1929, but several of the other signatures had been affixed as early as 1921. The so-called optional clause, by which a state confers upon the Court a compulsory jurisdiction, is binding upon Brazil, Haiti, Panama and Uruguay only among the American states. Brazil completed all the formalities in November, 1921, but it was not until February 5, 1930, that an attached condition was realized. This condition was that the clause became binding for Brazil when it had been accepted by two permanent members of the Council. The clause has been signed by Costa Rica, the Dominican Republic, Guatemala, Nicaragua, Peru and Salvador.

The other conventions made under the auspices of the League have been of varying importance to Latin America, as may be observed by the following notes.

Of the 26 international labor conventions, none had been ratified before 1929 by any Latin American nation except Cuba, which had ratified 16, and Chile, which had approved eight.¹

There have been nine conventions concluded on the subject of communications and transit. Although some Latin American countries signed each of them (Chile and Uruguay signed all nine), none has been ratified except by Chile, which is bound by four. By way of comparison, the convention on freedom of transit had been ratified by 24 nations prior to December, 1929, only one of which was Latin American.²

The record concerning the protocol on arbitration clauses in commercial matters showed that only seven Latin American countries signed, while none of the 20 ratifications was by them.

¹ *Official Journal*, X, p. 1774.

² *Ibid.*, p. 1783.

The convention concerning obscene publications has been ratified by none; the one on supervision of international trade in arms and munitions by Venezuela; while the one on customs formalities has not received any ratifications from the Americas.

The convention on traffic in women and children was ratified only by Chile and Cuba while Uruguay acceded on October 21, 1924.

The convention on traffic in opium and other dangerous drugs of January 23, 1912, has been ratified by 47 different nations, 18 of which are Latin American. As to the opium convention of February 19, 1925, none of the Latin American Governments has ratified, while only three, the Dominican Republic, Salvador and Venezuela, have acceded. Of the 40 nations which had signified their adoption of the import certificate system prior to March, 1929, six were Latin American.¹ There have been repeated complaints made by the Advisory Committee on Traffic in Opium and other Dangerous Drugs regarding the difficulty in obtaining information from the South and Central American states. The Council upon the request of the committee invited the Secretary-General to approach the Governments of these countries in order to obtain: ²

(1) Regular annual reports to be dispatched on October 1 of each year, and to be based on the model form now generally adopted;

(2) Copies of the laws and regulation in force concerning the traffic in narcotics;

(3) Information with regard to the administrative arrangements for enforcing the laws and regulation in vigor and, in particular, information as to the acceptance and application of the import and export certificate systems;

(4) Information as to whether these Governments intend to ratify or adhere to the Geneva convention of February 19, 1925;

(5) Information as to the illicit traffic in narcotics in their respective countries;

¹ *Official Journal*, X, p. 661.

² *Ibid.*, VIII, p. 508.

(6) In cases where the Hague convention of 1912 has not yet been ratified and enforced, information as to when such ratification and enforcement may be expected.

Only 20 annual reports had been received from Latin America for the seven years 1921-27.

About the same degree of interest is shown in preparing the ground for the conclusion of conventions. Though the armament question is not of primary concern to Latin America, it is one of the most important problems in the world. The draft treaty of mutual assistance provoked little interest in Latin American countries. To the questionnaire on it, there were 20 replies from European nations, but only one from South America (Uruguay).¹ "The slowness of the American states in replying to the request of the Council was partly due to the fact that the treaty of mutual assistance would not be operative or could not be applied in the future in respect to such states. At the same time they recognized that it was a sacred duty for all civilized people to cooperate against the crime of aggression and acts of international bad faith, and to cultivate their material, economic, financial and moral forces, so far as they were able to save mankind from the horrors of war. . . . The delegates of the American states were certainly of the opinion, and this feeling was shared by American states not represented at the Assembly, that any attempt made in Europe to secure the universal and unreserved application of compulsory international arbitration in order to supplement the provisions of the Covenant would meet with enthusiastic and unanimous support from the American peoples, in view of the fact that the consecration of right by means of justice was one of the most cherished aspirations of all the democracies of the new continent."²

The Latin American nations were no more responsive to the recommendations of the Second Assembly relative to

¹ *Records of the Fifth Assembly, Meetings of the Committees, Minutes of the Third Committee*, p. 130 ff. (*Official Journal, Spec. Sup. No. 26*).

² *Ibid.*, p. 24-25. (Señor Guani, Delegate of Uruguay, before the Third Committee of the Fifth Assembly.)

the reduction of expenditures on armaments. Of the 18 countries which did not answer, 12 were Latin American, four of which were South American. Bolivia, Colombia and Peru reported a reduction, while Brazil and Chile were unable to do so. Chile simply noted that it did not contemplate an increase.¹ This can easily be understood in view of the continental situation regarding armaments, which the American delegates have repeatedly stressed before the League. Chile and Brazil have pointed out on numerous occasions that it was not a question of reduction in America but rather one of limitation of armaments.

3. Finances

One index of cooperation with the League of Nations, as with any other institution, is the regularity with which financial obligations are met and the conscientious fulfilment of budget requirements. The cooperation of the Latin American countries in this respect with the League of Nations has been less satisfactory than that of any other group of nations. The South American nations have a better record, however, than the Central Americans.

The original allocation of expenses of the League was on the basis of the quotas of the Universal Postal Union in which the participants elect the class in which they pay units. The small budget of that union had encouraged small states to choose classes above their relative status. In most other respects also the allocation was not suitable for the League of Nations budget. The Committee on Allocation of Expenses worked on the whole problem from 1920-1924, when definite principles were established.

The balance sheet of the League at the close of the first fiscal year showed a favorable situation in regard to the fulfilment of their quota requirements. There were only four Latin American nations which had not paid their first budget contribution prior to November 26, 1920, these being Argentina, Cuba, Paraguay and Salvador. It was

¹ *Records of the Third Assembly, Meetings of the Committee, Minutes of the Fourth Committee*, p. 82-86.

noted, however, that the contributions of Cuba and Paraguay were in the mail, although they did not arrive in time for the report on the budget to the First Assembly.¹

Finance has been one League subject about which all Latin American nations have been in accord. This subject divides the honors with that of a greater representation on the Secretariat, for receiving the greatest attention of the delegates of these countries in the Assembly. The question

BUDGET UNITS PAYABLE BY LATIN AMERICAN STATES

Year . . .	1920 ²	1921 ³	1922	1923	1924	1925	1926-1932
Total units . . .	478	437	770	944	932	932	937-986
Unit value . . .	20,920 Sw. fr.	\$9,385.01	\$5,232.04	\$5,248.93	\$4,810.09	\$4,675.90	\$4,722.03 ⁴
ARGENTINA . . .	5	15	35	(35)	(35)	- ⁵	29
BOLIVIA . . .	3	3	5	5	5	5	4
BRAZIL . . .	15	20	35	35	35	35	29
CHILE . . .	5	10	15	15	15	15	14
COLOMBIA . . .	5	3	10	7	7	7	6
COSTA RICA ⁶ . . .	-	-	2	1	1	1	1
CUBA . . .	3	5	10	9	9	9	9
DOMINICAN REPUBLIC . . .	-	-	-	-	-	1	1
GUATEMALA . . .	3	1	2	1	1	1	1
HAITI . . .	3	1	5	2	2	2	1
HONDURAS ⁶ . . .	-	-	2	1	1	1	1
NICARAGUA ⁶ . . .	-	-	2	1	1	1	1
PANAMA . . .	3	1	2	1	1	1	1
PARAGUAY . . .	3	1	2	1	1	1	1
PERU . . .	5	3	10	10	10	10	9
SALVADOR . . .	3	1	2	1	1	1	1
URUGUAY . . .	3	5	10	7	7	7	7
VENEZUELA . . .	3	3	5	5	5	5	5

¹ *Records of the First Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 97.

² *Ibid.*, *Minutes of the Committees*, Vol. II, p. 119.

³ *Ibid.*, p. 127.

⁴ The unit for 1926 was \$4,722.03; 1927, \$4,659.85; 1928, \$4,787.39; 1929, \$5,288.86; 1930, \$5,520.55.

⁵ Held over.

⁶ Not formal members when schedule was made.

of budget contributions has received the greatest amount of attention from the smaller countries of the Caribbean region, although the other American states have generally supported the same point of view. In fact, this is about the only question which has elicited the active attention of some of the smaller countries. Some have consistently failed to meet their financial obligations. The original budgets applied to Member states the quotas of the Universal-Postal Union, which were unsuited to the purpose and were inequitable. There was, therefore, originally a legitimate cause of complaint. There has also been a tendency to compare the allocation of the League budget with that of the Pan American Union, which is divided on a basis in 1930 of \$1.10 contribution for each thousand inhabitants.

Señor Restrepo of Colombia before the Second Assembly said that, while it wished to remain a Member of the League and to pay within the limits of its resources, Colombia nevertheless demanded that the committee should make an effort to lighten, as far as possible, this burden for all the smaller countries of South America, if it wished to keep them in the League of Nations.¹ Señor Urrutia of Venezuela also expressed the hope of his Government that the budget would not be increased; the question of finances was not only in the interests of Colombia but also of the League of Nations because human enterprises are often threatened by causes of secondary importance. He thought that the future of the League might perhaps be endangered by questions of a financial nature.² Salvador had objected in 1920 and again in 1922 and sent no delegates to the Second or Third Assemblies. Cuba, Costa Rica and Panama also opposed any increase.

The Latin American countries in arrears in their contributions on December 31, 1920, were Argentina, Guatemala, Honduras, Nicaragua, Paraguay, Peru and Salvador.

¹ *Records of the Second Assembly, Meetings of the Committee, Minutes of the Fourth Committee*, p. 88.

² *Records of the Third Assembly, Plenary Meetings*, p. 357.

The same was true at the end of 1921, while during the fourth financial year (1922) Bolivia, Colombia, Costa Rica and Haiti were added to the list and Argentina was dropped entirely from the schedule. No reference was made to Argentina in either the report or the budget schedule to the Third Assembly.¹

The Second Assembly recommended a change in the system of allocation but the Latin Americans were not wholly relieved of what they considered an excessive burden. The revised scale of the Committee on Allocation of Expenses was adopted by the Third Assembly whereby the quotas of Colombia, Costa Rica, Guatemala, Haiti, Honduras, Nicaragua, Panama, Paraguay, Salvador and Uruguay were reduced.² Ten out of 14 nations having their quotas reduced were Latin American.

The Fourth Committee of the Fourth Assembly considered the question of arrears and proposed striking out a number of the budget deficits by retroactive application of the new scale.³ Six Latin American countries profited by this action, viz: Costa Rica, Guatemala, Honduras, Nicaragua, Paraguay and Salvador.

On June 10, 1924, Argentina paid 1,011,355 gold francs for the contributions due prior to and including 1922 and 745,538.40 francs for 1923, although the Assembly had dropped it from the schedule. No payment was made in 1929.

The financial standing in the League of the Latin American countries on August 31, 1929, showed that Bolivia, Honduras, Nicaragua, Paraguay, Peru and Salvador owed for more than the contributions of 1929.⁴ Peru headed the list with a debit for all quotas since 1920 with a grand total of 1,461,771.20 gold francs. Honduras and Nicaragua

¹ *Records of the Fourth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 188 (*Official Journal*, Spec. Sup. No. 17).

² *Records of the Third Assembly, Plenary Meetings*, p. 381-382; *Ibid., Meetings of the Committees, Minutes of the First Committee*, p. 74 ff.

³ *Records of the Fourth Assembly, Plenary Meetings*, p. 348-349 (*Official Journal*, Spec. Sup. No. 13).

⁴ *Records of the Tenth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 116 (*Official Journal*, Spec. Sup. No. 79).

owed compounded arrears and contributions since 1922 and Bolivia contributions since 1923. Bolivia owed 630,772.03 francs while Nicaragua owed 203,364.21 and Honduras 190,958.72 francs. Guatemala, Paraguay and Salvador also showed balances due.¹ With the exception of China the only countries in arrears for quotas prior to 1928 were Latin American republics.

When a nation enters the League it undertakes certain obligations, among which are the financial ones. These are legally binding upon it until two years after notification of withdrawal. Since these Latin American nations have never given notice of an intention to withdraw they are still Members and under an international obligation to meet the payments.

The Seventh Assembly considered the problem of non-payment, which had also been taken up at previous Assemblies. A resolution was passed requesting the Secretary-General to give his support to any steps which he might consider useful in recovering arrears and also requesting the Council to cause a study to be made of the legal position of states which do not pay their quotas.²

The financial obligations of the states Members of the League arise under Art. 6, par. 5, of the Covenant. This paragraph as now in force (since August 13, 1924) reads as follows: "The expenses of the League shall be borne by the Members of the League in the proportion decided by the Assembly." The Covenant contains no direct provision imposing any sanction or penalty upon a Member which fails to pay its contribution. The legal position of Members in arrears was examined by the Committee on Amendments in 1921. The committee recommended that interest be charged on contributions overdue and that annual statements should indicate those states which were in arrears. The Assembly in 1922 rejected the proposal to charge interest.

¹ *Records of the Ninth Assembly, Meetings of the Committees, Minutes of the Fourth Committee*, p. 162-164 (*Official Journal, Spec. Sup. No. 68*).

² *Records of the Seventh Assembly, Plenary Meetings*, p. 142 (*Official Journal, Spec. Sup. No. 44*).

The report of the Secretary-General submitted to the Council, March 9, 1927, on the "Legal Position of States which do not pay their Contributions to the League" stated that "it does not appear reasonably open to doubt that the financial obligation assumed by a Member of the League under Art. 6 is one of the covenants of the League and that the last paragraph of Art. 16 applies formally to violation of this covenant no less than to violation of the more fundamental obligations of the Covenant."¹ The report notes that "the participation of a state Member in bearing the expenses of the League may be regarded as among the least essential of the advantages which the Members in general obtain from the membership of that state. The obligation to make financial contributions is merely ancillary to the maintenance of the permanent organs of the League and a permanent body of officials, and to the conduct of the League's business by means of commissions and conferences. One may conclude that application of the last paragraph of Art. 16 of the Covenant to a state whose contributions were in arrears would hardly be likely to be contemplated by the Assembly or the Council unless the default were so continued and wilful as to indicate a deliberate violation of the financial obligations imposed by the Covenant.

"Apart from the somewhat theoretical possibility of the application of Art. 16 of the Covenant it appears certain that the strictly legal rights (including, for example, the right to vote at the Assembly and eligibility for membership of the Council) which a state derives from membership of the League can not suffer any diminution as the result of default in payment of contributions."

In view of the fact that there has been so much discussion about the financial obligations it might be interesting to note the annual quotas of these various republics. For the sake of comparison, the annual quotas of the same countries for the support of the Pan American Union are also given:

¹ *Official Journal*, VIII, p. 505-506. The paragraph referred to reads: "Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the representatives of all the other Members of the League represented thereon."

COMPARISON OF BUDGETS FOR 1929

	League of Nations. ¹	Pan American Union. ²
ARGENTINA	\$153,376.79	\$11,711.50
BOLIVIA	21,155.42	3,102.13
CHILE	74,043.97	4,427.43
COLOMBIA	31,733.13	7,279.62
CUBA	47,599.70	3,927.74
DOMINICAN REPUBLIC	1,106.09	987.15
GUATEMALA	5,288.86	2,205.39
HAITI	5,288.86	2,233.00
HONDURAS	5,288.86	770.89
NICARAGUA	5,288.86	701.93
PANAMA	5,288.86	490.71
PARAGUAY	5,288.86	1,100.00
PERU	47,599.70	5,082.00
SALVADOR	5,288.86	1,822.70
URUGUAY	37,021.98	1,892.51
VENEZUELA	26,444.28	3,329.57

4. Cooperation on Health Questions

A consideration of the cooperation of the South American states with the League of Nations can not ignore the Conference of Health Experts on Infant Mortality which met in Montevideo, June 6, 1927.

The Council, with a view to developing technical relations with Latin America, approved the recommendation of the Health Committee to send its president and the medical director of the Health Section to attend a meeting of experts on child hygiene of Latin American countries. The object was to place at their disposal the experience of European experts, to confer with the representatives of the health administrations of the countries visited in regard to the work of the Health Organization³ and to arrange for

¹ *Official Journal*, IX, p. 1856.

² Report of the Director General of the Pan American Union for the Fiscal Year ending June 30, 1928.

³ *Official Journal*, VIII, p. 1249.

an investigation of the problem of infant mortality similar to that which was being carried on in European countries under the Health Organization.

This was the first conference held on Latin American soil under the auspices of the League. It was attended by a medical expert from each of the following countries: Argentina, Brazil, Bolivia, Chile, Paraguay and Uruguay.¹ The Health Organization was represented by Professor Thorvald Madsen (Denmark), president of the Health Committee, who presided, and by Dr. Rajchmann, League Medical Director, who had charge of the technical secretariat. The experts discussed the methods to be followed in the inquiries which were to be made and it was recommended that the investigation should begin on January 1, 1928, in Argentina, Brazil, Chile and Uruguay in certain selected districts. The methods employed in Europe were adopted with slight modifications.

Sir Austen Chamberlain, President of the Council, remarked on June 15, 1927, that this League meeting on Latin American soil was an event of considerable importance. He said that it was an outward and visible sign of the universality of the League and of the fact that, although its seat was on the continent of Europe and hence the great majority of its meetings were inevitably held on that continent, its Members were none the less anxious to understand and, where possible, to help in solving problems which the more distant countries had to face. He trusted that the meeting at Montevideo might be the first of many such meetings, which could not but contribute to the better understanding of the special interests and points of view of those Members of the League who were, geographically speaking, far removed from its center.²

Señor Villegas (Chile), speaking in behalf of the Latin American countries on the Council, said that "the conference furnished a further proof of the interests that the American countries have always taken in the work of the

¹ *Official Journal*, VIII, p. 1249 *f.*

² *Ibid.*, p. 764.

League. He fully agreed with the president that more meetings of this kind should be held in countries, which, though remote from the permanent center of the League, gave it loyal and effective support in the work which it was doing."

Since 1927 some progress has been made in regard to the collaboration of Latin American administrations in the work of the Health Organization of the League.¹ An investigation of leprosy has been made while the system of interchanges and individual missions in Latin America is in operation.

The Eighth Assembly approved a sum of 100,000 francs for "technical investigations in Latin America" and of this 65,000 francs was allocated for the infant mortality inquiry and 18,000 for the sending of foreign experts and for providing fellowships in connection with the School of Public Health and the Leprosy Center at Rio de Janeiro.²

The report of the Health Committee submitted to the December, 1928, meeting of the Council noted that steps were being taken to obtain an exchange of information between the Singapore Bureau and the Pan American Union. It pointed out that the "current information supplied by the latter bureau is of special interest and importance to Australia in view of the close commercial relations with the American continent."³

Sr. Urrutia noted with regret before the Council in March, 1927, that no Latin American expert was on the Health Committee which dealt with problems of a universal character entirely outside of politics. Dr. Carlos Chagas (Brazilian) was on the committee itself. Sr. Urrutia warned the Council that "if experts [on the Health Committee] from overseas countries were not to take much part in the work which the League has undertaken, they would perhaps turn their attention rather to the continental conferences

¹ *Official Journal*, VIII, p. 1249 *f.*

² *Ibid.*, IX, p. 371.

³ *Ibid.*, X, p. 80.

which met periodically to deal with questions of health."¹ The appointment of Dr. G. Araoz Alfaro (Argentine) to the committee followed.

5. Pan American Union and the League of Nations

There are two important contacts between the Pan American Union and the League of Nations. The Pan American Sanitary Bureau is cooperating with the Health Section and the Trade Advisor's Office of the Pan American Union is cooperating with the International Labor Office in Geneva.

The representatives of the American republics acting in concert at the International Sanitary Conference in Paris in 1926, secured the recognition of the Pan American Sanitary Bureau on an equal footing with the Health Section of the League. This places the obligation upon the bureau to maintain in the Western Hemisphere an intelligence service for the reporting of communicable diseases comparable to that maintained by the Health Organization of the League in the Eastern Hemisphere.²

This is one means by which the Pan American organization and the Secretariat of Geneva may effectively cooperate. Health problems are very important in South America and cooperation in regard to their solution during the past few years greatly improved health and sanitary conditions.

The work of the Trade Advisor's Office of the Pan American Union in the collection of material and information on the organized labor movement in the Americas, such as labor laws, working hours and conditions, has been of great service not only to the students of these subjects but also to the Labor Office. This data and other factors affecting the laboring population such as hours of employment, housing conditions, general movement of labor, causes of strikes, etc., are transmitted monthly by the Pan Ameri-

¹ *Official Journal*, VIII, p. 348.

² *Report on the Activities of the Pan American Union, submitted to the Governments, Members of the Pan American Union by the Director General (Washington, 1927), p. 28.*

can Union to Geneva.¹ The International Labor Office itself has published *Legislación social de America Latina*, in addition to its regular labor *Legislative Series*.

These are two examples of regional bureaus assisting the League organization in the collection of information and in the general field of administration. They serve as a very important liaison between the American grouping and the world institution and show how a regional bureau may work effectively with the League in activities of a functional character. It might well be that increased relations between the Pan American Union and the League of Nations will evolve along such lines of cooperation.

6. The Dispute Between Bolivia and Paraguay

One of the most interesting phases of Latin American relations with the League of Nations has been in connection with the dispute between Bolivia and Paraguay in December, 1928, over the Chaco Boundary. War was threatened for the first time in South America since the establishment of the League of Nations. American problems had scarcely been considered by the League. The outstanding problem, Tacna-Arica, had not been examined; an agreement soon afterward (1922) provided for its solution, and it was settled in 1929 by direct negotiations, brought about through the good offices of the United States. The other "American problem" arising since the organization of the League of Nations was the border dispute between Costa Rica and Panama in 1921, settled through the mediation of the United States.²

The parties to the 1928 dispute were both Members of the League, although Bolivia had not actively participated since 1922, while Paraguay had consistently been represented at the Assemblies but had not been otherwise very active. The only neighbor of the disputants actively participating in the League was Chile.

¹ *Op. cit.*, p. 5.

² See *supra*, p. 128.

Argentina had been interested in settling the boundary dispute through an arbitration commission which had been created through its good offices and which had met in Buenos Aires,¹ and might interpret League action as a usurpation of its rôle in the affair.

After the breakdown of the Buenos Aires conferences² in the summer of 1928, various disturbing reports about alleged Bolivian mobilization were circulated. Late in the summer a party of Bolivian officers was arrested in the disputed territory by a Paraguayan patrol. It was stated that all were equipped with maps and instruments for making surveys. On December 6, 1928, a Paraguayan force discovered a group of Bolivian soldiers building a fort on territory which Paraguay claimed. The Bolivians were ordered to leave and when they refused a clash ensued. Two days later Bolivia broke off diplomatic relations with Paraguay. War fever ran high, threatening an outbreak of hostilities.

On December 10, 1928, the Council of the League met in regular session at Lugano. The press was carrying accounts of the border clash of December 8, the break of diplomatic relations and the threatened hostilities between the two South American republics. No official report or appeal from either disputant was received by the Council nor did any third state call attention to the incident as affecting the peace of the world. The Council, recognizing its responsibility under the Covenant, considered in secret session on December 11, the situation as it appeared in the press and requested its president to send the following telegram to the two Governments:³

The Council of the League of Nations, meeting at Lugano for its fifty-third session, expresses its full conviction that the incidents

¹ This commission was set up in pursuance to the Gutierrez-Díaz-León protocol which was negotiated in Buenos Aires April 22, 1927, and by which the two countries accepted the good offices of the Argentine Government for the purpose of promoting a solution of the dispute.

² *Official Journal*, X, p. 254. The whole correspondence is printed separately as C. 619. M. 195. 1928. VII. 1.

³ *Ibid.*, p. 71.

which have occurred between two Members of the League of Nations will not become more serious. It does not doubt that the two states, which by signing the Covenant have solemnly pledged themselves to seek by pacific means the solution of disputes arising between them will have recourse to such methods as would be in conformity with their international obligations and would appear, in the actual circumstances, to be the most likely to insure, together with the maintenance of peace, the settlement of their dispute.

Great care was exercised by the Council members in drafting the telegram and it was so worded that an immediate response was not required, if any at all. Neither disputant had brought the incident to the attention of the Council. The Council received a telegram on December 12 from the Bolivian minister in Paris which, after a detailed account of the events, said:

No nation could subject, even to the highest tribunal in the world, its most sacred attributes, which require that reparation should be made for outrages received before returning to a state of moral equilibrium, which the laws of human dignity impose.

On December 13 an acknowledgment from Bolivia was received by the Council which referred to the "dispute which has arisen between two Members of the League,"¹ and announced the preparation of a further reply. The Paraguayan reply referred to the Council's cablegram as "proof of the lofty spirit of peace governing the deliberations of the Council." It added that Paraguay was "animated with the same spirit and would accept and faithfully fulfill her international obligations." It noted that Paraguay had offered and Bolivia had refused to submit the dispute to the commission of inquiry which had been set up under the Gondra treaty signed at the Fifth International Conference of American States in 1923.

The Bolivian reply, preceded by a detailed "report" of the events, was received December 15, 1928, the final day of the Council session. This contained the following:²

¹ *Official Journal*, X, p. 60.

² *Ibid.*, p. 71-72.

The Council of the League and your Excellency may rest assured that Bolivia will not depart from the principles and obligations contained in the Covenant. . . .

By an inexcusable surprise blow and in contradiction with the stipulations of Arts. 10 and 13 of the Covenant of the League, Paraguay has committed an aggression which we solemnly denounce to the Council, . . . and we declare that Bolivia has no alternative but to demand the satisfaction which is due in such cases and to take military measures of a defensive character to safeguard her security. . . . Until the satisfaction due by Paraguay has been given, it does not seem possible to my Government to allay the excitement of public opinion sufficiently to permit the resumption of peaceful negotiations. I have no doubt that the Council in its impartiality will recognize the justice and sincerity of these explanations and will take note of my Government's declaration of its intention to act on the Council's recommendations and to observe the stipulations of the Covenant. But Bolivia can not agree that, under cover of conciliation proceedings, the agreements providing for judicial arbitration on a concrete and definite basis should be invoked in order to settle the substance of the dispute, or that an attempt should be made to evade the obligation to provide the just satisfaction prescribed by international law and practice in such cases.

The Council, following the completion of its ordinary agenda, considered the affair in private session just before adjournment. It decided upon three steps: replies to both states; communication of the correspondence to all other states; and instructed the President to follow the course of the dispute and to call a special session, "if events showed such a course to be desirable."

The note to the disputant Governments expressed the conviction of the Council that the obligations of the Covenant would be respected and called attention to the fact that states, Members of the League ¹

can not, without failing in their obligations, and notably those contracted under Art. 12, omit to resort by some method or other to one of the procedures of pacific settlement provided for in the

¹ *Official Journal*, X, p. 72.

Covenant. The Council also thinks it well to draw attention to the fact that the Covenant mentions, among others, "disputes as to the existence of any fact, which if established, would constitute a breach of any international obligations, or as to the extent and nature of the reparation to be made for any such breach." The Council wishes to emphasize that in its experience it is most important to confine all military measures of a defensive character to those which can not be regarded as aggressive against the other country, and which can not involve the danger of armed forces coming into contact.

The correspondence was transmitted to all states Members of the League, to the ministers of the United States and of Brazil at Bern and to the ministers of Costa Rica, Ecuador and Mexico at Paris, so as to inform all Governments likely to be interested in the solution of the difficulty of the action taken.

A telegram from the Bolivian minister of foreign affairs dated December 15 again informed the president of the Council that "Bolivia had been obliged to take military measures of a defensive character to safeguard her security." He added that, in view of the concentration of Paraguayan troops, "it is my Government's duty to be prepared." "In conformity with its international obligations," the minister of foreign affairs said, "my Government has hastened to inform the Council of the League of Nations of this new development, which was the natural sequel of the attack directed against us last week. Paraguay is now clearly responsible for a breach of the most solemn international undertakings and has failed in the duties of all civilized nations for the maintenance of peace."¹

The next day, December 16, M. Briand cabled the Bolivian Government as follows:²

The facts which you report to me show still more clearly the dangers to peace created by the contact between military forces

¹ *Official Journal*, X, p. 264.

² *Ibid.*, p. 265.

belonging to the two countries on the frontier, and the urgency, to which the Council has drawn your attention, of taking measures to prevent further incidents capable of compromising the success of any peaceful procedure.

I venture to emphasize afresh the suggestions which were made to you by the Council on receipt of your Government's solemn assurances that it would respect the obligations of the Covenant.

The Bolivian Government sent a telegram to M. Briand on December 17 notifying the Council that it had ordered the commanders of the military posts to refrain from any advance and any attack and to confine themselves to defensive measures. It said that Paraguay had decreed the mobilization of the classes from 18 to 28 years and ended by saying that, "Bolivia is confining herself to the measures of precaution essential to her security."¹

Meantime an American solution for this American problem was being sought. The International Conference of American States on Conciliation and Arbitration had convened on December 10, when this border dispute was becoming dangerous. All of the American Governments except Argentina were represented.

At the first plenary meeting (December 10, 1928) the American Conference took cognizance of the dispute between two of its members. It unanimously adopted a resolution,² proposed by Sr. Maúrtua of Peru, expressing the hope that the "differences shall be adjusted peacefully," calling the two Governments' attention to the fact that there existed "adequate and effective organs" at their disposal for the solution of such conflicts, and forming a special committee to advise the conference upon the conciliatory action which "it might render by cooperation with the instrumentalities now employed in the friendly solution of the problem." This action of the conference found favorable echo throughout the Western Hemisphere.

¹ *Official Journal*, X, p. 265.

² The International Conference of American States on Conciliation and Arbitration: Washington, December 10, 1928-January 5, 1929 (Washington, 1929), p. 86-88.

Paraguay had ratified the Gondra treaty to prevent conflicts between the American states, which had been signed at the Fifth American Conference in 1923, and immediately notified the permanent commission at Montevideo of the dispute. This commission proceeded to provide a commission of inquiry in accordance with the treaty. The Bolivian delegate was ordered to withdraw from the American conference and was absent from the meeting on December 11 on instructions issued by the acting minister of foreign affairs while the foreign minister was in Antofagasta to meet President-elect Hoover, who was then making his good-will trip to Latin America. Almost immediately after receiving the note of the Bolivian Government notifying him of the withdrawal of Bolivia from the conference, Secretary Kellogg, chairman of the conference, cabled instructions to the American minister at La Paz to urge upon the Bolivian Government, on behalf of the United States and of the conference, that it reconsider its action. The following day, December 12, the President of Bolivia and the foreign minister both ordered the Bolivian delegate to resume his seat, because of "the request of the Pan American Conference on Arbitration and Conciliation and of Secretary Kellogg."¹

The initiative in the settlement of the dispute was, therefore, taken by the American conference. The special commission composed of Dr. Victor M. Maúrtua of Peru, Dr. Orestes Ferrara of Cuba, Gurgel do Amaral of Brazil, Manuel Foster of Chile and Charles Evans Hughes of the United States met frequently to consider means of averting a conflict. Although the two disputants were invited to be represented on the committee, Bolivia did not authorize its delegate to participate.

The second meeting of the conference on December 14 considered the report of the special committee. The previous day the State Department had received information that Argentina was agreeable to the conference extending its good offices in the crisis and this made the action of the

¹ *New York Times*, December 13, 1928.

committee unanimous so far as the American republics were concerned. The committee reported a resolution proposing that the conference "proffer its good offices to the interested parties for the purpose of promoting suitable conciliatory measures with the aim of preserving the principle of conciliation and arbitration as a solid foundation of international life." The conference adopted this resolution and continued the special committee.¹ The rôle of the conference was that of a tenderer of collective good offices to the two Governments in an attempt to find a course of their own choice to settle the controversy. The boundary dispute proper was not to be considered inasmuch as it was still under the jurisdiction of the Argentine Government.

M. Briand as president of the League Council, upon his return to Paris, entered upon a series of conversations with the Bolivian and Paraguayan ministers and the Latin American representatives on the Council. He also conferred on December 18 with the Argentine and United States *chargés d'affaires* and handed them an *aide-mémoire* in which was noted the possible calling of an extraordinary session of the Council to consider "what measures should be taken, either because war has broken out — or because it is on the point of breaking out — between two Members of the League."² He observed that neither state appeared to recognize any common contractual obligation not to resort to war other than that arising under the League Covenant, by which both were bound. He mentioned the mediatory measures reported to have been taken by the Argentine Government and by the American conference and pointed out that the Council had not received any official information from either but that the Council, on the other hand, was giving full information regarding the action which it had taken. He concluded:

The President of the Council of the League of Nations, who has been instructed by the Council to follow the development of the

¹ *Proceedings of the International Conference of American States on Conciliation and Arbitration*, p. 80-82.

² *Official Journal*, X, p. 266.

dispute, therefore feels that it would be of the greatest importance for the maintenance of peace — the supreme object which all must have in view — that the Argentine/United States Government should inform him what measures could, in its opinion, be the most advantageously taken by all who are working to bring about a pacific settlement of the dispute.

The purpose of the aide-mémoire, M. Briand stated, was that the Council and the other two agencies, Argentina and the American conference, should coordinate their efforts in bringing about a peaceful settlement.

A new clash occurred on December 16 when Bolivia captured Fort Boquerón. Paraguay called up the military classes between 18 and 29 years of age. The following day Paraguay notified the American conference of the acceptance of its good offices and also forwarded a notice of this action to the League of Nations. The next day, December 18, Bolivia accepted the good offices of the conference:

Bolivia accepts the good offices of the Conference of Conciliation and Arbitration, renders homage to the spirit of the Americas and reiterates her adhesion to the principles of justice which inspired her conduct and policy.

On December 19, Bolivia notified M. Briand that, "in accordance with the nobly inspired suggestions of the Council of the League of Nations, Bolivia has now accepted the good offices of the Conciliation and Arbitration Conference at present in session in Washington." M. Briand immediately cabled congratulations as follows:¹

The Council, all of whose efforts were directed toward preventing any aggravation of the dispute and facilitating a peaceful settlement by any possible method, can not but be gratified at the cessation of a conflict between two Members of the League united by common bonds of race and tradition, and at the favorable reception given to the generous initiative of the Pan American Arbitration Conference. The Council can but trust that the pro-

¹ *Official Journal*, X, p. 267.

cedure to which the two parties have now agreed will lead to the speediest possible settlement of their dispute and the restoration of a good understanding and of peaceful cooperation between them.

The special committee of the American conference, in endeavoring to find a mutually satisfactory person or organ of mediation, considered the chairman of the conference, Secretary Kellogg, Argentina and the Gondra commissions. No suggestion seems to have been made to intrust the task to the League of Nations. The plan which was finally embodied in the protocol signed by the two Governments at the conference, January 3, 1929, provided for a commission of nine, five of whom were to be appointed by the Governments of the United States, Mexico, Colombia, Uruguay and Cuba. This commission was to investigate the facts and endeavor to reconcile the disputant nations. If conciliation should prove impossible, the commission was to publish a report as to the facts found and fix the responsibilities.¹

The next day the Bolivian Government sent a telegram to its minister in Paris instructing him to "inform M. Briand, President of the Council of the League of Nations, that we have signed a protocol providing for the setting up of a commission as suggested by the Pan American Conference at Washington to fix the responsibility for the Paraguayan aggression. We propose to submit the substance of the dispute for arbitration to the Hague Court."²

The replies of the League Members to the communication of the Council, transmitting the complete correspondence in connection with the dispute are interesting. The Venezuelan Government "noted with interest" the action and declared that it will "hail with satisfaction the success of the Council's efforts and hopes that the action undertaken will have the happiest results."³

The Uruguayan Government "is happy to possess this evidence of the Council's valuable action on behalf of peace

¹ *Proceedings of the International Conference of American States on Conciliation and Arbitration*, p. 162.

² *Official Journal*, X, p. 270.

which brings into prominence the exalted rôle of the League and the admirable spirit of cooperation and concord that animates the distinguished members of its Council, who have so definitely, and by such well-chosen means, upheld the prestige and illuminated the lofty aims of the League of Nations, an institution of which Uruguay has the honor of being a Member."¹

Nicaragua simply took "note" of the cable. Colombia expressed its indebtedness for the information and said that it had approached the Governments of these countries expressing the hope that peace might be maintained on the American continent. Honduras and Guatemala took note, while Salvador expressed its warm approval of the action taken by the League.²

Two of the South American delegates on the Council expressed their pleasure to M. Briand for the success of his efforts. The letter of Sr. Zumeta (Venezuelan representative on the Council) of December 22 read:³

Your notification that Bolivia, in accordance with the Council's suggestions and in conformity with the Covenant, has accepted, as has Paraguay, one of the procedures of pacific settlement provided for in the Covenant, establishes a most encouraging precedent for the maintenance of peace beyond the Atlantic by the harmonious coordination of all the efforts exerted in the direction of mediation and arbitration.

Señor Villegas, the Chilean representative, offered his most cordial congratulations to M. Briand to whose authority he attributed that "these efforts have already produced positive results," which "will play their part in strengthening the prestige of the League of Nations."

Several other Governments as well as a number of foreign ministers, mostly European, congratulated the president of the Council.

¹ *Official Journal*, X, p. 271.

² *Ibid.*, p. 272. See the 21 responsive telegrams at the places cited.

³ *Ibid.*, p. 273.

The mediation of the conference was entirely in conformity with the obligations of Bolivia and Paraguay under the League Covenant. Regionalism has been accepted within the purview of the League structure as an effective method of bringing about practical results. Rather than attempt to evaluate the respective contributions of the League and the American conference toward the solution of the conflict, it would seem appropriate to regard them not as competing organs but as coexisting institutions, supplementing the efforts of each other in the interests of world peace. Both were able to mobilize the sentiment for peace and to give expression to it. The notes addressed to the two Governments by both were not the official voices of individual Governments but something far more important, the expression of the world's public opinion. The American conference expressed the unanimous opinion of 19¹ American republics (Argentina, although not a member approved the action of the conference) while the League Council, composed of 14 states, was representative of 54 nations and was the official body to speak for them.

The Commission of Inquiry and Conciliation reported on September 21, 1929, in accordance with the protocol of January 3. The detained nationals of Bolivia and Paraguay had been repatriated; the second function of the commission, conciliation, had been effected, and it became unnecessary to render a report and to establish the truth of the matter investigated and the responsibilities. But they recorded that Paraguay's measures at Vanguardia caused the armed reaction of Bolivia. The neutral commissioners had secured from the delegations of Bolivia and Paraguay acceptance of the proposition that the fundamental question be examined, and for this purpose a draft convention for arbitration was submitted to the parties. They accepted it in principle, but the lapse of the full powers of the Bolivian commissioners prevented its signature. That question was, therefore, remitted to the Bolivian and Paraguayan Governments, the neutral commissioners closing their procedure

¹ The acceptance of its program by the disputants was, moreover, explicit.

with a resolution recommending their own Governments to proffer their friendly offices to the parties in the event that they might be of service. The Governments of Mexico, Colombia, Uruguay, Cuba and the United States duly received this resolution.¹

The Uruguayan Government then undertook actively to aid the disputants, and for several months the question seemed to be pursuing a normal course toward solution. On January 16, 1930, Bolivian and Paraguayan troops encountered each other at Isla-Poi (Isla-Dans) in the Chaco Boreal. A Paraguayan soldier and a Bolivian dragoon leader were killed in a fracas said to have been between 60 Paraguayan soldiers and 15 Bolivians. On January 21, the Paraguayan delegate to the League reported his version of the conflict to the Secretary-General, alleging "that the Bolivian Government is apparently seeking, by sanguinary incidents, to occasion a new dispute that would enable it not to accept the good offices of the American nations which are at present being directed toward the pacific settlement of the dispute relating to the frontiers." The Paraguayan Government desired "once more to show its sincere attachment in this case to a policy of international peace and agreement." This was followed by a telegram containing a translation of an intercepted cipher telegram containing instructions from the Bolivian general staff, concerning which the Paraguayan delegate "formally protests against this attempt which has been secretly prepared by the Bolivian Government." The Secretary-General transmitted these messages² to the acting president of the Council, Auguste Zaleski, Polish minister of foreign affairs, who on January 23 recalled to them that they had "adopted a pacific procedure for the settlement of their dispute in conformity with the undertakings of the Covenant." On behalf of the Council and the whole League of Nations, he expressed "to both Governments our confidence that no

¹ *Report of the Chairman of the Commission of Inquiry and Conciliation, Bolivia and Paraguay* (Publications of the Department of State, Latin American Series, No. 1); reprint, *Bulletin of Pan American Union*, Vol. LXIII, p. 1078.

² League of Nations Document, C. 122. M. 40. 1930. VII. 1.

serious incident will compromise success of pacific procedure in course."

The Bolivian delegate to the League telegraphed from Rome on January 22 that he had no official information regarding the incident, but imputed responsibility therefor to Paraguay. On January 24, in the name of his Government, he made "a formal protest to the League of Nations against the false information" received by it. "My country, faithful to the conciliation agreement to which it subscribed at Washington . . . has never for a moment departed from the line of conduct traced for it by its duties as a Member of the League and awaits the peaceful execution of the formula proposed by the Uruguayan chancellery, which it accepted immediately." On January 25, the Bolivian minister for foreign affairs cabled to the Secretary-General confirming the protest already made and assuring him "that the peace of America will never be disturbed by the fault of this country." Later in the day he denied that Bolivia had provoked the incident and alleged that Paraguay had attacked.

On January 28, M. Zaleski telegraphed the Secretary-General a message circulated to the members of the Council and to disputant Governments. He thanked the Secretary-General for communicating the two telegrams from the Bolivian Government in which it stated "that the peace of America will not be disturbed by Bolivia, which only desires the peaceful execution of the Washington conciliation agreement to be continued." This record that one of the states concerned was peacefully inclined was circulated to all Members of the League.

When this telegram reached Asunción, the Paraguayan minister of foreign affairs immediately replied requesting the Secretary-General "to inform the president that my country has never departed from pacific procedures, that it is not responsible for the incidents which have occurred in the Chaco Boreal, and that it has denounced them at the proper moment to the Council." This telegram was received at Geneva on January 30, and on the 31st the Secre-

tary-General quoted to the disputants and the members of the Council a further telegram from M. Zaleski in which he stated: "Since a similar statement has been made by Bolivia, I believe I can express to both Governments the Council's earnest desire that the two nations which accepted its suggestions and, thanks to the good offices of friendly nations, adopted a formula for the settlement of the 1928 incidents, may also succeed in finding means of settling all questions connected with the Chaco and thus avoid the occurrence of similar regrettable incidents."

The engagement of both parties not to depart from pacific procedures enabled the mediatory efforts under way in South America to proceed. On the suggestion of the president of the Council, all the correspondence with Geneva was printed and circulated to the world, thus effectively confirming to public opinion the deliberately announced attitude of the parties.¹

Uruguay was consequently enabled to continue its mediatory functions, and shortly afterward secured a resumption of diplomatic relations.

¹ See document cited above and *Official Journal*, XI, p. 261.

V. RELATIONS WITH THE INTERNATIONAL LABOR ORGANIZATION

THE Commission on International Labor Legislation, appointed by the Preliminary Peace Conference on January 31, 1919, was "composed of two representatives apiece from the five great powers and five representatives to be elected by the other powers represented at the Peace Conference." The five representatives of the states other than the "great powers" were two representatives appointed by Belgium and one each by Cuba, Czechoslovakia and Poland. Latin America was represented in the founding of the International Labor Organization by a Cuban representative.

On April 11 and 28, 1919, the report of the commission was considered by the Preliminary Peace Conference at the plenary sessions. At these sittings the Latin American delegates spoke on only one point. On Art. 37 of the draft convention, which proposed that amendments should be effective when ratified by a certain proportion of states, Sr. de Bustamante of Cuba made reservation, pointing out that if, as a result of ratification by some states, the amendments became binding even on those which had not ratified them, the power to legislate would have been thereby delegated a thing incompatible with the Cuban Constitution. He was heartily in favor of the draft as a whole. The delegates of Bolivia, Ecuador and Panama concurred. The reservation to the draft convention, however, was not formally maintained against the final provision in Art. 422.¹

Before the opening of the Washington conference of 1919, which inaugurated the International Labor Organization, the question had arisen as to what states should be represented. Should only those states be admitted which at the time of the conference had either ratified a treaty of

¹ International Labor Office, *Official Bulletin*, Vol. I, p. 301.

peace or had adhered to the Covenant, or should all states mentioned in the annex to the Covenant of the League be included? As there could be no question of postponing that session of the conference until the treaty of Versailles came into force, the Government of the United States, which was charged with the duty of convoking the conference, invited the 45 states mentioned in the annex to the Covenant to participate. The Latin American states concerned were:

Signatories to the treaty — Bolivia, Brazil, Cuba, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru and Uruguay;

Invited to adhere to the Covenant — Argentina, Chile, Colombia, Paraguay, Salvador and Venezuela.

Thus, 17 Latin American states were original members of the International Labor Organization. Ecuador did not continue, and Costa Rica and the Dominican Republic became members in 1920 and 1924 respectively.

The International Labor Organization according to the preamble of its constitution exists to combat those conditions of labor which involve "such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled." Its lines of interest are broadly indicated in a series of nine general principles. The members of the organization cooperate to overcome "the obstacle in the way of other nations which desire to improve the conditions in their own countries" that is represented by "the failure of any nation to adopt humane conditions of labor." The salient feature of the organization is the representation of all parties interested in the problems considered by its two organs, which are the annual sessions of the Conference and the Governing Body, directing the work of a secretariat known as the International Labor Office. In each of these organs the member Governments, which can speak for the general interests of their national publics, are represented by 50% of the membership. Employers and workers provide the other 50% in equal moieties. Voting arrangements are by majority, so that decisions are taken on the merits

LATIN AMERICAN REPRESENTATION IN SESSIONS

(Each delegation to be complete should consist of 2 Government

	1	2	3	4	5
	1919	1920	1921	1922	1923
	G. E. W.	G. E. W.	G. E. W.	G. E. W.	G. E. W.
ARGENTINA	2 1 1	1 1 1	- - -	- - -	2 0 0
BOLIVIA	1 0 0	- - -	1 0 0	- - -	- - -
BRAZIL	2 0 1	- - -	2 0 0	2 0 0	2 1 1
CHILE	2 0 0	1 0 0	1 0 0	2 0 0	2 0 0
COLOMBIA	1 0 0	- - -	1 0 0	1 0 0	1 0 0
COSTA RICA	- - -	- - -	- - -	- - -	- - -
CUBA	2 1 0	- - -	2 0 0	2 0 0	2 0 0
DOMINICAN REPUBLIC	- - -	- - -	- - -	- - -	- - -
ECUADOR	2 0 0	- - -	- - -	- - -	- - -
GUATEMALA	2 1 1	- - -	1 0 0	1 0 0	- - -
HAITI	1 0 0	- - -	- - -	- - -	- - -
HONDURAS	- - -	- - -	- - -	- - -	- - -
NICARAGUA	1 0 0	- - -	- - -	- - -	- - -
PANAMA	2 1 1	- - -	- - -	- - -	- - -
PARAGUAY	2 0 0	- - -	- - -	1 0 0	1 0 0
PERU	2 1 1	- - -	- - -	- - -	- - -
SALVADOR	1 0 0	- - -	- - -	- - -	- - -
URUGUAY	2 0 0	1 0 0	2 0 0	2 0 0	2 0 0
VENEZUELA	2 0 0	1 0 0	1 0 0	2 0 0	2 0 0

OF THE INTERNATIONAL LABOR CONFERENCE

(delegates, 1 employers' delegate and 1 workers' delegate.)

6	7	8	9	10	11	12
1924	1925	1926	1926	1927	1928	1929
G. E. W.	G. E. W.	G. E. W.	G. E. W.	G. E. W.	G. E. W.	G. E. W.
2 1 1	2 1 1	2 1 1	2 1 1	2 1 1	2 1 1	- - -
- - -	1 0 0	- - -	- - -	1 0 0	1 0 0	1 0 0
2 1 0	2 1 0	2 1 1	2 1 1	2 1 0	2 1 1	2 1 1
2 0 0	2 1 1	2 1 1	2 1 1	2 1 1	2 0 0	2 1 1
- - -	1 0 0	- - -	- - -	1 0 0	2 0 0	2 0 0
- - -	- - -	- - -	- - -	- - -	- - -	- - -
2 1 1	2 1 1	2 1 1	2 1 1	2 1 1	2 1 1	2 1 1
- - -	- - -	- - -	- - -	- - -	- - -	1 0 0
- - -	- - -	- - -	- - -	- - -	- - -	- - -
1 0 0	- - -	- - -	- - -	1 0 0	1 0 0	- - -
- - -	1 0 0	- - -	- - -	- - -	- - -	1 0 0
- - -	1 0 0	- - -	- - -	- - -	- - -	2 0 0
- - -	1 0 0	- - -	- - -	- - -	1 0 0	1 0 0
1 0 0	- - -	- - -	- - -	- - -	1 0 0	1 0 0
- - -	1 0 0	- - -	- - -	- - -	1 0 0	1 0 0
- - -	1 0 0	1 0 0	1 0 0	- - -	1 0 0	1 0 0
- - -	- - -	- - -	- - -	1 0 0	1 0 0	1 0 0
1 0 0	1 0 0	2 0 0	2 0 0	2 1 1	2 1 1	2 1 1
- - -	1 0 0	1 0 0	1 0 0	2 0 0	2 1 1	2 1 1

of a question as it appears to a fully representative voting body.

The participation of the Latin American republics in the activities of the International Labor Organization will be considered on the basis of representation in the sessions of the Conference. The varying degrees of participation are in large measure accounted for by the amount of interest taken by the individual countries in the subjects dealt with.

The first session of the International Labor Conference was opened in Washington on October 29, 1919.¹ The Latin American republics were represented by 16 delegations, of which 4 were complete.

At this session of the Conference the difficulty which international organizations often have in appeasing national pride soon became evident. On November 25, 1919, the result of the election for members of the Governing Body of the International Labor Office was announced. This consists of 24 members, — 12 of whom are selected by the Governments of the member states. Eight of the Government representatives are always from the states of the greatest industrial importance, and the other four are chosen by the Government delegates of the other states represented at the Conference. Of the other 12 members, six are employers and six are workers, elected respectively by the employers' and workers' delegates at the Conference. This Governing Body prepares the agenda and controls the International Labor Office, and is, in a sense, the executive body of the organization.² The election showed that Argentina was the only Latin American state chosen to be represented in this important body.³

Dr. Carlos Carrera Justiz, the Government delegate of Cuba, immediately protested and presented a memorandum signed by the delegates of all the Latin American states registering their disagreement with the distribution which, "on the basis of reason and discretion, would appear not to

¹ *International Labour Conference, First Session, 1919.*

² For description of its functions see *Industry, Government and Labor*, p. 60. (World Peace Foundation, XI, No. 4-5.)

³ *International Labour Conference, First Annual Meeting*, p. 131.

have been given sufficient attention if, out of the 24¹ places in the International Labor Office, 23 (*sic*) were assigned to the European nations, to the United States and to Japan, leaving only one to be allotted to the Latin American countries." To this Dr. Garcia of Ecuador added that "of 120 members that have composed the committees to study the different matters of this international conference, 100 have been Europeans, two from Spanish-American countries² and the balance have been divided among the rest of the world."

On November 29, 1919, the Latin American delegates were found solidly behind the resolution presented by Mr. Gemmill (South Africa) that "this conference expresses its disapproval of the composition of the Governing Body of the International Labor Office, inasmuch as no less than 20 of the 24 members of that body are representative of European countries." The vote showed 44 votes for, 39 against, with all the Latin American delegates voting for the resolution.

In 1922 an amendment to Art. 393 was adopted by 82 votes to 2. When it is effective, the Governing Body will be increased to 32 members, instead of 24. Of this enlarged body, one-half would be persons representing Governments, one-fourth persons representing employers, and one-fourth representing workers. Of the states upon the Governing Body eight would be, as before, the eight states of chief industrial importance, with eight instead of four to be selected by the Government delegates present at the Conference during which the election takes place. Under Art. 422 of the treaty, this amendment enters into force when ratified by three-fourths of the Member states, including those represented on the Council of the League.

By 1930 the total number of ratifications deposited with the Secretariat of the League of Nations was only 40, whereas 42 ratifications were necessary to make the amend-

¹ The election did not affect 24 places, but the four places reserved for elected Government delegates, after eight out of 12 Government seats were assigned to the states of "chief industrial importance."

² At least seven were from these countries.

ment effective. Of 33 states in 1927, only Cuba and Haiti of the Latin American states had signified ratification. Thus, the group which had, by memorandum in 1919 and later by vote, expressed a desire for this amendment were really preventing it from being an actuality.¹ By 1929 Italy's and Venezuela's ratifications were required to make the requisite 42 include the states represented on the Council.²

There were 12 draft conventions and recommendations passed at this first session at Washington, to which none of the Latin American states registered disapproval.

The second session, at Genoa in June-July, 1920,³ dealt exclusively with problems relating to seamen, and it is not surprising to find that only four Latin American delegations were present, none of which was complete. Nor did the Latin Americans present play a large rôle, although Sr. Colmo, the Government delegate of Argentina, was prominent in the fight for the inclusion of an eight-hour day for sailors. Again, the Latin American states did not oppose any of the draft conventions and recommendations adopted.

At the third session held at Geneva in 1921,⁴ questions concerning agriculture dominated the agenda. The Latin American states represented were eight in number, all delegates being governmental. No votes in opposition were registered by the Latin American delegates to the draft conventions or recommendations adopted. The vote on the draft convention "concerning weekly rest in industrial undertakings" stood 73 for and 24 against. Many of the larger states were included in those opposed, but all the Latin American delegates voted in favor.

At the fourth session held at Geneva in 1922,⁵ eight Latin American states were again represented by Government delegates alone. On the proposal of Señor Rivas-Vicuña,

¹ *Report of the Director, 1927*, p. 25.

² *Ibid.*, 1929, p. 26.

³ *International Labour Conference, Second Session, 1920*.

⁴ *Ibid.*, Third Session, 1921.

⁵ *Ibid.*, Fourth Session, 1922.

the Government delegate of Chile, the Conference adopted a resolution by which the Governing Body, when it considers that a question on its agenda is of particular interest to a state which is not represented on the Governing Body, may invite the Government of that state to appoint a delegate to take part in the discussion on that question, but without the right to vote. This was in keeping with Art. 4, par. 5, of the Covenant of the League of Nations in regard to the powers of the Council.

In his report to the session the Director of the International Labor Office stated that many states were slow in meeting their monetary obligations for the upkeep of the Organization. Up to September, 1922, he said, the following Latin American states had not paid any part of their contribution for the year 1922: Bolivia, Colombia, Costa Rica, Cuba, Guatemala, Haiti, Honduras, Nicaragua, Panama, Paraguay, Peru and Salvador. Furthermore, many states had not paid, at that time, for the year 1921: Argentina, Colombia, Costa Rica, Guatemala, Honduras, Nicaragua, Peru, Paraguay and Salvador.¹

The fifth session, held at Geneva in 1923,² was a short session, due to the decision of the Governing Body to change the date of meeting from October to June of each year. Argentina was represented at this session for the first time since 1920. Again eight Latin American states attended, Chile having the only complete delegation.

The sixth session held at Geneva in June-July, 1924,³ under the new and permanent provisions as decided upon by the Governing Body at the 1923 session, was attended by seven Latin American states, two of which sent complete delegations. During the session Señor Quezada (Chile) made an appeal for more constant and effective propaganda in Latin American countries for the International Labor Organization and stated that a visit by the Director of the Office to South America would be extremely beneficial in

¹ *Report of the Director to the Conference, Fourth Session, 1922*, p. 683. This report is after 1922, printed as Vol. II of the Conference records.

² *International Labour Conference, Fifth Session, 1923*.

³ *Ibid.*, Sixth Session, 1924.

increasing interest there in the International Labor Office. Señor Negri (Argentina) heartily supported the invitation to the Director.¹ Such a visit was made in 1925.

It was announced that up to March 31, 1924, the following states had not paid any part of their contribution for 1923:² Bolivia, China, Colombia, Costa Rica, Honduras, Liberia, Nicaragua, Panama and Peru; and that Argentina, Costa Rica, Honduras and Nicaragua had not paid any part of their contributions due for 1921 and 1922.

Due to pressure from the International Labor Office for more complete representation at the Conference, the Latin American states showed a stronger representation at the session at Geneva in 1925³ than they had since 1919. The Latin American representation was from 13 states, three delegations being complete.

In a discussion as to the reason for the lack of complete delegations from Latin America, Carlos Y. F. Conci, Argentina's workers' delegate, said: "In many countries, and particularly in mine, the working men have not unlimited confidence in the International Labor Office, because they fear that it is an instrument of capitalism."⁴ Sr. Zumeta of Venezuela added that:⁵

With regard to the question of incomplete delegations, there are no employers' associations at all in my country and, apart from certain mutual benefit societies, there are no workers' organizations except a certain number of quite local groups recently created. . . . If the Venezuelan Government has not sent any non-Government delegates, the reason is that they could only be appointed under conditions which are contrary to Part XIII of the treaty . . . [The delegation] would be morally incomplete, for it would merely represent certain personal opinions or the opinions of certain local groups, and not the real opinions of the employers and workers of the country.

¹ *International Labour Conference, Sixth Session, 1924, Vol. I, p. 41 f.*

² *Report of the Director, 1924.*

³ *International Labour Conference, Seventh Session, 1925.*

⁴ *Ibid.*, p. 152.

⁵ *Ibid.*, p. 175.

It was at this session that there first appeared any opposition by Latin American states to draft conventions, having hitherto played a quiescent part in the passage of such documents. The draft convention concerning night work in bakeries was opposed by 26 votes, in which were included those of Argentina and Chile. They took the stand that "the baking industry is not one which is subject to international competition" and that "the difference between the baker who is the employer or who is a worker is so slight that it is exceedingly difficult to draw any line of demarcation."¹

In his report to the session the Director of the International Labor Office announced that the Dominican Republic had entered the League on September 29, 1924, and thereby had become a member of the International Labor Organization. He called attention to the action of Costa Rica in having given notice on January 1, 1925, of retiring from the League and that it would cease to be a member of January 1, 1927. The Director also informed the conference that, inasmuch as Ecuador had not ratified the treaty of Versailles, it was considered that it should no longer be maintained on the list of the members of the Organization.²

The eighth session held at Geneva in 1926³ dealt with the inspection of emigrants on board ship. A questionnaire had been sent out by the Labor Office regarding the question of the "simplification of the inspection of emigrants on board ship." Twenty-seven countries answered this questionnaire, of which only three were Latin American, namely, Argentina, Brazil and Cuba. Seven Latin American states were represented, four by complete delegations.

Inasmuch as the Governing Body's term of three years had expired, elections were held at this session for new members. Since the amendment to Art. 393, which had been adopted in 1922, was not in effect, the election was

¹ *International Labour Conference, Seventh Session, 1925, p. 345.*

² *Report of the Director, 1925.*

³ *International Labour Conference, Eighth Session, 1926.*

carried out under the original plan and for 24 members only. The election returned Argentina to the Government group. On the Employers' Group and the Workers' Group the Latin American states remained unrepresented.

The ninth session, also held at Geneva, 1926,¹ like the Genoa one of 1920, dealt with questions concerning the sea and seamen. Seven Latin American states, which took no important part in the discussions, were represented, four by complete delegations.

The tenth session was held at Geneva in 1927.² For the first time Uruguay had a complete delegation present, making four of the 10 American states represented with full quotas.

The 11th session showed an improvement. Fourteen of the Latin American republics were represented and Brazil sent a complete delegation although it withdrew from the League June 13, 1928, while the session was in course. The head of the Argentine delegation, Dr. Carlos Saavedra Lamas, was elected president. The Governing Body was elected for a third time, but on this occasion the Latin Americans made no complaint about the choices.

The 12th session in 1929, though Argentina was absent, was attended by 15 Latin American delegations, of which five were complete.

A clear idea of the participation of the American republics in the International Labor Organization can be gathered from the following table. Out of 12 sessions there have been only five in which as many as a majority of Latin America had representatives present. Those in which a majority of the Latin Americans were present were that of 1919, when the flush of the Great War still tinged the imagination of the world in general; in 1925 when the Director of the International Labor Office made a visit to South America; and the last three, before which special efforts to secure attendance were made.

¹ *International Labour Conference, Ninth Session, 1926.*

² *Ibid., Tenth Session, 1927.*

ATTENDANCE AT THE CONFERENCE OF THE INTERNATIONAL LABOR ORGANIZATION

Year	Total Delegations	Complete Delegations	LATIN AMERICA		
			Complete Delegations	Total Delegations	Absentees
1919 . . .	40	24	4	16	4
1920 . . .	27	16	0	4	16
1921 . . .	39	25	0	8	12
1922 . . .	39	20	0	8	12
1923 . . .	42	23	1	8	12
1924 . . .	40	24	2	7	13
1925 . . .	46	29	3	13	7
1926 . . .	39	28	4	7	15
1926 . . .	38	27	4	7	13
1927 . . .	43	32	4	10	10
1928 . . .	46	35	5	14	6
1929 . . .	50	37	5	15	5

Another consideration is the small amount of interest the great majority of the Latin American states are taking in the work that the International Labor Office is doing. As is well known, this office is a mine of information on social and economic matters gleaned from surveys and world-wide contact. In 1925 and 1926 only Argentina, Brazil and Chile made use of these facilities, and together they made but seven inquiries out of 800 received.

Conditions of labor which have been considered by the Organization have dealt very largely with industrial problems; it is, therefore, obvious that the Latin American states have possessed a varying degree of interest in the questions under consideration. Twelve sessions of the Conference have produced 29 draft conventions and 30 recommendations to Member states. The primary object of this body of agreement is to encourage the establishment of similar or cognate national conditions pertaining to

labor. As a consequence, there are several ways of responding to this effort.

(1) A draft convention may be ratified and becomes an international treaty binding upon a state as one of the parties; this may be done with or without conditions;

(2) It may be approved by a competent national authority, in which case national practice is likely to be adjusted to its terms;

(3) Submission to the competent national authority may be a step toward the preceding action, and is called for by Art. 405 of the treaty.

A state for constitutional or other reasons may not wish to take an international engagement in the terms of a draft convention, but may approve them by its own legislation. In taking this attitude,

(4) a state may have passed equivalent legislation prior to the adoption of the convention; or

(5) it may have taken national measures conforming to the agreement after the adoption of the convention.

Recapitulating the progress which the draft conventions and recommendations have made in the Latin American states, we find much the same stratification as elsewhere, that is, Argentina, Brazil, Chile, Cuba, Paraguay and Uruguay attempt to conform to the requirement of Art. 405, that draft conventions must be submitted to the competent authority. Cuba had ratified 16 out of 26 conventions up to March, 1930, and submitted all for consideration. Chile had ratified eight by decree of the President rather than through act of Congress, had submitted eight more for approval and had conformed its regulations to several more. Uruguay had submitted all to the competent authority for approval; Brazil and Paraguay had done so for six each. Bolivia had legislation pending on three, while Colombia had taken other measures to conform to the requirements of 27. Nicaragua had taken such measures respecting 10, Salvador respecting 7, Guatemala and Panama respecting 6 each and Haiti respecting 3. The remaining states give little or no evidence of interest in

putting into effect the conventions and recommendations which some of them have so readily agreed to at the sessions of the Conference.

The International Labor Office seems to be making an effort to stimulate greater cooperation on the part of the American states. The introduction to a recent publication of the Office contains the following:¹

We have frequently been reproached that we do not occupy ourselves sufficiently with America, that we are almost exclusively European, that we are not sufficiently documented, that we do not connect up with the numerous groups and individuals who are following the progress of social legislation in the Latin American countries, that we have not as yet established correspondent's offices in America, etc. These complaints which we have heard in various international conferences, and especially in the last, have deeply affected us and we desire to demonstrate in the greatest degree that the International Labor Office, as well as the League of Nations, is occupied with the problems of the entire world.

¹ Translated from *Legislación Social de América Latina*, International Labor Office, Geneva, 1928, Vol. I, p. 5.

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THE REPARATION SETTLEMENT

By DENYS P. MYERS



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THE REPARATION SETTLEMENT

BY DENYS P. MYERS

I. THE DEVELOPMENT OF THE PROBLEM

The Report of the Committee of Experts, 1929, which was rendered to the Governments interested in reparation and to the Reparation Commission on June 7, 1929, together with the ensuing decisions of the Hague conference of August 6-31, 1929, and January 3-20, 1930, closed a chapter in the most complicated field of postwar economic relations. The New Plan¹ liquidated the political elements in a key economic problem and provided for the payment of the large intergovernmental indebtedness involved. The acceptance of the Report of the Committee of Experts by the Governments and the implementation which they gave it in the two sessions of their own conference create a system for the payment of the reparation debt which conforms to the best attainable application of financial principles and practice and establishes machinery in the Bank for International Settlements for handling the intergovernmental payments involved on a normal banking basis. The new system of payments entered into force provisionally on September 1, 1929, and the whole complicated settlement formally and finally became a reality on May 17, 1930.

The final protocol of the Hague conference enacted 14 agreements by which there were effectively settled every outstanding claim or counterclaim for reparation in relation

¹The New Plan consists of the Report of the Committee of Experts, 1929, (the Young Plan), the protocol of August 31, 1929, and the agreement of January 20, 1930; see Appendix, I.

to the World War and arising out of the armistice conventions, the treaty of Versailles or other treaties of peace, and agreements for their execution. All functions previously performed by organs established by those instruments and still necessary to be performed were transferred to the Bank for International Settlements. Good faith alone is the sanction of the system. In case of dispute over its interpretation or application, the Tribunal of Interpretation existing under the Dawes Plan shall hear it.¹

The Committee of Experts was intrusted with "the task of drawing up proposals for a complete and final settlement of the reparation problem." The fundamental contribution which they made to the solution of the problem of reparation was the determination of the amount (which includes the number) of the annuities due from Germany and the determination of an economic method by which they may be discharged, especially providing for the "commercialization" of a part of the total.²

It will be enlightening to indicate the advance of the reparation problem from an inchoate mass of contentions³ to a condition in which agreement upon these finally outstanding features made possible its elimination from international controversy. At the close of the World War no responsible statesman claimed that it was possible for the victors to impose an indemnity upon the vanquished. The victors were, however, insistent that reparation for damage done was not only necessary but just. The negotiations at the Peace Conference at Paris were essentially unilateral, consisting of the development of a treaty text by the victors and its acceptance by the vanquished under a form of ultimatum. Characteristics of the reparation settlement, which

¹ This tribunal for five years was to be composed of the incumbents: President, Thomas Nelson Perkins (American); neutrals, Marcus Wallenberg (Swedish) and A. G. Kröller (Dutch); creditors, Charles Rist (French); debtor, A. Mendelssohn Bartholdy (German). Mr. Perkins, however, resigned before the New Plan came into force.

² On this phase of the settlement, see p. 106.

³ The summary is based upon *Reparation*, Parts I-VI, in this Series, in which the writer gives a continuous documented history of the subject from its inception until the Reports of the Agent General for Reparation Payments began under the terms of the Dawes Plan in 1925.

originally came into force by the treaty of Versailles on January 10, 1920, were:

1. Joint and several acceptance of responsibility for "all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected" by Germany, Austria, Hungary and Bulgaria;¹

2. The establishment of the Reparation Commission to manage the interests of the creditors;

3. The collection of evidence as to the amount "of damage done to the civilian population of the Allied and Associated Powers and to their property" (which was stipulated to include military pensions and family allowances);²

4. The fixation of the total amount by the commission on the basis of the claims and after giving the debtors "a just opportunity to be heard;"³

5. The amount thus fixed could not be changed except by the creditor Governments;

6. Various immediate payments and credits were provided for, passing at the outset through a special account. In addition, various immediate deliveries of commodities and the transfer of properties were provided for, while extensive provision for restitution of articles subject to the plundering incidental to war was stipulated;

7. In the case of Germany, the reparation debt was to be evidenced by the delivery of bonds to the Reparation Commission, which bonds were to be subject to 5% interest and to 1% sinking fund from May 1, 1921;⁴

8. As a guaranty for the execution of the treaty with Germany, German territory west of the Rhine and three bridgehead zones east of the Rhine were occupied by Allied and Associated troops for five, ten and fifteen years respectively.⁵ In case the Reparation Commission "finds

¹ *Reparation*, Part I, p. 17; see also *infra*, p. 116 *f.*

² *Ibid.*, p. 29; Part II, p. 48-90.

³ *Ibid.*, Part II, p. 75-79.

⁴ *Ibid.*, Part III, p. 195.

⁵ Treaty of Versailles, Arts. 42-44, 428, 432; Harold W. V. Temperley, *History of the Peace Conference at Paris*, II, p. 113.

that Germany refuses to observe her reparation obligations," part or all of these zones might be reoccupied.

The first available assets under reparation were the properties of ex-enemy subjects situated in the territories of the creditors; the delivery of articles under the treaties was the second. Both had to be distributed.

SPA PERCENTAGES OF DISTRIBUTION

The first important problem solved by the creditors was the determination of the percentages of the whole which they were respectively to receive. The Spa agreement of July 16, 1920,¹ though later modified in detail, remained operative until it was superseded by Annex VII of the Report of the Committee of Experts, 1929, as revised by the Hague conference. The Spa percentages in their 1929 proportions were:

France			54.45%
British Empire			23.05%
Great Britain	86.85%	20.01024	
Minor colonies	0.80%	0.18432	
Canada	4.35%	1.00224	
Australia	4.35%	1.00224	
New Zealand	1.75%	0.40320	
India	1.20%	0.27648	
South Africa	0.60%	0.13824	
Newfoundland	0.10%	0.02304	
Italy			10.00%
Yugoslavia			5.00%
Belgium			4.50%
Rumania			1.10%
Portugal			0.75%
Japan			0.75%
Greece			0.40%

The keenest kind of an argument took place as to the amount of damage which should be charged to the debtors, particularly Germany. Various conferences of the allied creditors took place upon this subject. The treaty of Versailles mentioned, without definitely indicating that

¹ *Reparation, Part II, 55.*

they represented a total, three series of bonds 20, 40, and 40 billion gold marks,¹ face value, respectively. The German delegation to the Peace Conference was willing to accept an obligation to pay an amount not exceeding 100,000,000,000 gold marks, on which apparently no interest was contemplated. At the Boulogne Conference in June, 1920, the allied premiers tentatively agreed to demand 269,000,000,000 gold marks, which sum would have involved an eventual payment of 400,000,000,000 gold marks. The Reparation Commission had considerable difficulty in securing statements of the claims of the creditors which were to be met by reparation under the treaties. When the commission closed its receipt of claims on February 12, 1921, it had before it, on the basis of the exchange of that day, claims which reached a total of 226,000,000,000 gold marks. The German Government sharply contested the justice of some amounts. On April 27, 1921, the Reparation Commission unanimously decided that "the amount of damages for which reparation is due" was 132,000,000,000 gold marks. The formal Schedule of Payments was transmitted by the allies to Germany, May 5, 1921, along with an ultimatum relating to other matters. This schedule, accepted by Germany, provided, with certain additions and subtractions, a total reparation debt as follows:

A bonds, 12,000,000,000 gold marks, 5% interest, 1% sinking fund; coupon bonds delivered July 1, 1921.

B bonds, 38,000,000,000 gold marks, 5% interest, 1% sinking fund; coupon bonds delivered November 1, 1921.

C bonds, 82,000,000,000 gold marks; delivered without coupons attached November 1, 1921, arrangements as to interest and sinking fund deferred.²

At the time this Schedule of Payments was not deemed to express reality. It was assumed that the practical liability of Germany was at most the 50,000,000,000 gold

¹ The gold mark and the Reichsmark are both worth 23.8 cents gold, or 4.2 marks to the dollar.

² See in general *Reparation*, Part II, p. 48-90, and Schedule of Payments, *Reparation*, Part III, p. 195.

marks of the A and B bonds, while it was recognized that payments by other reparation debtors — Austria, Hungary, Bulgaria — would be credited to the Series C bonds. There were, also, earmarked to crediting against Series C bonds various sums awarded to Germany as a result of disputed appraisals, notably the difference between the creditors' estimate of the value of shipping delivered by Germany and the sum credited to Germany by the Reparation Commission. The Schedule of Payments contemplated that amounts credited to Germany should serve to cancel an equivalent value of A or B bonds. This system was never effectively operated. As a consequence, none of the bonds was ever canceled.

The major campaign of the Great War on the western front took place upon the soil of northeastern France. As a consequence of the military operations it was France, one of the victorious states, which sustained the bulk of the devastation resulting from the war. This circumstance made France a principal creditor which enjoyed wide sympathy for its plight. The demand of France for payments sufficient to restore the devastated area created a heavy pressure upon Germany to turn over large sums immediately and resulted in complications with the other creditors, who claimed a right, *pari passu*, to benefit from German payments.

The reparation parts of the treaties of peace provided both for the delivery of specified commodities and for a system of delivering commodities as one form of paying the reparation debt. These deliveries in kind brought a certain resistance from some of the creditors. It was felt that the delivery of articles normally capable of being handled in ordinary trade would tend to increase the foreign commerce of the debtors, with a possible disadvantage to the commerce of the creditors. Great Britain took the initiative in meeting the problem by the passage of the Reparation Recovery Act in 1921 which provided, in effect, that 26% of the value of German goods imported into Great Britain should be paid to the British Government and credited to Germany

as a reparation payment, Germany in turn making a payment to its exporting national equivalent to that amount. Similar legislation was also passed by France and was put into operation in 1924. These acts tended to prevent reparation from increasing the debtor's trade volume.

Meanwhile much attention was given to developing a system for managing deliveries in kind and eventually a very complicated set of regulations, embodying many previous decisions, was issued by the Reparation Commission (the Wallenberg regulations) in 1925, subsequent to the entrance of the Experts' Plan into force.¹

Another form of commodity payment which was contemplated, but which was slow to be put into operation, was the construction of public works. Programs for such construction in France were made by the German Government, but the fear of resulting unemployment complicated their acceptance until after the Dawes Plan was in effect.²

"SANCTION" OF RUHR OCCUPATION

By 1923 the German payments, having for various reasons been confined chiefly to monetary payments and credits for overseas and other possessions, were on the decrease. France and Belgium, in particular, felt keenly the need for increasing payments. The creditors were then opposed to reducing their claims to an amount which Germany was willing to pay.

Other considerations of a political character weighed with the creditors and had the effect of casting doubt upon the Government's statements of the ability of the German economy. Among these were German resistance to compliance with the disarmament clauses of the treaty of Versailles, the friction due to allied control over the occupied zones along the Rhine, and French encouragement of the Separatist movement in the Palatinate and adjacent parts of Germany.

¹ For text of the regulations see Reparation Commission, *Official Documents*, IX; for prior history and Wiesbaden agreement see *Reparation*, Part II, p. 135 f.

² *Reparation*, Part VI, p. 144.

By Par. 18, Annex II, Part VIII, of the treaty of Versailles the creditors, "in case of voluntary default by Germany" had the right to take "economic and financial prohibitions and reprisals and in general such other measures as the respective Governments may determine to be necessary in the circumstances;" and Germany agreed not to regard these measures as acts of war. Following various proposals for settlement, based upon reports of experts appointed both by the Reparation Commission and the German Government, the representatives of the creditors and Germany were unable to agree. During 1921 the creditors sought to get payments by arranging definite programs of delivery. Schedules of coal delivery were drawn up, were not met completely, and France toward the end of that year sought a decision that Germany was in default. The Reparation Commission found means of compromising that dispute.¹

On December 1 and December 26, 1922, however, the Reparation Commission, on the initiative of the French Government, decided that certain deliveries of timber in that year constituted a default by Germany under Par. 17, Annex II, Part VIII, of the treaty, which refers to a "default" rather than a "voluntary default." The technical deficit was admitted by Germany. On December 26 the Reparation Commission, "in the exercise of its powers of interpretation," passed a resolution by which it decided "that the word 'default' in Par. 17 of the said Annex has the same meaning as the expression 'voluntary default' in Par. 18."²

As a result of this decision the French Government held that it was justified in occupying the Ruhr metallurgical district of Germany. In January, 1923, French and Belgian troops entered that region and Italian troops joined those of the allies in the Rhineland occupied zones. The French occupation of the Ruhr continued until September,

¹ *Report on the Work of the Reparation Commission from 1919 to 1922*, Reparation Commission, V. p. 205.

² For text of the minutes see *ibid.*, p. 240 f.

1924, as a form of seizing pledges and of requisitioning in kind in recovery of reparation debts. The expenses of the occupation were recovered and, in addition, the net receipts on reparation account for 21 months of military self-help credited to France amounted to 312,901,159.37 gold marks.¹

The occupation of the Ruhr resulted in the practical cessation of reparation payments except as they were collected by the occupying forces or by such automatic devices as the Reparation Recovery Acts. The German Government and people declined to admit the justification of that occupation and attempted a régime of passive resistance; they further bent a large amount of economic energy to the support of strikers in the region affected. The financial condition of the Government deteriorated rapidly and the anomalous conditions resulting attracted wide-spread attention.

In October, 1923,² the British Government inquired whether the United States would be willing to participate in an inquiry looking to the solution of the situation. While the Government of the United States desired "to lend its assistance in any manner that may be found feasible," it found it advisable to "reserve decision as to its course of action."

THE DAWES PLAN

On November 30, 1923, the Reparation Commission decided to create two committees of experts "belonging to allied and associated countries" to inquire into "the resources and capacity of Germany." One committee was to study "the means of balancing the budget and measures to be taken to stabilize the currency," which at that time had depreciated to such an extent that the percentage of the cost of the dollar as compared with par in November, 1923, was 96,134,200,000,000.³ The other committee was

¹ *Le Temps*, June 29, 1929.

² *Reparation*, Part V, p. 338. On the suggestion of Secretary of State Hughes of December 29, 1922, see *ibid.*, p. 334.

³ League of Nations, *Monthly Bulletin of Statistics*, Table XIV. The average for 10 months of 1924 was 103,730,600,000.

to consider the means of estimating the amount of exported capital and of bringing it back to Germany.

In the lengthy discussions respecting the German capacity and disposition to pay, the flight of capital from that country had played a highly interesting part. That Germany was not paying enough to meet the service of the A and B bonds issued was obvious; that German currency was steadily depreciating was notorious; that there were blocks of German marks abroad was well known. It was alleged that Germans were deliberately exporting capital in order to avoid its taxation for reparation purposes; and it was also asserted that this movement of capital had for an object the deliberate ruin of the country so that reparation would be unpayable. These allegations made a deep impression upon some of the politically minded. The Second Committee of Experts was charged with determining the truth respecting this situation. It was headed by Reginald McKenna, sometime Chancellor of the British Exchequer. The committee in its report of April 9, 1924, analyzed the conditions which attend the migration of capital and found that its so-called flight in the German instance "was in the main the result of the usual factors." Speculation had been markedly a contributing factor. The committee reported that the normal remedies for the situation were the only ones that were applicable to Germany, namely, the attainment of stability and the restoration of confidence. The report attracted no subsequent attention; but it stopped discussion of an unreal factor which had served to cloud and complicate the reparation problem over a period of years.

The First Committee of Experts produced what is known as the Experts' (Dawes) Plan which transformed the operation of reparation payment from a political to an economic procedure. The committee was appointed by the Reparation Commission and consisted of two national experts each acceptable to the admittedly interested governments, and two nationals of the United States. The Americans chosen to serve on the committee were General

Charles G. Dawes and Owen D. Young, neither of whom was unacceptable to the United States Government. The former, having been made chairman of the committee with the consequence that the resulting plan bears his name, was duly elected Vice-President of the United States in November, 1924.

The First Committee of Experts sat from January 14 to April 9, 1924. Its report¹ was declared by the Reparation Commission on April 11 to "offer a practical basis for the rapid solution of the reparation problem." The Governments concerned — Belgium, British Empire, France, Italy, Yugoslavia² — favored proceeding on its basis and the organization committees provided in the plan forthwith started work. The states concerned met with Germany in a conference at London, July 16 to August 16, 1924, and in a series of agreements worked out in detail the methods for bringing the plan into force. The United States consented to send official delegates to this conference "with strictly limited powers," which would not include "signature of the agreements reached." The agreements and protocols of the conference³ entered into force on August 30, on which date the necessary German legislation in connection with the plan became law. On January 14, 1925,⁴ an agreement was signed at Paris (commonly referred to as "the finance ministers' agreement") regarding the distribution of the annuities provided for under the plan. The United States, as one of the recipients, signed this agreement, to which the parties were the Governments of Belgium, France, Great Britain, Italy, Japan, United States, Brazil, Greece, Poland, Portugal, Rumania, Yugoslavia and Czechoslovakia. The plan itself entered into force on September 1, 1924, and was

¹ See text of both reports in *Reparation*, Part V, and in *Reparation Commission, Official Documents*, XIV.

² The name of the Kingdom of the Serbs, Croats and Slovenes was changed to Yugoslavia by decree of October 3, 1929. (*L'Europe nouvelle*, Oct. 26, 1929, p. 1436.)

³ *Reparation*, Part VI, p. 236 f; *Reparation Commission, Official Documents*, XIV, where the laws are also given.

⁴ *Reparation*, Part VI, p. 276.

succeeded on September 1, 1929, by the plan of the Committee of Experts, 1929.

The Dawes Plan confined its recommendations to the two points which had been assigned for consideration: the means of balancing the budget and the measures to be taken to stabilize the currency. Approaching these questions from the standpoint of business rather than politics, the committee found itself under the necessity of determining the foreign debt obligation of the German Government and of devising means of recovering its annual amounts from the German economy; of providing for the transfer of payments to the creditors; of devising methods of financial and currency reconstruction, and of insuring economic guaranties for the continuance of the payments stipulated, consistent with German financial autonomy. In brief the plan provided:

1. The establishment of a new Reichsbank and new currency, with the aid of an external gold loan.

The result was the complete stabilization of the German currency¹ and financial economy.

2. The fixation of annuities, the payment of which was to "comprise all amounts for which Germany may be liable to the Allied and Associated Powers for the costs arising out of the War, including reparation, restitution, all costs of all armies of occupation, clearing house operations, to the extent of those balances which the Reparation Commission decide must legitimately remain a definitive charge on the German Government, commissions of control and supervision, etc."

The result was the cessation of all bickering with Germany over collateral and incidental charges or payments.

3. The assumption by the creditors of any exchange hazard. Payment in German currency into the Reichsbank to the credit of the Agent-General for Reparation Payments was "the definitive act of the German Government in meeting its financial obligations under the plan."

As a brilliant financial economist, the late Jacques

¹ For details see League of Nations, *Monthly Bulletin of Statistics*, Table XIV.

Seydoux, has said, "reparation ceased to be c. i. f. and became f. o. b."

4. The sources of the annuities were defined. One half of a standard annuity of 2,500,000,000 gold marks¹ was to come ultimately from the German budget, this payment being collaterally secured by the produce of certain assigned revenues subject to control by a commissioner appointed by the creditors. A second portion of the annuity was a specified amount from a direct tax on transport. A third amount was raised by transferring the German Government railway system to the German Railway Company, which transferred its own bonds to a commissioner appointed by the creditors. A final portion of the annuity consisted of debt service on "industrial debentures." Under complicated processes a debt liability was accepted by industrial corporations, and against this liability were issued industrial debenture bonds in favor of the commissioner of the creditors.

The result was the raising of money for reparation payments by substantially normal fiscal processes.

5. The dependence of the reparation payments on the service of the German railway and the industrial debenture bonds created a basis for "commercializing" a part of the reparation debt.

This was much discussed, but was not put into execution under the Dawes Plan.

6. In behalf of the creditors a Transfer Committee was established to manage the transfer of payments across the exchanges.

This committee worked successfully and transferred an increasing proportion of total payments in cash forms, eventually amounting to over 50% of the total.

7. The whole system was supervised by the Agent-General for Reparation Payments, S. Parker Gilbert, whose very efficient organization contributed materially to the success of the plan.

¹ The annuities in years prior to the fifth were derived from the same sources, but in smaller amounts. A "prosperity index" would have modified the total in subsequent years.

The Agent-General's authority had the effect of coordinating the system into a smoothly running machine with benefits to the German fiscal system and advantages to the creditors.

8. The entire system being specific and fully worked out, the Dawes Plan indicated, and the agreements of the London conference provided in detail for, the smoothing out of all friction concerning it by appropriate arbitral methods, 19 separate types of jurisdiction being provided.¹ The most important of these is the Tribunal of Interpretation between the Reparation Commission and the German Government.

This procedure obviated the likelihood of friction, due to the operation of the plan, developing a political problem.

9. The Reparation Commission, while continued in existence, was substantially superseded.

AGREEMENT FOR FINAL SETTLEMENT

The successful operation of the Dawes Plan thus eliminated a great many of the difficulties which the reparation problem had developed. The great service which the Plan rendered was that it stripped the question of its political incrustations and substituted a system essentially, if not entirely, economic. It was, however, true that a potential political control remained in existence, even if dormant, and German payments were both supervised and administered.

¹ *Reparation*, Part VI, p. 314. Altogether only 13 questions involving six decisions were submitted to arbitration. Of these, 10 were submitted to the Tribunal of Interpretation, two being settled out of court and one not being received because no provision for payments on the subject matter existed. Five questions were settled by an award of March 24, 1926, and one each by awards of January 29, 1927, and May 29, 1928. (Reprinted in *American Journal of International Law*, XX, p. 566; XXI, p. 344; XXII, p. 913.) See also *Die Entscheidungen des Internationalen Schiedsgerichts zur Auslegung des Dawes Plan*, Berlin-Grünwald, Rothschild, 1926-29, 4 vols.

An award on the extent of the public law mortgage of the industrial charges law was rendered on December 28, 1925 (*American Journal of International Law*, XX, p. 370). A matter of taxation was decided by an award of June 23, 1926 (*Reparation Commission, Official Documents*, XVII, p. 100, and *American Journal of International Law*, XXI, p. 326) and a question relating to railroad tariffs on August 24, 1928 (*ibid.*, XIX, p. 186).

The Dawes annuities were paid promptly, though it was debated whether the standard annuity would not over a period of years prove beyond Germany's capacity. From 1927 on, extensive discussions took place as to whether German payments had not in reality been met by the proceeds of imported capital.¹ The Agent-General in his report of June 7, 1928,² stated that "fundamentally, what the Plan has done is to re-establish confidence and to permit Germany's reconstruction as a going concern. In so doing it has marked the turning point in the reconstruction of Europe, and it has also achieved its primary object, by securing from the very beginning the expected reparation payments and transfers to the creditor powers." He continued by calling attention to the fact that the Plan was not an end in itself, and added: "The fundamental problem which remains is the final determination of Germany's reparation liabilities, and . . . it will be in the best interests of the creditor powers and of Germany alike to reach a final settlement by mutual agreement 'as soon', to use the concluding words of the Experts, 'as circumstances make this possible'."³

The operation of the Dawes Plan had thus brought it about that conditions were ripe for considering the remaining essential question, namely, the amount Germany was to pay.

During the operation of the Plan, and in the beginning certainly because of its acceptance, the political atmosphere had undergone notable changes. The London Conference on Reparation of July-August, 1924, was itself a great demonstration of improving conditions. Premiers Herriot of France and McDonald of Great Britain, the principal

¹ Department of Commerce, *American Underwriting of German Securities* (Trade Information Bulletin, No. 648). The total given by Germany (1924-29) is 7,062,200,000 Reichsmarks (Reparation Commission, *Official Documents*, XXIIA, p. 38).

² Reparation Commission, *Official Documents*, XVIII, p. 108.

³ In his previous report of December 10, 1927, Mr. Gilbert had first raised the question when he wrote: "As time goes on and practical experience accumulates, it becomes always clearer that neither the reparation problem nor the other problems depending upon it will be finally solved until Germany has been given a definite task to perform on her own responsibility without foreign supervision and without transfer protection,"

figures of that conference, attended the Assembly of the League of Nations in the following month and inspired the resolution which resulted in the elaboration of the Geneva protocol, which began a remarkable demonstration in favor of the pacific settlement of international disputes. In February, 1925, Germany made proposals that resulted in the elaboration and conclusion of the Locarno agreements on the following October 16. They came automatically into force in September, 1926, simultaneously with the admission of Germany to the League of Nations and with the cessation of any distinction between the antagonists of the Great War in the councils of the world.

On September 17, 1926, Aristide Briand, foreign minister of France, and Gustav Stresemann, foreign minister of Germany, took lunch in private at the little town of Thoiry outside Geneva. When the bill came there was a friendly rivalry between the two as to which should pay it. M. Briand finally took it with the argument: "You let me have this; you still have reparation to pay." During their cordial discussion, the question of the continued occupation of the Rhineland zones was brought up.

In these zones along the Rhine bank, Belgian, British and French troops were quartered under the terms of a treaty of June 28, 1919, which established an Interallied Rhineland High Commission for the administration of civil matters. American troops participated in the occupation until January, 1923. By the terms of Art. 429 of the treaty of Versailles, which defines the zones, that of the Cologne bridge to the north was to be evacuated in five years under normal circumstances. It was actually evacuated on February 28, 1926, considerably after the stipulated date of January 10, 1925. On January 10, 1930, the central zone of Coblenz was normally due for evacuation, and on January 10, 1935, the Mainz-Kehl zone would be due for evacuation. The continued occupation of German territory proved vexing to German opinion and was widely held in that country to be in contradiction with the friendly co-operation that has consistently increased since the Locarno agreements were made.

The evacuation of the zones, however, is, by the terms of the treaty of Versailles, conditioned upon the settlement of the reparation problem. As a consequence, the examination of the whole political relationship between Germany and the other parties to the treaty of Versailles was involved.

The whole problem was discussed for many months, informally and formally. While the principal statesmen of the countries concerned were in attendance at the ninth Assembly of the League of Nations in September, 1928, they debated this question in its final stages in private conferences at their hotels. On September 16, 1928, they were able to make the following statement for publication:¹

At the conclusion of the third conversation which has taken place to-day, the representatives of Germany, Belgium, France, Great Britain, Italy and Japan are able to record with satisfaction the friendly conditions in which an exchange of views has taken place regarding the question under consideration. An agreement has been reached between them on the following points:

(1) The opening of official negotiations relating to the request put forward by the German Chancellor regarding the early evacuation of the Rhineland.

(2) The necessity for a complete and definite settlement of the reparation problem and for the constitution for this purpose of a committee of financial experts to be nominated by the six Governments.

(3) The acceptance of the principle of the constitution of a committee of verification and conciliation. The composition, mode of operation, object, and duration of the same committee will form the subject of negotiations between the Governments concerned.

¹ *London Times*, September 17, 1928, p. 14.

II. THE LIQUIDATION OF THE PROBLEM

1. The Committee of Experts, 1929

The Belgian, British, French, German, Italian and Japanese Governments on December 22, 1928, agreed upon the terms of reference¹ for the Committee of Experts which they had decided to establish three months before. The committee was to consist of independent financial experts who were to draw up "proposals for a complete and final settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor powers." The report was to be addressed to the six "inviting Governments" and to the Reparation Commission.

The Belgian, British, French, German, Italian and Japanese Governments designated experts to serve on the committee. The Reparation Commission and the German Government separately "invited" qualified Americans to serve, following an inquiry on behalf of the Governments as to the attitude of the United States Government respecting such service. The attitude of the Washington Government was made known by both the Secretary of State and the President, whose views were given as follows:²

The President has already indicated . . . that the European Governments or the principal nations, including Germany, would like to secure the services of two Americans to join with the experts who are to be appointed by the European Governments, and the United States has reported to the European Governments that this Government has no objection to their taking that course. The President feels, however, that it should be emphasized that it is the European Governments that are making the appointments as well as the selection of the experts.

The President would be more pleased if the European Governments would settle the question of reparations themselves. But

¹ See text of the terms in the Report of the Committee, p. 143.

² *United States Daily*, January 12, 1929, p. 2767.

if the European Governments feel that they need the assistance of some American, the President does not think it would be becoming in the United States Government, if persons are willing to serve as experts, that they should not be permitted to do so or rather that this Government would not give its consent to their doing so.

The Committee of Experts, 1929, differed in the nationalities represented in two respects from that of 1924. The Germans were included in the 1929 committee, which had the effect of making the consultation one between debtors and creditors. Japanese experts, who were not included in the 1924 committee, were members of the 1929 committee.

The 1929 committee included five members of the 1924 committee. These were: Owen D. Young, American; Sir Josiah Charles Stamp, British; Jean Parmentier, French; Alberto Pirelli, Italian, and Emile Francqui, Belgian. Two of the German experts, Hjalmar Schacht and C. Melchior, were almost equally familiar with the 1924 work, since Dr. Schacht, as president of the Reichsbank, had taken a prominent part in the organization of the Dawes Plan, and Dr. Melchior for many years had dealt responsibly with reparation problems. Other members of the 1929 experts were exceptionally familiar with the problems involved. Sir Charles S. Addis, British, had participated in organizing the Dawes Plan; Signor Fulvio Suvich had represented Italy's reparation interests; Thomas N. Perkins, American, had been the "delegation of the United States citizen member of the Reparation Commission" and was the chairman of the Tribunal of Interpretation between the Reparation Commission and the German Government; Thomas W. Lamont, American, had been adviser of the American delegation to negotiate peace at Paris in 1919.

The committee met on February 9, 1929, and signed its report on June 7, 1929. Owen D. Young was unanimously chosen chairman and acted in that capacity throughout the 17 weeks of continuous deliberation. He not only presided over the meetings, but shared the work of constructing

solutions of the problems.¹ When the creditor states had developed a scheme of annuities, the chairman consulted with the experts of the creditor countries and with the German experts, and their memoranda as revised, along with a memorandum of the chairman, were placed before the committee. "Finally the chairman prepared a new and independent plan in which these divergent views were brought closer together." Eventually, unanimous agreement was reached. On that record of negotiation is based a popular tendency to name the plan evolved the Young Plan after the chairman of the Committee of Experts. Formally, it is the first part of the New Plan.

ELEMENTS OF THE NEW PLAN

The report of the committee of June 7, 1929, adds two essential elements to the solution of the reparation problem:

(1) It fixes the number and reduces the amount of the annuities to be paid by Germany "on her own untrammelled responsibility;"

(2) It removes the German reparation debt "from the sphere of inter-governmental relations" by making adequate provision for its liquidation in accordance with economic principles and, further, by its partial "commercialization."

The plan incidentally provides for several important developments:

(1) It calls for the establishment of the Bank for International Settlements to "provide additional facilities for the international movement of funds" in connection with reparation payments and otherwise, and "to afford a ready instrument for promoting international financial relations."

(2) It finally removes from Germany all politico-economic controls and assimilates the entire future mechanism of reparation payments to normal financial and economic principles.

¹ Mr. Young delivered a notably clear and frank address on the making of the Young Plan and its significance at the charter day exercises of the University of California, Berkeley, on March 24 (*New York Times*, March 25, 1930, p. 22 and *Congressional Record*, April 11 and 25, 1929).

(3) It abolishes all organs invented specifically for the collection and distribution of reparation, including the Reparation Commission, the Agent-General for Reparation Payments, and foreign commissioners supervising pledges representing security for Germany's liability.

(4) It abolishes the joint liability of Germany for any Austrian, Bulgarian or Hungarian indebtedness.

(5) It contemplates the eventual cessation of deliveries in kind, thus doing away with an artificial form of trade.

(6) It abolishes the "index of prosperity" which under the Dawes Plan would in the future increase or diminish the annuities.

(7) It establishes an equitable agreement between debtor and creditor groups by reduction "in the face value of payments due." In doing this the committee definitely based its decision upon the conviction that the best "basis of security" was "the solemn undertaking of the German Government, to which no further guaranty can add anything whatsoever."¹ On the other hand, the creditors are obtaining "improvements in intrinsic and available values which arise from the practicability and certainty of commercialization and mobilization within a reasonable period and in its attendant financial and economic psychology."²

In order to facilitate its work, the committee established no secretariat and kept no minutes. On the other hand, the greatest pains were taken to include in the report an adequate and accurate statement of every conclusion which prevailed with the committee and the reasons for its acceptance. Therefore, the Report of the committee presents cogently both the problems and the conclusions of the committee, in the setting of the facts of the reparation system from which it was bound to proceed. Its contents are analyzed below in connection with the complementary and correlative decisions subsequently taken.

¹ Report, par. 101.

² *Ibid.*, par. 157.

2. First Conference of Governments

When the experts had made their report on the settlement of the reparation problem, the next move was up to the Governments, which had agreed at Geneva on September 16, 1928, to open negotiations on the questions of (1) the evacuation of the Rhineland, (2) the settlement of the reparation problem and (3) "the constitution of a committee of verification and conciliation." Those Governments — Germany, Belgium, France, Great Britain, Italy and Japan — took the initiative in inviting others concerned¹ to a conference which began at The Hague on August 6, 1929, and adjourned on August 31, to meet again January 3–20, 1930.

It was anticipated that the August meeting might adopt the procedure followed five years previously at London, when the requisite agreements were made and signed and automatically came into force, — by intervening ratification, passage of laws and development of regulations, — on a stipulated future date. Such a program was not realized. The question of a committee of verification and control was determined by an agreement signed on August 30, but was itself dependent upon the realization of the Young Plan. The evacuation of the Rhineland was arranged by exchange of notes and was begun without delay. Additional demands of the British Government occupied most of the time of the conference, resulting in some changes in the Young Plan and creating a situation which prevented the conference from completing its scheduled work. As a consequence, the Experts' Plan of June 7, was only accepted in principle by the protocol of August 31, rather than accepted outright.

The protocol and its annexes, which embody the agreements reached and the adjustments effected, were not made formal documents in August.² In fact, the confer-

¹ All Governments affected by the decisions to be taken. Those actually represented at each session are mentioned in the detailed account.

² Practically, however, they were executed as though in force, so far as the handling of funds was concerned.

ence as a consequence of the British demands had not been able to organize formally and did not elect a president until its final session, when it chose Henri Jaspar, Prime Minister of Belgium, who had opened the proceedings. This belated action was taken for the purpose of giving the protocol such a final character as was then possible and for providing machinery to continue the task. The protocol of August 31 and the annexes were signed only by the president and the secretary-general of the conference. The president was intrusted with the duty of appointing the committees required to complete the work, and the protocol provided that the conference was to reassemble at a date and place to be fixed by the president. The adjourned session met at The Hague January 3-20, 1930, when it gave authentic character to the reports of the committees and established the treaty character of the protocol of August 31.

THE AUGUST CONFERENCE MEETING

The August 6-31 session of the Hague Conference was attended by the delegates of the German Reich, Belgium, the United Kingdom, Canada, Australia, South Africa, New Zealand, India, France, Greece, Italy, Japan, Poland, Portugal, Rumania, Yugoslavia, Czechoslovakia and of the United States — "in the capacity of observer and with specifically limited powers".¹

Taking into account that the arrangements arrived at were not only to have a character of permanence but involved the decision of a large number of questions that previously had been relegated to the future, some delay was not surprising. Moreover, speed was in no wise facilitated by the attitude assumed at The Hague by the British delegation and particularly the Chancellor of the Exchequer, Philip Snowden.

Opposition to the Report of the Committee of Experts showed in London immediately after the text of the docu-

¹ Protocol of August 31, 1929, Sec. 1.

ment was available. In response to a query in the House of Commons, Philip Snowden, Chancellor of the Exchequer, stated on July 9 that "the loss entailed to this country by reason of the departure from the Spa percentages in the Young report amounts on average to approximately £2,400,000¹ a year." Capitalized at 5½%, this was estimated to amount to £37,500,000. On July 26, replying to a speech by the Liberal leader, David Lloyd George, Mr. Snowden stated the British objections, which on analysis amounted to the following:

(1) Mr. Young's proposal as to German annuities when first made "aroused indignation in this country."² However, the differences between it and the final proposal "were differences of degree only."

(2) "The Government were willing to agree to the amounts which had been proposed for the German annuities," having "no desire to increase the amount of the claims which Germany might be called upon to pay."

(3) "We were given no appreciable share" of the non-postponable part of the annuities, practically all of which went to France and Italy.

(4) "No explanation and no attempt at justification had been given for revising" the British percentage as fixed at Spa, which for nine years had been agreed to "as governing the distribution of any revised scheme of reparation or annuities."³

(5) "We should just get, with the interest (*sic*) from our European debtors, enough to pay the future annual

¹ On July 26 he stated the figure to be £2,415,000, specifying that Italy got £1,840,000 of the British reduction. He continued by saying "the acceptance of the report reduces our share of the annuities by just under £2,500,000 a year." (*Parliamentary Debates*, 5th series, 229, col. 684, and 230, col. 1680.)

² In determining whether this indignation was justified or not, it should be observed that the proposal was accepted by the experts nominated by the British Government, who were known to be in close touch with their Government and who had the assistance at Paris of representatives of the British Treasury. It should further be noted that eight days before the signing of the Experts' Report at Paris a general election took place in Great Britain which resulted in an overturn of the Government.

³ The British Spa percentage was 23.05%; the British percentage of average annuities under the Young Plan is 20.565%; the British percentage of total German annuities for the first 37 years is 19.494%, and the net British receipts for 59 years is 18.575% of the total German payments.

payments of interest (*sic*) to America. There would be no surplus to Great Britain." All other creditors "would have surpluses beyond their outgoings." This "did not give us the conditions we laid down, because there was already about £200,000,000 of difference between what we had paid to America and what we had received from our continental debtors."¹

(6) As to deliveries in kind, which had a special "seriousness for an exporting country like our own," the Government could not agree, "unless . . . compelled to do so, to accept the proposals in the report."

(7) "They would have something to say in the conference upon the distinction which had been made upon the postponed and the unconditional annuities and the fact that we had no share at all in the unconditional annuities."

THE BRITISH DEMANDS

The session of the Hague Conference of August 6-31 was one of the most astonishing gatherings in postwar official history. At the outset of the conference, Philip Snowden, the British chancellor of the Exchequer, in a speech notable for lack of courteous form, demanded satisfaction of the British claims. "The objections of the British delegation appeared to come as a surprise to the conference," Mr. Snowden remarked afterward.² The essentials of the subsequent proceedings are given in Mr. Snowden's own words:

At the conclusion of my speech, it was moved that we should adjourn for two days to enable the delegates to recover from the shock. After two days, it was realized that no agreement was likely to be reached by formal debates. We refused to agree to the setting up of formal committees until we had received satisfaction on our three main points. It was agreed to set up a formal

¹ In a written reply to a parliamentary question, the Chancellor of the Exchequer stated that "the excess of the British payments to the United States Government over our aggregate receipts from allied debts and reparation up to March 31, 1929, was £145,925,000."

² The account of his national broadcast September 2, London *Times*, September 3, 1929, p. 14.

committee of treasury experts. For three days . . . these experts met, but made little progress. At no stage did . . . the other creditor powers make any offer. After a week of this futility, I addressed a letter to M. Jaspar [the presiding officer]. I said, "The time has come for a definite decision; I expect this within the next two days." . . . Two days later we received from them a letter setting forth their offer . . . so meager as to be wholly unacceptable. This I communicated to M. Jaspar, and from that time onward the meetings became hectic. The meetings of the conference were still suspended. . . . For days things dragged on. Private interviews continued, and occasional meetings of the heads of the principal powers. On Thursday, the 22d, . . . the other four creditor nations . . . decided to make a fresh offer. Toward midnight M. Jaspar called on me . . . [He] was informed that it was quite unacceptable . . . I addressed to M. Jaspar a communication asking that we should have the proposals of the other creditor powers in a final definite form in writing without further delay.

Substantial progress it is true had been made on the political side, the agreement to which was almost complete provided a settlement could be reached on the financial side. The matter of deliveries in kind . . . had also made some progress, though our requirements had not been completely met. On the financial side, however, the position was the same as it had been for two weeks. . . . In these circumstances, the British delegation decided to ask that afternoon for the summoning by the six inviting powers of the plenary conference on the following morning.

This meeting, which marked the turning point in the fortunes of the conference, assembled at 5 o'clock. Each delegation outlined its own point of view at some length. . . . The room was insufferably hot, and it was suggested that we might adjourn for ten minutes to get some fresh air. We split into little groups, and then the bargaining process began. The British delegates remained in one room while the others went into another room. M. Jaspar acted as intermediary. M. Jaspar returned within five minutes to say that his friends would advance only 66%. I at once rejected this. . . . Half an hour later (9.15 P.M.) he returned with another offer which showed some advance, but was still unacceptable. I begged him to continue his efforts and pointed out that . . . at the same rate he would come up to the minimum demands before midnight. He returned in a quarter of an hour with a further advance of £50,000. "You are doing first rate,

M. Jaspar," I said, "be not weary in well doing." In the next two or three hours further small advances were made, and by 11.30 they had come within £240,000 of the British claims. M. Jaspar was in despair. "I can not do more," he said, "you have emptied all our pockets." "Go through your pockets again," I said very kindly, "and I am sure that you can find enough to cover what remains between us." "You told me you had a very kind heart," he said, "and we have never met a man like you." I assured him that it was out of the kindness of my heart that I wished him to continue his efforts as I was sure that he would succeed. Then some one had a brain wave, and the hitherto undiscovered means of giving us the sum we needed was discovered. At midnight our demands were accepted.

The original British demands were an addition of £2,400,000 to its annuities, a larger share of the unconditional annuities, and some substantial improvement in regard to deliveries in kind.

According to the British interpretation of the figures, an increase of £2,000,000 a year in the annuities for 37 years was obtained. A guaranty was given as to £990,000 by the French and Belgian Governments and as to £450,000 by Italy, or £1,440,000 guaranteed from other creditors. A lump sum of £5,000,000 (100,000,000 marks), "equal to an additional annuity of £360,000 a year," was obtained out of the payments due by Germany in the last five months of the fifth Dawes annuity, in which there is a surplus over the Young Plan requirements of 300,000,000 marks. Gains in interest from readjustment of dates at which debt payments are to be made were credited by the British as representing a gain for them of £200,000 a year. Mr. Snowden stated that 90% of these sums "are guaranteed and are therefore placed in the category of unconditional annuities." He added that "this may be regarded as full compensation for the small sacrifice we made in the total of our original demands."¹

On the second point, the British Empire was assigned

¹ The quotations are from Mr. Snowden's broadcast, as cited, which was in the nature of a report to the people of Great Britain.

55,000,000 gold marks as its share of the unconditional part of the annuities under the Experts' Report.

On the third point, deliveries in kind, Great Britain secured an undertaking by Italy to purchase from Great Britain 1,000,000 tons of coal a year for three years, thus reducing the demand for German coal on reparation account.

3. Elimination of Sanctions

The resolution of September 16, 1928, dealt with two other questions besides reparation, which were referred to the political committee of the conference. The Hague protocol of August 31 states "that on all the political questions on the agenda of the conference an agreement has been come to between the powers interested." In its session of August 29, Arthur Henderson of the British delegation as rapporteur read a unanimous report on those questions. In presenting the report he expressed the hope "that to-day we are taking decisions which will mean that from now henceforward the World War, with its divisions, with its hatreds, and with the clashes of conflicting interests which it left behind will soon be no more than an evil memory. The path is opening before us for the constructive work of building up the common welfare and prosperity of our peoples upon the firm foundation of stable and enduring peace." The report was unanimously adopted, after a notable series of speeches, by the conference.¹

The political committee of the conference completed the solution of the question raised under par. 3 of the Geneva agreement by an agreement formally signed at The Hague on August 30. The question was that of substituting a means of verifying and conciliating questions which might arise under the new conditions. It should be appreciated that the treaty of peace with Germany was a document which accorded the allied and associated states various abnormal privileges and entitled them to take sanctions. The victors in modifying the system by mutual agreement

¹ Texts in *London Times*, August 30, 1929.

with Germany were unwilling simply to abolish such rights. The question of the "committee of verification and conciliation" consequently resolved itself into a question of method by which the examination of differences as to the execution of German obligations in the Rhineland could be examined under the normal conditions of peace. The Hague conference solved the problem by extending the scope of the Locarno arbitration treaties to all questions concerning the evacuation of the Rhineland territory.¹ It is to be noted that the agreement provides for the use of the Belgo-German and Franco-German conciliation commissions of the Locarno agreements for this purpose, but that the agreement of August 30 itself was signed by the Italian and British representatives as well. No provision is made for the conciliation of questions between those two countries and Germany.

The agreement reads as follows: ²

The undersigned duly authorized:

Having taken note of the notes annexed hereto³ which have been exchanged between the Belgian, British and French Governments of the one part and the German Government of the other part with a view to the evacuation of the Rhineland territory occupied by the Belgian, British and French troops,

Note the agreement which has been arrived at on this question,

Note, also, that in order to facilitate in the common interest a friendly and practical settlement of any difficulty which may arise between Belgium and Germany or between France and Germany concerning the observance of Arts. 42 and 43 of the treaty of Versailles, the German, Belgian and French Governments have agreed that the task of settling amicably any such difficulty shall be accomplished by the commissions set up under the arbitration agreements concluded at Locarno on October 16, 1925, by Belgium and by France with Germany. These commissions will act in conformity with the procedure laid down and with the rights accruing under these conventions.

If any such difficulty should arise, it will be submitted either

¹ See *The Locarno Conference*, this Series, IX, No. 1, p. 55, 60.

² *International Agreement on the Evacuation of the Rhineland Territory*, p. 2-3 (Miscellaneous No. 7 (1929), Cmd. 3417). Only the English text is here reprinted.

³ See p. 33.

to the Belgo-German Conciliation Commission or to the Franco-German Conciliation Commission, according to whether the difficulty arises between Belgium and Germany or between France and Germany.

This agreement does not in any way affect the general provisions applicable in such case and in particular is subject to the reservation that the powers of the Council and Assembly of the League of Nations to make investigations under Art. 213 of the treaty of Versailles remain intact. It is also subject to the understanding that each of the powers who signed the treaty concluded at Locarno on October 16, 1925, between Germany, Belgium, France, Great Britain and Italy retains the right to lay any difficulty at any time before the Council of the League of Nations in conformity with Art. 4 of that treaty.

The present agreement and the arrangements relating to the acceptance in principle of the Plan of June 7, 1929, are mutually interdependent.

Done at The Hague, the 30th day of August, 1929.

STRESEMANN.

ARTHUR HENDERSON.

PAUL HYMANS.

ARISTIDE BRIAND.

DINO GRANDI.

This agreement does not extend obligations. It is in effect a reenactment of the Locarno treaty of mutual guaranty by which the demilitarized zone on both banks of the Rhine is declared inviolable. The agreement, however, points to a more definite use of conciliation commissions than the treaty of guaranty and the arbitration conventions of Locarno, which afford a considerable choice of method for settling disputes. Under the agreement, the commission may be invoked in the first instance.

By Art. 213 of the treaty of Versailles, Germany undertakes to give every facility for any investigation which the Council of the League of Nations may consider necessary as to the status of its military preparations. The agreement preserves intact the rules for this exercise of the right of investigation which have been determined by a series of Council resolutions of September 27, 1924, March 14, 1925, and December 11, 1926. ¹

¹ League of Nations, *Official Journal*, V, p. 1592, 1658; VI, p. 610; VIII, p. 162.

END OF RHINELAND OCCUPATION

The question of the evacuation of the Rhineland was settled in the course of the Hague Conference as forecast by the agreement of September, 1928. Possession of the occupied zones was taken "as a guaranty for the execution" of the treaty of Versailles. A finding by the Reparation Commission "that Germany refuses to observe the whole or part of her obligations . . . with regard to reparation" was stated by Art. 430 of the treaty as cause for the immediate reoccupation of the zones during or after the initial periods. On the other hand, Germany's compliance "with all the undertakings resulting from" the treaty would call for a withdrawal.

The occupied regions were divided into three zones, consisting of the German territory west of the Rhine and bridgehead areas to the east of a 50-kilometer radius from them. All told, 20,927 square miles of German territory was in occupation at the beginning. By Art. 429 of the treaty of Versailles, the Cologne zone on the north was to be evacuated January 10, 1925. It was actually delayed to begin December 1, 1925, and was completed by February 28, 1926. The second, or Coblenz zone, was due to be evacuated January 10, 1930, and the Mainz-Kehl zone in the south by the same date in 1935.

For many reasons Germany had been anxious since the Locarno Conference in 1925 to have the two remaining zones evacuated without regard to the treaty limitations of time. The admission of the principle in September, 1928, resulted in an exchange of letters on August 29 at The Hague between the Belgian, British and French delegates, representing the occupying states, and the German delegate. Each of the occupying Governments appended to their collective note a note stating the details of the evacuation.

A financial question was involved, since the expenses of the occupation were met by Germany through the reparation system and the circumstances of the occupation had

resulted in a vast number of claims and counter claims under the treaty of June 28, 1919, which provides for the meeting of the expenses of the occupation and establishes the Inter-Allied Rhineland High Commission, which performed the functions of civil government in the occupied zones. The financial arrangement agreed upon consisted of establishing a fund of 60,000,000 Reichsmarks, of which Germany was to contribute outright 30,000,000¹ and the three occupying states so much of the other 30,000,000 as proved to be necessary. The 50% contribution of the occupying states was to be divided: France 35%, Great Britain 12%, Belgium 3%. An additional amount of 6,000,000 Reichsmarks was also paid by Germany toward the "expenses of the commissions and organizations under the Dawes Plan covered hitherto by the Dawes annuities."²

The troops remained at about the same figure since June 15, 1928, when the strengths amounted to:

		Troops.
Second zone, Coblenz	British	6,760
	Belgian	5,553
Third zone, Mainz-Kehl	French	54,751

By the notes, the second zone was evacuated by December 14, 1929, and the third zone by June 30, 1930. The British arranged a skeleton scheme providing for the evacuation within 86 days from "zero hour," which was fixed as September 14. The Belgian evacuation of the second zone was effected between September 16 and November 25. The French removed material from September 16–October 15, and all troops from the second zone between October 16 and November 30. After 1920, French troops were in considerable number in the Saar Basin, where the mines were allocated to France by the treaty and which is governed by a commission appointed by the Council of the League of Nations. The removal of the French troops from the Saar in 1926 resulted in the establishment of a railroad guard of 600 men assigned by

¹ The German payment was made and credited in October, 1929.

² Hague Protocol of August 31, 1929, Annex III, Art. II.

Belgium, Great Britain and France from the German occupied zones. In October, the British withdrew their Saar contingent in connection with the evacuation of the second zone.

The third zone was entirely occupied by the French troops. The notes exchanged provided for its evacuation to begin "immediately after the ratification by the German and French parliaments and the entrance into force of the Young Plan." Complete evacuation "in any case will be effected at the latest within a period of eight months, and it shall not extend beyond the end of June, 1930."

The exchange of notes of August 30, 1929, providing for this action closed a chapter of postwar history and re-established normal nonmilitary relations along the Rhine. The documents, which represent an essential phase of the settlement of the Great War's problems, are as follows:¹

JOINT NOTE TO DR. STRESEMANN

SECRETARIAT-GENERAL, THE HAGUE,
August 30, 1929.

Your Excellency,

In the course of the proceedings of the Political Commission of the Conference at The Hague the three Occupying Powers have agreed to begin the evacuation of the Rhineland during the month of September on the conditions laid down in the attached notes. The withdrawal of the Belgian and British forces will be completed within three months of the date on which the operation of evacuation begins. The French forces will evacuate the Second Zone within the same period. The evacuation of the Third Zone by the French troops will begin immediately after the Young Plan is ratified by the German and French Parliaments and put into operation. It will proceed without interruption as rapidly as physical conditions permit, and in any case will be completed at the latest in a period of eight months terminating not later than the end of June, 1930.

¹ *International Agreement on the Evacuation of the Rhineland Territory*, p. 4, 16 (Miscellaneous No. 7 (1929), Cmd. 3417). Only the English text is here reprinted.

Belgian, French and British notes attached determined details of the evacuation. The Interallied Rhineland Commission established its headquarters at Wiesbaden pending the evacuation of the third zone. An agreement between the commission and the German commissioner of the Rhineland occupied regions determined the northern boundary of the third zone on September 30, 1929 (*Official Gazette*, X, Nos. VIII-X, p. 6).

In order to enable the Belgian, British and French troops to complete the evacuation within the periods indicated above, it is necessary that the Government of the Reich should take the measures laid down in the annexed notes mentioned above. We should be greatly indebted to Your Excellency if you would let us know if you are in agreement with regard to these measures.

We avail ourselves of this opportunity to renew to Your Excellency the assurance of our highest consideration.

PAUL HYMANS.
ARTHUR HENDERSON.
ARISTIDE BRIAND.

DR. STRESEMANN TO THE MINISTERS OF FOREIGN AFFAIRS OF
BELGIUM, GREAT BRITAIN AND FRANCE

(Translation)

GERMAN DELEGATION,
SCHEVENINGEN, August 30, 1929.

Your Excellencies,

I have the honor to acknowledge the receipt of Your Excellencies' note of to-day's date which you have addressed to me in the name of your Governments.

The German Government take note of the declaration made by the Belgian, British and French Governments regarding the evacuation of the Rhineland, in accordance wherewith evacuation will commence during the month of September. The Belgian and British troops will be completely withdrawn within a period of three months dating from the beginning of the evacuation operations. The French troops will evacuate the second zone within the same period. The evacuation of the third zone by the French troops will take place immediately after the ratification of the Young Plan by the German and French Parliaments and the entry into force of the Plan. Evacuation will be effected without interruption, and as speedily as physical conditions permit, at the latest within a period of eight months, which, however, may not extend beyond the end of June, 1930.

At the same time I have the honor to confirm to Your Excellencies the agreement of the German Government to the provisions contained in the three inclosures in your note dealing with certain questions connected with the evacuation.

STRESEMANN.

Agreements effected by letters exchanged on August 4, 1929, between the Conference of Ambassadors and the German ambassador at Paris brought an understanding on the character of railroad construction in the Rhineland¹ prior to the evacuation. The Conference of Ambassadors had long contended that various German railroad structures or undertakings in the territory demilitarized by the Locarno treaty of guaranty were planned on a strategic basis. By the letters exchanged on August 4, it was recorded:

(1) That the new station at Jülich to replace one built in 1870 was to be reconstructed according to plans made in 1928 so as "exclusively to meet the local requirements and traffic;" and

(2) That the Osterthal Railroad "for 12 years at least would have the technical character of a local railroad (*Kleinbahn*)."

The Conference of Ambassadors took note of a series of declarations by the German ambassador in a letter of July 17 respecting the destruction or modification of new construction in the Ahr Valley, largely relating to the length of loading platforms. In taking note of their letter "the interested Governments in no wise renounce eventually making use of the rights accruing to them under Art. 43 of the treaty of peace" with respect to railroad structures "at any point in the demilitarized zone which in their eyes would constitute a violation of the said Art. 43."

4. Final Session of Conference

The interval between the meetings of the Hague conference was devoted to preparation of the Plan for entrance into force. The protocol of August 31 stipulated that the president of the conference should appoint committees whose formation was not otherwise provided for and for his receiving the reports of all committees. The committees at work in the interval numbered seven and were as follows:

¹ *Le Temps*, December 19, 1929, p. 1.

(1) Organization Committee of the Bank for International Settlements, Baden-Baden, October 3–November 13, 1929.

(2) Committee on delivery in kind, Paris, September 16–November 30, 1929.

(3) Committee on ceded properties, liberation debts, and final settlement under the treaties of St. Germain, Trianon, and Neuilly, Paris, September 16–November 30, 1929.

(4) Committee on liquidation of the past, Paris, September 16–November 22, 1929.

(5) Adaptation of the system of controlled revenues to the New Plan, Annex I to the final protocol signed at London, August 16, 1924;¹ report submitted November 19, 1929.

(6) Adaptation of the German law on the Reichsbank of August 30, 1924;² report submitted November 12, 1929.

(7) Adaptation of the German law concerning the German Railway Company of August 30, 1924;³ report submitted November 19, 1929.

It fell to M. Jaspas to summon a Committee of Jurists to draft the reports of the committees into legal texts for embodiment in the final protocol. The Committee of Jurists began work on December 10. Following the completion of its task, the Governments concerned examined its drafts in preparation for sending delegates to the reconvened conference.

¹ Reparation Commission, *Official Documents*, Vol. XIV, p. 131.

The report is printed in *Entwürfe zu den Gesetzen über die Haager Konferenz und die Sonder- und Liquidationsabkommen*, Sechster Teil, p. 2. The assigned revenues must amount to 150% of the highest budgetary contribution, that is, 150% of 1,768,800,000 Reichsmarks, or 2,653,200,000 Reichsmarks. The report is substantially Annex VII of the agreement of January 20, *ibid.*, Erster Teil, p. 154, and *Agreements*, p. 67.

² The law and subsidiary legislation were texts prescribed by one of the organization committees under the Dawes Plan. The texts affected are in *ibid.*, p. 167, especially 179.

The report is printed in *Entwürfe zu den Gesetzen*, Sechster Teil, p. 6; it is substantially Annexes V and VA of the agreement of January 20, *ibid.*, Erster Teil, p. 94 and 102, and *Agreements*, p. 40.

³ *Ibid.*, p. 225, especially 234.

The report is printed in *Entwürfe zu den Gesetzen*, Sechster Teil, p. 32; it is substantially Annexes VI and VIA of the agreement of January 20, *ibid.*, Erster Teil, p. 104, and *Agreements*, p. 45.

GERMAN NATIONALIST OPPOSITION DEFEATED

The German Nationalist Party expressed opposition to the Young Plan even before it was published. They sought to defeat it by seeking a referendum on a law relating to the so-called war-guilt controversy, the occupation of German territory, and the payment of reparation. A preliminary petition having been properly signed, the Government was constitutionally bound to submit it to voters for the requisite 10% of their signatures. In doing this, the cabinet issued the following communiqué:¹

The Government of the Reich, in agreement with the immense majority of the German people, knows that improvement in the external situation can not be imposed by a German law. It can only be attained by negotiations with the associates of Germany. The Government will not refuse to give the plebiscite the guarantees accorded by the Constitution, but it will combat any attempt at recourse to inappropriate methods which are only calculated to aggravate internal dissension.

Despite this statement, 4,137,164 persons, or 10.08% of the electorate signed the petition for the passage of the following bill:²

(1) The German Government shall notify all foreign powers immediately and solemnly that the extorted acknowledgment of war guilt in the treaty of Versailles is contrary to historical truth; is based on false premises and is not binding in international law.

(2) The German Government shall use all endeavors to secure the amendment of the war guilt acknowledgment contained in Art. 231 and Art. 429 and 430 of the treaty of Versailles. It shall also undertake to secure the immediate and unconditional evacuation of the occupied German territories, without any remaining contractual commissions, independantly of the acceptance or the rejection of the decisions of the Hague conference.

(3) No further financial burdens or obligations based on the war guilt acknowledgment shall be assumed, inclusive of those

¹ *La Tribune*, October 2, 1928.

² *New York Times*, November 14, p. 11.

arising from the recommendations of the Paris reparation experts and the subsequent agreements.

(4) The chancellor and ministers or representatives of the Reich who lend their signatures to agreements contrary to the provisions of par. 3 shall render themselves liable to prosecution for high treason.

(5) This law enters into force at the moment of its proclamation.

The Reichstag rejected the bill overwhelmingly on November 30, the vote being 312 to 82 on the first three sections and 312 to 60 on the fourth. As a consequence of this rejection a plebiscite was held on December 22, in which 50% of the 41,278,897 registered voters would have had to cast ballots to enact the measure as law.¹ Only 5,828,082, or 13.8%, one fourth of the required number, voted at all and only 337,320 of the electorate took the trouble to vote against the proposal.

Another diversion in Germany excited some outside interest and created a change in the German Cabinet. Dr. Hjalmar Schacht,² president of the Reichsbank and principal German expert on the Young Committee, on December 5, 1929, published a memorandum³ addressed to the Government in which he criticized the current financial position. Asserting that he wrote on the basis of his personal responsibility for the success of the Plan as one of its drafters, he called attention to circumstances which he regarded as compromising the possibilities of its success. He sought to show that the allocation of surplus in the transition period, the Belgo-German agreement respecting the so-called Belgian marks, the adjustment of the non-postponable portion of the annuity and other decisions of

¹ The Reichstag Electoral Court decides after a plebiscite whether the question requires the affirmative vote of a majority of electors (in this case 21,055,587) as a modification of the Constitution or a poll of that number only as a rejection of a Reichstag decision.

² An address delivered by the President of the Reichsbank at a meeting of the Deutsche Industrie-und Handelstag on Friday, June 28, 1929, entitled *The Paris Conference of the Experts* (Berlin, Druckerei Der Reichsbank) shows the speaker's early reaction to the subject.

³ Text in *L'Europe Nouvelle*, December 21, 1929, p. 1744.

the Hague protocol of August 31 had involved new charges on Germany at a time when its financial ability was weakest and that the concessions had not been reciprocal. He criticized the German financial ministry's conduct of the budget. He asserted that, though the German experts at Paris proceeded on the assumption that the Reich would put its financial affairs permanently in order and alleviate "the internal situation of German production so as to make possible support" of the heavy charges of the Young Plan, nothing had in fact been done. On the other hand, "the national German economy is not facing a decrease, but an increase of charges." The Government in a communiqué called Dr. Schacht's memorandum inopportune, but it stated that fiscal reform was to receive immediate attention. In the end lassitude respecting budgetary reform was tacitly admitted by the resignation of the finance minister and a responsible subordinate official and the supersession of Herr Hilferding by Paul Moldenhauer as finance minister.

FINAL DOCUMENTS OF THE CONFERENCE

The second session of the Hague conference ran from January 3 to January 20, 1930, and resulted in the signing of an extensive series of documents by which the Governments represented formally accept the terms of the settlement originally provided for by the Geneva agreement of September 16, 1928. The signing of the documents completed nearly 12 months of continuous work by the Committee of Experts, 1929, seven organizing committees, a committee of jurists, and two sessions of the conference. Every essential phase of the reparation problem was dealt with: Relations of creditors to the German, Austrian, Bulgarian and Hungarian debtors, adjustment and closing of all outstanding accounts, the relinquishment of political controls and the substitution therefor of economic apparatus, including the establishment of new international economic machinery. The work which remained consisted

of matters of detail and of implementation,¹ the principles for which had been laid down.

The second session of the conference was organized by the inviting Governments, Germany, Belgium, France, Great Britain, Italy and Japan, the group which had taken the initiative in reaching the Geneva agreement of September, 1928. Governments which attended the previous session were Australia, Canada, Czechoslovakia, Greece, India, New Zealand, Poland, Portugal, Rumania, South Africa, Yugoslavia and the United States, as previously, "in the capacity of observer and with specifically limited powers." New attendants were representatives of Austria, Bulgaria and Hungary. Altogether, 21 Governments were represented.² All principal delegations included members of ministerial rank in the national cabinets.

The preparation which had been made enabled the second session of the conference to proceed rapidly to acceptable conclusions. Unexpected delays, however, occurred, and the delegates worked under a pressure of other engagements which some of them had to keep. The international calendar was particularly crowded in January. The 58th session of the Council of the League of Nations had been set for January 20, the same date which had been chosen for the opening of the conference of the five dominant naval powers at London. It had been advanced to the 13th, and various delegates at The Hague found it necessary to attend it. The second session at The Hague, therefore, opened with the hope that the work could be completed by January 11 or 12 and at any rate the delegates were determined to finish by January 20. This piling up of events served to keep the delegates in a mood for the rapid dispatch of the business in hand.

The conference was organized into committees on

¹ The transfer of the functions of the existing organizations to the Bank for International Settlements was intrusted to a special committee composed of two members of the Organization Committee for the bank, representatives of the German Government, the Agent General for Reparation Payments and the Reparation Commission and an equitable representation of Belgium, British Empire, France, Italy, Japan and (if desired) the United States.

² India, South Africa and the United States did not sign the Final Act nor any other documents.

German reparation and non-German reparation, the Committee of Jurists, already functioning, continuing to serve the conference as a whole. A subcommittee of treasury experts of the six inviting states was also appointed. In the course of the proceedings, the chairmen and members of the organizing committees were present and gave appropriate aid.

The entire settlement covered a tremendous area, ending several dozen controversies which had served to disturb or even embitter relations between some of the parties. The substance of the agreements is indicated in these pages, and the Appendix contains the most essential documents. The far-reaching character of the decisions of the Hague conference may be exhibited by listing the agreements arrived at, which are bound together by the Final Act of the Hague conference of January 20, 1930. Rearranged on that listing they are:

With Germany

1. Letters of August 30, 1929, relating to the evacuation of the Rhineland¹ (exchange of notes and Belgian, French and English inclosures).

2. Agreement as to Locarno commissions of conciliation, The Hague, August 30, 1929.

3. Protocol approved at the plenary session of the Hague conference, August 31, 1929, with financial agreement, agreement regarding deliveries in kind, agreement upon the transition period and agreement upon costs of occupation annexed²; the foregoing covered into the Final Act.

4. Agreement of January 20, 1930, on the final acceptance of the Plan of the Committee of Experts of June 7, 1929³; with 12 annexes:

¹ Printed *supra*, p. 33, from British Parliamentary Paper, Cmd. 3417, Misc. No. 7, 1929.

² Permanent portions printed *supra*, p. 188.

³ Printed *supra*, p. 192, from *Agreements concluded at the Hague Conference January, 1930*, Parl. Pap., Misc. No. 4 (1930), Cmd. 3454.

- I. Exchange of declarations ¹;
- II. Measures of transition;
- III. Debt certificate of the German Reich ²;
- IV. Certificate of the Deutsche Reichsbahn-Gesellschaft;
- V. Revision of the German bank law;
- VI. Amendment of the law and statutes of the Deutsche Reichsbahn-Gesellschaft ³;
- VII. Assignment by way of collateral guaranty of revenues of the Reich to meet service on the German external loan, 1924;
- VIII. Form of Trust Agreement ⁴;
- IX. Regulations for deliveries in kind;
- X. Agreement of Berlin, January 2, 1930, for amending administration of the British Reparation Recovery Act and agreement of The Hague, January 18, 1930, for amending administration of the French Reparation Recovery Act;
- XI. Securities for the German external loan, 1924;
- XII. Arbitration rules of procedure.

5. Arrangement relating to the concurrent memorandum accompanying the Experts' report, January 20, 1930 ⁵; with concurrent memorandum annexed.

6. Convention respecting the Bank for International Settlements; Constituent Charter and Statutes annexed.⁶

7. Arrangement as to the financial mobilization of the German annuities.

8. Transitory provisions.

9. Financial agreement with Belgium, Brussels, July 13, 1929.⁷

10. Agreement on the amnesty evacuation, Coblenz, October 5, 1929.⁸

11. German-American debt agreement.⁹

¹ Printed *supra*, p. 46.

² Printed *infra*, p. 232.

³ See further the exchange of notes in *Agreements*, p. 139.

⁴ Printed *infra*, p. 220.

⁵ Printed *infra*, p. 239.

⁶ Printed *infra*, p. 203.

⁷ See p. 135. The reservation of Belgium (Report, par. 51) was, as a result of this agreement, formally retired by exchange of notes of January 16, 1930 (*Agreements*, p. 140).

⁸ *Entwürfe zu den Gesetzen*, p. 321.

⁹ Printed *infra*, p. 243. An exchange of notes on behalf of the other creditors and Germany of January 20, 1930 (*Agreements*, p. 134) is printed at p. 44.

12. Liquidation agreements¹ on property, rights and interests: with Belgium (Berlin, July 13, 1929, and Brussels, January 16, 1930); with Poland (Warsaw, October 31, 1929); with Great Britain and Northern Ireland² (London, December 28, 1929); with France (Paris, December 31, 1929); with Canada (The Hague, January 14, 1930); with Australia (The Hague, January 17, 1930); with New Zealand (The Hague, January 17, 1930); with Italy (The Hague, January 20, 1930).

13. Agreement between the creditor states respecting Germany, January 20, 1930.³

*With others*⁴

Agreement with Austria, January 20, 1930.

Agreement with Bulgaria, January 20, 1930.

Agreement with Hungary, with annexes embodying general agreement relating to the agrarian fund and fund B, etc. (Put in final form by conference at Paris beginning February 5, 1930.)

Agreement with Czechoslovakia, January 20, 1930.

Arrangement between the creditors respecting Austria, Hungary, Bulgaria, and liberation debts, January 20, 1930.

The final act provides that the New Plan enters into force when the Reparation Commission⁵ and the president of the German Kriegslastenkommission (War Burden Commission) have determined that:

(a) Germany has ratified and has promulgated its laws for reorganization of the German railways and the Reichsbank;

(b) The New Plan has been ratified by four of the following five states: Belgium, France, Great Britain, Italy and Japan;

(c) The Bank for International Settlements is established,

¹ *Entwürfe zu den Gesetzen*, fünfter Teil.

² British Parliamentary Paper, Misc. No. 3 (1930), Cmd. 3486.

³ *Agreements*, p. 142.

⁴ *Agreements*, p. 146-172.

⁵ The vote of the Reparation Commission shall be taken in accordance with the treaty of Versailles and shall include the vote of Japan. The joint determination of the Reparation Commission and the Kriegslastenkommission will be notified to the signatory parties.

has accepted the duties assigned to it and received the certificate of indebtedness from the German Government and the certificate from the German railways.¹

The New Plan is substituted retroactively for the Dawes Plan as from September 1, 1929.

SPECIAL DECISIONS OF THE CONFERENCE

The proceedings at The Hague went off smoothly; the decisions will be better understood when discussed in connection with their subject matter. Nevertheless, a number of points which were discussed should be mentioned.

It was agreed, after a lengthy and complicated consultation of experts from the Young committee membership, on reparation in general and on banking, that German monthly payments should be made on the 15th instead of the 30th, the date having been left blank in the draft trust agreement and then determined in the certificate of indebtedness.

Germany agreed that foreign loans on behalf of the Government or its nationals should not be sought before October, 1930, thus leaving a clear field for the issuance to the public of a first *tranche* of mobilizable bonds.

The German-American agreement initialed on December 28, 1929, accepted Germany's full faith and credit as the only security and guaranty for the obligations involved. At The Hague, Germany circulated the agreement with a view to getting this formula accepted by its other creditors. The result was an exchange of notes between the German foreign minister and the president of the conference in which the former made and the latter acknowledged the following statement:²

The German Government will not exercise in relation to any one of the creditor powers the rights of postponement which it possesses under the agreements already signed or initialed without exercising at the same time any similar rights which it may possess in relation to all the other powers whose claims are included in the annuities, as set out in the Experts' report of June 7,

¹ Trust Agreement, Art. II, b and c.

² Agreement, p. 134.

1929. Moreover in the future the German Government will not, in connection with postponement, give any special advantage to any one of those powers.

Nothing contained herein-above shall be construed as impairing in any way Germany's rights and obligations under the agreements already signed or initialed.

The German Nationalist plebiscite and the change of the finance minister in December started a reaction in France among those not inclined to trust Germany any farther than necessity requires. It was argued in the French Chamber and in the press that evacuation of the occupied regions permanently deprived France of its "gage" for payment, while the plebiscite campaign suggested to some the possibility that the German Nationalists might repudiate the whole Plan settlement in case they came to power. It was, therefore, argued that the continued application of Art. 430 of the treaty of Versailles should be recorded. By that article, after expiration of the period of occupation and in case it is found "that Germany refuses to observe the whole or part of her obligations under the present treaty with regard to reparation, the whole or part of the areas specified in Art. 429 will be reoccupied immediately by the allied and associated forces." Outside of certain French circles the conviction prevailed that the raising of the point was gratuitous, since, without anything being said, the treaty provision would slumber without disturbing any one, and its resurrection would not be precluded if the remote possibility of German repudiation of the settlement should occur. But once the question was raised, it was necessary to allay any French distrust which existed and to find a formula which expressed the trust felt by the conference in the German Government's willingness to keep its pledges.¹

¹ Raising the question was technically justified by the abolition of the Reparation Commission and the supersession of the agreement of August 30, 1924, to amend Part VIII, Annex II, par. 16, of the treaty of Versailles (*Reparation*, Part VI, p. 262). By this amendment a German default under the Dawes Plan could be established by a majority of the Reparation Commission only if confirmed by the Tribunal of Interpretation. Action following such a decision was to be joint, thus preventing such isolated "sanctions" as the Ruhr incident. The abolition of the Reparation Commission by the New Plan thus left a remote possibility of political intervention under improbable circumstances.

The solution of this final "sanction" problem was intelligent. The powers of the creditor states toward Germany under the régime of the New Plan will be determined by it.¹ In separate declarations both sides faced the hypothetical possibilities and prescribed judicial review of them before action. As these notes close the long chapter of irresponsible suspicion in Franco-German relations, they are quoted:

I. The representatives of the Belgian, British, French, Italian and Japanese Governments make the following declaration:

The New Plan rests on the principle that the complete and final settlement of the reparation question is of common interest to all the countries which this question concerns and that the Plan requires the collaboration of all these countries. Without mutual good will and confidence, the object of the Plan would not be attained.

It is in this sense that the creditor Governments have, in the Hague agreement of January, 1930, accepted the solemn undertaking of the German Government to pay the annuities fixed in accordance with the provisions of the New Plan as the guaranty for the fulfilment of the German Government's obligations. The creditor Governments are convinced that, even if the execution of the New Plan should give rise to differences of opinion or difficulties, the procedures provided for by the Plan itself would be sufficient to resolve them.

It is for this reason that the Hague agreement of January, 1930, provides that, under the régime of the New Plan, the powers of the creditor powers shall be determined by the provisions of the Plan.

There remains, however, a hypothesis outside the scope of the agreements signed to-day. The creditor Governments are forced to consider it without thereby wishing to cast doubt on the intentions of the German Government. They regard it as indispensable to take account of the possibility that in the future a German Government, in violation of the solemn obligation contained in the Hague agreement of January, 1930, might commit itself to actions revealing its determination to destroy the New Plan.

It is the duty of the creditor Governments to declare to the

¹ Agreement with Germany, Art. IV. The notes are Annex I to that document and as reprinted below are from *Agreements*, p. 28.

German Government that, if such a case arose, imperilling the foundations of their common work, a new situation would be created in regard to which the creditor Governments must, from the outset, formulate all the reservations to which they are rightfully entitled. However, even on this extreme hypothesis, the creditor Governments, in the interests of general peace, are prepared, before taking any action, to appeal to an international jurisdiction of incontestable authority to establish and appreciate the facts. The creditor power or powers which might regard themselves as concerned would, therefore, submit to the Permanent Court of International Justice the question whether the German Government had committed acts revealing its determination to destroy the New Plan.

Germany should forthwith declare that, in the event of an affirmative decision by the Court, she acknowledges that it is legitimate that, in order to insure the fulfilment of the obligations of the debtor power resulting from the New Plan, the creditor power or powers should resume their full liberty of action.

The creditor Governments are convinced that such a hypothetical situation will never in fact arise and they feel assured that the German Government shares this conviction. But they consider that they are bound in loyalty and by their duty to their respective countries to make the above declaration in case this hypothetical situation should arise.

II. The representatives of the German Government, on their side, make the following declaration:

The German Government takes note of the above declaration of the creditor Governments, whereby, even if the execution of the New Plan should give rise to differences of opinion or difficulties in regard to the fulfilment of the New Plan, the procedures provided for in the Plan would be sufficient to resolve them. The German Government takes note, accordingly, that under the régime of the New Plan the powers of the creditor powers will be determined in accordance with the provisions of the Plan.

As regards the second part of the declaration and the hypothesis formulated in this declaration, the German Government regrets that such an eventuality, which for its own part it regards as impossible, should be contemplated. Nevertheless, if one or more of the creditor powers refer to the Permanent Court of International Justice the question whether acts originating with the German Government reveal its determination to destroy the New Plan, the German Government, in agreement with the creditor Gov-

ernments, accepts the proposal that the Permanent Court should decide the question, and declares that it acknowledges that it is legitimate, in the event of an affirmative decision by the Court, that, in order to insure the fulfilment of the financial obligations of the debtor power resulting from the New Plan, the creditor power or powers should resume their full liberty of action.

The French, German and English texts of the present Annex shall be equally authoritative.

CURTIUS.

WIRTH.

SCHMIDT.

MOLDENHAUER.

HENRI JASPAR.

PAUL HYMANS.

E. FRANCOU.

PHILIP SNOWDEN.

HENRI CHÉRON.

LOUCHEUR.

A. MOSCONI.

A. PIRELLI.

SUVICH.

ADATCI.

K. HIROTA.

Dr. Hjalmar Schacht, president of the Reichsbank, and its vice-president, Herr F. Dreyse, created a temporary difficulty. In a letter dated December 31 read to the meeting of the Organization Committee of the Bank at The Hague on January 13, they stated that the Reichsbank's participation in constituting the Bank for International Settlements must be subordinated to certain conditions. They wanted to be sure that Germany would be treated "on a footing of moral equality" at The Hague, especially respecting sequestered property in England¹ and the elimination of "political sanctions." They wished to await the final decisions of the conference and approval by the Reichstag before engaging the Reichsbank to subscribe capital. The statement was referred to the delegations. By the Reichsbank law in force, the president is not removable until 1932,² a provision inserted to insure his independence of the Government of the Reich in connection with the Dawes Plan. The delegations representing the Governments responsible for that provision indicated to

¹ See text of agreement of December 28, 1929, British Parliamentary Papers, Cmd. 3486.

² Reichsbank law, § 6, Reparation Commission, *Official Documents*, XIV, p. 181.

their German colleagues their willingness to have it altered. The German delegation summoned the presidents of other suitable banks to take up with them their participation in the capital of the Bank for International Settlements. Meanwhile, the German Government had decided to revise the law so as to place Dr. Schacht under the control of the Government. A communiqué issued by the German Government on January 14 read: ¹

In tomorrow's session of the conference, the German delegation will take the necessary steps to guarantee by legal measures the participation of the Reichsbank in the international bank and the assistance of the Reichsbank in the work of the international bank. We learn that the president of the Reichsbank, in a talk with Finance Minister Moldenhauer, declared that it went without saying that in that case he would not try to avoid the resulting obligations. Thus, the participation of the Reichsbank is assured. In a later conference between the president of the Reichsbank and the four German delegates, complete agreement was reached on this point.

¹ Press of January 15.

III. ESTABLISHMENT OF ANNUITIES

The Committee of Experts, in their effort to reach a definite decision on the German debt began work from the basis of the standard annuity of the Dawes Plan of 2,500,000,000 Reichsmarks (any change to be determined by the index of prosperity not being yet in effect).

Before the committee met at all, discussion of reparation was usually premised on the assumption that the standard Dawes annuity would be scaled down at a new attempt to put the question on a final basis. Several features of the set-up pointed to possibilities for reducing that annuity. The cost of maintaining troops in the Rhineland occupied zones was a temporary charge. The expense of the allied reparation machinery — the Reparation Commission, the organization of the Agent-General, etc., — was not necessarily fixed. The German external loan of 1924, which will be liquidated by sinking fund in 1949, could be serviced independently. In the fifth annuity year ending August 31, 1929, under the Dawes Plan, army costs, commission expenses and loan service amounted to 311,000,000 gold marks. The net reparation payment was, therefore, somewhere around 2,200,000,000 Reichsmarks.

As no extended minutes of the committee were kept or published, the course of the proceedings can be ascertained only from the final published report, which does not undertake to give details in regard to the course of the proceedings. Fragmentary reports appeared in the public press from time to time, but they did not purport to be exhaustive and are consequently not reliable sources of information. Therefore, it is not attempted to give a detailed account of the proceedings of the committee, or the reasons which influenced it in reaching its decisions. Only the definite conclusions are available, but the Report of the Committee in Part V gives a clear summary of the "course of the proceedings."¹

¹ See p. 148.

It seems to be an accurate statement, however, that the first two months of the proceedings of the committee were devoted largely to hearing explanations of the situation that existed in Germany and the preparation of a plan for the Bank for International Settlements.¹ Beginning in April, various proposals of definite figures were put forward. One by the Germans (which has never been published in full) was rejected by the creditor states, partly because the figures were deemed inadequate and partly because the creditors claimed that it contained political conditions beyond the scope of the committee's authority, although this was denied by the Germans. After other proposals had been made by the creditor states, which were not acceptable to the Germans, the chairman of the committee undertook, with the assent of all concerned, to do what he could toward reconciling the different proposals. His proposals resulted eventually in the adoption of the schedule of annuities appearing in the report, which was accepted by all parties.

The proposals were worked out on the basis of German payments over a period of 59 years, which about corresponds to the remaining period of the payments under the inter-governmental debt agreements refunding debts owed to the American and British Governments. They divided this period into two parts, the first running for 36 years and seven months — the time required to amortize a capital sum bearing 5% interest by means of a 1% sinking fund — and an additional period of 22 years, in which they made no claim for reparation payments, but only for such sums from Germany as were required to meet their own debt agreements. The schedule of annuities is as follows:

¹ For a detailed and authentic account of the proceedings read Thomas W. Lamont, "The Final Reparations Settlement," *Foreign Affairs*, VIII, p. 343-348.

SCHEDULE OF ANNUITIES

		Reichsmarks		
36 German fiscal years	1	7 months	Sept. 1, 1929-March 31, 1930	742,800,000
	2	.	April 1, 1930-March 31, 1931	1,707,900,000
	3	.	April 1, 1931-March 31, 1932	1,685,000,000
	4	.	April 1, 1932-March 31, 1933	1,738,200,000
	5	.	April 1, 1933-March 31, 1934	1,804,300,000
	6	.	April 1, 1934-March 31, 1935	1,866,900,000
	7	.	April 1, 1935-March 31, 1936	1,892,900,000
	8	.	April 1, 1936-March 31, 1937	1,939,700,000
	9	.	April 1, 1937-March 31, 1938	1,977,000,000
	10	.	April 1, 1938-March 31, 1939	1,995,300,000
	11	.	April 1, 1939-March 31, 1940	2,042,800,000
	12	.	April 1, 1940-March 31, 1941	2,155,500,000
	13	.	April 1, 1941-March 31, 1942	2,180,700,000
	14	.	April 1, 1942-March 31, 1943	2,198,000,000
	15	.	April 1, 1943-March 31, 1944	2,194,300,000
	16	.	April 1, 1944-March 31, 1945	2,207,500,000
	17	.	April 1, 1945-March 31, 1946	2,203,800,000
	18	.	April 1, 1946-March 31, 1947	2,199,500,000
	19	.	April 1, 1947-March 31, 1948	2,215,200,000
	20	.	April 1, 1948-March 31, 1949	2,210,000,000
	21	.	April 1, 1949-March 31, 1950	2,316,800,000
	22	.	April 1, 1950-March 31, 1951	2,359,200,000
	23	.	April 1, 1951-March 31, 1952	2,343,200,000
	24	.	April 1, 1952-March 31, 1953	2,346,200,000
	25	.	April 1, 1953-March 31, 1954	2,353,300,000
	26	.	April 1, 1954-March 31, 1955	2,364,600,000
	27	.	April 1, 1955-March 31, 1956	2,359,800,000
	28	.	April 1, 1956-March 31, 1957	2,354,200,000
	29	.	April 1, 1957-March 31, 1958	2,361,800,000
	30	.	April 1, 1958-March 31, 1959	2,393,800,000
	31	.	April 1, 1959-March 31, 1960	2,370,600,000
	32	.	April 1, 1960-March 31, 1961	2,380,500,000
	33	.	April 1, 1961-March 31, 1962	2,398,300,000
	34	.	April 1, 1962-March 31, 1963	2,390,200,000
	35	.	April 1, 1963-March 31, 1964	2,402,600,000
	36	.	April 1, 1964-March 31, 1965	2,402,100,000
	37	.	April 1, 1965-March 31, 1966	2,428,800,000

 Constant annuity, 37 years, 1,988,800,000¹; Dawes loan service to be added.

¹ Includes the payments to the United States; less those payments it is 1,922,700,000 Reichsmarks for 37 years and 1,887,300,000 for 59 years (*Entwürfe an den Gesetzen*, p. 331).

Payments Subject to Special Provisions

		Reichsmarks	
22 German fiscal years	38	April 1, 1966–March 31, 1967	1,607,700,000
	39	April 1, 1967–March 31, 1968	1,606,900,000
	40	April 1, 1968–March 31, 1969	1,616,700,000
	41	April 1, 1969–March 31, 1970	1,630,000,000
	42	April 1, 1970–March 31, 1971	1,643,700,000
	43	April 1, 1971–March 31, 1972	1,653,900,000
	44	April 1, 1972–March 31, 1973	1,662,300,000
	45	April 1, 1973–March 31, 1974	1,665,700,000
	46	April 1, 1974–March 31, 1975	1,668,400,000
	47	April 1, 1975–March 31, 1976	1,675,000,000
	48	April 1, 1976–March 31, 1977	1,678,700,000
	49	April 1, 1977–March 31, 1978	1,685,400,000
	50	April 1, 1978–March 31, 1979	1,695,500,000
	51	April 1, 1979–March 31, 1980	1,700,400,000
	52	April 1, 1980–March 31, 1981	1,711,300,000
	53	April 1, 1981–March 31, 1982	1,687,600,000
	54	April 1, 1982–March 31, 1983	1,691,800,000
	55	April 1, 1983–March 31, 1984	1,703,300,000
	56	April 1, 1984–March 31, 1985	1,683,500,000
57	April 1, 1985–March 31, 1986	925,100,000	
58	April 1, 1986–March 31, 1987	931,400,000	
59	April 1, 1987–March 31, 1988	897,800,000	

FEATURES OF THE ANNUITIES

Some of the more important features of this plan as distinguished from the Dawes Plan are as follows:

First: The standard Dawes annuities are materially reduced and this is especially true over the period of the first ten years, thereby affording Germany an opportunity to consolidate its economic and financial position.

Second: The index of prosperity is abolished.

Third: The industrial debentures and the railway bonds are extinguished, though a tax upon the railways substantially equivalent to the amounts to be received from the railway bonds is substituted therefor.

Fourth: The Reparation Commission and all its agencies including the office of the Agent General are abolished.

The annuities are frequently referred to as having certain

present values. In Paris a present value of 32,885,000,000 Reichsmarks was cited in the press and debates in the French Chamber. In the Annual Report of the Secretary of the Treasury of the United States a present value of 31,172,000,000 Reichsmarks is given,¹ and other sums have likewise been cited. Present value is determined by the mathematical solution of a formula in which the interest rate and the frequency of payments are important factors. The higher the interest rate to be compounded the lower the present value becomes. Present values have been figured by Governments in connection with the Young Plan on a $5\frac{1}{2}\%$ interest basis. Differences in amounts given are usually due to varied assumptions as to frequency of payment. Annual, semiannual or monthly payments will give different present values. For instance, at the second session of the Hague conference it was brought out that payment of monthly quotas on the 15th instead of the 30th of each month would add 5,000,000 Reichsmarks annually to the receipts of the creditors.

Since present value is only properly employed for providing a basis of comparison between a continuing payment or receipt and a current asset or potential asset, the German computation of present value ought to be of interest. The total payments for 37 years, less the Dawes loan service, is given in the German Reichstag report² as 30,950,000,000 Reichsmarks (\$7,357,100,000) at $5\frac{1}{2}\%$ and at 33,750,000,000 Reichsmarks (\$8,032,500,000) for 59 years.

The recommendations of the Committee of Experts provide that of each annuity 660,000,000 Reichsmarks (increased by 13,800,000 Reichsmarks by the Hague protocol) be made over unconditionally, that is, "payable without any right of postponement in foreign currencies by equal monthly instalments." This amount includes the service of the German external loan 1924, which is not comprised in the average annuity. This part of the annuity gives the creditors a nonpostponable certainty and

¹ *Annual Report of the Treasurer of the United States for the Fiscal Year ended June 30, 1929*, p. 53.

² *Entwürfe zu den Gesetzen*, p. 331.

provides a foundation for servicing reparation bonds when commercialized and marketed.

The totals of the first 37 annuities (but not their annual averages) include the service of the German 7% 25-year external loan of 1924, which is due for extinction October 15, 1949. This service, which amounted to 89,315,000 Reichsmarks in the fifth Dawes year, is averaged for the 37 annuity years of the New Plan at 61,800,000 Reichsmarks.¹ It should be noted that the security originally pledged by Germany for the service of the loan remains unaffected in any way by the adoption of the New Plan.²

The annuities are graduated upward from year to year from 1931-32, and in 1948-49 amount to 2,210,000,000 Reichsmarks. In the year 1949-50 — the first in which the service of the loan is not required — the annuity rises to 2,316,800,000, and thence forward for 16 years slight annual additions are made. The annuities are graduated through 36 German fiscal years from a first amount of 1,707,900,000 Reichsmarks to a final annuity of 2,428,800,000 in the fiscal year ending March 31, 1966, averaging 1,988,800,000 Reichsmarks, exclusive of Dawes loan service. Thereafter to the year ending March 31, 1988, the payments match the "out-payments" which the creditors are due to make under agreements refunding inter-governmental indebtedness at present in force with respect to them. These 22 annuities show a sharp decline in amount as compared with the preceding 37. For the year 1965-66, the last of the first period, the annuity is 2,428,800,000; the annuity for 1966-67, the first year of the "out-payments" period, is 1,607,700,000, a decrease

¹ Some misunderstanding has occurred because of references to the loan service on an average cost basis for the period of 37 years. The loan is a 25-year loan, liquidating by annual amortization payments with consequent interest charge reductions. The actual cost of the payments for the remaining 20 years of the loan's life were adjusted to the 37 years of the Young Plan for the purposes of comparative computations, 61,800,000 Reichsmarks being the average annuity. This average is a factor in the amount of the nonpostponable part of the Young annuity, which otherwise amounts to 612,000,000 Reichsmarks. In 1929-30 the actual cost of Dawes loan service is some 88,500,000 Reichsmarks, so that the amount of the nonpostponable annuity in that year is about 700,000,000 Reichsmarks. On the other hand, in 1949-50 and thereafter the nonpostponable part of the annuity will not include any factor for service of this loan.

² For the guaranties of the loan see the Trust Agreement, Arts. II(d), IV(a) and XI(a) 1.

of 821,100,000. From 1966-67 to 1987-88, this group of annuities rises to 1,711,300,000 in 1980-81, falls to 1,683,500,000 in 1984-85, and for the last three years falls very rapidly to only 897,800,000 in 1988.

AMOUNT AND DISTRIBUTION OF ANNUITIES

The annuities as fixed by the Committee of Experts go for two main purposes, reparation and the "out-payments," which are dealt with in detail subsequently. During the period from September 1, 1929, to March 31, 1966, when both reparation and "out-payments" are to be made, Germany is due to turn over a total of 79,485,100,000 Reichsmarks;¹ until March 31, 1988, for the "out-payments" alone, plus the American claims, an additional 34,422,600,000 Reichsmarks is to be paid, making a total transfer in the 59 years of 113,907,700,000 Reichsmarks.

It will be interesting to summarize the entire payments to be made by the German Government from the beginning to the end of reparation. The following summary is derived from official Reparation Commission figures, the reports of the Agent-General, and the annuity schedules of the Committee of Experts, 1929:

	Reichsmarks
Value of ceded property	2,553,905,000
Years 1920 and 1921	3,970,835,000
Year 1922	1,402,686,000
Ruhr period, January 11, 1923-August 31, 1924	894,231,000
First annuity, September 1, 1924-August 31, 1925	1,000,255,000
Second annuity, September 1, 1925-August 31, 1926	1,223,157,000
Third annuity, September 1, 1926-August 31, 1927	1,502,283,000
Fourth annuity, September 1, 1927-August 31, 1928	1,755,097,000
Fifth annuity, September 1, 1928-August 31, 1929	2,508,057,000
September 1, 1929-March 31, 1966	79,485,100,000
April 1, 1966-March 31, 1988	34,422,600,000
	130,718,206,000
	(\$31,123,382,000)

The annuity for the first 37 years under the New Plan may be divided as follows:

¹ The total of the quotas in Annex VII. The annuities add up to 2.4 millions less due to simpler "rounding off."

ESTABLISHMENT OF ANNUITIES

57

YEAR	Reparation	Out-Payments	Total
1	742.8	— ¹	742.8
2	742.8	965.1	1,707.9
3	742.7	942.3	1,685.0
4	742.8	995.4	1,738.2
5	667.9	1,136.4	1,804.3
6	667.9	1,199.0	1,866.9
7	668.0	1,224.9	1,892.9
8	667.9	1,271.8	1,939.7
9	643.0	1,334.0	1,977.0
10	642.8	1,352.5	1,995.3
11	667.8	1,375.0	2,042.8
12	667.9	1,487.6	2,155.5
13	742.8	1,437.9	2,180.7
14	742.9	1,455.1	2,198.0
15	742.8	1,451.5	2,194.3
16	742.8	1,464.7	2,207.5
17	742.9	1,460.9	2,203.8
18	742.6	1,456.9	2,199.5
19	742.9	1,472.3	2,215.2
20	742.9	1,467.1	2,210.0
21	855.3	1,461.5	2,316.8
22	855.3	1,503.9	2,359.2
23	855.3	1,487.9	2,343.2
24	855.1	1,491.1	2,346.2
25	855.2	1,498.1	2,353.3
26	855.2	1,509.4	2,364.6
27	855.3	1,504.5	2,359.8
28	855.1	1,499.1	2,354.2
29	855.1	1,506.7	2,361.8
30	855.2	1,538.6	2,393.8
31	855.2	1,515.4	2,370.6
32	855.1	1,525.4	2,380.5
33	855.1	1,543.2	2,398.3
34	855.2	1,535.0	2,390.2
35	855.2	1,547.4	2,402.6
36	855.3	1,546.8	2,402.1
37	855.1	1,573.7	2,428.8
	28,745.2	50,738.1	79,483.3

¹ Out-payments of 863,100,000 Reichsmarks for the year ending March 31, 1930, not included in the tabulation (see Plan, Part 8, para. 83, 84, 93).

The annuities for the remaining 22 years are for "out-payments" only, except for 612,000,000 Reichsmarks payable to the United States. Arranged on the basis of the preceding table those payments are:

YEAR	Fiscal Year	Reparation	Out-Payments	Total
38	1966-67	-	1,607.7	1,607.7
39	1967-68	-	1,606.9	1,606.9
40	1968-69	-	1,616.7	1,616.7
41	1969-70	-	1,630.0	1,630.0
42	1970-71	-	1,643.7	1,643.7
43	1971-72	-	1,653.9	1,653.9
44	1972-73	-	1,662.3	1,662.3
45	1973-74	-	1,665.7	1,665.7
46	1974-75	-	1,668.4	1,668.4
47	1975-76	-	1,675.0	1,675.0
48	1976-77	-	1,678.7	1,678.7
49	1977-78	-	1,685.4	1,685.4
50	1978-79	-	1,695.5	1,695.5
51	1979-80	-	1,700.4	1,700.4
52	1980-81	-	1,711.3	1,711.3
53	1981-82	-	1,687.6	1,687.6
54	1982-83	-	1,691.8	1,691.8
55	1983-84	-	1,703.3	1,703.3
56	1984-85	-	1,683.5	1,683.5
57	1985-86	-	925.1	925.1
58	1986-87	-	931.4	931.4
59	1987-88	-	897.8	897.8
			34,422.6	34,422.6

If we turn to the creditors, we find that the receipts due to each country amount to totals as follows:

(Millions of Reichsmarks)

	Receipts, 1929-66	Receipts, 1966-68	Total
France	42,233.8	17,279.2	59,513.0
British Empire	15,495.5	5,662.4	21,157.9
Italy	9,060.5	7,888.3	16,948.8
Belgium	4,553.1	1,165.6	5,718.7
Rumania	906.1	923.4	1,829.5
Yugoslavia	3,345.0	497.9	3,842.9
Greece	284.7	213.4	498.1
Portugal	518.3	180.4	698.7
Japan	511.0	-	511.0
Poland	19.4	-	19.4
United States	2,557.7	612.0	3,169.7
	79,485.1	34,422.6	113,907.7

The "out-payments" in the first 37 years, 50,738,100,000 Reichsmarks, and in the succeeding 22 years, 33,810,600,000 Reichsmarks, together amount to 84,548,700,000 Reichsmarks (\$20,112,590,000), or 74.2% of the entire payments due from Germany. If we further add all the American receipts to the "out-payments," we find that a total of 87,718,400,000 Reichsmarks, or 77%, of the total German payments is devoted to "out-payments" and American claims and only 23% to reparation. In the first 37 years the strictly reparation payments represent 32.9% of the total.

ADJUSTMENTS BETWEEN ANNUITY YEARS

In one aspect the Young Report presented a solution simpler than the reality. Omitting the service cost of the German loan, the difference between the average annuities in the first 37 years and the total which Germany is called upon to pay in that period is about 3,700,000,000 Reichsmarks. The apparent discrepancy is accounted for by a careful examination of the distribution of the annuities

by countries,¹ where it will be perceived that the annual payments to each country do not correspond with the average, which was regarded as the standard. Special claims under the reparation system, out-payment requirements and other considerations call for adjustments. All such conditions had to be further adjusted to estimates of Germany's annual ability. Germany's average payments, if maintained in the first nine years, would amount to 17,899,200,000 Reichsmarks; as a matter of fact they amount to 15,354,700,000. The deficit of 2,544,500,000 from the average was carried forward to subsequent years for payment on a present value basis. The annual deficiencies in the nine years are:

1929-30	.	.	.	.	.	.	.	1,246.0
1930-31	.	.	.	.	.	.	.	280.9
1931-32	.	.	.	.	.	.	.	303.8
1932-33	.	.	.	.	.	.	.	250.6
1933-34	.	.	.	.	.	.	.	184.5
1934-35	.	.	.	.	.	.	.	121.9
1935-36	.	.	.	.	.	.	.	95.9
1936-37	.	.	.	.	.	.	.	49.1
1937-38	.	.	.	.	.	.	.	11.8

This amount is deferred with respect to the creditors as follows:

France	.	.	.	.	.	.	.	1,561.2
British Empire	.	.	.	.	.	.	.	489.6
Italy	.	.	.	.	.	.	.	386.0
Belgium	.	.	.	.	.	.	.	118.1
Rumania	.	.	.	.	.	.	.	43.1
Serbia	.	.	.	.	.	.	.	112.7
Greece	.	.	.	.	.	.	.	3.8
Portugal	.	.	.	.	.	.	.	11.2
Japan	.	.	.	.	.	.	.	11.4
Poland	.	.	.	.	.	.	.	.8
United States	.	.	.	.	.	.	.	26.8

Owing to the exigencies of the various states, however, these deficiencies vary considerably as to the individual

¹ See p. 179.

years. The British Empire and Greece permanently go above the assigned average after four years, the United States after eight years,¹ France after nine, Belgium after 10, Italy and the other creditors after 12. It can be seen from these facts that there was a double present value adjustment. Amounts had to be thrown forward to meet both the German capacity to pay and to meet the requirements of the creditors. The highly technical details of this double procedure are available to the Bank for International Settlements for the accurate management of the annuities. The adjusted payments are shown year by year in the amounts due to each creditor under the annuity table.²

ADJUSTMENTS FOR TRANSITIONAL PERIOD

Determination of the date from which the New Plan was to run resulted in an interesting and simplifying compromise. When the Dawes Plan was prepared, there was much uncertainty as to when it could be put into effect. The proceedings of the year 1924 made it possible, by a very complicated series of documents, to bring it into operation on September 1 of that year. When the Agent-General for Reparation Payments began his duties, he found that that fiscal year was awkward with respect to the German fiscal year, which runs from April 1 to March 31. As a consequence, each of the Dawes annuities came from the budgets of two German fiscal years. Some complication of accounts resulted. It also happened that the parts of the Dawes annuities earmarked for commercialization—the railway bonds and the industrial debenture bonds—were issued on a 5% yield and 1% amortization basis, which would retire them in 36.72 years. The fraction is substantially seven months, and the discrepancy between the Dawes annuity year and the

¹ The deferments of the United States draw interest at 3½% until paid (*Annual Report of the Secretary of the Treasury*, 1929, p. 55) as to armies of occupation, which may indicate the rate in other cases. The American claims quotas will bear 5% interest if deferred.

² See p. 179.

German fiscal year—September to April—is seven months. For the sake of simplification, as a concession to the Germans and also to bring the Dawes Plan to an end and the New Plan into operation at the earliest possible moment, it was decided that the New Plan should be substituted for the Dawes Plan on September 1, 1929. By this arrangement, the one plan succeeded the other without delay, and the entire reparation scheme was made to synchronize with the fiscal year of the debtor Government.

The two plans, however, overlap. During the five months April–August, 1929, the Dawes Plan schedule was in effect. The German fiscal year April 1, 1929, to March 31, 1930, thus included payments under both plans. The Committee of Experts provided for the allocation of 1,605,900,000 Reichsmarks in that fiscal year. The schedule in Par. 86 of the Report shows the seven-month payment for reparation alone amounting to 742,800,000 Reichsmarks. The allocation of the year's receipts is dealt with in Part 8, par. 4 (par. 83), of the report which provides "that the payments made under the Dawes Plan from April 1–September 1, 1929, after allowing for the external loan, should be treated as payments necessary to cover the requirements of the creditor nations during this transition period, including out-payments for the year ending March 31, 1930." A subsequent schedule (par. 93) shows indicated "out-payments" in that German fiscal year amounting to 863,100,000 Reichsmarks.

Some transitional adjustment of these items was effected by the protocol of August 31, 1929. The creditors by Annex III, Art. I, of the protocol agreed to apply the Young Plan to their receipts from September 1, 1929. During the period, October–December, 1929, the Agent-General for Reparation Payments and the German Government cooperate in "maintaining the rights" of the creditors. These arrangements were continued for the intervening months.

The Young Plan suggested that the receipts of the first

five months of the fifth Dawes year should be treated under the distribution scheme of the New Plan. A surplus resulting from such treatment was left for settlement and adjustment between the Governments, after the service of the Dawes loan and the requirements of the creditors, "including out-payments for the year ending March 31, 1930," were met. The accounts of the Agent-General on August 31, 1929, showed a cash balance of 237,058,972 Reichsmarks with 24,166,667 Reichsmarks still due on the transport tax and 55,000,000 Reichsmarks for railway bond service in September. The surplus to be adjusted therefore amounted to some 316,225,639 Reichsmarks, plus interest accrued at distribution.

Of this sum, 23.05% would have gone to the British Empire automatically under the Spa percentages. As a result of the Hague conference in August, 100,000,000¹ Reichsmarks, or about 31.7%, was awarded to Great Britain, "together with her receipts under the Dawes Plan, to cover in full her net debt outgoings [366,600,000 Reichsmarks] during the year ending March 31, 1930," and current costs of occupation. Part of the same adjustment was that Italy and Greece received the stipulated out-payment sums, 107,800,000 and 5,300,000 Reichsmarks respectively, for the year ending March 31, 1930, while Germany, Great Britain, Italy and Japan forewent any claim to the remaining surplus.

The Young Plan indicated that the out-payments applicable to the year ending March 31, 1930, amount to 863,100,000 Reichsmarks. Allocation by the Hague protocol of British, Italian and Greek quotas left 383,400,000 Reichsmarks of the total. Rumanian, Yugoslav and Portuguese requirements amount to 21,900,000 Reichsmarks, leaving France with 338,100,000 Reichsmarks and Belgium with 23,400,000 Reichsmarks, or 361,500,000 Reichsmarks as compared with the surplus of 216,225,639 Reichsmarks remaining in the April-August accounts of

¹ Raised to 102,000,000 by arrangement between the creditors of January 20, and charged to excess receipts of states other than Great Britain (see note to Report, Annexes, par. 192, *infra*, p. 186).

the Dawes Plan after the assignment of 100,000,000 to the British Empire. In return for the assignment to them of the remaining surplus, "the Belgian and French Governments guarantee without reserve the payment to Great Britain" of additional annuities of 19,800,000 Reichsmarks for 37 years, representing the income of 396,000,000 Reichsmarks capital at 5%.

The British demand at the Hague conference for additional receipts resulted in a further adjustment which was met by Italy. The Italian Government "guarantees to Great Britain without reserve a further annuity of 9,000,000 Reichsmarks for 37 years" (180,000,000 Reichsmarks capital at 5%). This guaranty is arranged by applying "in favor of Great Britain a part of the claims to which Italy is entitled under the agreements of September 10, 1919, and December 8, 1919." The agreements referred to¹ were between the states engaged in the war against the Austro-Hungarian monarchy. Italy as a state acquiring territory formerly a part of that monarchy "agrees on account of such acquisition to be debited against her approved claims for reparation under the treaties of peace" an amount proportionate to the debit of the other succession states. Poland, Rumania, Yugoslavia and Czechoslovakia were to pay an aggregate of 1,500,000,000 gold francs² toward the expenses of liberating the territories transferred to them by Austria and Hungary. Italy's debit was a ratio of that sum corresponding to the ratio between the average revenues of the acquired territories for the years 1911-13 and the average revenues of the territories acquired by those other states in the same years.

SPECIAL UNITED STATES POSITION

The United States Government for various reasons found itself in 1929 in a special position. By the German-American treaty of August 25, 1921,³ restoring friendly

¹ Treaties, Conventions, etc., of the United States, III, p. 3301, 3305.

² The gold franc is 19.3 cents, or 5.1816 to the dollar.

³ Treaties, Conventions, etc. . . . United States, III, p. 2596.

relations Germany undertook to accord to the United States "all the rights, privileges, indemnities, reparations or advantages" specified in a Congressional resolution and including also its rights and advantages under the treaty of Versailles. By an agreement of August 10, 1922,¹ a German-American Mixed Commission was established to determine German liability for American claims arising since July 31, 1914, resulting from German seizures of property; claims for loss or damage since the same date incurred as a consequence of the war; and debts owing to American citizens by the German Government or its nationals. These three categories of claims involved settlement for damages incurred while the United States was both a neutral and a belligerent. The resulting commission, while it made free use of the precedents of the mixed arbitral tribunals established under the treaty of Versailles and other treaties of peace, did not create awards payable by Germany under the reparation clauses of the treaty of Versailles.

Following the participation of the United States in the London conference for putting the Dawes Plan into force, representatives of Belgium, France, Great Britain, Italy, Japan, the United States, Brazil, Greece, Poland, Portugal, Rumania, Serb-Croat-Slovene State and Czechoslovakia met at Paris, and on January 14, 1925, signed an agreement regarding the distribution of the Dawes annuities. At that time the United States asserted its claim to be considered a creditor of Germany. By Art. 3 of the agreement² provision was made for the payment out of the Dawes annuities of a specified sum to repay the costs of the United States army of occupation from 1919 to January, 1923, and a percentage of the Dawes annuities at a certain point in the distribution was assigned to the United States to meet its other claims. In the five years of the Dawes Plan the United States received under these two heads 298,950,289 Reichsmarks. The total United States army costs were

¹ *Treaties, Conventions, etc.*, . . . United States, III, p. 2601.

² *Reparation*, Part VI, p. 279.

originally determined as \$292,663,435,¹ an amount reduced by 1923 to a net of \$247,865,645. An agreement of 1923 and the operation of that agreement reduced the amount to approximately \$194,000,000 as of September 1, 1929. On that date the total claims awards were on estimate about \$257,000,000. The indicated total due was, therefore, \$451,000,000 in round numbers.

Under the Young Plan the annuity shares assigned to the United States run through the initial period of 37 years and 15 years of the out-payment period, amounting to a total of 3,169,700,000 Reichsmarks. The payments accepted under the schedule "are intended to repay to the United States in full the amount of the awards made by the Mixed Claims Commission, United States and Germany, and to reimburse the United States for the costs of its Army of Occupation."² The President in his annual message to Congress of December 3, 1929, said: "In finding a basis for settlement it was necessary for the Committee of Experts to request all the Governments concerned to make some contribution to the adjustment, and we have felt that we should share a proportion of the concessions made." The reduction on army costs amounts to 10% of the original amount, or \$29,266,000.

The United States did not choose to receive its annuities under the 1929 Committee of Experts' Plan on the same basis as the other creditors of Germany, in part due to the different conditions which maintain respecting this debt. On the other hand, the Washington Government had not yet formally negotiated any agreement with Germany, the fulfilment of which would formally and legally discharge that country from the obligations involved. The United States was not disposed to accomplish the last condition by becoming a contracting party to the decisions of the Hague conference.

The agreement initialed December 28, 1929, fixes the annual German payment on account of mixed claims at

¹ *Report of the Secretary of the Treasury, 1928, p. 95.*

² *Letter of Ogden L. Mills, Undersecretary of the Treasury, September 5, 1929.*

40,800,000 Reichsmarks through the German fiscal year ending March 31, 1981. The annual payments for occupation costs range between 16,400,000 and 35,300,000 Reichsmarks through the fiscal year ending March 31, 1966, an average of 25,300,000 Reichsmarks for 37 years. The payments are to be made semi-annually instead of monthly as under the Young Plan, and in other respects the arrangement conforms to details of the debt-funding agreements of the United States, including payment at the Federal Reserve Bank of New York for the account of the United States Treasury. (The United States undertakes not to capitalize the certificates of indebtedness.) Germany may make prepayments, and possible deferment of payments for $2\frac{1}{2}$ years, instead of two years, is provided for on 90 days' notice.¹

By Par. 4 of the agreement, the United States agrees to accept the full faith and credit of Germany as the only security and guaranty for the fulfilment of Germany's obligations. An accompanying exchange of notes records that this places Germany in the same position in this respect as principal debtors of the United States under the existing debt-funding agreements. At the second session of the Hague conference, the chairman, by request of the German Government and with the knowledge of the American observer, distributed texts of the agreement to his colleagues. This article called forth some debate and became a precedent affecting the arrangements between the other creditors and Germany, respecting the final arrangement on guaranties.²

SOURCE OF THE ANNUITIES

The source of the amounts which Germany is to pay on the recommendations of the Committee of Experts is largely the same as under the Dawes Plan, but fundamental changes in the mechanism of collection justify the asser-

¹ The precedent for this deferment period occurs in the debt-funding agreement between Greece and the United States.

² See p. 44 for the resulting exchange of notes and p. 243 for text of the German agreement with the United States.

tion that the New Plan restores German financial autonomy and leaves to that country "the obligation of facing her engagements on her own untrammelled responsibility." The Dawes Committee of Experts selected portions of the Government's sources of income, created special controls or supervisions over them, and assigned fixed amounts of their product to make up the annuity. That committee adapted this plan as closely as possible at the time to the ordinary machinery of governmental fiscal operations. The net result was not unfamiliar in international finance, amounting to a series of pledged revenues placed under the supervision of commissioners representing the creditors.

The object of the Young Committee of Experts was to remove such supervision and to advance the payment of reparation by Germany to a position where it could be effected solely on the credit of the debtor. The New Plan is less precise than the Dawes Plan in its designation of the source of German revenues for reparation account, as is natural when the governmental credit is substituted for specifically controlled revenues. On the other hand, the New Plan contemplates that the German income will have about the same sources in the future as under the Dawes annuities. These sources are two in number: (1) The budget of the Reich; (2) the German Railway Company.

By the Dawes Plan, the contribution from the budget proper amounted to half the standard annuity, an amount specifically secured by the assignment of the revenues from customs, beer, tobacco, sugar and alcohol to the commissioner of controlled revenues. The system of control consisted of paying the entire revenue from these sources into the account of the commissioner at the Reichsbank. Each month Sir Andrew MacFadyean paid one-twelfth of the annual contribution from the budget into the account of the Agent-General for Reparation Payments at the Reichsbank. After the establishment of a guaranty fund, he remitted the rest to the account of the German Government at the Reichsbank. As those pledged revenues are the logical ones from which to obtain a con-

siderable portion of the budgetary contribution, it is not contemplated by the New Plan that those revenues will cease to furnish substantial reparation amounts. However, since the organizations for reparation payments in Berlin are to be retired (Plan 6 (c)) and the Bank for International Settlements will in large measure succeed the Reichsbank in the handling of accounts, the New Plan does not go into detail as to the future procedure, which "will be worked out in detail by the appropriate organization committee."¹

About 11.6% of the standard Dawes annuity was derived under the Dawes Plan from the transport tax, which was imposed by the German Government and collected by the German Railway Company. Under the Dawes Plan, this specific tax was insisted upon by the creditors. The New Plan does not provide for its maintenance, but gives the German Government the option of including its amount, if necessary, in the direct tax on the German Railway Company.

A third taxation element in the Dawes Plan was placed upon German industries by the industrial charges law and resulted in the system of industrial debentures. The mechanism of industrial debentures, which gives a result very like the normal product of a corporation tax, proved to be very complicated. For the purpose of handling the system, a Bank for Industrial Obligations was created, and the trustee representing the creditors conducted extensive investigations into the conditions of industrial activity.² The total of industrial debentures was fixed by the Dawes Plan at 5,000,000,000 Reichsmarks. By a system of selection—very complicated but generally speaking equitable—this charge was assumed originally by more than 60,000 industrial concerns which were obligated

¹ The committee to adapt the system of controlled revenues under the Dawes Plan consisted of delegates appointed by the Reparation Commission and two by the German Government. The commissioner under the Dawes Plan was a creditor delegate.

For a final summary of the tax receipts and other details see the commissioner's report of November 20, 1929 (Reparation Commission, *Official Documents*, XXIIA, p. 183).

² His periodical reports embody valuable and unique information respecting national industrial changes.

by the German law to accept the charge. Some 600,000,000 Reichsmarks were transformed at an early stage from industrial bonds into individual negotiable debentures as a convenience to a group of the concerns affected. The rest remained, as it were, a joint and several blanket charge on the other industries. By the terms of the Dawes Plan, the industrial debentures yielded a standard annuity payment of 300,000,000 gold marks representing 5% interest and 1% amortization. Two amortizing periods had elapsed by September 1, 1929, on which date about 4,897,500,000 Reichsmarks net of the obligation were outstanding.

The complications of managing the debentures proved to be excessive. For instance, in the year ending September 1, 1928, the revision of the number of concerns liable to issue non-negotiable individual debentures was reduced from 58,555 to 40,160.¹ In the same period, 319 cases of bankruptcy involved readjustments, while accounts had to be handled with 602 concerns undergoing voluntary liquidation. In the same year, a second distribution of the entire charge among German industries was made, the first not having proved entirely satisfactory and not having fully met expectations.

The Committee of Experts, 1929, states that "this particular charge in no way differs from ordinary taxation save in the complications it involves in legislation and the machinery of collection. We recommend that it be discontinued, and that its disappearance be taken into account in distributing the relief from taxation which this plan will enable the German Government to bring into effect."

With this accomplished, a minor international financial question has been resolved. In the case of German industrial concerns seeking foreign loans, the question as to what extent the industrial debentures charge represented a preferred claim has been extensively discussed.²

¹ Reparation Commission, *Official Documents*, XIXa, p. 232. The number on June 15, 1929, was 39,949 (*ibid.*, XX1a, p. 214).

² See for instance, Roland W. Boyden, "The Priority Question," *Foreign Affairs*, VI, p. 368.

The Young Committee of Experts propose that these three specific taxation obligations shall be divested of their present character and assimilated to the budgetary system of the Reich. As a consequence, they recommend "that the creditor Governments should take steps to release all controls, special securities, pledges or charges which may remain in their hands other than those specifically referred to . . . and should recognize that their acceptance of the solemn undertaking of the German Government replaces any securities, pledges, charges or controls as may now exist."

The passage preceding that just quoted provides for maintenance of the pledges securing the service of the German external (Dawes) loan of 1924 and also mentions "that one source of payment utilized by the Dawes Plan, viz., the railway company, should be maintained," not from the sole point of view of security, "but also as a suitable method of raising the necessary revenue." The change contemplated in the control of the German Railway Company is, nevertheless, important. In the condition of German public finance in 1924, the Dawes committee found that the railroads owned by the Government were a valuable, and almost the only clear, asset of the Government. At that time, there was a definite conception of mobilizing the reparation payments so as to give the creditors capital amounts by placing German bonds in the hands of the investing public. With a view to realizing this plan, which had been provided for in the treaty of Versailles, the Dawes committee stipulated that the German railway asset should be transferred to a company having a capital value of 26,000,000,000 gold marks and that the company be subjected to a mortgage for 11,000,000,000 gold marks in favor of a trustee representing the creditors. The bond for that amount bears interest at 5% per annum, and the cumulative sinking fund of 1% became operative on September 1, 1927. On September 1, 1929, amortization of 225,500,000 Reichsmarks had been effected.¹ The yield from these charges

¹ See table in Reparation Commission, *Official Documents*, XIXA, p. 300, and supplementary table at p. 302.

was 660,000,000 Reichsmarks per annum and constituted substantially a quarter of the Dawes annuities. As a part of the security under the Dawes Plan, the managing board of the company was made up both of members appointed by the Government of the Reich and by the trustee for the railway bonds, who was Léon Delacroix (Belgian). The railway company itself was subjected to the supervision of Gaston Lerverve (French), commissioner for the German railways, who had extensive powers of supervision and, in case of necessity, of control. It is proposed by the Young Committee of Experts to abolish "the railway bonds, together with the attendant circumstances of foreign participation in the management of the railway."

Inasmuch as the railway bonds have already existed and create a basis of credit for mobilization, the exact proposal substituted merits careful explanation. By it, the German Railway Company continues its autonomous existence under legislation of the Reich, but its former obligation in connection with reparation ceases and is replaced by a tax. German legislation now imposes a direct tax upon the railway company for 37 years amounting to 660,000,000 Reichsmarks per year.¹ The identity of the sum with the yield of the bonds under the Dawes Plan has in some instances created an erroneous impression that the bonds themselves are to be retained. The German Government by the New Plan guarantees the creditors' receipt of this direct tax, and the railway company itself deposits with the Bank for International Settlements "a certificate acknowledging its liability in respect of this obligation." The direct tax is to come from the gross revenues of the company, ranking after expenditure on personnel and on the same footing as expenditures on material and consumable stores, with priority over any other tax or any other fiscal charge. The railway company is, however, to pay the tax directly to the account

¹ The committee to adapt the German railway law of August 31, 1924, to the new conditions was made up of two delegates appointed by the Reparation Commission, including the commissioner Gaston Lerverve, and two by the German Government.

of the Bank for International Settlements at the Reichsbank in Berlin, rather than to the account of the Minister of Finance of the Reich.

Thus, with a single exception, the German Railway Company becomes an independent corporation, in financial parlance, a wholly owned subsidiary of the German Government. The exception is that the organization committee to put the New Plan into operation is to "make suitable provision whereby the private and independent character of the German Railway Company, including its autonomous administration in economic, financial and personnel matters, shall continue for the period of the plan without interference from the German Government."¹

The effect of these arrangements is to draw the annuities from the German budget as such, and from what may be regarded as a special budget made up of the German Railway Company tax.

In the second year, allowing 88,500,000 Reichsmarks for loan service, the total payments will amount to 1,796,400,000 Reichsmarks, of which 1,136,400,000 will come from the budget proper and 660,000,000 from the railway company tax. The budget contribution will rise to 1,768,800,000 Reichsmarks in the 37th year, the average increase in the first 20 years — representing the life of the external loan — will be only 24,000,000 Reichsmarks per year or less than one-fourth of 1% of the total budget.

THE NONPOSTPONABLE PORTION

One reason for the guaranty of the contribution from the railroad tax of 660,000,000 Reichsmarks was to insure a certainty of uninterrupted payment of that amount. One of the reasons which influenced the creditors to agree to reduce the Dawes annuities was the arranging for a non-postponable portion of each annual payment, which might constitute the basis for an issue of bonds which could be sold to the public at an early date, thus providing cash for

¹ Report, Par. 108.

distribution to the creditors. It was recognized that situations might arise under which the most carefully worked out scheme of future payments would be subject to modification by reason of conditions in Germany. The Committee of Experts was unwilling to fix a total sum too low. On the other hand, they recognized that Germany's estimated maximum capacity to pay and to transfer these payments into foreign currencies was not a safe basis for the annuities. They attempted to determine Germany's normal capacity and thus to propose "a series of total annuities which should be paid with the regularity of the coupons of ordinary marketable bonds."¹

The leeway which was agreed upon took the form of dividing the annuities into a postponable and a nonpostponable part. The division was both delicate and difficult since "the point at which difficulties might begin to arise in making transfers into foreign currencies is not exactly definable in advance." In order to be on the safe side, the nonpostponable part of the annuity was fixed at 660,000,000 Reichsmarks. The committee regarded this figure as a deliberate underestimate, but were satisfied that it was not wise to propose a figure which would not command "instant acceptance by well-informed public opinion."

The nonpostponable portion of the annuity is given a further guaranty, in addition to the special one of the German Government and the direct form of the collection of the tax which provides it. France has been very anxious to mobilize a portion of its reparation credit by the issuance of bonds. In order to enable this to be done, the experts of the principal creditor countries agreed that France should be assigned 500,000,000 Reichsmarks out of the unconditional portion of the annuity. As the service of the Dawes loan (averaging 61,800,000 Reichsmarks) comes out of that nonpostponable portion, France itself was slated to receive more than 83% of the total available for commercialization and mobilization.²

¹ Report, Par. 75.

² See the Report of the French Delegates, *European Economic and Political Survey*, IV, at p. 588.

As a result of this proportion being finally assigned to one creditor, France agrees to deposit a special guaranty fund with the Bank for International Settlements in order to equalize the short payments to other creditors which would arise from a temporary diminution of the postponable portion of the annuity (Annex VIII). This guaranty fund is to amount to 500,000,000 Reichsmarks and will constitute a trust fund to insure to each of the other creditors the regular receipt of foreign exchange equivalent to what would be due them if no postponement had taken place. On the full resumption of payment, Germany would replenish the trust fund.

The Committee of Experts fixed the nonpostponable annuity at 660,000,000 Reichsmarks, inclusive of the charges for the Dawes loan. This left 598,200,000 Reichsmarks for allocation. The committee¹ recommended that 500,000,000 of this sum should be allocated to France and 42,000,000 should be apportioned to Italy, which was to have no further claim upon it until the remaining 56,200,000 Reichsmarks was allotted by "an equitable apportionment" among the creditors entitled to share in the annuities "by agreement of all the Governments." To secure a definite allocation of part of that sum to the British Empire was one of the reasons for the policy it adopted at The Hague. By the protocol of August 31, 1929, a change in total and the completion of distribution were made. Annex I to the protocol of August 31, which accepted the Experts' Plan in principle, provides that "the amount of the unconditional annuity shall be fixed at 612,000,000 Reichsmarks a year (excluding whatever sums are required for the service of the German external loan of 1924)." The creditors and Germany, therefore, agreed to the nonpostponable annuity being raised to 673,800,000 Reichsmarks instead of 660,000,000. This slight addition to which Germany agreed left the conference with 70,000,000 Reichsmarks for unconditional distribution. The total by this final arrangement is allocated as follows:

¹ Annex VII, par. 189.

	Reichsmarks
German external loan (average)	61,800,000 ¹
France	500,000,000
Italy	42,000,000
British Empire	55,000,000
Japan	6,600,000
Yugoslavia	6,000,000
Portugal	2,400,000
	673,800,000

The significance of the nonpostponable part of the annuity merits a word. Created for the purpose of affording a sound basis for the issuance of bonds to the public, the certainty of its continuous payment is its essential characteristic. However, in normal conditions its position will not be particularly special, being evidenced by book-keeping and coupon priority. So long as the total annuity is paid, only technical distinctions of handling will identify that portion. Not until German capacity to collect foreign currencies in a given year should fall below the full amount would the special provisions securing the nonpostponable part of an annuity come into definite operation.

The detailed working of the system is: The certificate of indebtedness, deposited in trust with the bank, bears a coupon for each annuity divided into two parts representing the nonpostponable and postponable parts respectively. A certified schedule (Exhibit C) of the Trust Agreement directs the bank exactly how much money to transmit to each creditor under both heads: First, the Dawes loan service, second, the remainder of the nonpostponable portion, third, commitments on account of deliveries in kind, fourth, payment on the postponable coupon account.² If a difficulty of transfer should develop, the same order of distributing available currencies is fol-

¹ The actual cost of loan service in 1929-30 will be approximately 88,500,000 Reichsmarks, with an annual decrease of interest from amortization repayments until its extinction in 1949.

² Trust Agreement, Art. IV (e-e); the details are in the certificate of indebtedness, III, IV, *supra*, p. 234.

lowed, the guaranty fund of 500,000,000 Reichsmarks in foreign currencies being resorted to.¹ The whole Plan expresses the conviction that Germany could not conceivably fail to raise the amount of the nonpostponable part in Reichsmarks. If world conditions were such that it had difficulty in securing foreign currencies, the bank's facilities for acquiring exchange might be utilized.²

THE POSTPONABLE PORTION

The postponable part varies between 61% and 73% of each annuity. The committee states that the proportion "is not to be taken as evidence of doubt as to Germany's capacity of transfer (or of payment); it represents rather the concession that has been made to the honorable determination of the German experts not to make themselves unconditionally responsible for any obligation which they are not certain is within their power of performance in all circumstances." It further represents a change of policy as compared with the Dawes Plan. In this, the responsibility for transfer was entirely borne by the creditors and managed through the Transfer Committee. Under the New Plan, Germany accepts the obligation of getting payments across the exchanges, and the establishment of a postponable part of the annuity gives a certain elasticity to the solution of the problem. The Bank for International Settlements will undoubtedly facilitate the process.

Postponement is not contemplated by the Committee of Experts as a normal procedure to be followed.³ The committee emphasizes that the total annuity "is one which they have every reason to believe can in fact be both paid and transferred by Germany." The provision for postponement, by affording an opportunity to get over a period of temporary difficulty, makes possible the functioning of the New Plan under unforeseen conditions.

¹ Trust Agreement, Arts. XI, XIII.

² *Ibid.*, Art. III.

³ For the German undertaking see Art. VIII of the agreement, *infra*, p. 196.

It is the debtor that must raise the question of postponement. If the question should be raised, machinery for its examination and for providing a transitional system is indicated in detail. The Committee of Experts points out that this supplies an additional margin of safety.

By the system indicated, Germany has the right (Part 8 (e)), "on giving 90 days' notice, to postpone transfers for a period not exceeding two years," under detailed conditions (Annex IV). All amounts postponed are eventually to be paid by Germany, so that the system gives the Reich no advantage and consequently would not be misused. The primary system does not contemplate the cessation of German payments, but only postponement of transfer from the account of the Bank for International Settlements at the Reichsbank across the exchanges.

In case of postponement of transfer, the creditors may utilize their quotas by absorbing them through deliveries in kind. In the first 10 years, the current program of such deliveries would be modified; subsequently a special program would have to be arranged. By this provision, the experts show an appreciation of the fact that the normal payments under the plan do not represent an obvious exchange of goods and seek to facilitate a solution of the temporary problem through resort to a form of such exchange.

The declaration by Germany upon its own initiative of a postponement would start a delicately adjusted inquiry. In such a case, the Bank for International Settlements is to convene a Special Advisory Committee, at Germany's expense, consisting of seven ordinary members nominated by the governors of the banks of issue of Germany, France, Great Britain, Belgium, Italy, Japan and the United States ("or some other agreed American financial institution"), and in addition four coopted members who are to be experts respecting aspects of the particular situation in question. This committee is to consider the circumstances and conditions existing at the time, make necessary investigations, and render a report to the Governments and to the bank.

If the committee has satisfied itself that Germany has used every effort to fulfill its obligations, the committee will suggest measures appropriate to applying the Plan under the existing situation. The committee acts in a purely consultative capacity, and its findings "have no effective force unless confirmed and accepted by the bank as trustee of the creditors, and if necessary by the Governments concerned." Any connection of the committee with the non-postponable part of the annuity is specifically excluded.

It will be noted that this system places the whole responsibility of any postponement directly upon Germany. It is possible that the procedure indicated would not be followed in the order provided for by the Plan. Germany would doubtless seek to consult the bank, and the creditors before declaring a postponement. In case the declaration were solely upon German initiative or in case Germany requested a prior convening of the Special Advisory Committee, this committee is constructed to insure an objective and practical view of the facts involved. The committee's report is calculated to inform the Governments concerned. If the postponement of transfer were fully justified and if the continued application of the Plan involved no essential alteration of it, it is conceivable that the bank might be left to decide on the immediate procedure. As, however, a postponement has the effect of shifting responsibility for transfer of funds temporarily from the debtor to the creditors, the Governments concerned would almost certainly have to take the final decision.

It is not, however, to be expected that this machinery, which leaves it to Germany to question its own credit, would be invoked for slight cause. The occasion for calling the Special Advisory Committee into action would undoubtedly be a most serious one, beyond the ability of the Bank for International Settlements, the German and creditor Governments to overcome through ordinary procedure. Its convocation, consequently, would point to an investigation of a nature to bring out recommendations for revision of the system. If, as a practical matter, such a

committee, after full examination, should report that the payments provided in the Plan were too heavy and ought to be permanently reduced, it would be very difficult for the Governments concerned which are represented on the committee to reject the findings, and if they accepted them this would amount to a permanent revision of the Plan somewhat similar to the revision of the Dawes Plan by the Young Committee.

Postponement of transfer may be made for a maximum period of two years. After it has been in effect for one year, the German Government has the right to postpone the payment of one half of any sum the transfer of which is then susceptible to postponement. The Special Advisory Committee may recommend the increase of this percentage.¹

DELIVERIES IN KIND

The system of deliveries in kind is to be continued on a diminishing scale for a period of 10 years. Provision for later reverting to the system to aid the transfer of funds in case of a temporary postponement is provided for but, with that possible exception, the very complicated mechanism of paying reparation by delivery of commodities will cease on August 31, 1939.

Deliveries in kind were provided for in the treaty of Versailles. By Annex IV to Part VIII of that treaty, Germany was to "devote her economic resources directly to the physical restoration of the invaded areas" to the extent that the injured might determine. By Annexes V and VI, Germany was to deliver coal and coal derivatives, dyestuffs and chemicals as a part of reparation for specified periods with a view to filling commodity vacuums in the victor countries. The general system of deliveries in kind, however, was in 1919 regarded as a means of securing larger payments from Germany than could be made in the form of cash only.

¹ Plan, Annex IV, 3.

The creditor Governments were never of one mind respecting deliveries in kind. All of them were willing to receive noncompetitive goods to the extent that the trade did not unduly strengthen the German industrial and commercial position. All of them considered carefully whether extensive deliveries in kind would not constitute a form of "dumping" of German exports abroad. Germany was unwilling to see deliveries in kind resold out of the boundaries of the recipient state. Victorious nations did not desire to see German industries positively developed as a result of business done for the account of deliveries in kind. Germany was unwilling to subordinate its commercial and industrial structure and activities to the demands of reparation. For several years there was a general refusal by creditors to permit German contractors to erect extensive public works on account of deliveries in kind, notwithstanding that they would be real capital additions to the benefited nation.

Gradually from 1921 to 1925, a series of complicated regulations was developed, and under the Dawes Plan régime substantial deliveries in kind were made under conditions closely approximating commercial transactions. The regulations set forth in detail commodities that could be ordered without restriction, those which could be had under various restrictions, those that could be had by mutual agreement, and those that were not subject to delivery at all.¹ The program of orders was examined and approved both by national authorities and the Reparation Commission, and increasingly took on normal commercial aspects. The following table shows the development of deliveries in kind as to number of contracts and value:

¹ *Regulations for Deliveries in Kind* (Reparation Commission, *Official Documents IX*).

	Contracts	Value ¹ (Reichsmarks)
1st year	—	454,000,000
2d year	3,706	667,000,000
3d year	4,666	795,000,000
4th year	5,421	968,000,000
5th year	5,160 ²	985,000,000 ³

It can be seen from this brief review that the system of deliveries in kind operated in a very cumbersome manner, even though it had latterly run with reasonable smoothness. It had come to be regarded as an abnormal form of commercial transaction of decreasing value to the creditors as their industrial production recovered, and as a system hampering the normal development of German industry and commerce.

The close assimilation of deliveries in kind to the normal forms of trade under the Dawes Plan régime had nevertheless caused it to play an important rôle in the economic life of Germany. Moreover, such an artificial system of trade was felt by the Committee of Experts to be somewhat inconsistent with their fundamental purpose of transforming the payment of reparation from a semi-political to a completely economic basis. The Committee of Experts, therefore, recommended that the creditor nations should agree to absorb over a period of 10 years a limited and decreasing amount of the postponable portion of the annuity in the form of deliveries in kind. The schedule provided for 750,000,000 Reichsmarks of deliveries in the first year and 300,000,000 in the 10th and last year; the total to be absorbed in 10 years is 5,250,000,000 Reichsmarks. The Bank for International Settlements will succeed the Reparation Commission in managing the disbursements on the account, and the committee recommends

¹ Includes value of deliveries covered by special agreements as well as those by ordinary commodity contracts.

² Nine months only.

³ Twelve months.

that the regulations in force shall be simplified and liberalized.

Deliveries under the reparation recovery acts may be regarded as deliveries in kind up to 23.05% for Great Britain (the whole percentage) and up to 4.95% for France.

In view of the limits which they have placed upon deliveries in kind as respects both annual amounts and the annuity periods over which they are to continue, the Committee of Experts felt free to recommend that the new regulations should permit "the several powers to dispose of some part of their respective quotas of deliveries outside of their own territories under suitable restrictions." The possibility of the resale of German commodities delivered on reparation account was viewed by the Grand Council of the Federation of British Industries "with considerable apprehension" in a unanimous resolution passed July 15. The Federation urged that the new regulations should include "the most stringent safeguards in regard to territorial extension and the strictest possible limitation of the classes of goods to which it shall apply."

The schedule of quotas of delivery in kind to the various countries given by the Committee of Experts (Annex VII) was based upon the Spa percentages. It reduced the amount of deliveries in the first year under the Young Plan to about 75% of those made in the fifth year of the Dawes Plan.

At the August session of the Hague conference, the Young Plan arrangement was altered in some respects. Provision was made for the committee² contemplated to draw up new regulations for deliveries in kind and to effect the transition from the old to the new system. The conference provided that the new regulations should be binding on the Bank for International Settlements. In accord

¹ *London Times*, July 16, 1929, p. 13.

² The Technical Committee on Deliveries in Kind met at Paris, September 1 to November 30, 1929, at the French service, rue Montalembert. The committee consisted of the following delegates: France: M. de Peyster, chief of service of deliveries in kind; Belgium: M. Perier; Italy: Signor Mosca; Great Britain: Fayer; Germany: Herr Lätzer; Yugoslavia: Danit; Japan: Kuichi.

ance with the wish of the British Empire, the conference canceled the suggestion of the Committee of Experts that the recipients of deliveries in kind should be permitted to dispose of part of their shares outside of their own territories and the general principle of prohibition of re-export of such goods was reiterated. Following the Young Plan, the reparation recovery act levies were declared to be *pari passu* with any deliveries in kind, and the British quota of such deliveries may be wholly taken in that form.

The conference provided for a committee, to be convened by the Bank for International Settlements and consisting of representatives of each signatory Government, to apply any special program involving an extension of deliveries in kind during the first 10 years or any program after the first 10 years. This committee may decide by a majority vote. If the interests of any government are prejudiced by the decision of the committee, its member may suspend the execution of the decision with relation to that government and call upon an arbitrator of high commercial and financial standing to render a decision within 14 days concerning the approval or rejection of the program or a part of it.

The British objection to the effect of deliveries in kind upon the status of its foreign trade resulted in a special arrangement with Italy, which also affected France. The schedule of deliveries in kind for the first 10 years gives Italy amounts ranging from 75,000,000 Reichsmarks down to 30,000,000, a total of 525,000,000 Reichsmarks in the 10 years. Italian receipts in kind have been almost exclusively coal for the railroads, and in the earlier years under the original Young Plan schedule, it gets substantially its requirements. The Italians agreed to take the average of 52,500,000 Reichsmarks for each of the 10 years in order to accommodate the British. In view of this adjustment, the Italian Government undertook on behalf of the Italian state railways to purchase 1,000,000 tons of British coal yearly for the three years November 15, 1929, to November 14, 1932, and further to abstain from importing more than

1,500,000 tons of reparation coal per annum during the 10-year period. In order to conform to the schedule of total deliveries in kind in the 10-year period, France agreed to a readjustment with Italy, taking the surplus above Italy's average of 52,500,000 in the earlier years and yielding amounts to provide the Italian average in the later years. As a consequence, French deliveries in kind were determined to range from 430,900,000 Reichsmarks in the first year to 140,800,000 in the 10th year, as compared with the original assignment of 408,400,000 down to 163,300,000.

At The Hague in January the 10-year schedule was revised to conform with the fiscal year of the New Plan and to specify the reparation recovery act receipts included in each year, which amount to 28% of the 10-year total. The revised table,¹ attached to the new regulations,² assigns payments to the transition period, September 1, 1929-March 31, 1930. Nine full years follow and deliveries end in the overhang period, April 1-August 31, 1939.

¹ See *infra*, p. 184.

² Text in *Agreements*, p. 80.

DAWES ANNUITY DISTRIBUTION

BY COUNTRIES

(In Reichsmarks, 000 omitted)

(National totals include receipts for army of occupation costs, Belgian war debt and restitution.)

	1st Annuity ¹ Final	2d Annuity ² Final	3d Annuity ³ Revised	4th Annuity ⁴ Revised	5th Annuity ⁵ Approximate
1. France	454,512	584,614	747,775	887,855	1,290,203
2. British Empire	191,047	240,673	309,923	369,650	541,823
3. Italy	66,814	86,063	97,756	118,719	185,064
4. Belgium	115,947 ⁴	105,350 ⁴	76,114 ⁴	86,824 ⁴	128,829 ⁴
5. Yugoslavia	33,435	43,068	48,920	59,399	90,115
6. United States	15,359	19,784	79,969	85,318	100,000
7. Rumania	7,534	9,704	12,296	14,930	23,005
8. Japan	5,005	6,447	8,299	10,076	15,214
9. Portugal	5,005	6,447	8,250	10,017	15,139
10. Greece	2,669	3,438	4,344	5,274	7,989
11. Poland	129	166	210	255	655
	897,456 ⁵	1,105,754 ⁵	1,393,856 ⁵	1,648,317 ⁵	2,398,036 ⁵
Service 1924 loan	76,979	92,234	91,328	90,573	89,412
Interallied commissions	25,820	17,759	10,618	9,114	11,518
Discount in railway interest	-	7,410	6,481	7,093	8,091
Total	1,000,255	1,223,157	1,502,283	1,755,097	2,508,057

[1926]

WORLD LEGAL FOUNDATION

BY CLASSES

Army costs:					
Arrears	11,250	18,646	73,750	85,000	85,000
Current	160,000	151,676	139,525	129,854	126,597
Belgian war debt	36,310	46,772	59,029	71,673	109,322
Restitution	7,262	9,354	11,806	14,335	36,847
American mixed claims	15,539	19,734	24,969	30,318	45,000
Reparation	667,275	859,522	1,084,777	1,317,137	1,995,270
Loan service	76,979	92,234	91,328	90,573	89,412
Interallied commissions	25,820	17,759	10,618	9,114	11,518
Discount in railway interest	-	7,410	6,481	7,093	8,091
Total	1,000,255	1,223,157	1,502,283	1,755,097	2,508,057
Transfer percentages:					
Foreign currencies	30.37	35.35	49.45	54.23	57.83
Reichsmarks	69.63	64.65	50.55	45.77	42.17

[887]

ESTABLISHMENT OF ANNUITIES

¹ Report of the Agent-General, November 30, 1926.

² *Ibid.*, December 22, 1928, p. 170-173.

³ *Ibid.*, July 1, 1929, p. 151-153.

⁴ Includes receipts on account of the Belgian war debt payable to the United States, the receipts in annuity years being: 1st, 5,338,000 Rm.; 2d, 6,877,000 Rm.; 3d, 8,678,000 Rm.; 4th, 10,537,000 Rm.; 5th, 16,072,000 Rm.

IV. THE BANK FOR INTERNATIONAL SETTLEMENTS

I. Abolition of Semi-Political Organizations

While the Committee of Experts in other respects built the recommendations of their report upon the facts of reparation, they produced in the Bank for International Settlements a wholly new financial system for the management of the payments. Their inquiries into the problem, they say in their report, "were found to be converging upon one central point, viz., the nature of the authority which should act as the chief medium for discharging the various functions under a new plan." In their exploration of the problem "of substituting authority of an external, financial and nonpolitical character for the present machinery and controls of the Dawes Plan . . . , they immediately met with the necessity for a trustee to whom the payments in foreign currencies and Reichsmarks should be made by Germany and by whom the distribution to the appropriate recipients should be managed.

"In the second place the problems of mobilization and commercialization demanded a common center of action and authority for the purpose of coordinating and controlling the arrangements, and there were obvious advantages in such an authority being of a continuous or permanent character." ¹ In meeting such conditions, they found that the requirements were a permanent central authority capable of acting with expertness upon such subjects as the management of accounts, questions of transfer, and the effects of international payments upon immediate export trade. This analysis of requirements caused the committee to envisage the possibility of a financial institution and to elaborate a plan for a Bank for International Settlements "which should, in its various functions, meet all these points."

¹ Report, Par. 39.

"It will be seen that the essential reparation functions of the bank were such as to form a solid reason for its existence; but the committee were led inevitably to add to those reasons the auxiliary, but none the less material, advantages that it might have in the general position of present international finance." The bank, therefore, has two categories of functions: The first as to reparation being primary, and the second as an international financial institution, secondary, permissive and undeveloped in detail by the Committee of Experts, who believed that, if it should eventually furnish "to the world of international commerce and finance important facilities hitherto lacking," the development should be a matter of normal evolution.

THE SYSTEM SUPPLANTED

The system for the management of reparation which had grown up and for which the bank is substituted should be clearly in mind. The negotiators of the treaty of Versailles provided for a Reparation Commission to be made up of delegates of the United States, Great Britain, France, Italy, Japan, Belgium; and Czechoslovakia, Poland, Rumania and Yugoslavia for questions relating to Austria, Hungary or Bulgaria under their treaties of peace. This commission was empowered to determine the claims of the creditors; to fix the obligations of the debtors; to receive, sell, hold and distribute reparation payments in cash or kind; periodically to estimate the debtors' capacity to pay by examination of their fiscal and taxation systems; to receive, hold and manage the service of bonds representing the indebtedness; to interpret the treaties; and, in case of need, to declare defaults.

It will be noticed that this commission did not include any delegates from the debtors, and was, therefore, a unilateral organization. When Germany received the conditions of peace elaborated by the victors, its delegation prepared detailed comments upon them. Germany recognized, "on principle, its liability for compensation" as to

most of the categories of damages outlined in the draft treaty. It proposed "that a German commission be allowed to cooperate" with the Reparation Commission in fixing the amount of the damage and stated that it could not submit to the annuity "being fixed in a one-sided manner by the representatives of the creditors, the Reparation Commission."¹ These arguments were overruled by the victors, who finally handed Germany an ultimatum as to signing the treaty. The German Government was deeply impressed with the declaration of the United States that it would not claim anything on reparation account. It expected that the presence of an American member on the Reparation Commission would add a disinterested element to its deliberations, which would make the commission's decisions more reasonable than would otherwise be the case. The United States, except at the very outset, never appointed an official member of the commission. It was represented by an "unofficial observer," who cast no vote. As a consequence, the balance of judgment originally contemplated to exist in the commission was never realized. The delegates of Belgium and Japan voted only on specific occasions. In the case of German reparation, therefore, the commission was made up only of the delegates of France, Great Britain, Italy and, usually, Belgium.

The French delegate, representing what may be called the majority interest² in reparation, was elected chairman and continued in that capacity. The voting arrangements were significant. Questions "involving the sovereignty" of any of the victors, cancellation or postponement of debt, or interpretation required unanimity. Other questions were decided by a majority vote, and in case of a tie, the chairman (French) had a casting vote. Abstention was a vote against a proposal. It thus came about that in the crucial period of the commission's action, by the absence of an American delegate and the presence of a Belgian one,

¹ *Comments by the German delegation on the Conditions of Peace, International Conciliation*, No. 143, p. 63-68 *passim*.

² The French share under the Spa percentages was then 52%.

the commission consisted of four delegates, and the French representative had a casting vote.

The delegates on the commission were subject to control by their national Governments. It was the attempt of those Governments to realize their desires through the commission and the inherent complications and difficulties of the reparation problem which in large measure contributed to the *impasse* of 1923 and 1924. The Dawes committee in 1924 did not make any recommendations respecting the commission, whose functions were not within its mandate. However, the adoption of the Dawes Plan and the establishment of the officials it required led the Governments at the London conference in July-August, 1924, to provide so fully for the operation of reparation by organizations outside the Reparation Commission that the latter ceased to occupy a central position.

The Dawes Plan created the office of Agent-General of Réparation Payments, the incumbent of which was appointed by the Reparation Commission. Functions of the office were in large measure laid down in the plan itself so that S. Parker Gilbert, the permanent appointee, was in effect the active and responsible official from 1924 onward. The Agent-General's principal duty in Germany was to receive payments of all kinds toward the annuity, the funds of which were placed to his credit in the Reichsbank. His principal duty toward the creditors was to transfer the funds to their accounts in collaboration with the Transfer Committee, of which he was the chairman. He was furthermore the coordinating agency between the Reparation Commission and the German Government. In this capacity, under normal conditions, he had a certain amount of supervision over the commissioners of the Reichsbank, of the German Railway Company, industrial debentures and controlled revenues and would have borne a similar relation to the Prosperity Index Committee when it came into operation. By virtue of his position, he was chairman of the Transfer Committee, and maintained relations with the mixed general board of the Reichsbank, the trustees

of the German external loan of 1924, the trustee of the German railroad bonds, who appointed nine of the road's board of directors, the trustee of the industrial debentures and the management of the Bank for German Industrial Obligations.

The listing of this structure gives a sufficient picture for the present purpose of the extent to which payment of reparation under the Dawes Plan was dependent upon foreign supervision and administration.

2. The Structure and Functions of the Bank¹

Early in the proceedings of the experts they determined that any plan providing a complete and final settlement of the reparation problem ought to place upon Germany the complete responsibility for reparation payments without wartime sanctions and controls or without supervision or administration of the transfer of funds. To this end they decided upon the abolition of the Reparation Commission and all its agencies, including the Agent-General for Reparation Payments and the commissioners, so that no body or individual representing the creditor states should be standing over Germany to determine the amount or time of reparation payments or whether transfers could or could not be made at any given date. Upon reflection, it became obvious that, with the abolition of the organs of control, it would still be necessary to have some organization, non-political in character, to receive (but without authority to collect through sanctions from Germany) the annuities which Germany would agree to pay and to distribute these annuities to the creditors entitled to receive them, as well as to assist in deliveries in kind during the 10 years of their continuance. To provide for the receipt and distribution of the annuities which Germany is to pay on its own responsibility in foreign currency was thus the primary object

¹ Extensive use has been made in this section of the method of treatment and the language of a paper by Jeremiah Smith, Jr., "The Bank for International Settlements," *Quarterly Journal of Economics*, XLIII, p. 713.

in the creation of the new Bank for International Settlements.

The idea of an international bank developed gradually and, so to speak, inevitably. The first conception was simply that of a trustee for the administration of the mechanics of reparation payments. But it became increasingly clear that such an organization would require for its successful functioning a directorate and management of high caliber. Such a directorate might, as a nonpolitical body, be intrusted with such a function as supervising and assisting in the commercialization and mobilization of certain portions of the annuities, a function that had always been contemplated. Such functions were fundamentally those of a financial institution. The very complications of the distribution to be effected pointed to the necessity of providing for still other typically financial functions, such as exchange operations. It was also clear to the experts that a bank performing these necessary functions might offer an opportunity to bring to realization certain conceptions of international financial cooperation which had long been discussed and long desired. As a result of these considerations, the Committee of Experts laid down the structure of the bank, leaving to a committee to be appointed the task of determining the text of the formal constituent documents.

The Organization Committee of the Bank for International Settlements met at the Hotel Stephanie, Baden-Baden, October 3–November 13, 1929. In accordance with Annex I, Part III, of the Plan, it consisted of two members appointed by the governors of each of the central banks of Belgium, France, Germany, Great Britain,¹ Italy and Japan, and two American delegates appointed by the six

¹ Philip Snowden, the Chancellor of the Exchequer, said in the House of Commons on November 5: "No instructions have been given to them by His Majesty's Government in regard to the purely banking aspects of their tasks, but I am keeping in touch with them on the definition of the bank's functions in regard to reparation." (*London Times*, November 6, 1929, p. 7.)

governors of the central banks.¹ This Organization Committee produced the text of the charter of the bank, to be enacted as law by the country in which it is situated, the statute of the bank, and the trust agreement. The committee was called into being by the president of the Hague Conference acting under the Hague protocol of August 31, and its duty was to put into formal shape the indications for the structure of the bank given in Part 6 and Annex I of the Report of the Committee of Experts. The committee had power to modify those provisions, but made few changes in them. The committee took decisions by a three-quarters vote, and the documents produced were signed by all delegates² to be submitted for final acceptance by the second session of the Hague conference.

OBJECTS AND CAPITAL DISTRIBUTION

The Bank for International Settlements is a limited share company with its registered office at Basel, Switzerland, established by the central banks of Belgium, France, Germany, Great Britain, Italy and Japan and a financial institution of the United States, incorporated by and receiving its charter under the laws of Switzerland. The bank is generally immune from Swiss taxation, its statutes are sanctioned by Swiss law and may not be amended except in accordance with their own terms, irrespective of consistency with present or future Swiss laws relating to

¹ The delegates were: Belgium: Louis Franck, Governor of the Banque Nationale, Léon Delacroix, Belgium representative on the Reparation Commission (died October 15), M. Paul van Zeeland, director of the Banque Nationale; France: Messrs. Moret and Pierre Quesnay; Germany: Hjalmar Schacht, president of the Reichsbank, and Herr Volcke; Great Britain: Sir Charles S. Addis, K. C. M. G., William T. Layton, C. H., C. B. E., editor of the *Economist*; Italy: Giuseppe Beneduce and Signor Azzolini, director general of the Banca d'Italia; Japan: Messrs. Tanaka, superintendent of the London agency of the Bank of Japan, and Saburo Sonoda, president of the Yokohama Bank, New York. The American delegates, appointed by the six governors of the central banks, were: Jackson E. Reynolds, president of the First National Bank of New York, and Melvin A. Traylor, president of the First National Bank of Chicago. (*London Times*, October 1, p. 16.)

² The Belgian delegates signed the report on November 16 at Brussels, noting that in their judgment the selection of Basel as the seat of the bank was due to political considerations. The delegates had withdrawn from Baden-Baden on November 8, prior to the vote on the seat of the bank.

corporations. The bank is not subject to Swiss restrictive legislation. Disputes between the Government of Switzerland and the bank as to the interpretation or application of the charter are subject to arbitration.

The objects of the bank are:

To promote the cooperation of central banks and to provide additional facilities for international financial operations;

To act as trustee or agent in regard to international financial settlements intrusted to it under agreements with the parties concerned.

So long as the Young Plan is in force, the bank must carry out the functions assigned to it in the Plan, facilitate execution of the Plan in the manner of conducting bank affairs, and observe the provisions of the Plan within the powers of the bank as defined in the statutes. Specifically its reparation duties are: As trustee or agent for the Governments to receive, administer and distribute the annuities paid by Germany, supervise and assist in the commercialization and mobilization of certain portions of those annuities and perform such services in connection with payment of German reparation and international settlements "connected therewith" as the bank and interested Governments may agree upon.

The authorized capital of the bank is 500,000,000 Swiss francs (\$96,475,000) divided into 200,000 shares of 2,500 Swiss francs (\$480.38) issuable at par only, the nominal value to be expressed in dollars and local currency converted into gold mint parity. The Banque Nationale de Belgique, the Bank of England, the Banque de France, the Reichsbank, Banca d'Italia, the Yokohama Specie Bank and a New York financial institution guarantee the total authorized capital, and the bank may begin business as soon as a total of 112,000 shares (56%) has been subscribed by the seven mentioned institutions in quotas of 16,000 each. The remaining 88,000 shares (44%) may be issued by the Board of Directors by offer to central or other banks of other countries whose currencies are on the

gold or gold exchange standard (or those interested in reparation) in lots not exceeding 8,000 shares per country.

Twenty-five per cent only of each share is payable at the time of subscription, the balance to be "called up" at the discretion of the board on three months' notice. Capital of the bank may be increased or reduced by vote of a two-thirds majority of the board. In the case of an increase, the seven guaranteeing institutions are entitled to subscribe for 55% of the increase, the remainder being assignable to other subscribing countries. Shares are registered and transferable on the books of the bank, which retains the faculty of accepting a subscriber. Ownership of shares carries no right of voting or representation at general meetings, both rights being exercised by the central bank or its nominee in proportion to the shares subscribed in each country. The subscribing institution may issue either the shares or certificates against the shares to a banking group within the country, or to others.

OPERATIONS AND FUNCTIONS

The operations of the bank are to conform with the monetary policy of the central banks of the countries concerned. The Bank for International Settlements is to afford the central bank of a country in which it plans to operate an opportunity to dissent from its proposal. Disapproval will prevent the operation taking place, and approval may be accompanied by a statement of conditions. General arrangements may be effected for the operation of the bank in a given country. A central bank is not entitled to object to the withdrawal of funds from its market if it did not object to their introduction. As central banks are represented on the board of the bank, there is every possibility of the bank's operations being coordinated with those of the national institutions.

A somewhat different situation exists respecting the Federal Reserve System of the United States. On May 16, 1929, three weeks before the Report of the Committee of Experts was signed, the Secretary of State announced that

the United States Government would not "permit" officials of the Federal Reserve System to serve or select persons to serve in the bank. The Government, however, did not attempt to prohibit the bank from operating in the country. Notice of any proposed action will be given to all central banking systems and may be proceeded with unless objection is made. Neither approval nor disapproval will be given. An objection is interpreted as not involving participation in operations of the bank, and a failure to object is not supposed to be equivalent to an assent.

The functions of the bank respecting reparation will themselves require a wide variety of the operations normal to any banking institution. The statutes of the bank carefully limit its operations to the international financial field and indicate that its normal activities in any country will be supplementary rather than duplicative of the national banking organization, including the central banks. It may deal "with banks, bankers, corporations or individuals of any country, provided that the central bank of that country does not object." Its gold operations include buying and selling for its own account or for that of central banks, holding gold under earmark or in custody for central banks. Gold, bills of exchange and other securities may form the basis of advances to or borrowings from central banks. It may deal with currently marketable paper of prime liquidity, including short-term Government paper for discount, rediscount, purchase or sale. It may buy and sell exchange and negotiable securities (not shares for the account of itself or central banks). It may discount bills from the portfolios of central banks and rediscount those from its own portfolio with them. It may maintain current or deposit accounts with central banks and accept such accounts from them or it may accept deposits resulting from trust agreements between the bank and Governments. It may act as correspondent of central banks, and they may serve it in the same capacity.

The bank may make special agreements with central

banks to facilitate the settlement of international transactions between them either by the earmarking of gold or by open accounts through which assets can be transferred from one currency to another.

Functions prohibited to the bank are:

(a) Issuance of notes payable at sight to bearer (it is not a bank of issue);

(b) Acceptance of bills of exchange;

(c) Making of advances to Governments;

(d) Opening of current accounts "in the name of Governments";

(e) Acquisition of a predominate interest in any business concern;

(f) Owning of real estate permanently beyond the requirements of its own business.

One of the most interesting features of the bank is in the provisions respecting reserve funds. By Art. 26 of the statutes, "the bank shall be administered with particular regard to maintaining its liquidity," and its assets shall be "appropriate to the maturity and character of its liabilities." The Young Plan provided special gold reserve percentages for specified types of deposits.¹ The statutes provide for no gold reserve, but create two reserve funds. The "legal reserve fund" is to amount to 10% of the paid-up capital and is to be created from a percentage of the net profits. A "general reserve fund," which is "available for meeting any losses incurred by the bank," is to be created by a sum subtracted at the fourth point in the distribution of the net profits. This general reserve fund is stipulated by the statutes to be built up to five times the paid-up capital and beyond that will be increased by a very minor percentage of the net profits.

THE ANNUITY TRUST ACCOUNT

The principal deposit in the bank is the general deposit, Annuity Trust Account, received in the bank's capacity as trustee for the creditor Governments and the special man-

¹ Annex I, Sec. X, text in note on p. 218, *infra*.

agement of which is laid down in the trust agreement. It is stipulated that the cooperation with the central banks concerned, in connection with this Annuity Trust Account, "shall be the ordinary relationships obtaining between a bank and its correspondent banks." The German Government shall pay all sums applicable to the service of the annuity into this account. Reichsmark payments "in respect to the railway contribution shall be immediately released to the German Government against equivalent payment in foreign currencies" into the account. In other words, it is the German Government's responsibility to find exchange for the unconditional part of the annuity.

Subject to the transfer postponement clause of the Experts' Plan and except as the bank may request Reichsmark payments, the German Government shall make all its payments on account of the annuity in foreign currencies. The bank may express its preferences for payment in particular currencies, but in any case payments are to correspond as nearly as possible to the currency requirements for meeting the shares of the creditors, including German Reichsmark credits for deliveries in kind.

The bank will maintain a Reichsmark account at the Reichsbank credited to the Annuity Trust Account, and it will normally be employed to make payment for administrative expenses, payment for deliveries in kind and other disbursements in Germany on annuity account.

The Annuity Trust Account will bear no interest. Payments into it are to be receipted for in the currencies actually paid, but credit shall be given in their Reichsmark equivalent. The bank's receipt giving credit in Reichsmarks for payments into the account by the German Government "shall under normal operation of the Plan constitute a complete and sufficient discharge of the obligations of the German Government." If, however, transfer postponement is in effect, only the foreign exchange included in the payments made shall be receipted for as a final discharge.

The bank manages the Annuity Trust Account, expenses

being a lien against the account.¹ A first monthly charge against it is service of the Dawes loan; a second is the nonpostponable part of the annuity; a third is payment for deliveries in kind; a fourth the balance of the annuity, and the remainder is distributed to the several creditors under the provisions of the Plan. Payment of quotas is made in cash by crediting the accounts of the central banks in the Bank for International Settlements with the amount paid, notifying both the central banks and the creditor Governments of the credit thus created for the latter and obtaining the Governments' receipts therefor. The bank as trustee will manage the service of any bonds representing commercialized and mobilized shares in the annuity. Bonds required for the purpose are charged against the account of the creditor countries according to their respective interests in the issued bonds. The bank as agent will attend to the details of mobilizing any parts of the annuities upon request of the creditor Governments. In this connection, it will cooperate with central banks.

The bank may act as trustee under trust agreements or under special agreements. Arts. 22 and 24 of the statutes authorize it to "enter into agreements to act as trustees or agent in connection with international settlements, without encroachment on the obligations of the bank toward third parties." It has been generally assumed that this provision will cover most of the "out-payments" referred to in the Plan.

DIRECTORATE AND MANAGEMENT

The board of directors may consist of 25 members during the continuance of Germany's liability to pay reparation annuities, and always shall consist of 23 members. The directorate is composed as follows:

1. The governors, or their substitute nominees of like nationality, of the central banks of Belgium, France, Germany, Great Britain, Italy, Japan and the United States, known as *ex officio* directors. In case one of these countries

¹ Trust Agreement, Art. XVIII. The normal charge for management is one-tenth of 1%.

has no central bank, or if such bank is either unable or unwilling to act, the board shall nominate an appropriate financial institution to designate candidates for election.¹ The Yokohama Specie Bank acts for Japan and J. P. Morgan & Co. with the First National Banks of New York and Chicago for the United States.

2. Seven persons "representative of finance, industry and commerce" of the same nationality as and appointed by each of the former group.

3. Nine persons elected from lists submitted by the governors of the central banks of Bulgaria, Czechoslovakia, Greece, Hungary, Poland, Portugal, Rumania and Yugoslavia — being countries interested in reparation — and by the governors of the central banks of the Netherlands, Sweden and Switzerland,² all of which have subscribed to the bank's capital "at the time of its incorporation." The candidates are to be representatives of finance and of industry or commerce in equal numbers. The election of the nine persons from these lists is by a two-thirds majority for three-year terms.

4. "During continuance of the liability of Germany to pay reparation annuities two persons of French and German nationality respectively, representative of industry or commerce, appointed by the governors of the Bank of France and of the Reichsbank respectively, if they so desire."

Aside from governors of central banks, no official of a Government is entitled to be a director, and directors must reside in a place from which it is possible to attend meetings of the bank regularly.

The board represents the bank in its dealings with third

¹ The Secretary of State of the United States on May 16, 1929, stated that: "This Government does not desire to have any American official, directly or indirectly, participate in the collection of German reparation through the agency of this bank or otherwise." Consequently, "it will not permit [*sic*] any officials of the Federal Reserve System either to themselves serve or to select American representatives as members of the proposed international bank."

So long as that attitude is taken, the American members of the Board will be appointed by the governors of the other institutions referred to, the bank statutes stipulating that they are to be persons "not objected to by the central bank of that country," *i. e.*, the Federal Reserve System. The banking representative acting in lieu of the Federal Reserve System shall be from "any bank or banking house of widely recognised standing."

² The central banks mentioned are the first to participate in a group limited to 11 in number.

parties and has the exclusive right of entering into engagements on its behalf. These rights may be delegated to members of the board or of the permanent staff. The general manager, who is chief of the operating staff, is responsible to the president and is appointed by the board on his proposal. Officers of the rank of heads of departments are appointed by the board on recommendation made by the president after consultation with the general manager, who appoints the remainder of the staff.

The board determines the departmental organization. It may appoint advisory committees, who may be selected from persons not connected with the bank. The board must convene the Special Advisory Committee provided for by Part 8 (e) of the Young Plan so long as the Plan remains in force, upon receipt of notice from the German Government of its declaration of a postponement of transfer.

The financial year of the bank begins on April 1, the first financial period ending March 31, 1931. Provision is made for publishing an annual report, profit and loss accounts and balance sheets and for auditing.

DISTRIBUTION OF PROFITS

The distribution of the net profits is set forth in the statutes in detail and shows an intimate connection with the payment of reparation. The distribution for the first year, turned into percentages of the net profits, will be allocated as follows:

- a. 5% to the legal reserve;
- b. 15% (6% of paid-up capital) to cumulative dividends;
- c. 15%, or a maximum of 16%, to provide a noncumulative 6% additional share dividend;
- d. 32.5% (50% of the remaining net profits¹) to the general reserve fund;

¹ This allocation is to continue until the general reserve fund equals the paid-up capital. Thereafter, 40% of the net profits at this point are to be applied to make the general reserve fund double the paid-up capital. Following that, 30%, then 20%, and next 10% will be successively applied to make the general reserve fund equal five times the paid-up capital. Thereafter the general reserve fund shall be increased by 5% of the net profits available at this point of distribution. The percentages shall be reapplied to restore the position in case of losses or increase of paid-up capital.

e. The remaining 32.5% is to be paid into two special funds which are to be employed as follows:

i. 75% of this remainder (24.375% of the total) is to be distributed annually to such Governments or central banks of the creditor countries or of Germany as have maintained time deposits of a size determined by the bank's directors, withdrawable in not less than five years. This provision may prove to be important in the future handling of reparation payments. It may afford creditor Governments an option of leaving their annuities on deposit in the bank, and it will facilitate Germany's ability to collect funds against the payment of future annuities, if that should prove feasible.

ii. The remaining 25% of *e* (8.125% of the total net profits) is "to be used to aid Germany in paying the last 22 annuities" provided the German Government makes a long-term deposit of a minimum sum of 400,000,000 Reichsmarks. This fund, the amount and contribution to which may be proportionately reduced, shall carry compound interest at the maximum current rate of the bank. If the original fund, increased by profits and interest, should not be required by Germany for out-payments in the last 22 years, the excess will be distributed among the creditor Governments. By the concurrent memorandum on out-payments of June 7, 1929, any remission of war debt during the first 37 years will serve to increase this fund. In that period three-twelfths of any net relief will be paid by the creditors into the bank for accumulation to assist Germany toward meeting the final 22 years' payments. In the last 22 years any sum gained from the remission of out-payments is to be handled in accordance with the concurrent memorandum.

Disputes arising between the bank and any central bank or other financial institution shall be referred to the Tribunal of Interpretation established under the London

agreement of August 30, 1924,¹ as reconstituted by the agreement of January 20, 1930 (Art. XV). This tribunal was established to interpret the Dawes Plan with regard to disputes between the Reparation Commission and the German Government. If the disputants fail to define the question or one of them should fail to appear, the statutes of the bank give the Interpretation Tribunal jurisdiction over defining the question and authority to render an award in default. In all other disputes the bank may proceed or be proceeded against in any court of competent jurisdiction.

Amendments to the statutes, with certain exceptions, are to be proposed by a two-thirds majority of the board and adopted by an absolute majority. However, amendments relating to the seat, objects, reparation functions, capital, share ownership, operation in countries, relation of central banks to national operations, prohibited functions, composition of the board, general meetings, distribution of profits, settlement of disputes, and to amending the statute must be adopted by a two-thirds majority of the board, approved by a majority of the general meeting, and enacted in a law supplementary to the bank's charter.

INSTRUMENT OF INTERNATIONAL COOPERATION

It can readily be perceived from this summary that the bank would not exist were it not for its relation to the handling of reparation. On the other hand, its functions are banking functions, though few, if any, of these will not be exercised in the development of its duties respecting reparation. The statutes do not in words make the distinction which was made in the report between essential or obligatory functions and the auxiliary or permissive functions, which evolve more indirectly from the character of the annuities.

Before the World War, the cooperation which took place between the central banks of the different countries was left solely to private initiative. In the days of postwar

¹ *Reparation*, Part VI, p. 250.

financial chaos, the necessity for such action became vividly apparent, and the Genoa conference in 1922 recommended a meeting of banks of issue,¹ but the suggestion for various reasons was never acted upon. In recent years considerable cooperation has been achieved, largely through the leadership of several outstanding personalities. There has been a growing consciousness that such cooperation should not in the long run be dependent upon individual initiative or upon chance, but should be organized. Just what tasks are to be accomplished through the cooperation afforded by the existence of the Bank for International Settlements in the next decade or two no one can predict. If the central banks desire, some international transactions can well be cleared through an international agency, and in this way gold movements could be lessened. Whatever definite developments may take place, it seems clear that international financial machinery available for any emergency that may arise and for the gradual development of methods of international cooperation will be found useful.

¹ Resolution 3 of the Financial Committee proposed developing "continuous cooperation among central banks of issue or banks regulating credit policy in the several countries" so as to "provide opportunities of coordinating their policy, without hampering the freedom of the several banks." Resolution 9 suggested an international convention "to centralize and coordinate the demand for gold." (*Papers relating to International Economic Conference, Geneva, April-May, 1922*, p. 60, 61. British Parliamentary Papers, Cmd. 1667.)

V. COMMERCIALIZATION AND MOBILIZATION

When the system of reparation was first developed in Part VIII of the treaty of Versailles, the debt was to be represented by several series of bonds, all of which were to carry an amortization charge. Annex II, 12, (d) of that part of the treaty contemplates that the German evidences of indebtedness might be "disposed of outright, not by way of pledge, to persons other than the several Governments in whose favor Germany's original reparation indebtedness was created." In this event, the German indebtedness toward the creditor state is extinguished, "and the obligation of Germany in respect of such bonds shall be confined to her liabilities to the holders of the bonds, as expressed upon their face."

This possibility proved very attractive to the French mind. The French people are great investors in Government securities, and the French Government has never lost sight of the advantage of reducing the national indebtedness by selling German reparation bonds to the French investor, using the proceeds to retire national debt, or of exchanging reparation bonds for the national *rentes*. Though no other country is so much interested in this possibility, all those concerned recognized that such treatment of reparation would represent a final evidence of its transformation into an exclusively economic transaction.

The Committee of Experts, having provided machinery in the Bank for International Settlements "for the removal of the reparation obligation from the political to the financial sphere," continued with a study of the procedure "necessary in order to assimilate this obligation as closely as possible to an ordinary commercial obligation" ¹ ("commercialization"). This is provided for in what the Experts call mobilization,¹ that is, the use of its reparation credit

¹The terms "commercialization" and "mobilization" are used by the Committee of Experts in the European sense and are fully explained by them in the Report, para. 148 and 149. The terms refer to two stages of the process. "Commercialization"

by a state to raise money by the issue to the public of bonds representing the capitalization of the unconditional annuity.

It was no part of the functions of the Committee of Experts to determine the time when such issues should be placed on markets, nor was it one of their functions to determine in what form bonds should be issued. There are three possible forms:

- (1) An issue in the interest of all or several creditor Governments in several money markets;
- (2) An issue by one Government on several markets;
- (3) An internal issue by one Government on its own market with a view to converting its own Government debt.

The Committee of Experts regarded it as the province of the Bank for International Settlements to advise upon such matters and itself lays down a framework within which the first and third forms of issue might take place (Annex III), which is elaborated technically in Art. XII of the Trust Agreement. No provision is made for the second possibility.

Some of this framework is essential to the Plan as a whole in any case. Germany is to deliver to the Bank for International Settlements, as trustee of the creditor states, a certificate of indebtedness representative of the annuities fixed by the Plan. Attached to the certificate are coupons representing each annuity. Each of the coupons is in two parts. The first part represents the nonpostponable portion of the annuity and corresponds "to the portion of Germany's indebtedness which is mobilizable;" the second part of each coupon represents the postponable portion of the annuity, which is not contemplated as mobilizable. Aside from the postponement feature, both parts of the coupons enjoy equal rights, except that the nonpostponable coupon enjoys priority of payment.

refers to the transforming of the intergovernmental debt into a technical form corresponding to ordinary bond issues placed on international markets. "Mobilization" refers to the raising of money by issuing to the public bonds representing the capitalization of the "commercialised" portion of the reparation annuity.

The Bank for International Settlements, as trustee for the creditors, decides whether mobilization is opportune. It is to do this on the request of creditor Governments. The bank, having determined that "mobilization" is opportune, may require the German Government to create issuable bonds representing the capitalization of any part of the nonpostponable portion of the annuity.¹ If, however, a Government desires to undertake conversion operations of its own debt by an internal issue of German bonds, the bank is obliged to accede to its request, and Germany also is obliged to issue the bonds required. The bonds issued are to be the obligation of the German Reich, serviced by the nonpostponable portion of the annuity, and guaranteed by the general revenues of the Reich. They "constitute a final, absolute and unconditional international obligation in the ordinary financial sense of the word."²

Collateral guaranties are provided, the positive one of which is the certificate of liability to be deposited with the Bank for International Settlements by the German Railway Company and which covers the tax to which it is to be subjected.³

A second collateral guaranty is a negative pledge in the form of the assignment of customs and certain consumption tax revenues of the Reich for the service of the indebtedness payable from the Reich budget and of negotiable bonds issued in exchange for them. The German Government agrees that the assigned revenues shall amount to "150% of the highest budgetary contribution payable by Germany" under the Plan⁴ (that is, 3,643,200,000 Reichsmarks) and that it will not pledge them for any other loan or credit without the consent of the bank. If the total yield should fall below that percentage, the bank may require the assignment of additional revenues to restore the yield to the stipulated proportion.

¹ The authority of the bank to act as agent for such operations is exclusive (Trust Agreement, Art. XII).

² Annex III, V, par. 137.

³ Trust Agreement, Art. II, C, and Plan, Annex III, III, par. 128.

⁴ This is reached in the fiscal year 1965-66.

Bonds issued against the nonpostponable annuity may have their value expressed in several currencies or in a single currency with the stipulation that the principal of any bond issued in a particular market shall be payable only in its currency at the equivalent of the gold value. A specification of the currency is to be made by the Bank for International Settlements, taking into account the desires of the issuing bankers. After 10 years, it will be possible to issue bonds payable in different currencies at the option of the bearer, so that there is a prospect for the future of the issuance of a form of international bond.

The bank will inform creditor Governments when, in its opinion, the issue of bonds is practicable and will fix the minimum price of issue. The Governments may issue their share of bonds in their own countries, or they may transfer their quotas to bankers in other countries, or refuse to allow their quota to be created. The minimum conditions fixed by the bank shall apply in all cases. In the case of conversion bonds, which a creditor Government may issue at its own discretion on its own market, no minimum price is to be fixed, and the Government will receive whatever price it can.¹

All these bonds enjoy a genuine priority in that they are based upon the mobilizable portion of the annuity, which is not subject to postponement. As a consequence, the annuity coupons representing it are completely paid before moneys to meet the mobilizable portions of the coupons can be transferred.² The payment of the coupons is made to the bank in foreign currencies by the Reich on its own responsibility. Bonds can be created against the non-mobilizable portion of the annuity coupons, even for internal issue by a creditor, only with the consent of the German Government.

As indicated above, France has been anxious to mobilize its reparation debt. Emile Moreau and Jean Parmentier, the French experts, in their report to the premier of June 13

¹ Formal details in Trust Agreement, Art. XII.

² Trust Agreement, Art. IV, (c).

said: "The entire effort of the French experts was centered on the recognition of our right to mobilize the part of the annuity which exceeds the amount of our external payments and on the practical means of arranging for it." The French experts in their report state that of the average annuity coming to France, 1,046,500,000 Reichsmarks, the part absorbed by the external debts will attain an average of 626,500,000 Reichsmarks, leaving a net balance of 422,000,000 Reichsmarks to meet reparation proper. This balance, payable for 37 years at 5½% plus amortization, is given a present value of 6,945,000,000 Reichsmarks, or about 42,000,000,000 francs. Restoration of the devastated regions has cost France 102,000,000,000 francs. The provisions for mobilization in the Plan will apply to the net balance of 420,000,000 Reichsmarks. "Thanks to the mobilizable provision," say the experts, "the amortization of the debt contracted by France, in lieu of and in the place of Germany, will be accelerated, and we shall find ourselves profiting from a true priority in favor of our material reparations." The French experts contemplate that a total sum of 500,000,000 Reichsmarks may be used for this purpose. The transformation of a German political debt toward the French state into a commercial debt toward the holders of bonds "will be facilitated by our recognized ability to proceed to the issuance on our own market of German bonds in exchange for French rentes or treasury notes, the cancellation of which will thereby be assured." ¹

Roughly speaking, 500,000,000 Reichsmarks will service a total of nearly 7,750,000,000 Reichsmarks loan capital at 5½% interest and 1% sinking fund. That would relieve France of carrying a debt burden of about 45,000,000,000 francs.

The Hague conference decided ² upon a first mobilization amounting to \$300,000,000 (1,260,000,000 Reichs-

¹ A complete English translation of the report of the French experts is printed in *European Economic and Political Survey*, IV, p. 587.

² Final Protocol, Annex VII.

marks) net, of which one-third will go to Germany for productive postal and railroad purposes. The division of the \$200,000,000 (840,000,000 Reichsmarks) against the nonpostponable portion of the annuity was not allocated among the creditors at The Hague.

The arrangement to this effect contemplates the emission of the issue before October 1, 1930, before which the German Government will issue no long-term external loan. If issuance of the mobilizable loan is delayed, Germany will refrain from entering the market up to March 31, 1931. The mobilizable loan may be participated in by Germans and shall be arranged by the Bank for International Settlements and serviced by it.

An adjustment was required regarding the match monopoly loan contract for \$125,000,000 signed on October 26, 1929, with the Swedish Match Company of Stockholm and Kreuger & Toll of Amsterdam. Arrangements with these concerns described in the agreement were to the effect that the above declaration did not apply to this loan which, however, would not be offered for public subscription before June 30, 1933. Moreover, it "may not involve any discrimination to the detriment of the unconditional annuities."

VI. LIQUIDATION OF THE PAST

The Young Committee of Experts found a considerable body of unliquidated problems still existing in the reparation system. The committee recommended the "clearing up of these questions in a broad spirit of mutual concession." They defined the closing of the financial questions raised by the war and the subsequent treaty of peace as "a liquidation which alone can assure the definite return of Europe to normal financial and economic conditions."

The committee recognized that the final decisions on these questions lay with the Governments, but was able to point out that in several respects the Plan, which was to be regarded "as an indivisible whole," necessarily involved this liquidation, which was not to affect the annuities of the Plan.¹

Perhaps the most important of the past questions is the closing of pre-Dawes accounts. In this connection, it should be understood that, until the payment of the first Dawes annuity began on September 1, 1924, all payments by Germany and receipts by the creditors were unilateral book entries at the office of the Reparation Commission and were to a large extent in dispute. The system originally contemplated was that German bonds should be canceled by German payments. The bonds provided for in Part VIII, Annex II, par. 12, of the treaty of Versailles were never formally issued. Substituted for them as a representation of Germany's debt were the A, B and C bonds of the Schedule of Payments of May 5, 1921.

The Reparation Commission as of November 30, 1925, recognized payments by Germany in the period before the Dawes Plan entered into effect of 8,821,657,000 gold marks as follows:

	Gold marks
Value of ceded properties	2,553,905,000
Years 1920 and 1921	3,970,835,000
Year 1922	1,402,686,000
Ruhr period, January 11, 1923–August 31, 1924	894,231,000

¹ Report, Annex VII, par. 193.

On December 18, 1925, the Reparation Commission determined the accounts of the Ruhr period in accordance with Art. 12 of the agreement signed at Paris January 14, 1925,¹ and the figure for that period in the above list may be regarded as representing a closed account. The other amounts contained many provisional items, several important categories of which were disputed by Germany. In 1921 and 1922 Germany gave details as to these claims, which have since been in abeyance. In some instances wide discrepancies existed: German public property in ceded territories, which was given a value of 2,553,905,000 gold marks by the Reparation Commission, was claimed by Germany to be valued at 6,500,000,000. The Germans claimed on May 1, 1921, a credit of 11,700,000,000 marks for property liquidated abroad. The Reparation Commission gave no credit under this heading, one reason being that the creditors had not reported to it concerning the value of the properties in question. Included in this property abroad is the value of the privately owned submarine cables, which have neither been divided nor appraised with a view to granting an appropriate credit to Germany. Among the outstanding accounts are those represented by the holdings of German nationals in foreign countries and present mandated territories. The titles to these property holdings reverted to the victors, and the German Government was under obligation to reimburse its nationals. As the properties were disposed of, it fell to the benefiting Governments to enter the amount received to the credit of Germany. Meantime, Germany had made compensation to its nationals in fulfilment of their claims for this form of expropriation only respecting the smaller amounts.² There were inevitable discrepancies to be adjusted in the accounts as a result of this disconnected procedure.

¹ *Reparation*, Part VI, p. 285.

² The United States claims an interest in them.

³ Claims not exceeding 5,000 Reichsmarks were paid in full; those above this amount were compensated on a scale from 50 to 2½% of their value in inverse ratio to their size. Austria and Hungary issued serial bonds in full compensation of claims

PRE-DAWES ACCOUNTS OBSOLETE

The Committee of Experts understand that their proposal "will render obsolete the accounts between the Reparation Commission and Germany relating to transactions prior to the period of the Dawes Plan, together with all accounts involving credits against its original capital debt." They thus contemplated an obliteration of the complicated and disputed claims which have been slightly indicated above. The experts believed that the definite character of their plan requires such action. Recognizing that the decision was solely up to the Governments, "they consider that the creditor Governments are fully entitled to expect that Germany should waive [its unsettled claims] in consideration of the consolidation of the creditors' claims at a reduced figure." The creditors tacitly acquiesced in this recommendation, thus avoiding consideration of matters which would have been embarrassing.

The understanding of the committee that its settlement would render "obsolete . . . all accounts involving credits against the original capital debt" forecast the final disappearance of the A, B and C bonds of the 1921 Schedule of Payments, at least so far as Germany is concerned. It was originally contemplated that those bonds should be canceled by German payments. No such cancellations took place, and the published records show but one effort to operate those bond issues. A condensed statement of December 31, 1922,¹ shows 120,000 gold marks of Series A bonds subtracted from the debt "due to be amortized as at May 1, 1922." The amortization was not effected and, as a consequence, no retirement of bonds was ever made, and apparently no serious consideration was given to the application of Dawes annuity receipts to their service. Series A bonds were issued to the Reparation Commission on July 1, 1921, and Series B bonds on November 1, 1921, with interest and amortization coupons attached. They remained intact. Series C bonds of a nominal value of

¹ *Statement of Germany's Obligations, Reparation Commission, IV, p. 21.*

82,000,000,000 gold marks were delivered to the Reparation Commission on November 1, 1921, without coupons attached.¹ When all accounts for the pre-Dawes period were closed by being called obsolete and the certificate of indebtedness provided for in Annex III of the new Plan was turned over to the Bank for International Settlements, these three series of bonds became simply historical mementos.

One phase of the liquidation called forth no comment from the Committee of Experts. By Art. 296 of the treaty of Versailles, outstanding pecuniary obligations between German nationals and those of the opposing states were to be settled through clearing offices set up by the interested countries. By Art. 297, detailed provisions were made for the adjudication of questions of private property, rights and interests, the liquidation of which was to be made through the clearing offices or submitted to mixed arbitral tribunals. The magnitude of these claims was great, but their settlement had progressed to such a point that the Committee of Experts did not see that the final winding up of the system required any particular recommendations. Under Art. 296, the allied claims notified numbered more than 450,000, of which over 368,000 had been disposed of by March 31, 1928; while German claims numbered over 680,000, of which more than 530,000 had been disposed of.² Under Art. 297, about the same proportion

¹ By various interallied agreements charges against the C bonds on German, Austrian and Hungarian reparation accounts were indicated. The experts did not insist on disturbing such agreements, but the creditors disregarded the proffered opportunity to revert to past practices.

² On October 1, 1928, only 459 British claims were outstanding out of an original total of 101,555 worth £76,225,153, and 739 German claims out of a total of 266,151 worth £63,104,363. The other claims were Belgian, French, Greek, Italian and Siamese.

On the same date under Art. 248 of the treaty of St. Germain-en-Laye there were 148 British claims against Austria outstanding out of an original total of 16,721 worth £14,219,562, and 56 Austrian claims against the British Empire out of 10,553 worth £3,558,851. The bulk of claims under the article were, however, not British.

On the same date under Art. 231 of the treaty of Trianon 362 British claims were outstanding against Hungary out of an original total of 12,558 worth £6,947,788, and 38 Hungarian claims against the British Empire out of a total of 1,003 worth £355,936. The bulk of the claims under the article were, however, not British.

Debt claims under Art. 176 of the treaty of Neuilly sur Seine by or against Bulgaria were originally small in amount and concerned Bulgaria's nearer neighbors for the most part.

For later details see *Ninth Annual Report of the Controller of the Clearing Office . . .* (London, H. M. Stationery Office, 1930).

of settlement maintained.¹ Both the clearing offices and the mixed arbitral tribunals were so close to the exhaustion of their work that the experts did not need to provide for discontinuance of payments.

Any adjustment of accounts between debtor and creditor involved in their winding up was included in the consolidation of the claims contemplated by the Committee of Experts.

DISSOLUTION OF JOINT LIABILITY

The Committee of Experts made an important pronouncement in stating that "the acceptance of this plan necessarily involves the dissolution of the joint liability of Germany on the one side with Austria, Hungary and Bulgaria on the other side for reparation." By the treaties of peace with Germany, Austria and Hungary, each of them accepts the responsibility of itself and its allies "for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war." Bulgaria recognized that "she ought to make complete reparation" for the "losses and sacrifices of all kinds" which she had caused "by joining in the war of aggression which Germany and Austria-Hungary waged against the Allied and Associated Powers."

The joint liability thus created by the four treaties at-

¹ On October 1, 1928, under Art. 297 of the treaty of Versailles a total of 380,892 British and German claims for £205,068,847 had been dealt with by the Clearing Office and only 255 for £4,256,529 were outstanding. The British-German Mixed Arbitral Tribunal had pending 1,198 cases, and had disposed of 1,535 cases in the previous year. Conditions respecting Belgium and France under the article were comparable. Siamese amounts were closed, but Greece and Italy made no report.

On the same date under Art. 249 of the treaty of St. Germain-en-Laye 27,413 Austrian and British claims for £25,972,411 had been handled and 23 were outstanding. The Anglo-Austrian Mixed Arbitral Tribunal had 21 cases pending. The Austrian situation toward other states was less satisfactory.

On the same date under Art. 232 of the treaty of Trianon 13,219 British and Hungarian claims for £7,775,153 had been dealt with and only two were outstanding. The Austro-Hungarian Mixed Arbitral Tribunal had 77 cases pending. The Hungarian situation toward other states was less satisfactory.

On the same date under Art. 177 of the treaty of Neuilly sur Seine all British-Hungarian claims were disposed of. The Hungarian situation toward other states respecting claims under Art. 177 was, however, more complicated and less advanced.

Decisions of some 50 tribunals are printed in *Recueil des décisions des Tribunaux Arbitraux mixtes*, 1- (Paris, 1922-).

tracted practically no public attention in the development of the reparation problem.

Art. 121 of the treaty of Neuilly sur Seine fixed the sum to be paid by Bulgaria at 2,250,000,000 gold francs to be amortized in 37 years from January 1, 1921. By a protocol of March 21, 1923,¹ a schedule of payments of 550,000,000 gold francs at 5% interest² extending over a period of 60 years was signed. On March 28, 1923, another protocol settled Bulgarian occupation costs at 25,000,000 gold francs, payable in 10 years with interest at 5%.³

In connection with Austrian reconstruction, the Reparation Commission in February, 1923, excepted Austrian public revenues and receipts from all reparation charges for a period of 20 years in favor of the Austrian reconstruction and relief credit indebtedness.⁴ On February 21, 1924, the Reparation Commission⁵ excepted specified Hungarian revenues from reparation liability and laid down a schedule of semiannual payments on reparation account amounting to 200,000,000 gold crowns until December 31, 1943. Austro-Hungarian and Austrian and Hungarian prewar secured debts were identified⁶ by the Reparation Commission as amounting to about 3,500,000,000 prewar⁷ crowns and the Austrian and Hungarian unsecured debts to about 14,500,000,000 paper crowns. These debts are distributable among the succession states and, as a con-

¹ Great Britain *Treaty Series* No. 1, 1925, Cmd. 2303.

² "Instalment 'B' shall constitute the remainder of the debt," and was not to be claimed before April 1, 1953, without interest.

³ Great Britain *Treaty Series* No. 2, 1925, Cmd. 2304.

⁴ A recommendation on relief charges to the same effect was accepted by the Governments concerned, *The Financial Reconstruction of Austria. General Survey and Principal Documents*, p. 151-152 (League of Nations, C. 568, M. 232, 1926, II).

⁵ *The Financial Reconstruction of Hungary. General Survey and Principal Documents*, p. 197 (League of Nations, C. 583, M. 221, 1926, II, 54).

⁶ Reparation Commission, *Official Documents*, VII and XIII. The distribution was regulated by the Innsbruck protocol of June 29, 1923. See the treaty of St. Germain-en-Laye, Arts. 41, 52, 58, 61, 203 and 208 and the treaty of Trianon, Arts. 44, 47, 52, 186 and 191.

⁷ The Austro-Hungarian prewar or gold crown was worth 20.26 cents, or 4.94 to the dollar.

sequence, Czechoslovakia, Poland, Rumania, Yugoslavia and Italy are due to assume considerable portions of them.¹

By Art. 11 of an agreement between the finance ministers of the allied states signed at Paris March 11, 1922, the Reparation Commission was to fix the reparation debts of Austria and Hungary at not less than the total value of the properties transferred by them "under the treaties of St. Germain and Trianon plus six milliards of gold marks." On the creation of Series C bonds of the 1921 Schedule of Payments, bonds to the amount fixed were to be allocated to these debts.² As the matter then stood, bonds issued by Germany were to be allocated for payment by the other debtor states.

The Committee of Experts recommended — or rather stated — that its plan "necessarily involves the dissolution" of this joint liability. They added that it "therefore finally abolishes every obligation present or future in either direction which may result between these powers from this joint liability." The dissolution of the joint liability was arranged for as a continuation of work already done respecting those minor reparation debts by the Reparation Commission.

The Committee on Liquidation of the Past³ advised leniency toward Austria. The conference at The Hague in January maintained the moratorium running until 1943 and annulled the reparation lien on Austrian property and

¹ The following were the quotas calculated by the Reparation Commission in January, 1925 (*Official Documents*, VII, p. 18, 19):

	Austrian Debt (Per Cent)	Hungarian Debt (Per Cent)
Austria	36.827	1.716
Czechoslovakia	41.700	17.384
Hungary	—	49.629
Italy	4.087	.812
Poland	13.733	—
Rumania	1.610	23.659
Yugoslavia	2.043	6.800

² *Reparation*, Part I, p. 19, 20.

³ The Committee on Liquidation of the Past was appointed by the president of the Hague Conference and met at Paris, September 16–November 22, 1929, and consisted of representatives of Germany, Belgium, British Empire, France, Greece, Italy, Japan, Poland, Portugal, Rumania and Czecho-slovakia.

revenues. The effect was to "free Austria of all financial obligations resulting from the treaties of peace." Administrative debts and special credits against the country were abrogated. Subsequent arrangements, including the reconstruction loan and the agreements with the United States postponing the payment of obligations, maintain their validity.

The Bulgarian figure was fixed by the Committee on Liquidation of the Past, appointed by the president of the Hague conference, at 15,000,000 gold francs payable annually for 37 years. On the announcement of this figure in Sofia about November 19, public demonstrations of protest occurred. As a consequence, a diplomatic offer of annuities of 12,500,000 gold francs was made, the Bulgarian Government holding at the time that the national capacity to pay did not exceed 10,000,000. The settlement at The Hague in January arranged a schedule of 5,000,000 gold francs payable before April 1, 1930, 10,000,000 gold francs annuities from April 1, 1930, to March 31, 1940, of 11,500,000 from 1940-1950 and of 12,515,238 from 1950-1966. Annuities are payable half-yearly on March 31 and September 30. The total is 420,243,000 gold francs.

The Bulgarian payments are distributed as follows: Payment of 5,000,000 gold francs on April 1, 1930, and current undistributed assets, to Greece; payments, 1930-43, Greece, 76.73%; Rumania, 13%; Yugoslavia, 5%; Czechoslovakia, 1%; under Spa agreement, 4.27%. Provision for distribution of payments 1944-66 is not specifically made by the arrangement of January 20, 1930, between the creditors.¹ In addition, 110,000,000 lei to Rumania for property liquidation, paid in 1930.

Hungarian indebtedness created a complicated argument. Hungary claimed that property ceded by it amounted to 12,000,000,000 pengös,² while other estimates were only one-third of that sum. Hungary also held that the allocation of 45.7% of the Austro-Hungarian prewar debt to the

¹ Arts. III, IV, *Agreements*, p. 171.

² The pengö is 17.49 cents, 5.72 to the dollar.

country was unfair, in view of the fact that it received only 28% of the territory and 36% of the population of the former monarchy. The attempted settlement was for a considerable time stalled on account of the introduction of the question of the Hungarian optants in Transylvania. This complicated Hungarian-Rumanian question had been pending before the League of Nations for several years, having been referred to its Council after a decision of the Mixed Arbitral Tribunal established under the treaty of Trianon was contested. Hungary opposed its being considered in connection with the reparation settlement. Hungary also defended its rights under Art. 250 of the treaty of Trianon, which had the effect of securing to the country restitution of property, rights and interests seized by Rumania in its post armistice invasion, and preventing the retention or liquidation of private Hungarian property in ceded territory.¹

The settlement of Hungarian reparation was the last problem to be solved at the second session of the Hague conference. The Reparation Commission schedule of February 21, 1924, was maintained. By this Hungary pays 200,000,000 gold crowns from January 1, 1924, to December 31, 1943, the payment for the calendar year 1930 being 7,000,000 gold crowns and the annuity rising to 14,000,000 in the last two years. From 1944 to 1966 a constant annuity of 13,500,000 gold crowns will be paid for claims other than reparation. Hungarian payments in liquidation of the war are, therefore, fixed at:

	Gold Crowns
Reparation, 1924-1943	200,000,000
Payments, 1944-1966 (13,500,000 gold crowns for 22 years)	297,000,000

The settlement of claims arising out of the cessions of territory by Hungary to the succession states was effected by an agreement responding to the desire of all interested parties for conciliation and peace. Hungary, Czechoslovakia, Rumania and Yugoslavia all recorded that they

¹ *Reparation*, Part I, p. 18.

maintained their legal points of view respecting Art. 250. But by employing arbitration and by creating two funds they found means to effect a complete settlement.

The Mixed Arbitral Tribunals suspend their activities for six months to allow an opportunity for direct settlement of claims. After that period, outstanding cases under Art. 250 of the treaty of Trianon will be heard by the three judges of the tribunals reinforced by two neutral judges nominated by the Permanent Court of International Justice; to which such cases can be appealed. The latter provision had been a Hungarian contention in connection with the case of the optants in Transylvania from the beginning of that dispute. This scheme covers all questions of Hungarian optants under the agrarian reform programs of the succession states.

The claims of Hungarian nationals against the creditor countries are liquidated by special funds made up from a variety of sources. Fund A is devoted to the agrarian claims and will amount to 219,500,000 gold crowns built up from contributions by states and persons benefiting from the reallocations of land settled under it. Through 1943, Belgium, France, Great Britain, Italy, Japan and Portugal contribute toward the capital up to an annual total of 3,600,000¹ gold crowns. The French, Italian and British contributions will bear a ratio of 40-40-20 to each other. Contributions by Czechoslovakia, Rumania and Yugoslavia to the fund are absolute, and the French, British and Italian quotas will be proportionately reduced in case there is a surplus. For the 23 years (1944-66) Czechoslovakia, Rumania and Yugoslavia contribute 6,100,000 gold crowns. All awards will be against the fund rather than any state. The managing committee will consist of four appointees of Hungary and three of the Financial Committee of the League of Nations.

Fund B provides for the settlement of the nonagrarian claims, the properties of the Hapsburg family, the church foundations, organizations, industrial and commercial

¹ But see final text of April 28, 1930, *L'Europe nouvelle*, May 3, 1930, p. 700 at 703.

companies, etc. Its capital is to be 100,000,000 gold crowns, drawn primarily from contributions by the succession¹ and other states benefiting by the allocations of property. If the contributions are inadequate, a total amount of 7,400,000 gold crowns from the annuities payable by Hungary from 1944-66 may be used to complete it. It will be administered by a committee appointed by France, Great Britain, Italy, Czechoslovakia, Rumania and Yugoslavia. For the 13 years (1931-43) Great Britain, France and Italy contribute 3,000,000 gold crowns on a 20-40-40 ratio.

The Hungarian payments up to 1943 are distributable as follows: Current assets to June 30, 1930, to Yugoslavia; payments, July 1, 1930, to December 31, 1943, Greece, 76.73%; Rumania, 13%; Yugoslavia, 2%; Czechoslovakia, 1%; under Spa agreement, 7.27%.² From 1944 to 1966, there is allocated 7,400,000 gold crowns of the Hungarian payments to Fund B. The remainder is also devoted to special claims; during these 23 years Czechoslovakia, Rumania and Yugoslavia pay an equivalent amount, 6,100,000 gold crowns, into the Agrarian Fund.³

The handling of the liberation debt of Czechoslovakia and the other succession states has been distributed on the basis of balance between debtor and creditor. Funds were payable by the succession states into the account of the allies and distributed as reparation among the principal allied and the succession states. The state property taken over was distributed as to one-half among Belgium, France, Great Britain, Italy and Japan in the proportion of the Spa percentages. The other half was distributable in the following percentages: Italy, 60%; Greece, 25%; Rumania, 20%; Yugoslavia, 15%. The state properties involved were very much reduced in the final accounts. The following table shows their estimated values on being taken over and the payments due from the recipients:

¹ The succession states are those which received territory of the former Austro-Hungarian monarchy. They are Czechoslovakia, Italy, Poland, Rumania and Yugoslavia, but Poland has been very little affected by the problems involved.

² *Agreements*, p. 171.

³ *Ibid.*, p. 165, 163, 161.

	Original Value	Due to Funds
Czechoslovakia	3,889,000,000 gold crowns	750,000,000 gold crowns
Poland	3,143,000,000 gold crowns	225,495,000 gold francs
Rumania	1,053,000,000 gold crowns	235,140,000 gold francs
Yugoslavia	1,890,000,000 gold crowns	148,045,000 gold francs
Italy	838,000,000 gold crowns	59,252,000 gold francs
	10,813,000,000	- -

Art. 58 of the treaty of peace with Austria and Art. 52 of that with Hungary provide that "the proportion and nature of the financial obligations of the former Austrian Empire (and Hungary) which the Czechoslovak State will have to assume on account of the territory placed under its sovereignty will be determined in accordance with" the financial clauses (Arts. 203 and 186 of the respective treaties). This so-called "liberation debt" was due to Austria and Hungary or to their creditors. It was the subject of an agreement at The Hague which fixed it in annuities of 10,000,000 Reichsmarks for 37 years. This includes definite settlement of obligations toward France and Italy, and seals the transfer of some 4,000,000,000 prewar crowns, worth of state property. Czechoslovakia, however, is awarded 1% of the receipts from Bulgarian and Hungarian reparation.

The Czechoslovak annual payment for 36 years is distributed as follows:¹

	Gold Marks
France	3,187,854
Great Britain	1,384,519
Italy	3,146,632
Belgium	418,816
Japan	51,920
Portugal	51,920
Greece	1,758,339

¹ *Agreements*, p. 170.

The other indebtedness of similar character due from Italy, Poland, Rumania and Yugoslavia established by the treaties of peace and the agreements of September 10 and December 6, 1929,¹ was in the end fairly small on balance. The amounts are accounted for in the British-Italian adjustment of August and the Hungarian funds as established in January.

UNLIQUIDATED PROPERTY

When the treaty of Versailles was made, the victors were interested in depriving Germany of any rights and interests which it or its nationals had acquired in Russia, China, Turkey, Austria, Hungary and Bulgaria. As a consequence, Art. 260 of the treaty of Versailles required the transfer of all properties situated in those countries to the Reparation Commission. Any liquidation of such properties not concluded was stopped on the recommendation of the Committee of Experts. In continuation of the same policy, Germany undertook by Art. 261 of the treaty to transfer to the Allied and Associated Powers any claims which it might have to the payment or repayment by the Governments of Austria, Hungary, Bulgaria or Turkey, with all of which the Berlin Government had been during the war in close financial relations. The Committee of Experts recommended the discontinuance of those claims. The creditor states abstain from recovering any such credits from Germany and Germany renounces any net balance which might be due.

The experts recommended that the Governments, on accepting the report, make no further use "of their right to seize, retain and liquidate property rights and interests of German nationals or companies controlled by them." As a considerable amount of such property had been liquidated, put into liquid form, or finally disposed of, the experts recommended that all outstanding questions of

¹ See p. 64.

that type "should be definitely cleared up within one year after the coming into force of this plan."

This recommendation was carried out by a series of conventions with Germany which are enumerated in the final act. These include:¹

Australia — Convention, The Hague, January 17, 1930;

Belgium — Convention on Belgian marks, Brussels, July 13, 1929;

Belgium — Convention, Brussels, July 13, 1929;

Canada — Convention, The Hague, January 14, 1930;

France — Convention, Paris, December 31, 1929;

Great Britain — Convention, London, December 28, 1929;

New Zealand — Convention, The Hague, January 17, 1930;

Poland — Convention, Warsaw, October 31, 1929.

By the convention of July 13, 1929, the Belgian Government renounced its right to make use from that date of Arts. 121 and 297(b) of the treaty of Versailles to seize, retain or liquidate the property, rights and interests of German nationals, companies or organizations, whether German or controlled by Germans, situated in Belgium, the Kongo, or territory under administration by mandate, in so far as they had not already been dealt with. Assets or credits in process of liquidation of several specified types were not affected, but all other properties in the possession of the Belgian Government were to be restored to the proper persons, together with all accruals thereto from June 7, 1929. Detailed arrangements for various types of property are set forth, and all disputes as to credits are settled by the Belgo-German Mixed Arbitral Tribunal. Differences as to the interpretation or application of the agreement are to be settled by a tribunal composed of a national of each party and a president chosen by both parties. The agreement enters into force simultaneously with the Young Plan.

The Polish-German agreement of October 31, 1929, canceled all counter claims to the liquidation of properties.

¹Texts in *Entwürfe zu den Gesetzen, fünfter Teil*.

Negotiations were begun to abolish the German-Polish Mixed Arbitral Tribunal, which had been trying such cases. Future cases involving nationality will be left to the Council of the League of Nations. The Polish Government will not make use of its right to purchase farms belonging to German colonists and passing to other owners by inheritance in the first and second degrees, unless the heirs are condemned criminals. About 12,000 properties are affected. The suspension of liquidation ran from September 1, 1929.

This Warsaw agreement disposed of claims complicated in their nature, of several sorts and involving considerable value. According to the German summary¹ about 54,500 hectares of land were liquidated under Art. 92, par. 4, of the treaty of Versailles. Claims which ceased to be a subject of dispute were given as of the following values: Of German nationals against Poland 538,700,000 Reichsmarks; of Polish nationals of German origin 60,000,000 Reichsmarks; of Polish private cases pending against Germany 830,000,000 Reichsmarks; of lands in possession, claims to which were renounced by Poland, 50,000,000 to 60,000,000 Reichsmarks as to country lands and 5,000,000 to 10,000,000 as to city properties. The right of transfer to "colony lands" affected values of 250,000,000 Reichsmarks.

The British chancellor of the exchequer informed the German ambassador on November 11, 1929, that he could not entertain the claim of Germany for the unconditional return to it of all German private property confiscated during the war and remaining unliquidated. A draft agreement laying down a procedure for the liquidation of such property had been prepared as a result of conversations between British and German experts at the Board of Trade, and the chancellor suggested that it was Germany's interest to accept that plan to prevent resumption of liquidation. Mr. Snowden rejected absolutely Germany's claim of payment of all surpluses resulting from

¹ *Entwürfe zu den Gesetzen, fünfter Teil, p. 95.*

the liquidation of private property after the covering of British private losses in Germany on the ground that the decision of the Arbitral Tribunal of Interpretation of May 29, 1928, had decided that question.¹ The convention of December 28 established the *status quo* respecting liquidation. The document² is the most detailed of the liquidation settlements and provides different treatment for several categories of cases. The conventions of the dominions follow somewhat the same principles.

On December 31, 1929, the French foreign minister and the German ambassador at Paris signed an agreement providing for halting the liquidation of German properties in France and in Morocco, where German mineralogical concerns, especially the Mannesmann Brothers, were particularly active before the war. By the agreement, German properties in Morocco are to be retroceded within six months to holders agreeable to the Moroccan Government. After the lapse of that period, the Moroccan Government will exercise a right of preemption.

No complete figures have been computed as to the value of claims relinquished by this series of liquidation conventions. The French account has been closed. The value of German properties liquidated in France, Alsace-Lorraine and Morocco from 1920 to January 31, 1930, under Arts. 296 and 297 of the treaty of Versailles amounted to 3,575,377,564 francs. Of this total, 35,544,220 francs had not been paid out to French nationals.³ About 20,000,000 Reichsmarks on the German side was returnable to the French.

British claims relinquished were said to be of some £50,000,000 (1,000,000,000 Reichsmarks) as against 40,000,000 Reichsmarks relinquished by Germany. German estimates of relinquishments to some other countries were: Belgium, 20,000,000, Canada, 6,500,000, Austria, 5,500,000 and New Zealand 370,000 Reichsmarks.⁴

¹ *London Times*, November 15, 1929, p. 14; November 28, p. 8.

² Published as Cmd. 3486.

³ *Le Temps, Économique et Financier*, April 7, 1930, p. 1.

⁴ *Entwürfe zu den Gesetzen*, fünfter Teil, p. 90.

VII. PAYMENT OF GOVERNMENTAL DEBTS

The Belgian, French, German, British and Italian experts signed on June 7, 1929, a concurrent memorandum regarding "out-payments." It is specifically stated that this memorandum is "not a part of the report" of the Committee of Experts. Nevertheless, it has a profound effect upon the entire problem of inter-governmental indebtedness, the central feature of which is dealt with in the report. The Belgian, French, German, British, Italian, Japanese and American experts provided in their report for payments by Germany extending over a period of 59 years, divided into two periods. The first period extends from September 1, 1929, through 36 years and seven months of German fiscal years to March 31, 1966. The second period extends through 22 German fiscal years from April 1, 1966, to March 31, 1988. Reparation payments proper are included in the first period. Provision is made through the Bank for International Settlements for aiding these payments of the last 22 years by a form of annuitizing a capital deposit. It is consequently probable that the payments by Germany in the last 22 years will be paid from a combination of capital income, the special German quota of the bank's profits and a contribution from the German budget, which remains constantly responsible for the total of all annuities. Conventions signed at The Hague on January 20, 1930, enact these proposals.

These arrangements were made to meet the insistence of the principal creditor states of Germany that they must receive from Germany a sum sufficient to meet their own inter-governmental indebtedness, which is to say their indebtedness to the United States Government. This insistence and Germany's acquiescence thereto accounted for the inclusion in the New Plan of the payments due from Germany in the second period. The American experts neither signed nor participated in the drafting of the concurrent memorandum regarding "out-payments."

This memorandum represents conclusions of policy respecting inter-governmental indebtedness arising from the Great War, which had been discussed over many years. There was an original disposition on the part of some of the victors to pool the indebtedness arising out of the war. Representatives of the United States at the Paris Peace Conference declined to discuss such a proposal. At one time it was extensively debated whether it was possible to simplify the total indebtedness by direct arrangements between the eventual debtor and the eventual creditor, under guaranty of the intermediate debtors.

In 1921 the Treasury Department of the United States submitted a draft bill to Congress providing "that the Secretary of the Treasury, with the approval of the President, is hereby authorized from time to time to refund or convert and to extend the time of payment of the principal or interest, or both, of any obligation of any foreign Government . . . , arising out of the European War, into bonds or other obligations of such, or any other, foreign Government. . . ." ¹ Respecting this proposal Secretary Mellon in hearings before the Senate Committee on Finance stated on June 29, 1921: "It was considered desirable to be prepared for any contingency. You can imagine where a country may be weak in its resources and that country may have, say, German bonds or bonds of some other country. It may add to the security if those bonds can be accepted, and they naturally will be accepted, with the indorsement or guaranty of the country having the primary obligation."

That proposal was rejected by the Congress, which, in the act creating the World War Foreign Debt Commission approved February 9, 1922, provided:

Section 3. That this act shall not be construed to authorize the exchange of bonds or other obligations of any foreign nation for those of any other foreign government, or cancellation of any part of such indebtedness except through payment thereof.

¹ S. 2135, 67th Cong., 1st sess.

The British Government was at the same time the largest debtor to the United States and the largest creditor outside of the United States Government. On August 1, 1922, the British Secretary of State for Foreign Affairs sent a note — commonly known as the "Balfour note" — to the French, Italian, Yugoslav, Rumanian, Portuguese and Greek Governments in which he discussed the conditions of international indebtedness.¹ He stated that an aggregate of about £3,400,000,000 was owing to Great Britain, £1,450,000,000 from Germany, £650,000,000 from Russia, and £1,300,000,000 was due from its allies. Great Britain in turn owed the United States a principal sum of about £850,000,000. The American Government had then "required this country to pay the interest accrued since 1919 on the Anglo-American debt, to convert it from an unfunded debt, and to pay it by a sinking fund in 25 years." This was "but one of a connected series of transactions, in which this country appears sometimes as debtor, sometimes as creditor, and if our undoubted obligations as a debtor are to be enforced, our not less undoubted rights as a creditor can not be left wholly in abeyance." Creditor Great Britain consequently called upon its debtors to make arrangements for settlement, and added:

The policy favored by His Majesty's Government is . . . that of surrendering their share of German reparation and writing off through one great transaction the whole body of interallied indebtedness. But, if this be found impossible of accomplishment, we wish it to be understood that we do not in any event desire to make a profit out of any less satisfactory arrangement. In no circumstances do we propose to ask more from our debtors than is necessary to pay to our creditors. And, while we do not intend to ask for more, all will admit that we can hardly be content with less.

Between 1922 and 1926 the United States World War Foreign Debt Commission made settlements with its creditors, none of which was within the terms of the act

¹ British and Foreign State Papers, 116, p. 198; also Miscellaneous No. 7 (1922), Cmd. 1737.

of February 9, 1922, and all of which consequently required Congressional approval by separate revisionary acts of Congress. The original act had provided for a "minimum rate of interest of $4\frac{1}{4}\%$ " and refunding within 25 years. None of the actual settlements averaged interest above 3.306%, and all provided for complete refunding of the principal¹ over a period of 62 years.

In the course of negotiations for the refunding of the debts to the United States, several proposals were made to introduce a "safeguard clause" by which it was to be understood that the debtor was to be accorded consideration in case its receipts from Germany on reparation account failed. Such a clause was constantly rejected by the commission.²

The attitude of the United States, to keep the indebtedness involved wholly a transaction between original debtor and original creditor, was further evidenced in the funding

¹ Together with accrued interest to date of the agreement, capitalized additionally.

² The acceptance by France of the debt agreement with the United States occurred more than three years after the signing of the document and after an extensive national debate inside and outside of the parliament. The vote on July 20, 1929, in the Chamber was 304 to 292 in favor of a naked authorization of ratification by the President of France in proceedings in which the cabinet continuously made a favorable vote a question of confidence in the Government. The Finance Commission of the Chamber was opposed to naked ratification and, though its proposal was defeated, its text represents the oppositional ideas and is, therefore, quoted:

"Under reserve of the present state of international settlements and under the express reservation that in any case France shall be called upon to devote to the payments provided for in the agreement concluded at Washington, April 29, 1926, only those amounts which it shall itself receive by virtue of the said settlements, the President of the Republic is authorized to ratify the agreement concluded at Washington, April 29, 1926, between the Government of the United States of America and the Government of the French Republic for the consolidation and reimbursement in 62 annuities of the debts contracted by France toward the United States of America."

However, before the rejection of the Commission's proposal, the Chamber had adopted by 282 votes to 274 a resolution reading as follows:

"The Chamber, being now faced with the problem of the ratification of the agreements of Washington and London, and on the eve of the day when the Government is to take part in the labors of the International Conference, renews its fraternal sentiments toward the nations who fought side by side with France in the World War and,

"Considering that France can not, without the gravest disturbance of her national economy, find the means necessary for the fulfilment of the agreements of April 29 and July 12, 1926, unless the German obligations to her are regularly discharged,

"Declares that the charges imposed on the country by the said agreements ought to be covered exclusively by such sums as Germany pays to France, apart from those paid for reparation."

The Senate, 242 to 30, approved ratification on July 26.

of the Belgian debt. Belgium's indebtedness to the United States consisted of two separate sums. The United States had advanced money to the Belgian Government in connection with its conduct of the war and had also loaned it money for national purposes after the armistice. The President of the United States and representatives of the Allies had formally agreed at the Peace Conference that the Belgian prearmistice debt was to be made an obligation of the German Government.¹ The American share of that debt was \$170,780,000. In the negotiations Belgium argued that that portion of its debt should be collected direct from Germany. The United States declined to accept this argument, but did agree that the principal amount should be repaid without the addition of interest. The agreement to this effect was made on August 18, 1925. On the previous January 14, the United States, together with all the other creditors of Germany on reparation account, had signed at Paris a financial agreement regarding the distribution of the Dawes annuities by which a portion of each annuity was set aside for reimbursement of the Belgian war debt. Of this annual sum France was to receive 46% direct, Great Britain 42%, "and Belgium (by reason of her debt to the United States of America) 12%." Belgian budget receipts under this head are used to offset the Belgian prearmistice indebtedness to the United States.

France and Great Britain have followed the lead of the United States in the refunding of inter-governmental indebtedness due to the war. Altogether, the three countries as creditors have debt settlements on the war account totalling 16, as follows: ²

¹ Art. 232 of the treaty of Versailles. On June 16, 1919, the American, British and French chief delegates agreed to recommend to their Governments acceptance of German reparation bonds in lieu of Belgian obligations. The President so recommended to Congress on February 22, 1921.

² The agreements are:

United States — Belgium, August 18, 1925; France, April 29, 1926; Great Britain, June 18, 1923; Greece, January 18, 1928; Italy, November 14, 1925; Rumania, December 4, 1925; Yugoslavia, May 3, 1926.

France — Greece, January 20, 1930; Rumania, January 17, 1930; Yugoslavia, January 20, 1930.

Great Britain — France, July 12, 1926; Greece, April 9, 1927; Italy, January 27, 1926; Portugal, December 31, 1926; Rumania, October 19, 1925; Yugoslavia, August 9, 1927.

United States	7
Great Britain	6
France	3

All recipients of reparation, with the exceptions of Japan and the United States, are debtors on the war account and are looking to German reparation payments to meet those obligations.

Until the discussions taking place in the Committee of Experts occurred, no authentic expression of German opinion regarding that country's willingness to appear as the eventual debtor in all of these transactions had been given. The concurrent memorandum of June 7, by reason of its acceptance by the German experts, placed Germany in the same position as all of the interested countries, with the exception of the United States.

The concurrent memorandum identifies for each year of the 59 years of payments under the plan the annual amount which the recipients will require to meet their governmental indebtednesses. The proportion of the German payments devoted to this end represent the major part of the receipts, 77% of the total from 1929 to 1986. During the first period of the plan the amounts are:

YEAR	Total	Out-Payments
5	1,804.3	1,136.4
10	1,995.3	1,352.5
15	2,194.3	1,451.5
20	2,210.0	1,467.1
25	2,353.3	1,498.1
30	2,393.8	1,538.6
35	2,402.6	1,547.4
37	2,428.8	1,573.7

By the concurrent memorandum, the Belgian, French, German, British and Italian experts agree "that, in the event of modifications of those obligations for out-pay-

ments, by which the creditors benefit, there should be some corresponding mitigation of the German annuities." In effect, this puts into operation as between them the principle enunciated in the Balfour note of 1922.

The principles of the arrangements by which Germany will benefit are set forth in detail. In general, Germany will receive two-thirds of the net relief available by way of reduction during the first period of 37 years, one-third being allocated to the creditor. So long as Germany's liability "persists" for the period after March 31, 1966, $8\frac{1}{3}\%$ of the net relief retained by the creditor is to be paid into the Bank for International Settlements. Such sums will accumulate in the bank to assist Germany toward meeting her liabilities in respect of the period after March 31, 1966. After that date, all net relief shall be applied to reduce Germany's liabilities.

The concurrent memorandum provides for conditions which might exist in case the "out-payments" were reduced to such an extent "as to change materially the proportions in which the total annuities provided for in the present plan are divided" among the creditors. Should such remission of debts occur as to bring that situation about, the creditor Governments are to meet to consider a revision tending toward restoration of the proportions fixed by the plan. Such arrangements will be made with a desire to accelerate the liquidation of reparation as well as to reduce its burdens.

These provisions for interrelating inter-governmental indebtedness resulting from the Great War, it will be noticed, retain a considerable amount of the independent action of the respective parties which has been the outstanding characteristic of the whole series of transactions. The debtors were unable, in view of the refunding agreements which they had made, to effect joint arrangements. In this connection there was considered the possibility of employing any remission of indebtedness to reduce the postponable annuities called for in the plan, postponement

to Germany running *pari passu* with postponement accorded in respect to inter-governmental indebtedness.

The provisions of the concurrent memorandum were enacted in an arrangement signed at the second session of the Hague conference by Belgium, France, Great Britain and Northern Ireland, Greece, Italy, Portugal, Rumania and Yugoslavia.¹

THE BELGIAN MARKS SETTLEMENT

While the Germans occupied Belgium in the course of the Great War, they controlled the Government of the country. One exercise of this control was the issuance to the public of a mark currency, which remained in circulation for some time. After resumption of Belgian control of the country and Government, the German marks were withdrawn, and their value remained a charge on the Belgian Government. The Brussels authorities had frequently presented their claim under this head as a reparation claim, but it had never been admitted as such. In the interval since 1920 several unsuccessful efforts had been made by the Belgian and German Governments to reach an agreement upon the matter, which greatly interested the Belgian people and, as a consequence, had become a political factor with them. The Brussels Government was, therefore, insistent that a definitive settlement of the reparation problem should provide for a satisfaction of the Belgian mark claim.

None of the other interested Governments had admitted that the claim fell within the treaty categories defined as reparation, but the discussions preceding the call of the committee had made it clear that they favored its concurrent settlement. The Committee of Experts did not accept the mark claim as an item to be included in their settlement. On the other hand, Belgian public opinion, which the Belgian experts necessarily reflected, made it impossible for them to accept a report which did not at

¹ See text of arrangement and memorandum, *infra*, p. 239.

least constructively satisfy the demand of their people. The Belgian experts were insistent that they would be unable to sign a report that did not at least put the mark claim on the definite way to settlement.

The problem was solved, so far as the Committee of Experts was concerned, by undertakings between the Belgian and German experts, whose exchanges of letters were formally made an annex to the report of the whole committee. In this Annex VI, the experts "recognize that the New Plan can not become operative until the Belgian and German Governments have come to an internationally binding agreement on the mark claim." By the letters attached, Dr. Schacht, the first German expert, informed the chairman of the Committee of Experts that the German Government was prepared immediately to enter into "negotiations on a new basis looking to a definite settlement of the mark controversy" and to agree that the negotiations should be concluded before the New Plan was put into force. The German Government had appointed its representative and emphasized that the proposal was made in a conciliatory spirit and in an effort in good faith to remove this impediment to friendly relations between the two countries.

By Art. 34 of the treaty of Versailles, Germany renounced its rights and titles over the territories known as the circles of Eupen and Malmédy to Belgium, the cession to be confirmed within six months by a plebiscite of which the result was to be reported to the League of Nations. The German Government in 1920 complained frequently to the Council of the League concerning the methods by which the plebiscite was conducted and filed a protest against the confirmation by the Council of the plebiscitary vote favorable to Belgium. In connection with the negotiations respecting the Belgian mark claim, the Germans had raised the question of an adjustment of that territorial question in connection with the financial arrangement. Dr. Schacht's letter of June 3 to Mr. Young made

no mention of that possible phase of the negotiation. On June 4, Herr Kastl, the second German expert, addressed to Thomas W. Lamont, the American alternate expert, a further note intended to assure the Belgians on this point. In it Mr. Kastl quoted Dr. Ritter, who was appointed to represent the German Foreign Office in the settlement, to the effect that "no territorial questions will be raised in these negotiations."

On the same day, Emile Francqui, the first Belgian expert, informed the president of the committee that, in view of the undertakings of these letters, the Belgian delegation, which "has refused to sign the report before a settlement of the mark question had been realized," now agreed to sign it "before the mark negotiations have been terminated."

The negotiations thus provided for were concluded by a Belgo-German agreement signed at Brussels on July 13. As contemplated by the Committee of Experts, it took the form of annuities similar to those covered in the report and also provided for the payments being administered in the same way by the Bank for International Settlements. The initial claim of the Belgians was 390,000,000 marks. The agreement reached gave a present value of 320,000,000 marks.¹ The annuity payments are as follows:

1.	September 1, 1929–March 31, 1930	. . .	16,200,000
2–4.	April 1, 1930–March 31, 1933	. . .	21,500,000
5–12.	April 1, 1933–March 31, 1941	. . .	26,000,000
13–20.	April 1, 1941–March 31, 1949	. . .	20,100,000
21–37.	April 1, 1949–March 31, 1966	. . .	9,300,000

The German engagement to pay is unconditional, but the right to make payment by deliveries in kind is reserved.

Simultaneously with the signing of this agreement, another was signed at Berlin between Belgium and Germany providing for the restoration of sequestered German properties which had not been liquidated. This arrange-

¹ Luxembourg, in which marks were also issued, benefits by the settlement to the extent of $\frac{1}{10}$ of the total.

ment was in fulfilment of the recommendation of the Committee of Experts in Part IX of their plan. It involved a settlement of properties valued at about 400,000,000 Belgian francs (\$5,700,000).

As the Belgian mark payments by Germany are additional to the annuities of the New Plan, the entire schedule is here given: ¹

¹ *L'Europe Nouvelle*, August 3, 1929, p. 1075.

SUMS TO BE PAID BY GERMANY TO BELGIUM

	Millions of Reichsmarks	Value in Belgian Francs
September 1, 1929—March 31, 1930	16.2	138,769,200
1930—1931	21.5	184,169,000
1931—1932	21.5	184,169,000
1932—1933	21.5	184,169,000
1933—1934	26.0	222,716,000
1934—1935	26.0	222,716,000
1935—1936	26.0	222,716,000
1936—1937	26.0	222,716,000
1937—1938	26.0	222,716,000
1938—1939	26.0	222,716,000
1939—1940	26.0	222,716,000
1940—1941	26.0	222,716,000
1941—1942	20.1	172,176,600
1942—1943	20.1	172,176,600
1943—1944	20.1	172,176,600
1944—1945	20.1	172,176,600
1945—1946	20.1	172,176,600
1946—1947	20.1	172,176,600
1947—1948	20.1	172,176,600
1948—1949	20.1	172,176,600
1949—1950	9.3	79,663,800
1950—1951	9.3	79,663,800
1951—1952	9.3	79,663,800
1952—1953	9.3	79,663,800
1953—1954	9.3	79,663,800
1954—1955	9.3	79,663,800
1955—1956	9.3	79,663,800
1956—1957	9.3	79,663,800
1957—1958	9.3	79,663,800
1958—1959	9.3	79,663,800
1959—1960	9.3	79,663,800
1960—1961	9.3	79,663,800
1961—1962	9.3	79,663,800
1962—1963	9.3	79,663,800
1963—1964	9.3	79,663,800
1964—1965	9.3	79,663,800
1965—1966	9.3	79,663,800
	607.6	

CONSPECTUS OF ALL REPARATION PAYMENTS

(Millions and decimals thereof)

Annuity Year	YEAR ENDING MARCH 31	GERMANY (Reichsmarks)			Bul-garia (Gold France)	Hung-ary (Gold Crowns)	Czecho-slovakia (Reichs-marks)
		Young Annuity	United States	Bel-gium			
1	1930	676.9	65.9	16.2	5.0	7.0	10.0
2	1931	1,641.6	66.3	21.5	10.0	8.0	10.0
3	1932	1,618.9	66.1	21.5	10.0	9.0	10.0
4	1933	1,672.1	66.1	21.5	10.0	10.0	10.0
5	1934	1,744.9	59.4	26.0	10.0	11.0	10.0
6	1935	1,807.5	59.4	26.0	10.0	12.0	10.0
7	1936	1,833.5	59.4	26.0	10.0	13.0	10.0
8	1937	1,880.3	59.4	26.0	10.0	13.0	10.0
9	1938	1,919.8	57.2	26.0	10.0	13.0	10.0
10	1939	1,938.1	57.2	26.0	10.0	13.0	10.0
11	1940	1,983.4	59.4	26.0	10.0	13.0	10.0
12	1941	2,096.1	59.4	26.0	11.5	13.0	10.0
13	1942	2,114.6	66.1	20.1	11.5	14.0	10.0
14	1943	2,131.9	66.1	20.1	11.5	14.0	10.0
15	1944	2,128.2	66.1	20.1	11.5	13.5	10.0
16	1945	2,141.4	66.1	20.1	11.5	13.5	10.0
17	1946	2,137.7	66.1	20.1	11.5	13.5	10.0
18	1947	2,133.4	66.1	20.1	11.5	13.5	10.0
19	1948	2,149.1	66.1	20.1	11.5	13.5	10.0
20	1949	2,143.9	66.1	20.1	11.5	13.5	10.0
21	1950	2,240.7	76.1	9.3	11.5	13.5	10.0
22	1951	2,283.1	76.1	9.3	12.5 ¹	13.5	10.0
23	1952	2,267.1	76.1	9.3	12.5	13.5	10.0
24	1953	2,270.1	76.1	9.3	12.5	13.5	10.0
25	1954	2,277.2	76.1	9.3	12.5	13.5	10.0
26	1955	2,288.5	76.1	9.3	12.5	13.5	10.0
27	1956	2,283.7	76.1	9.3	12.5	13.5	10.0
28	1957	2,278.1	76.1	9.3	12.5	13.5	10.0
29	1958	2,285.7	76.1	9.3	12.5	13.5	10.0
30	1959	2,317.7	76.1	9.3	12.5	13.5	10.0
31	1960	2,294.5	76.1	9.3	12.5	13.5	10.0
32	1961	2,304.4	76.1	9.3	12.5	13.5	10.0
33	1962	2,322.2	76.1	9.3	12.5	13.5	10.0
34	1963	2,314.1	76.1	9.3	12.5	13.5	10.0
35	1964	2,326.5	76.1	9.3	12.5	13.5	10.0
36	1965	2,326.0	76.1	9.3	12.5	13.5	10.0
37	1966	2,352.7	76.1	9.3	12.5	13.5	10.0
	Totals	76,925.6	2,557.7	607.6	420.2	473.5	370.0
	Totals in dollars	\$18,308.3	\$608.7	\$144.6	\$80.9	\$95.8	\$88.06
	1967-88	33,810.1					
	1967-81	\$8,046.8	612.0	\$145.6			

Grand total in dollars, \$27,519,248.06

¹ 15,238 francs additional in the annuities 1951-66 are included in the total.

RECEIPTS ON ALL ACCOUNTS, 1930-36.

G — German payments in Reichsmarks (\$0.238).
 B — Bulgarian payments in gold francs (\$0.19295).
 C — Czechoslovak payments in Reichsmarks (\$0.238).

H — Hungarian payments in gold crowns (\$0.2026).
 Hungarian receipts from Great Britain, France and Italy
 are in gold crowns.

Great Britain receives annuities of 16,650,000 Reichsmarks from France, of 3,150,000 from Belgium and of 9,000,000 from Italy not tabulated.

(000 omitted)

		YEARS ENDING MARCH 31						
		1930	1931	1932	1933	1934	1935	1936 ¹
France	G	418,800	G 900,700	G 838,400	G 879,800	G 879,100	G 941,800	G 962,800
	C	3,188	C 3,188	C 3,188	C 3,188	C 3,188	C 3,188	C 3,188
British Empire	G	53,100	G 366,800	G 362,000	G 364,500	G 454,800	G 450,100	G 444,900
	C	1,384	C 1,384	C 1,384	C 1,384	C 1,384	C 1,384	C 1,384
Italy	G	42,500	G 156,000	G 190,800	G 196,300	G 192,400	G 193,600	G 195,200
	C	3,146	C 3,146	C 3,146	C 3,146	C 3,146	C 3,146	C 3,146
Belgium ²	G	86,900	G 119,700	G 124,100	G 126,800	G 126,300	G 128,800	G 136,000
	C	418	C 418	C 418	C 418	C 418	C 418	C 418
Greece	G	-	G 3,600	G 6,700	G 6,900	G 7,200	G 7,200	G 7,200
	B	5,000	B 7,673	B 7,673	B 7,673	B 7,673	B 7,673	B 7,673
	C	1,758	C 1,758	C 1,758	C 1,758	C 1,758	C 1,758	C 1,758
	H	6,138	H 6,896	H 7,673	H 8,440	H 9,208	H 9,975	H 9,975
Hungary		-	BR 600	BR 600	BR 1,320	BR 1,320	BR 1,320	BR 1,320
		-	F 1,200	F 1,200	F 2,640	F 2,640	F 2,640	F 2,640
		-	I 1,200	I 1,200	I 2,640	I 2,640	I 2,640	I 2,640
Rumania		-	G 10,000	G 12,000	G 13,000	G 13,900	G 14,700	G 16,100
		-	B 1,300	B 1,300	B 1,300	B 1,300	B 1,300	B 1,300
Yugoslavia	H	1,040	H 1,170	H 1,300	H 1,430	H 1,560	H 1,690	H 1,690
	G	72,100	G 79,400	G 79,300	G 79,400	G 72,400	G 72,500	G 72,600
	B	-	B 500	B 500	B 500	B 500	B 500	B 500
	H	400	H 450	H 500	H 550	H 600	H 650	H 650

¹ Payments other than German are the same until 1940.

² German payments include the Young Plan and the mark settlement annuities as a total.

APPENDIX

I. THE NEW PLAN

NOTE. — In order to bring out the main features of the New Plan and to consolidate them within the minimum space for the convenience of the reader, extensive editorial compression has been resorted to. All transitional documents have been omitted and identified with relation to their final form. Permanent portions of transitional documents have been retained or assimilated to their pertinent texts by full quotation in footnotes. The following pages in this way present all general features of 250 pages of formal texts, to be found in:

Report of the Committee of Experts on Reparations. London, His Majesty's Stationery Office, 1929. 69 p. (Cmd. 3343).

International Agreement on the Evacuation of the Rhineland Territory, The Hague, August 30, 1929. London, His Majesty's Stationery Office, 1929. 17 p. (Miscellaneous No. 7 (1929), Cmd. 3417).

Protocol with Annexes approved at the Plenary Session of The Hague Conference, August 31, 1929. London, His Majesty's Stationery Office, 1929. 11 p. (Miscellaneous No. 5 (1929), Cmd. 3392).

Agreements concluded at the Hague Conference, January, 1930. London, His Majesty's Stationery Office, 1930. (Miscellaneous No. 4 (1930), Cmd. 3484.) Cited as *Agreements*.

Entwürfe zu den Gesetzen über die Haager Konferenz und die Sonder- und Liquidationsabkommen. Amtliche Ausgabe. [Berlin, 1929.] Cited as *Entwürfe zu den Gesetzen*.

1. REPORT OF THE COMMITTEE OF EXPERTS, JUNE 7, 1929¹

¶1. We transmit to the Governments which took part in the Geneva decision and to the Reparation Commission our proposals for a complete and final settlement of the reparation problem, including the settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor powers, and we unanimously recommend the following plan to the Governments concerned.

¹ Reprinted from British Parliamentary Paper Cmd. 3343, with paragraphs numbered in accordance with the Reparation Commission print.

1. Appointment, Terms of Reference and Constitution

¶2. This committee originated with the decision taken by the Belgian, British, French, German, Italian and Japanese Governments to intrust to independent experts the task of drawing up proposals for a complete and final settlement of the reparation problem. Twelve experts were to be chosen among the nationals of countries which participated in this decision, and two among the nationals of the United States of America. Each of the experts invited was empowered to appoint an alternate.

¶3. The appointments of the invited experts as members of the committee were made according to the following procedure:

¶4. The Belgian, British, French, Italian and Japanese experts were appointed by the Reparation Commission upon the nomination of their respective Governments.

¶5. The German experts were appointed by the German Government.

¶6. The experts being citizens of the United States of America were appointed by the Reparation Commission conjointly with the German Government.

¶7. The mandate of the committee of experts thus formed is set forth in the following terms of reference:

¶8. "The Belgian, British, French, German, Italian and Japanese Governments, in pursuance of the decision reached at Geneva on September 16, 1928, whereby it was agreed to set up a committee of independent financial experts, hereby intrust to the committee the task of drawing up proposals for a complete and final settlement of the reparation problem. These proposals shall include a settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor powers. The committee shall address its report to the Governments which took part in the Geneva decision and also to the Reparation Commission."

¶9. The committee was constituted with the following membership:

Belgian experts: M. Emile Francqui, M. Camille Gutt — alternates: Baron Terlinden, M. H. Fabri.

British experts: Sir Josiah Stamp, G. B. E.; Lord Revelstoke, G. C. V. O. — alternates: Sir Charles Addis, K. C. M. G.; Sir Basil Blackett, K. C. B., K. C. S. I.

French experts: M. Emile Moreau, M. Jean Parmentier — alternates: M. C. Moret, M. Edgar Allix.

German experts: Dr. Hjalmar Schacht, Dr. A. Voegler — alternates: Dr. C. Melchior, Herr. L. Kastl.

Italian experts: Dr. Alberto Pirelli, M. Fulvio Suvich — alternates: M. Giuseppe Bianchini, M. Bruno Dolcetta.

Japanese experts: Kengo Mori, Takashi Aoki — alternates: Saburo Sonoda, Yasumune Matsui.

American experts: Owen D. Young, J. P. Morgan — alternates: Thomas N. Perkins, T. W. Lamont.

¶10. We have to record our deep sense of regret at the death of Lord Revelstoke, which took place suddenly at an early hour on Friday, April 19. By his untimely removal from our counsels we suffered the loss of one whose unflinching tact and wisdom had gained the affection and respect of all of us and contributed greatly to our progress. In honor of his memory all meetings were suspended until Tuesday, April 23. On April 20 the Reparation Commission unanimously passed a resolution "deploring the death of Lord Revelstoke and instructing the general secretary to convey an expression of sympathy to the committee of experts on the loss of their distinguished colleague."

¶11. In a separate communication the Reparation Commission advised the committee that they had: "Unanimously appointed, on the nomination of His Britannic Majesty's Government, Sir Charles Addis, K. C. M. G., to be a member of the experts' committee in succession to the late Lord Revelstoke."

¶12. On May 23 the committee were advised that the German Government had appointed Herr L. Kastl to be a member in the place of Dr. Voegler, of whose resignation the committee had learned with regret on the previous day.

2. Meetings of Committee

¶13. The experts met for the first time informally at the Bank of France on Saturday morning, February 9, to fix the date of the first meeting of the committee and to discuss matters of organization and procedure.

¶14. The first regular meeting of the committee was held on Monday, February 11, at 2 o'clock in the afternoon, in the Hotel George V. At this meeting Mr. Owen D. Young was unanimously chosen chairman.

¶15. The committee has been in continuous session over a period of some 17 weeks. Subcommittees were set up as required for the study of particular questions and met frequently in the intervals between the plenary sessions.

3. Attitude of the Committee

¶16. The report of the Dawes Committee opened with the following words:

¶17. "We have approached our task as business men anxious to obtain effective results. We have been concerned with the technical, and not the political, aspects of the problem presented to us. We have recognized, indeed, that political considerations necessarily set certain limits within which a solution must be found if it is to have any chance of acceptance. To this extent, and to this extent only, we have borne them in mind."

¶18. It is in this spirit that the present committee have addressed themselves to the task of rounding off the work of their predecessors which was advisedly left incomplete. By determining the number and amount of the annuities and by providing for the conversion of the reparation debt from a political to a commercial obligation, they have to the best of their ability tried to perform the task committed to them of devising a scheme which might fairly be accepted by all parties concerned.

¶19. Throughout our deliberations and in our present proposals we have endeavored to reach our conclusions on economic and financial grounds. But we have realized, like our predecessors, that political factors necessarily set certain limits within which a solution had to be found if our proposals were to secure acceptance. We had therefore to base our decisions not only on economic, but also to some extent on political considerations. Many important juridical questions are also involved, and while as financial experts we are not specially qualified for going into details on them, their broader aspects have been always in our minds. Indeed, it has been clear to us that close attention to them would have made our handling of the larger questions well-nigh impossible; but the committee is satisfied that the scheme it recommends is within its terms of reference.

¶20. The meeting of the present committee of experts marks the first occasion on which representatives of all the six nations chiefly concerned (together with American experts) have sat down together to work out on a large scale the common problems of reparations, and to cooperate in exploring the various means by which Germany could be enabled to discharge her obligations.

¶21. The Dawes report made no attempt to establish the causes leading up to the situation which its provisions sought to ameliorate.

In adhering to this precedent we have attempted to go further, and, through the proposed creation of the machinery which we recommend, to set up an institution whose direction from the start shall be cooperative and international in character, whose members shall engage themselves to banish the atmosphere of the war, to obliterate its animosities, its partisanships, its tendencious phrases, and to work together for a common end in a spirit of mutual interest and good-will.

4. The Study of Germany's Economic Conditions

¶22. During the course of its deliberations the committee have given close consideration to the various aspects of Germany's present economic position and future potentialities,¹ because of their material relation to her capacity to discharge obligations to foreign creditors.

¶23. The committee had among their number six members of the Dawes committee of 1924, whose contact with this aspect of the subject was obviously at that time close and responsible. Further, the committee includes several who have been associated with the practical working of the plan. These members have naturally had an unusual and continuous interest in the course of events unrolled during the past five years.

¶24. Furthermore, the periodical reports made by the Agent General and trustees and commissioners upon the working of the Dawes plan and the reports of the Reichsbank itself, have given comprehensive reviews of Germany's position and development. The body of knowledge so available and the public interest and discussion it has stimulated have been of the greatest assistance to the committee.

¶25. Moreover, they have been specially assisted by the able and lucid descriptions of the present economic condition of Ger-

¹ Owen D. Young in his address at Berkeley, Calif., March 24, 1930, said:

"But I have great confidence in Germany's capacity to pay. True, she has not a large supply of what the world calls basic raw material. She has, in large measure, however, a supply of that kind of raw material too little taken into account in the world's affairs, namely a capacity for scientific research, and the ability to apply it and organize it in production. It is not unlikely that in the years to come this particular kind of raw material with which Germany is well endowed, may be the reservoir out of which these vast sums will be produced and paid. If Germany does make the payments out of such a reservoir, the rest of the world must be careful to avoid the enervating effects resulting from the receipt of such payments. We should all remember that the discipline of hard work and of heavy responsibility is likely to do much for a people as well as for an individual. Let no man be sure; let no nation be sure, merely because he is a creditor of some one else's labor, that therefore he is strong and will always remain so."

many and the possibilities of German development which have been made by the German experts, who were well fitted by their respective positions in Germany to give, in combination, an impressive review of the subject. The considerations put forward by them in our numerous discussions and in answer to the questions addressed to them have been a constant and powerful influence in leading us to our conclusions.

¶26. The German experts have given the committee complete information as to the demands for foreign capital made by German economy during recent years and as to the items which in their opinion counteracted this: External assets of Germany, reconstitution of the stocks and of the machinery of the country. The productivity of capital thus invested has been discussed by the committee, who have also considered the comparison between the fiscal burdens and the burdens of public debt in Germany and in other countries.

¶27. The German experts have also made statements before the committee as to the present state of German industry and agriculture, the general level of wages, the budgetary situation, the balance of payments, the financial effect of compensation to her nationals, the influence upon her trade of customs barriers abroad, and the special situation of an industrial country such as Germany, which has had to reconstitute her working capital, and at the same time assume the burden of heavy international obligations.

¶28. The German experts laid stress on the question of natural resources available to Germany, whether within her borders or not, and on Germany's capacity to pay as affected thereby.

¶29. These statements have been present in the consideration of the experts and in a large measure their conclusions have been influenced by them.

¶30. It is unnecessary for us to set out the various considerations of an economic character which have led to our conclusions on the capacity of Germany to transfer. We believe that in the scale of annuities and the conditions recommended we have given proper regard to the potentialities of all the economic conditions and financial forces normally and naturally involved. We believe further that, in arranging for a part of the annuity to carry rights of postponement and for impartial inquiry, we have provided for the possibility of meeting any abnormal or special difficulty arising which might seriously affect Germany's capacity for a time, despite all that might be done by Germany's good-will and ingenuity to

meet such difficulty, without having recourse to an altogether exceptional but nevertheless very valuable expedient.

¶31. As a substitute for the present system of transfer protection, with its semi-political controls, its derogation from Germany's initiative and its possible reactions upon credit, we are recommending a scheme of annuities appreciably smaller than the Dawes obligations and subject to new and elastic conditions, which are described at length in the succeeding chapters of the present report. As an internal burden to be borne by annual taxation the scheme we propose is materially less; it is closely assimilated to commercial and financial obligations; it carries with it welcome freedom from interference and supervision and it is provided with adequate safeguards against any period so critical as to endanger Germany's economic life.

5. Course of the Proceedings

¶32. The committee addressed themselves at the outset to the essential task before them, namely, to determine the number and amount of the annuities to be paid by Germany; but they soon found the amounts were to a considerable extent contingent upon the machinery and form of payment and, therefore, that they were not at that stage ready to reach a conclusion either as to the amount of the annuities or the number of years during which they should continue. Moreover, if Germany were to be given a definite task to perform on her own responsibility, and if the committee were to substitute for many of the features of the Dawes plan machinery of a nonpolitical character in the realm of general finance, it was clearly necessary to elaborate a system for handling the annuities in a way which so far as it led to their commercialization would remove them from the sphere of inter-governmental relations. In the first instance, some time was occupied by the committee in hearing the statements from the German experts on German economic conditions and the outlook for the future, so far as they affected Germany's capacity to pay obligations in foreign currencies. It then became known that the German group felt that the ability of Germany to undertake a definite annuity obligation might vary according to other provisions comprised in the committee's recommendations, and in particular according to whether the annuity was entirely unconditional or whether some portion of it was payable under arrangements for postponement in the event of financial and exchange difficulties. The idea was also put forward that if such a situation arose, it was desirable for it to be immediately considered

by an appropriate nonpolitical committee, acting in an advisory capacity to the powers concerned and meeting unostentatiously without waiting to be constituted by the lengthy process of diplomatic action. It was quickly realized that since the amount of the burden which Germany could agree to accept was directly related to such concomitant conditions, these conditions must be first explored.

¶33. At the same time, the possibility of accepting smaller annuities than those fixed under the Dawes plan was admittedly dependent upon the certitude and ease with which the creditors could commercialize the obligations under nonpolitical conditions.

¶34. The arrangements that have been in force under the Dawes scheme for liquidating a part of the annuity by means of deliveries in kind required consideration from two points of view:

¶35. *a.* The substitution for the existing methods of a more elastic machinery which, as the Dawes committee recommended, should be nonpolitical;

¶36. *b.* The gradual termination of the system at the earliest moment consistent with existing relationships and with the interests of Germany, whose economic life has been during the past few years gradually adapted to them, and who would feel herself prejudiced in an economic sense by their too sudden termination.

¶37. The inquiries upon these subjects were found to be converging upon one central point, viz., the nature of the authority which should act as the chief medium for discharging the various functions under a new plan.

¶38. In the exploration of the problem of substituting authority of an external financial and nonpolitical character for the present machinery and controls of the Dawes plan (viz., the administration of the Agent General and of the various commissioners in Berlin, and those functions of the Reparation Commission which were involved), they immediately met with the necessity for a trustee to whom the payments in foreign currencies and Reichsmarks should be made by Germany, and by whom the distribution to the appropriate recipients should be managed.

¶39. In the second place, the problems of mobilization and commercialization demanded a common center of action and authority for the purpose of coordinating and controlling the arrangements, and there were obvious advantages in such an authority being of a continuous or permanent character.

¶40. In the third place, the continued existence of deliveries in kind necessitated special machinery of direction and control, at any rate for a period of years.

¶41. They had already considered the desirability of an advisory committee which could take any necessary action in connection with the declaration of a postponement on the postponable part of the annuity. A permanent central authority might include among its functions the convening of such an advisory body, international in character and existing as a constituent part of this central authority, to consider the situation which had brought about the necessity for a postponement, or the situation which a postponement itself created.

¶42. Again, the possibility that, either exceptionally or regularly as part of the plan, obligations would be discharged in marks within Germany, necessitated a financial authority to arrange for the disposition of such funds or assets in the interests of the creditors, by arrangement with the Reichsbank or other German authority.

¶43. Moreover, in so far as the task of transferring the payments into foreign currencies involved, besides a restriction of imports, an extension of the German export trade, we envisaged the possibility of a financial institution that should be prepared to promote the increase of world trade by financing projects, particularly in undeveloped countries, which might otherwise not be attempted through the ordinary existing channels.

¶44. These several considerations led the committee to the elaboration of a plan for a Bank for International Settlements, which should, in its various functions, meet all these points. The outline of this scheme is given in Part 6 and Annex I.¹

¶45. It will be seen that the essential reparation functions of the bank were such as to form a solid reason for its existence; but the committee were inevitably to add to those reasons the auxiliary, but none the less material advantages that it might have in the general position of present international finance.

¶46. Just as it had been difficult at the outset to table and discuss a precise program of annuities under a new system until such a system were agreed in outline, because the amounts were themselves dependent upon that system, so at this point in the discussions it became difficult for various members to form definite opinions and commit themselves on all details as they were elaborated in the new system until a clearer idea of the obligations that would be undertaken by Germany under that scheme had been obtained. Without, therefore, having resolved all points of doubt on the new system, or done more than sketch it in broad outline,

¹ Not reprinted; see for final substance the Charter and the Statutes of the Bank and the Trust Agreement.

they found that the moment had arrived when the discussion of figures became possible and necessary.

¶47. At this stage the following broad principles were understood to be likely to find their way into any final settlement:

¶48. 1. A division of the annuity into an unconditional and a postponable part;

¶49. 2. The necessity for continuing deliveries in kind for a few years;

¶50. 3. The arrangement of suitable conditions for the postponable part in times of exceptional difficulty.

¶51. In order to put the question into concrete terms, memoranda were tabled by the chairman, by the experts of the four chief creditor countries and by the German experts. A considerable time was spent in discussing these proposals without agreement being reached. Finally the chairman prepared a new and independent plan in which these divergent views were brought closer together. The main feature of his plan was an average annuity of 2,050,600,000 Reichsmarks; and, subject to certain reserves as to the matters of detail, this figure was accepted by the entire committee as the basis of further discussion, and led to the unanimous recommendations now put forward. Among those reserves is the question of the settlement of the Belgian mark claim which the committee had continually in contemplation and the unanimous agreement upon which is to be found in Annex VI.¹

6. Bank for International Settlements

A. GENERAL REASONS FOR THE CONSTITUTION OF AN INSTITUTION WITH BANKING FUNCTIONS

¶52. A general plan for a complete and final settlement of the reparation problem, being primarily financial in character, involves the performance of certain banking functions at one or more points in the sequence between the initial payment of the annuities and the final distribution of the funds. A banking institution designed to meet these requirements justifies and makes logical the liquidation of all political controls and provides instead machinery essentially commercial and financial in character, which carries with it all the support and at the same time all the responsibilities that economic

¹ The condition set forth in the annex was that Belgium could not "join in the Report except on the understanding that an agreement for the settlement of the mark claim will be reached by direct negotiations." The settlement of July 13, 1929, is described at p. 135. See *Entwürfe zu den Gesetzen*, p. 311, for text.

engagements imply. The process of removing the reparation problem from the political to the financial sphere which was begun in the Dawes plan will thus be carried a step further.

¶53. In general terms, the institution will take over such functions of the existing agencies as it may be necessary to continue and will perform the whole work of external administration such as the receipt and distribution of payments and the commercialization of those parts of the annuities which are susceptible of being commercialized.

¶54. The operations of the institution will be assimilated to ordinary commercial and financial practice. Its organization will be outside the field of political influences and its powers and facilities will be sufficiently broad to enable it to deal freely and promptly with the problems involved in the settlement of Germany's obligations. The institution will be equipped with machinery which will provide an elastic element between the payments to be made by Germany and their realization. In consequence, the creditors will have further assurance that the effects of economic changes on the flow of payments will be minimized, and Germany for her part will have the possibility of assistance during temporarily unfavorable conditions.

¶55. It is obviously desirable, in the interest of obtaining results with the greatest efficiency, not to limit unduly the functions of the institution. The character of the annuities and the magnitude of the payments to be transferred over the exchanges provide at once the opportunity and the need for supplementing with additional facilities the existing machinery for carrying on international settlements, and, within limitations of the sound use of credit, to contribute to the stability of international finance and the growth of world trade. We consider that by judicious non-competitive financial development the bank should prove a useful instrument for opening up new fields of commerce, of supply and of demand, and will thus help to solve Germany's special problem, without encroaching on the activities of existing institutions.

¶56. In designing the plan for the Bank for International Settlements, which is given in outline in Annex I, we were, therefore, mindful of the fact that these new facilities should not supplant, but should augment and perfect existing arrangements for carrying through international settlements. The bank will have (a) as its essential or obligatory functions those which are inherent in the receipt, management and distribution of the annuities, and (b) as its auxiliary or permissive functions those which evolve more in-

directly from the character of the annuities. There is no hard and fast line between the two sets of functions, because the first lead naturally into the second.

B. ORGANIZATION OF THE BANK

¶57. In view of the part which the bank will have to play in the general interest it is advisable to place the control of its management in the hands of the central banks, since these are the organizations responsible in each market for the convertibility of the national currencies and the control of credit.

¶58. At the time of the bank's constitution the capital will be geographically distributed in such a way as to associate in the bank's working and in its development all the countries interested in the reparation settlement and all the financial markets which may subscribe to the bank's issues.

¶59. Provision is made for the utilization of the net profits of the bank, due allowance being made for the payment of cumulative dividends on the capital stock, to create suitable reserve funds. Provision is also made, in case Governments or central banks make long-term deposits with the bank, whereby they shall share proportionately in the remainder of the profits, after the requirements on account of dividends and the reserve funds have been covered.

¶60. Inasmuch as its international basis is an essential feature which distinguishes the institution from all others, it has no single fiscal allegiance and it is desirable that in its movements in the various national markets it should not be hampered or restricted by considerations of relative fiscal burdens. It is therefore recommended that the Governments of the countries concerned enter into a convention for the avoidance of double and triple taxation of the bank along the following lines:

¶61. *a.* The funds and investments of the bank to be freed from national taxation at the point where they derive interest, income and profit;

¶62. *b.* All individuals and corporations receiving profit, interest or income from the bank to be fully liable thereon to such taxation as such individuals and corporations would attract if the profit, interest or income were derived from any other source.

¶63. *1. Capital.* On the formation of the bank its authorized capital will be in the equivalent of \$100,000,000. The entire amount will be issued, but only 25 per cent of each share shall be called up, until the Board of Directors decides on a further call. The

allocation of shares by countries is provided for in Section II of Annex I.¹ The shares will carry no voting rights; but voting rights corresponding to the number of shares first issued in each country will be exercised by the central bank of that country in the general meetings attended by representatives of those banks, taking the place of general meetings of shareholders.

¶64. 2. *Administration.* The entire administrative control of the bank will be vested in the Board of Directors. The functions of a director of the bank are incompatible with those involving national political responsibilities, and the statutes of the bank will make the necessary provision in order to avoid such conflict of functions. All the directors and candidates shall be ordinarily resident in Europe, or shall be in a position to give regular attendance at meetings of the board.

¶65. The Governor of the central bank of each of the seven countries to which members of the present Experts' Committee belong, or his nominee, will be entitled to be a director of the bank *ex officio*. Each of these Governors may also appoint one Director, being a national of his country and representative either of finance or of industry or commerce. During the period of the German annuities the Governor of the Bank of France and the President of the Reichsbank may each appoint, if they so desire, one additional Director of his own nationality, being a representative of industry or commerce. These fourteen (or, as the case may be sixteen) Directors will elect not more than nine additional Directors from lists furnished by, and which may include, the Governors of central banks in other participating countries.

¶66. If, in the process of organizing the bank or in the performance of its functions after establishment, it is found that the central bank of any country or its Governor is unable to act officially or unofficially in exercising the functions, authorities or privileges accorded to central banks under the plan, or refrains from doing so, alternative arrangements not inconsistent with the laws of that country will be made. These alternative arrangements are outlined in Section XII of Annex I.²

¶67. 3. *Distribution of Profits.* The profits shall be divided in accordance with the provisions contained in Annex I.³

¹ Not reprinted; for final form see Arts. 5-15 of the Bank Statutes.

² Not reprinted; for final form see Charter (6), Arts. 28, 52, 56 of the Bank Statutes and Art. II of the Trust Agreement.

³ Not reprinted; for final form see Art. 53 of the Bank Statutes.

C. GENERAL OBSERVATIONS ON THE BANK

¶68. The foregoing outline of the functions and organization of the Bank for International Settlements, together with the fuller presentation of the bank plan in Annex I,¹ largely speaks for itself. It remains, however, to point out certain advantages which the bank offers as against the existing reparation procedure, and advantages which accrue both to Germany and to the creditor countries, because the bank in putting the payments on a business basis makes their receipt the more certain and facilitates their movement.

¶69. The new facilities introduced by the bank are in addition to the provisions given elsewhere in the plan, whereby Germany is entitled to declare a postponement of transfer. They are rather in the nature of forestalling circumstances which might of themselves lead to a transfer postponement. These measures of prevention are of two general sorts: First, the bank may employ its power of giving credit to arrange temporary assistance in transferring the annuities; second, the bank will be in a position, in agreement with the Reichsbank, to invest in Germany Reichsmarks currently accruing to its account at the Reichsbank. This measure to the extent to which it may be utilized will return to the German economy a portion of the annuity, and, through the bank's credit mechanism, provide the foreign exchange with which to pay the current allotments to the creditors on account of the annuity. The application of either or both of these measures is prompt and decisive, and they operate in advance of the time when difficulties present themselves rather than afterward, and serve to ease any strain until such time as the discount rate and other corrective measures have had opportunity to exert themselves.

¶70. It is not to be assumed that these two measures should be reserved for emergency use. The use of the bank's credit by central banks within moderate limits and over short periods may in time become a normal function scarcely different in its exercise from the use of central bank credit by banks and bankers. All central banks, for ordinary exchange operations or for other purposes, would frequently find it advantageous to make use of the facility. The second measure, that of investing within Germany some portion of the annuity receipts, should also find its uses in

¹ Annex I is the basis, frequently with the language literally taken over, of the Statutes of the Bank and the Trust Agreement, printed *infra*, at p. 203.

normal times. Both measures are necessarily limited by the funds which the bank will have at its disposal and by the requirement that it maintains its liquidity at all times.

¶71. These are instances of the bank's utility to Germany. They also illustrate the flexibility which the bank's facilities give to the handling of the disbursements to the creditors. Further instances of joint benefit may be briefly indicated. The bank will be able to give short term and intermediate credit to purchasers of deliveries in kind, notably for the construction of public works on delivery-in-kind account. Intermediate credit operations need not be restricted, however, to any one country or to the purchase of any one country's goods. On the contrary, it would be desirable to broaden such operations in the interest of world trade to the extent that the Directors of the Bank approve. As a stabilizing factor in the foreign exchanges its advantages are obvious; and if in due time the arrangements provided for an international settlement fund are put into effective operation, the bank should go far to eliminate the costs and risks now incurred in the shipping and reshipping of gold.

¶72. The bank excludes from its procedure all political influences, and business principles and practice intervene to facilitate the settlement of Germany's obligations without in any way qualifying her independent and sole responsibility. The Office for Reparation Payments and its associated organizations in Berlin will be retired, and the Reparation Commission's relations with Germany will be terminated. Germany will assume the responsibility for raising and transferring the annuities, and the bank takes over the work of their receipt and disbursement.

¶73. As already stated, the bank is so designed as not to interfere with the functions performed by existing institutions, but it is to create for itself supplementary functions in a special field of its own. To this end every care should be exercised in the organization and administration of the institution.

¶74. In the natural course of development, it is to be expected that the bank will, in time, become an organization, not simply, or even predominantly, concerned with the handling of reparations, but also with furnishing to the world of international commerce and finance important facilities hitherto lacking. Especially it is to be hoped that it will become an increasingly close and valuable link in the cooperation of central banking institutions generally — a cooperation essential to the continuing stability of the world's credit structure.

7. The Influence of the Form of the Annuity on the Amount

¶75. We are proposing a series of total annuities which should be paid with the regularity of the coupons of ordinary marketable bonds. But it is well recognized that to the economy of every country there may possibly come at some time or other a year of stress and difficulty. To make the economic scope of such a period the determinant of the maximum capacity in the ordinary course would be to fix a sum quite unacceptable to the creditors and an unreliable test of normal capacity to pay. It would be like fixing the standard of physical effort expected from a workman in his years of health and strength by what he is capable of doing in his occasional weeks of illness.

¶76. While our proposals have made full allowance for all normal and long-run considerations, it is possible that over exceptional and short periods the natural adjustment we contemplate might be insufficient. We have accepted the argument of the German Experts that in undertaking a responsibility of this character identical in its nature with the solemn covenants of a debtor on a commercial and financial basis Germany is well advised to consider carefully what are the limits of the burden which are possible for her final acceptance. We have, therefore, fully respected their scruples as to the undertakings they are prepared unconditionally to sign and have introduced a feature which can act as a safety valve in time of difficulty, viz.: a right of postponement on Germany's initiative of the transfer (and, to a less degree of payment) of a portion of the annuity. The range between the two figures (the unconditional portion and the total annuity) is not to be taken as evidence of doubt as to Germany's capacity of transfer (or of payment); it represents rather the concession that has been made to the honorable determination of the German Experts not to make themselves unconditionally responsible for any obligation which they are not certain is within their power of performance in all circumstances. It is, however, to be emphasized that the total amount of the annuity proposed, while being far from covering the claims set forth by the creditors, is one which they have every reason to believe can in fact be both paid and transferred by Germany. The fact that part of it is postponable obviates the danger of being above Germany's capacity to transfer in a period of difficulty, and it was the recognition of this principle which was one of the factors enabling the German Experts to accept this

scheme as an alternative not inconsistent with their original ideas.

¶77. In recommending that the system of deliveries in kind should be continued for a limited period and in decreasing amounts, we recognized, as is pointed out in Part 8 (f) of this report, the necessity for maintaining a transitional period so that all shock to existing economic conditions in Germany should be avoided. Germany's power to transfer is thus maintained unimpeded by the friction of sudden changes in trade conditions.

8. Annuities

¶78. THE COMMITTEE RECOMMENDS THAT:

¶79. (1) The Governments shall fix the exact date of termination of the Dawes Plan and the substitution therefor of the new Plan. In fixing such date the Governments should bear in mind that this committee's calculations were made on the basis that the Dawes Plan would cease on August 31, 1929, and the new Plan commence on September 1, 1929.

¶80. In case the Governments should fix a date later than September 1, 1929, it is recommended that financial adjustments shall be made so that the basis of payments provided for under the new Plan shall nevertheless commence as of September 1, 1929, and the basis of payments provided for under the Dawes Plan should cease as of August 31, 1929.

¶81. (2) Payments under the plan of the Dawes committee should continue until the end of the present scheduled year, that is to say, August 31, 1929.

¶82. (3) The new Plan should go into effect September 1, 1929, with the value of the 37 annuities of 1,988,800,000 Reichsmarks¹ until March 31, 1966, the payments for the Dawes loan to be added.

¶83.² (4) Payments to be made under the Dawes Plan, during the five months' period preceding September 1, 1929, after allowing for the Dawes loan, should be treated as payments necessary to cover the requirements of the creditor nations during this transition period, including outpayments for the year ending March 31, 1930.

¶84.² Should there remain any surplus after meeting the foregoing requirements, the question of disposing of such surplus, as

¹ The separate arrangement for payment of the American claims and costs reduces the average payable under the New Plan to 1,922,700,000 Reichsmarks, without affecting the total German liability.

² The financial agreement of August 31, 1929, provides for a partial allocation, see Art. I, p. 188 and p. 62.

well as all matters and expenses in connection with the transition from the operation of the existing arrangements to the new Plan, shall be settled and adjusted between the Governments.

¶85. (5) In order that the new annuities shall coincide with the German fiscal years, the schedule of payments to be made by Germany on and from September 1, 1929, will be as follows:

¶86.

		Reichsmarks	
7 months, September 1, 1929–March 31, 1930		742,800,000	
36 German fiscal years	April 1, 1930–March 31, 1931	1,707,900,000	Constant annuity 37 years corresponding to 1,988,800,000, Dawes loan to be added.
	April 1, 1931–March 31, 1932	1,685,000,000	
	April 1, 1932–March 31, 1933	1,738,200,000	
	April 1, 1933–March 31, 1934	1,804,300,000	
	April 1, 1934–March 31, 1935	1,866,900,000	
	April 1, 1935–March 31, 1936	1,892,900,000	
	April 1, 1936–March 31, 1937	1,939,700,000	
	April 1, 1937–March 31, 1938	1,977,000,000	
	April 1, 1938–March 31, 1939	1,995,300,000	
	April 1, 1939–March 31, 1940	2,042,800,000	
	April 1, 1940–March 31, 1941	2,155,500,000	
	April 1, 1941–March 31, 1942	2,180,700,000	
	April 1, 1942–March 31, 1943	2,198,000,000	
	April 1, 1943–March 31, 1944	2,194,300,000	
	April 1, 1944–March 31, 1945	2,207,500,000	
	April 1, 1945–March 31, 1946	2,203,800,000	
	April 1, 1946–March 31, 1947	2,199,500,000	
	April 1, 1947–March 31, 1948	2,215,200,000	
	April 1, 1948–March 31, 1949	2,210,000,000	
	April 1, 1949–March 31, 1950	2,316,800,000	
	April 1, 1950–March 31, 1951	2,359,200,000	
	April 1, 1951–March 31, 1952	2,343,200,000	
	April 1, 1952–March 31, 1953	2,346,200,000	
	April 1, 1953–March 31, 1954	2,353,300,000	
	April 1, 1954–March 31, 1955	2,364,600,000	
	April 1, 1955–March 31, 1956	2,359,800,000	
	April 1, 1956–March 31, 1957	2,354,200,000	
	April 1, 1957–March 31, 1958	2,361,800,000	
	April 1, 1958–March 31, 1959	2,393,800,000	
	April 1, 1959–March 31, 1960	2,370,600,000	
	April 1, 1960–March 31, 1961	2,380,500,000	
	April 1, 1961–March 31, 1962	2,398,300,000	
	April 1, 1962–March 31, 1963	2,390,200,000	
	April 1, 1963–March 31, 1964	2,402,600,000	
	April 1, 1964–March 31, 1965	2,402,100,000	
	April 1, 1965–March 31, 1966	2,428,800,000	

¶87. Thereafter there remains the following schedule of payments to be made by Germany, subject to the special provisions dealing with these years:

¶88.

	Reichsmarks
1966-67	1,607,700,000
1967-68	1,606,900,000
1968-69	1,616,700,000
1969-70	1,630,000,000
1970-71	1,643,700,000
1971-72	1,653,900,000
1972-73	1,662,300,000
1973-74	1,665,700,000
1974-75	1,668,400,000
1975-76	1,675,000,000
1976-77	1,678,700,000
1977-78	1,685,400,000
1978-79	1,695,500,000
1979-80	1,700,400,000
1980-81	1,711,300,000
1981-82	1,687,600,000
1982-83	1,691,800,000
1983-84	1,703,300,000
1984-85	1,683,500,000
1985-86	925,100,000
1986-87	931,400,000
1987-88	897,800,000

¶89. Out of the above annuities the following amounts shall be unconditional, *i.e.*, payable without any right of postponement of any kind in foreign currencies by equal monthly instalments, *viz.*: 660,000,000 Reichsmarks per annum,¹ to include whatever amounts are required for the service of the German external loan 1924.

¶90. The remainder of the annuity shall be payable in foreign currencies by equal monthly instalments, but subject to the conditions as regards postponement of transfer and of payment set out in Annex IV of this plan.

¶91. The German Government undertakes for the purpose of the present provisions, as well as for the general purposes of the plan, that the Reichsmark shall have and shall retain its convertibility into gold or devisen as contemplated in Section 31 of the present Reichsbank law, and that for these purposes the Reichsmark

¹ Slightly increased by the conference, see Art. VII of the financial agreement of August 31, 1929, p. 190, and also p. 75.

shall have and shall retain a mint parity of 1/2790 kilogram of fine gold as defined in the German coinage law of August 30, 1924.¹

¶92. For the purpose of par. (4) above, the outpayments for the year ending March 31, 1930, are as follows:

	Equivalent in Reichsmarks
France	338,100,000
Great Britain	366,600,000
Italy ²	107,800,000
Belgium	23,400,000
Rumania	8,800,000
Serbia	5,900,000
Greece ²	5,300,000
Portugal	7,200,000
Total	863,100,000

¶94. Provision is made in Sec. 11 of Annex I³ whereby a percentage of the special Reserve Fund accumulated in the bank shall be placed at Germany's disposal, if required, toward meeting the last 22 annuities payable under the above scale.

¶95. In calculating the above annuities we have taken into account the expenditures devolving upon Germany during the period of the new Plan, such as were covered by the Dawes Plan. However, we have not included the costs of commissions and the current expenses of occupation, as they are to continue only until a date to be fixed by the Governments. The necessary arrangements for their payments should be made by the Governments in connection with the adoption of the new Plan.

¶96. Apart from the foregoing, we recommend that, as from the date of the putting into force of this Plan, Germany's previous obligation shall be entirely replaced by the obligation laid down in this plan, and that the payment in full of the proposed annuities in accordance with this plan should be accepted by the creditor powers as a final discharge of all the liabilities of Germany, still remaining undischarged, referred to in Sec. XI of Part I of

¹ Annex II, which is not reprinted, is a letter from the president of the Reichsbank promising action by the Reichsbank to establish this standard for it.

² See Art. I of the financial agreement, p. 189.

³ See note to Art. 54 of the Bank Statutes, p. 218.

the Dawes Plan,¹ as interpreted by the decisions² already given by the Interpretation Tribunal set up under the London agreement of August 30, 1924. That tribunal should be retained in existence and any dispute that may arise between Germany, on the one side, and the creditor Governments, or any one of them, or the bank, on the other side, as to the extent of these liabilities or as to any other question of the interpretation or application of this Plan should be referred to it for final decision.

¶97. In the course of their proceedings the experts of the principal creditor powers have also dealt with the question of the distribution of these annuities among the creditor powers. Their recommendations, drawn up after careful examination of the existing distribution arrangements and of other relevant considerations laid before them and with due regard to the rights and equities of the other countries³ having a share in the Dawes annuities, are set out in Annex VII which they consider an inseparable part of the present Report.

COMPOSITION OF THE ANNUITIES

8 (a). Source and Securities.

¶98. 1. The annuities are to be derived from two sources:

1. The German Railway Company.
2. The Budget of the Reich.

¶99. The committee, after a careful examination of the proposals put forward by the German Experts, were of the opinion that the annuities recommended by them should not be drawn wholly from the German budget, but that one source of payment utilized by the Dawes Plan, viz.: the Railway Company should be maintained. We desire to make it clear, however, that the retention of a contribution from the Railway Company is recommended not only from the point of view of security but also as a suitable method of raising the necessary revenue.

¶100. We have also considered the position with regard to the assigned revenues and, having regard to the fact that these revenues are pledged as collateral security for the service of the German external loan of 1924, we feel it is impossible to recommend the release thereof. Nevertheless, we are of opinion that it

¹ *Reparation*, Part V, p. 385; *Reparation Commission, Official Documents*, XIV, p. 30.

² See Awards, *American Journal of International Law*, XXI, p. 344 and XXII, p. 913.

³ Greece, Portugal, Poland, Rumania, Serbia, Japan and the United States of America.

would be suitable for the German Government to discuss with the trustees for the bondholders of that loan the possibility of simplifying as far as possible the existing machinery, and that the creditor Governments for their part should accept a similar arrangement. The effective security of the creditor Governments should be substantially that indicated in Annex III, (Sec. III).¹

¶101. Apart from these special questions, the committee desires to record its view that the basis of security for the payment of the annuities is the solemn undertaking of the German Government, to which no further guaranty can add anything whatsoever.

¶102. The committee accordingly recommends that the creditor Governments should take steps to release all controls, special securities, pledges or charges which may remain in their hands other than those specifically referred to above, and should recognize that their acceptance of the solemn undertaking of the German Government replaces any securities, pledges, charges or controls as may now exist.

¶103. 2. *The Contribution from the German Railway Company.* Under the German railway law of August 30, 1924, enacted in accordance with the Dawes Plan, the German Railway Company is subject to a mortgage for eleven milliard gold marks, in favor of the trustee for the German railway bonds, and has issued to him a bond for eleven milliard gold marks. This bond bears interest at 5% per annum and carries a cumulative sinking fund of 1 per cent per annum, which first became operative on September 1, 1927; interest and sinking fund being guaranteed by the Government of the Reich.

¶104. This plan contemplates the abolition of the railway bonds, together with the attendant circumstances of foreign participation in the management of the railway, and substitutes a contribution from the Railway Company as set out in the following paragraphs:

¶105. The Railway Company shall be under an obligation to pay for 37 years a direct tax comprising if necessary the transport tax, to an annual amount of 660,000,000 Reichsmarks, being equal to the annual amount of the nonpostponable annuity. This tax shall be imposed by German legislation, and the receipts therefrom guaranteed by the German Government. The Railway Company shall deposit with the Bank for International Settlements a certificate acknowledging its liability in respect of this obligation.

¹ Not reprinted; but see final form in Trust Agreement, Art. XVI, p. 231.

¶106. The amount payable shall be raised from the gross revenues of the company, ranking after the expenditure on personnel, and on the same footing with expenditure on material and consumable stores. It shall enjoy priority over any other tax now levied on the Railway Company, or which may be levied in the future, and shall rank prior to any other charge, by way of mortgage or otherwise, on the company. It shall be paid direct by the Railway Company to the account of the Bank for International Settlements at the Reichsbank in instalments as laid down in Part 8.

¶107. The foregoing conditions shall be incorporated in the law governing the Railway Company.

¶108. It shall be one of the duties of the Organization Committee proposed in Annex V of this Report to make suitable provision whereby the private and independent character of the German Railway Company, including its autonomous administration in economic, financial and personnel matters shall continue for the period of the plan without interference from the German Government.¹

¶109. 3. *The Transport Tax.* In addition to the 660,000,000 gold marks now payable directly by the Railway Company, the Dawes Plan requires a contribution to the standard annuity of 290,000,000 gold marks out of the actual yield of the transport tax. This tax is imposed by the German Government and the German Railway Company collects it for the Government. The total yield of the transport tax, now considerably in excess of 290,000,000 gold marks, appears among the receipts of the budget of the Reich, and the contribution of 290,000,000 appears among its expenditures. Under this Plan the direct tax on the Railway Company comprises if necessary the transport tax which is otherwise relieved from any special charge on account of reparations.

¶110. 4. *The Charge on German Industries.* Under the Industrial Charges Law enacted in accordance with the Dawes Plan, bonds aggregating 5,000,000,000 gold marks have been issued in respect of the German industries by the Bank for German Industrial Debentures to the trustee for the German industrial debentures. These bonds bear interest at 5% per annum and carry a cumulative sinking fund of 1% per annum which first became operative September 1, 1927, principal, interest and sinking fund being guaranteed by the Government of the Reich. The present con-

¹ Annexes IV, VI and VIA of the agreement of January 20, 1930, *Agreements*, p. 39, 45, 66.

tribution to the annuity from the industrial debentures thus amounts to 300,000,000 gold marks.

This particular charge in no way differs from ordinary taxation, save in the complications it involves in legislation and the machinery of collection. We recommend that it be discontinued and that its disappearance be taken into account in distributing the relief from taxation which this plan will enable the German Government to bring into effect.

¶111. 5. *The Charge on the Budget of the Reich.* Under the Dawes Plan, the contribution from the budget of the Reich in the fifth or current annuity year amounts to 1,250,000,000 gold marks, or one-half of the total standard annuity. This contribution is a charge on the budget as a whole specifically secured by the assignment of the revenues from customs, beer, tobacco, sugar and alcohol to the Commissioner of Controlled Revenues. These revenues are paid by the collecting offices directly into the account of the commissioner at the Reichsbank. As early as practicable in each month, out of the funds accumulated in his account, the commissioner pays into the account of the Agent General at the Reichsbank one-twelfth of the annual contribution from the budget and thereafter in each month the revenues are automatically transferred by him to the account of the German Government at the Reichsbank. Under this plan the procedure to be followed will be worked out in detail, by the appropriate Organization Committee proposed in Annex V, regard being had so far as necessary to the arrangements which may be accepted by the trustees of the 1924 loan.¹

¶112. As the amount contributed by the German Railway continues for 37 years at the fixed level of 660,000,000 Reichsmarks a year, the charge on the budget of the Reich varies with the total amount of the annuity. In the second year it stands at the figure of 1,136,400,000 Reichsmarks, and rises to a maximum of 1,768,800,000 Reichsmarks in the thirty-seventh year. Thereafter the contribution from the Railway Company ceases, the annuity falls sharply and the budget contribution covers the whole of the German liability for the remainder of the Plan.

¶113. The average increase in the budgetary contribution during the first 20 years is about 24,000,000 Reichsmarks annually, or about .24 of 1% of the total revenues of the budget of the Reich, which at present are just under 10,000,000,000. This moderate

¹ See Trust Agreement, Art. IV, p. 223.

and gradual increase in the budgetary contribution under the definitive settlement plan ought to be met in ordinary years without recourse to additional taxation. Indeed the substantial reduction of the budgetary contribution as compared with the Dawes Plan makes possible an immediate resumption of the tax reduction program which has been in progress since 1924. The committee hope that such further tax reductions coupled with a definitive reparation settlement will give a strong stimulus to saving and thereby materially assist in the internal formation of the new capital which Germany still requires.

8 (b). Progression

¶114. The authors of the Dawes Plan believed that they could count upon a certain substantial and progressive increase in the prosperity of Germany, arising not only from the employment of the rapidly increasing wealth of that country, but also from the steady progress of world prosperity, and this belief found expression in the device of an index of prosperity. The plan contemplates that the amounts which Germany pays upon a fixed scale shall increase generally speaking year by year until 1966, reflecting in some small measure this anticipated increase in her prosperity. However, the annuities proposed are to start at a level which not only gives immediate and important relief to the German budget, to her exchange position and to her need for additional internal formation of capital, as compared with the standard Dawes Annuity of 2,500,000,000 gold marks, but also provides the greatest possible assurance that the new scheme will function from the beginning without any hitch or disturbance.

8 (c). The Nonpostponable Annuities

¶115. Not the least difficult part of the task was the determination of the figure which Germany could immediately undertake as a final and unconditional obligation. The point at which difficulties might begin to arise in making transfers into foreign currencies is not exactly definable in advance; but every care has been taken to be so far within this limit as to remove every possibility of the risk of error. We recognize that in fixing the figure payable by Germany in foreign currencies, without any right of postponement whatever, at 660,000,000 Reichsmarks,¹ we have taken a conservative amount.

¹ For Hague conference adjustment of amount see p. 75.

But we are satisfied that it is wiser deliberately to underestimate than to run the slightest risk of weakening German credit by proposing a figure which might not command instant acceptance by well-informed public opinion.

8 (d). The Postponable Annuities

¶116. In addition to the unconditional part of the annuity, we propose a postponable part, transfer of which may, in certain circumstances set out below, be postponed for a period not exceeding two years.

¶117. This postponable part of the annuity is designed to meet the situation which might arise in a period of special economic difficulty and distress. There will be other ways of meeting such a situation, and if they are applied our view is that recourse to this abnormal measure will not in fact prove to be necessary. Nevertheless as an additional precaution it is valuable to Germany, and provides, by its very existence, a safeguard against the dangers which too rigid a framework might have called into existence.

8 (e). Measures of Safeguard

¶118. The essence of the additional margin of safety given to a part of the annuities lies in the power to postpone transfer. We are recommending, in order to protect Germany against the possible consequence of a comparatively short period of depression, which might, for internal or external reasons, put such a severe strain on the exchanges as would make the process of transfer abroad dangerous, that the German Government should have the right, on giving 90 days' notice, to postpone transfers for a period not exceeding two years under conditions set out in Annex IV.¹ During the period of postponement, the liability of the German Government with regard to the sums affected would in the first instance be limited to payment in Reichsmarks to the account at the Reichsbank of the Bank for International Settlements; under certain conditions part of this payment may also be withheld.

¶119. Upon the declaration of any postponement the Bank for International Settlements shall convene the Special Advisory Committee.² At any other time when the German Government declare to the creditor Governments and to the Bank for International

¹ Not reprinted; see for final form the Certificate of Indebtedness, V, 3-8, and Annex II, Appendix I, of the protocol of August 31, 1929, p. 191, 235.

² Enacted by Art. X of the Trust Agreement.

Settlements that they have come to the conclusion in good faith that Germany's exchange and economic life may be seriously endangered by the transfer in part or in full of the postponable portion of the annuities, the committee shall also be convened.

¶120. Upon being convened the Special Advisory Committee shall forthwith consider the circumstances and conditions which have led up to the necessity for postponement, or have created a situation in which Germany considers that her exchange and economic life may be seriously endangered by further transfers of the postponable portion of the annuity, and make a full investigation of Germany's position in regard to her obligations under this plan.

¶121. In their report to the Governments and to the Bank, having (in case of a postponement of transfer) satisfied themselves that the German authorities have used every effort in their power to fulfill their obligations, they shall indicate for consideration by the Governments and the Bank what in their opinion are the measures that should be taken in regard to the application of the present Plan.

¶122. It shall further be the duty of the Bank during a postponement of transfer to direct, in conjunction with the Reichsbank, the employment of the Reichsmarks paid to its account at the Reichsbank by the German Government (see Section VI of Annex I to this Report).¹

¶123. The following paragraphs sketch the organization of the Special Advisory Committee of the Bank for International Settlements referred to in the preceding paragraphs:

¶124. 1. The committee should act in a purely consultative capacity. Its findings shall have no effective force unless confirmed and accepted by the Bank as trustee of the creditors, and if necessary by the Governments concerned.

¶125. 2. The committee shall play no part in connection with the unconditional annuity accepted by Germany and referred to in the Plan as the "unconditional annuity."

¶126. 3. The committee shall be convened by the Bank according to the rules of its own constitution when notice shall be received from the German Government. It shall not be required to meet at any other time.

¶127. 4. The committee shall consist of seven ordinary and four co-opted members. The ordinary members shall be nominated one by each of the following:

¹ Not reprinted; for final form see Arts. 20, 22, 23 and 25e of the Bank Statutes and note to Art. XI c of the Trust Agreement.

¶128. The governors of:
The Reichsbank,
The Banque de France,
The Bank of England,
The Banque Nationale de Belgique,
The Banca d'Italia,
The Bank of Japan,

A Federal Reserve Bank of the United States or some other agreed American financial institution,

¶129. in the last two cases, such nominee being ordinarily resident in Europe, or in a position to give prompt attendance on a meeting of the committee being called. These nominees of the Governors of the Banks shall not be officially connected with the banking institutions in question nor with the Government departments of their respective countries. After being summoned they may, if they so desire, co-opt not more than four additional members with the intent that special aspects, whether in finance, exchange, industry, etc., of the particular situation in question shall be represented. During the course of the proceedings and until the report is made, the co-opted members shall be equal in all other respects to the ordinary members but they shall thereafter be discharged from office.

¶130. 5. The committee may proceed by way of hearing evidence or asking for documents, as it may desire, but the president of the Reichsbank and/or any other person nominated by the German Government may appear before or submit to the committee the reasons for which a postponement has been declared or measures are desirable as indicated above.

¶131. The committee shall neither grant nor refuse a postponement. After making inquiry it shall report to the Governments and the Bank as indicated above.

¶132. 6. Unless otherwise arranged by consent the expenses of the Special Advisory Committee shall be borne by the German Government.

8 (f). Deliveries in Kind

¶133. The system of deliveries in kind under the Dawes Plan has come to play an important rôle in the economic life of Germany. We would not suggest the unlimited continuation of this system, which is open to many objections of a practical as well as a theoretical nature. We have felt, however, that its immediate cessation would not be in the interests of Germany or of the creditor powers,

and that it would impose difficulties upon the export trade of Germany which might be injurious to her capacity to transfer. We therefore recommend that the principles of the Dawes Plan with reference to deliveries in kind should continue in existence for a limited period, and that the creditor nations should agree for a period of ten years to absorb by this means in respect of each year, a limited and decreasing amount of the postponable portion of the annuity, substantially in accordance with the following table:

¶134.¹

	Reichsmarks
First year	750,000,000
Second year	700,000,000
Third year	650,000,000
Fourth year	600,000,000
Fifth year	550,000,000
Sixth year	500,000,000
Seventh year	450,000,000
Eighth year	400,000,000
Ninth year	350,000,000
Tenth year	300,000,000

¶135. The foregoing table to be adapted to the actual annuities of the new Plan without increasing the total.²

¶136. The creditor powers by arrangements effected among themselves will fix the proportions in the total of each year's volume of deliveries in kind (including deliveries under Reparation Recovery Acts or any equivalent system substituted therefor by agreement up to 23.05% for Great Britain and 4.95% for France of the total amount provided for each year) which each of them will receive.

¶137. The Bank for International Settlements shall manage the disbursements on deliveries-in-kind account, and in making distributions of cash to the creditor countries shall have due regard for those portions of the annuity which are restricted to payments for deliveries in kind.³

¶138. The committee also recommends that new regulations be adopted by the Governments modifying the Wallenberg regulations to conform to the new Plan and so far as practicable simplifying and liberalizing them.

¹ Enacted by the protocol of August 31, Annex II, § II.

² See revised table at p. 184.

³ Annex IX of the Hague agreement of January 20, 1930, *Agreements concluded at the Hague Conference, January, 1930*, p. 80.

¶139. The committee recommends that provision be made in the new regulations permitting the several powers to dispose of some part of their respective quotas of deliveries outside of their own territories under suitable restrictions.¹

¶140. The proposed repartition of the deliveries in kind among the several creditor powers is contained in Annex VII, dealing with repartition of the annuities.²

9. Liquidation of the Past

¶141. In order to arrive as rapidly as possible at a general liquidation of the financial questions raised by the war and the subsequent treaty of peace, a liquidation which alone can insure the definite return of Europe to normal financial and economic conditions, the committee recommends the clearing up of these questions in a broad spirit of mutual concession.

¶142. We understand that a settlement on these lines will render obsolete the accounts between the Reparation Commission and Germany relating to transactions prior to the period of the Dawes Plan, together with all accounts involving credits against the original capital debt.³ We are strongly of opinion that these accounts should be closed at the earliest moment.

¶143. The creditor Governments, under this plan, will be reducing the whole body of their claims arising out of the war or under the treaty of Versailles to a considerable extent. The experts of the creditor countries are aware that past transactions have given or may give rise to claims by Germany, some of which are still unsettled, and, while they are not able to go into the merits of these claims, they consider that the creditor Governments are fully entitled

¹ This was not realized; see p. 80, and Art IX of the regulations, *Agreements*, p. 93.

² See p. 182-186.

³ Annex II of the agreement of January 20, 1930, provides:

"2 (i), Germany's previous obligation, except in respect of the German External Loan 1924, being entirely replaced by the obligation laid down in the New Plan, the German A, B and C bonds, the bonds of the Deutsche Reichsbahn-Gesellschaft, the German Industrial bonds and the bonds of the Bank für Deutsche Industrie Obligationen are finally canceled and shall be destroyed."

Beside provision for distributing closed account assets and settling expenses, a number of delayed settlements were dealt with in the arrangement between the creditor states of Germany (*Agreements*, p. 142). In addition to those specifically responding to recommendations of the Report, the following provisions were made: The shares of the Baghdad Railway Company held by the Reparation Commission are allotted outright to France, Great Britain and Italy in equal portions; the distribution of cables ceded by Germany by Part VIII, Annex VII, of the treaty of Versailles "will be settled by the creditor powers concerned," among which is the United States; payments already made by Denmark and Danzig in respect of German state property (treaty of Versailles, Art. 254) are a final settlement.

to expect that Germany should waive them in consideration of the consolidation of the creditors' claims at a reduced figure. Any other course would be inconsistent with their intention that, just as the new annuities cover all the claims defined in Part XI of the Dawes Plan, so they should be paid free of deduction in respect of any past transactions. The committee recognizes, however, that this is entirely a matter for the Governments to deal with.¹

¶144. To assure the general confidence indispensable for the successful working of this Plan the committee recommends that the Governments make no further use, from the date of the acceptance of this report, of their right to seize, retain and liquidate property, rights and interests of German nationals or companies controlled by them in so far as not already liquid or liquidated or finally disposed of, and that the outstanding questions concerning such property should be definitively cleared up within one year after the coming into force of this plan by arrangements between the Governments concerned and Germany.² This recommendation, naturally, has no application in cases where special settlements have already been made.

¶145. The acceptance of this plan necessarily involves the dissolution of the joint liability of Germany on the one side with Austria, Hungary and Bulgaria on the other side for reparation, and therefore finally abolishes every obligation present or future in either direction which may result between these powers from this joint liability.³

¶146. The committee recommends in particular that the creditor powers should abstain from recovering the credits of Germany against her ex-allies referred to in Art. 261 of the treaty of Versailles, Germany for her part renouncing any net balance which might be due to her as a result of these credits.⁴

¶147. In their unanimous desire that the remaining financial questions arising out of the war should be settled as soon as possible, in order to promote the spirit of international harmony and collaboration, the Experts unanimously recommend to the creditor

¹ See Agreement of January 20, 1930, Art. III, B (a), p. 193.

² Effected by the agreements referred to at p. 124.

³ The agreements with each effect this by making each debt individual and final.

⁴ Annex II of the agreement of January 20, 1930, provides:

"2 (ii). The claims of Germany against Austria, Hungary and Bulgaria referred to in Art. 261 of the treaty of Versailles and the debts of Germany referred to in Arts. 213 of the treaty of St. Germain, 196 of the treaty of Trianon and 145 of the treaty of Neuilly are finally canceled and the securities and documents relating thereto shall be destroyed." (*Agreements*, Misc. No. 4, p. 30.)

Governments that, within the first year of operation of the new Plan, they complete the work of the Experts' Committee by dealing with and disposing of the claims and debts for ceded properties and liberation bonds, held in the hands of the Reparation Commission against the so-called succession states.¹ This question is referred to in Annex VII.

10. Commercialization and Mobilization

¶148. Having recommended the creation of the Bank for International Settlements in order to provide machinery for the removal of the reparation obligation from the political to the financial sphere, we have further considered what procedure is necessary in order to assimilate this obligation as closely as possible to an ordinary commercial obligation ("commercialization").

¶149. Further, certain Governments are known to attach particular importance to the possibility of raising money by the issue to the public of bonds representing the capitalization of the unconditional portion of the annuity ("mobilization").

¶150. It is, of course, not within our power to advise as to the time at which such issues can be made with advantage, or as to the terms and conditions on which issues should be made. The arrangements to be made would no doubt vary according as, for example, an issue is to be made for cash in the general interest of all the creditor Governments, or an internal issue is to be made in one single country by way of conversion of government debt. It will be the province of the bank itself to advise upon such matters; but we have thought it necessary to advise a framework within which these operations may take place.

¶151. This framework is given in Annex III.² It provides, first, that the annuities themselves shall be represented by a German Government certificate of indebtedness deposited with the bank, similar to those in use in ordinary commercial practice (a proper distinction being made in the coupons between the conditional and unconditional portions of the annuity). The provisions regarding security are given in the Annex, and the conditions in which mobilizable bonds should be created and issued are defined.

¹ Effected by the agreement with Czechoslovakia and the arrangement between the creditor powers (*Agreements*, p. 168, 142) described *supra*, p. 116.

² Not reprinted; for final form see Trust Agreement, Arts. XII and XVI, and the Certificate of Indebtedness, III, IV and V.

¶152. One of the most important provisions of this scheme is that annuity moneys should be distributed by the bank in strict proportion to the rights of each party — whether government or bondholder.

¶153. As far as, according to the conditions of the issue, reparation loans (general or conversion loans) are subject to an anticipated redemption, Germany should be entitled to redeem these loans; the part of the annuity destined for the service of the redeemed loan will then accrue to her. The wish has been expressed that so far as possible reparation loans will not be issued without granting the debtor an appropriate right of anticipated redemption.

¶154. We recommend that Germany should also have the right to redeem all or any part of not yet mobilized annuities on a basis of $5\frac{1}{2}\%$ discount.

11. The New Plan Contrasted with the Dawes Plan

¶155. The Dawes Plan, although drawn up at a time of intense crisis, has by a test lasting over nearly five years justified by facts the postulates on which it was based as regards both the restoration of the public finances of Germany and her economic recovery.

¶156. It may be well to summarize briefly the points of advantage — whether to Germany or her creditors — claimed for the new proposal, which justify a departure from a scheme that has in the past rendered signal service.

¶157. The Plan drawn up by the committee to afford a definite solution of the reparation question accompanies a reduction in the existing obligations of Germany by an essential modification in their financial and political status. In so far as the creditors are relinquishing substantial advantages in the face value of payments due under the Dawes Plan, they are doing so only by reason of those improvements in intrinsic and available values which arise from the practicability and certainty of commercialization and mobilization within a reasonable period and in its attendant financial and economic psychology.

¶158. Among the modifications, which are considered specially important are the following:

¶159. 1. *Fixation of the Period and the Debt.*

The Dawes Plan imposes, in virtue of the index of prosperity increasing annuities, of which the number is not fixed. The new program indicates a definite number of fixed annuities.

¶160. 2. *Disappearance of the Index of Prosperity.*

Only estimates, which vary very widely, of the ultimate effect of the index of prosperity can at this date be made. But in no circumstances could Germany benefit therefrom, and the disappearance of this element of uncertainty is wholly to her benefit.

¶161. 3. *Attainment of Financial Autonomy.*

Under the Dawes Plan Germany can only obtain the discharge of her obligations in marks by the existence of a system of transfer protection which involves a measure of external control. This brings attendant limiting effects on German credit and financial independence which render difficult, if not impossible, any mobilization of the German debt. The new Plan would be abandoning the fundamental purposes for which it was intended if it did not cancel this clause and leave to Germany the obligation of facing her engagements on her own untrammelled responsibility.

¶162. 4. *Postponement Safeguards.*

Nevertheless, if an exceptional emergency interrupts the normal course of economic life to which the scheme is adapted, Germany can, on her own initiative, resort to certain measures of temporary relief.

¶163. The annuity is divided into two parts, of which one is subject to postponement of transfer and payment. Germany will thus be enabled under certain circumstances temporarily to relieve her balance of payments, and will in fact enjoy the advantages of a form of transfer protection without its attendant limitations.

¶164. 5. *Deliveries.*

While the Dawes Plan reluctantly accepted the expedient of deliveries in kind, the new Plan, in spite of the desire of the creditor powers to dispose freely of their shares of the annuities, recognizes the undesirability of a sudden cessation of the system at present in force. The creditors are therefore to take deliveries in kind for ten years, but in decreasing amounts, beginning with 750,000,000.

¶165. 6. *Mobilisation.*

From the point of view of the creditor powers an essential feature of the new Plan which induces them to agree to reduction on their claims that leave them burdened with a considerable part of their expenditure for the damages caused by the war, is the fact that the annuity is paid in a form lending itself to mobilization.

¶166. 7. *Financial Organization.*

The organization and machinery of the Dawes Plan were based on the conviction that it must find its proper guaranty in the interest of all parties to carry it out in good faith. In aiming as it did at the transference of the reparation payments from the political to the

economic and business sphere, it presumed constant cooperation of debtor and creditors alike. The new system goes further along the same road, replacing the collaboration of separate administrative and governmental organizations by common work in a purely financial institution, in the management of which Germany is to have an appropriate part. The present administrative organizations can not have all the elasticity necessary for banking transactions of the magnitude of the payment and transfer of the annuities; but the new Bank in close association with the banks of issue and with the banking facilities at its command will have all the necessary means of effecting these operations without disturbance to the German economy or to the economy of other countries. In addition, it will be in a position to open up to trade new possibilities of development. The operations which it is to undertake can not be disturbed or hampered without irreparable damage to the credit of the countries concerned. This assurance should make it possible to limit the guaranties established under the present system for the protection of the rights of the creditors, to the minimum required for the prompt and facile commercialization of the mobilizable part of the annuity.

¶167. 8. *Summary.*

The proposed plan continues and completes the work begun by the Dawes Plan, which the position alike of Germany and of the other countries made it impossible to do more than indicate in outline in 1924. By the final reduction and fixation of the German debt, by the establishment of a progressive scale of annuities, and by the facilities which the new bank offers for lessening disturbance in the payment of the annuities, it sets the seal on the inclusion of the German debt in the list of international settlements. If it involves appreciable reduction of payments to the creditor countries on what might have been anticipated under the continued operation of the Dawes Plan, it at the same time eliminates the uncertainties which were inherent in that Plan and were equally inimical to the interest of the debtor and to the creditors, by substituting a definite settlement under which the debtor knows the exact extent of his obligations.

12. Conclusions

¶168. It has been our object to make proposals for financial obligations, which, with the conditions and safeguards that accompany them, shall be within Germany's capacity to pay, and we believe that we have achieved this purpose. We realize the re-

sponsibility of this declaration, and we recognize how much depends on the future attitude toward one another of the peoples which, by ratification of their respective Governments, are to become parties to this agreement. For the solution of the reparation problem is not only a German task but in the common interest of all the countries concerned; and it requires the cooperation of all parties. If their attitude should be tinged with antagonism, even with suspicion, or a desire to create or continue one-sided economic discriminations, a settlement perfectly feasible with good-will would sooner or later encounter difficulties, so that the long, slow, patient task of reconstruction in Europe would be definitely retarded. For without good faith and mutual confidence, all agreements, all guaranties are unavailing. If, on the other hand, our proposals are adopted with good-will by all concerned, and the rest of the world has confidence in the constructive value of this mutual accord, then indeed there can be no reasonable doubt that the agreement will be capable of complete fulfilment, and the nations it concerns will be brought to a higher level of economic stability and of mutual understanding than ever before.

¶169. Finally, we would point out, like our predecessors on the Dawes Committee, that:

We regard our report as an indivisible whole. It is not possible, in our opinion, to achieve any success by selecting certain of our recommendations for adoption and rejecting the others, and we would desire to accept no responsibility for the results of such a procedure nor for undue delay in giving execution to our Plan.

PARIS, June 7th, 1929.

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II. ANNEXES

ANNEX I. Suggested Outline for the Organization of the Bank for International Settlements [pars. 1-120].

[The Charter, Statutes and Trust Agreement prepared by the Organization Committee embody completely the provisions set forth by the Committee of Experts in this Annex, except that it altered the detailed requirements for reserves and laid down general rules for deposits.]

ANNEX II. [Definition of Reichsmark, pars. 121-122.]

ANNEX III. Mobilization [pars. 123-146].

ANNEX IV. Conditions of Postponement of Transfer and of Payment [pars. 147-154].

[The substance of these Annexes is incorporated in the text of the Certificate of Indebtedness and the Trust Agreement.]

ANNEX V. Organization Committees [pars. 155-166].

[Execution of the provisions is described in the narrative.]

ANNEX VI. The Belgian Mark Claim [pars. 167-187].

[See narrative, p. 135; text of agreement of July 13, 1929, in *Entwürfe zu den Gesetzen*, p. 311, and exchange of notes of January 20, 1930, *Agreements*, p. 140.]

ANNEX VII

¶188. *Distribution of the Annuities Proposed by the Experts of the Creditor Countries Represented on the Committee*

1. We recommend that the Annuities set out in Part 8 of this Report should be distributed among the creditor powers as follows:

(Millions of Reichmarks)

German Financial Year	France	British Empire	Italy	Belgium	Rumania	Serbia	Greece	Portugal	Japan	Poland	U. S. A.	Total
1929-30 ¹	418.8	53.1	42.5	70.7	-	72.1	-	6.0	13.2	0.5	65.9	742.8
1930-31	900.7	366.8	156.0	98.2	10.0	79.4	3.6	13.2	13.2	0.5	66.3	1,707.9
1931-32	838.4	362.0	190.8	102.6	12.0	79.3	6.7	13.2	13.2	0.5	66.1	1,685.0
1932-33	879.8	364.5	196.3	105.3	13.0	79.4	6.9	13.2	13.2	0.5	66.1	1,738.2
1933-34	879.1	454.8	192.4	100.3	13.9	72.4	7.2	12.6	11.9	0.4	59.4	1,804.3
1934-35	941.8	450.1	193.6	102.8	14.7	72.5	7.2	12.6	11.9	0.4	59.4	1,866.9
1935-36	962.8	444.9	195.2	110.0	16.1	72.6	7.2	12.6	11.9	0.4	59.4	1,892.9
1936-37	1,004.1	438.1	197.2	116.9	17.2	73.8	8.2	12.6	11.9	0.4	59.4	1,939.7
1937-38	1,031.8	452.6	198.6	114.7	18.3	71.5	8.3	12.4	11.4	0.4	57.2	1,977.0
1938-39	1,052.4	447.1	200.2	114.8	19.1	71.8	8.5	12.4	11.4	0.4	57.2	1,995.3
1939-40	1,087.3	442.5	204.1	117.0	23.7	74.5	8.4	13.6	11.9	0.4	59.4	2,042.8
1940-41	1,179.9	457.1	211.5	117.1	20.1	76.1	8.4	13.6	11.9	0.4	59.4	2,155.5
1941-42	1,171.2	456.3	223.1	123.9	20.0	83.9	8.3	14.2	13.2	0.5	66.1	2,180.7
1942-43	1,191.4	446.0	225.5	124.1	20.6	88.2	8.3	14.2	13.2	0.5	66.1	2,198.0
1943-44	1,190.8	439.8	227.8	124.2	21.1	88.3	8.3	14.2	13.2	0.5	66.1	2,194.3

¹ The year 1929-30 comprises only the seven months September, 1929, to March, 1930.

ANNEX VII — *Concluded.*

(Millions of Reichsmarks)

	German Financial Year	France	British Empire	Italy	Bel- gium	Ru- mania	Serbia	Greece	Portu- gal	Japan	Pol- land	U. S. A.	Total
[1986]	1944-45 . . .	1,190.7	450.5	230.5	123.9	21.1	88.5	8.3	14.2	13.2	0.5	66.1	2,207.5
	1945-46 . . .	1,190.8	439.1	233.3	124.0	25.7	88.7	8.3	14.2	13.2	0.5	66.1	2,203.8
	1946-47 . . .	1,188.1	432.4	235.6	124.1	28.4	88.7	8.3	14.2	13.2	0.5	66.1	2,199.5
	1947-48 . . .	1,185.2	446.6	237.1	124.1	31.2	88.8	8.3	14.2	13.2	0.5	66.1	2,215.2
	1948-49 . . .	1,185.1	439.1	239.4	124.2	31.2	88.8	8.3	14.2	13.2	0.5	66.1	2,210.0
	1949-50 . . .	1,248.6	439.6	248.1	134.6	31.1	99.8	8.1	15.1	15.2	0.6	76.1	2,316.8
	1950-51 . . .	1,277.9	440.5	260.1	134.7	31.1	99.9	8.1	15.1	15.2	0.6	76.1	2,359.2
	1951-52 . . .	1,248.5	441.1	272.8	134.7	31.1	100.0	8.1	15.1	15.2	0.6	76.1	2,343.2
	1952-53 . . .	1,248.3	441.4	275.6	134.7	31.1	100.0	8.1	15.1	15.2	0.6	76.1	2,346.2
	1953-54 . . .	1,248.2	445.6	278.5	134.7	31.1	100.1	8.1	15.1	15.2	0.6	76.1	2,353.3
	1954-55 . . .	1,248.1	453.6	281.3	134.7	31.1	100.7	8.1	15.1	15.2	0.6	76.1	2,364.6
	1955-56 . . .	1,248.2	444.2	285.4	134.7	31.1	101.2	8.1	15.1	15.2	0.6	76.1	2,359.8
	1956-57 . . .	1,248.1	434.7	289.0	134.9	31.1	101.2	8.1	15.1	15.2	0.6	76.1	2,354.2
	1957-58 . . .	1,278.6	407.3	292.6	134.9	31.1	102.2	8.1	15.1	15.2	0.6	76.1	2,361.8
	1958-59 . . .	1,302.8	410.2	296.7	134.8	31.1	103.1	8.1	15.1	15.2	0.6	76.1	2,393.8
	1959-60 . . .	1,278.4	408.3	299.8	134.8	31.1	103.2	8.1	15.1	15.2	0.6	76.1	2,370.6
	1960-61 . . .	1,278.2	406.1	310.8	134.7	31.1	104.5	8.1	15.1	15.2	0.6	76.1	2,380.5
	1961-62 . . .	1,278.2	412.0	321.5	134.5	31.1	105.9	8.1	15.1	15.2	0.6	76.1	2,398.3
	1962-63 . . .	1,278.1	400.5	324.8	134.8	31.1	105.9	8.1	15.1	15.2	0.6	76.1	2,390.2
	1963-64 . . .	1,278.0	410.1	327.8	134.6	31.1	106.0	8.1	15.1	15.2	0.6	76.1	2,402.6
	1964-65 . . .	1,277.9	406.3	331.0	134.9	31.1	106.0	8.1	15.1	15.2	0.6	76.1	2,402.1
	1965-66 . . .	1,297.5	410.6	334.0	134.5	31.1	106.0	8.1	15.1	15.2	0.6	76.1	2,428.8

[1981]

Average, 1929-65	1,046.5	409.0	215.7	115.5	20.1	84.0	7.0	13.2	13.2	0.5	66.1	1,988.8
1966-67 . . .	794.2	357.2	290.1	55.1	31.7	22.7	9.7	8.2	-	-	40.8	1,607.7
1967-68 . . .	794.1	346.7	295.1	52.8	36.8	22.7	9.7	8.2	-	-	40.8	1,606.9
1968-69 . . .	790.9	349.4	302.3	55.0	39.8	22.7	9.7	8.2	-	-	40.8	1,616.7
1969-70 . . .	787.7	355.7	309.5	55.1	42.9	22.7	9.7	8.2	-	-	40.8	1,630.0
1970-71 . . .	787.8	361.2	317.6	53.2	42.9	22.7	9.7	8.2	-	-	40.8	1,643.7
1971-72 . . .	787.3	361.8	327.7	52.8	42.9	22.7	9.7	8.2	-	-	40.8	1,653.9
1972-73 . . .	787.1	360.1	332.0	52.8	42.9	22.7	9.7	8.2	-	-	40.8	1,662.5
1973-74 . . .	786.9	365.4	336.3	52.8	42.9	22.6	9.7	8.2	-	-	40.8	1,665.7
1974-75 . . .	786.8	364.1	340.5	52.8	42.9	22.6	9.7	8.2	-	-	40.8	1,668.4
1975-76 . . .	786.6	366.4	344.6	53.2	42.9	22.6	9.7	8.2	-	-	40.8	1,675.0
1976-77 . . .	786.3	365.8	350.8	53.5	42.9	22.6	9.7	8.2	-	-	40.8	1,678.7
1977-78 . . .	786.1	364.8	356.9	53.3	42.9	22.6	9.7	8.2	-	-	40.8	1,685.4
1978-79 . . .	785.9	365.1	367.1	53.2	42.9	22.6	9.7	8.2	-	-	40.8	1,693.5
1979-80 . . .	785.7	364.7	372.9	52.9	42.9	22.6	9.7	8.2	-	-	40.8	1,700.4
1980-81 . . .	785.5	363.5	385.1	53.1	42.9	22.6	9.7	8.2	-	-	40.8	1,711.5
1981-82 . . .	785.2	365.7	400.1	53.3	42.9	22.6	9.7	8.2	-	-	-	1,687.6
1982-83 . . .	785.0	362.9	407.2	53.4	42.9	22.6	9.7	8.2	-	-	-	1,691.8
1983-84 . . .	784.7	372.0	409.8	53.4	42.9	22.6	9.7	8.2	-	-	-	1,703.3
1984-85 . . .	784.4	346.2	416.5	53.0	42.9	22.6	9.7	8.2	-	-	-	1,683.5
1985-86 . . .	784.1	-414.1 ¹	418.8	53.0	42.9	22.6	9.7	8.2	-	-	-	925.1
1986-87 . . .	783.9	-414.1 ¹	425.0	53.3	42.9	22.6	9.7	8.2	-	-	-	931.4
1987-88 . . .	783.3	-372.1 ¹	382.6	50.6	42.9	22.6	9.7	8.2	-	-	-	897.8

¹ These sums correspond to the excess war debt receipts of Great Britain over war debt payments during these three years.

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[1981]

Average, 1929-65	1,046.5	409.0	215.7	115.5	20.1	84.0	7.0	13.2	13.2	0.5	66.1	1,988.8
1966-67 . . .	794.2	357.2	290.1	55.1	31.7	22.7	9.7	8.2	-	-	40.8	1,607.7
1967-68 . . .	794.1	346.7	295.1	52.8	36.8	22.7	9.7	8.2	-	-	40.8	1,606.9
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1974-75 . . .	786.8	364.1	340.5	52.8	42.9	22.6	9.7	8.2	-	-	40.8	1,668.4
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1978-79 . . .	785.9	365.1	367.1	53.2	42.9	22.6	9.7	8.2	-	-	40.8	1,693.5
1979-80 . . .	785.7	364.7	372.9	52.9	42.9	22.6	9.7	8.2	-	-	40.8	1,700.4
1980-81 . . .	785.5	363.5	385.1	53.1	42.9	22.6	9.7	8.2	-	-	40.8	1,711.5
1981-82 . . .	785.2	365.7	400.1	53.3	42.9	22.6	9.7	8.2	-	-	-	1,687.6
1982-83 . . .	785.0	362.9	407.2	53.4	42.9	22.6	9.7	8.2	-	-	-	1,691.8
1983-84 . . .	784.7	372.0	409.8	53.4	42.9	22.6	9.7	8.2	-	-	-	1,703.3
1984-85 . . .	784.4	346.2	416.5	53.0	42.9	22.6	9.7	8.2	-	-	-	1,683.5
1985-86 . . .	784.1	-414.1 ¹	418.8	53.0	42.9	22.6	9.7	8.2	-	-	-	925.1
1986-87 . . .	783.9	-414.1 ¹	425.0	53.3	42.9	22.6	9.7	8.2	-	-	-	931.4
1987-88 . . .	783.3	-372.1 ¹	382.6	50.6	42.9	22.6	9.7	8.2	-	-	-	897.8

¹ These sums correspond to the excess war debt receipts of Great Britain over war debt payments during these three years.

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¶189. 2. We recommend that out of the unconditional annuity of 660,000,000 Reichsmarks the amount of 500,000,000 Reichsmarks should be allocated to France subject to the provision of a Guaranty Fund by the French Government in accordance with the arrangements set out in Annex VIII. Out of the remainder of the unconditional annuity, after allowing for the service of the Dawes loan, 42,000,000 Reichsmarks will be apportioned to Italy. So far as concerns the balance of the unconditional annuity,¹ and the amounts by which it is increased as the requirements for the service of the Dawes loan become less and cease, Italy will have no claim until so much of the balance as may be required for an equitable apportionment shall have been allotted, by agreement of all the Governments, to the remaining powers entitled to share in the annuities provided for by this Plan.

¶190. 3. The schedule of deliveries in kind set out in Part 8 (f) shall be allocated among the creditor Governments as follows:²

¹ The remaining amount was apportioned by par. 2 of the protocol of August 31, 1929; see p. 75-76.

² The table is shown in its successive stages; see also p. 80-85.

YEARS	Total	France ¹ 54.45%	Britain 23.05%	Italy ¹ 10%	Belgium 4.5%	Japan 0.75%	Serbia 5%	Portugal 0.75%	Rumania 1.10%	Greece 0.40%
First . . .	750	(408.4) 430.9	172.9	(75.0) 52.5	33.7	5.6	37.5	5.6	8.3	3.0
Second . . .	700	(381.2) 398.7	161.4	(70.0) 52.5	31.5	5.2	35.0	5.2	7.7	2.8
Third . . .	650	(353.9) 366.4	149.8	(65.0) 52.5	29.2	4.9	32.5	4.9	7.2	2.6
Fourth . . .	600	(326.7) 334.2	138.3	(60.0) 52.5	27.0	4.5	30.0	4.5	6.6	2.4
Fifth . . .	550	(299.5) 302.0	126.8	(55.0) 52.5	24.7	4.1	27.5	4.1	6.1	2.2
Sixth . . .	500	(272.3) 269.8	115.3	(50.0) 52.5	22.5	3.7	25.0	3.7	5.5	2.0
Seventh . . .	450	(245.0) 237.5	103.7	(45.0) 52.5	20.2	3.4	22.5	3.4	5.0	1.8
Eighth . . .	400	(217.8) 205.3	92.2	(40.0) 52.5	18.0	3.0	20.0	3.0	4.4	1.6
Ninth . . .	350	(190.6) 173.1	80.7	(35.0) 52.5	15.7	2.6	17.5	2.6	3.9	1.4
Tenth . . .	300	(163.3) 140.8	69.1	(30.0) 52.5	13.5	2.3	15.0	2.3	3.3	1.2

¹ As modified by the Annex to Appendix 2 of the protocol of August 31, 1929.

Table showing the Distribution of Deliveries in Kind among the Creditor Powers¹

(Replacing the table of par. 190 of Annex VII to the Experts' Plan and that of the Annex to Appendix 2 to Annex II of The Hague Protocol of August 31, 1929)

(In thousands of Reichsmarks)

	FRANCE			Great Britain Rec. Act	Italy	Belgium
	Deliveries	Rec. Act (4.95%)	Total			
Transition régime (1. IX. 29-31. III. 30)	272,293.0	21,507.0	293,800	46,036.00	37,000	24,500.00
Year of deliveries in kind (1. IV. 30-31. III. 31)	364,090.4	36,609.6	400,700	190,964.00	52,500	33,750.00
Second year (1931-32)	305,540.0	32,860.0	338,400	186,638.70	52,500	31,500.00
Third year (1932-33)	306,180.6	30,219.4	336,400	140,718.85	52,500	29,250.00
Fourth year (1933-34)	304,506.3	29,693.7	334,200	138,270.60	52,500	27,000.00
Fifth year (1934-35)	274,773.4	27,226.6	302,000	126,782.50	52,500	24,750.00
Sixth year (1935-36)	225,977.9	23,182.1	249,160	107,948.70	52,500	20,837.50
Seventh year (1936-37)	196,314.9	20,545.1	216,860	95,669.70	52,500	17,756.25
Eighth year (1937-38)	166,674.6	17,985.4	184,660	83,750.10	52,500	14,675.00
Ninth year (1938-39)	137,124.4	15,335.6	152,460	71,411.25	52,500	11,593.75
Tenth year (1. IV. 39-31. VIII. 39)	45,274.5	4,710.5	49,985	21,934.60	15,500	637.50
Total	2,598,750.0	259,875.0	2,858,625	1,210,125.00	525,000	236,250.00

¹ Appendix I to Regulations for Deliveries in Kind, Annex IX to Agreement of January 20, 1930, *Agreements*, p. 98.

Table showing the Distribution of Deliveries in Kind among the Creditor Powers — Continued
 (Replacing the table of par. 190 of Annex VII to the Experts' Plan and that of the Annex to Appendix 2 to Annex II of The Hague Protocol of August 31, 1929)
 (In thousands of Reichsmarks)

	Japan	Yugo- slavia	Portu- gal	Ru- mania ¹	Greece	Total Deliveries	Rec. Act	Total
Transition régime (1. IX. 29-31. III. 30) .	2,550	26,000	4,600	-	-	366,943.00	67,543.00	434,486.00
Year of deliveries in kind (1. IV. 30-31. III. 31)	5,625	37,500	6,548	9,000	3,000	512,013.40	227,573.60	739,587.00
Second Year (1931-32)	5,250	35,000	4,800	6,950	2,800	444,340.00	219,498.70	663,838.70
Third year (1932-33)	4,875	32,500	4,500	7,150	2,600	439,555.60	170,938.25	610,493.85
Fourth year (1933-34)	4,500	30,000	4,402	6,600	2,400	431,908.30	167,964.30	599,872.60
Fifth year (1934-35)	4,125	27,500	4,125	6,050	2,200	396,023.40	154,009.10	550,032.50
Sixth year (1935-36)	3,750	23,300	3,328	5,500	2,000	337,193.40	131,130.80	468,324.20
Seventh year (1936-37)	3,375	19,400	2,742	4,950	1,800	298,838.15	116,214.80	415,052.95
Eighth year (1937-38)	3,000	16,600	2,156	4,400	1,600	261,605.60	101,735.50	363,341.10
Ninth year (1938-39)	1,825	13,200	1,570	3,850	1,400	223,063.15	86,746.85	309,810.00
Tenth year (1. IV. 39-31. VIII. 39)	500	1,500	604	3,300	1,200	68,516.00	26,645.10	95,161.10
Total	39,375	262,500	39,375	57,750	21,000	3,780,000.00	1,470,000.00	5,250,000.00

¹ If the Rumanian Government and the German firms subsequently agree that the quota fixed in respect of a given period shall be exceeded, a corresponding reduction shall be applied by agreement between the German and Rumanian Governments to the other annuities. The distribution in respect of the other Powers shall, however, not be changed.

¶191. Proceeds of Reparation Recovery Acts already in force, or of systems substituted therefor by agreement with the German Government, shall be reckoned as deliveries in kind for this purpose.¹

¶192. 4. The sums received under the Dawes Plan in respect of the period April 1 to August 31, 1929, shall, after allowing for expenses in respect of administration of the Dawes Plan and armies of occupation, be redistributed to the extent necessary to provide each of the creditor powers with cover for its net debt outgoings during the year ending March 31, 1930 (these outgoings are as stated in Part 8 of the Report). The necessary adjustments for this purpose could be made against the payments during the last seven months of that year.²

¶193. 5. It is suggested that the division between the creditor Governments proposed in the present Annex should be accepted as a definitive settlement of all questions relating to the distribution of German payments and should not be affected by any existing arrangements or by the result of accounts relating to past transaction.

¶194. On the other hand it is not suggested that the present Plan should affect or disturb in any way any existing interallied agreements relating to payments, cessions or deliveries on the part of the powers formerly allied with Germany. It may, however, prove necessary to examine any provisions of these agreements under which receipts by the creditor powers could be accounted

¹ See the British and French agreements of January 2 and 18, 1930, Annex X to the agreement of January 20, *Agreements*, p. 100.

² See Art. I of the financial agreement (Annex I of the protocol of August 31), p. 189, and p. 61.

It is provided by the arrangement between the creditor powers (*Agreements*, p. 143): "For the application of par. 192 of the Annexes to the Experts' Report, a sum of 118,100,000 Reichsmarks will be handed over to Great Britain, Italy and Greece out of the receipts in respect of the last five months of the Dawes Plan.

"This payment will be divided as follows:

	Reichsmarks
Great Britain	102,000,000
Italy	14,800,000
Greece	1,300,000

"It will be charged on the excesses of the various Powers in the following amounts:

	Reichsmarks
France	89,380,446
Belgium	12,014,283
Japan	2,527,350
Yugoslavia	13,021,695
Portugal	134,661
Rumania	912,920
Poland	108,645"

for as between themselves in terms of German C Bonds in order that they may be given an application consistent with their original practical purpose.

¶195. 6. The approval of the Report by the Experts of the principal creditor countries is made formally contingent on this distribution.

ANNEX VIII. GUARANTY FUND IN RESPECT OF UNCONDITIONAL ANNUITIES

¶196. 1. The Experts of the principal creditor Governments have agreed that there shall be assigned to France out of the unconditional annuity 500,000,000 Reichsmarks, in order to allow her to mobilize a substantial part of her share in the total annuity.

¶197. The aforesaid experts consider that this assignment should be final, and in no case subject to diminution, but should continue to be included in the total assigned to France subject only to the alteration contemplated in the Special Memorandum signed concurrently with the Report of this Committee.

¶198. 2. In order to equalize the short payments to other creditors which would arise from a postponement of the postponable portion of the annuity, it was agreed that France should deposit a special guarantee fund with the Bank for International Settlements.

¶199. 3. On the coming into force of this Plan, France will give to the Bank for International Settlements an undertaking to deposit in a Trust Fund, on the demand of the Bank for International Settlements foreign currencies to a total value of 500,000,000 Reichsmarks. It is understood that this demand will not be made until action has been taken leading to the calling of the Advisory Committee referred to in Part 8 (e) of the Report. The amount of 500,000,000 Reichsmarks will be reduced by the amount of any payments made by France under par. 4 below. The Bank for International Settlements may retain this deposit as long as it deems necessary, but shall pay interest on it at its maximum current rate for long-term deposits. This deposit, if it is agreed that it shall remain for more than five years, shall be entitled to participate in the profits of the Bank divisible under Section XI, 5 of Annex I. ¹

¶200. 4. As soon as mobilization of any part of the French annuity has been effected, France will deduct from the proceeds

¹ See Art. 53e of the Statutes of the Bank.

10% thereof, or 500,000,000 Reichsmarks, whichever is the less, and will deposit it to the credit of the Trust Account of the Bank for International Settlements referred to in the preceding paragraph.

¶201. 5. Upon postponement of transfer of any payment due from Germany, the Bank for International Settlements shall take the following steps:

¶202. (a) offer to the creditors, other than France, devisen up to the amount necessary (but not exceeding 500,000,000 Reichsmarks divided if necessary proportionately) to insure to each of them receipts in devisen equal to the amounts they would have received had the non-postponable annuity been distributed in the same proportions as the total annuity;

¶203. (b) debit the Trust Fund set up under par. 2 above with the amount of devisen actually utilized under § (a);

¶204. (c) receive from each creditor, in exchange for devisen accepted under § (a), an assignment in favor of the Trust Fund of an equivalent amount of the annuity, transfer of which has been postponed.

¶205. 6. As and when Germany effectively transfers the postponed amounts, the Bank will credit to the Trust Fund its share thereof in accordance with the assignment in par. 5 (c) above.

2. PROTOCOL APPROVED AT THE PLENARY SESSION OF THE HAGUE CONFERENCE HELD ON AUGUST 31, 1929¹

[The protocol itself deals almost exclusively with transitional details respecting the necessary committees and the reconvening of the conference (*supra*, p. 35). The permanent part of the protocol is Art. 2, which "accepted the said Plan in principle" and distributed the unallotted remainder of the nonpostponable annuity (see p. 75). The permanent portions of the annexes are given below:]

Annex I. Financial Agreement between the Belgian, British, French, Italian and Japanese Delegations, and the German Delegation, in so far as Germany is concerned

The Belgian, British, French, Italian and Japanese Delegations, and the German Delegation, in so far as Germany is concerned, have agreed on the following arrangements with a view to securing the approval in principle of the Experts' Report, viz.:—

¹ British Parliamentary Papers, Miscellaneous No. 5 (1929), Cmd. 3392.

I. In accordance with pars. 83 and 84¹ of the Experts' Report of June 7, 1929, and par. 192² of the Annexes, Great Britain will receive, out of the payments due by Germany in respect to the last five months of the fifth Dawes Annuity, the amount (estimated at 100 million gold marks) which is required together with her receipts under the Dawes Plan, to cover in full her net debt outgoings during the year ending March 31, 1930, and the current costs of the British Army of Occupation up to August 31, 1929.

In pursuance of the same provisions, Italy and Greece will receive the sums required to cover in full their debt outgoings during the year ending March 31, 1930, as defined in par. 93³ of the Experts' Report.

II. Save as provided in the preceding article, Germany, Great Britain, Italy and Japan make, and will make, no claim on the sums paid or payable by Germany in respect of the last five months of the fifth Dawes Annuity, including the sum of about 79,000,000 gold marks due in September, 1929.

In return Belgium and France guarantee to Great Britain to the extent of their liability the payments for which they are responsible in accordance with Art. III below.

III. The Belgian and French Governments guarantee without reserve the payment to Great Britain, in addition to the annuities allocated to her by the Experts' Report, of an annuity of 19,800,000 Reichsmarks for 37 years as from 1929,⁴ to be paid in sterling in such instalments as may be agreed. The division of this annuity between the French and Belgian Governments will be the subject of a special agreement between them, which will be communicated to the British Government.⁵

IV. Italy having undertaken to apply in favor of Great Britain a part of the claims to which she is entitled under the Agreements of September 10, 1919, and December 8, 1919, in regard to the costs of liberation and the ceded properties, guarantees to Great Britain

¹ P. 158.

² P. 186.

³ Table, p. 161.

⁴ Of which 16,650,000 Reichsmarks by France and 3,150,000 by Belgium. (Arrangement between the creditor powers, 9, *Agreements*, p. 144).

⁵ It is provided by the arrangement between the creditor powers (*Agreements*, p. 144):

"8. The annuities provided by Arts. III and IV of Annex I of the Hague Protocol of August 31, 1929, shall be paid in two equal instalments on July 1 and January 1 in each year, from July 1, 1930, to January 1, 1966. For the current year, in the absence of any different arrangement, the whole amount shall be paid on March 15, 1930, with interest at 5½% from October 1, 1929."

without reserve a further annuity of 9,000,000 Reichsmarks for 37 years, as from 1929, to be paid in sterling in such instalments as may be agreed.¹

V. For the purposes of the two preceding articles, the Reichsmark is defined as in par. 91¹ of the Experts' Report and in the letter from Dr. Schacht dated June 6, 1929 (Annex II to Experts' Report).

VI. It is agreed that the payments due to each of the Creditor Governments in respect of their net war debts shall be made by the Bank for International Settlements on the dates fixed by the various funding agreements for the payment of the war debt annuities.²

VII. The amount of the unconditional annuity provided for in par. 89² of Chap. VIII of the Experts' Report shall be fixed at 612,000,000 Reichsmarks a year (excluding whatever sums are required for the service of the German External Loan, 1924). Out of the balance of the unconditional annuity not distributed by the Experts' Report, 55,000,000 Reichsmarks a year will be allocated to the British Empire, and 6,600,000 Reichsmarks to Japan.

HENRI JASPAR, *President.*

M. P. A. HANKEY,
Secretary-General.

Annex II. Agreement regarding Deliveries in Kind

(Excerpt)

I. [Provides for drawing up new regulations for deliveries in kind³ under par. 138 of the Experts' Report and that they shall not contain permission to export in the manner provided for in par. 139.]

¹ It is provided by the arrangement between the creditor powers (*Agreements*, p. 144): "8. The annuities provided by Arts. III and IV of Annex I of the Hague Protocol of August 31, 1929, shall be paid in two equal instalments on July 1 and January 1 in each year, from July 1, 1930, to January 1, 1966. For the current year, in the absence of any different arrangement, the whole amount shall be paid on March 15, 1930, with interest at 5½% from October 1, 1929."

² It is provided by the arrangement between the creditor powers (*Agreements*, p. 144): "7. In order to give effect to Art. VI of Annex I of the Protocol of August 31, 1929, the French and Italian Governments agree to pay to Great Britain during each of the 36 financial years commencing April, 1930, the annuities provided for in their respective War Debt Funding Agreements by equal monthly instalments on the 15th of each month, instead of in half-yearly instalments on September 15 and March 15 of each year."

³ "The dates of the release of the Italian gold deposit provided for in Art. 7 of the Anglo-Italian War Debt Funding Agreement will be similarly modified."

For the agreements referred to see Parliamentary Papers, Cmd. 2580 and 2692.

⁴ Not reprinted; see *Agreements*, p. 80.

II. The Belgian, British, French, Italian and Japanese Governments agree that the British and French Governments have the right to a Reparation (Recovery) Act levy *pari passu* with any Deliveries in Kind, including those furnished under a moratorium, that is to say, that of the total amount transferred in any year in Deliveries in Kind (including the quotas under the Reparation Recovery Acts), the quota under the British Reparation (Recovery) Act will amount to 23.05% and the quota under the French Reparation (Recovery) Act to 4.95%. The German Government makes a reserve in so far as concerns the possible application of the Reparation (Recovery) Acts after the expiry of the 10 years' program of Deliveries in Kind laid down in the Experts' Report.

III. The Italian Government undertakes, as part of the present agreement, to execute the arrangement laid down in Appendix 2 hereto in the matter of imports of coal to Italy.

HENRI JASPAR, *President.*

M. P. A. HANKEY,
Secretary-General.

APPENDIX 1 TO ANNEX II ¹

With a view to safeguarding the financial, commercial and economic interests of the several signatory Governments, the following procedure shall be applied to the special programs for deliveries in kind:

(a) In the case of any such special program involving an extension in any of the first 10 years of the Experts' Report of the program of deliveries in kind laid down in the Report for that year.

(b) In the case of any special program after the first 10 years.

These special programs shall be submitted for approval to a committee, which shall be convened by the Bank for International Settlements and on which each of the signatory Governments may have a representative. This committee shall take decisions by a majority vote. If a member of the committee considers that the interests of his Government as defined above are prejudiced by the decision of the committee, he may suspend the execution thereof in whole or part and refer the decision to the arbitrator provided for hereafter, on condition that he furnishes the arbitrator with a reasoned statement of his objections within a maximum period of seven days. The arbitrator shall give a decision within 14 days

¹ Enacts part of Report, Annex IV, Sec. 6.

concerning the approval or the rejection of the program or of the part of the program in dispute.

The arbitrator shall be of neutral nationality, and shall be of high commercial and financial standing. He shall be appointed by the signatory Governments acting unanimously or, failing unanimity, by the president of the Permanent Court of International Justice.

HENRI JASPAR, *President.*

M. P. A. HANKEY,
Secretary-General.

APPENDIX 2 TO ANNEX II. Provides for Italian purchase of British coal (see *supra*, p. 84).

ANNEX TO APPENDIX 2. ARRANGEMENT BETWEEN THE FRENCH AND ITALIAN GOVERNMENTS REVISING THEIR DELIVERIES IN KIND SCHEDULES (see first table under Report, ANNEXES, PAR. 190, p. 183).

ANNEX III. AGREEMENT UPON THE TRANSITION PERIOD.

ANNEX IV. AGREEMENT UPON COSTS OF OCCUPATION.

3. AGREEMENT WITH GERMANY

The Representatives of Germany, Belgium, France, Great Britain, Italy and Japan, meeting at Geneva on September 16, 1928, expressed their determination to make a complete and final settlement of the question of reparations and, with a view to attaining this object, provided for the constitution of a Committee of Financial Experts.

With this object the Experts met at Paris and their report was made on June 7, 1929. Approval in principle was given to this report by the Hague Protocol of August 31, 1929.

The duly authorized representatives of the Government of the German Reich, the Government of His Majesty the King of the Belgians, the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of Canada, the Government of the Commonwealth of Australia, the Government of New Zealand, the Government of the Union of South Africa, the Government of India, the Government of the French Republic, the Government of the Greek Republic, the Government of His Majesty the King of Italy, the Government of His Majesty the Emperor of Japan, the Government of the Republic of Poland, the Government of the Republic of Portugal, the Government of

His Majesty the King of Rumania, the Government of the Czecho-slovak Republic and the Government of His Majesty the King of Yugoslavia

Have reached the following agreement:

ARTICLE I. The Experts' Plan of June 7, 1929, together with this present Agreement and the Protocol of August 31, 1929 (all of which are hereinafter described as the New Plan) is definitely accepted as a complete and final settlement, so far as Germany is concerned, of the financial questions resulting from the War. By their acceptance the signatory powers undertake the obligations and acquire the rights resulting for them respectively from the New Plan.

The German Government gives the Creditor Powers the solemn undertaking to pay the annuities for which the New Plan provides in accordance with the stipulations contained therein.

ART. II. As from the date the New Plan is put into execution as provided in the final clause of this present Agreement, Germany's previous obligation is entirely replaced, except in respect of the German External Loan 1924, by the obligation laid down in the New Plan. The payment in full of the annuities there mentioned, in so far as the same are due to the Creditor Powers, is accepted by those powers as a final discharge of all the liabilities of Germany still remaining undischarged, referred to in Sec. XI of Part I of the Dawes Plan as interpreted by the decisions of the Interpretation Tribunal set up under the London Agreement of August 30, 1924.

ART. III. A. The signatory Governments recognize that the accounts between the Reparation Commission and Germany relating to transactions prior to the period of the Dawes Plan, together with all accounts involving credits to Germany, either now or in the future, against the original capital debt are henceforth obsolete and without practical effect and declare them closed in their present condition.

B. (a) In execution of par. 143 of the Experts' Report of June 7, 1929, on the understanding that the following declaration is to be considered as a full compliance with the requirements of that paragraph as to a waiver, Germany declares that she waives every claim as defined by the following list, whether for a payment or for property, which she may have addressed or might hereafter address to the Reparation Commission or to any Creditor Power signatory to the present agreement for any transaction prior in date to the signature of this agreement, connected with the World War,

the armistice conventions, the treaty of Versailles or any agreements made for their execution:

(1) claims relating to property or pecuniary rights of prisoners of war in so far as they have not already been settled by special agreements;

(2) claims seeking to obtain the reimbursement of payments made under par. 11 of the Annex to Art. 296 of the treaty of Versailles;

(3) claims relating to loans issued by the former German colonies;

(4) any claims, whether for a payment or for property, which the German Government has presented or might present for its own account other than state claims notified, under the clearing procedure provided for under Arts. 296 and 72 of the treaty of Versailles, by the Creditor to the Debtor Office.

(b) By way of reciprocity the Creditor Powers accept in conformity with the recommendation of par. 96 of the Experts' Report of June 7, 1929, the payment in full of the annuities fixed thereby as a final discharge of all the liabilities of Germany still remaining undischarged and waive every claim additional to those annuities, either for a payment or for property, which has been addressed or might be addressed to Germany for any past transaction falling under the same heads of claim as those appearing under (1) to (4) above.

(c) The provisions of the present article do not affect the execution of agreements later in date than January 10, 1920, for the abandonment of the liquidation of German private property, rights or interests or the restitution either of those properties, rights or interests or the proceeds of their liquidation.

C. (a) The Creditor Governments undertake, as from the date of the acceptance of the Experts' Report of June 7, 1929, to make no further use of their right to seize, retain and liquidate the property, rights and interests of German nationals or companies controlled by them, in so far as not already liquid or liquidated or finally disposed of, including the rights of the signatory Creditor Powers under Art. 306, pars. (5), (6) and (7) of the treaty of Versailles.

(b) The execution of this undertaking will be regulated by special agreements between the German Government and each of the Governments concerned.

(c) The signatory Governments will use every effort to clear up definitely all outstanding questions relating to the execution of this undertaking within one year after the coming into force of the New Plan.

(d) This undertaking has no application in cases where special settlements have already been made.

D. All or some of the questions mentioned in the present article as to the waiver of claims and the cessation of liquidation are governed, as between the German Government on the one hand and the following Governments respectively on the other hand, by the Agreements concluded on the following dates, that is to say:¹ Belgium, July 13, 1929; and January 16, 1930; Great Britain, December 28, 1929;² Canada, January 14, 1930; Commonwealth of Australia, January 17, 1930; New Zealand, January 17, 1930; France, December 31, 1929; Italy, January 20, 1930; Poland, October 31, 1929.

ART. IV. From and after the date on which the New Plan comes into force, the Office for Reparation Payments and the organizations in Berlin connected therewith shall be abolished and the relations with Germany of the Reparation Commission shall come to an end.

Under the régime of the New Plan only those of the functions of these organizations the maintenance of which is necessitated by the New Plan will continue in existence; these functions will be transferred to the Bank for International Settlements by the "Small Special Committee;"³ the Bank for International Settlements will exercise them within the conditions and limits of the New Plan in conformity with the provisions of its Statutes.

Under the régime of the New Plan the powers of the Creditor Powers in relation to Germany will be determined in accordance with the provisions of the Plan.

In regard hereto the representatives of the Belgian, British, French, Italian and Japanese Governments and the Representatives of the German Government have made the declarations contained in Annex I.⁴

The other measures necessary in view of the change from the present system to that of the New Plan, are those provided for in Annex II.⁵

ART. V. The annuities mentioned in the present Agreement

¹ Texts in *Entwürfe zu den Gesetzen*, Fünfter Teil.

² British Parliamentary Paper, Misc. No. 3 (1930), Cmd. 3486.

³ Provided for in the Report, Annex V, 2, and made up of two members of the Organization Committee, representatives of Germany, the Agent General and the Reparation Commission.

⁴ See text, *supra*, p. 46.

⁵ For permanent provisions see notes to para. 142 and 146 of the Report, *supra*, p. 171.

include the amounts required for the service of the German External Loan, 1924. These annuities do not include the amounts which the Experts' Plan of June 7, 1929, assigns to the United States of America.

ART. VI. The contracting parties recognize the necessity, with a view to putting into force the New Plan, of the constitution of the Bank for International Settlements. They recognize the corporate existence of the Bank to take effect as soon as it is constituted in accordance with the Statutes annexed to the law incorporating the Bank which is the subject of the convention concluded with the Government of the Swiss Confederation.¹

ART. VII. The Government of the Reich will deliver to the Bank for International Settlements, as Trustee for the Creditor Powers, the Debt Certificate referred to in Annex III.²

Further, the German Government guarantees that the German Railway Company (*Deutsche Reichsbahngesellschaft*) will deliver to the Bank for International Settlements the Certificate mentioned in Annex IV.³

ART. VIII. With a view to facilitating the successful working of the New Plan the German Government declares spontaneously that it is firmly determined to make every possible effort to avoid a declaration of postponement and not to have recourse thereto until it has come to the conclusion in good faith that Germany's exchange and economic life may be seriously endangered by the transfer in part or in full of the postponable portion of the annuities. It remains understood that Germany alone has authority to decide whether occasion has arisen for declaring a postponement as provided by the New Plan.

ART. IX. The German Government undertakes to take the measures necessary for the enactment of the special laws required for the application of the New Plan, that is to say —

(a) the law for the amendment of the Bank Law of August 30, 1924, in accordance with Annex V;⁴

(b) the law for the amendment of the law of the *Deutsche Reichsbahngesellschaft*, in accordance with Annex VI.⁵

These laws may only be amended in the conditions and in accordance with the procedure laid down by Annexes VA and VIA.

¹ See text, p. 203.

² See text, p. 232.

³ Not reprinted; for text see *Agreements*, p. 39.

⁴ Not reprinted; for text see *Agreements*, p. 40.

⁵ Not reprinted; for text see *Agreements*, p. 45.

The German Government further undertakes to apply the provisions contained in Annexes VII ¹ and XI ² relating to the assignment of the proceeds of certain taxes by way of collateral security for the service of the several parts of the German annuities.

ART. X. The contracting parties will take in their respective territories the measures necessary for securing that the funds and investments of the Bank, resulting from the payments by Germany, shall be freed from all national or local fiscal charges.

The Bank, its property and assets, and also the deposits of other funds intrusted to it, on the territory of, or dependent on the administration of, the parties shall be immune from any disabilities and from any restrictive measures such as censorship, requisition, seizure or confiscation, in time of peace or war, reprisals, prohibition or restriction of export of gold or currency and other similar interferences, restrictions or prohibitions. ³

ART. XI. The Governments of the Creditor Powers have settled the text of a Trust Agreement, appearing in Annex VIII, ⁴ for the receipt, management and division of the German annuities.

The Bank for International Settlements upon its establishment will be invited to give its adhesion to the agreement, and the Governments referred to will appoint delegates with the powers necessary to sign.

The German Government declares that it has been informed of the text of the agreement.

ART. XII. The system of deliveries in kind will be governed by the provisions contained in Annex IX hereto ⁵ and in the second Annex ⁶ to the Protocol of August 31, 1929.

The methods of administering the law of Great Britain entitled "The German Reparation (Recovery) Act 1921" and the levy on German imports into France have been settled by agreements between the German Government on the one hand and the British

¹ Deals with former controlled revenues, *Agreements*, p. 67, and *supra*, p. 68.

² Not reprinted; for text see *Agreements*, p. 105. The system established for securing payment of the external loan consists of continuing the practice in force under the commissioner of assigned revenues under the Dawes Plan. The proceeds of the taxes pledged to loan service are remitted to an account of the trustees monthly and are released when the monthly loan requirements are met.

³ Cf. par. 10 of the Charter of the Bank, p. 206.

⁴ See text, p. 220.

⁵ Not reprinted; for text see *Agreements*, p. 80.

⁶ This annex is largely transitional, except for certain technical details. The permanent part of it, enacting the Experts' Report, Annex IV, 4, is printed at p. 191.

and French Governments respectively on the other; the text of these Agreements is set out in Annex X.¹

ART. XIII. The German Government confirms all the priorities, securities and rights hitherto created for the benefit of the German External Loan, 1924, and declares that nothing in the New Plan or in consequence of the termination of the Dawes Plan, diminishes or varies the nature and extent of its prior obligations and engagements assumed under the General Bond² securing said loan, all of which are preserved in their integrity. The Governments of the other signatory powers similarly confirm and recognize the absolute prior position of the service of the German External Loan, 1924, and declare, in so far as they are concerned, that all the priorities, securities and rights hitherto granted said loan remain unimpaired including those under the London protocol dated August 30, 1924.³ In particular, but without limiting the foregoing general declarations, the Governments of the German Reich and of the other signatory powers recognize that the specific first prior charge for the benefit of the said loan continues to attach to all payments hereafter to be made by Germany for reparation or other treaty costs, including not only the nonpost-ponable portion of the German annuities to be paid into the Annuity Trust Account but also the post-ponable portion of the German annuities to be paid into the Annuity Trust Account; and the said powers accordingly agree that the amounts currently required for the service of said loan shall be paid out of said annuities to, or upon the order of, the Trustees of said loan in priority to any other disbursements made therefrom. The Government of the German Reich further accepts and confirms the provisions for the security of the German External Loan, 1924, which are contained in Annex XI,⁴ of which the English text is alone authentic.

ART. XIV. The Creditor Powers recognize that their acceptance of the solemn undertaking of the German Government replaces all controls, special securities, pledges or charges existing at the present time, with the exception of those specially mentioned in Art. XIII and in Annexes VI, VII and XI.

ART. XV. 1. Any dispute whether between the Governments

¹ Not reprinted; for text see *Agreements*, p. 100.

² *Reparation Commission, Official Documents, XIV, p. 318.*

³ *Cf. Art. 3 of the agreement between the allied Governments amending Part VIII, Annex II of the treaty of Versailles, Reparation, Part VI, p. 263; Reparation Commission, Official Documents, XIV, p. 157.*

⁴ Not reprinted; for text see *Agreements*, p. 105.

signatory to the present agreement or between one or more of those Governments and the Bank for International Settlements, as to the interpretation or application of the New Plan shall, subject to the special provisions of Annexes I,¹ VA, VIA and IX, be submitted for final decision to an arbitration tribunal of five members appointed for five years, of whom one, who will be the chairman, shall be a citizen of the United States of America, two shall be nationals of states which were neutral during the late war; the two others shall be respectively a national of Germany and a national of one of the powers which are creditors of Germany.

For the first period of five years from the date when the New Plan takes effect this Tribunal shall consist of the five members who at present constitute the Arbitration Tribunal established by the Agreement of London of August 30, 1924.

2. Vacancies on the Tribunal, whether they result from the expiration of the five-yearly periods or occur during the course of any such period, shall be filled, in the case of a member who is a national of one of the powers which are creditors of Germany, by the French Government, which will first reach an understanding for this purpose with the Belgian, British, Italian and Japanese Governments; in the case of the member of German nationality, by the German Government; and in the cases of the three other members by the six Governments previously mentioned acting in agreement, or in default of their agreement, by the president for the time being of the Permanent Court of International Justice.

3. In any case in which either Germany or the Bank is plaintiff or defendant, if the chairman of the Tribunal considers, at the request of one or more of the Creditor Governments parties to the proceedings, that the said Government or Governments are principally concerned, he will invite the said Government or Governments to appoint — and in the case of more Governments than one by agreement — a member, who will take the place on the Tribunal of the member appointed by the French Government.

In any case in which, on the occasion of a dispute between two or more Creditor Governments, there is no national of one or more of those Governments among the members of the Tribunal, that Government or those Governments shall have the right to appoint each a member who will sit on that occasion. If the chairman considers that some of the said Governments have a common interest in the dispute, he will invite them to appoint a single

¹ See *supra*, p. 46.

member. Whenever, as a result of this provision, the Tribunal is composed of an even number of members, the chairman shall have a casting vote.

4. Before and without prejudice to a final decision, the chairman of the Tribunal, or, if he is not available in any case, any other member appointed by him, shall be entitled, on the request of any party who makes the application, to make any interlocutory order with a view to preventing any violation of the rights of the parties.

5. In any proceedings before the Tribunal the parties shall always be at liberty to agree to submit the point at issue to the chairman or any one of the members of the Tribunal chosen as a single arbitrator.

6. Subject to any special provisions which may be made in the submission — provisions which may not in any event affect the right of intervention of a third party — the procedure before the Tribunal or a single arbitrator shall be governed by the rules laid down in Annex XII.¹

The same rules, subject to the same reservation, shall also apply to any proceedings before this Tribunal for which the annexes to the present agreement provide.

7. In the absence of an understanding on the terms of submission, any party may seize the Tribunal directly by a proceeding *ex parte*, and the Tribunal may decide, even in default of appearance, any question of which it is thus seized.

8. The Tribunal, or the single arbitrator, may decide the question of their own jurisdiction, provided always that, if the dispute is one between Governments and a question of jurisdiction is raised, it shall, at the request of either party, be referred to the Permanent Court of International Justice.

9. The present provisions shall be duly accepted by the Bank for the settlement of any dispute which may arise between it and one or more of the signatory Governments as to the interpretation or application of its Statutes or the New Plan.

Final Clause

M. Henri Jaspar, Prime Minister of Belgium, as chairman of the Hague Conference of 1930, will deliver to each of the signatory Governments a certified copy of the present agreement (which expression here, and in all places where the context admits, includes

¹ Not reprinted; for text see *Agreements*, p. 107.

the annexes hereto) immediately after signature. The French and English texts are both, in the absence of special provision to the contrary, authentic, provided that, for the certificates mentioned in Art. VII and the German Laws mentioned in Art. IX of the present agreement the German text, and for the provisions of Annex XI the English text, alone will be authentic.

The present agreement shall be ratified and the deposit of ratifications shall be made at Paris with the French Government.

The powers of which the seat of government is outside Europe will be entitled merely to inform the French Government through their diplomatic representatives at Paris that their ratification has been given; in that case they must transmit the instrument of ratification as soon as possible.

The New Plan will come into force and will be considered as having been put into execution on the date on which the Reparation Commission and the chairman of the Kriegslastenkommission have agreed in reporting:

(1) The ratification of the present agreement by Germany and the enactment of the German laws in accordance with the relative annexes.

(2) The ratification of the present agreement by four of the following powers, that is to say, Belgium, Great Britain, France, Italy and Japan.

(3) The constitution of the Bank for International Settlements and the acceptance by the Bank of the undertakings by it for which the present agreement provides, and also its receipt of the certificate of the German Government and the certificate of the German Railway Company as provided in Annexes III and IV.

The report of the Reparation Commission shall require a unanimous vote of the members of the Commission as constituted for the purposes of the treaty of Versailles when a question concerning Germany is under consideration, the Japanese delegate nevertheless taking part in the discussion and giving his vote.

The report of the Reparation Commission and the chairman of the Kriegslastenkommission will be notified to all the powers signatory of the present agreement.

Provided always that the substitution of the obligations and annuities of the New Plan for those of the Experts' Plan of April 9, 1924, shall date from September 1, 1929, regard being had to the provisions of the Hague Protocol of August 31, 1929, and of Annex II to the present agreement.

The present agreement will come into force for each Government other than the four of those mentioned above by name who first ratify, on the date of notification or deposit of ratification.

Provided always that any such ratification shall have the same effect as if it had taken place before the report of the Reparation Commission and the chairman of the Kriegslastenkommission.

The French Government will transmit to all the signatory Governments a certified copy of the procès-verbaux of the deposit.

Done in a single copy at The Hague, the 20th day of January, 1930.

CURTIUS.
WIRTH.
SCHMIDT.
MOLDENHAUER.
HENRI JASPAR.
PAUL HYMANS.
E. FRANÇUL.
PHILIP SNOWDEN.
PETER LARKIN.
GRANVILLE RYRIE.
E. TOMS.
PHILIP SNOWDEN.
PHILIP SNOWDEN.
HENRI CHERON.
LOUCHEUR.
N. POLITIS.
J. G. POLITIS.

A. MOSCONI.
A. PIRELLI.
SUVICH.
M. ADATCI.
K. HIROTA.
J. MROZOWSKI.
R. ULRICH.
TOMAZ FERNANDES.
G. G. MIRONESCO.
N. TITULESCO.
J. LUGOSIANO.
AL. ZEUCEANO.
Dr. EDUARD BENES.
STEFAN OSUSKY.
Dr. V. MARINKOVICH.
CONST. FOTICH.

II. THE BANK FOR INTERNATIONAL SETTLEMENTS

1. CONVENTION RESPECTING THE BANK FOR INTERNATIONAL SETTLEMENTS, SIGNED AT THE HAGUE, JANUARY 20, 1930¹

The duly authorized representatives of the Governments of Germany, of Belgium, of France, of the United Kingdom of Great Britain and Northern Ireland, of Italy and of Japan of the one part
And the duly authorized representatives of the Government of the Swiss Confederation of the other part

Assembled at The Hague Conference in the month of January, 1930, have agreed on the following:

ARTICLE 1. Switzerland undertakes to grant to the Bank of International Settlements, without delay, the following constituent charter having force of law; not to abrogate this charter, not to amend or add to it, and not to sanction amendments to the Statutes of the Bank referred to in par. 4 of the charter otherwise than in agreement with the other signatory Governments.

ART. 2. Any dispute between the Swiss Government and any one of the other signatory Governments relating to the interpretation or application of the present convention shall be submitted to the Arbitral Tribunal provided for by the Hague Agreement of January, 1930. The Swiss Government may appoint a member who shall sit on the occasion of such disputes, the president having a casting vote. In having recourse to this Tribunal the parties may always agree between themselves to submit their dispute to the president or to one of the members of the Tribunal chosen to act as sole arbiter.

ART. 3. The present convention is entered into for a period of 15 years. It is entered into on the part of Switzerland under reserve of ratification and shall be put into force as soon as it shall have been ratified by the Government of the Swiss Confederation. The instrument of ratification shall be deposited with the Ministry of Foreign Affairs at Paris. Upon the entry into force of the convention, the Swiss Government will initiate the necessary con-

¹ Document No. 6 of the Final Act of the Hague Conference, *Agreements concluded at the Hague Conference, January, 1930*, p. 110 (Misc. No. 4 (1930), Cmd. 3484); *Entwürfe zu den Gesetzen über die Haager Konferenz und die Sonder- und Liquidationsabkommen*, p. 258.

stitutional procedure in order that the assent of the Swiss people may be obtained for the maintenance in force during the whole of the Bank's existence of the provisions of the present convention. As soon as these measures have become fully effective the Swiss Government will notify the other signatory Governments and these provisions shall become valid during the Bank's existence.

Constituent Charter of the Bank for International Settlements

Whereas the powers signatory to the Hague agreement of January, 1930, have adopted a Plan which contemplates the founding by the Central Banks of Belgium, France, Germany, Great Britain, Italy and Japan and by a financial institution of the United States of America of an international bank to be called the Bank for International Settlements;

And whereas the said central banks and a banking group including Messrs. J. P. Morgan & Company of New York, the First National Bank of New York, New York, and the First National Bank of Chicago, Chicago, have undertaken to found the said Bank and have guaranteed or arranged for the guaranty of the subscription of its authorized capital amounting to five hundred million Swiss francs equal to 145,161,290.32 gram, fine gold, divided into 200,000 shares;

And whereas the Swiss Federal Government has entered into a treaty with the Governments of Germany, Belgium, France, Great Britain, Italy and Japan whereby the said Federal Government has agreed to grant the present Constituent Charter of the Bank for International Settlements and not to repeal, amend or supplement the said Charter and not to sanction amendments to the Statutes of the Bank referred to in par. 4 of the present Charter except in agreement with the said inviting powers;

(1) The Bank for International Settlements (hereinafter called the Bank) is hereby incorporated.

(2) Its constitution, operations and activities are defined and governed by the annexed Statutes, which are hereby sanctioned.

(3) Amendment of articles of the said Statutes other than those enumerated in par. 4 hereof may be made and shall be put into force as provided in Art. 59 of the said Statutes, and not otherwise.

(4) Arts. 2, 3, 4, 9, 15, 20, 25, 28, 46, 53, 56, 59 and 60 of the said Statutes shall not be amended except subject to the following con-

ditions: the amendment must be adopted by a two-thirds majority of the Board, approved by a majority of the General Meeting and sanctioned by a law supplementing the present Charter.

(5) The said Statutes and any amendments which may be made thereto in accordance with pars. 3 or 4 hereof respectively shall be valid and operative notwithstanding any inconsistency therewith in the provisions of any present or future Swiss law.

(6) The Bank shall be exempt and immune from all taxation included in the following categories:

(a) stamp, registration and other duties on all deeds or other documents relating to the incorporation or liquidation of the Bank;

(b) stamp and registration duties on any first issue of its shares by the bank to a central bank, financial institution, banking group or underwriter at or before the time of incorporation or in pursuance of Art. 7 or 9 of the Statutes;

(c) all taxes on the Bank's capital, reserves or profits, whether distributed or not, and whether assessed on the profits of the Bank before distribution or imposed at the time of distribution under the form of a coupon tax payable or deductible by the Bank. This provision is without prejudice to the state's right to tax the residents of Switzerland other than the Bank as it thinks fit;

(d) all taxes upon any agreements which the Bank may make in connection with the issue of loans for mobilizing the German annuities and upon the bonds of such loans issued on a foreign market;

(e) all taxes on the remunerations and salaries paid by the Bank to members of its administration or its employees of non-Swiss nationality.

(7) All funds deposited with the Bank by any Government in pursuance of the plan adopted by the Hague Agreement of January, 1930, shall be exempt and immune from taxation, whether by way of deduction by the Bank on behalf of the authority imposing the same or otherwise.

(8) The foregoing exemptions and immunities shall apply to present and future taxation by whatsoever name it may be described and whether imposed by the Confederation or by the cantonal, communal or other public authorities.

(9) Moreover, without prejudice to the exemptions specified above, there may not be levied on the Bank, its operation or its personnel any taxation other than that of a general character and to which other banking establishments established at Basel or in

Switzerland, their operations and their personnel, are not subjected *de facto* and *de jure*.

(10) The Bank, its property and assets and all deposits and other funds intrusted to it shall be immune in time of peace and in time of war from any measure such as expropriation, requisition, seizure, confiscation, prohibition or restriction of gold or currency export or import, and any other similar measures.

(11) Any dispute between the Swiss Government and the Bank as to the interpretation or application of the present Charter shall be referred to the Arbitral Tribunal provided for by the Hague agreement of January, 1930.

The Swiss Government shall appoint a member to sit on the occasion of such dispute, the President having a casting vote.

In having recourse to the said Tribunal the Parties may nevertheless agree to submit their dispute to the President or to a member of the Tribunal chosen to act as sole Arbiter.

Done at The Hague, the 20th January, 1930.

CURTIUS.	A. PIRELLI.
HENRI JASPAR.	SUVICH.
PAUL HYMANS.	M. ADATCI.
E. FRANCOU.	K. HIROTA.
HENRI CHÉRON.	G. BACHMANN.
LOUCHEUR.	W. BURCKHARDT.
PHILIP SNOWDEN.	Dr. R. MIESCHER.
A. MOSCONI.	

ANNEX: STATUTES OF THE BANK FOR INTERNATIONAL SETTLEMENTS

CHAPTER I. NAME, SEAT AND OBJECTS

ARTICLE 1. There is constituted under the name of the Bank for International Settlements (hereinafter referred to as the Bank), a company limited by shares.

ART. 2. The registered office of the Bank shall be situated at Basel, Switzerland.

ART. 3. The objects of the Bank are: To promote the cooperation of central banks and to provide additional facilities for international financial operations; and to act as trustee or agent in regard to international financial settlements intrusted to it under agreements with the parties concerned.

ART. 4. As long as the New Plan as defined in Hague Agreement of

January, 1930 (hereinafter referred to as the Plan), is in force, the Bank (1) shall carry out the functions assigned to it in the Plan; (2) shall conduct its affairs with a view to facilitating the execution of the Plan; and (3) shall observe the provisions of the Plan in the administration and operations of the Bank; all within the limits of the powers granted by these Statutes.

During the said period the Bank, as trustee or agent for the governments concerned, shall receive, administer and distribute the annuities paid by Germany under the Plan; shall supervise and assist in the commercialization and mobilization of certain portions of the aforesaid annuities; and shall perform such services in connection with the payment of German reparations and the international settlements connected therewith as may be agreed upon by the Bank with the Governments concerned.

CHAPTER II. CAPITAL

ART. 5. The authorized capital of the Bank shall be 500,000,000 Swiss gold francs, equivalent to 145,161,290.32 gr. fine gold.

It shall be divided into 200,000 shares of equal gold nominal value.

The nominal value of each share shall also be expressed on the face of each share in terms both of Swiss francs and of the currency of the country in which it is issued, converted at the gold mint parity.

ART. 6. The subscription of the total authorized capital having been guaranteed in equal parts by the Banque Nationale de Belgique, the Bank of England, the Banque de France, the Reichsbank, the Banca d'Italia, Messrs. X,¹ acting in place of the Bank of Japan, and Messrs. Y² of New York, the Bank may begin business as soon as the minimum of 112,000 shares has been subscribed.

ART. 7. (1) During the two years following incorporation the Board of Directors of the Bank (hereinafter referred to as the Board) shall arrange for the subscription of any unissued portion of the authorized capital.

(2) This unissued portion may be offered to the central banks or other banks of countries which have not participated in the original subscription. The selection of countries in which such shares shall be offered for subscription and the amount to be subscribed in each shall be determined by the Board by a two-thirds majority, provided that offers of shares shall only be made in countries interested in reparations or in countries whose currencies, in the opinion of the Board, satisfy the practical requirements of the gold or gold exchange standard, and that the amount issued in any one of these countries shall not exceed 8,000 shares.

(3) The seven banking institutions mentioned in Art. 6 shall, in

¹ The Yokohama Specie Bank.

² A group consisting of J. P. Morgan & Company of New York, the First National Bank of New York and the First National Bank of Chicago.

accordance with their several guaranties, subscribe or arrange for the subscription in equal proportions of any part of the authorized capital which at the end of two years remains unsubscribed.

ART. 8. (1) Twenty-five per cent only of the value of each share shall be paid up at the time of subscription. The balance may be called up at a later date or dates at the discretion of the Board. Three months' notice shall be given of any such calls.

(2) If a shareholder fails to pay any call on a share on the day appointed for payment thereof the Board may, after giving reasonable notice to such shareholder, forfeit the share in respect of which the call remains unpaid. A forfeited share may be sold on such terms and in such manner as the Board may think fit; and the Board may execute a transfer in favor of the person or corporation to whom the share is sold. The proceeds of sale may be received by the Bank, which will pay to the defaulting shareholder any part of the net proceeds over and above the amount of the call due and unpaid.

ART. 9. (1) The capital of the Bank may be increased or reduced on the proposal of the Board acting by a two-thirds majority and adopted by a two-thirds majority of the General Meeting.

(2) In the event of an increase in the authorized capital of the Bank and of a further issue of shares the distribution among countries shall be decided by a two-thirds majority of the Board. The central banks of Belgium, England, France, Germany, Italy, Japan and the United States of America, or some other financial institution of the last-named country acceptable to the foregoing central banks, shall be entitled to subscribe or arrange for the subscription in equal proportions of at least 55% of such additional shares.

(3) No part of the amount not taken by the Banks of these seven countries shall be subscribed in any other country unless it is interested in reparations or at the time of issue its currency, in the opinion of the Board, satisfies the practical requirements of the gold or gold exchange standard.

ART. 10. In extending invitations to subscribe for capital in accordance with Art. 7, par. 2, or with Art. 9, consideration shall be given by the Board to the desirability of associating with the Bank the largest possible number of central banks.

ART. 11. No shares shall be issued below par.

ART. 12. The liability of shareholders is limited to the nominal value of their shares.

ART. 13. The shares shall be registered and transferable in the books of the Bank.

The Bank shall be entitled without assigning any reason to decline to accept any person or corporation as the transferee of a share. It shall not transfer shares without the prior consent of the central bank, or the institution acting in lieu of a central bank, by or through whom the shares in question were issued.

ART. 14. The shares shall carry equal rights to participate in the profits of the Bank and in any distribution of its assets under Arts. 53, 54 and 55 of the Statutes.

ART. 15. The ownership of shares of the Bank carries no right of voting or representation at the General Meeting. The right of representation and of voting, in proportion to the number of shares subscribed in each country, may be exercised by the central bank of that country or by its nominee. Should the central bank of any country not desire to exercise these rights they may be exercised by a financial institution of widely recognized standing and of the same nationality, appointed by the Board and not objected to by the central bank of the country in question. In cases where there is no central bank, these rights may be exercised, if the Board thinks fit, by an appropriate financial institution of the country in question appointed by the Board.

ART. 16. Any subscribing institution or banking group may issue, or cause to be issued, to the public the shares for which it has subscribed.

ART. 17. Any subscribing institution or banking group may issue to the public certificates against the shares of the Bank owned by it. The form, details and terms of issue of such certificates shall be determined by the Bank issuing them in agreement with the Board.

ART. 18. The receipt or ownership of shares of the Bank or of certificates issued in accordance with Art. 17 implies acceptance of the Statutes of the Bank and a statement to that effect shall be embodied in the text of such shares and certificates.

ART. 19. The registration of the name of the holder of shares in the books of the Bank establishes the title to ownership of the shares so registered.

CHAPTER III. POWERS OF THE BANK

ART. 20. The operations of the Bank shall be in conformity with the monetary policy of the central banks of the countries concerned.

Before any financial operation is carried out by or on behalf of the Bank on a given market or in a given currency the Board shall afford to the central bank or central banks directly concerned an opportunity to dissent. In the event of disapproval being expressed within such reasonable time as the Board shall specify, the proposed operation shall not take place. A central bank may make its concurrence subject to conditions and may limit its assent to a specific operation, or enter into a general arrangement permitting the Bank to carry on its operations within such limits as to time, character and amount as may be specified. This article shall not be read as requiring the assent of any central bank to the withdrawal from its market of funds to the introduction of which no objection had been raised by it, in the absence of stipulations to the contrary by the central bank concerned at the time the original operation was carried out.

Any governor of a central bank or his alternate or any other director

pecially authorized by the central bank of the country of which he is a national to act on its behalf in this matter, shall, if he is present at the meeting of the Board and does not vote against any such proposed operation, be deemed to have given the valid assent of the central bank in question.

If the representative of the central bank in question is absent or if a central bank is not directly represented on the Board, steps shall be taken to afford the central bank or banks concerned an opportunity to express dissent.

ART. 21. The operations of the Bank for its own account shall only be carried out in currencies which in the opinion of the Board satisfy the practical requirements of the gold or gold exchange standard.

ART. 22. The Board shall determine the nature of the operations to be undertaken by the Bank.

The Bank may in particular:

(a) buy and sell gold coin or bullion for its own account or for the account of central banks;

(b) hold gold for its own account under earmark in central banks;

(c) accept the custody of gold for the account of central banks;

(d) make advances to or borrow from central banks against gold, bills of exchange and other short-term obligations of prime liquidity or other approved securities;

(e) discount, rediscount, purchase or sell with or without its indorsement bills of exchange, checks and other short-term obligations of prime liquidity, including treasury bills and other such government short-term securities as are currently marketable;

(f) buy and sell exchange for its own account or for the account of central banks;

(g) buy and sell negotiable securities other than shares for its own account or for the account of central banks;

(h) discount for central banks bills taken from their portfolio and rediscount with central banks bills taken from its own portfolio;

(i) open and maintain current or deposit accounts with central banks;

(j) accept:

(i) deposits from central banks on current or deposit account;

(ii) deposits in connection with trustee agreements that may be made between the Bank and governments in connection with international settlements;

(iii) such other deposits as in the opinion of the Board come within the scope of the Bank's functions.

The Bank may also:

(k) act as agent or correspondent of any central banks;

(l) arrange with any central bank for the latter to act as its agent or correspondent. If a central bank is unable or unwilling to act in this

capacity the Bank may make other arrangements, provided that the central bank concerned does not object. If in such circumstances it should be deemed advisable that the Bank should establish its own agency, the sanction of a two-thirds majority of the Board will be required.

(m) enter into agreements to act as trustee or agent in connection with international settlements, provided that such agreements shall not encroach on the obligations of the Bank toward third parties; and carry out the various operations laid down therein.

ART. 23. Any of the operations which the Bank is authorized to carry out with central banks under the preceding article may be carried out with banks, bankers, corporations or individuals of any country provided that the central bank of that country does not object.

ART. 24. The Bank may enter into special agreements with central banks to facilitate the settlement of international transactions between them.

For this purpose it may arrange with central banks to have gold earmarked for their account and transferable on their order, to open accounts through which central banks can transfer their assets from one currency to another and to take such other measures as the Board may think advisable within the limits of the powers granted by these Statutes. The principles and rules governing such accounts shall be fixed by the Board.

ART. 25. The Bank may not:

- (a) issue notes payable at sight to bearer;
- (b) "accept" bills of exchange;
- (c) make advances to governments;
- (d) open current accounts in the name of governments;
- (e) acquire a predominant interest in any business concern;
- (f) except so far as necessary for the conduct of its own business remain the owner of real property for any longer period than is required in order to realize to proper advantage such real property as may come into the possession of the Bank in satisfaction of claims due to it.

ART. 26. The Bank shall be administered with particular regard to maintaining its liquidity, and for this purpose shall retain assets appropriate to the maturity and character of its liabilities. Its short term liquid assets may include bank notes, checks payable at sight drawn on first-class banks, claims in course of collection, deposits at sight or at short notice in first-class banks, and prime bills of not more than ninety days' usance of a kind usually accepted for rediscount by central banks. The proportion of the Bank's assets held in any given currency shall be determined by the Board with due regard to the liabilities of the Bank.

CHAPTER IV. MANAGEMENT

ART. 27. The administration of the Bank shall be vested in the Board.

ART. 28. The Board shall be composed as follows:¹

(1) The Governors for the time being of the central banks of Belgium, France, Germany, Great Britain, Italy, Japan and the United States of America (hereinafter referred to as *ex-officio* Directors), or if any of the said Governors are unwilling or unable to hold office, their respective nominees (hereinafter referred to as substitute nominees).

The tenure of office of a substitute nominee shall be within the discretion of the Governor by whom he is appointed but shall terminate in any case when that governor vacates office.

Any *ex-officio* Director may appoint one person as his alternate who shall be entitled to attend and exercise the powers of a director at meetings of the Board if the Governor himself is unable to be present.

(2) Seven persons representative of finance, industry or commerce appointed one each by the Governors of the central banks mentioned in subclause (1), and being of the same nationality as the Governor who appoints him.

During continuance of the liability of Germany to pay reparation annuities, two persons of French and German nationality respectively, representative of industry or commerce, appointed by the Governors of the Bank of France and of the Reichsbank respectively, if they so desire.

If for any reason the Governor of any of the seven institutions above mentioned is unable or unwilling to serve as Director or to appoint a substitute nominee under subclause (1), or to make an appointment under subclause (2), the Governors of the other institutions referred to, or a majority of them, may invite to become members of the Board two nationals of the country of the Governor in question, not objected to by the central bank of that country.

Directors appointed as aforesaid other than *ex-officio* Directors, or their substitute nominees, shall hold office for three years, but shall be eligible for reappointment.

¹ Directors are:

(1) *Ex-officio* directors: Louis Franck (Belgian); Emile Moreau (French); Hans Luther (German); Montagu Norman (British); Senator Stringher (Italian); Setsuburo Tanaka (London representative of the Bank of Japan); Gates W. McGarrath (American), president.

(2) Emile Francqui, vice governor of the Société générale de Belgique; Baron Brinard (French), president of the Crédit Lyonnais; Sir Charles S. Addis (British), Hong Kong and Shanghai Bank; Giuseppe Beneduce, professor and member of the Italian Parliament; Daisuke Nahara, London manager of the Yokohama Specie Bank; Leon Frazer (American), formerly counsel for the Dawes Plan organization; Carl Melchior (German), banking and financial authority.

Marquis de Vogué (French), president of the Compagnie du Canal Suez, and Paul Reusch, industrialist.

(3) Not more than nine persons to be elected by the following procedure:

The Governor of the central bank of every country other than those mentioned in subclause (1), in which capital has been subscribed at the time of incorporation, shall be entitled to submit a list of four candidates of his own nationality for directorship, which may include his own name. Two of the candidates on each list shall be representative of finance and the other two of industry or commerce. From these lists the Board may elect, by a two-thirds majority, not more than nine persons.

The Directors so elected shall be divided by lot into three groups, as nearly as may be equal in number, of which one group shall retire at the end of the first, one at the end of the second and one at the end of the third financial year of the Bank. The retiring Directors shall be eligible for re-election.

At the first meeting of the Directors in the second and succeeding financial years the Board may elect by a two-thirds majority not more than three Directors from a panel of candidates composed of lists of persons with similar qualifications to those specified in connection with the first election. The Governors of the central banks of every country other than those mentioned in subclause (1), in which capital has at the date of such meeting been subscribed shall be entitled to submit a list of four persons to be included in the panel. Directors so elected shall hold office for three years, but shall be eligible for re-election.

If in any of the countries referred to in the preceding paragraph there is no central bank, the Board by a two-thirds majority may nominate an appropriate financial institution to exercise the right of submitting a list of candidates for election.

ART. 29. In the event of a vacancy occurring on the Board for any reason other than the termination of a period of office in accordance with the preceding article, the vacancy shall be filled in accordance with the procedure by which the member to be replaced was selected. In case of Directors other than *ex-officio* Directors the new Director shall hold office for the unexpired period only of his predecessor's term of office. He shall, however, be eligible for re-election at the expiration of that term.

ART. 30. The Directors must be ordinarily resident in Europe or in a position to attend regularly at meetings of the Board.

ART. 31. No person shall be appointed or hold office as a Director who is a member or an official of a Government or is a member of a legislative body, unless he is the Governor of a central bank.

ART. 32. Meetings of the Board shall be held not less than ten times a year. At least four of these shall be held at the registered office of the Bank.

ART. 33. A member of the Board who is not present in person at a meeting of Directors may give a proxy to any other member authorizing him to vote at that meeting on his behalf.

ART. 34. Unless otherwise provided by the Statutes, decisions of the Board shall be taken by a simple majority of those present or represented by proxy. In the case of an equality of votes, the chairman shall have a second or casting vote.

The Board shall not be competent to act unless a quorum of Directors is present. This quorum shall be laid down in a regulation adopted by a two-thirds majority of the Board.

ART. 35. The members of the Board may receive, in addition to out-of-pocket expenses, a fee for attendance at meetings and/or a remuneration, the amounts of which will be fixed by the Board, subject to the approval of the General Meeting.

ART. 36. The proceedings of the Board shall be summarized in minutes which shall be signed by the chairman.

Copies of or extracts from these minutes for the purpose of production in a court of justice must be certified by the General Manager of the Bank.

A record of decisions taken at each meeting shall be sent within eight days of the meeting to every member.

ART. 37. The Board shall represent the Bank in its dealings with third parties and shall have the exclusive right of entering into engagements on behalf of the Bank. It may, however, delegate this right to a member or members of the Board or of the permanent staff of the Bank, provided that it defines the powers of each person to whom it delegates this right.

ART. 38. The Bank shall be legally committed *vis-à-vis* third parties by the signature of the President or by two signatures either of members of the Board or of members of the staff who have been duly authorized by the Board to sign on its behalf.

ART. 39. The Board shall elect from among its members a chairman and one or more vice chairmen, one of whom shall preside at meetings of the Board in the absence of the chairman.

The chairman of the Board shall be President of the Bank.

He shall hold office for three years and shall be eligible for re-election.

Subject to the authority of the Board, the President will carry out the policy and control the administration of the Bank.

He shall not hold any other office which, in the judgment of the Board, might interfere with his duties as President.

ART. 40. At a meeting of the Board at which the election of a chairman is to take place, the chair shall be taken by the oldest member of the board present.

ART. 41. A General Manager¹ shall be appointed by the Board on proposal of the President. He will be responsible to the President for the operations of the Bank and will be the chief of its operating staff.

The heads of departments, and any other officers of a similar rank, shall be appointed by the Board on recommendations made by the President after consultation with the General Manager.

¹ Pierre Queanay is the first incumbent.

The remainder of the Staff shall be appointed by the General Manager with the approval of the President.

ART. 42. The departmental organization of the Bank shall be determined by the Board.

ART. 43. The Board may, if it thinks fit, appoint from among its members an executive committee to assist the President in the administration of the Bank.

The President shall be a member and *ex-officio* chairman of this committee.

ART. 44. The Board may appoint advisory committees chosen wholly or partly from persons not concerned in the Bank's management.

ART. 45. As long as the Plan is in force, the Board shall convene the Special Advisory Committee referred to in the Plan¹ upon receipt of notice therein provided for.

CHAPTER V. GENERAL MEETING

ART. 46. General Meetings of the Bank may be attended by nominees of the central banks or other financial institutions referred to in Art. 15.

Voting rights shall be in proportion to the number of shares subscribed in the country of each institution represented at the meeting.

The chair shall be taken at General Meetings by the chairman of the Board or in his absence by a vice chairman.

At least three weeks' notice of General Meetings shall be given to those entitled to be represented.

Subject to the provisions of these Statutes, the General Meeting shall decide upon its own procedure.

ART. 47. Within three months after the end of each financial year of the Bank, an Annual General Meeting shall be held upon such date as the Board may decide.

The meeting shall take place at the registered office of the Bank.

Voting by proxy will be permitted in such manner as the Board may have provided in advance by regulation.

ART. 48. The Annual General Meeting shall be invited:

(a) to approve the Annual Report, the Balance Sheet upon the report of the auditors, and the Profit and Loss Account, and any proposed change in the remuneration, fees or allowances of members of the Board.

(b) to make appropriations to Reserve and to special funds; and to consider the declaration of a dividend and its amount.

(c) to elect the auditors for the ensuing year and to fix their remuneration, and

(d) to discharge the Board from all personal responsibility in respect of the past financial year.

¹ For this committee, see p. 78, 167.

ART. 49. Extraordinary General Meetings shall be summoned to decide upon any proposals of the Board:

- (a) to amend the Statutes;
- (b) to increase or decrease the capital of the Bank;
- (c) to liquidate the Bank.

CHAPTER VI. ACCOUNTS AND PROFITS

ART. 50. The financial year of the Bank will begin April 1 and end March 31. The first financial period will end on March 31, 1931.

ART. 51. The Bank shall publish an Annual Report, and at least once a month a Statement of Account in such form as the Board may prescribe.

The Board shall cause to be prepared a Profit and Loss Account and Balance Sheet of the Bank for each financial year in time for submission to the Annual General Meeting.

ART. 52. The Accounts and Balance Sheet shall be audited by independent auditors. The auditors shall have full power to examine all books and accounts of the Bank and to require full information as to all its transactions. The auditors shall report to the Board and to the General Meeting and shall state in their Report:

- (a) whether or not they have obtained all the information and explanations they have required; and
- (b) whether, in their opinion the Balance Sheet dealt with in the Report, is properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs according to the best of their information and the explanations given to them, and as shown by the books of the Bank.

ART. 53. The yearly net profits of the Bank shall be applied as follows:

(a) 5% of such net profits, or such proportion of 5% as may be required for the purpose, shall be paid to a reserve fund, called the Legal Reserve Fund until that fund reaches an amount equal in value to 10% of the amount of paid-up capital of the Bank for the time being;

(b) thereafter such net profits shall be applied in or toward the payment of dividends of 6% per annum on the amount of paid-up capital of the Bank. This dividend shall be cumulative;

(c) as to the residue (if any) of such net profits 20% shall be paid to the shareholders until a maximum further dividend of 6% (which shall be non-cumulative) is reached, provided that the Board may in any year withhold all or any part of this additional payment and place it to the credit of a special dividend reserve fund for use in maintaining the cumulative 6% dividend provided for in the preceding paragraph or for subsequent distribution to the shareholders;

(d) after making provision for the foregoing, one-half of the yearly net profits then remaining shall be paid into the General Reserve Fund of the Bank until it equals the paid-up capital. Thereafter 40% shall

be so applied until the General Reserve Fund equals twice the paid-up capital; 30% until it equals three times the paid-up capital; 20% until it equals four times the paid-up capital; 10% until it equals five times the paid-up capital; and from that point onward 5%.

In case the General Reserve Fund, by reason of losses or by reason of an increase in the paid-up capital, falls below the amounts provided for above after having once attained them, the appropriate proportion of the yearly net profits shall again be applied until the position is restored.

(e) As long as the Plan is in force any remainder of the net profits after meeting the foregoing requirements shall be disposed of as follows:

(i) as to 75% to such of the Governments or central banks of Germany and the countries entitled to share in the annuities payable under the Plan, as have maintained time deposits at the Bank subject to withdrawal in not less than five years from the time of deposit or after four years on not less than one year's notice. This sum shall be distributed annually in proportion to the size of the deposits maintained by the respective Governments or central banks in question. The Board shall have the power to determine the minimum deposit which would justify the distribution provided for;

(ii) as to 25% as follows:

If the German Government elects to make a long-term deposit with the Bank withdrawable only on the terms specified under subclause (i) above and amounting to the minimum sum of 400,000,000 Reichsmarks, the said 25% shall go into a Special Fund, to be used to aid Germany in paying the last 22 annuities provided for in the Plan.

If the German Government elects to make such long-term deposit amounting to a sum below 400,000,000 Reichsmarks, the participation of the German Government shall be reduced in proportion and the balance shall be added to the 75% referred to in subclause (i) above.

If the German Government elects not to make any such long-term deposit, the said 25% shall be distributed as provided in subclause (i) above.

The Special Fund referred to above shall carry compound interest reckoned on an annual basis, at the maximum current rate paid by the Bank on time deposits.

If the Special Fund should exceed the amount required to pay the last 22 annuities, the balance shall be distributed among the Creditor Governments as provided for in the Plan.¹

(f) At the expiration of the period referred to in the first paragraph of subclause (e) the disposal of the remainder of the net profits referred to in subclause (e) shall be determined by the General Meeting on the proposal of the Board.

¹ "The excess of the fund . . . will be divided among the creditor Governments in accordance with the arrangements to be concluded between them when the time comes." (No. 6 of arrangement between the creditor powers, *Agreements*, p. 144.)

Reserve Funds

ART. 54. The General Reserve Fund shall be available for meeting any losses incurred by the Bank. In case it is not adequate for this purpose, recourse may be had to the Legal Reserve Fund provided for in Art. 53 (a).

These reserve funds, in the event of liquidation, and after the discharge of the liabilities of the Bank and the costs of liquidation, shall be divided among the shareholders.¹

CHAPTER VII. GENERAL PROVISIONS

ART. 55. The Bank may not be liquidated except by a three-fourths majority of the General Meeting. It shall not in any case be liquidated before it has discharged all the obligations which it has assumed under the Plan.

ART. 56. (1) If any dispute shall arise between the Bank, on the one side, and any central bank, financial institution or other bank referred to in the present Statutes, on the other side, or between the Bank and its shareholders, with regard to the interpretation or appli-

¹ Sec. X, Reserve Requirements, of Annex I of the Experts' Report reads:

"100. The Bank, since its deposits in part will be derived from central banks, shall be administered with particular regard to maintaining its liquidity. For this purpose the bank shall observe the following reserve requirements:

"101. (1) Deposits on Clearing Account. All funds held by the bank on clearing account, whether gold in vault or gold under earmark for the bank's account in central banks, shall be reserved for exclusive use in effecting settlements among the depositaries in the account.

"102. (2) Deposits Payable on Demand. Against such deposits the bank shall hold a minimum of 40% in gold or in devisen at their gold value. Devisen eligible as reserve against demand deposits shall consist of bank-notes; prime bills of exchange having not more than 90 days to run, of a character which central banks ordinarily buy for their own account; and checks payable on demand, drawn or indorsed by central banks, or in respect of which three obligees including a bank of known solvency are responsible. All devisen included in the foregoing classifications shall be denominated in currencies which satisfy, in the opinion of the Board of Directors, all the practical requirements of the gold or gold exchange standard. Gold in transit or devisen satisfying the foregoing requirements which are in process of collection may be counted as reserve.

"103. (3) Deposits on Investment Account (Time Deposits). Deposits payable in fifteen days or less shall be classified as demand deposits and be subject to the reserve requirements specified in the preceding paragraph. Against investment account deposits of longer maturity the bank shall hold a minimum of 25% in gold or in devisen at their gold value. Devisen eligible as reserve against investment account deposits shall meet the same requirements as those eligible as reserve against demand deposits.

"104. If the Board of Directors is of opinion that these reserve requirements should be altered, they shall have the right by a two-thirds vote to increase, diminish or otherwise modify them consistently with sound banking principles."

cation of the Statutes of the Bank, the same shall be referred for final decision to the tribunal provided for by the Hague Agreement of January, 1930.

(2) In the absence of agreement as to the terms of submission either party to a dispute under this article may refer the same to the tribunal, which shall have power to decide all questions (including the question of its own jurisdiction) even in default of appearance by the other party.

(3) Before giving a final decision and without prejudice to the questions at issue, the president of the tribunal, or, if he is unable to act in any case, a member of the tribunal to be designated by him forthwith, may, on the request of the first party applying therefor, order any appropriate provisional measures in order to safeguard the respective rights of the parties.

(4) The provisions of this article shall not prejudice the right of the parties to a dispute to refer the same by common consent to the president or a member of the tribunal as sole arbitrator.

ART. 57. In all cases not covered by the preceding article, or by some other provision for arbitration, the Bank may proceed or be proceeded against in any court of competent jurisdiction.

ART. 58. For the purposes of these Statutes:

(1) Central bank means the bank in any country to which has been intrusted the duty of regulating the volume of currency and credit in that country; or, where a banking system has been so intrusted, the bank forming part of such system which is situated and operating in the principal financial market of that country.

(2) The Governor of a central bank means a person who, subject to the control of his board or other competent authority, has the direction of the policy and administration of the bank.

(3) A two-thirds majority of the Board means not less than two-thirds of the votes (whether given in person or by proxy) of the whole directorate.

ART. 59. Amendments of any articles of these Statutes other than those enumerated in Art. 60 may be proposed by a two-thirds majority of the Board to the General Meeting and if adopted by a majority of the General Meeting shall come into force, provided that such amendments are not inconsistent with the provisions of the articles enumerated in Art. 60.

ART. 60. Arts. 2, 3, 4, 9, 15, 20, 25, 28, 46, 53, 56, 59 and 60 can not be amended except subject to the following conditions: The amendment must be adopted by a two-thirds majority of the Board, approved by a majority of the General Meeting and sanctioned by a law supplementing the Charter of the Bank.

2. FORM OF TRUST AGREEMENT BETWEEN THE CREDITOR GOVERNMENTS AND THE BANK FOR INTERNATIONAL SETTLEMENTS¹

Entered into this day of , 1930, between the Governments of , et cetera (hereinafter called the Creditor Governments), of the one part, and the Bank for International Settlements (hereinafter called Trustee), of the second part,

Witnesseth:

Whereas the Creditor Governments, in connection with the carrying out of the New Plan as defined in the Hague agreement of January, 1930 (hereinafter called the Plan), desire jointly to appoint the Bank for International Settlements their joint and sole trustee to receive, manage and distribute the annuities payable by Germany, and to perform other functions with respect thereto, all as provided by the Plan; and within the limits of the Statutes of the Bank.

Whereas the Bank for International Settlements has taken note of the provisions of the Plan and is prepared to accept the appointment as such trustee;

Therefore, it is agreed between the parties hereto that the description, the conditions and the limitations of the functions of the Trustee with respect thereto and of the relations, obligations and rights of the parties are those set forth as follows:

ARTICLE I. The Creditor Governments jointly appoint the Bank for International Settlements their joint and sole trustee for the purposes herein defined. The Bank accepts the appointment and agrees to carry out the trust on the conditions herein stated.

ART. II. The Trustee is empowered and agrees,

(a) To receive any balances transferred by the Agent General for Reparation Payments on the winding up of his accounts, subject to the rights of the different Creditor Governments in the distribution of such balances and to any claims and commitments thereon which may be outstanding at the time of transfer, all of which, as shown by the records of the Agent General for Reparation Payments, will be reported to the Trustee when the transfer is made;

¹ Annex VIII to the agreement with Germany of January 20, 1930, *Agreements*, p. 68; *Entwürfe zu den Gesetzen*, p. 156.

(b) To hold in safekeeping as trustee, until the same shall be duly discharged, the Certificate of Debt, with coupons attached, issued and delivered by the German Government pursuant to the terms of the Plan, the receipt of which the Trustee acknowledges and a copy of which is attached hereto as Exhibit A;

(c) To hold in safekeeping as trustee, until the same shall be duly discharged, the Certificate issued and delivered by the German Railway Company in acknowledgment of its liability, pursuant to the terms of the Plan, the receipt of which the Trustee acknowledges and a copy of which is attached hereto as Exhibit B;

(d) Commencing on _____, 1930, to receive in trust each month from the German Reich for the account of the Creditor Governments signatory hereto and for the account of the Trustees of the German external loan of 1924 all payments thereafter to be made by Germany under the Plan and the above mentioned Certificate of Debt, representing the service of the said loan or the payment of the sums attributable to the said Creditor Governments on account of the nonpostponable annuities and the postponable annuities as defined and specified in the Plan.

A certified Schedule stating the monthly and annual share during the whole period of the annuities of each Creditor Government signatory hereto in the nonpostponable and postponable portions and in the total of the German annuity is attached hereto as Exhibit C.

ART. III. Except during a period when the transfer of the postponable annuity is suspended, as provided for in Art. XI below, the Trustee will accept only currencies other than Reichsmarks in payment of the monthly instalments of the annuities payable by Germany, subject always to the proviso that the Trustee may accept Reichsmarks in each month of a given annuity year, for an amount equal to one-twelfth of the total of any current annual program for payments under delivery in kind and reparation recovery act procedures for the year in question.

In arranging for the receipt of currencies other than Reichsmarks, the Trustee, after having been notified of the requirements of the Creditor Governments, will inform the German Government and, at the same time, the Reichsbank, at least one month in advance of the due dates for payment, of its preferences relative to the currencies which it desires to have paid into its account. If these preferences are not complied with the Trustee is authorized to ac-

cept payment from Germany entirely in the currencies of the creditor countries whose nationals were members of the Committee of Experts and as nearly as may be in proportion to the respective shares of these countries, it being understood that payments in currencies other than Reichsmarks which are not based upon the gold or gold exchange standard will only be made with the consent of the Trustee.

The Trustee will give receipts to the German Government for all sums which it pays or causes to be paid both on account of the postponable and on account of the nonpostponable annuity. These receipts will show the currencies received as well as the equivalent value in Reichsmarks, with which the German Government will be credited.

At the end of each annuity year, when the Trustee has received from the German Government the sums due for that year, in accordance with the Plan, the Trustee shall surrender to the German Government the coupon of the certificate of the German Government which corresponds to the payments of the year in question.

The Trustee takes note of the undertaking given by the German Government that the Reichsmark shall have and shall retain its convertibility in gold or foreign exchange as provided in Sec. 31 of the Law of August 30, 1924, and that, in all circumstances, for the general purposes of the Plan, the Reichsmark shall have and shall retain a mint parity of 1/2790 kilogram of fine gold, as defined in the German coinage law of August 30, 1924.

The sums paid in currencies other than Reichsmarks into the Annuity Trust Account shall be calculated in Reichsmarks, subject to the provisions of the above undertaking, at the average of the middle rates (*Mittelkurs*) prevailing on the Berlin Bourse during the period of 15 days preceding the date of payment.

The sums in Reichsmarks paid by the German Railway Company to the account of the Trustee at the Reichsbank under the terms of the above-mentioned Certificate of Liability delivered by that company, for an amount of fifty-five million Reichsmarks on the first day of each month in respect of the previous month, shall, until the due discharge of the certificate be placed each month at the disposal of the German Government by the Trustee as soon as they have been received, provided that the instalment of the Annuity payable by the German Government on the 15th day of the preceding month has been duly received.

ART. IV. All the sums transferred from the account of the Agent General for Reparations or paid on account of the German annuities shall be received into an Annuity Trust Account. All the sums paid by Germany on account of the annuities shall be managed by the Trustee and shall be employed and distributed each month upon receipt as follows, on the understanding that the obligations of the Trustee in regard to the said sums shall be only those normally incumbent upon a banker for the execution of a trust agreement, and in no case shall the Trustee permit the accounts or credits of any Creditor Government to be overdrawn.

(a) In the first place, the sums required monthly for the service of the German External Loan, 1924, shall be transferred to the account or order of the trustees of the said loan, in conformity with the terms of the General Bond securing it, on the understanding that this appropriation shall have priority over all others. This service constitutes a first charge, expressly provided for as such, on the German annuities, whether nonpostponable or postponable.

(b) One-twelfth of the share of each Creditor Government in the nonpostponable annuity shall be forthwith allocated in the books of the Trustee to that Government within the Annuity Trust Account in currencies other than Reichsmarks. If one of the Governments has mobilized a part of the nonpostponable annuity allotted to it, there shall be retained every month, out of the share due to that Government in virtue of the present paragraph, the sums required for the service of the obligations issued and outstanding, in conformity with the conditions of the contracts made on the occasion of such issues; these sums, deducted from the share of each of the Governments concerned in the issues, shall be transferred each month to a Trustee Account relating to the loan thus issued and shall remain there until the moment when payments have to be made for the interest service and amortization of the obligations, in accordance with the terms of the respective loan agreements.

(c) One-twelfth of the share due to each Government for settling the quota of deliveries in kind allotted to it in a given year shall be forthwith allocated in the books of the Trustee to that Government within the Annuity Trust Account in Reichsmarks, if no other provision has been made by the Governments concerned, including Germany, for the settlement of this quota.

(d) One-twelfth of the sum due to each Government in each Annuity, after the allocations provided in pars. (b) and (c), shall

be forthwith allocated in the books of the Trustee to that Government within the Annuity Trust Account in currencies other than Reichsmarks.

(e) In application of Art. 88¹ of the annexes to the Experts' Report of June 7, 1929 (hereinafter called the "Experts' Report"), the sums allocated as provided in the preceding paragraphs will remain without interest in the National Subdivisions of the Annuity Trust Account up to the equivalent of the following minimum amounts:

	Reichsmarks
France	68,037,500
Great Britain	26,587,500
Italy	13,887,500
Belgium	7,512,500
Rumania	1,312,500
Yugoslavia	5,462,500
Greece	450,000
Portugal	862,500
Japan	862,500
Poland	25,000
	125,000,000

All sums standing in the National Subdivisions of the Annuity Trust Account in excess of the above minimum non-interest-bearing deposits, may be freely withdrawn from the said account by the Creditor Governments, in accordance with the following paragraph.

(f) Subject to the foregoing, and in accordance with the provisions of the Plan, the Trustee is authorized and agrees to transfer at such dates as may be indicated any sum allocated to any Government within the Annuity Trust Account to any interest-bearing account in the Bank for International Settlements or to any other bank or banker, or otherwise to dispose of it as the interested Creditor Government may direct; but in no case will the Trustee

¹ The paragraph reads:

"88. (12) Out of the sums remaining in currencies other than Reichsmarks and after providing for any other charges called for under the Plan, the Directors of the Bank shall distribute such aggregate amounts as they may determine to the creditor countries, divided according to the propositions agreed upon among the respective Governments. In withholding any sums from distribution and in fixing the dates at which distribution is effected, the Directors of the Bank shall be guided on the one hand by the need for prompt action in the interest of the creditor countries and on the other by the interests of the Plan as a whole, including due consideration to the Bank by way of compensation for its services in managing the annuity."

permit the accounts or credits of any Creditor Government to be overdrawn.

ART. V. The Trustee shall not be bound to pay any interest on balances in the Annuity Trust Account.

ART. VI. Any exchange profit or loss arising from transactions carried out by the Trustee for account of Creditor Governments in connection with the management of the German annuities shall unless otherwise settled be credited or charged quarterly by the Trustee to the accounts of the Governments concerned, in proportion to their respective shares in the principal moneys involved, subject to the provisions of Art. IV.

ART. VII. The Trustee is authorized and agrees in connection with delivery in kind, reparation recovery act and other similar systems, to pay in Reichsmarks up to the amount of the monthly Reichsmark balances available to the respective Creditor Governments on checks, drafts or orders duly executed by the authorized representative of any such Creditor Government. The Creditor Governments respectively agree to keep the Trustee advised of the identity and authority of such representatives and to supply it with their specimen signatures.

ART. VIII. Payment by the Trustee in compliance with the documents referred to in the preceding article shall constitute full discharge to the Trustee for the Reichsmark payments made. Payments in currencies other than Reichsmarks made or transferred out of the Annuity Trust Account upon the order of a Creditor Government or effected under the authorizations contained in Art. IV above, shall constitute a full discharge to the Trustee for the payments made. In addition, as soon as possible after the close of each annuity year when the respective Creditor Governments shall have received the annual account and auditor's report referred to in Art. XVII hereof, the competent authority of each Creditor Government shall give the Trustee a final global quittance and release for the actual payments made, during the annuity year in question to or upon the order of the Creditor Government concerned, as disclosed by the said accounts.

ART. IX.¹ The Trustee declares that it has taken note that the German Government undertakes during the period up to March 31, 1966, to maintain at the Bank a non-interest-bearing deposit equivalent to 50% of the average deposit remaining in the Annuity Trust Account, but not exceeding 100 million Reichsmarks.

¹ The article repeats the undertaking of Art. VI of the Certificate of Indebtedness.

The Bank shall to this end certify to the German Government and to the Creditor Governments every month the average of the balances at the close of each working day left by the Creditor Governments on deposit without interest during that month, in respect of the sums arising from the German payments under the Dawes Plan or under the present Plan up to the time when they are drawn out by the Creditor Governments.

The first deposit will be paid by the German Government to the Bank 15 days after the coming into force of the New Plan, the amount of the deposit being calculated on the average of the daily balances above mentioned left with the Agent-General or the Bank during the month ending two working days prior to the date of deposit, excluding sums returnable to the German Government under Annex III of the Hague Protocol of August 31, 1929, or any supplementary arrangement.¹ The deposit shall be maintained at the amount so calculated during one month. At the end of this period the deposit will be adjusted by a further deposit or by the withdrawal of part of the existing deposit on the basis of the average of the daily balances referred to above during the month ending two working days before the date of the adjustment. A similar adjustment will take place at the end of the second month from the date of the first deposit. At the end of the third month, and thereafter at intervals of three months, the deposit shall be adjusted on the basis of the average of the daily balances referred to above during the three months ending two working days before the date of each such adjustment. The intervals referred to in this paragraph may be changed by agreement between the Governments concerned with the concurrence of the Trustee.

The Trustee will accept this deposit under the conditions set out in this article.

ART. X. The Trustee declares that it has taken note of the provisions of the Plan with respect to the functions assigned to the Bank of International Settlements in connection with any declaration of the German Government requiring the convening of the Special Advisory Committee, and the Trustee agrees and the Creditor Governments confirm that the Trustee shall carry out

¹ By the arrangements referred to, surpluses of Dawes Plan receipts over New Plan requirements were invested by the Agent-General from September 1, 1929, until the formal entrance into force of the New Plan in Germany treasury bills (*Reichsschatzanweisungen*). The nominal amount so invested on February 28, 1930, was 224,900,000 Reichsmarks. The supplementary arrangement referred to is a transitory provision printed in *Agreements*, p. 141; *Entwürfe zu den Gesetzen*, p. 308.

the functions assigned it in that respect and in the manner described in the Plan.¹

The Trustee takes note that, in application of Art. 124 of the Experts' Report, any recommendation of the Advisory Committee affecting the rights of the Creditor Governments shall not bind those Governments unless it is accepted and confirmed by the Creditor Governments which participated in the decision of September 16, 1928, to set up the Committee of Experts; and that similarly any recommendation affecting the rights of the German Government shall not bind that Government unless it is accepted and confirmed by that Government.

ART. XI. Immediately on receiving from the German Government in conformity with the Plan notification of suspension of transfer of the whole or part of the postponable annuity the Trustee shall inform the Creditor Governments accordingly.

(a) As soon as this suspension becomes effective:

(1) The Trustee shall continue to transfer each month the sums necessary for assuring the service of the external loan of 1924 in accordance with par. *a*, Art. IV of this contract;

(2) The Trustee shall continue to credit or transfer each month in accordance with the provisions of par. *b*, Art. IV, of this contract the sums paid by the German Government in respect to the nonpostponable annuity;

(3) In the event of a partial postponement, in any year, of transfer or of payment of the postponable annuities, the Trustee shall distribute the part of the postponable annuities actually paid and transferred in that year in such a manner as to insure, so far as may be possible, that the receipts of the several Creditor Governments out of the aggregate payments actually transferred by Germany (whether on account of the unconditional or of the postponable annuities) shall be proportionate to their respective shares in the total annuities due by Germany under the Plan in respect of that year, provided always that the Creditor Governments entitled to an allocation out of the unconditional annuities shall in no case receive less than the allocations due to them respectively out of those annuities;

(4) Should the amount of the postponable annuities paid and transferred by Germany be insufficient to provide in full to each of the Creditor Governments its due share of the total German payments transferred, having regard to the allocations out of

¹ See Report, par. 119 *f*.

the unconditional annuity referred to in the previous paragraph, the Trustee shall, in accordance with the provisions of par. 202 of the Annexes to the Experts' Report¹ withdraw from the Guaranty Fund, to be constituted by the French Government, the sums necessary to make up the deficiency to each of the Creditor Governments concerned. The sums so withdrawn from the Guaranty Fund shall be repaid to that fund in accordance with the Plan at the end of the period of postponement.

(b) During the course of a partial or total postponement of transfer the Trustee may accept from Germany payments in Reichsmarks in respect of the amounts of which transfer has been postponed and of which payment has not been postponed under the Plan. The Trustee is authorized to give to the German Government receipts for such payments which will be in the nature of temporary acknowledgments. These acknowledgments will be converted into final receipts *pro tanto* on the transfer of the amounts postponed, or on the utilization of the Reichsmarks accepted by the Trustee under this paragraph for payments in respect of deliveries in kind or in respect of reparation recovery acts and similar procedures under the special programs referred to in Annex IV of the Experts' Report.²

(c) Any sums accepted in Reichsmarks by the Trustee under par. (b) above will be distributed in the form of credits in the Trustee's books in such a way as to complete the credits due to each Creditor Government for the year in question under the Plan, and the Guaranty Fund in so far as it has been drawn upon. These Reichsmarks will be administered by the Trustee in the manner provided in the Plan.

(d) The parties to this contract agree that all investments of such Reichsmark funds effected by the Trustee shall be made for the individual account of the Creditor Governments, as their interests require, for their advantage and at their risk. In particular the proceeds of investment of Reichsmarks credited to the Guaranty Fund will be assigned to the French Government.

ART. XII. The Creditor Governments and the Trustee agree that the Trustee shall have exclusive authority to act as agent of the Creditor Governments or any one of them, so far as concerns the operations relating to the mobilization of the German annuities, and that in the discharge of the functions and in the use of the

¹ See p. 188.

² See for final form, p. 191, as enacted in the Hague protocol.

authority intrusted to it as agent in this matter the Trustee will be guided by the provisions of the Plan which govern mobilization. In particular, the Trustee will abide by the following provisions:

(a) When it appears to the Trustee practically possible to proceed with an issue of bonds representing the capitalization of a part of the Annuity, the Trustee will inform the Creditor Governments. The possibility of proceeding with such an operation shall also be considered by the Trustee whenever so required by one or more of the Creditor Governments.

If after examination, and in cases other than that dealt with in the second part of par. (b) below, the Trustee considers such an operation inopportune, it shall indicate to the Governments concerned the reasons for this opinion.

(b) If one or more of the Governments concerned intend themselves to proceed in their own markets with an issue, the Trustee shall fix the minimum conditions of issue at the time of the operation.

If, however, such an operation is intended in connection with internal conversion operations, the Government concerned will be free to offer the bonds on its own market on whatever conditions it may be able to obtain, without its being necessary for the Trustee to consider whether the creation of the bonds is opportune, and on the understanding that the bonds will only be quoted on the market of issue.

(c) If one or more of the Governments concerned propose an international issue on other markets than their own respective markets, the Trustee shall at their request, if it considers on examination that conditions on these markets permit such an operation, take steps to proceed with this issue and determine, after making sure that the Central Banks concerned have no objection, the markets on which such offers may be made.

In the case of such issues, the various Governments having a share not yet mobilized in the nonpostponable portion of the Annuity shall be given the right to participate in proportion to the following figures: France 500, Great Britain 84, Italy 42, Japan 6.6, Yugoslavia 6, Portugal 2.4.

No issue of an international character may however be made in the market of any of the countries the Government of which has signed this Trust Agreement without the approval of that Government both as regards the amount of the issue and as regards the conditions on which it shall be authorized.

(d) If it is decided to proceed with an issue and if one or more of the Creditor Governments so request, the Trustee shall arrange,

in agreement with those Governments and with the Issuing Bankers, the detailed conditions on which the bonds shall be issued.

(e) The Trustee shall apply to the German Government, as provided in the Plan, for the creation of issuable bonds.

(f) The Trustee declares its willingness to act as trustee or representative of the bondholders, or as agent for all issues of bonds made in pursuance of the provisions of the Plan relative to mobilization, to the extent provided in the loan contract to be concluded between the Trustee and the Governments concerned on the occasion of an issue of such obligations.

(g) The expenses and commissions to be received by the Trustee both for the creation of bonds and for their issue shall be determined between the Trustee and the Governments concerned with regard to the importance of the functions which may be attributed to it on the occasion of each operation.

ART. XIII. The Trustee will credit to a special Trust Account the deposits which the French Government has undertaken to make, in the circumstances contemplated in the Plan, up to an amount of 500,000,000 Reichsmarks, in currencies other than Reichsmarks based upon the gold or gold exchange standard.

The Trustee undertakes to administer these funds in such a way that the sums deposited shall be available in currencies other than Reichsmarks, based upon the gold or gold exchange standard, in order to equalize the short payments to the other creditors during a period of transfer postponement.

Subject to the provisions of Art. XI (c) and (d), the Trustee will pay interest to the French Government, at the maximum current rate paid for long-term deposits, on the amount standing in this account in currencies other than Reichsmarks.

If it is agreed that this deposit shall remain for more than five years, the French Government shall be entitled to participate in the profits of the Bank in respect of this deposit on the terms laid down in Art. 53, (e) and (i), of its Statutes. It shall be restored to the French Government in the circumstances contemplated in the plan.

ART. XIV. If the German Government elects to make the long-term deposit up to 400,000,000 Reichsmarks provided for in the Plan, the Trustee agrees to receive and administer this deposit and to take the consequent measures for allocation and utilization of its profits according to the provision of Art. 53, (e) of the Statutes of the Bank.

ART. XV. In addition to making disbursements and keeping accounts in connection with deliveries in kind, reparation recovery

acts and other similar systems as above provided, the Trustee declares that it takes note of the arrangements regarding deliveries in kind and reparation recovery acts contained in the relevant annexes to the Hague agreement of January, 1930, and agrees to observe the same as far as lies within its province and powers as a bank as set forth in the Statutes.

ART. XVI. The Trustee is authorized and agrees with respect to the assigned revenues of the Reich to exercise the discretions referred to in Sect. 3 of Annex III of the Experts' Report.¹

ART. XVII. The Trustee shall furnish to each Creditor Government at the close of each month an account showing all the receipts and payments of the Trustee during that period in respect of the annuity received from Germany. The Trustee shall also furnish to each Creditor Government as soon as may be after March 31 in the year 1931, and every succeeding year, a copy of the account as approved by the auditors of the Bank for International Settlements of all its operations in respect of the whole of the German annuities, including the service of the German external loan of 1924, since the close of the last preceding yearly account, or, in the case of the first account since the commencement of operations of the Bank, and of any report that may be made by the auditors on such accounts. The Bank shall also furnish to each creditor Government a copy of its Annual General Report as soon as published.

ART. XVIII. From the date of coming into force of the present contract until its completion, the Creditor Governments, in addition to maintaining the deposits referred to in Art. IV (e), agree to pay to the Trustee a commission of 1 per mille on the actual payments received from the German Government on their behalf, in respect of the remuneration provided in Art. 84 of the Annexes to the Experts' Report.

This payment will form a prior charge in favor of the Trustee, in accordance with the Plan, on the sums received by it on behalf of the Creditor Governments within the Annuity Trust Account.

The provisions of this article will remain in force failing any new arrangement; such new arrangement may be made at the end of the first or of any one of the first five financial years, at the request of one of the signatory powers or of the Trustee.

ART. XIX. The Trustee is authorized and agrees to notify forthwith to the Creditor Governments any difficulty which may arise

¹ Cf. for substance, Art. XVI, *supra*.

between it and the German Government relative to the interpretation or the application of the Plan.

ART. XX. The Creditor Governments and the Trustee agree that, if any dispute shall arise between them or any of them with regard to the meaning or application of the provisions of this Trust Agreement, the dispute shall be referred for final decision to the Tribunal provided for by the Hague agreement of January, 1930, unless the parties to the dispute shall elect to refer the same to the president of the Tribunal, or a member thereof, selected as sole arbiter.

ART. XXI. The present Contract shall come into force between the Trustee and the Creditor Governments whose representatives have signed it as soon as the Plan has been put into application and this Contract has been signed on behalf of the Trustee and of four of the following powers: Belgium, France, Great Britain, Italy and Japan.

The French text is alone authentic.

[Exhibit A] Debt Certificate of the German Government¹

I. The German Government, by this present certificate, undertakes a solemn engagement subject to the stipulations of the New Plan as defined by Art. I of the agreement of The Hague of January, 1930, to pay to the Bank for International Settlements as Trustee for the Creditor Powers, and not to any other agent nor by way of direct payment to any one of its creditors, and in conformity with the following provisions, the annuities set out in the following table plus the sums required for the service of the German External Loan 1924 as provided in the General Bond dated October 10, 1924.² The annuities set out in the table³ shall be paid by equal monthly instalments on the 15th of each month and if the 15th is not a working day then on the working day next following.

	Millions of Reichsmarks
Sept. 1, 1929—March 31, 1930	676.9
April 1, 1930—March 31, 1931	1,641.6
April 1, 1931—March 31, 1932	1,618.9
April 1, 1932—March 31, 1933	1,672.1
April 1, 1933—March 31, 1934	1,744.9
April 1, 1934—March 31, 1935	1,807.5
April 1, 1935—March 31, 1936	1,833.5
April 1, 1936—March 31, 1937	1,880.3

¹ Annex III to the agreement of January 20, 1930, *Agreements*, p. 31.

² Reparation Commission, *Official Documents*, XIV, p. 318.

³ This table differs from the schedules in para. 86 and 87 of the Report in that the quota of the United States there included has been here subtracted.

	Millions of Reichsmarks
April 1, 1937-March 31, 1938	1,919.8
April 1, 1938-March 31, 1939	1,938.1
April 1, 1939-March 31, 1940	1,983.4
April 1, 1940-March 31, 1941	2,096.1
April 1, 1941-March 31, 1942	2,114.6
April 1, 1942-March 31, 1943	2,131.9
April 1, 1943-March 31, 1944	2,128.2
April 1, 1944-March 31, 1945	2,141.4
April 1, 1945-March 31, 1946	2,137.7
April 1, 1946-March 31, 1947	2,133.4
April 1, 1947-March 31, 1948	2,149.1
April 1, 1948-March 31, 1949	2,143.9
April 1, 1949-March 31, 1950	2,240.7
April 1, 1950-March 31, 1951	2,283.1
April 1, 1951-March 31, 1952	2,267.1
April 1, 1952-March 31, 1953	2,270.1
April 1, 1953-March 31, 1954	2,277.2
April 1, 1954-March 31, 1955	2,288.8
April 1, 1955-March 31, 1956	2,283.7
April 1, 1956-March 31, 1957	2,278.1
April 1, 1957-March 31, 1958	2,285.7
April 1, 1958-March 31, 1959	2,317.7
April 1, 1959-March 31, 1960	2,294.5
April 1, 1960-March 31, 1961	2,304.4
April 1, 1961-March 31, 1962	2,322.2
April 1, 1962-March 31, 1963	2,314.1
April 1, 1963-March 31, 1964	2,326.5
April 1, 1964-March 31, 1965	2,326.0
April 1, 1965-March 31, 1966	2,352.7
April 1, 1966-March 31, 1967	1,566.9
April 1, 1967-March 31, 1968	1,566.1
April 1, 1968-March 31, 1969	1,575.9
April 1, 1969-March 31, 1970	1,589.2
April 1, 1970-March 31, 1971	1,602.9
April 1, 1971-March 31, 1972	1,613.1
April 1, 1972-March 31, 1973	1,621.5
April 1, 1973-March 31, 1974	1,624.9
April 1, 1974-March 31, 1975	1,627.6
April 1, 1975-March 31, 1976	1,634.2
April 1, 1976-March 31, 1977	1,637.9
April 1, 1977-March 31, 1978	1,644.6
April 1, 1978-March 31, 1979	1,654.7
April 1, 1979-March 31, 1980	1,659.6
April 1, 1980-March 31, 1981	1,670.5
April 1, 1981-March 31, 1982	1,687.6
April 1, 1982-March 31, 1983	1,691.8
April 1, 1983-March 31, 1984	1,703.3
April 1, 1984-March 31, 1985	1,683.5
April 1, 1985-March 31, 1986	925.1
April 1, 1986-March 31, 1987	931.4
April 1, 1987-March 31, 1988	897.8

The service of the German External Loan, 1924, shall constitute a part of the Annuities payable during the respective Annuity years until said loan is fully redeemed, and the amount required for the service of the loan in each Annuity year as determined by the Trustees

of said loan shall be added to the amounts specified in the foregoing table in determining the aggregate sum of each Annuity payable thereunder. The annual amounts payable for the service of the loan shall be treated as payments on account of the nonpostponable portion of the respective annuities and shall be transferred when received to the credit of the Trustees for the German External Loan, 1924.

II. [Secs. 1-3, 4, par. 1, 5 and 6 of this article state the conditions set forth in the Trust Agreement, Art. III, pars. 1-3, 5-6.]

4, par. 2. The Bank's receipt giving credit in Reichsmarks for payments made to the Bank for International Settlements by the German Government or on its behalf for the execution of the New Plan, shall during the normal operation of the New Plan constitute a complete and sufficient discharge of the obligations of the German Government with respect to such payments.

Should, however, transfer postponement be in whole or partial effect, the Bank's receipt giving credit in Reichsmarks shall constitute a complete and sufficient discharge of the obligations of the German Government with respect to all payments into the Annuity Trust Account made in foreign exchange and with respect to such portions of the payments made in Reichsmarks as in the opinion of the Bank provide current funds for deliveries in kind or services. As to the remainder, the receipt of the Bank shall be in the nature of a temporary acknowledgment only.

III. 1. To this certificate are attached coupons representing each the whole of one annuity payable, after deduction of the amounts required for the service of the German External Loan, 1924; each coupon is divided into two parts — Part A represents that part of the annuity which is mobilizable and nonpostponable; Part B the postponable portion of each annuity. Each part of the annuity coupon enjoys absolutely equal rights throughout except with regard to the possibility of postponement hereinafter provided for.¹

2. The Bank shall distribute moneys in payment of the mobilized or mobilizable portions of the annuity coupon among the whole of the bondholders and the creditor Governments in proportion to the rights of each to share in the portion of the annuity coupons not subject to postponement, without allowing a priority of any kind to any tranche or to any claim. It will distribute the moneys relating to the nonmobilizable portions of the annuity coupons among the creditor Governments, the transfer of these moneys taking place only after the transfer of the moneys relating to the mobilized or mobilizable portion of the annuity coupon.²

IV. 1. The service of interest and amortization of the mobilizable or mobilized portions of the annuity coupons shall be paid to the Bank in currencies other than the Reichsmark by the German Reich without

¹ Repeats Report, Annex III, I (par. 124).

² Repeats Report, Annex III, VII (b) (par. 142).

any reservation, *i.e.*, on its own responsibility. The financial service of these mobilizable or mobilized portions of the annuities shall constitute a final and unconditional international obligation in the ordinary financial sense of the word.¹

2. Furthermore, upon the request of the Bank for International Settlements, acting as trustee of the Creditor Powers, if and in so far as the Bank considers such a course opportune, Germany undertakes to substitute for Part A of the coupons issuable bonds bearing its name, representing, on the same conditions as this certificate and the said coupons, an obligation of the Reich. The amount and form of these bonds and the specifications of the currency in which they shall be issued shall be fixed by the Bank.

3. If any one or more of the Creditor States should intend to utilize internal issues of German bonds in connection with operations for the conversion of national debt, such bonds shall be quoted only on their market of issue.²

4. If and in so far as Germany shall redeem reparation loans (general or conversion loans) which can be redeemed before their due date according to the issue conditions, the part of the annuity destined for the service of the loan so redeemed will accrue to Germany. It is understood that the Bank will, as far as possible, make every effort to secure that loans will not be issued without granting to Germany an appropriate right of anticipated redemption.

5. Germany shall have the right to redeem all or part of the not yet mobilized annuities (Parts A and B of the coupons) on a basis of $5\frac{1}{2}\%$ discount.

V.³ 1. The payment of the nonmobilizable portion of the annuity coupons shall be made to the Bank for International Settlements by the German Government in the same conditions as that of the mobilized or mobilizable portion of the annuity coupons.

2. Nevertheless,

(a) Bonds representing the nonmobilizable portion of the annuity coupons can not be created except with the consent of the German Government.

(b) It is in respect of the nonmobilizable portion of the annuity coupons that the German Government may avail itself of the right of postponing transfer or payment on the following conditions.

3. The German Government, by giving at least 90 days' previous notice, shall have the right to suspend for a maximum period of two years from its due date all or part of the transfer of the postponable part of the annuity. Transfer postponement thus declared shall affect the postponable annuity as and from that date on which transfer postponement becomes effective.

¹ Repeats Report, Annex III, V (par. 137).

² Repeated in Trust Agreement, Art. XII (b).

³ Pars. 1-8 repeat Report, Annex III, VI (pars. 139-140) and Annex IV, 1, 3-5 (pars. 147, 148, 150-154).

4. If, during any annuity year, the German Government shall avail itself of this power, the transfers falling due during any second year can not be postponed for more than one year from their respective due dates, unless and until the transfers due during the first year shall have been effected in full, in which case the transfers due during such second year may be postponed two years from their respective due dates; and the transfers due during any third year can not be postponed at all until the transfers due during the first year have been effected in full.

5. At any time when postponement of transfer is in effect but not until one year after it has become effective, the German Government shall have the right to postpone payment for one year of 50% of any sum the transfer of which shall then be susceptible of postponement under the conditions stated above. This percentage may be increased upon the recommendation of the Advisory Committee provided for in Part 8 (e) of the Report of the Experts of 1929.

6. Any sum in Reichsmarks the transfer of which is postponed shall be deposited to the account of the Bank for International Settlements at the Reichsbank for eventual release of balances not absorbed by deliveries in kind, against payments in foreign currencies by the German Government. At all times the employment, whether for investment or for deliveries in kind, of Reichsmarks so deposited shall be subject to agreement between the Reichsbank and the Bank for International Settlements.

7. In settling the way in which these sums are to be employed account shall be taken of the possibility of establishing special programs in conformity with the procedure, provision for which is made in Appendix 1 to Annex II to the Hague Protocol of August 31, 1929.¹

8. Interest at the rate of 1% per annum above the prevailing Reichsbank discount rate, or 5½%, whichever is lower, shall be paid half-yearly by the German Government on the daily amount of the sums the transfer or payment of which has been postponed and which have not been invested or utilized for deliveries in kind. This interest shall be treated in all respects similarly to the principal sum upon which it accrues, and the return upon that portion of the funds actually invested shall be for the account of the Creditor Powers.

9. At the end of any period in respect of which a total or partial postponement of transfer or payment has been declared for any monthly instalment, the instalment or part thereof the transfer or payment of which has been so postponed shall become immediately payable to the Bank for International Settlements in foreign currencies, with the exception of any amounts of which the Creditor Powers have already had the benefit in some other form in pursuance of the New Plan. This clause modifies in no way the functions of the Special Advisory Committee provided for in the New Plan.

¹ See page 191.

10. In the event of any declaration of postponement made by Germany or at any other time when the German Government declares to the Creditor Governments and to the Bank for International Settlements, that it has come to the conclusion in good faith that Germany's exchange and economic life may be seriously endangered by the transfer in part or in full of the postponable portion of the annuities, the Bank for International Settlements shall convene the Special Advisory Committee mentioned in Chapter 8 (e) of the Experts' Plan of June 7, 1929.

The Special Advisory Committee shall forthwith consider the situation in all its aspects, as provided in the Plan, and shall indicate for consideration by the Governments and the Bank what, in their opinion, are the measures that should be taken in regard to the application of the Plan. In application of Art. 124 of the Report of the Experts of June 7, 1929, any recommendation of the committee affecting the rights of the Creditor Governments shall not bind the Creditor Governments unless it is accepted and confirmed by the Creditor Governments who participated in the decision of September 16, 1928, to set up the Committee of Experts. Similarly, any recommendation affecting the rights of the German Government shall not bind the German Government unless it is accepted and confirmed by that Government.

VI. [The declaration textually repeated in the Form of Trust Agreement, Art. IX, p. 225.]

VII. As a collateral guaranty the German Government, without prejudice to its general liability for payment of the annuities and its complete freedom to make these payments out of its general revenues and without prejudice to the securities for the German External Loan, 1924, assigns, in pursuance of the provisions of the relative Annex [XI] of the agreement of The Hague of January, 1930, the proceeds of the customs, tobacco, beer and alcohol (monopoly administration) duties to the service of the present certificate, including the service of any bonds which may be issued in accordance with the New Plan.

The proceeds of the annual direct tax of 660,000,000 Reichsmarks payable by the German Railway Company are also assigned as a collateral guaranty to the service of the annuities. The amounts of the obligation of the German Railway Company will be paid in accordance with the Certificate of Debt of that company on the first day of each month, and if the full amount of the previous monthly payment due by the German Government has been paid, the amounts so paid by the German Railway Company will be transferred, immediately on their receipt, to the German Government.

VIII. The obligation of the German Government in relation to the annuities for which this certificate provides shall not be deemed to have been fulfilled until all sums, the transfer or payment of which may from time to time have been suspended, have been either in fact completely transferred to the Bank for International Settlements in

the shape of approved currency other than the Reichsmark or employed for deliveries in kind.¹

IX. At the end of each annuity period, when the Bank for International Settlements has received from the German Government the amounts due under this present certificate, the Bank will return to the Government the coupon corresponding to the payments of that annuity period.² The certificate itself will be delivered when all the coupons have been paid.

X. The foregoing provisions shall not be deemed to affect the provisions of the New Plan, which are not dealt with in this certificate.

¹ Enacts Report, Annex IV, 2 (par. 149).

² Cf. Trust Agreement, Art. III, par. 4.

III. INTERGOVERNMENTAL INDEBTEDNESS

1. ARRANGEMENT RELATING TO THE CONCURRENT MEMORANDUM ACCOMPANYING THE EXPERTS' PLAN OF JUNE 7, 1929¹

The duly authorized representatives of the Governments of Belgium, France, Great Britain and Northern Ireland, Greece, Italy, Portugal, Rumania and Yugoslavia have agreed with the German Government as follows:

(1) The creditor powers undertake that Germany shall on the conditions contained in the Annex hereto (which is a reproduction of the "Concurrent Memorandum" attached to the Report of the Experts' Committee of June 7, 1929) have the benefit of any relief which any one or more of these powers may receive in respect of its net outward payments on account of War Debts. The War Debts referred to in this clause are those dealt with by the following agreements:

Interallied debts which have been taken into consideration in calculating the annuities according to the Young Plan

(1) *To the United States of America*²

Great Britain: Agreement of June 18, 1923,
France: Agreement of April 29, 1926,
Italy: Agreement of November 14, 1925,
Belgium: Agreement of August 18, 1925,
Yugoslavia: Agreement of May 3, 1926,
Rumania: Agreement of December 4, 1925,
Greece: Agreement of January 18, 1928.

¹ Document 7 of the Hague Final Act, *Agreements concluded at the Hague Conference January, 1930*, p. 129 (Misc. No. 4 (1930), Cmd. 3484; *Entwürfe zu den Gesetzen über die Haager Konferenz*, p. 248.

² The texts of the agreements are in *Combined Annual Reports of the World War Foreign Debt Commission*: Great Britain, p. 106; France, p. 257; Italy, p. 222; Belgium, p. 171; Yugoslavia, p. 280; Rumania, p. 244; Greece, Public Act 747, approved February 14, 1929.

(2) *To Great Britain*¹

France: Agreement of July 12, 1926,
 Italy: Agreement of January 27, 1926,
 Rumania: Agreement of October 19, 1925,
 Yugoslavia: Agreement of August 9, 1927,
 Portugal: Agreement of December 31, 1926,
 Greece: Agreement of April 9, 1927.

(3) *To France*

Rumania: Agreement of January 17, 1930,
 Yugoslavia: Agreement of January 20, 1930 (dealing with
 the War Debt),
 Greece: Agreement of January 20, 1930 (provisions relating
 to the prearmistice debt — Tranche A).

(2) Any dispute between the contracting parties as to the interpretation or application of the agreement shall be submitted for final decision to the Tribunal established by the Agreement with Germany concluded at The Hague in January, 1930.

(3) This arrangement, of which the English and French texts are equally authentic, shall be ratified, and shall go into force for each Government after ratification by it, at the same time as the agreement with Germany for the complete and final settlement of the question of reparations concluded on this same day at The Hague goes into force.

Done at The Hague this 20th day of January, 1930.

CURTIS.
 WIRTH.
 SCHMIDT.
 MOLDENHAUER.
 HENRI JASPAR.
 PAUL HYMANS.
 E. FRANCOU.
 HENRI CHÉRON.
 LOUCHEUR.
 PHILIP SNOWDEN.

N. POLITIS.
 J. G. POLITIS.
 A. MOSCONI.
 A. PIRELLI.
 SUVICH.
 G. G. MIRONESCO.
 J. LUGOSIANO.
 AL. ZEUCEANO.
 DR. V. MARINKOVICH.
 CONST. FOTICH.

¹ The texts of the agreements are published in British Parliamentary Papers, France, Cmd. 2692; Italy, Cmd. 2580; Yugoslavia, League of Nations, *Treaty Series*, LXIX, p. 256; Portugal, Cmd. 2791 and *Treaty Series*, LXI, p. 115; Greece, Cmd. 2848 and *Treaty Series*, LXVII, p. 218; Rumania, *L'Europe nouvelle*, July 30, 1927.

ANNEX

[Concurrent Memorandum but not a Part of the Report]

**Special Memorandum of the Experts of the Principal
Creditor Powers and of Germany regarding Out-
Payments.**(Signed concurrently with the Report of the Committee of
Experts)1. In the annuities provided in the report, the following amounts
are required to cover out-payments:

(Equivalent in millions of Reichsmarks)

2	.	.	.	965.1	31	.	.	.	1,515.4
3	.	.	.	942.3	32	.	.	.	1,525.4
4	.	.	.	995.4	33	.	.	.	1,543.2
5	.	.	.	1,136.4	34	.	.	.	1,535.0
6	.	.	.	1,199.0	35	.	.	.	1,547.4
7	.	.	.	1,224.9	36	.	.	.	1,546.8
8	.	.	.	1,271.8	37	.	.	.	1,573.7
9	.	.	.	1,334.0	38	.	.	.	1,566.9
10	.	.	.	1,352.5	39	.	.	.	1,566.1
11	.	.	.	1,375.0	40	.	.	.	1,575.9
12	.	.	.	1,487.6	41	.	.	.	1,589.2
13	.	.	.	1,437.9	42	.	.	.	1,602.9
14	.	.	.	1,455.1	43	.	.	.	1,613.1
15	.	.	.	1,451.5	44	.	.	.	1,621.5
16	.	.	.	1,464.7	45	.	.	.	1,624.9
17	.	.	.	1,460.9	46	.	.	.	1,627.6
18	.	.	.	1,456.5	47	.	.	.	1,634.2
19	.	.	.	1,472.3	48	.	.	.	1,637.9
20	.	.	.	1,467.1	49	.	.	.	1,644.6
21	.	.	.	1,461.6	50	.	.	.	1,654.7
22	.	.	.	1,503.9	51	.	.	.	1,659.6
23	.	.	.	1,487.9	52	.	.	.	1,670.5
24	.	.	.	1,491.0	53	.	.	.	1,687.6
25	.	.	.	1,498.1	54	.	.	.	1,691.8
26	.	.	.	1,509.4	55	.	.	.	1,703.3
27	.	.	.	1,504.5	56	.	.	.	1,683.5
28	.	.	.	1,499.1	57	.	.	.	925.1
29	.	.	.	1,506.7	58	.	.	.	931.4
30	.	.	.	1,538.6	59	.	.	.	897.8

It is represented that in the event of modifications of those obligations for out-payments, by which the creditors benefit, there should be some corresponding mitigation of the German annuities. The Experts of the four chief creditor countries and of Germany, therefore, recommend that Germany and all the creditor Governments having obligations for out-payments should undertake between themselves an arrangement on the following basis:

2. Any relief which any creditor power may effectively receive, in respect of its net outward payments on account of War Debts, after making due allowance for any material or financial counter-considerations, and after taking into account any remissions on account of war debt receipts, which it may itself make, shall be dealt with as follows:

As regards the first 37 years:

(a) Germany shall benefit to the extent of two-thirds of the net relief available by way of a reduction in her annuity obligations thereafter.

(b) One-third of the net relief shall be retained by the creditor concerned, in addition to the amounts otherwise receivable from Germany.

(c) Nevertheless, so long as any liability of Germany persists in respect of the period after the 31st March, 1966, the creditor concerned will retain annually only one-fourth part of the net relief, the balance being paid to the Bank for International Settlements.

(d) These payments to the Bank for International Settlements shall accumulate to assist Germany toward meeting her liabilities in respect of the period after the 31st March, 1966; any sums found after application of the funds provided in Annex 1 not to be required for this purpose (together with the accumulations thereon) shall be returned to the creditor by whom they were provided.

As regards the last 22 years:

The whole of such relief shall be applied to the reduction of Germany's liabilities.

3. We recommend that the creditor Governments should agree that, if the operation of the relief to Germany envisaged in respect of a possible reduction of net out-payments is such as to change materially the proportions in which the total annuities provided for in the present plan are divided among them, they meet to consider a revision tending toward the restoration of the present proportions;

but having regard to the following conditions set out below and any other relevant factors then existing:

(a) The service of any bonds mobilized by the creditor country, and the balance of its net outward payments in respect of War Debts remaining to be covered must continue to be met out of the share falling to it in the annuities thereafter to be paid by Germany.

(b) Due allowance shall be made for any material or financial counter-considerations accepted by the creditor country in connection with the relief accorded to it in respect of War Debts payments.

4. It was originally suggested that the amounts of the postponable annuities should be regulated by reference to the net amounts which the various creditors were themselves able to postpone in respect of inter-Allied War Debts, the general conditions therein governing postponements to be applied. For various reasons this method of calculation could not be adopted, but endeavor was made to adapt the moratorium provisions in such a way that the rights granted to Germany should not be greater than those of the creditor powers. The unconditional part of the annuity has, therefore, been fixed, while guaranties have been provided for the remainder.

FRANQUI.

GUTT.

E. MORREAU.

J. PARMENTIER.

Dr. HJALMAR SCHACHT.

KASTL.

J. C. STAMP.

C. S. ADDIS.

A. PIRELLI.

SUVICH.

PARIS, June 7, 1929.

2. AGREEMENT BETWEEN GERMANY AND THE UNITED STATES¹

Agreement

Made the day of , 19 , at the City of Washington, District of Columbia, between the Government of the German Reich, hereinafter called Germany, party of the first part, and the Government of the United States of America, hereinafter called the United States, party of the second part.

¹ Reprinted from *Entwürfe zu den Gesetzen*, Vierter Teil; subsequently it was published with a message of President Hoover to the Congress and covering letter by the Secretary of the Treasury in Sen. Doc. No. 95, 71st Cong., 2d sess.

Whereas, Germany is obligated under the provisions of the armistice convention signed November 11, 1918, and of the treaty signed at Berlin, August 25, 1921, to pay to the United States the awards, and interest thereon, entered and to be entered in favor of the United States Government and its nationals by the Mixed Claims Commission, United States and Germany, established in pursuance of the agreement of August 10, 1922;

Whereas, the United States is also entitled to be reimbursed for the costs of its army of occupation; and

Whereas, Germany having made and the United States having received payments in part satisfaction on account of these two obligations desire to make arrangements for the complete and final discharge of said obligations;

Now, therefore, in consideration of the premises and the mutual covenants herein contained, it is agreed as follows:

1. Amounts to be Paid —

(a) Germany shall pay and the United States shall accept in full satisfaction of all of Germany's obligations remaining on account of awards, including interest thereon, entered and to be entered by the Mixed Claims Commission, United States and Germany, the sum of 40,800,000 Reichsmarks for the period of September 1, 1929, to March 31, 1930, and the sum of 40,800,000 Reichsmarks per annum from April 1, 1930, to March 31, 1981. As evidence of this indebtedness, Germany shall issue to the United States at par, as of September 1, 1929, bonds of Germany, the first of which shall be in the principal amount of 40,800,000 Reichsmarks, dated September 1, 1929, and maturing March 31, 1930, and each of the others of which shall be in the principal amount of 20,400,000 Reichsmarks, dated September 1, 1929, and maturing serially on September 30, 1930, and on each succeeding March 31 and September 30 up to and including March 31, 1981. The obligations of Germany hereinabove set forth in this paragraph shall cease as soon as all of the payments contemplated by the Settlement of War Claims Act of 1928 have been completed and the bonds not then matured evidencing such obligations shall be canceled and returned to Germany.

(b) Germany shall pay and the United States shall accept in full reimbursement of the amounts remaining due on account of the costs of the United States army of occupation, the amounts set forth on the several dates fixed in the following schedule:

INTERGOVERNMENTAL INDEBTEDNESS

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March 31	Reichsmarks	September 30	Reichsmarks
1930	25,100,000	1930	12,750,000
1931	12,750,000	1931	12,650,000
1932	12,650,000	1932	12,650,000
1933	12,650,000	1933	9,300,000
1934	9,300,000	1934	9,300,000
1935	9,300,000	1935	9,300,000
1936	9,300,000	1936	9,300,000
1937	9,300,000	1937	8,200,000
1938	8,200,000	1938	8,200,000
1939	8,200,000	1939	9,300,000
1940	9,300,000	1940	9,300,000
1941	9,300,000	1941	12,650,000
1942	12,650,000	1942	12,650,000
1943	12,650,000	1943	12,650,000
1944	12,650,000	1944	12,650,000
1945	12,650,000	1945	12,650,000
1946	12,650,000	1946	12,650,000
1947	12,650,000	1947	12,650,000
1948	12,650,000	1948	12,650,000
1949	12,650,000	1949	17,650,000
1950	17,650,000	1950	17,650,000
1951	17,650,000	1951	17,650,000
1952	17,650,000	1952	17,650,000
1953	17,650,000	1953	17,650,000
1954	17,650,000	1954	17,650,000
1955	17,650,000	1955	17,650,000
1956	17,650,000	1956	17,650,000
1957	17,650,000	1957	17,650,000
1958	17,650,000	1958	17,650,000
1959	17,650,000	1959	17,650,000
1960	17,650,000	1960	17,650,000
1961	17,650,000	1961	17,650,000
1962	17,650,000	1962	17,650,000
1963	17,650,000	1963	17,650,000
1964	17,650,000	1964	17,650,000
1965	17,650,000	1965	17,650,000
1966	17,650,000		

As evidence of this indebtedness, Germany shall issue to the United States at par, as of September 1, 1929, bonds of Germany, dated September 1, 1929, and maturing on March 31, 1930, and on each succeeding September 30 and March 31 in the amounts and on the several dates fixed in the preceding schedule.

2. *Form of Bonds.* — All bonds issued hereunder to the United States shall be payable to the Government of the United States

of America and shall be signed for Germany by the Reichsschuldenverwaltung. The bonds issued for the amounts to be paid under Paragraph numbered 1 (a) of this agreement shall be issued in 103 pieces with maturities and in denominations corresponding to the payments therein set forth and shall be substantially in the form set forth in "Exhibit A"¹ hereto annexed and shall bear no interest, unless payment thereof is postponed pursuant to Paragraph numbered 5 of this agreement. The bonds issued for the amounts to be paid under Paragraph numbered 1 (b) of this agreement shall be issued in 73 pieces with maturities and in denominations corresponding to the payments therein set forth and shall be substantially in the form set forth in "Exhibit B"¹ hereto annexed and shall bear no interest unless payment thereof is postponed pursuant to Paragraph numbered 5 of this agreement.

3. *Method of Payment.* — All bonds issued hereunder shall be payable, both principal and interest, if any, at the Federal Reserve Bank of New York for credit in the general account of the Treasurer of the United States, in funds immediately available on the date when payment is due in United States gold coin in an amount in dollars equivalent to the amount due in Reichsmarks at the average of the middle rates prevailing on the Berlin Bourse during the half-monthly period preceding the date of payment. Germany undertakes to have the Reichsbank certify to the Federal Reserve Bank of New York on the date of payment the rate of exchange at which the transfer shall be made. Germany undertakes for the purposes of this agreement that the Reichsmark shall have and shall retain its convertibility into gold or devisen as contemplated in Sec. 31 of the present Reichsbank law and that for these purposes the Reichsmark shall have and shall retain a mint parity of 1/2790 kilogram of fine gold as defined in the German coinage law of August 30, 1924.

4. *Security.* — The United States hereby agrees to accept the full faith and credit of Germany as the only security and guaranty for the fulfilment of Germany's obligations hereunder.

5. *Postponement of Payment.* — Germany, at its option, upon not less than 90 days' advance notice in writing to the United States, may postpone any payment on account of principal falling due as hereinabove provided, to any subsequent September 30 and March 31 not more than two and one-half years distant from its due date,

¹ Not reprinted.

but only on condition that in case Germany shall at any time exercise this option as to any payment of principal, the two payments falling due in the next succeeding twelve months can not be postponed to any date more than two years distant from the date when the first payment therein becomes due unless and until the payments previously postponed shall actually have been made, and the two payments falling due in the second succeeding twelve months can not be postponed to any date more than one year distant from the date when the first payment therein becomes due unless and until the payments postponed shall actually have been made, and further payments can not be postponed at all unless and until all payments of principal previously postponed shall actually have been made. All payments provided for under Paragraph numbered 1 (a) of this agreement so postponed shall bear interest at the rate of 5% per annum, payable semiannually, and all payments provided for under Paragraph numbered 1 (b) of this agreement so postponed shall bear interest at the rate of 3% per annum, payable semiannually.

6. *Payments before Maturity.* — Upon not less than 90 days' advance notice in writing to the United States and the approval of the Secretary of the Treasury of the United States, Germany may, on March 31 or September 30 of any year, make advance payments on account of any bonds issued under this agreement and held by the United States. Any such advance payments shall be applied to the principal of such bonds as may be indicated by Germany at the time of payment.

7. *Exemption from Taxation.* — The principal and interest, if any, of all bonds issued hereunder shall be paid without deduction for, and shall be exempt from, any and all taxes or other public dues, present or future, imposed by or under authority of Germany or any political or local taxing authority within Germany.

8. *Notices.* — Any notice from or by Germany shall be sufficient if delivered to the American Embassy at Berlin or to the Secretary of the Treasury at the Treasury of the United States in Washington. Any notice, request or consent under the hand of the Secretary of the Treasury of the United States shall be deemed and taken as the notice, request or consent of the United States and shall be sufficient if delivered at the German Embassy at Washington or at the office of the Germany Ministry of Finance at Berlin. The United States in its discretion may waive any notice required hereunder, but any such waiver shall be in writing and shall not

extend or affect any subsequent notice or impair any right of the United States to require notice hereunder.

9. *Compliance with Legal Requirements.* — Germany and the United States, each for itself, represents and agrees that the execution and delivery of this agreement have in all respects been duly authorized and that all acts, conditions and legal formalities which should have been completed prior to the making of this agreement have been completed as required by the laws of Germany and of the United States respectively and in conformity therewith.

10. *Counterparts.* — This agreement shall be executed in two counterparts each of which shall be in English and German languages both texts having equal force and each counterpart having the force and effect of an original.

IN WITNESS WHEREOF, Germany has caused this agreement to be executed on its behalf by its Ambassador Extraordinary and Plenipotentiary at Washington thereunto duly authorized, and the United States has likewise caused this agreement to be executed on its behalf by the Secretary of the Treasury, with the approval of the President, pursuant to the Act of Congress approved all on the day and year first above written.

THE GERMAN REICH

By.....
Ambassador Extraordinary and Plenipotentiary

THE UNITED STATES OF AMERICA

By.....
Secretary of the Treasury

Notes Exchanged Simultaneously with Execution of the Agreement

The German Government (The Government of the United States) has the honor to set forth its understanding of par. No. 4 of the Agreement executed this day between the United States and Germany in the following sense:

(a) In respect of the acceptance by the United States of the full faith and credit of Germany as the only security and guaranty for the fulfillment of Germany's obligations under the agreement, Germany will be in the same position as the principal debtors of

the United States under the debt funding agreements which exist between them and the United States.

(b) Nothing contained therein shall be construed as requiring the United States to release any German property which it now holds other than as heretofore or hereafter authorized by the Congress of the United States.

The German Government (The Government of the United States) also desires to expressly recognize, so far as the Agreement executed this day between the United States and Germany is concerned, the prior rights of the holders of the bonds of the German External Loan as provided in the general bond securing the loan dated October 10, 1924.

The United States has received the sum of R.M. and the sum of R.M. on account of the bonds numbered one to be delivered under pars. No. 1. (a) and 1. (b) respectively of the agreement executed this day between the United States and Germany. The receipt of these amounts will be evidenced by an indorsement by the United States on the bonds on account of which the sums were received.

The agreement executed this day between the United States and Germany is substituted for the direct arrangement providing for the realization by the United States of its $2\frac{1}{4}\%$ share in German payments under the Experts' Plan of 1924.