

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

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LEAGUE OF NATIONS

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

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

relating to the

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

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**Second Edition**

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Series of League of Nations Publications

**I. B. MINORITIES** ✓  
**1931 I. B. 1.**

## EXPLANATORY NOTE.

This collection comprises :

- The text of the resolutions passed by the Council of the League of Nations laying down rules of procedure applicable to minority petitions ;
  - The text of the discussions, reports and notes relating to those resolutions ;
  - Extracts from the proceedings of the Council in connection with petitions on its agenda, the examination of which has raised questions of principle relating to procedure.
- The reports and resolutions adopted by the Assembly on this subject are also reproduced, with references to the records of the plenary meetings and committee meetings of the various sessions of the Assembly at which these questions have been discussed.

\* \* \*

The provisions contained in the various international instruments at present in force relating to the protection of linguistic, racial or religious minorities by the League of Nations, have been assembled in document C.L.110.1927.I. (Annex), published in August 1927. The acts by which these provisions were placed under the guarantee of the League of Nations bear the following dates :

Albania . . . . .	February 17th, 1922. <sup>1</sup>
Austria . . . . .	October 27th, 1920.
Bulgaria . . . . .	October 27th, 1920.
Czechoslovakia . . . . .	November 29th, 1920.
Estonia . . . . .	September 17th, 1923.
Finland (Aland Islands) . . . . .	June 27th, 1921.
Germany (see Upper Silesia).	
Greece . . . . .	September 26th, 1924.
Hungary . . . . .	August 30th, 1921.
Latvia . . . . .	September 1st, 1923.
Lithuania . . . . .	December 11th, 1923.
Memel <sup>2</sup>	
Poland . . . . .	February 13th, 1920.
Roumania . . . . .	August 30th, 1921.
Silesia (Upper) . . . . .	July 20th, 1922.
Turkey . . . . .	September 26th, 1924.
Yugoslavia . . . . .	November 29th, 1920.

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

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

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# PART I.

## TEXT OF THE COUNCIL RESOLUTIONS

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### 1. REPORT PRESENTED BY M. TITTONI AND ADOPTED BY THE COUNCIL OF THE LEAGUE OF NATIONS ON OCTOBER 22ND, 1920.<sup>1</sup>

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

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

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

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

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

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

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

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

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

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

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

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

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<sup>1</sup> See page 13.

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

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

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

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

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

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

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

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## 2. RESOLUTION ADOPTED BY THE COUNCIL ON OCTOBER 25TH, 1920.<sup>1</sup>

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

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

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## 3. RESOLUTION ADOPTED BY THE COUNCIL ON JUNE 27TH, 1921.<sup>2</sup>

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

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

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<sup>1</sup> See page 15.

<sup>2</sup> See page 16.

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

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

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

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

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

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

#### 4. RESOLUTION ADOPTED BY THE COUNCIL ON SEPTEMBER 5TH, 1923.<sup>1</sup>

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

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

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

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

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

<sup>1</sup> See page 19.

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

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

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

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5. RESOLUTION ADOPTED BY THE COUNCIL ON JUNE 10TH, 1925.<sup>1</sup>

The Council of the League of Nations,

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

Decides

I. If the Acting President of the Council is :

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

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

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

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

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

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<sup>1</sup> See page 38.

6. RESOLUTION ADOPTED BY THE COUNCIL ON JUNE 13TH, 1929.<sup>1</sup>

The Council :

(a) Decides to add to the provisions contained in its previous resolutions regarding the procedure for the examination of minorities petitions the following provisions :

*1. Receivability of Petitions.*

When the Secretary-General declares a petition non-receivable, he will inform the petitioner and, if necessary, will communicate to him the Council resolution of September 5th, 1923, laying down the conditions of receivability of minorities petitions.

*2. Composition of Minorities Committees.*

The President of the Council may, in exceptional cases, invite four members of the Council to examine minorities petitions instead of two as laid down in the Council resolution of October 25th, 1920.

*3. Frequency of the Meetings of the Minorities Committees.*

The Council considers that it would be desirable for Minorities Committees to take into account the possibility of holding meetings in the intervals between sessions of the Council, whenever they think it expedient for the examination of individual petitions.

*4. Communications concerning the Action taken on Petitions by the Minorities Committees.*

(i) When the members of a Minorities Committee have finished the examination of a question, without asking that it be placed on the Council's agenda, they will communicate the result of their examination by letter to the other Members of the Council for their information. The Secretary-General will keep the relevant documents at the disposal of the Members of the Council.

(ii) The Secretary-General will distribute once a year, for the information of all the Members of the Council, a document reproducing the letters addressed during the year, as described above, by the various Minorities Committees to the Members of the Council.

*5. Publication of the Result of the Examination of a Question by a Minorities Committee.*

The Minorities Committees should consider carefully the possibility of publishing, with the consent of the Government concerned, the result of the examination of the questions submitted to them. The Council earnestly hopes that the Governments will, whenever possible, give their consent to such publication. The information might be published in the *Official Journal* and might consist of the letter from the Minorities Committee informing the other Members of the Council, or any other text that seemed expedient.

*6. Regular Annual Publications concerning the Work of the League in connection with the Protection of Minorities.*

The Secretary-General will publish annually in the *Official Journal* of the League statistics of : (1) the number of petitions received by the Secretariat during the year ; (2) the number of petitions declared to be non-receivable ; (3) the number of petitions declared to be receivable and referred to Committees of Three ; (4) the number of Committees and the number of meetings held by them to consider these petitions ; (5) the number of petitions whose examination by a Committee of Three has been finished in the course of the year.

<sup>1</sup> See page 82.

(b) The present resolution will be communicated to the States which have accepted stipulations for the protection of minorities.

(c) The report prepared by the Japanese representative, as Rapporteur, with the assistance of the British and Spanish representatives (document C.C.M.1), including the annexes thereto,<sup>1</sup> together with the Minutes of the meetings of the Council sitting in committee for the examination of this question and those of the present meeting of the Council, will be communicated to all the Members of the League and will, in accordance with practice, be published.

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<sup>1</sup> Observations of the Governments of Austria, Bulgaria, China, Czechoslovakia, Estonia, Germany, Greece, Hungary, Latvia, Lithuania, the Netherlands, Poland, Roumania, the Kingdom of the Serbs, Croats and Slovenes and Switzerland, and also the tis of communications from associations and organisations.

## PART II.

### EXTRACTS FROM THE MINUTES OF THE COUNCIL.

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

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

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

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

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

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

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

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

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

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#### Annex.<sup>1</sup>

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

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

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

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<sup>1</sup> Annex 115 to the Minutes of the Tenth Session of the Council.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*The report was adopted.*

The representatives of Czechoslovakia and Poland withdrew.

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#### Annex I.<sup>1</sup>

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

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

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

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

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

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

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<sup>1</sup> Annex 222 to the Minutes of the Thirteenth Session of the Council.

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

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

*Resolution.*

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

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

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

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

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

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

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Annex 2.<sup>1</sup>

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

Prague, June 4th, 1921.

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

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<sup>1</sup> Annex 222a to the Minutes of the Thirteenth Session of the Council.

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

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

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

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

For the Minister for Foreign Affairs  
of the Czechoslovak Republic :

(Signed) DR. V. GIRSA,  
*Minister Plenipotentiary.*

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Annex 3.<sup>1</sup>

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

Geneva, June 3rd, 1921.

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

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

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

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

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<sup>1</sup> Annex 222a to the Minutes of the Thirteenth Session of the Council.

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

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

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

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

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

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

(Signed) S. ASKENAZY.

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

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

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

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

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

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

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

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<sup>1</sup> See page 24.

<sup>2</sup> See pages 31 and 36.

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

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

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

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

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

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

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

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

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

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

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

<sup>1</sup> See page 35.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“ (d) Must abstain from violent language ;

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

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

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

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

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

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

Annex 1.<sup>1</sup>

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

I.

On January 16th, 1923, the Polish representative communicated to the League of Nations a memorandum containing certain observations in regard to the principles governing the protection of minorities by the Council and to the rules of procedure established for this purpose.<sup>2</sup>

On April 5th, 1923, the Czechoslovak Minister for Foreign Affairs communicated to the League a note also making certain observations on the resolutions of the Council relative to the procedure to be followed in regard to the protection of minorities.<sup>3</sup>

On August 22nd, 1923, the Polish representative addressed a further note to the League supplementing his note of January 16th and dealing with the acceptance of minority petitions.<sup>4</sup>

II.

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

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

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

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

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

<sup>1</sup> Annex 558 to the Minutes of the Twenty-sixth Session of the Council.

<sup>2</sup> See page 31.

<sup>3</sup> See page 35.

<sup>4</sup> See page 36.

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

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

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

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

All the States concerned adhered to this resolution.

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

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

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

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

(d) They must abstain from violent language.

### III.

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

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

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

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

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

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

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

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

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

#### IV.

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

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

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

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

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

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

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

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

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

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

## V.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Petitions which lie outside the scope of the Minorities Treaties ;

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

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

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

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

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

## VI.

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

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

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

The Polish Government considers that this system presents certain advantages.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

“(d) Must abstain from violent language;

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

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

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

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

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

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

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#### Annex 2.<sup>1</sup>

#### LETTER DATED JANUARY 16TH, 1923, FROM THE POLISH REPRESENTATIVE TO THE LEAGUE OF NATIONS TO THE SECRETARY-GENERAL, AND OBSERVATIONS BY THE POLISH GOVERNMENT.

The increasing number, importance and complexity of the questions connected with the protection of minorities which are continually being brought before the League of Nations, and which in certain cases relate directly to Poland, render it necessary to examine closely the actual principles on which the protection of minorities by the Council is based, and the rules of procedure laid down for the purpose.

With reference to certain general observations on this subject in my speech delivered at the third Assembly on September 9th, 1922, I am instructed by my Government to communicate to you herewith certain remarks on the protection of minorities by the Council of the League of Nations.

In view of the fact that these general remarks may contribute to the establishment of a suitable and practical method of applying the principles for the protection of minorities by the Council with regard to all the States concerned I have the honour to request that you will be good enough to submit them to the Members of the Council of the League of Nations, in order that the Council may, at one of its coming sessions, express its opinion on the ideas and suggestions embodied in these remarks.

(Signed) S. ASKENAZY.

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<sup>1</sup> See *Official Journal*, May 1923, pages 480-483.

OBSERVATIONS ON THE PROTECTION OF MINORITIES BY THE COUNCIL  
OF THE LEAGUE OF NATIONS.

I.

The Treaty regarding the protection of minorities, signed at Versailles on June 28th, 1919, between the Principal Allied and Associated Powers and the Polish Republic, was granted to Poland and to all the States which are now included in the Little Entente. The Polish Government considers that, in view of the origin of this Treaty, of its character as an exceptional law, and of all its serious legal omissions, it can only be applied in a restricted and not an extended sense.

II.

Moreover, it must not be forgotten that even the great Powers, as well as other original Members of the League of Nations, are States whose national homogeneity is not complete, for they also have a considerable number of minorities, racial or religious. Although, from a legal standpoint, the clauses of the Minorities Treaties do not apply to these States, it would nevertheless seem just that, in view of the high principle of the equality of all the Members of the League of Nations, and the principles of equity and humanity by which any liberal treatment of minorities must be inspired, the Treaties in question should be applicable to Poland and the other States to which they have been granted only in the same spirit, in the same form and within the same limits as they would have been applied had they been applicable to the great Powers and the other original Members of the League of Nations.

III.

The essential aim of the protection of minorities is to secure for them a normal existence, founded on the principles of freedom and equality, within the limits of the States to which they belong. This object cannot be attained by means which are prejudicial to the consolidation of such States; for, as soon as that process of consolidation is endangered, the welfare of the minorities in those States will also be threatened. This fact is of special importance in the case of States which were re-established or reconstructed after the great war. It must be clearly realised that minorities do not live in complete isolation; but that, on the contrary, they are, by the nature of things, in intimate intellectual and political contact with other countries in which they form a majority. Thus, Poland, the German, Lithuanian, White Ruthenian and Ruthenian minorities are, to a greater or a less extent, under the influence of Germany, of the Lithuania which is governed from Kovno, of Soviet Russia and of the Soviet Ukraine. Even the Jews are under the influence of the Zionist organisations abroad, whose eyes are turned towards Palestine.

Poland is the country which, in her past history, has felt most terribly the deplorable results of such a position. The rights to protection which Poland's three neighbours had arrogated to themselves in the eighteenth century in connection with the German Lutheran and Ruthenian Orthodox minorities led to the dislocation and fall of the Polish State, and made its three neighbours partners in the dismemberment of the Polish Republic.

This unhappy experience renders Poland peculiarly cautious and sensitive in relation to any foreign protection of minorities. This important fact must certainly not be overlooked, though it is, of course, quite impossible in any way to compare the beneficent action of the League of Nations with the disastrous intervention of the foreign protectors of minorities in Poland in the eighteenth century.

IV.

The welfare of minorities can only be secured by the natural application to them within each State by mutual agreement of the principles of freedom and equality in the political, economic, social and legal spheres. It is only by this process of internal evolution that natural organic ties can be created between minorities and the ruling majority in the State, in accordance with the needs of the security of the State and the requirements of its development and prosperity. For this normal method, it is impossible to substitute any intervention or

pressure from without. On the contrary, such intervention or pressure can only hinder the free development of relations between the majority and the minority; and, moreover, when influences fundamentally hostile to the State in question are concerned, they may sow the seeds of disunion with consequences fatal both to the State and to the minority itself.

## V.

The Minorities Treaty has created a new and wholly exceptional position, so that experience alone can reveal its defects as regards the principles which it embodies and its practical disadvantages, and experience alone can suggest what modifications it would be advisable to introduce into it in order to safeguard the just rights of sovereignty and dignity which belong to the States concerned. One of these disadvantages became perceptible when the League of Nations was called upon to deal with all kinds of petitions which the various minorities began to send to the Secretariat.

The League of Nations was at first unable to find the most appropriate method — exactly corresponding to the nature and limits of the powers entrusted to it — of solving the difficult and delicate problem of the protection of minorities.

Poland was the first country to feel the disadvantages of the system originally adopted. A large number of Ukrainian complaints against Poland were sent to the Secretariat of the League of Nations, and were, owing to a misunderstanding, printed and distributed to all the Members of the League. They were particularly numerous in the autumn of 1920 — just at the time of the preliminary peace negotiations between Soviet Russia and Poland. The purpose of the complaints was obviously to create an atmosphere which would be unfavourable to these negotiations. It is significant that, at the same time, the signatories of these Ukrainian complaints to the League of Nations addressed protests from Stettin to the Soviet delegation at Riga, with reference to the negotiations which had been opened with the Polish Government. Complaints against Poland were also sent to the League of Nations by German societies, by certain groups of Russian emigrants, and, in general, by various elements which were hostile to the consolidation of Poland. Moreover — and this is of the highest importance — all these complaints proceeded from sources which had no authority whatever to express the wishes of the populations concerned.

## VI.

It is quite obvious that this procedure was entirely devoid of legal foundation. It was, indeed, entirely contrary to the stipulations of the Minorities Treaty. These stipulations lay down that, in questions relating to the protection of minorities, action may be taken only by "any Member of the Council of the the League of Nations". They do *not* lay down that any private association whatsoever is entitled to take the initiative in submitting questions relating to the protection of minorities to the League of Nations. This fact is brought out very clearly in the Secretary-General's reply to the Society of German Leaseholders of Properties in Poland, dated June 2nd, 1921 (document C.94.M.53.1921.I), in which it is stated that "the subject could not be placed on the agenda of this meeting of the Council, unless a Member of the Council raised it under Article 12, paragraph 2, of the Minorities Treaty". The same statement is made in the Secretary-General's report submitted to the Third Assembly (document A.6.1922, page 46).

This attitude is, moreover, perfectly comprehensible, for any other would result in establishing for minorities, not protection, but a privileged position. In point of fact, any member of a majority who is dissatisfied with an administrative decision or judicial sentence can only appeal to the courts of his country. When he has reached the supreme administrative or judicial authority, he has exhausted the civic rights which are constitutionally guaranteed to him and finds himself at the limits of the sovereignty of his own country. On the other hand, in a similar case, a member of a minority would have the right to overstep the limits of constitutional procedure, to act as he chose against the sovereignty of the State, and to seek the protection of a species of super-sovereignty. This, the framers of the Treaty rightly sought to avoid when they laid down in so clear and precise a form the only admissible procedure with regard to taking the initiative in cases of intervention on behalf of minorities.

## VII.

The Polish Government, desiring to remedy defects in procedure, but not wishing for general reasons to adopt a completely negative attitude from the purely legal standpoint, suggested, in a note dated June 3rd, 1921, certain preliminary modifications of a practical nature as to the manner in which petitions sent by private persons, groups or various special organisations should be considered by the Secretariat of the League of Nations. These proposals were approved, in substance, in a resolution on this subject, which the Council of the League of Nations adopted on June 27th, 1921. This resolution thus represented a first step towards an improvement in the methods to be allowed in regard to petitions from minorities, and opened the way to a subsequent development of the preliminary principles laid down therein.

## VIII.

Before the introduction of the amendment referred to, the Council of the League of Nations had, by a resolution dated October 25th, 1920, determined the procedure for the consideration of petitions from minorities. This procedure involves the constitution of a special committee, consisting of the President and two members of the Council.

The Minorities Treaty was based on the indisputable principle that the protection of minorities can in no circumstances take the inadmissible form of a dispute carried on directly before the League of Nations between the subjects of a State as one party and that State itself as the other. On the contrary, the Treaty laid down, as the sole admissible procedure, that the consideration of a minorities question which affected a State bound by that Treaty could only be raised before the Council of the League by a State which was a Member of the Council. It is for this reason that — as has been pointed out above in Section VI — the Minorities Treaty expressly and exclusively assigns the right of initiative in matters concerning the protection of minorities, in every case that may arise, to an individual State which is a Member of the Council of the League of Nations. Now, the procedure by means of the Committee of Three seems, in a sense, to relieve such a State Member from a part of the individual responsibility which must be the corollary of its right of initiative by dividing this responsibility among three Members. In place of the individual and spontaneous initiative of a Member of the Council it substitutes the collective and automatic initiative of an organisation which was not provided for in the Treaty ; and, consequently, it considerably weakens the value of the express guarantee given by that Treaty to the State on which it was imposed.

## IX.

The ease with which petitions may be submitted to the Secretariat, and the fact that they come automatically under the consideration of an organisation which is directly dependent on the Council — the Committee of Three — encourage petitioners to multiply their complaints without any plausible reason. The result is that the League of Nations has been involved in continuous action against certain of its Members, owing to the fact that minorities deliberately misrepresent their treatment by the States concerned, whose conduct in their domestic affairs is governed by the strictest principles of justice. Complaints of this kind have often been worded in a manner which constitutes a crime under the penal code, thus causing regrettable disturbances in the normal relations between the minorities and their respective Governments. Moreover, should the League of Nations intervene in cases which have been dealt with by courts of the countries whose conduct has been challenged, this intervention would, if it gave satisfaction to the complaints, clearly weaken the authority of the courts, which are above all political influences.

## X.

The Polish Government is of opinion :

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

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

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

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

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### Annex 3.<sup>1</sup>

#### LETTER DATED APRIL 5TH, 1923, FROM THE MINISTER FOR FOREIGN AFFAIRS OF THE CZECHOSLOVAK REPUBLIC TO THE PRESIDENT OF THE COUNCIL.

I have the honour to bring to your notice the following observations which the Government of the Czechoslovak Republic desires to make in regard to the Council's resolutions concerning the protection of minorities in order to prevent certain of the provisions contained in them from being construed in a manner incompatible with the Minorities Treaties.

1. Under the terms of the Minorities Treaties, persons belonging to racial, religious or linguistic minorities are not regarded as legal persons.

The Tittoni report says that the right of Members of the Council to call attention to any infraction or danger of infraction does not in any way exclude the right " of the minorities themselves " to forward to the League of Nations petitions or reports, and my Government understands the expression " the minorities themselves " to be a mere abbreviation of the following words which occur in the Treaties : " Persons belonging to racial, religious, or linguistic minorities ". Accordingly, my Government is of opinion that, in principle, the right to address to the League of Nations petitions or reports regarding the protection of minorities is held by all and is not merely a privilege of persons belonging to minorities.

Further, the Czechoslovak Government ventures to point out that the Minorities Treaties did not create organisations possessing the right to speak and act on behalf of the " minorities ", but placed their protection in the hands of the Members of the Council. Therefore, petitioners who, in putting forward their applications, refer to the authority of the " minority " or claim to speak on its behalf have no legal basis for so doing. Similarly, it should be noted that petitions which are alleged to be from a " minority " are frequently not submitted for the benefit of that " minority " at all. It must be remembered that there are professional propagandists who, in pursuit of political aims far removed from those of the work of peace to which the Minorities Treaties belong, use these Treaties as a means of gaining their own ends. Other persons or groups with private interests which may be entirely opposed to the true interests of most of the persons belonging to the minority, and may be entirely unconnected with the protection of minorities, use that protection merely as a pretext for bringing their own interests before some international authority.

2. The submission of petitions or reports to the Secretary-General of the League of Nations, their transmission to the Members of the Council and consideration by the Committee of Three, does not constitute a legal act. Such an act is constituted only by an appeal to the Council from one of its own Members.

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<sup>1</sup> See *Official Journal*, July 1923, pages 717 and 718.

3. The procedure with regard to petitions is only a kind of information service for the use of the Members of the Council in order to aid them in the performance of their duties in connection with the protection of minorities.

4. As petitions are not "charges" in the technical sense of the word, the observations submitted by the Governments interested are not replies to the petitions, but merely reports upon them for the use of the Members of the Council.

With regard to the period of two months fixed by the Council's resolution of June 27th, 1921, my Government would suggest that the President of the Council should be authorised to grant an extension of this period, should the circumstances appear to make such a course necessary and feasible.

5. As the protection of minorities is entrusted to the Members of the Council alone, petitions and reports, and also observations from the States interested, should only be communicated to the Members of the Council. Members of the League of Nations should only be informed either on a definite application being made by the State concerned or in pursuance of a decision taken by the Council under the following clause in the Minorities Treaties: ". . . and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances".

6. As the petitions and reports sent to the Secretariat of the League of Nations do not in all cases merit consideration by the Members of the Council or by the State concerned, my Government suggests that the Secretary-General should be authorised to reject at once petitions of the following kinds:

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

(b) Petitions which lie outside the scope of the Minorities Treaties;

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

I venture to inform your Excellency that the Czechoslovak Government considers that the Council of the League of Nations should, on the basis of these observations, adopt a resolution to interpret and supplement the resolutions mentioned above.

*(Signed)* Edouard BENEŠ,  
*Minister for Foreign Affairs.*

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Annex 4.<sup>1</sup>

LETTER DATED AUGUST 22ND, 1923, FROM THE POLISH REPRESENTATIVE TO THE LEAGUE OF NATIONS TO THE SECRETARY-GENERAL, AND SUPPLEMENTARY MEMORANDUM BY THE POLISH GOVERNMENT.

With reference to the memorandum containing observations on the protection of minorities by the Council of the League of Nations, communicated by the Polish delegate on January 16th last, I am instructed by my Government to forward to you a supplementary memorandum relating to the procedure to be followed with regard to the acceptance of petitions from minorities and to the question of petitions addressed to the League of Nations by international organisations.

I venture to request you to bring this memorandum to the notice of Members of the Council for their consideration at the twenty-sixth session.

*(Signed)* J. DE MODZELEWSKI.

<sup>1</sup> See *Official Journal*, September 1923, pages 1071 and 1072.

MEMORANDUM.

*I. Acceptance of Petitions from Minorities.*

With reference to the consideration set forth in paragraphs 5 and 6 of the memorandum by the Polish delegate on the protection of minorities communicated on January 16th last, and in order better to define the procedure to be followed in connection with minorities petitions in the spirit of the provisions already adopted for certain similar cases by the Council (resolution dated June 27th, 1921, regarding the protection of the Swedish population in the Aland Islands; resolutions dated May 16th and July 20th, 1922, regarding the provisions for protection of minorities contained in Part III of the German-Polish Convention relating to Upper Silesia signed at Geneva May 15th, 1922), the Polish Government is of opinion that it would be desirable to lay down the following rules.

All petitions, whether individual or collective, relating to the provisions in the Treaties for the protection of minorities should be addressed to the League of Nations by persons belonging to racial, religious or linguistic minorities exclusively through the Government of the State of which the petitioners are nationals. The Government would forward, together with the petitions, such observations as it might think desirable. Should petitions of this nature be received by the Secretariat of the League of Nations through any other channel than that of the Government concerned, they should be returned to the signatories with a request to submit them in accordance with the procedure specified above.

This system offers the following advantages :

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

(2) Minorities would have an assurance that the central authority would not fail to consider the position of persons who, rightly or wrongly, held their rights to have been infringed. If convinced of this fact, minorities would not seek to obtain support from any foreign Government; they would gain increased confidence in the goodwill of the authorities of their own country, and would take up a loyal attitude to the State, thereby rendering it considerably easier to establish normal relations between the State bound by the Minorities Treaty and the minorities themselves.

(3) The number of petitions to be forwarded to the Council of the League of Nations would be reduced to a minimum, in view of the fact that every Government could directly satisfy the reasonable demands of petitions. It is to be anticipated that, if the procedure suggested by the Polish Government were adopted, Members of the Council would be called upon to enforce their right of intervention, as provided in the relevant articles of the Minorities Treaties, only in cases which had not been settled by the authorities of the countries concerned.

*II. Petitions received from International Organisations.*

The Polish Government is, moreover, of opinion that petitions from international organisations should not be examined in accordance with the procedure laid down by the Council for the application of the provisions of the Treaties for the protection of minorities; in other words, such petitions cannot under any circumstances be communicated to the Council.

As a matter of fact, petitions of this kind constitute an unwarrantable interference by third parties in the internal affairs of a sovereign and independent State. The Treaties for the protection of minorities have merely established relations between the State concerned and the States Members of the Council of the League of Nations. They have created for the State concerned certain obligations towards minorities. These minorities are the only persons who benefit thereby or who are entitled to insist on the carrying out of those obligations within the limits of a procedure laid down by the provisions of the Treaties themselves. Any



intervention by a State Member of the Council of the League of Nations under the terms of Article 12 must necessarily be based on a corresponding request received from the minority itself. But any interference by other bodies — whatever their character may be — must be excluded at the outset, and cannot become the starting-point of any procedure.

It would seem, moreover, that this point of view is brought out in M. Tittoni's report of October 22nd, 1920, in which the conclusion is reached that only minorities themselves may address petitions to the League of Nations. (The possible intervention of States Members of the League of Nations, which is referred to in this report, and of which the juridical character and justification are not adequately defined by M. Tittoni, cannot in any case be regarded on the same plane as petitions from minorities.)

In the opinion of the Polish Government, communications received from international organisations concerning the protection of minorities cannot be regarded as constituting anything more than subsidiary documents of an informatory character when compared with petitions addressed by minorities.

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

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

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

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

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

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

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

“ In practice, the Acting President of the Council, when appointing two of his colleagues in accordance with the resolution of October 25th, 1920, has usually been guided by the following principle, which I consider should always be applied — namely, the Government to be entrusted with the duty laid down in the resolution of October 25th, 1920, should not be a Government of a State neighbouring that of which the persons belonging to the minority

in question are subjects, nor the Government of a State the majority of whose subjects belong, from the ethnical point of view, to the same people as the minority in question. It goes without saying that the Government against whom the minorities petition is directed, if represented on the Council, should not be included in the three members appointed to consider the matter.

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

" " The Council of the League of Nations,

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

" " Decides :

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

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

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

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

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

*The resolution was adopted.*

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

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

M. DE MELLO-FRANCO read the following report :

### I.

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

" " The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the

Assembly, dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report).<sup>1</sup> The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925, the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection.'

"By the proposal mentioned in this resolution, the Lithuanian representative had requested the Assembly 'to set up a special committee to prepare a draft General Convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to minorities'.

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

" 'On the one hand, the attention of the Committee was drawn to the fact that the Treaties and Declarations for the protection of minorities of race, language or religion are only the concern of certain States, while other States are exempt from such obligations, and this would not be in conformity with the principle of equality between States. On the other hand, several delegates pointed out that this way of looking at the question was not correct, since the special position of States bound by certain Treaties or Declarations was the result of special circumstances prevailing in those States.'

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

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

## II.

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

" 'The Committee discussed paragraph VI of Chapter 7 of the Supplementary Report to the Assembly on the Work of the Council, on the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly. Several speakers paid a tribute to the work accomplished by the Council in the execution of its delicate duties and emphasised the merits of the procedure at present in force; some suggestions were made that this procedure might be improved, but it was pointed out that, whatever was done, the provisions of the Minorities Treaties must be respected. At the end of the discussion, it was proposed that the Committee should recommend the Assembly to give its formal approval to the above-mentioned part of the report, and this proposal was favourably received by various speakers.'

"The Assembly resolution is in conformity with this recommendation.

"I consider that the Council should also take note of that part of the Assembly resolution which approves the present procedure in respect of the protection of minorities. Various suggestions for still further improving this procedure were discussed both at plenary meetings of the Assembly and in Committee. These discussions are reported in document C.610.1925.I.<sup>3</sup> I do not think that they call for any action by the Council at the present time.

<sup>1</sup> See page 48.

<sup>2</sup> See page 52.

<sup>3</sup> See page 62.

*“ Draft Resolution :*

“ ‘The Council takes note of the Assembly resolution of September 22nd, 1925, regarding the protection of minorities.’ ”

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

*Declaration of M. de Mello Franco,*

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

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

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

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

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

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

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

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

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

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

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

This is the present state of the question.

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

The delegate for Lithuania stated that he wished to draw attention to the inequality which existed, from a legal point of view, between the international obligations of the various Members of the League of Nations. In view of this inequality, he proposed the appointment of a committee whose duty it would be to draw up general rules for the protection of minorities which would be compulsory for all countries and be included in a Convention acceptable to all of them.

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

If the history of the Treaties prior to the Treaty of Versailles be examined with regard to the question of minorities, it is easy to see that the origin of the protection of religious minorities is to be found in international documents far older than the Treaty of Versailles. The first Treaty, however, which stipulated expressly that in any country a class of subjects should not be recognised to be inferior to other classes, not only for religious *but also for racial reasons*, was the Treaty of Paris of March 30th, 1856, concluded after the Crimean War. From that date, the question of racial or religious minorities received greater attention from

Governments. It should be noted, however, that the question was only raised on certain historic occasions, such as that of the incorporation of the territory of one State with that of another, or that of territorial reconstructions resulting from a war, or that of the constitution of new States, or that which resulted from struggles on the part of certain States against the oppression of other States. Examples of this were the Treaty of Berlin on July 13th, 1878, which imposed religious toleration on newly created States and on autonomous principalities (Bulgaria, Serbia and Roumania) as an indispensable condition to an international recognition of their existence, and the Treaty of Vienna (May 31st, 1815), between the Netherlands, Great Britain, Russia, Prussia and Austria, regarding the reunion of Belgium with Holland

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“ The decision has been taken, not only to protect, as before, *individuals considered separately*, but to a certain extent to attribute rights to *minorities regarded as collective entities*. There is thus formulated for the first time the rights of minorities as such as

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

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

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

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

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

"More especially owing to the fact that the Members of the Council are delegates of the Governments of States represented on the Council of the League of Nations, and that these Members for this reason look at matters from a political point of view, each decision to intervene in a minorities question will necessarily by its nature have the character of a political act influenced by factors hostile to another State, since the reference of a question in dispute to the Permanent Court of International Justice at the request of one of the States represented on the Council implies a complaint coming directly from one State against another State. The Members of the Council will, for this reason, endeavour, as far as possible, to put on one side complaints which are addressed to them. It is accordingly indispensable for the procedure at present followed to be revised, and for the Council to be obliged to submit to the judgment of the Permanent Court of International Justice all the legal disputes which are brought to its notice, not only at the request of one of the States represented on the Council, but also at the request of a State not represented on the Council."

The Senator Baron Wittert van Hoogland in these words justifies the suggestion presented to the Assembly at its sixth ordinary session by the delegate for Hungary. If the question at issue were a principle to be established *jus constituendo*, I would associate myself with the proposal, not for the reasons given by the Dutch Senator, but because the proposal, besides referring the solution of certain purely legal cases arising out of the protection of minorities to a judicial competence, is more in conformity than the present procedure with the principle of equality between the Members of the League of Nations, both as regards the execution of their duties and as regards the exercise of their rights, both of which result from their character as Members of the League. It would be more in conformity with this principle of equality



if the right " to draw the attention of the Council to any infraction of any one of the obligations placed under the guarantee of the League of Nations ", instead of being accorded only to the States represented on the Council, were also exercised by any one of the other States Members of the League of Nations, and if the right which only the Principal Allied and Associated Powers and those represented on the Council had of resorting to the Permanent Court of International Justice in the event of a difference of opinion on questions of law and fact concerning these obligations were also conferred on any other Member of the League of Nations ; but, in the law as at present constituted, *jus constitutus*, the law established by the Treaties in force, placed under the guarantee of the League of Nations, the two fold extension of which we have just been speaking is impossible, in view of the fact that, in the first as in the second case, all the Treaties restrict the exercise of these two options or the use of the prerogatives mentioned above to the Members of the Council.

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

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

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

Count Apponyi formulated this suggestion in the following terms :

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

Count Apponyi, in justification of this proposal, added :

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

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

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

protection of the rights of the Greek minority in Albania. The British delegate, in his report, which was approved by the Council on October 2nd, 1921, said :

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

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

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

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

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

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

Sir Austen CHAMBERLAIN said he would add a word, as one who had sat on several committees of enquiry. The Council owed a debt of gratitude to the Brazilian representative for the very interesting historical survey which he had undertaken and for his examination of the different proposals which had been made. He would particularly draw attention to the definition which M. de Mello-Franco had given of the purpose of the Minorities Treaties. It was certainly not the intention of those who had devised this system, as M. de Mello-Franco had remarked, to establish in the midst of nations a community which would remain permanently estranged from the national life. The object of the Minority Treaties, and of the Council in discharging its duties under them, was, as M. de Mello-Franco had said, to secure for the minorities that measure of protection and justice which would gradually prepare them to be merged in the national community to which they belonged.

Dr. BENEŠ said he would like to join his colleagues in the tribute paid to M. de Mello-Franco for his declaration. He had himself followed this question of minorities from the outset. After the war, he had taken part in the discussions at the Paris Conference to which M. de Mello-Franco had alluded, when the question had arisen of signing the Minorities Treaty. The account given by M. de Mello-Franco of this event corresponded exactly with the reality. M. Beneš had also attended all the Assemblies and the discussions concerning minorities

questions. Here, again, he would like to state that the declaration of the representative of Brazil gave an exact idea of the development of the discussions which had taken place during the successive Assemblies of the League of Nations. Finally, he had recently had occasion in London to attend a conference on the question of minorities, and he had reached the same conclusions as M. de Mello-Franco. Nations possessing minorities must respect the rights of these minorities, but minorities must realise that, if they went too far, the consequences might be deplorable and quite contrary to the wishes of those who had produced the Minorities Treaties.

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

He associated himself with the conclusions of the Rapporteur.

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

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#### Annex 1.<sup>1</sup>

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

##### *Questions of Procedure.*

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

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

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

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

“ The system of procedure established by these different resolutions of the Council provides for as careful an examination as possible of minorities questions by certain members of the Council, while reserving to the other members the right of initiative conferred upon them by the Treaties. In practice, the Minorities Committee has become a normal body for dealing with that part of the work of the League of Nations which concerns the protection

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<sup>1</sup> Annex 828a to the Minutes of the Thirty-seventh Session of the Council.

of minorities. This makes the appointment of the members of the Council under the above resolution of very considerable importance. For this reason, it seems to me that the Council should take note of, and confirm formally, certain practices which have gradually developed in this matter.

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

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

“ The Council of the League of Nations,

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

“ Decides :

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

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

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

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

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

This draft resolution was unanimously adopted by the Council.

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

(3) It is the duty of each member of the Council to take a special interest in the protection of minorities, as M. Tittoni pointed out in his report of October 22nd, 1920. It is the duty of the three members of the Council who, under the resolution of October 25th, 1920, are

entrusted in a special way with the examination of any communication to the League of Nations concerning an infraction of a clause of the Minorities Treaties to conduct this examination as, in a sense, the mandatories of all their colleagues on the Council and in an objective spirit. For this reason it is important that the Committee should be constituted in such a way as to guarantee its independence and its disinterestedness. All the members of the Council receive the document for the examination of which the Minorities Committee is set up, and can, if they take a special interest in the matter, inform themselves through the Secretariat of the treatment of the petition in the Committee, and, if necessary, submit to the Committee their own observations, either formally or informally.

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

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

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

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

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

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

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

of creating a *fait accompli* before the Committee was in a position to take a decision on the question of substance, or that the Government should present to the Council a special report on its intentions in the matter.

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

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

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

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

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

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

The system of petitions addressed directly to the League of Nations by minorities meets these various difficulties. The Council recognised the system when it adopted the report of M. Tittoni in October 22nd, 1920, which indicated to the minorities the method of petitions as being an excellent means of rendering effective the protection accorded to them by the League. The Council, at the same time, wished to guarantee the minorities that their petitions would be seriously considered, and by its resolution of the 25th of the same month it set up the Minorities Committee. The Council has thus placed at the disposal of the minorities a special body which enables them to state their claims without infringing in any way either the letter or spirit of the treaties. Since then, in the interests of the minorities themselves, the work

of the League of Nations has defined and strengthened the procedure of the Minorities Committee or, as it is often called, "the Committee of Three". As a result of five years' experience, this procedure has developed, as is shown both by the resolutions of the Council to which reference has been made and by the increasing body of work which the Committee is asked to undertake.

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Annex 2.<sup>1</sup>

RESOLUTION ADOPTED BY THE ASSEMBLY AT ITS SIXTH ORDINARY SESSION.

*Note by the Secretary-General :*

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

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

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

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

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

EXTRACT FROM THE MINUTES OF THE FOURTH MEETING OF THE SIXTH COMMITTEE  
OF THE ASSEMBLY (SIXTH ORDINARY SESSION).

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

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

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

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

M. GALVANAUSKAS (Lithuania) pointed out that the Lithuanian delegation, in submitting its proposal, desired to bring about some improvement in the existing system for the protection of minorities. He thought the existing system was one which was abnormal from various points of view. The first point to which he wished to draw attention was the legal inequality which existed regarding the international obligations of different Members of the League of Nations. This inequality gave rise to difficulties both of a political and moral

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<sup>1</sup> Annex 828 to the Minutes of the Thirty-seventh Session of the Council.



character — first, because the countries were divided into two groups, one of which had certain obligations to which the other was not subject, and, secondly, because public opinion, as the recent Inter-Parliamentary Conference proved, desired the establishment of general rules on this subject which should be binding without any distinction upon all States Members of the League of Nations. The Lithuanian delegation had therefore felt it incumbent upon it to make a proposal on this subject and to suggest that a committee should be formed to elaborate the general rules to be binding upon all countries.

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

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

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

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

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

In the Treaties, minorities had never been regarded as juridical persons, and to assume an obligation to consult them would entirely change the legal basis of the Treaties and even of the protection of these minorities by the Council. The result would be that the Treaties themselves would have to be revised and the signatory States might be compelled to assume new burdens. This would appear to be a serious consideration, for all questions concerning minorities had a delicate political aspect.

The proposal had also been put forward of submitting disputes to the Permanent Court of International Justice. In this connection, he would state that the question was settled in the Minorities Treaties and that any extension of the procedure in the direction suggested



would affect the basis of the Treaties and the rights of the Council, since the decision adopted would have to be of a general character.

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

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

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

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

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

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

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

When the latter demanded a satisfactory definition of minorities and when, to ensure their protection, he asked that precise rules should be drawn up which would conform, as Dr. Beneš had stated, to the terms of the existing Treaties, the speaker fully agreed with him. He also agreed with him if he desired the establishment, in accordance with the spirit of the League of Nations, of a procedure which would give full security both to the minorities themselves and to the State which ruled over them.

In his opinion, the more practical course was not to collect a large number of signatures but to lay down a general procedure which would be guaranteed by all States Members of the

League. If all the States signed a general convention, they would all share a special interest in relaxing the obligations in regard to minorities. It was not a bad thing that there should still be impartial States which considered the protection of minorities from the general humanitarian standpoint.

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

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

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

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

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

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

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

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

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

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

M. Dendramis proposed to answer the first question later.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Outside Europe, in other continents, the question of minorities appeared, moreover, in an altogether different light. In fact, it might be said that it was more a question of majorities placed under the domination of minorities. The Chinese delegation therefore asked the

Lithuanian delegation to accept the following amendment. Complete the last clause as follows :

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

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

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

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

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

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

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

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

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

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

M. Galvanauskas, therefore, maintained his proposal.

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

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

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

Dr. Beneš thought it advisable to call the Committee's attention to the difficulties which the Secretariat and the Council of the League had encountered in dealing with this question of minorities. Negotiations had been undertaken and pursued, and, in order to remove any

anxiety, he wished, and he was sure that the Committee would agree with him, to acknowledge the untiring work, the zeal and the efficiency of the Section which had conducted these negotiations under the able guidance of M. Colban.

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

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

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

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

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

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

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

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

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

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

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

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

M. GALVANAUSKAS withdrew his proposal.

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

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

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

M. DE JOUVENEL proposed the following text :

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

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

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

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

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

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

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

*The proposal was adopted.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

*The report with this amendment was adopted.*

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

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

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Count APPONYI (Hungary) :  
.....

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

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

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

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

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

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

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

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

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

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

**M. GALVANAUSKAS (Lithuania) :**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

. . . . .

THE PRESIDENT :

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

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

THE PRESIDENT :

The Rapporteur will address the Assembly.

Count VAN LYNDEN VAN SANDENBURG (Netherlands), Rapporteur :

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDENT:

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

Count APPONYI (Hungary):

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

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

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

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

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

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

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

**THE PRESIDENT :**

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

**M. HYMANS (Belgium) :**

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

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

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

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

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

**M. Henry DE JOUVENEL (France) :**

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

**THE PRESIDENT :**

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

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

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

*The resolution was adopted.*

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

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

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

M. DE MELLO-FRANCO read the following report :

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

*The Council adopted the report.*

### Annex.<sup>1</sup>

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

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

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

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

<sup>1</sup> Annex 885 to the Minutes of the Fortieth Session of the Council.

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

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

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

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

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

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



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

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

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

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

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

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

M. URBUTIA read the following report:<sup>1</sup>

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

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<sup>1</sup> Document C.265.1928.I.

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

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

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

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

“ Having been informed by the Secretary-General of this decision, the Lithuanian Government, in a letter dated April 25th, 1928,<sup>1</sup> relying upon Section 1, paragraph 2, of the Council resolution of September 5th, 1923, requested the inclusion in the Council agenda of:

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

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

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

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

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

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

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<sup>1</sup> Document C.202.1928.I, page 19.

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

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

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

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

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

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

" There is no doubt, therefore, that the petition does concern the protection of minorities. I do not see how we can share the view expressed in the Lithuanian Government's letter of January 24th, 1928,<sup>1</sup> that a minority must have the two following characteristics : '(1) It must belong to the country permanently — *i.e.*, by origin ; (2) it must be sufficiently numerous to constitute an appreciable percentage of the country's population'. The condition of origin is not laid down in the Declaration of May 1922, which is expressed in general terms without any discrimination of this kind ; it does not distinguish between citizens by origin and persons who have become citizens, for example, by marriage or naturalisation. Again, the Declaration lays down no rule regarding the numbers of those concerned : minority protection is expressly granted to 'all Lithuanian nationals' (Article 4, paragraph 1) and to 'any Lithuanian national' (Article 4, paragraph 3) ; it is also stipulated (Article 4, paragraph 2) that, 'differences of religion, creed or confession will not prejudice any Lithuanian national'. Further, when importance is attached in the Declaration to the number of the beneficiaries, this is formally stated, as in Articles 6 and 7, which deal with the allotment of public funds for educational purposes.

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

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

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

<sup>1</sup> Document C.202.1928.I, page 9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*The proposal was adopted.*

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

*This proposal was approved.*

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

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

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

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

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



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

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

*The proposal of the President was adopted.*

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

M. URRUTIA, Rapporteur, read the following report :<sup>1</sup>

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

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

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

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

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

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

*The Council noted the opinion of the Committee of Jurists.*

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

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

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

M. ZALESKI, Rapporteur, read the following report<sup>2</sup> and draft resolution :

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

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<sup>1</sup> Document C.473.1928.I.

<sup>2</sup> Document C.314.1928.VII.

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

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

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

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

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

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

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

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

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

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

“*Resolution :*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*The resolution was adopted.*

M. Politis and M. Mehdi Frasheri withdrew

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## 10. DISCUSSION CONCERNING THE RESOLUTION OF JUNE 13TH, 1929 (RESOLUTION OF MADRID).

EXTRACT FROM THE MINUTES OF THE FIFTY-THIRD SESSION OF THE COUNCIL —  
MEETING HELD ON DECEMBER 15TH, 1928.

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M. DANDURAND said that, during the present meeting, the Council had listened to a very interesting discussion on the application of the Germano-Polish Convention. Further, a rather important debate had taken place at the last session of the Assembly in regard to the application of the Minorities Treaty.

He wished to notify the Council that he would raise the question of the procedure to be followed in regard to minorities petitions at the next session of the Council.  
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Dr. STRESEMANN. —

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For this reason I was glad to note that the Canadian representative has announced his intention of asking for an exhaustive discussion of the minorities question.

and of the terms governing the bringing of petitions before the Council. I cannot in any way share the views that have been expressed by the Polish representative, not only as regards the minority in Upper Silesia, but as regards the rights of minorities in general. I may say quite definitely that, were the League to endorse his opinion and were it to cease dealing with the rights of minorities, it would be losing one of the reasons for its existence and would cease to represent for some States the ideal which induced them to join it.

In order to clear up these various questions and to elucidate the facts of the situation, as well as the legal considerations involved, I may say here and now that I shall ask to have placed on the agenda of the next session of the Council the entire minorities question in order that it may be discussed in all its detail and may not simply be taken as an annex to a particular question like the school problem.

The PRESIDENT. — The discussion which we have just heard has led us somewhat far from the problem which we were examining before, and, in particular, from the reports submitted by our Japanese colleague. Those reports contain a meticulous investigation of the question before us and have received the approval of the Council.

It would be unfortunate if a bad impression were to subsist at the moment of the Council's dispersal and if observations that have been offered were to result in any misinterpretation on the part of public opinion. I wish to say as clearly as possible that there can be absolutely no ground for assuming that, in any possible way, the League of Nations or the Council can at any time in the future become indifferent to the sacred cause of minorities. That cause is one of the fields of the League's activity with which we are bound in honour to deal whenever our notice is drawn to it. It is a field which we survey, if I may say so, with the conventions in our hands — those conventions that have consecrated the rights of the minorities.

Whatever explanations may be exchanged between us, therefore, it is certain that at no time can there be any possibility of our becoming indifferent to the sacred rights of minorities. The truth of that has been shown to-day by the large number of cases that have been brought before the Council, by the scrupulous attention with which the Rapporteur has examined the questions involved and by the care he has taken to investigate the most minute details with the constant desire to submit satisfactory solutions. Our Rapporteur has discharged this arduous task in a way which deserves our unanimous congratulations and our thanks.

It may, perhaps, be desirable to find more expeditious procedure, but in any case — I wish to say this with particular emphasis and I am sure I am voicing the feelings of the entire Council — the rights of the minorities will not be disregarded. Every time that the League and the Council are required to deal with a question bearing on their rights, there is no doubt that the matter will be considered with the deepest respect for the interests in question, and that the organs of the League will endeavour to discharge their duties to the satisfaction of those concerned.

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EXTRACT FROM THE MINUTES OF THE FIFTY-FOURTH SESSION OF THE COUNCIL —  
MEETING HELD ON MARCH 6TH, 1929 (MORNING).

M. DANDURAND submitted the following memorandum :<sup>1</sup>

“ The Council has more than once considered the procedure to be followed in the discharge of the duties entrusted to it by the Treaties with respect to the protection of minorities.

“ It may be well to re-examine this question in the light of experience.

“ In interpreting these Treaties, the Council has laid down that the minorities have no legal personality enabling them to submit their complaints direct to the Council, but that all that they can do is to forward individually to the Members of the Council information on the basis of which one or more of those Members can refer the complaint to the Council in their own names.

“ This view was based on the following text :

“ ‘ [The country concerned] agrees that the stipulations in the articles [in question], so far as they affect persons belonging to racial, religious or linguistic minorities,

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<sup>1</sup> Document C.51(1).M.36.(1).1929.I.

constitute obligations of international concern and shall be placed under the guarantee of the League of Nations . . . [The country concerned] agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.'

" Had this narrow interpretation of the Treaties been in no way modified, it would have been the duty of every Member either to forward the information automatically to the Council or to make a preliminary enquiry on his own account.

" Before a Member can act, he must necessarily receive information from the complainant. All the Members of the Council may receive the same complaint, in which case they are all equally obliged to ascertain whether it is well founded.

" The Council took the view that the duty of each Member became the duty of the Council as a whole, and agreed that the information should be received by the Secretariat, and that a Committee of Three should be set up to examine the allegations made. The Secretary-General, in a note submitted to the Council on June 10th, 1926,<sup>1</sup> explains the relations between the petitioner on the one hand and the Secretariat and the Council on the other. The substance of this note is set forth below.

" The Secretariat gives an entirely formal acknowledgment of receipt of the petition, and does not state whether it has been held to be receivable. If the petition is held by the Secretariat to be receivable, it is communicated to the interested Government for observations, and is circulated to all the Members of the Council. The President then calls upon two of his colleagues to examine the documents with him. If the question is then referred to the Council by the Committee of Three, all the documents relating to the case are accessible to the public: but, if this procedure is not followed, the petitioner is not informed of the contents of the observations of the interested Government on his petition, either by the Committee of Three or by the Secretariat. If the Minorities Committee (the Committee of Three) does not refer the question to the Council, the matter rests there, and the Secretariat does not inform the petitioner of the result of his petition.

" This procedure has not given satisfaction to the minorities, which never cease protesting through all the channels at their disposal. Although the method has yielded good results, it leaves the minority under the impression that its case has not been heard and that it is being victimised by the inaction or indifference of the Council. The minority complains, but is left ignorant what action, if any, has been taken on its representations. Its complaint is generally referred to its Government, but the latter's reply is never communicated to the minority.

" Quite possibly, in nine cases out of ten the complainant is in error; but, as this is not made clear to him, he preserves his grievance and loudly proclaims his discontent. That is not what the framers of the Minorities Treaties intended. Their object was to calm the atmosphere and establish harmony in the newly constituted or reconstituted States.

" The Assembly and the Council have accepted the trust of enforcing the minority rights which are embodied in certain Treaties.

" M. Briand, as President of the Council, expressed the feeling of all his colleagues when he said last December that the interests and rights of minorities were sacred and would never be disregarded.

" The Treaties do, indeed, lay down that every Member of the Council shall have the right 'to bring to the attention of the Council any infraction or any danger of infraction'; but what Government will be willing to conduct an enquiry in the territory of another State? And why should one Government do so rather than another? Which country is in the best position to know what is going on beyond its frontiers? Surely the neighbour whose former nationals the complainants probably are. Along most of the frontiers in Europe there is an intermixture of races. Is it in the interests of the League that such interference should occur? Was it not intended to entrust the Council with the duty of preventing any such interference by a foreign Government?

<sup>1</sup> See Minutes of the Fortieth Session of the Council, Annex 885.

" In more than one quarter the establishment of a permanent Minorities Committee has been advocated, but I propose to put before you a different solution.

" Whatever anyone may have said or thought, minorities will not cease to exist in any country where they form a considerable group. They will permanently retain their language and religion without their loyalty being in the least impaired. The problems caused by their presence in the nation will decline in importance and will ultimately be settled in so far as a benevolent and generous spirit is forthcoming to settle them. This is the only means by which national unity will be achieved—not in the assimilation, but in the diversity of races and cultures.

" These minorities owe to their countries and Governments duties which they should hold as sacred as their rights.

" It is on the basis of the obligations and rights of the citizen in the State that I desire to put before the Council another formula for dealing with minority complaints. This procedure has been suggested to me largely by a memorandum from the delegation of the Polish Government dated August 22nd, 1923.<sup>1</sup>

" The Treaties have given the minorities a right to appeal to the Council, but it was not their object, and should not be their effect, to loosen the bonds which unite all nationals to the State. Not one of the signatories of those Treaties can have been intended to allow a complainant to appeal to an international tribunal before laying his complaint before his own Government.

" This is the assertion made in the Polish proposal. It is asked that every individual or collective petition from persons belonging to racial, religious or linguistic minorities should be submitted to the League through the interested Government.

" The arguments given in favour of this view are formulated in the following terms :

" ' 1. Any action taken by the local administrative authority by which persons belonging to minorities may regard their rights as being infringed would be immediately made known to the local authority, which would thus be enabled to satisfy without delay the legitimate grievances of the persons concerned.

" ' 2. The minorities would have an assurance that the central authority would not fail to consider their position, and they would not seek to obtain support from any foreign Government, but would take up a loyal attitude to the State.

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

" The consideration of these petitions concerns all Members of the Council in an equal degree.

" The reproach has been levelled against the Committee of Three that it is the only section of the Council that considers these complaints. It has also been criticised because it could not give sufficient time to their consideration and had not sufficient evidence before it.

" The Netherlands representative, M. Beelaerts van Blokland, is not the only one who has observed that the delegates to the Council, being too much absorbed in their work, are frequently obliged to send substitutes to the sessions of these Committees of Three, which sit simultaneously with the Council. The composition of these Committees varies constantly, and their members gain only a sketchy and casual knowledge of the questions with which they are called upon to deal.

" For all these reasons I suggest that minority complaints should be referred to a Committee of the Council which will meet for that special purpose. The delegates to the Council will be able to appoint substitutes, as was done in virtue of the resolution proposed by M. Beneš in October 1924, whereby the Council went into committee to draw up the programme of the preparatory work for a Conference for the reduction of armaments.

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<sup>1</sup> See *Official Journal*, September 1923, page 1071.



“ The procedure I propose will have the advantage of bringing the minorities into closer touch with their Governments, leading to a settlement of many difficulties, and dispelling many misunderstandings by ordinary normal methods.

“ The number of disputes submitted to the Council will decline, and the files sent in will be more complete, because the parties will have exchanged their views as regards both the facts and the law.

“ The Council will probably wish to form this Sub-Committee in such a way that its members may be able to specialise on minorities questions.

“ I have the honour to move the following resolution :

“ ‘ Petitions concerning racial, religious or linguistic minorities, whether individual or collective, of a country which has signed a Minorities Treaty, and originating either in that State or outside it, must be addressed to the Government concerned, with the request that it forward them to the Secretariat of the League of Nations within thirty days of receipt, if the Government does not feel it desirable to reply to the petitioners direct.

“ ‘ If the Government fails to satisfy the complainants, the latter, having received its reply, must give their reasons for maintaining their claims, and may at the same time request the Government concerned to forward all the correspondence which has been exchanged to the Secretariat of the League of Nations within thirty days of receipt of their final reply.

“ ‘ The Government must comply with this request and inform the petitioners that it has done so. It will at the same time communicate to them any additional observations it may think fit to add to the file.

“ ‘ If, within forty days following their request that their complaints and the whole of the file be forwarded to the Secretariat, the petitioners do not receive notice that this has been done, they may themselves forward to the Secretariat of the League duplicates of the documents forming the file, or simply their complaint alone, should they have received no reply from the Government.

“ ‘ In an exceptional case of extreme urgency, the petitioners may, in addressing their petition to the Government concerned, inform that Government that a copy of the petition has been addressed at the same time to the Secretary-General. The latter may take the steps laid down in the procedure now in force for urgent cases.

“ ‘ In order to be considered by the Council, such petitions must conform to the following conditions :

“ ‘ (a) They must concern the protection of minorities as provided in the Treaties ;

“ ‘ (b) In particular, they must not be presented in the form of a demand for the rupture of the political ties between the minority in question and the State of which it forms part ;

“ ‘ (c) They must not come from an anonymous or insufficiently specified source ;

“ ‘ (d) They must be expressed without violence of language ;

“ ‘ (e) They must contain information or state facts which have not recently formed the subject of petition to the Council.

“ ‘ Should the Government concerned contest for any reason the receivability of a petition, the Secretary-General will lay the question of receivability before the Committee of the Council, as constituted below, which may, if it thinks fit, appoint a Sub-Committee to make a preliminary examination of this question.

“ ‘ To examine these petitions and the documents accompanying them, as described above, the Council decides to form a Committee, composed of all the Members of the Council or their substitutes.

“ ‘ Special meetings of this Committee will be held on dates to be fixed by the Committee itself.

“ ‘ In investigating those petitions, the Committee of the Council may, if it thinks fit, refer the question to the Council, which will deal with it in such manner and will give such directions as may seem proper and effectual in the circumstances of the case.

“ ‘ If neither the Committee of the Council nor any member of the Committee makes a report to the Council, the Committee shall decide in what cases and under what conditions a public communication shall be made.’

“ The procedure I am proposing to the Council does not in any way modify the principles already laid down.

“ I am well aware that certain countries which have by treaty accepted the Council's intervention in the treatment of minorities are inclined towards a restrictive application of this right, since they regard it as an encroachment upon their sovereignty *vis-a-vis* the other nations.

“ These countries should not forget that they have thus contributed to the establishment in the world of new customs which will be regarded as an honour to the twentieth century.

“ I need only recall the rivalries which arose when the ecclesiastical principalities in Germany were being secularised and when their partition was being discussed on the basis of the amounts paid by the tax-payers. In 1802, the peoples had only the right to toil, and not the right to think. Are not the signatories of the Minorities Treaties obliged, at least morally to respect the same principles, and were not these principles unanimously accepted by the Assembly in 1922 ? ”

With regard to the resolution proposed by M. Beneš in 1924 whereby the Council went into committee to draw up the programme of the preparatory work for a Conference for the reduction of armaments (see above), M. Dandurand observed that, if he were not mistaken, this general Committee of the Council had included other experts and that it had sat for more than two years.

He added that, in submitting these proposals to the Council, he had been actuated by a sense of justice and by a desire to do his duty towards the League of Nations.

In many countries, public opinion was uneasy and confidence was shaken. Without doubt, the League had in the past accomplished good work, but the atmosphere of mystery and of silence in which minorities petitions were investigated encouraged the belief that the League was not carrying out fully the obligations incumbent upon it.

To dispel all doubts and to remove any semblance of justification for fears which had been so often expressed, Canada was endeavouring, in a spirit of complete disinterestedness, to contribute to the solution of the minority problem.

In conclusion, he wished to emphasise the importance he attached to enlarging the Committee of Three. He did not propose that its powers should be extended, for he appreciated the fact that a Member could not be bound to lay a complaint before the Council. He felt, however, that the least which the minorities were entitled to expect from the Council was that all its Members should be in a position to acquaint themselves with the facts.

Dr. STRESEMANN. — Mr. President, — During this year, the League of Nations will bring to a close the first ten years of its work. Looking back over this period, it is impossible to apply to the time which has elapsed since the war the same standard as applied to other epochs. The changes which have shaken the lives of States and of peoples have been so profound, and evolution in the social sphere within the boundaries of every State has been so great, that the events of these ten years have given rise to problems which at other periods of the world's history would have required a whole generation in which to develop. It would be taking up too much of your time to retrace the entire history of this post-war epoch, and to explain all that it has meant in the life of the peoples of the world. As regards, however, the question with which we are dealing to-day, some currents of opinion have become apparent in the League of Nations which show us that the question is being asked within the League itself, as well as outside, whether the ideas of the founders of the League are still viewed in the same light as when they were first expressed.

During the course of the last session of the Assembly, it could be inferred from the speeches of some delegates that the moment had come in the development of the activity of the League when it would be useful to look back on the manner in which the problem of minorities had

so far been treated. On the basis of experience gained, we must, therefore, try to discover whether those organisations of the League whose duty it is to carry out this great and important task are moving in the right direction, or whether it is advisable to take fresh decisions in regard to certain aspects of the problem.

Since these suggestions were first made at the Assembly in September last, they have taken a more definite form in the very important proposals which the representative of Canada has set forth in his interesting memorandum and which he has explained in the speech to which you have just listened. I myself felt some anxiety regarding this matter, and asked myself whether we were not running the risk of inadequately putting into practice an idea of very great importance. This preoccupation led me to state, at the last session of the Council, that it would be desirable to examine the question of principle as regards the attitude which the League of Nations has adopted towards minorities. It is not my intention here to emphasise the fate and conditions of life of certain minorities in any particular country, for the present discussion concerns the principle involved. What is important for me is to describe the situation resulting from the treaties and declarations in force, from the guarantee entrusted to the League of Nations and from the rights and duties which the League must exercise and fulfil as the result of such a guarantee.

It is unnecessary to ask which is the primary and which is the secondary of the two aspects of the question—procedure or principle. The procedure and the details connected with it naturally reflect the attitude which the League of Nations has adopted towards the principle. Further, any attitude adopted towards the principle obviously implies the possession of the means necessary to achieve in practice the object in view in order that the noble idea, instead of being lost, may be firmly based on reality, and that those peoples who have been so often deceived in their hopes should not be forced to adopt an attitude of disillusionment or scepticism and, perhaps ultimately, of despair. Is it not the duty therefore of the League of Nations to show mankind at large that the life of peoples is subject to evolution, and that there is a forward movement which neither resignation nor pessimism can hinder? Do not forget that this resignation, this pessimism, is never more strong than when there is a flagrant contradiction between the promise and the performance.

As a matter of fact, the problem of minorities usually comes before Members of the Council merely in the form of questions of detail and of the particular wishes of a special group of persons which, at first sight, seem only to be of secondary importance, and which perhaps only affect the lives of a small number of human beings. Comparison with the other general duties of the League of Nations might give rise to the impression that the Council had to occupy a disproportionate amount of its time in dealing with matters which should be settled by some less authoritative organisation. There is in this a danger, which I might describe as psychological, which can only be eliminated if the Council realises to the full that, even in the most insignificant cases, it is faced with symptoms or with the effects of a situation of great importance from the international point of view. My colleagues on the Council will probably agree with me when I say that the examination of special cases must always be based on the great and fundamental ideas, in virtue of which the contractual stipulations in force have been included in the international statute of law, and in virtue of which the guarantee of the League of Nations has been established.

I cannot better describe these fundamental ideas and their essential importance in connection with the present structure of Europe than by referring to the Note submitted in 1919, of which you are all aware, and in which the representatives of the Allied and Associated Powers stated clearly and definitely the motives and objects of the first convention concerning minorities. The minority system, the Note states, is a necessary consequence constituting an essential part of the new system governing international relations inaugurated by the establishment of the League of Nations. Under the old system, the guarantee that regulations of this nature would be enforced was vested in the great Powers. Experience has shown — I am still quoting from the Note — that this was not feasible in practice. For that reason, in the new system the guarantee was vested in the League of Nations. To-day, the Powers are faced with an entirely new situation, and experience has shown that new provisions are necessary. The territories ceded by the terms of the Treaties of Peace — I am still quoting from the Note — include numerous populations speaking languages and belonging to races different from that of the people with whom they were incorporated. Long years of fierce hostility had caused the most serious divisions between various races. These populations

would more easily become reconciled to their new situation if they knew from the beginning that they would receive the necessary protection and guarantees against any danger of unjust treatment or of oppression. The mere knowledge of the existence of such guarantees would materially aid that reconciliation which was universally desired.

I have merely to add to this quotation from the Note a passage from the fundamental report submitted to the Council in 1920 by its Rapporteur — a report which forms the basis of the entire procedure which the League applies to minorities — to show clearly that the meaning and object of the great responsibility entrusted to the League had at that period been fully understood in its essential points. That report defined the guarantee as one which necessarily maintained intact the provisions relating to minorities and as one which imposed upon the League the duty of ensuring that the regulations concerning the protection of minorities are invariably applied.

When I remember these fundamental principles and contrast them with actual practice. I cannot but feel that theory and practice have not always walked hand in hand. In any case, we cannot forget the undoubted fact that this impression is dominant in the minds of the minorities themselves, and that as a result they have grave fears as to the future of their civilisation. It is easily understood that the disappointment which they have had to endure has expressed itself in strong criticism of the organisations of the League. This is not the first time that such criticism has led to long discussion within the League itself. It appears, however, that every effort made to remedy the existing shortcomings has encountered basic objections which might cause public opinion to believe that the League desires to deviate from the principle which forms the basis of the protection of minorities.

I cannot refrain at this point from referring to the statement made by a former Rapporteur to the Council in 1925. That statement had a considerable effect, as did also the Council's discussion which followed it. In that statement, and in the discussion, certain fundamental views are to be found regarding the object of the provisions for the protection of minorities and the guarantee exercised by the League of Nations. These views can be interpreted as meaning that such provisions are intended to some extent to cover a kind of transition period before the final disappearance of minorities as such — that is to say, to cover the period up to the time when the minorities would be absorbed by the majority of the population of the State to which they belonged. If these declarations must really be interpreted in some way as a theory of assimilation — as certain observations made at later sessions of the Council might lead me to believe — I, at any rate, should be compelled energetically to oppose such a view. A theory of this kind is contrary to the idea — which was definitely put forward when the new system was instituted — that the protection afforded to minorities is of a permanent nature and not merely something which covers a transition period instituted in order to overcome temporary difficulties.

In this connection, another point of principle arises. At the moment, the existing procedure is confined to dealing with petitions addressed to the League. No institution or procedure exists, apart from petitions, for putting into operation, in a general manner, the guarantee entrusted to the League. There can, however, be no doubt that that guarantee cannot be limited to settling concrete cases in which the actual or threatened violation of the rights of minorities has been brought to the knowledge of the League of Nations.

The fundamental report of 1920 to which I have already referred explicitly states that it is the duty of the League of Nations to assure itself that the provisions for the protection of minorities are constantly applied. This idea has perhaps also inspired certain suggestions for the establishment of a Permanent Minorities Committee. It seems to me in any case necessary to take into account the way in which the League of Nations may keep itself continuously informed as to the situation of minorities.

The provisions for the protection of minorities imply a duty which it is neither impossible nor beneath the dignity of a Sovereign State to fulfil. The fact of belonging to a minority and the special position resulting from that fact are certainly in no way incompatible with the accomplishment of the duties of a loyal citizen towards his State. This being so, it equally follows that the interest taken by a country in the minorities of another country, an interest which may take the form of an appeal to the guarantee of the League of Nations, cannot be regarded as an inadmissible political interference with the domestic affairs of a foreign Power.

I am well aware of the political considerations which are urged against the ideas which I have just developed. It is said, for example, that the rights of minorities may have the

effect of supporting a movement which is directed against the integrity of the State and that it may lead to an irredentist agitation. Frankly, I do not think that we have in the present century established a condition of affairs which is eternal, and that idea is very clearly expressed in the Covenant of the League of Nations. These, however, are considerations which have nothing to do with the question of minorities to which our attention is now devoted. It is quite a mistake to say that, in supporting the rights and the educational liberties of minorities, use is being made of a weapon with which to break up States. The peace between nations will be all the more stable in proportion as the appeal of minorities threatened in their cultural life is less widely reflected in the public opinion of the world. Anyone who works in defence of the rights of a man to his mother tongue, and of the maintenance of his race and religion, without prejudice to nations or frontiers, is working at the same time for the maintenance of peace, and not with a view to provoking excitement and violence. States composed of several races and cultures, sometimes of recent creation, will lose nothing of their importance or prestige by offering an example in this field. I would refer in this connection to the fortunate country in which we are at present meeting, where, in spite of differences of race, language and religion, love of a common country, which has become rooted for many centuries among the people, has never been disturbed.

What methods must the League of Nations adopt, in conformity with existing treaties and guarantees, in order to attain the object which we have in mind?

I have already referred to the necessity of forming a clear idea of the way in which the guarantee may be realised even outside the sphere of petitions.

As regards the treatment of petitions themselves, M. Dandurand's memorandum emphasises that the procedure followed by the Council, the essential point of which is the institution of Committees of Three, gives rise among the petitioning minorities to the impression that their grievances are not heard and that they are the victims of the inactivity or indifference of the Council. This impression is due to the fact that the minorities learn nothing of the steps taken to deal with their complaints and, above all, remain ignorant of the attitude adopted by their own Governments. This is one of the principal shortcomings of which the minorities have unanimously complained for a long while. The means by which M. Dandurand endeavours to overcome this difficulty are extremely interesting and deserve our most careful attention. I should be happy to contribute to a settlement of this question by explaining in outline my own ideas on this matter. Those ideas point in the same direction as M. Dandurand's.

At the time of their institution, the Committees of Three were entrusted with the task of facilitating, on behalf of the Members of the Council, the carrying out of their duties and rights towards minorities. By means of the work of the Committees, the Members of the Council were to be enabled to decide whether there was or was not good reason for acquainting the Council with an infraction or danger of infraction of any provision for the protection of minorities. In practice, the system has worked in such a way that the whole procedure has been confined to a discussion within the Committees, and those Members of the Council which were not represented on the Committees were not informed of what was taking place. It seems to me that one of the logical consequences of the reason for which the Committees were appointed was that, in any case, the Committees would submit the result of their work to the Council in order that the latter might really decide whether it desired to proceed with the matter or not.

Moreover, some means must be found of keeping the minorities informed of what is being done with their petition during this phase of the procedure. If it is not considered possible to communicate directly to the minorities the result of the examination which takes place in the Committees, the object in view might, without disadvantage, be achieved by giving a greater publicity to the procedure as a whole. It might, for example, be considered whether it is not desirable to annex to the annual report submitted to the Assembly on the work of the Council a summary of all the petitions received and dealt with by the Committees. The publication in the *Official Journal* of the League of Nations of the reports submitted to the Members of the Council to which I have just referred might also be contemplated.

It would, moreover, be extremely useful, in my opinion, to hasten the procedure before the Committees. It is true that it would be difficult in the majority of cases to call these Committees between the sessions of the Council. It might, however, be possible to hasten the settlement of petitions during the period between the sessions of the Council by subjecting

them to a preliminary examination which would be entrusted to representatives of the principal delegates.

It seems to me necessary, moreover, to consider whether the work of the Committees might not be rendered more effective if the Committees were not only to get into touch with the Governments of the countries of the minorities in question but were also able to ask the authorised representatives of the minorities themselves, or other competent experts, to furnish them with complementary information in cases where the Committees might think it useful to do so.

It has on previous occasions been urged in objection to such proposals, which contemplate participation of the minority in this procedure, that such participation, beyond what is contemplated in the treaties and declarations in force, would set on foot a controversial procedure as between the minority and its Government. Whatever value may be attributed to that would objection, it cannot be applied to a simple request for information which be made on the initiative of the Committees.

The representative of Canada desires that the Committees should be enlarged and modified so that all the Members of the Council might be represented on them. I think it is essential to follow up this idea. In any case, the possibility should be considered of strengthening the Committees of Three, perhaps according to the degree and importance attached to each particular case. In this respect it is, in my opinion, necessary to consider again the decision taken by the Council in 1925, in accordance with which the participation of the Members of the Council in the Committees is subordinated to certain definite conditions. I am well aware that I am touching on what certain people may consider a delicate point. I think, however, that I am serving the cause which we all have at heart by expressing my views frankly.

The reasons underlying the decision of the Council are apparently based on the idea that certain Members of the Council, owing to their relations with certain minorities — relations which are defined by the decision in question — cannot always be regarded as absolutely impartial, and any appearance of a lack of impartiality must be avoided. If I had taken part in the discussions which led to this decision, I should have opposed it, even though I fully realise the importance of the reasons on which it was based. Without desiring to insist on the fact that the competence and knowledge of the Members of the Council in question might be of the greatest use, it seems to me, in principle, inadmissible to deny to Governments which are thought worthy to be permanent or temporary Members of the Council confidence in their impartiality. I think that in many cases the participation of the Members of the Council at present excluded would contribute essentially in helping the Council in the discharge of the high mission entrusted to it under the provisions for the protection of minorities, which consists in removing misgivings which are politically dangerous and in establishing peaceful relations between the countries concerned.

Why should we not trust in the discretion of the President of the Council for the appointment of the members whom he desires to see participating in each special case in the Committees, which are entrusted with the previous examination of minorities questions? This seems to be all the more necessary, as the votes of the Members of the Council who would eventually be excluded retain in every case a decisive importance in dealing with the question in the Council itself.

I think it, moreover, my duty to remind you of another scheme to which I briefly referred and which played a certain part in the discussions of the last session of the Assembly — namely, the establishment of a Permanent Minorities Committee. This idea is of so much importance that it needs to be carefully examined. Only a study of the questions of detail bound up with the carrying out of the scheme and, in particular, a study of the competence of such a body in relation to the work of the Council itself will enable us to take a decision in this matter.

Whatever may be the form which we give in future to this procedure, we are all aware that even a system of regulation which seems to offer every imaginable technical perfection will only be of service if it is governed by a clear and precise conception of the object for which the guarantee of the League of Nations was designed and of the spirit which should inspire the carrying into effect of that guarantee.

The conditions which I have just laid down lead me to the following conclusions : That which I desire to attain and which I recommend to the serious examination of the Council is, first, a careful study of the existing possibilities for an improvement of the procedure applied to petitions. Secondly, I would ask that the participation of certain interested nations should be considered instead of their exclusion as hitherto. Thirdly, it is necessary to examine in what way the League of Nations can accomplish its duties as a guarantor outside the sphere of petitions. Finally, I think it of importance that the principles of the guarantee assumed by the League of Nations should be elucidated in the spirit which I have just indicated. I quite realise that this is too great and too important a task for us to be able to settle it finally during the present session of the Council. We must, however, make a beginning with this task. It seems to me that the best way of dealing with it would be the appointment of a special committee of enquiry. The committee should be composed with a view to giving it the authority and competence necessary for its object. It should afford the possibility of giving due weight to all aspects of the problem. If we give sufficiently precise instructions to such a committee it will certainly be able, within a reasonable period, to achieve results which may constitute a useful basis for the final discussions upon which we shall subsequently have to embark.

Fears have been expressed on the part of public opinion that these discussions may inaugurate a conflict between two opposed theses within the League of Nations. I do not share that view. The League of Nations would be untrue to its purpose if it abandoned the principles which formerly guided it, when it accepted the task of guaranteeing the rights of minorities.

I was glad to note that the representative of France, at the December session of the Council, impressively and solemnly endorsed the principles which govern the protection of minorities. I would add that I do not admit in this question any distinction between interested and disinterested nations. The problem with which we are dealing is a problem which necessarily concerns the League of Nations as a whole. If we review history, we shall see that there is in the life of nations a perpetual change in their relations. On many occasions dominion exercised by one nation has been followed by a period in which the members of its race and civilisation have been subject to the sovereignty of a foreign State.

It may be said that history endeavours to prove the truth of the saying of Goethe, who puts men, States and nations on their guard against the inconstancy of fortune. If I understand rightly the idea which inspired the creation of the League of Nations and the guarantees which the League has assumed for the protection of minorities, I should say that it consists precisely in the desire to relieve the strain quite naturally produced by new situations, and to effect this by a just treatment extending to men of another race, religion and language. The ideal towards which humanity is tending is the assurance of peace for all time, even though we may not share the belief that humanity will ever attain this ideal. We must do our utmost to create conditions favourable to such a peace. One of these conditions is peace between the various national civilisations. More effectively than by definite engagements and understandings, peace for all time may be assured by a regime of justice towards all those who claim the vital and elementary right which is theirs to speak their own language and to safeguard their faith and their souls.

*The discussion was adjourned to the next meeting.*

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MEETING HELD ON MARCH 6TH, 1929 (AFTERNOON).

M. ZALESKI. — Mr President, Gentlemen, — Before discussing the proposals of M. Dandurand and of Dr. Stresemann, I wish to make some preliminary observations.

As you are aware, no provision was made in the Minorities Treaties for the application of the procedure in its present form. It is a procedure outside those Treaties, established as an act of grace in the interest of minorities by common and voluntary agreement between the Council and the States which have signed Minorities Treaties.



It follows, therefore, that this procedure has been drawn up by the Council in agreement with the States which have signed Minorities Treaties, and that without the assent of those States such a procedure could not and would not have been put into operation.

Is it necessary for me once more to remind you that the States which have signed Minorities Treaties have, on numerous occasions and again quite recently, stated that it was impossible for them to agree to any change in the system at present in force which would impose fresh obligations solely upon those States ?

Since the idea that the Minorities Treaties should be a general obligation is at the moment encountering serious obstacles, and since the point of view of the States which have signed Minorities Treaties is well known, I think — without giving any of the many other reasons in support of what I have said — that the object of the discussion which is now taking place must, if it is not to be purely of academic interest, be to discover whether the proposals just made are in the nature of a new procedure, which will modify the existing obligations accepted by the States bound by the Minorities Treaties to which I have referred. In reading the report of the Committee of Jurists which was submitted to us this morning, I find the statement that the Committee is of opinion that the proposal (that is to say, the proposal of M. Dandurand) goes, in certain respects, beyond the present scope of the Minorities Treaties and declarations.

Consequently, I have the honour to ask you to appoint a Rapporteur who, with the aid of two of our colleagues, shall study this question and shall submit a report to the Council as soon as he is in a position to do so.

It is of set purpose that I have confined myself to making these few remarks, abstaining from any long comment upon the question of minorities in general. We are all deeply convinced that the defence of the legitimate interests of minorities is an act of justice. Despite the numerous difficulties and serious complications connected with the matter, the minority States have invariably directed all their efforts towards conciliation and agreement, and they have given most convincing proof of this by several times adopting a procedure which made it possible to apply more easily and more effectively the Minorities Treaties of 1919.

Nevertheless, allow me to remind you that the best way to help minorities is not to claim on their behalf ever wider privileges and more and more complete guarantees, but to try to make use of what already exists by endeavouring in every way to realise the main object of the Treaties — that is to say, to harmonise and to conciliate opposing interests and to grant to minorities such satisfaction as is legitimate and compatible with the interests of the State.

If we really desire the good of the minorities, we must try to do something that is useful, practicable and attainable. In examining a minorities question, we must not forget the possible effect of the feelings of the majority in the State, for it is only with their agreement that we can give useful and effective aid to the minorities.

The continuous action which has to be taken as a result of the complaints, more or less justifiable, excites public opinion and makes it sometimes less favourable towards the acceptance of the solutions demanded by the minority.

The advertisement which some wish to give to the examination of any minority complaint, the publicity which it is desired to give to any documents connected with the procedure being applied, may sometimes lead to an undesirable reaction in public opinion and obscure the main object of the Minorities Treaties, which is to achieve peace and concord among the various elements of the population.

May I make one last observation? I am aware that criticism of the present system is widespread, but I think this is due to the fact that the public in general only sees the negative side. It does not pay any heed to the positive solutions already achieved. Public opinion allows itself to be stirred by a more or less justified complaint, but it forgets that the number of persons making a complaint is infinitely small compared with the great mass which finds nothing of which to complain in the present situation.

Do not let us forget the magnitude of the task hitherto accomplished. Do not let us be hypnotised by certain details which are open to criticism. Before criticising the present system, let us compare the situation of the minorities, not with something which is ideal and therefore impossible to realise in practice, but with the situation of those minorities before the war.

These are the considerations which have led me to confine myself at this moment to putting forward the proposal which I have the honour to submit to you.



**M. TITULESCO.** — In the name of the Royal Government of Roumania, I have the honour fully to associate myself with the statements made by the Polish representative, and with his proposal to appoint a Rapporteur chosen by the Council and assisted by two of our colleagues to study the question whether the suggestions made to us do or do not exceed the obligations existing in virtue of the Minorities Treaties.

I reserve my right to speak again at a suitable moment, in order to make any observations which may seem to me to be necessary.

**Sir Austen CHAMBERLAIN.** — Mr. President and Gentlemen, — I desire in the first place to express my sense of the opportuneness of the initiative taken by the representative of Canada and the representative of Germany in opening a public and general discussion upon this question, and I hope that the result of our discussion will be useful to the countries concerned, to the minorities for whose protection these Treaties were signed, and to the Council itself in the general discharge of its duty.

None of us can be unaware of the many currents of criticism which have arisen in respect sometimes of the action of the Council, more often in respect of its alleged inaction, in the matter of the protection of minorities. I have had some experience of the work of the Committees of Three to which reference has so often been made. It is important to remember that the Committee of Three is a Committee which varies constantly in its membership. It is not composed of three Members of the Council, or of three States which have been chosen for all time, to examine these petitions, but it is composed of the President and two members, whom he associates with himself for the examination of a particular petition or petitions presented on the occasion of any one of our sessions.

I would ask you, in the first place, to consider the position of the Council itself, and in consequence of its Committee of Three, in relation to these matters. We are not dealing in this case with the general provisions of the Covenant of the League of Nations. We are not acting in pursuance of any article of the Covenant. The responsibilities which we are to discharge, the rights which we enjoy, whether they be greater or less, originate from the Minorities Treaties themselves, and the Council has no power to vary those Treaties or to go outside the limits which they indicate.

The Treaties contemplate that it should be the friendly right of any State Member of the Council to draw the attention of the Council to what it might consider to be an infraction of any of the Minorities Treaties. That was an invidious, a thankless, task to impose upon the individual States Members of the Council. We have not yet reached such a degree of solidarity in international affairs that any of us welcome even the most friendly intervention of another nation in what we consider to be our domestic affairs, and there was inevitably some danger lest an individual intervention by a particular Power, calling attention to what it considered an infraction by another Minority Treaty, should create disturbance, produce ill-will, even embitter the relations between the State which felt it its duty to bring the matter to the notice of the Council and the State of whose action it complained.

It might be feared, and I think the Council did fear, that this task was so great and so invidious that individual States Members of the Council might be unwilling to discharge it, and that, if we relied upon such individual initiative and on that alone, we might fail to watch over the Treaties as it was intended that we should do.

The Council, therefore, with the assent of the minorities States, made the arrangement which is embodied in the examination of these petitions and complaints by the Committee of Three; that is to say, instead of leaving it to each individual State Member of the Council to satisfy itself whether or not a condition had arisen which necessitated it individually to draw the attention of the Council to the matter, three members of the Council, chosen from time to time among our ranks, would undertake the duty of examining each petition, and if those members thought that it was necessary to bring a matter before the Council, they would jointly call the attention of the Council to it. By this means the dangers, the difficulties and the invidiousness of the individual intervention of a particular State would be avoided.

It should be noted, however, that, though the Committee of Three gives to the Council the satisfaction of knowing that every petition is carefully examined, that Committee can neither by its action nor by its inaction deprive any other member of the Council of the inherent right to take the initiative if he thinks fit to do so. The Committee of Three may see no ground for action of any kind after examining a certain petition. Nevertheless, it is within the right of every member of the Council, if he feels that he can assume that responsibility, to bring that

same petition to the direct notice of the Council, even though it has been rejected by the Committee. Similarly, in cases where the Committee of Three has either noted that satisfaction has been given to as much of the demand of the petitioners as it thinks reasonable, or where this result has been obtained by its own negotiations, so that it does not bring the petition to the notice of the Council, it is yet the right of every member of the Council, if he feels it compatible with the responsibility which he owes to that body, to declare himself to be dissatisfied with those private negotiations, and to bring the matter before the Council itself.

I think that the very fact that no member of the Council has thought it necessary to bring to the notice of the Council a petition which has not been brought before it by the Committee of Three is the justification before the Council and before the world of the care, the attention and the scrupulous fairness and sense of justice with which the Committee of Three, however constituted, has discharged the responsible duties placed upon it. I must say in this connection that those Committees have been singularly aided by that Section of the Secretariat which has been specially charged with the study of these questions. I have heard it said that the Committees decide upon insufficient information, that they have not the means of testing the allegations that are made or the reply which is offered. I do not believe that such criticisms would bear the test of careful examination, if indeed it were possible to examine such a question. The information which individual members of the Council may derive from their own particular sources is supplemented by the information collected by the Secretariat, and I at any rate, as a member of the Council, desire to declare my deep obligation to the Minorities Section of the Secretariat, and to M. Colban, who for so many years, and until quite recently, was at its head.

I believe, therefore, that, in the main, the work has been well done. I believe that, in the main, the purpose for which the Minorities Treaties were signed has been attained. I do not say that satisfaction has always been given. A petitioner whose petition is rejected is seldom satisfied; a Government whose action is criticised is not likely to be wholly content; but I believe that any impartial person having access to our proceedings would be satisfied that they have not merely been conducted with scrupulous fairness and with a great desire to see justice done, but that we have in fact achieved, in large measure, those purposes for which this system was initiated.

I should be curious to know, and perhaps it may be ascertained in such an enquiry as has been suggested, what number and what proportion of the petitions have been rejected *in toto* by the Committee, what proportion has been settled before they became the subject of enquiry by the Committee owing to the fact that the attention of the Government was called to a grievance by the presentation of the petition and its communication to the Committee, and in what further proportion, either in the Committee or as a result of its work, some arrangement has been reached between the parties concerned. I think that the two last cases, the petitions to which satisfaction is actually given by the Government before they come up for examination by the Committee and those for which satisfaction is obtained by the Committee, would cover, in the opinion of any impartial person, practically every case of solid grievance.

I do not want to say that the Committees have never made a mistake. It is not in human nature never to err. But I hope it will be remembered that the Committees have to consider the permanent interests both of the minorities and of the State, and the most permanent and the most important interest of both is that they should learn to live together in peace and amity, and that the need for recourse to petitions to the Council and for the intervention of the Council should in time cease because they settle their grievances between themselves and without the intervention of the Council.

I repeat, I do not pretend that we have never made a mistake. Neither do I wish for a moment to assert that our procedure is necessarily perfect or final. Two difficulties have been mentioned which I think are of some consequence and for which I should be glad to see a remedy found if that were possible.

First of all, there is a complete lack of information at the present time as to what, in fact, are the results of the examinations of petitions by the Committees of Three. Certainly, there are some dangers in connection with publicity against which we must be on our guard. There is the danger lest we should inflame passion where it is our duty to assuage it. There is the danger lest, in an excited state of public opinion in the locality in question, we should render

the position of the petitioners more difficult and even expose them to danger. Above all we must be our guard against making more difficult the settlement of disputes and the removal of grievances. The secrecy of our deliberations in the Committee of Three has at any rate had this advantage: that a Government could make a concession without any fear that in doing so it was lowering its dignity or authority in the face of nationals of its own State. It could make voluntarily, in the confidence of that confessional, confessions and undertakings which it could present thereafter to its own executive or legislative authorities as acts proceeding from its own volition, not dictated by any external authority and therefore more easily commended to a national opinion which was perhaps somewhat excited.

I have mentioned these dangers which surround any effort to make public our proceedings or even the results of our proceedings. Nevertheless, I hope it may be found possible to give a greater publicity in future than has been given in the past, because I believe that by this means a great deal of misapprehension will be removed. A great deal of uneasiness will be allayed and the stability of good feeling will be more assured.

The other defect in our present system of which we at this table must all be conscious, is the delay which often takes place before a final decision is reached regarding some complaint which we have been called upon to investigate. It is not easy to see how our procedure can be made much more rapid. Time must be given for the Government concerned to present its observations. Time must be given for the examination of the petition and of the reply; supplementary information is often required, and that again takes time to procure. But if we can find a way of expediting our procedure, at any rate in the simpler cases, I think that this will be an advantage and recognised as such by everyone.

Dr Stresemann, in the course of the very interesting statement which he made this morning, referred to a previous discussion of this question at the Council table. It was a discussion initiated by our former colleague, M. de Mello-Franco, who had taken the trouble to make a careful study of what I may call the history, not merely of the Minorities Treaties, but of minorities, and he submitted the result of his study and his reflections for the information of his colleagues. Dr. Stresemann referred to a passage in that declaration in which M. de Mello-Franco spoke of the purpose which underlay the Minorities Treaties and which had inspired their promoters and founders. Dr. Stresemann did not himself quote the passage, but I think I know the one to which he referred, and I propose to read it. I have permitted myself to retranslate the original French text because the English translation happens in this case not to be quite accurate. M. de Mello-Franco said:

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

In the subsequent discussion, I called attention to these words, which appeared to me admirably to express the purpose of the Treaties and the nature of the charge committed to the Council. I used in the discussion a word which was not quite appropriate:

“ The object of the Minorities Treaties, and of the Council in discharging its duties under them, was, as M. de Mello-Franco had said, to secure for the minorities that measure of protection and justice which would gradually prepare them to be merged in the national community to which they belonged.”

The word “ merged ” was unhappily chosen. I did not mean for one moment to suggest that it was intended that the cultural characteristics of the minority population should be submerged or abolished. I did intend to indicate, and I hold that this is vital, that the purpose of the Treaties was to make conditions in the minority countries such that the minorities could be and were loyal members of the nations to which they belonged.

Dr. Stresemann feared that M. de Mello-Franco and I regarded the Treaties as purely transitional, whereas they are in their nature permanent. I recognise their permanency, but

I cherish the hope, as I indicated at the beginning of my observations, that the need for having recourse to the Council will not be permanent, because in course of time the relations between the minorities and the States to which they belong will take on a character that renders any application to this body unnecessary and undesirable.

As I conceive it, the authors of these Treaties argued in this way. As a result of the Treaties of Peace, large populations have been restored to nations belonging to the same race as themselves. Owing to these measures, certain minorities of other races were inevitably transferred to a new allegiance. In the past, the oppression of a minority has been the occasion of great international bitterness. It has sometimes been the cause of war. It was felt that this new transfer of minorities should not become a source of oppression, and therefore a danger to the peace of the world in the future, and the minorities were therefore guaranteed certain rights which were expressed in the Treaties. Those rights were to be under the protection of the Council, and each Member State of the Council was given the right, as a friendly act, to call the attention of the Council to anything which that State considered to be an infraction of the Treaty.

The duty so conferred upon the Council is, as your predecessor M. Briand so solemnly observed, when he closed our last session, a sacred duty which the Council will never neglect. That affirmation cannot be made too strong, but there is something correlative to it which needs to be said. If the Government of a minority State owes definite obligations to the minority, so does that minority owe loyal allegiance to the State of which it now forms a part. The rights which it derives from the Minority Treaty are based upon the allegiance which it owes to the State of which it forms a part, and the rights of the minority cannot be separated from its obligations. The Council, when considering the one, must take into account also the other.

In this connection I regret one allusion, I think unnecessary for his purposes, which was made by the representative of Germany in his speech this morning. He remarked that finality was not human and that history taught us that change was apt to occur in human institutions, and he referred to Article 19 of the Covenant. Appeal can be made to Article 19 of the Covenant under the conditions named, whenever the occasion arises. But to cite Article 19 in connection with the Minorities Treaties can only make trouble. The article is not germane to the discussion on which we have embarked to-day. The Council will, I am confident, continue to do all that it can to protect the rights guaranteed to the minorities by these Treaties, but it will expect the minorities who appeal to these rights to come to it with clean hands, able to show that they have behaved loyally to the country of which they are a part and have borne true allegiance to the Government to which they are subject.

I agree with the representative of Germany and with others who have spoken, that this is too large a subject and raises too many delicate questions to be dismissed in a single Council discussion, however prolonged. I support the proposal made from more than one quarter that a Rapporteur shall be appointed and that, with the aid of colleagues, if such be his wish, he shall undertake a careful study of the whole question. I hope that to him and to his colleagues there may be left the widest latitude. I am thinking here of what the representative of Roumania said. This Committee would no doubt clearly distinguish in any report which it made between what is comprised in the Treaties and that which is outside the Treaties and to which the minority countries have already assented or which may require their assent before it can operate in the future. I hope that the enquiry which is to be conducted will be of the widest possible character and will give to this Council, and through this Council to the world at large, the fullest information both as to our obligations and their limits, as to our procedure and its results in the past and as to any suggestions for the improvement of that procedure which can be made for the future.

That is all that I wish to say at the present time. On particular issues of one kind or another I would wish to reserve my opinion until the Committee has reported so that I may have the benefit of the information that it will supply and of the judgment which it will make.

M. PROCOPÉ. — I wish to make some very short and modest observations concerning this serious and important matter.

The fact that the question of minorities in general, and in particular the procedure applicable to petitions based on the Treaties, has once more been brought before the Council has been welcomed with great satisfaction not only in the countries interested, but also in

those which have no direct interest in the problem. This question assuredly affects the League as a whole: it affects both those Members of the League who have undertaken engagements towards minorities and those who, as in the case with my own country, have no obligations under this head.

In the admirable speech to which reference has been made several times to-day, and by which the President of the last session, M. Briand, closed the discussions at Lugano, he referred to the rights of minorities as "sacred", and recalled the duties of the League and of the Council in their respect. Those words have had a wide echo throughout the world.

The protection of minorities and the corresponding duties which fall upon the Council undoubtedly constitute one of the most important aspects of the work of the League. Their duties are based directly on one of the fundamental principles underlying the whole work of the League — that is, to ensure the maintenance of justice in the relations between peoples. The question is, on the other hand, very complex, and cannot be settled rigidly and according to formula. That which in certain circumstances might be regarded as a great step forward may in other circumstances give rise to an unfortunate result. The question must, therefore, be studied while taking account of the existing possibilities, of the practical requirements, and, above all, of the other fundamental principle of the League which is to contribute to the good understanding and co-operation between nations.

It is not my intention to begin a detailed study of this question at the moment. We have listened to the admirable statements of the representatives of Germany and Great Britain. We have also before us the scheme proposed by M. Dandurand, and we have heard a number of very interesting observations and objections put forward by our Polish colleague. I think the Council has been a little frightened at the thought of entering upon a discussion on procedure. It has been said that the Treaties merely lay down certain principles, that we should not go beyond those principles, and, above all, that the result of our work must not be to extend the engagements already undertaken by the States. I fully understand this point of view. Once admitted, however, it must not prevent us from trying to set up the best possible procedure in existing circumstances. If principles have been laid down by the Treaties, if general lines for our guidance have been embodied in those Treaties, we must find a procedure capable of putting them into practice, otherwise the principles will remain a dead letter.

The scheme of M. Dandurand has only been before us for a few days. It would certainly be rash to give any opinion on the new system suggested by the representative of Canada until it has been studied in greater detail. I think that our colleague has not put forward this system as a definite proposal, but rather as a basis of discussion.

After having made these reservations, may I say that, in my view, this scheme contains in certain respects great advantages and makes considerable progress possible? The scheme is based on three fundamental principles. In the first place, greater publicity must be afforded. Secondly, the preparatory study of petitions must be reorganised. Finally, a rule must be adopted to the effect that any minority petitions must in the future be forwarded to the League through the Government concerned, which will thereby have the opportunity, if it so desires, to change the situation of which the petitioners complain, and so prevent the question from being brought before the organs of the League.

The proposal to ensure a certain degree of publicity, so far as is practical and advisable, and the proposal to reorganise the present system for the preparatory study of minorities petitions, seem to me to deserve further study. I think that the third proposal — namely, that the petitions should be forwarded to the Secretariat through the Government concerned — a principle suggested some years ago by Poland — has advantages in certain respects. Nevertheless, this must not be laid down as an exclusive rule. The representative of Canada has also taken account of this point of view. He has mentioned in his revised proposal cases of extreme urgency and cases which can constitute an exception. In that case, however, we must determine who is to decide whether a case is exceptional or of extreme urgency. This is a rather difficult point to settle.

I think it is impossible to reach a definite decision on those various schemes, suggestions and observations during the present discussion. I agree with the proposal that a Committee of the Council should be appointed with instructions to study the suggestions made during this debate and prepare, if it thinks fit, a more detailed programme of action.

I would, however, make one small observation. The proposal has been made that a Rapporteur should be appointed. If, however, my memory is correct, the representative of Japan was appointed Rapporteur last autumn for all questions concerning minorities.

Dr. STRESEMANN. — May I make some remarks in regard to the observations made a moment ago by the representative of Great Britain, which were addressed to me personally?

Sir Austen Chamberlain began by saying that a discussion on minorities problems might be of great value. I entirely agree with him and, moreover, I think that the discussion which we have had to-day has already proved its value.

Sir Austen Chamberlain next referred to discussions in the Council which took place on this problem in 1925 and to the observations then made by M. de Mello-Franco and himself. It was those observations that I had in mind when I said in my speech this morning that, if I had been on the Council at that time, I should have had to state opposite views.

I was glad to hear Sir Austen Chamberlain say that the English text of his statement might have rise to misunderstanding, that he did not wish to maintain that the races and civilisations composing the minorities must be merged in those of the majority with which they have been incorporated, but that he had merely expressed the hope that, although the system of protection would be permanent, a day would come when it would be no longer necessary to apply that system because there would no longer be any grievances. He had indeed, merely wished to emphasise the fact that the greatest loyalty was necessary on the part of minorities towards their Governments. On this point we are in full agreement. I, too, expressed the same views in my own speech.

I would make a second observation. Sir Austen Chamberlain in his speech stated that I expressed certain undesirable opinions in my speech this morning — opinions which might lead us away from the end we are trying to attain. I am sure that Sir Austen could not have made any such criticism of my speech had I been able to submit the exact text of it to him. May I recall, once more, what I said?

I pointed out that it was wrong to allege that those who favour the rights of minorities were at the head of a movement against the integrity of the State to which those minorities belonged and that they were provoking an irredentist agitation. I continued by saying that the condition of affairs established in our century was not eternal, but I added at once that :

“ These are considerations which have nothing to do with the question of minorities to which our attention is now devoted. It is quite a mistake to say that, in supporting the rights and the educational liberties of minorities, use is being made of a weapon with which to break up States. The peace between nations will be all the more stable in proportion as the appeal of minorities threatened in their cultural life is less widely reflected in the public opinion of the world. ”

I am, then, in substance, in agreement with what we have just heard Sir Austen Chamberlain say. He expressed the hope that the moment would soon come when it would no longer be necessary to have recourse to the Council in so far as minorities are concerned. I am glad to note that we are in agreement at the end of this little controversy. Further, I willingly agree with what has been said on the value of the discussion on which we are about to enter in regard to the question of minorities.

Sir Austen CHAMBERLAIN. — I am grateful to Dr. Stresemann for his explanations.

I suppose there is no Empire which contains more minorities than the British Empire, and indeed there are many parts of the British Empire where the Briton by race, and still more the Englishman, is in the minority. I have never thought that you could merge a Scotsman and an Englishman, or an Englishman and a Scotsman, and it has never occurred to either a Scotsman or an Englishman that we cannot preserve our own distinct characteristics and our own cultural qualifications without ceasing to be loyal members of the country and the Empire to which we both belong.

All that I venture to insist is that the obligations of the State to the minority are the counterpart of the obligations of the minority to the State. The two obligations are reciprocal; they cannot be considered apart, and those who come to the Council for redress of their grievances ought to come, like the pleader in a Court of Law, with clean hands, if they desire justice by this tribunal.

M. BRIAND. — Mr. President, you will understand that at the point which this discussion has reached, and in view of the very natural wish to reach a conclusion, at least so far as we are able to do this at the present moment, I shall not be so indiscreet as to inflict upon you speech embodying the doctrine on the question of minorities. I merely wish to emphasise certain considerations, and I have all the more right to do so as several speakers who have taken part in this discussion have quoted words which I used, both at the last session of the Assembly of the League of Nations and more recently at the last session of the Council. I said — and I do not withdraw the expression — that the right of minorities is a sacred right. I still persist in thinking that this is so, and, now that we have heard the views of those members of the Council who have spoken, I do not think that there is any difference of opinion on this point.

It may be useful to declare publicly — since reference has been made to justice it is only natural that we should endeavour to do justice to ourselves — that, as regards the protection of minorities, the League of Nations has never at any moment tried to evade its obligation or, perhaps I should say, its sacred duty. The League of Nations, however, must be taken as it is, and as it has been created. It is called upon to deal with difficulties which are inherent both in the nature of things and also in the peculiarities of its constitution, which is by no means a simple one.

The League of Nations, by its composition and its rules, is obliged to place above every other consideration a respect for national sovereignty. That is the principle which governs the League, though I do not propose to discuss it. Sometimes it is a good principle, because it affords a safeguard against certain improvised schemes which may be dangerous. Sometimes it is a hampering principle, because it makes it necessary to seek for compromises in an endeavour to reach peace and good understanding which must be unanimously secured. We are, however, face to face with the necessity of respecting this principle, and we must all bow to that necessity and never allow it to be ignored. As we are dealing with minorities it will suffice to read Article 12 of the Minorities Treaty with Poland and the corresponding articles of the other Treaties and to recall all the discussions to which those articles have given rise, in order to realise that the governing preoccupation in dealing with such matters has been to combine the protection of minorities with respect for the sovereignty of nations. This, therefore, is the problem before us. This is the real difficulty which runs counter to what I may call the ideal that we seek.

We have listened to a most interesting debate between Dr. Stresemann and Sir Austen Chamberlain. Our German colleague described to us this morning in a very fine philosophical disquisition, of great interest and distinction, the full force of his great ideal.

This afternoon, in another speech, Sir Austen Chamberlain, who has been associated with the League of Nations somewhat longer than Dr. Stresemann, and who has on occasion encountered certain practical difficulties, tried to reconcile his own ideals with certain misgivings aroused by Dr. Stresemann's ideal. It is my belief that his controversy has led us slowly but surely to realise the sad reality of our normal position which compels us to view matters not from the point of view of the absolute but from that unhappy condition of relativity to which we are condemned.

In dealing with minorities, I feel compelled to this question of relativity. I do not wish to consider whether circumstances are more or less permanent, whether, indeed, they are eternal or of short duration. I think that in dealing with nations it is not a bad thing to let them believe in the idea of eternity. It is an excellent idea; it enables them to acquire a certain vitality. It is a guarantee of permanency and at the same time a stimulus to activity. Such eternal dispensations after all adjust themselves in time, and other eternities may take the place of the eternities of to-day. That, however, is not the business of the League of Nations, which has many other things to do.

Judging from his speech of this morning, Dr. Stresemann seems to have an excellent opinion of men and of the objectivity of their minds, and I congratulate him sincerely on his belief. Though the practice of politics rather spoils the freshness of our belief in man and makes up drop some of our illusions at a fairly early stage, a statesman cannot be reproached if he succeeds in retaining some of them. Men, however, are men, and, even though they are dealing with a text or a treaty embodying noble and generous aspirations, they nevertheless retain their nature. It is evident that Dr. Stresemann and we ourselves are taking up a position superior to certain contingencies. It is no less evident that we are inclined to consider the



question of minorities in all its nobility, and that our minds turn towards solutions which are purely objective. If the problem depended solely on us, we should be certain of solving it in a satisfactory way.

Unfortunately, independently of us life goes on, and I shall cause no surprise when I say that, in the majority of countries, there is a certain number of people — rather large than small — who have what I should call a hateful inclination towards politics. In order to satisfy this singular but very common taste, they do not hesitate to look about them for anything which may serve their interests. In achieving political combinations, they certainly know how to apply an objective intelligence of the most active description. When they perceive in certain newly constituted countries which have absorbed various ethnical elements, signs of misgiving, depression, rancour, or discontent, and when the idea occurs to them to use these feelings for the purpose of starting political activities of interest to themselves, they do not hesitate to do so. These things do happen. It is only necessary to read certain articles and pamphlets to be convinced of it. There is only one step between this and quietly turning to your own use the taste for propaganda which is so common in political circles, and a keen politician does not hesitate to take it. He takes it with astonishing rapidity and at once seizes upon these minorities. He is no doubt animated by the most respectable sentiments, but, instead of asking these minorities to view the situation calmly and to do their utmost to show that they are reasonable, he prefers to use words of bitterness which are liable to trouble or excite their minds.

We are at present living in an environment of understanding and peace. Our lives depend entirely upon the existence and the permanence of that state of peace. In all the problems with which we are dealing we must endeavour to maintain peace, and that is not always an easy thing to do. We must, however, work to this end and I may say that we have succeeded ; that is one of the achievements which make the League of Nations seem rather a miraculous institution. Nevertheless, the task must not be made too difficult for us, and if the respectable sentiments of the minorities are used as a lever — to use the words of Dr. Stresemann, and of myself at the last Assembly — in order to shake the position of the Governments, disturb their authority and national strength ; if attempts are made, as they have been made, gradually to associate all these minorities in order to create general discontent and continual grievance ; and if these efforts meet with success, I do not think they will bring about an atmosphere of peace. What then will be the position ? We cannot help having some misgivings on this matter, for it cannot be denied that certain efforts are being made in the direction I have indicated. There have been quite recently examples of them and it is our duty to speak frankly to the minorities in terms which they must be brought to understand.

I have listened with the greatest interest to the little controversy which has taken place on the use of a certain word between Dr. Stresemann and Sir Austen Chamberlain. The question at issue was how the racial or other elements may tend to be merged or to disappear within the nation to which they belong or how, on the contrary, they may preserve their identity. It is in no way to the interest of a country that any element of its population which has its own value and its own characteristics should disappear, and a great country which realises its own strength does not endeavour to bring about any such disappearance. It does not try to reduce its population to a uniform level. On the contrary, the strength of a country consists in assimilating various elements of its population without letting them lose their own characteristics and qualities. It is in this way that a country develops and acquires its full strength which enables it to expand. Those who only think of reducing a country to one uniform pattern by suppressing the individual characteristics of each of the elements of its population are doomed to many reverses. Before the war, many such mistakes were made. That was a period in which regard for minorities did not exactly flourish, and it may be said that if that regard has since developed, it is thanks to the League and to the fact that the League has done nothing to bring about its disappearance. The League must do nothing to hinder that respect for minorities from developing further since it is a noble and worthy sentiment.

That, however, is not the real problem. The real problem is, while ensuring that the minorities shall preserve their language, culture, religion and traditions, to keep them as a kind of small family within the larger family, not with the object of weakening the larger family, but with the object of harmonising all its constituent elements with those of the country as a whole. The process at which we should aim is not the disappearance of the minorities but



a kind of assimilation which will increase the greatness of the nation as a whole without in any way diminishing the importance of the smaller family. That is how I understand the problem of minorities.

In order that this problem may always be presented and solved on these lines, it is essential not to create in these minorities what I may call the spirit of controversy and subversion. It is essential that they should not be placed in opposition to the nation with which they are called upon to live, and it is in their own interest to avoid such opposition. When controversies such as those to which I have referred become too acute, when they become too irritating and exasperating, when they give rise to unrest, the nation which is affected by those controversies will in the last resort take measures to defend itself, and those measures are always rather drastic. I do not see how it can benefit minorities to be led into such dangerous paths. It is to their interest that difficulties should be settled directly between themselves and the State of which they are citizens.

When I look at Europe, which has been profoundly disturbed by the war, I find that in certain countries minorities have not only ended by settling down comfortably, but that they are even participating in the public life of those countries, as a result of continual contact and closer relations between the different ethnical elements. These minorities are forming the habit of pleading their own causes directly in appropriate terms with the Governments on which they depend, and they regard it as a great achievement when a dispute is settled without any intermediary. I consider that the Council of the League should also consider it a sign of success when it does not hear anything of the difficulties which may arise between a State and its minorities, for in such cases these difficulties are being settled as they arise. An agreement has somewhere been achieved and this procedure is quite in harmony with the rhythm and progress of the League of Nations.

I will now venture to refer to another question. I have constantly heard complaints made against the unfortunate Committees of Three. The composition of those Committees is never the same, so that they can accept criticism without being overburdened by it, since their duties are transitory. I have myself been a member of those Committees, like every other member of the Council. I therefore accept my share of the criticisms which have been made. It is said that the Committees of Three have been deaf to all complaints from the minorities; that they have not considered their grievances, but have consigned their claims to the wastepaper-basket, and have never done any work. Is that the reputation which the Committees of Three ought to enjoy in the eyes of the public? Since we are speaking of justice, such a reputation does not do justice to the Committees. If that reputation had been deserved during the last ten years, there would have been a regular revolt of public opinion in the countries concerned. The fact that no such forcible protest has been made shows that, in reality, the Committees have, by working quietly and behind the scenes, solved a crowd of questions. But what greater fault can be found in any piece of work than that it is invisible?

I see, for example, that, during 1928 alone, the Committees of Three dealt with twenty-three petitions, which were judged to be receivable, coming from eight countries. These Committees of Three held forty-four meetings to examine these petitions, a fact which sufficiently shows their zeal for work and indicates that they do not deserve such ingratitude. The Committees have settled most of these questions in various ways, but in any case they have settled them. The fact that they have been engaged in this work shows that the question of minorities during the year 1928 was not neglected. By all means let us try to do better by improving the procedure. If that is possible, well and good. Care should be taken, however, in seeking to improve the procedure not to create a supernational jurisdiction before which groups of citizens, more or less excited by the means which I have mentioned, come to plead their case instead of going to their Governments. Such a position would not help the consolidation of nations. If the claims of the minorities assume too great proportions, the work of the Council of the League, already excessive, will become impossible.

I do not draw from these considerations any negative conclusion. I merely say that, in dealing with this question, it is obviously necessary to convey a very clear impression that the League of Nations desires to fulfil its task and to perform its duty. It must, however, be careful not to adopt a procedure which will have the effect of creating centres of discontent and discord within itself. One is convinced, in reading Article 12 of the first Treaty of Minorities, that those who created the right of minorities found it extremely difficult to discover a suitable

means of giving effect to that right. There is the right itself, there is the use to be made of the right, and, close at hand, there is the abuse of the right ; there is only one step between the use and the abuse. Evidently, those who drafted the article were inspired with a noble ideal, were anxious, having created nations, to ensure them life and permanence ; and, having conferred upon them national sovereignty, to do nothing which might impair that sovereignty, while, at the same time, they desired to protect the minorities. The difficulty of the question of procedure arises from these considerations. It is impossible to do anything serious without agreement, and without ensuring the co-operation of the countries concerned, or, in other words, those who are responsible for the minorities. It is essential for us to achieve such an understanding. I was very glad to hear the representatives of Poland and Roumania express a wish that the Council should clear its mind on the subject by means of a report, as complete as possible, concerning the present situation. It has been suggested that a Rapporteur should be appointed, and two members of the Council associated with him. That is a matter of small importance. We already have a Rapporteur with whom we are well acquainted and in whom we have every reason to place the utmost confidence — M. Adatci. I would suggest that M. Adatci, alone or with the assistance of other members of the Council associated with him for the purpose, should draw up a report which may enable us to adopt a satisfactory procedure. I cordially support his proposal, subject to the reservations which I have just made.

Clearly it is dangerous for the League to continue to work behind the scenes, since it is suspected of not performing its duty. I think it would be useful to adopt some means of publicity, as, for example, the periodical issue to the public of a report on its work. All those precautions would, of course, be taken to which the representative of Great Britain alluded in his speech. I also think that it would be a good thing, under conditions to be determined, for the Council to be informed of the situation. It would thus be possible for the Council to intervene, if it so desired and in accordance with its undoubted right, either acting as a whole or through any one of its Members. Care should be taken, however, to avoid anything which might create controversy between what we describe as minorities and the nations of which they form a part. Above all, nothing should be done which might be interpreted as a sort of encouragement to such tendencies which would have deplorable consequences for the League of Nations and for the minorities themselves.

Such gentlemen, are the observations which I desired to make on this question. I apologise for having perhaps enlarged upon them rather more fully than I intended.

M. DANDURAND. — I have no objection to the appointment of a committee to assist the representative of Japan in the investigation of the questions we have discussed to-day and of the proposal which I have made to the Council. Allow me to point out that that proposal may have seemed somewhat voluminous to those who do not know how the present procedure is applied. Let me say, however, that it is merely an attempt to consolidate all the methods used up to this moment, together with a few amendments.

The point which has struck me in regard to the manner in which the Committees of Three work — I was and still am a member of one of those Committees — is the striking inadequacy of the information at our disposal. That information takes the form of a request — I must not use the word complaint, though it means exactly the same — and such a request must necessarily contain some kind of complaint on the part of the persons who think their rights have been infringed. This information, I repeat, comprises the petition as well as the observations of the Government concerned, and that is absolutely all. Obviously, the Committee of Three can ask the Government for further information. I have been a member of committees which have done so, but what appears quite extraordinary to outsiders, as well as to many representatives who have sat on these Committees of Three, is that even the person who believes that he possesses rights which have been infringed completely disappears. He has laid before the Council, through the intermediary of the Secretariat, a complaint or certain information and there the matter ends. He never knows what has happened.

The Committee of Three has before it nothing but two documents. I maintain that these obviously constitute an insufficient amount of information. Consequently, I thought that there were grounds for improving the procedure in order to obtain rather more complete information, and to notify those who have made representations — whether they take the form of information or complaints — in order that they may be made aware of what has happened,

and that they may at least be in a position to know that some kind of body, be it the Committee of Three or a larger committee, has studied their questions. As at present they are not aware that this has been done, I have been pleased to observe that some of my colleagues have admitted that, as regards publicity, there are gaps to be filled in the present system. We are, therefore, more or less agreed on the necessity of notifying briefly the persons submitting petitions of what has happened.

In the resolution which I have proposed, I have said that the Committee might decide the cases and conditions in which publicity might be granted if no report is made to the Council — for the affair becomes public if a report is so made — in order to make it possible for that Committee to eliminate groundless complaints, or complaints which are in the nature of propaganda or which are tendentious and thus only to lay before the world at large those complaints which are well founded. For that reason, I chose the form of words which is now before you and which I read this morning.

So far as the other point is concerned, which is of a certain degree of importance, and by which it will be possible for the Committee of Three to obtain satisfactory information, I have not ignored the clauses of the Treaty. I am well aware that we can only act within the narrow limits of the Treaty and of the procedure to which countries with minorities have consented. I have not forgotten this fact. I sought the help of some States possessing Minorities Treaties, and I have found elements of very great interest in the Polish proposal.

Poland has suggested that complaints should be forwarded through the Government concerned — that is to say, through the Government complained of — before they reach the League of Nations, in order that that Government may have an opportunity of settling on the spot a number of questions. I considered that to be the proper procedure, and I have adopted it. As far as those complaints are concerned which are not settled on the spot and which therefore come before the Council, or the Committee of Three or a larger committee, I have tried to devise a scheme whereby they should be accompanied by sufficient information.

In causing a national to address himself to his Government, the dignity of that Government will not be affected, because it will have tried to convince that national that he is in the wrong or because it will have agreed that he is in the right. In those circumstances, whether the national be convinced that he is wrong or whether he maintains his views and asks that his complaint be forwarded, the Council will be in possession of complete information. I think that in this I am following the principles laid down in the Polish proposal. The Committee of Three or a larger committee will then be able to obtain a reasonable amount of information, and most of us will not remain passive in regard to the decision to be taken.

I must confess that I have sometimes had occasion to note that the information available is not sufficient for us to turn to the person making the complaint and say: "The following reply has been received to your complaint, the facts are disputed; this particular legal argument has been put forward". In the above circumstances I have thought it best for us to ask the Government to talk the matter over with the national concerned, and from the results of that conversation we may be able to obtain further information. In any case, we shall have the dossier of the case before us.

I hope, therefore, that, if this committee be appointed, it will be in a position to study the question whether there is any means, either by following the method which I have proposed or by some other method, of obtaining more complete information to be placed at the disposal of the Committee of Three with the assent of the countries possessing Minorities Treaties for I like to hope that all those countries desire, as do the other Members of the Council, to throw full light on questions of interest to them.

M. ADATCI. — My strict duty as Rapporteur — if I really am the Rapporteur — would be to draw up immediately — for this important discussion is now at an end — a draft resolution in such terms as would satisfy the whole Council.

Gentlemen, I must confess that some hours of reflection are necessary. It is true that from the day on which I accepted the difficult rôle of Rapporteur for this question of minorities — that is, last September — I have closely studied everything which has been written, said, examined or contemplated in regard to this part of the League's work. A few days ago I sought an opportunity of conversing with the most competent persons in this question.

This morning I entered the Council Chamber with a certain degree of apprehension. I was frightened at the size of the task entrusted to me. Nevertheless, at the end of this discussion I feel greatly strengthened, for all our colleagues, whatever may be the slight divergence of their views, have shown the greatest goodwill in seeking to achieve a harmonious co-operation of the peoples. My courage has been redoubled and I ask you, Mr. President, to allow me to study the question this evening in order that, I, as Rapporteur, may be able to submit a draft resolution at the next meeting. The Council is to sit to-morrow morning, and I hope that I shall be in a position to provide a text which will give complete satisfaction and which will attain the great object of the League, whose sacred duties to minorities were defined at Lugano by the former President of the Council; those minorities, it should be remembered, exist side by side with majorities in the different countries.

It is with this object in view that I ask the President to adjourn the examination of this question to a later meeting.

*The discussion was adjourned to a later meeting.*

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MEETING HELD ON MARCH 7TH, 1929.

M. ADATCI read the following draft resolution :

" 1. The Council instructs its Rapporteur to submit at the June session a report on the proposals of the representatives of Canada and Germany, taking into account the different points raised by various members of the Council during the discussion to which these proposals gave rise.

" 2. The Council asks the representatives of Great Britain and Spain to co-operate with the Rapporteur in drawing up this report.

" 3. The Rapporteur and his colleagues may receive any observations that the Governments of States which have accepted the provisions for the protection of minorities may desire to present. Any State Member of the League of Nations may also, if it so desires, submit observations. These various observations should reach the Secretary-General before April 15th, 1929.

" The Committee of Three thus constituted may receive such information and consult such persons as it considers advisable for the execution of its work.

" 4. The report will be examined in the first place by the Council in Committee, which will meet for that purpose in sufficient time before the date of the next session of the Council.

" 5. The Secretary-General will forward to the Governments of the States which have accepted the provisions for the protection of minorities and to the Governments of all the States Members of the League the present resolution, together, with the Minutes of the Council meetings held on March 6th, 1929. "

*The draft resolution was adopted.*

At the suggestion of the SECRETARY-GENERAL, the following paragraph was, during the subsequent private meeting of the Council, added to the above resolution :

" The Council decides that any expenditure which may be involved by the execution of this resolution may be met from Item 3 of the budget for 1929 (Unforeseen expenditure subject to a special decision of the Council). "

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EXTRACT FROM THE MINUTES OF THE FIFTY-FIFTH SESSION OF THE COUNCIL —  
MEETING HELD ON JUNE 13TH, 1929.

The PRESIDENT read the following report and draft resolution :<sup>1</sup>

“ By its resolution of March 7th, 1929,<sup>2</sup> the Council instructed its Rapporteur and the representatives of Great Britain and Spain to submit a report for its June session. This document was distributed to the Members of the Council on May 18th (document C.C.M.1).<sup>3</sup>

“ In the same resolution the Council decided to sit in Committee before the opening of its June session in order to make a first examination of the report. It met for that purpose on June 6th, 7th, 8th and 11th.<sup>4</sup>

“ As the outcome of its discussions, the Members of the Council, sitting in Committee, reached agreement on a number of provisions. These provisions are contained in the following draft resolution, which the Rapporteur has the honour to submit for the Council's approval:

“ ‘ The Council :

“ ‘ (a) Decides to add to the provisions contained in its previous resolutions regarding the procedure for the examination of minorities petitions the following provisions :

“ ‘ 1. *Receivability of Petitions.*

“ ‘ When the Secretary-General declares a petition non-receivable, he will inform the petitioner and, if necessary, will communicate to him the Council resolution of September 5th, 1923, laying down the conditions of receivability of minorities petitions.

“ ‘ 2. *Composition of Minorities Committees.*

“ ‘ The President of the Council may, in exceptional cases, invite four members of the Council to examine minorities petitions instead of two as laid down in the Council resolution of October 25th, 1920.

“ ‘ 3. *Frequency of the Meetings of the Minorities Committees.*

“ ‘ The Council considers that it would be desirable for Minorities Committees to take into account the possibility of holding meetings in the intervals between sessions of the Council, whenever they think it expedient for the examination of individual petitions.

“ ‘ 4. *Communications concerning the Action taken on Petitions by the Minorities Committees.*

“ ‘ (i) When the members of a Minorities Committee have finished the examination of a question, without asking that it be placed on the Council's agenda they will communicate the result of their examination by letter to the other Member of the Council for their information. The Secretary-General will keep the relevant documents at the disposal of the Members of the Council.

“ ‘ (ii) The Secretary-General will distribute once a year, for the information of all the Members of the Council, a document reproducing the letters addressed during the year, as described above, by the various Minorities Committees to the Members of the Council.

<sup>1</sup> Document C.277.1929.1.

<sup>2</sup> See *Official Journal*, April 1929, page 541.

<sup>3</sup> See page 156.

<sup>4</sup> For the Minutes of the Council sitting in Committee, see page 115.

“ 5. *Publication of the Result of the Examination of a Question by a Minorities Committee.*

“ The Minorities Committees should consider carefully the possibility of publishing, with the consent of the Government concerned, the result of the examination of the questions submitted to them. The Council earnestly hopes that the Governments will, whenever possible, give their consent to such publication. The information might be published in the *Official Journal* and might consist of the letter from the Minorities Committee informing the other Members of the Council, or any other text that seemed expedient.

“ 6. *Regular Annual Publications concerning the Work of the League in connection with the Protection of Minorities.*

“ The Secretary-General will publish annually in the *Official Journal* of the League statistics of: (1) the number of petitions received by the Secretariat during the year; (2) the number of petitions declared to be non-receivable; (3) the number of petitions declared to be receivable and referred to Committees of Three; (4) the number of Committees and the number of meetings held by them to consider these petitions; (5) the number of petitions whose examination by a Committee of Three has been finished in the course of the year.

“ (b) The present resolution will be communicated to the States which have accepted stipulations for the protection of minorities.

“ (c) The report prepared by the Japanese representative, as Rapporteur, with the assistance of the British and Spanish representatives (document C.C.M.1), including the annexes thereto,<sup>1</sup> together with the Minutes of the meetings of the Council sitting in Committee for the examination of this question and those of the present meeting of the Council, will be communicated to all the Members of the League and will, in accordance with practice, be published.’ ”

M. DANDURAND said that the Council would recall that the object of the Canadian proposal was to improve the procedure with regard to the following points: transmission of petitions and facilities to be given to the Committees of Three to obtain information which would enable them to take a decision; greater publicity; enlargement of the membership of the Committees of Three. Although the report did not retain the whole proposal, he was happy to note that the conclusions submitted by the Council, sitting in Committee, marked important progress and provided for most of the improvements urged by the representative of the Canadian Government, especially in regard to publicity and the increase in the membership of the Minorities Committees.

He would refer the Council to the statements he had made in Committee and which were contained in the Minutes of the proceedings. The Minutes had been submitted to the Council; they accompanied the report of the Committee and explained its conclusions. His observations would be found recorded in them, together with his proposal that the Council should take a declaration by the terms of which the Committees of Three should always be allowed an opportunity of obtaining any information they might require from any sources that were available. This proposal had led the Secretary-General to state that it was within the powers of the Committees of Three to collect information from any source without restriction.

Since the Council had on several occasions laid down that minorities had no legal personality and were not parties to a suit, but could only act as agents of information, the practice had become more and more frequent of eliminating them as sources of information

<sup>1</sup> Observations of the Governments of Austria, Bulgaria, China, Czechoslovakia, Estonia, Germany, Greece, Hungary, Latvia, Lithuania, the Netherlands, Poland, Roumania, the Kingdom of the Serbs, Croats and Slovenes and Switzerland, and also the list of communications from associations and organisations.

during the examination of their petitions by the Committees of Three. His efforts had been directed against excluding this source of information. Henceforth the Council could be assured that the minorities would not be eliminated as sources of additional information. Any misunderstanding on that point had now been removed.

The amendments submitted would, he thought, remove many feelings of apprehension in regard to the fate of petitions and in regard to the communication to the parties concerned of the action taken by the Council.

Dr. STRESEMANN said that the essential part of the report which the Rapporteur had just submitted to the Council must be sought in the decisions which the Council, sitting in Committee, had taken. These decisions constituted, as everyone recognised, a very important improvement in the procedure hitherto applied to minorities questions.

The fact that the Committees which made a preliminary examination of petitions were now required to communicate the result of their work to the various Members of the Council would greatly assist them in deciding whether or not they desired to submit the important questions to the Council. The desire expressed by the Council that the result of their work should be published as often as possible with the approval of the States concerned would largely contribute to setting the public mind at rest in view of the fact that, if the Committees followed this recommendation in every case, the petitioners would be informed of the fate of their petitions after the Committees had made a preliminary examination of them.

The importance of the work done by the Council in this field, for which he was extremely grateful, would be still further increased by the fact that the Secretary-General would publish each year statistical data as to the work of the Council in dealing with petitions from minorities. Public opinion would thus be assured that every petition would be conscientiously examined.

The fact that, owing to the intervention of the representative of Canada, it had been clearly laid down in the previous decisions that the Committees of Three would not be in any way restricted if they desired to obtain the information necessary for the elucidation of certain cases submitted to them, and that the Committees might in an appropriate form ask the petitioners for supplementary information, appeared to constitute considerable progress, thanks to the discussions in Committee.

Finally, the fact that the President of the Council might in special cases ask four of his colleagues to participate in the preliminary examination of petitions, and that the Committees, in order to accelerate the procedure, might, if necessary, meet in the interval between the sessions of the Council, constituted a step in advance along the road which would lead to effective action on the part of the League.

He did not in any way minimise the material and psychological effects of this procedure, which, without any doubt, was an improvement. He was glad to be able to regard this improvement as progress on the lines suggested to the Council by the representative of Canada.

He did not think that he could ignore the appeal which had been addressed to him not to bring into discussion once again the improvements which had been made in the procedure. He could not, however, abandon his point of view on a question of principle.

In addition to the thanks which the Council owed to the representative of Canada, it owed also a debt of gratitude to those members of the Council who, in conformity with the decision taken at its last session, had endeavoured, by careful and conscientious work, to lay before the Council the result of their examination of the problem and the relevant arguments. He considered that the expression of this gratitude was a duty, although, for reasons explained in the German memorandum, it was impossible for him to approve the report drafted in London. He specially regretted that a suggestion contained in the German memorandum had not met with the approval of the Council, sitting in Committee. That suggestion referred to the fact that the representatives of the States from which the petitions originated were excluded from the preliminary examination of those petitions.

Dr. Stresemann had announced his intention of again explaining at that meeting the German point of view. Since the report before the Council provided for the communication to States Members of the League and the publication, not only of documents and memoranda from the particular States, but of the Minutes of the proceedings of the Council, sitting in Committee, he could confine himself to reminding his colleagues of the arguments submitted



in the German memorandum in support of his suggestions. He would venture to add to the arguments embodied in that memorandum a consideration to which he attached the highest importance. The suggestion framed by the German Government was in conformity with the spirit of the League of Nations. The work of the Council would always be doomed to failure if its action were based upon the mutual mistrust of nations and States, and if its Members did not mutually recognise their desire and duty to be impartial.

He would abstain from going further into this matter, as the report explicitly provided that the Minutes of the discussions of the Council, sitting in Committee, would be published, so that all Members of the League and public opinion would have an opportunity of noting the arguments used in support of the memoranda and the explanations given during the discussions in the Committee. For that reason, he also abstained from refuting the wrong assumption attaching to the German suggestions, in regard to the creation of a permanent Committee for the study of minorities questions. He would confine himself, in this connection, to referring to the declarations made on this question by the representative of Germany during the discussions in Committee.

While recognising the improvements embodied in the report, he felt bound to state that he maintained his attitude intact on the question of principle as laid down in the German memorandum and in the declarations made before the Council sitting in Committee.

He would venture to remind the Council that the suggestion contained in the German memorandum for the creation of a committee of enquiry had also been embodied in a resolution adopted by the International Association of League of Nations Unions some weeks ago in Madrid. This resolution originated from an organisation which had undertaken the work of spreading the ideas of the League in all countries of the world and which represented a movement which was the principal support of the idea of the League among the peoples.

Everything in the world was subject to evolution. For that reason, Dr. Stresemann did not think that the decisions taken in this matter were final. It must be expected that the existing rules of a body like the Council might be supplemented by further improvements if, in practice, the application of the new system did not come up to expectation. For that reason, every Member of the Council must reserve to itself entire freedom of action as regarded the further treatment of the suggestions which were now being put into force.

The report submitted to the Council constituted, in its practical conclusions, an endeavour to find a solution which would give the Council useful practical support. It would reveal to those who studied the documents annexed to the report the great problems hidden behind the practical work of the Council. An agreement of principle on the subject of the extension or limitation of the rights or obligations of the League of Nations had not been reached. The decision of the Council to communicate all the documents to all the Members of the League of Nations would afford them an opportunity of examining the question whether in this matter it was not possible and necessary to reach agreement. The Powers not represented on the Council, which had already shown their interest in the settlement of this problem, had of course the right to assume what attitude they pleased towards the report. Each Member of the Council must also reserve for itself the right to make use of all the possibilities embodied in the Covenant of the League of Nations with a view to the elucidation of this question.

Dr. Stresemann adhered to the report as presented to the Council.

M. TITULESCO said that, before reading a short statement, he wished to point out that the remarks of the representative of Canada regarding an assurance which the Secretary-General of the League had given the Council in Committee, should be interpreted in the sense in which that assurance had been given. The Secretary-General had referred to a rule which already existed. It was therefore a question of maintaining the *status quo* as defined by the Secretary-General and M. Briand in regard to this point.

He desires also to say that the situation was much clearer than it might appear. What was the question under discussion? Two proposals had been submitted to the Council by two of its Members concerning the procedure applied to minorities. After discussing the matter in detail in March, the Council had instructed the customary Rapporteur on the question of minorities, M. Adatci, and two other members of the Council, to study the proposals made and to draw up a detailed statement on the question of minorities as a whole. That Committee



had been composed of persons whose impartiality and authority were unanimously recognised. The task entrusted to the Committee had been fully accomplished. A long report and a number of short conclusions had been submitted.

Of what, however, did that report consist, so far as its historical part, its principles and its motives were concerned ? It was a photograph not merely of what existed to-day but of what had existed for ten years, by virtue of a constant interpretation of the Treaties, an interpretation given unanimously by the Council, in agreement with the States signatories of the Minorities Treaties, whenever the need arose. It was a statement of reasons showing why the existing procedure should not be changed except on certain definite points to be found in the conclusions. The Council was called upon to vote on all the changes proposed. It was not called upon to vote on what already existed.

The changes which had unanimously been adopted were those to be found in the conclusions of the London report. Other changes, which had not been accepted unanimously, and which, in fact, had obtained only a small number of votes, had not been adopted.

M. Titulesco voted as a member of the Council and as the representative of a State which had signed a Minorities Treaty. He voted under reservation of his declarations made to the Council, sitting in Committee, of which the Council had taken note. It would be remembered that M. Titulesco also expressed the opinion of other States which had signed the Minorities Treaties.

In saying that he considered the conclusions indissolubly linked with the report, he meant that they were indissolubly linked to the present system which the report merely confirmed, and which could not be changed except in conformity with the resolution of March 6th, 1929, which the Council, at his request, as had been but natural, had stated was in force.

M. ZALESKI said that the draft resolution submitted by the Rapporteur as a result of discussions which had taken place in the Council Committee contained certain provisions which should be added to the provisions contained in the previous resolutions of the Council concerning the procedure for examining minorities petitions. The previous resolutions were still fully in force.

He accepted the draft resolution as a member of the Council and as representative of a State which had signed a Minorities Treaty, but approved it with the reservation included in the declaration which he had made to the Council, sitting in Committee, to the effect that the practical conclusions concerning the procedure embodied in the London report, and which formed the object of the resolution, were indissolubly linked with the principles of law in regard to the protection of minorities set out in the same report.

M. BRIAND said that he would be ill-advised if, contrary to his colleagues who had already spoken, he were to ignore the solutions which had finally been proposed to the Council. In the very important discussion which had taken place in the Council on this difficult question of minorities during its previous session, he had taken the precaution of indicating that in the interests of the minorities certain important improvements might, in his opinion, be sought. In this he had found himself regretfully in opposition to the theoretical doctrine of the representative of Germany.

Three of his colleagues, in whose good faith the Council, in most difficult moments, had always placed complete confidence which was thoroughly deserved, had been asked to make a report based on the existing facts and on the discussions at which they had been present. He referred to the Acting President, M. Adatci, the representative of Spain, M. Quiñones de León, and Sir Austen Chamberlain, whose long service with the Council had won the appreciation of all its members. His colleagues had met in London and, during long days of discussion, inspired by a high sense of duty to which all the Members of the Council, including those who did not agree with the principles of the report, had paid tribute, had made a thorough and minute study of this formidable problem, and they had finally submitted conclusions which effected improvement in the present position.

At the meetings of the Committee which had preceded the present session of the Council, he had fully and entirely approved the report. He had heard some of his colleagues make reservations on questions of principles, and Dr. Stresemann had again expressed views which he had defended with much eloquence and conscientiousness and which no one dreamed of

asking him to abandon. The strength of the League of Nations lay in the fact that it did not require any of its representatives to renounce his convictions nor did it hamper his freedom in defending them. The only limit to their freedom was their anxiety to act together and assist those efforts towards conciliation in order that, within the limits of the unanimity required by its constitution, the Council might finally achieve practical results. Any other method would shake the foundations of the League. M. Briand considered these results more important than any other question, even the most important with which the League might have to deal.

Once again the Council had obtained a valuable and important result in dealing with a question which, when it was placed on the agenda, had — he would confess — caused him considerable anxiety. It was a very delicate question, perhaps the most delicate which could be submitted to the League. The Council had to reconcile a sacred right as embodied in certain treaties — namely, the right of minorities, with an obligation which was fundamental to the institution of the League, the maintenance of the principle of the sovereignty of the States of which it was composed.

Men's sympathy instinctively went out towards the weak, and it was a more pleasant duty to defend the weak, even if they asked for too much, than to restrain them. The fact, however, that the majorities were the stronger parties was no reason to deny the part they might and should play. He wondered whether, in so far as the Council desired to see the minorities merged in the nations of which they formed a part, it would not serve the best interests of those minorities to protect them from certain exaggerated ideas. Those ideas were not only against their immediate interests, but they brought the minorities into opposition with the Governments, which after all they had to obey, and might thereby render their position worse.

The Council had to take these considerations into account, as well as the fact that it could do nothing without the assent of the countries concerned and nothing without securing unanimity among its members.

He would insist on this point for the enlightenment of public opinion. The League took a good deal of pride in maintaining intimate and frequent contact with the public. Nothing could be done without winning public assent. It had perhaps been frequently ignored in the past, and that was perhaps the reason why there had been so much bloodshed in history. The moment had come, however, when the nations desired to know what was being done, and the Council, in particular, should make a point of informing them. There was no doubt that, if in various countries the impression were given that, in order to avoid dealing with difficulties, the Council was shutting its eyes to the important interests of the minorities, the League would to a large extent forfeit the confidence of the nations in its efficacy.

He would repeat what he had said in March last — that never at any time had the League, since its creation, neglected this duty. It had considered that this was one of its most sacred obligations. It had often discussed the matter; it had adopted resolutions; it had established its procedure, and that procedure had worked. Personally, he was unaware of any case in which a minority or a member of a minority, appealing in all confidence to the League, had had that appeal systematically set aside because, for example, it had placed the Council in an awkward position. All the petitions that were receivable had been received and carefully examined.

M. Dandurand had been convinced — and this conviction was entirely to his credit — of the necessity for the Committees of Three to collect all necessary information. Every means of obtaining valuable information — in the strict sense of the word — were, however, already used, and he was unaware of any case in which this procedure had been barred by a *non possumus*. In the past, therefore — and this was to the honour of the League of Nations and of the Council — everything possible had been done to give the members of the minorities legitimate satisfaction.

His colleagues, however, realised — and Dr. Stresemann was the first to do so — that in these matters, though there were men who, like himself, saw things objectively and in the light of their conscience and who desired to accomplish a duty towards people deserving of justice, there were, surrounding these deserving elements, other elements which made political capital out of the situation. They did not perhaps greatly care whether minorities received the justice due to them, but saw in the grievances of the minorities a factor of discontent

and uneasiness which might easily be exploited ; they did not fail to exploit them and actually encouraged the establishment of associations for unrest. What was the intention of these persons? Did they wish to remedy the grievances of an unfortunate sufferer whose rights were attacked? That was not their purpose. Their object was to prepare the ground for a political agitation in the service of certain political combinations. The members of the Council present, most of whom had held office, knew to what extent, in external policy, conditions of domestic policy might distort or trouble their public actions ; they would realise that outside the Governments there were also agents of propaganda whose words could create a deep impression on the public mind.

In such circumstances, what might result if such manœuvres were permitted and such discontent arose that in certain countries government became difficult? What would then be the situation of the Council? What attitude would the Council have to assume when the echo of these discords reached its meetings, and by what means could it find one of those solutions which it sought, because they led to conciliation? What a shock the League would receive if such a contingency arose.

It was because, as representative of France, he sympathised with the grievances of minorities, when they were legitimate, that he was also anxious in the interests of the minorities themselves, that no shock due to those grievances should injure the prestige of the League. He was accordingly compelled to leave the domain of the absolute and seek relative solutions which might reconcile justice to the minorities with the life of the League. For, if the fate of the minorities concerned the Council and their complaints found an echo in the Council, it was because the League of Nations existed. That in itself was a novelty and represented real progress. He did not wish this progress to be compromised by embarking upon dangerous experiments.

Dr. Stresemann had said that he was not abandoning hope. Dr. Stresemann was right. In an affair of conscience like the present, so long as hope endured, it must be cultivated. He well knew, however, the foresight of Dr. Stresemann, who had, since his country had been a Member of the League, given too many proofs of his spirit of conciliation — he had just given one such proof in the present case — to put his hand to anything which might trouble an institution that he honoured with his presence and in which he had, in loyal co-operation with his colleagues, obtained so many happy results for the various countries which formed part of the League.

The Council had reached a point at which it would draw a conclusion from its work. He had just heard the statements of certain members which proved that the result proposed was a satisfactory compromise. Perhaps it did not give entire satisfaction to all States represented upon the Council and, on both sides, it had given rise to a number of observations or reservations. In the somewhat precarious situation in which its constitution had placed the Council, these observations might be described as the crutches upon which the Council leaned in order to walk straight. After long discussions, which had been continued from one Council session to another, a piece of conscientious work, to which all members would pay tribute, had been accomplished by three of their colleagues. They had laid before the Council conclusions forced upon them by the texts of the Treaties and the facts. He was sure that, had Dr. Stresemann belonged to that Committee, he would, with his sense of reality, have reached similar conclusions. He had, moreover, admitted that they were satisfactory. M. Dandurand had done the same.

Those members of the Council who represented countries that had signed minorities treaties, and who had to take care that their powers of government, as far as their respective nations were concerned, were not deeply affected, had adhered to the conclusions of the report, while taking natural precautions for the future. All those statements would be found in the Minutes of the Council, sitting in Committee. One thing was evident, however — the resolution proposed would mean a step forward. It satisfied at least those minorities which had no *arrière-pensée*. It would be to the honour of the League and its Council that it had achieved progress and solved a difficulty of this kind without in any way imperilling its constitution.

Consequently, on behalf of France, he adhered to the conclusions proposed, as he had adhered to the report prepared by the Committee of Three. He thought them excellent.

Sir George GRAHAME thought it would have been highly regrettable if the long and conscientious work of the Committee of Three, previous to the Madrid session of the Council,

as well as the attention devoted to the various points of view put forward at the recent meetings, should not have come to fruition. In matters of so complicated and delicate a nature, which aroused on the one side keen expectations, and on the other grave apprehensions, it was almost impossible to put forward proposals which were quite satisfactory to all parties.

The world was a world of relativity, and a relative improvement was not one to be despised. He could not but believe that the proposals now before the Council would in practice prove to be a distinct improvement of the existing procedure. It was perfectly comprehensible that those members of the Council, who would have preferred other solutions if they had been attainable, should have explained their point of view at the present meeting. He understood their desire to make clear, at this session of the Council, their attitude towards the more general issues inherent in the question of minorities; but it was indeed gratifying that, in doing so, they should not have refused to accept the practical proposals which were embodied in the resolution.

Moreover, there was, he submitted, apart from the feelings of the members with regard to the particular case, another and more general reason for satisfaction at the result obtained. Perhaps the most important, and certainly the most delicate question which the Council had on its agenda for the present session was that of the regime of minorities. It was not too much to say that public opinion in Europe had been following the matter with close interest. It would have been deplorable if the talents gathered round the Council table had been unable, by the exercise of reasonableness and conciliation, to arrive at a solution, and if they had been obliged to confess to what would have been in effect a failure — at any rate temporary — with regard to a matter in which the League of Nations had undertaken so weighty a responsibility. He felt sure that no one would have more deeply regretted such a failure than the friends of the League in the great country of Spain, who had been showing more and more their interest in its progress and welfare, and who had clearly demonstrated, by their splendid hospitality, that the visit of the Council to their capital was an event of no mean significance to them.

He was happy to think that, instead of a failure, the Council would be able to present a tangible and accepted solution. Every success, when such difficult problems were under discussion — even a relative success — meant that one more stone had been added to the noble edifice which the League of Nations was slowly but surely erecting as a shelter and sanctuary for peace-loving humanity.

M. PROCOPÉ paid a tribute to the important work which the President, as Rapporteur on the question of minorities, had accomplished. Thanks to his spirit of conciliation and his desire to achieve tangible results, the Council was considering an improvement in that procedure. This result was contained in the report before it, which had been read at the beginning of the discussion.

He had put forward certain considerations to the Council, sitting in Committee, and had expressed certain views on the question now under examination. He would recall these considerations in accepting the report submitted to the Council.

Dr. STRESEMANN wished to add a few observations regarding the statement made by the representative of France. M. Briand — and he entirely agreed with him — had said that this question was a very delicate one. It was perhaps precisely for that reason that the use of certain expressions gave rise to a number of misunderstandings which were apt to last for some years.

At the last session of the Council, the present question had given rise to an important discussion. At that time, Sir Austen Chamberlain had said that certain passages of the Minutes in which he had used the word "merge" had been misinterpreted. Sir Austen had pointed out that he had never wished to imply, in using this term, that minorities must culturally be merged into the population composing the majority.

M. Briand in his speech had also made use of an expression which, if separated from the context, might give the same impression. Distinction must be made here between two things. He quite agreed with M. Briand that any action on the part of a minority must be taken in accordance with law and in a spirit of loyalty to the State to which it belonged. There was, however, another aspect to be considered. He thought that he would not be misinterpreting

the observations of M. Briand if he maintained that they did not mean that minorities must also abandon their special characteristics of race, language and culture. There were States, some large and powerful, some small and happy, which without having the same language or the same culture, were entirely united in the same feelings of loyalty towards the common State to which they belonged. He thought M. Briand would agree if he maintained that the sentence to which he had referred did not mean that M. Briand had wished to state that minorities should merge themselves in the population of the majority from the point of view of culture, language and race.

Dr. Stresemann wished to add one word. During the discussion which had taken place — as M. Briand had pointed out — the question of preserving the sovereignty of States had arisen. This sovereignty was one of the pillars of peace and good understanding. He could assure M. Briand that no one could agree with him on that point more entirely than the representative of Germany.

The PRESIDENT, as Rapporteur, said he had listened with the greatest attention and interest to the statements made and the explanations given by most of the members of the Council.

He thought, however, that it was not necessary at that late hour to prolong the discussion, for the considerations which he might put forward already expressed in a precise and detailed manner in the London report of the Committee of Three, of which he had the honour to be one of the members, as well as in the report which he had submitted to the Council at the present meeting.

It was scarcely necessary to recall that the draft resolution which he had had the honour to submit was the result of a very close examination of the problem, inspired by the most liberal spirit of conciliation. It was also the result of very long attempts to achieve conciliation.

The draft resolution should therefore be unanimously adopted by the Council according to the rules of procedure. Once adopted, the new provisions would enter into force at once.

*The Council unanimously adopted the draft resolution.*

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**MINUTES OF THE MEETINGS OF THE COUNCIL SITTING IN COMMITTEE TO EXAMINE THE REPORT TO THE COUNCIL PREPARED BY THE REPRESENTATIVE OF JAPAN (RAPPORTEUR) WITH THE COLLABORATION OF THE REPRESENTATIVES OF THE BRITISH EMPIRE AND SPAIN (COMMITTEE INSTITUTED BY THE COUNCIL RESOLUTION OF MARCH 7th, 1929).**

**FIRST MEETING.**

*Held at Madrid on Thursday, June 6th, 1929, at 11.30 a.m.*

*President : M. SCIALOJA (Italy).*

**Present :** All the representatives of the Members of the Council, and the Secretary-General.

**1. Opening of the Session.**

The PRESIDENT felt sure that he was interpreting the feelings of his colleagues in thanking the Spanish Government, on their behalf and on his own, for its cordial and splendid welcome. He asked M. Quiñones de León to tender the warmest thanks of the Council to His Majesty and to the Spanish Government.

M. QUIÑONES DE LEÓN said that his country was profoundly grateful to the members of the Council for the honour paid to her by their acceptance of the invitation.

**2. Absence of Sir Austen Chamberlain.**

Sir George GRAHAME read the following telegram which he had received from Sir Austen Chamberlain :

“ I deeply regret that it is impossible for me to attend the present session of the Council to complete the particular tasks with which it had charged me and to bid a personal farewell to my colleagues and friends. I desire to thank them one and all for the great kindness and consideration which they have shown me. I shall cherish the memory of the friendships which I have formed and shall always regard it as a high privilege to have been permitted to take a part in the Council's beneficent work. I shall follow its development with unceasing sympathy and interest.

“ To the Secretary-General and his staff of all nations I express my lasting gratitude for their unflinching and invaluable help. ”

The PRESIDENT said that all who had taken part in the work of the Council had appreciated the great capacity and distinguished qualities shown by Sir Austen Chamberlain. The Council could not but feel a certain sadness on learning that Sir Austen would no longer take part in its work. It was not for the Council to express any opinion or feeling regarding the causes to which the absence of Sir Austen Chamberlain was due. This could not prevent it, however, from expressing its most cordial appreciation of its former colleague. Everyone felt that something would in future be lacking, for Sir Austen was a man whose balanced mind guaranteed the justice of our decisions. The word “ decisions ” was not too strong, for when members were hesitating as to what course to take, the opinion expressed by Sir Austen had always been of a decisive nature.

The President thought that the Council should reply by telegram to the message which Sir George Grahame had just read. No one was better qualified to draft the text of the message than M. Briand.

M. Aristide BRIAND said that the President had perfectly expressed the feelings of all those who had co-operated with that great gentleman and friend of the League of Nations, Sir Austen Chamberlain. All who had collaborated with Sir Austen had learned to appreciate the fineness of his nature and had felt entirely secure in working with him. Sir Austen had always been a far-seeing friend of the League of Nations and had never lost sight of the objects which it had in view. During discussions which had sometimes become heated, Sir Austen had always displayed the quality of calmness and a balanced judgment which had been of incalculable value. His loyalty had never faltered, and the League had always been able to count upon it. The President had truly said that it was not only with regret, but with a feeling of sadness and even grief, that the members of the Council had learned that Sir Austen would no longer co-operate with them. The President was admirably qualified to express these feelings in the telegram.

The PRESIDENT thanked M. Briand for his observations, which would help him in preparing the telegram which would be sent to Sir Austen Chamberlain.

### 3. Protection of Minorities : Examination of the Report of the Committee of Three set up under the Resolution adopted by the Council on March 7th, 1929.

The PRESIDENT asked M. Adatci, Rapporteur, to read the report of the Committee of Three on the protection of minorities.

M. ADATCI reminded the Council that in March last it had asked the representatives of the British Empire and Spain to assist the Rapporteur for minorities questions. The Committee of Three had met at Geneva. The political situation in England had subsequently prevented Sir Austen from coming to the Continent and the Committee had next met in London, where it had worked with Sir Austen Chamberlain for a week. Sir Austen, at the request of his colleagues, had agreed to direct the difficult and delicate work of the Committee and had always found time to participate personally in its discussions. Everyone knew that Sir Austen had the highest conception of his duties as a statesman and a deep sense of the responsibility which lay upon the League of Nations to the lead world towards the maintenance of peace. Thanks to his active and cordial collaboration, the Committee had been able to achieve a result which was now to be considered by the members of the Council.

He would take this opportunity of expressing to Sir Austen Chamberlain his deep gratitude and admiration. He would go so far as to say that, without the constant intervention of Sir Austen, the Committee would not have been able to achieve the result which it had obtained. He wished also warmly to thank that eminent lawyer, Sir Cecil Hurst, who from the beginning to the end of the work of the Committee in London had been good enough to give valuable assistance to Sir Austen Chamberlain. His other collaborator, M. Quiñones de León, had devoted to the task his best thought and care, greatly assisted by M. de la Huerta and M. Botella. The Committee of Three had, moreover, found in the Secretary-General a most competent and conscientious assistant and one who had a long experience of questions affecting the League. The Committee had, not only in its meetings but outside, benefited from the collaboration of the Secretary-General and several members of the Secretariat, more especially the Director of the Minorities Section, M. Aguirre de Carcer, and his assistant, M. de Azcarate.

The Committee, after numerous and sometimes difficult meetings, had unanimously adopted the solution now submitted to the Council. In the report of the Committee every phrase had been carefully weighed by all its members ; and, not content with the examination which they had made in London, they had, on returning home again, studied the text of the report and had found themselves to be in complete agreement. The members of the Committee were convinced that the principles which they had embodied in the report were good and that the solutions which they suggested were practical. The members of the Committee would, of course, be at the entire disposal of their colleagues and would be glad of their observations and suggestions.

The report of the Committee of Three was read (document C.C.M.1).

M. ADATCI, during the reading of the report, in agreement with M. QUIÑONES DE LEÓN and M. PROCOPÉ, suggested some slight amendments of form in Chapter IV of the first part of the report.

M. PROCOPÉ asked whether it would be possible for the members of the Council to be informed of communications received from the associations and organisations mentioned in Annex II of the report.

The SECRETARY-GENERAL replied that these communications were at the disposal of the members of the Council.

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## SECOND MEETING.

*Held at Madrid on Friday, June 7th, 1929, at 11 a.m.*

*President : M. SCIALOJA (Italy).*

**Present :** All the representatives of the Members of the Council, and the Secretary-General.

### **4. Protection of Minorities : Examination of the Report of the Committee of Three set up under the Resolution adopted by the Council on March 7th, 1929 (continuation).**

M. DANDURAND said that his position was somewhat different from that of other members of the Council. He had only received the report of the Committee of Three on his arrival at Madrid and had not yet had time adequately to study its proposals and its annexes. He was not able to give the views of the Canadian Government at the moment. He thought, therefore, that the members should be allowed time to consult their Governments. The report was of very great importance, and it was only when the members had been able to devote considerable time to its study that they would be in a position to take a final decision.

The report gave the history of the minorities question from the beginning of the League. At the end of the report, the Rapporteurs had expressed their views in the form of certain considerations and opinions which they had laid before the Committee of the Council for a decision. The views of the Rapporteurs appeared to incline towards a change in the existing procedure. They had been careful to lay their full opinion before the Council Committee, but had left it quite free to endorse or change that opinion. It would therefore be unjust to the Committee of Three if the Council Committee took too hasty a decision on this very important matter.

He would remind his colleagues that the procedure with regard to minorities had been amended more than once during the history of the League. The problem had now been raised anew, and on this occasion every possible effort must be made to obtain a final solution. If the decision to be taken were taken in haste, the whole problem would arise once more and the work would have to be redone. Such a procedure would be unworthy of the wisdom of the Council. He would remind his colleagues of the English saying that " a matter is never settled until it is settled right ". It was sufficient merely to read the report and its conclusions to realise how complex and difficult was the problem, for it involved an interpretation of the Treaties and of the Covenant.

He would therefore suggest that, without suspending the discussion, the Committee should not reach any conclusion at the present stage. If his colleagues desired to take a final decision immediately, he would do his best to make known his views and those of his Government, but it would be almost impossible for him at the present stage to find those expressions and phrases which, while not arousing the susceptibilities of anyone, should at the same time express his real meaning. He desired to examine the whole problem in an entirely impartial spirit, and it was for that reason that he proposed that the Committee should



not take any final decision at the moment, but should adjourn the matter until the session of the Council in September. This would allow the Governments time for a very serious study of the important report submitted.

Dr. VON SCHUBERT desired in the first place sincerely to thank the Rapporteur and his two colleagues for the work they had done. He would pay a special tribute to the three distinguished members of the Council for having devoted their experience and their valuable time to the drafting of the report. He was convinced that their work would much facilitate the accomplishment of the Committee's task, for it went directly to the heart of the problem.

In view of the fact that the object of the present meeting was to enable members of the Council to explain the attitude of their Governments in regard to the essential views and conclusions set forth in the report, he wished to explain in its main lines the view of the German Government. He desired to speak quite frankly, for he considered that a frank discussion was indispensable if the Committee desired to achieve agreement and a useful result. He did not need to add that a divergence of opinion did not in any way imply that the German Government's appreciation of the great sense of responsibility shown by the authors of the report was in the least diminished.

He felt bound to state frankly that the report had much surprised the German Government. In view of the opinions which some members had expressed at the session of the Council held in March 1929, the German Government could not have hoped, it was true, that its own views, set out in the observations which it had made, would be accepted without change from the outset. The fact, however, that the German views had been given so little weight in this first report laid before the Council Committee had been a great disappointment.

Dr. von Schubert was under the impression, in reading the report, that all the arguments upon which it was based were of a negative kind, while positive views were rarely expressed. He would draw the attention of the Committee to certain concrete points which were of essential importance.

The historical survey in the report, which dealt with the origin and object of the Minorities Treaties and with the origin of the Covenant of the League, as well as with the activity shown by the League hitherto in the matter of minorities, might lead the reader to think that, as far as such questions were concerned, the task entrusted to the League was not in close relation to its general mission, but that the problem was rather in the nature of a special and technical question which had come haphazard within the sphere of the League's activities. He did not think that the history of the problem could justify such a view.

His Government was not aware of the reasons why the authors of the Covenant had not inserted special provisions concerning the protection of minorities. It was enough, however, to view the problem as created by the Treaties of 1919 and the subsequent Treaties and declarations to understand that it was impossible to neglect it without at the same time injuring the general task involved upon the League of Nations. He could never admit, for reasons of principle, that recourse could be had, in order to define the exact nature of the Minorities Treaties, to private sources, making it impossible for Governments which had not taken part in the negotiations in question to appreciate their importance.

He would also observe that the report, perhaps through an error of drafting, did not reproduce a part of the text of an important official document quoted by his Government, although the quotation in question appeared useful in order to define the scope of minorities treaties.

He considered that, taking as a basis the Minorities Treaties themselves, the official documents connected with them and the decisions which the League of Nations had taken in accepting this task, it was impossible to reach the conclusions to be found in the report in the first part of the general considerations. What did the report say? In comparing the old with the new regime, it defined the object of the new system to be as follows: the new system had been set up, first, in order to avoid abuses arising from the protection of the interests of minorities in favour of special political interests, whatever these might be; and, secondly, in order to assure the loyalty of minorities towards their State. He was far from denying that these principles were important elements in the present minorities regime. It was equally obvious, however, that the problem was not exhausted by stating these two principles, which were only one aspect of it and which related rather to undesirable contingencies.

All this part of the report in no sense referred to the positive principle which was beyond any doubt the question how the protection of the rights granted to minorities by the treaties could be rendered more effective than had hitherto been the case. When this positive object was put on one side, when it was only referred to in passing, when it was not positively and directly stated that the object of the new form of guarantee was to safeguard and protect as effectively as possible the permanent and elementary rights of large fractions of various populations, when no mention of all this was made, it was obvious that the picture presented was inaccurate. It was precisely because the danger of a false interpretation of the character and nature of the new minorities regime had already appeared during previous discussions that the German Government, in the first part of its observations, had attached great importance to throwing complete light on the subject.

In close connection with these considerations was another essential point of the report. Dr. Stresemann, in the declaration which he had made in March, as well as the German Government in its observations, had attached great importance to the point that the guarantee of the League should not be confined to dealing with concrete cases of infractions of the minorities regime, but that the guarantee should have a general and a wider nature. This fundamental idea was also to be seen in the observations submitted by other Governments.

It would appear, however, that the Rapporteurs had taken a different view. The report stated that the rights and duties of the Council, as derived from the guarantee, were confined to settling special and concrete cases brought before the Council in virtue of Article 12, paragraph 2, by a State Member, and that the organisation of a general guarantee within the meaning of the German observations would go beyond the limit established by the treaties in force. He found no concrete argument in the report to convince him of the accuracy of his view.

This was in his opinion, a decisive question. He would not, for the moment, refer to the subject of technical organisation but to the principle at stake. So far as this was concerned, he thought it quite inadmissible to maintain that the League of Nations would have fulfilled its whole duty in respect of minorities if the Council were to deal only with special complaints. What proof was there that the guarantee of the League of Nations, solemnly and unrestrictedly defined in the first paragraph of Article 12, was merely the procedure provided for in paragraph 2 of that article to deal with concrete cases of special complaints? He found no argument, either legal or political, to support such a view, but he had no need to repeat in detail what Dr. Stresemann and the German Government had said in this connection. He would merely draw attention to the following point.

According to the Treaties, it was indisputable that the procedure contemplated in paragraph 2 of Article 12 could only be put into operation on the initiative of a State Member of the Council. The new system, as the report constantly stated, aimed at rescuing the protection of minorities from the play of the national interests of the States concerned and entrusting it to international authority in its highest form. These two principles were mutually compatible as long as an excessive importance was not given to one or the other. If it were otherwise, there was a danger that any positive effect of the system would disappear. He thought that the Rapporteurs would run a considerable risk of that danger if they went so far as to say, as was stated in the report:<sup>1</sup> "It is therefore for the individual States Members of the Council to watch the execution of the Treaties". If the Council moved in that direction it was obvious that nothing would be left of the guarantee assumed by the League.

A further point should not be forgotten. It was scarcely probable that under the present system a State Member of the Council would bring a minorities problem before the Council unless a complaint had previously been made by the minority. How could a Government, if no such complaint were made, procure the necessary information entirely by its own efforts? In such circumstances, the case in which a minority, for certain reasons, hesitated to petition the Council would be entirely neglected. It was precisely at the moment when it was desired to avoid any suspicion of interference by a State in the internal affairs of another State that one should refrain from pointing out to Members of the Council, conscious of their duty towards minorities, a method which would lead them, in practice, to procure the necessary information for themselves.

<sup>1</sup> See page 162.

In submitting its suggestions, the German Government had never had in view decisions or institutions which would transform the guarantee of the League of Nations into any kind of an executive power which would intervene in the country concerned; in other words, the German Government had never intended to propose measures which would have to be taken in the territory of a State against the desire of the Government of that State. It was perhaps the term "supervision", which was a little misleading, which had given rise to misunderstanding. What the German Government had in view, and this was to be seen clearly from its observations, was that it was necessary to take measures to make it possible for the League to keep in touch with the development of the whole minorities problem, to be in a position to observe and follow that problem closely and thus be able to assure itself of the fate of the minorities. It was only by this means that the guarantee of the League would become a reality, and it was only by this means that concrete cases brought before it could be properly appreciated. It was perfectly possible to attain this object without going beyond the scope of the treaties in force and without unduly interfering with the sovereignty of the minority States. It was merely a question of the internal organisation of the League.

A further characteristic of the report was that it was not always logical in the contrary view which it set forth. It described correctly and in detail,<sup>1</sup> the activities of the Minorities Section of the Secretariat in collecting information, and it proved the necessity for these activities in the following words:

"In view of the nature of the Minorities Department's duties, its means of obtaining information must be as extensive and comprehensive as possible, not only as regards the actual situation of the various minorities, but in general as regards political, social, economic and cultural developments in the different countries which have given undertakings to protect minorities. Indeed, minority problems cannot properly be understood if they are considered apart from the political life of each country as a whole. Moreover, there are special juridical, social, economic and other aspects of these questions which become intelligible only when regarded as part of the public life of the nation."

He could quite agree with this view, but he did not properly understand what reasons of principle made it impossible to obtain this wide and general information in another way—for example, by means of a special organ of the League, as far as that might appear desirable for practical reasons. He thought that the observations of his Government had shown that such practical reasons did, in fact, exist. He would, in this connection, draw the attention of the Committee to what the report said<sup>2</sup> regarding the important part played by the Minorities Section of the Secretariat in the procedure of the Committees of Three. It might be wondered whether this was compatible with the constitutional basis of the League of Nations. He in no way desired to criticise the Minorities Section, whose work everybody appreciated. His remark concerned the omissions in the present procedure.

He would not again describe in any detail in what way and by means of what organisation these omissions could be rectified. Since the report rejected the German suggestions concerning this point, for legal and not for technical and practical reasons, the legal question must first of all be settled, and for that reason he had drawn the attention of the Committee to the contradiction which seemed to exist in the report.

He hoped the Council Committee would permit him to make a short observation on the same question. That observation would perhaps contribute to clear up the position. He would remind the Council Committee of another task of the League of Nations, which did not derive from the Covenant, but which had been specially entrusted to it in a treaty. He was referring to the guarantee of the League of Nations for the constitution of the Free City of Danzig. In that case the Council had expressed a very interesting view regarding the duties which devolved upon it as the result of such a general guarantee. He would quote only a few phrases of the report on the draft Constitution of Danzig presented at the time by Viscount Ishii and adopted by the Council:

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<sup>1</sup> See pages 170 and 171.

<sup>2</sup> See page 178.

" The Constitution does not lay down that the League of Nations should have the right to obtain information as to the working of the Government of Danzig. Nevertheless, it would seem that the protection to be given by the League of Nations to the Free City of Danzig, and the guarantee of the Constitution of this town by the League, make it indispensable that the League should be enabled to obtain, if necessary, from the Danzig Government accurate information on the public affairs of this town.

" The League of Nations by Article 103 of the Treaty of Versailles, paragraph 2, shall have at Danzig a High Commissioner whose duties shall include that of giving a summary decision in all disputes which might arise between Poland and the Free City on the subject of the said Treaty or supplementary arrangements and agreements. The High Commissioner will certainly receive information with regard to the matters which will be submitted to him in accordance with this provision.

*" But this does not appear to be sufficient. It is necessary that the League of Nations should be able to obtain information, not only in the case of disputes between Danzig and Poland, but also when the duties and rights arising from the protection and guarantee of the League might come into question."*

The analogy between this question of Danzig and the problem with which the Council Committee was at present dealing was apparent.

Finally, as regarded the part of the report dealing with the procedure to be applied to minorities petitions, he was glad to note that the Rapporteurs had also recommended that the Committees of Three should in each case communicate to the other members of the Council the results of their work. That suggestion was in conformity with the proposal submitted by his Government and by other Governments. He regretted to add that, on other points, the proposals made in the report regarding the procedure applicable to petitions did not go so far as the proposals which his Government and other Governments considered to be necessary and useful. He would reserve the right to return to this matter during the later discussion on questions of detail, such as the enlargement of the Committees of Three and the relations between those Committees and the petitioners.

He would, however, deal at once with a point which had not only a practical significance but which was, above all, of importance in principle. He was referring to the maintenance of the decision of the Council taken in 1925 excluding certain of its members from the Committees of Three. There, again, Dr. Stresemann and the German observations clearly expressed the views of his country, and he did not think that the observations of the report on this point were of a nature to weaken the thesis which had been put forward. He still regarded it as inadmissible not to have confidence in the loyal and objective collaboration in the work of the Committees of Three of any Government which was a member of the Council. His country had not asked that the members of the Council at present included should in all cases be asked to participate in the discussion of the Committees of Three. It had merely asked that they should in principle be excluded, but that it should be left to the discretion of the President to constitute the Committee of Three without any discrimination in each special case in the manner which seemed most appropriate.

He had reached the end of his observations, but he would like in conclusion to summarise his impressions. He cordially appreciated the serious efforts which had been made by the Rapporteur and his assistants towards the accomplishment of their task. He feared, however, that very serious difficulties would be encountered in finding a satisfactory solution if the Council remained within the limits of the report.

M. BRIAND reminded the Committee that this difficult and delicate problem had been placed before the Council largely as the result of the observations of the German Government at a previous session. Up to that time, the Council had followed a procedure in regard to minorities which, slightly amended from time to time, had made it possible for it to carry on its work in an atmosphere of comparative peace. It would have been more simple, he thought, to have continued that procedure in view of the complexity of the problem. The question had, however, been raised and it must therefore be settled, for it involved discussions regarding the interpretation of minorities treaties.

At the last session of the Council, a discussion had taken place. The German representative had put forward his views. Other members had expressed a different point of view. M. Briand had confined himself to pointing out that the constitution of the League had, as an inviolable principle, the guarantee of the sovereignty of States. It was that principle that was dominant. The day on which the Council lost sight of it and endeavoured to set up an organisation the object of which was to penetrate into the internal life of States, on that day would the Council run the risk of encountering overwhelming resistance. For that reason, the task with which the Council had been entrusted was particularly difficult. Since, however, it had undertaken that task the Council must pursue the matter to the end.

He had listened to the observations of the representatives of Canada and Germany with the greatest interest. M. Dandurand had raised a preliminary question which should be settled at the outset. He had said that the representatives of countries which had not had sufficient time to read the report of the Committee of Three should be given an opportunity of consulting their Governments before any final decision were taken. This amounted to a proposal for adjournment, and the Committee should first express its opinion on this point, for it was useless to have a complex and long discussion of principle if the final decision were to be adjourned to a subsequent session on the grounds that some members were not in a position fully to make known the views of their Governments.

Personally, he would like to pay a tribute to the work of the Committee of Three. That work did them great honour. The report had been drawn up in conformity with the instructions of the Council.

He would next invite the Committee to decide whether its members should be asked to give their views immediately. If they could not do so, it would be far better not to begin a discussion which could not lead to any fundamental result. The difficulties of the Committee would be increased and a certain degree of uneasiness would be aroused in public opinion.

M. TITULESCO was ready to begin the discussion of the report immediately. He suggested that the President should ask the members of the Committee to state whether or not they accepted the report and its conclusions.

M. DANDURAND said he had read the report as soon as he had received it and he had already given the reasons for which he could not express a final opinion at the present stage.

The PRESIDENT pointed out that the Committee was composed of members of the Council. From a legal point of view, any decision taken by the Committee had to be ratified by the Council which could, if necessary, reverse it. The decisions of the Council Committee could not therefore be regarded legally as final, though in actual fact it was improbable that the Council would reverse them, as the same members sat on both bodies.

M. ADATCI desired to explain the attitude of the Committee of Three. It had discussed the grave problem of minorities to the full extent of its powers and it would earnestly ask the Council Committee to reach a final decision at this stage and submit that decision to the Council itself at its forthcoming session. He understood that a procedure would not meet with any insuperable opposition on the part of M. Dandurand. A proposal for an adjournment might theoretically be justified, but, in point of fact, the effect produced on public opinion must be considered. The Council must give evidence of its desire to reach a final solution. For that reason, the question should not be adjourned.

M. DANDURAND thought that his attitude had been slightly misunderstood. He was not asking that the discussion should be postponed. He merely desired to say that he was not himself at present ready to express any final view upon the conclusions of the report.

M. BRIAND said that the Council itself was always prepared to adjourn the consideration of a question if one of its members was not prepared to express his views.

M. PROCOPÉ said that he was in the same position as M. Dandurand. He had only received the report of the Committee of Three on his departure from Finland and had not been able to consult his Government. He was making no proposal for an adjournment, but merely drawing attention to the facts. Could the members of the Council Committee discuss the report in any final sense without instructions from their Governments ?

M. BRIAND asked whether there was any formal proposal before the Committee to adjourn the discussion on the substance of the problem. If no such formal proposal were made, the Committee would presumably continue its discussion.

The PRESIDENT thought the members of the Council Committee might usefully continue their personal discussions. An exchange of views would be extremely helpful. The attitude which the Governments would finally adopt would be determined at a later stage.

M. QUIÑONES DE LEÓN pointed out that the members of the Council Committee sat as representatives of their Governments and that their opinions had therefore more than merely a personal significance.

M. BRIAND said that, in his opinion, the report of the Committee of Three was admirably drafted. The suggestions which it contained aimed at introducing appreciable improvements in the present procedure. On the other hand, it had been suggested that a Permanent Committee should be appointed for the protection of minorities and as a guarantee for that protection. This Committee would be able to obtain the information which it needed by means of enquiries and investigations in matters affecting minorities under the protection of minorities treaties. The Council would have to choose between retaining the present system, with its inadequacies — amended in accordance with the suggestions of the Rapporteur — and the institution of some such permanent body. Should the Council decide to create such an organ, the problem would still be far from solved. Its difficulties would appear at precisely that moment, and all the effects of the present proposals would then begin to be apparent. The Council would have to give reality to the proposed Committee. It would be necessary to define its competence and to limit its duties and powers. That would be an extremely delicate task. The question of the sovereignty of the States concerned would immediately arise and special regard would have to be paid to the results upon the minorities themselves of the decisions which would be taken.

A successful solution could only be found if all the parties concerned entered upon this work with a determination to assist in the maintenance of peace. In the original constitution of the League, as well as in the Treaties under which it had been entrusted with the duties of ensuring the protection of minorities, many points had, in the interest of peace, been left vague and indeterminate. A stricter definition of the powers and duties of the League in respect of these matters might provoke dangerous reactions and therefore be contrary to the spirit in which the Minorities Treaties were drawn up. He was sure that the Council would consider this problem with the utmost prudence, but a certain amount of political excitement was bound to be aroused and there was always the danger of creating unrest and of troubling the peace of the world instead of contribution to its maintenance.

It had been felt necessary, on the creation or enlargement of certain nations, to provide for the protection of minorities and to afford them certain guarantees. It had, at the same time, been realised that it was essential for these minorities, while retaining their distinctive characteristics, and their traditions, to merge themselves in the nations to which they were assigned and that they should not appear as elements of separatism and revolt. Anything which might provoke continuous agitation and excitement among the minorities was not only politically imprudent in itself but clearly against the spirit of the treaties. Any satisfactory solution of the minorities problem must take account of the two principal difficulties — namely, the necessity of respecting national sovereignty and of avoiding creating unrest in the minorities.

The Committee of Three had endeavoured to find a solution with these considerations in mind. It had endeavoured to find a formula which would improve the present procedure in certain respects, such as the assurance of publicity in minorities questions and the collection of information without unduly disturbing existing conditions. The conclusions of the Committee were therefore, of necessity, relative rather than absolute. He was convinced that the Council would be able to reach a unanimous decision, taking into account the possibilities of improvement, which were limited, and the impossibilities, which were definite and numerous.

The PRESIDENT enquired whether the members of the Council were prepared to accept the report of the Committee of Three as a basis of discussion.

Sir George GRAHAME said his position was somewhat difficult owing to the fact that he was not sure whether there was at present a Government in office in his country. He had received instructions to give his general support to the findings of the Committee of Three. His position, however, would be difficult if he were called upon to take an immediate decision on any new proposal.

M. ADATCI said that he had listened with interest to the statement of Dr. von Schubert, who had discussed certain questions of principle. He thought that, in the interest of the Council, it would be well to examine the whole problem from the political and practical point of view rather than from the point of view of principle and law.

M. ZALESKI was prepared to accept the bases of the report, it being understood that he would be able to present, during the later discussion, detailed amendments to the report if he so desired.

Dr. VON SCHUBERT said that, as he had indicated, he could not accept the report as a basis of discussion, since there were elements in it of which he did not approve. He would, however, of course, participate in any discussion of the report.

M. ZUMETA agreed to accept the conclusions of the report as a basis of discussion. He was also ready to accept any amendments which might be made in them, provided that they in no way affected the sovereign rights of States.

M. DE AGÜERO Y BETHANCOURT entirely associated himself with the observations of M. Zumeta.

M. VILLEGAS said that, although his country was not directly interested in the question, he was ready to examine it in that spirit of co-operation which was his guiding principle. He accepted the report as a basis of discussion in view of the fact that amendments could be introduced into it with a view to facilitating an agreement.

M. PROCOPÉ also accepted the report as a basis for discussion. Not to do so would be to misunderstand the scope of the work of the Committee of Three. This did not, however, imply that the representative of Finland adopted in their entirety either the conclusions or the arguments contained in the report. It should be understood that it was possible either to make reservations regarding the conclusions of the report or else to amend it.

M. DANDURAND said he was also prepared to accept the report as a basis of discussion. He was not, however, ready to accept its conclusions in their present form. He would like these conclusions to be more clearly presented. There were certain suggestions of the Committee of Three which would, if adopted, modify the present procedure. It would be interesting to know exactly how far and in what respects the proposals of the Committee of Three would affect the existing system. Would it perhaps be possible to draft a short note clearly setting out the amendments which were proposed ?

M. QUINONES DE LEÓN said he thought it would be possible for the Committee of Three to submit such a note to the Council at its next meeting.

M. ADATCI agreed.

M. BRIAND supported the suggestion of M. Dandurand. It would be of advantage if the conclusions of the Committee of Three were set forth under separate heads. They could then be discussed separately and the members of the Council Committee could express their views and reservations concerning them.

M. TITULESCO said he understood that the note to be drafted on the conclusions of the Committee would not in any way modify the report, the text of which would serve as a commentary on the proposals to be presented.

M. ADATCI agreed.



*The great majority of the members of the Council Committee accepted the report as a basis of discussion, on the understanding that their acceptance did not imply an approval of its conclusions and without prejudice to the attitude which they would adopt when the final decisions of the Committee came to be taken.*

M. ADATCI undertook, in collaboration with M. Quiñones de León, to draft a note on the conclusions of the report for submission to the Council Committee at its next meeting.

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### THIRD MEETING.

*Held at Madrid on Saturday, June 8th, 1929, at 11 a. m.*

*President : M. SCIALOJA (Italy).*

**Present :** All the representatives of the Members of the Council, and the Secretary-General.

#### **5. Protection of Minorities : Summary of the Conclusions of the Report of the Committee of Three.<sup>1</sup>**

M. ADATCI reminded the Committee that he had been invited, in collaboration with M. Quiñones de León, on the previous day to summarise the conclusions embodied in the report of the Committee of Three. They had done this work to the best of their ability and hoped that the document distributed to the members of the Council would provide a useful basis of discussion. As regarded the contents of this document, it was, of course, understood that, when the Committee did not put forward any new proposals, it was recommending the maintenance of the present position.

The PRESIDENT, in reply to a question by M. Dandurand, said that the general discussion was closed.

M. DANDURAND desired first of all to pay a tribute to the conscientious and excellent work of his colleagues on the Committee. He hesitated to make any criticism in view of the admirable effort which had been made to find a solution which might reconcile existing divergences of opinion.

While recognising the care which his colleagues had taken in drafting their report, it did not seem to him possible to accept without reserve its tenor and conclusions, since the report did not remedy the omissions in a procedure which it was the aim of the Canadian proposal to abolish altogether, or at least to attenuate. The Canadian Government had not changed its opinion in this matter.

As, however, the Committee had not felt it desirable to adopt the Canadian proposal, he would venture to submit for discussion another method of settling the difficulties and injustices of a procedure which he could not regard as being inviolate.

If the problem of minorities, in all its fullness, had again been brought before the Council, after a period of slow and prudent evolution, it could not be laid to the account of Canada that the discussion had been limited to the study of a point of procedure.

It was admitted in the report of the Committee that the minorities were unaware of what happened to their petitions when they were dealt with by the Committee of Three. They were also unaware of the character of the observations made by the Governments concerned. The Canadian Government did not consider it just that neither the Committee nor the

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<sup>1</sup> See Appendix I, page 150.



Secretariat should be enabled to obtain from the minority supplementary information upon following the observations of the Government concerned. The minority might supply information, but it was immediately eliminated as a source of additional or supplementary data.

He would ask his colleagues to suppose for a moment that no procedure was in existence, and to base its position merely upon the Minorities Treaties. A member of the Council on receiving a petition could immediately bring the petition before his colleagues or obtain information from the Government concerned. If the Government did not think it its duty to reply to the request for information addressed to it, the petition could, nevertheless, be brought before the Council. If the Government concerned replied, the member of the Council to whom the petition had been submitted, might communicate this reply to the petitioner or ask him for more complete information. In this there was nothing which was incompatible with the Treaties. Why should the Committee of the Council be deprived of the option to obtain information which might be enjoyed by a single member of the Council acting on his own initiative?

The present procedure resulted in the limitation of the option to obtain information which belonged to every member of the Council. None of the members would wish to ignore the procedure established in respect of the action of the Committee of Three or endeavour, for his own personal edification, to get into direct touch either with the Government concerned or with the petitioner.

The Canadian Government considered that the Committee of the Council, acting instead and in place of a member of the Council, should not be restricted by a procedure, which was independent of the Treaties, in exercising an option, which every member of the Council possessed, to seek information by applying either to the Government concerned or to the petitioner supplying the information.

As regards publicity, the representative of Canada could only approve the suggestions embodied in the report, and particularly the suggestion which consisted in rendering public the letter of the Committee of the Council drafted upon the conclusion of the work of each Committee and intended for the Members of the Council, on condition, however, that the Governments consented to the regular publication of this document if their assent were deemed to be necessary.

The Canadian proposal was to the effect that the Committee of Enquiry should be enlarged and petitions referred to a general Committee of the Council so that all its members might be equally well informed.

It was suggested in the report that the number of the members of the Committee might be increased to five. M. Dandurand thought it would be of great advantage to distribute more equitably the responsibilities for decisions against which there was no appeal when they had once been taken in a negative sense.

The annexes of the report consisted of very elaborate memoranda from various Governments and interesting communications from certain associations and organisations. M. Dandurand had had no time to analyse these appropriately.

In conclusion, he would merely ask his colleagues to make a simple declaration to the effect that the Committees of Three might always, at their discretion, seek from any source whatsoever the information or data which they might require.

Dr. VON SCHUBERT reminded the Committee that on the previous day he had declared that he could not personally accept the report as a basis of discussion. He had added that he was prepared to participate in any discussion on the points at issue or upon points of procedure. The question which the Committee of the Council had to discuss on the basis of the summary prepared by the Committee of Three dealt exclusively with the problem of the procedure applicable to petitions. There was reason to hope that certain results might be achieved in this matter. He felt bound, however, as a matter of good faith, once again to define his attitude towards the problems as a whole, as raised by his Government.

He must confess that an agreement on these special and rather technical questions did not, in the opinion of his Government, constitute a satisfactory result of the discussion which had taken place in March. It seemed to him impossible that the present Committee of the Council could close the discussion as long as the points of principle which lay at the root of the problem of minorities had not been elucidated or settled in one sense or another. For that

reason, he thought it essential that all the members of the Committee should have an opportunity of expressing their views on these important points. He agreed, however, that the Committee should at once discuss the questions of procedure.

M. ADATCI read, article by article, the summary of the conclusions of the report of the Committee of Three.

1. CONDITIONS FOR THE ACCEPTANCE OF PETITIONS.

*Adopted without observations.*

2. POSSIBLE REVISION OF THE DECISION REGARDING ACCEPTANCE.

*Adopted without observations.*

3. COMMUNICATION WITH THE PETITIONERS REGARDING ACCEPTANCE OR OTHERWISE.

M. TITULESCO said he would be disposed to accept the proposals made subject to the following observations and on the express condition that these proposals formed an integral part of the report as a whole, with all its principles and considerations. In saying this, he thought he was interpreting the views of the States which had signed minorities treaties and which were not represented on the Council:

1. As regards the communication to the petitioner of the fact that his petition was unacceptable, it was understood that the communication would go no further and would not involve any discussion with the minority, so that not the least impression might be given that the minority was regarded as a party to the case. His Government regarded the proposal of the Committee as a maximum proposal which should not in future be exceeded.

2. Without challenging the utility of publication in a special case and on the understanding that the State concerned agreed, M. Titulesco thought that the contrary rule would be to the interests both of the minorities and of the States. Publication should therefore be regarded as an exceptional procedure.

3. As regards the meetings of the Committee of Three between the sessions of the Council, he would emphasise, in view of the political importance of the minorities question, that it was essential that only the members of the Council in person should, in such cases, take part in these exceptional meetings.

4. The number of members of the Committee of Three could not and must not be increased.

5. Any modification in the present procedure required the assent of the States having obligations towards minorities.

6. As regards the publication of statistical data, it was understood that this publication applied only to statistical data and no attempt would be made in future to go any further. In no case could these statistical data give rise to any discussion before the Assembly.

In formulating the preceding observations, subject to which M. Titulesco did not oppose the proposals made, he was expressing his opinion as a member of the Council. The observations had been made on the explicit assumption that the proposals before the Committee formed an integral part of the report as a whole, with all its principles and considerations. In conformity, moreover, with the resolution of the Council dated March 6th, 1929, any modification in the present procedure required the consent of the States which had signed minorities treaties.

M. Titulesco would also ask that the report as a whole, with its conclusions, should be submitted to the Council at a public meeting and that it should be printed and distributed.

The PRESIDENT suggested that M. Titulesco should formulate his amendments as each section of the summary was discussed.

M. TITULESCO said that he was merely asking for the insertion of his declaration in the Minutes. His acceptance of the report and conclusions of the Committee of Three was made subject to this declaration.

The PRESIDENT said that the Committee would not again consider the general principle of the report, which had been approved at a previous meeting.

M. PROCOPÉ said he had understood that the report had been accepted as a basis of discussion, but had not been approved in substance.

M. BRIAND thought it was necessary to put the problem clearly. The Council Committee was dealing with a report the general considerations of which had been the subject of reservations on the part of several members of the Committee. Those reservations had been placed on record, if their authors had so requested. The precise proposals on which the Committee was now to take a decision would not, however, be subject to reservations. Once they had been adopted, it would be necessary to carry them into effect, and this would not be possible if they were subject to reservations. It would therefore be necessary to vote one way or the other. If agreement could not be reached, a return would have to be made purely and simply to the *status quo*. To sum up, the reservations were only valid as regarded the report as a whole; in other words, they applied only to the general discussion.

He would ask, however, in reference to one of the points in the declaration of M. Titulesco whether the proposals of the Committee, once they were adopted by the Council, would still have to be submitted to a procedure of ratification by the Governments concerned before they came into force.

M. TITULESCO suggested that the proposals of the Committee of Three should be examined and that the question of reservations should be postponed to the end of the discussion.

The PRESIDENT added that it would be necessary to obtain the acceptance of all the Members of the League if the proposed regulations contained any provisions affecting the Covenant.

*Section 3 of the summary was approved.*

#### 4. COMMUNICATION WITH THE GOVERNMENT CONCERNED.

*Adopted without observations.*

#### 5. COMMUNICATION OF PETITIONS TO THE MEMBERS OF THE COUNCIL.

*Adopted without observations.*

#### 6. COMMUNICATION TO THE MEMBERS OF THE LEAGUE AND PUBLICATION OF THE PETITION AND THE OBSERVATIONS, IF ANY, OF THE GOVERNMENT CONCERNED.

*Adopted without observations.*

#### 7. COMPOSITION OF THE COMMITTEES OF THREE.

Dr. VON SCHUBERT reminded the Committee that the representative of Germany had objected to certain Members of the Council being excluded from the Committees of Three. He proposed as an amendment to suppress the part of the summary which had just been read.

M. QUINONES DE LEÓN pointed out that this section of the summary did not in any way change the existing position.

*The amendment proposed by Dr. von Schubert was rejected and Section 7 was adopted.*

### 8. EXAMINATION OF PETITIONS BY COMMITTEES OF THREE.

M. DANDURAND recalled the proposal which he had made at the beginning of the meeting. That proposal did not constitute in any way an amendment to the present rules, but merely made them more precise.

The PRESIDENT asked M. Dandurand whether his amendment implied that a Committee of Three could collect information directly and independently of the Government concerned.

M. DANDURAND said that he had already expressed his views. He had stated that, in his opinion, the Committees of Three already had the option to collect information from any source which was deemed to be necessary. During the examination which it undertook, a Committee of Three studied the complaint submitted to it and the observations of the Government concerned. No limit had been assigned as to the method which it might adopt to obtain the supplementary information it might require. According to the present practice, it might either apply for this information to the Government concerned or through the intermediary of the Minorities Section of the Secretariat. It seemed, however, that the thesis embodied in the present document, according to which the author of the petition was not a party to the case, prevented the Committee of Three from applying to the interested parties — whoever they might be — in order to obtain supplementary information.

That right, however, if the present procedure were for the moment put aside and if the Treaties alone were strictly applied, belonged to the members of the Council individually. He asked that it should be recognised that any member of the Council had this right when sitting on the Committee of Three. It was difficult to admit that the Committee of Three could apply to any source which it might deem necessary except the author of the petition himself, in other words, to one of the principal parties concerned. For that reason, he asked the Council Committee to accept the declaration he had made at the beginning of the meeting.

The SECRETARY-GENERAL said that, under the existing system, the Committee of Three might collect information from any source which it deemed to be necessary.

M. TITULESCO desired to know whether the formula proposed by M. Dandurand implied that the Committee of Three had a right to enter into correspondence with a minority in order to obtain supplementary information. If this were so, such a general formula could not be accepted, as it had always been considered that the minority was not a party to the case and it had been necessary to vote a special amendment in order that the Secretary-General might be authorised to inform a minority of the fate of the petitions which had been declared to be unacceptable. Why had it been necessary to vote this special rule if the Committee of Three might communicate with the minorities above the heads of the Government concerned?

M. DANDURAND said that he regarded the minority, not as a party to the case, but as a source of information.

M. TITULESCO contended that M. Dandurand's arguments applied to the private correspondence of the members of the Council. If the authorisation under discussion were accorded to the Committee of Three before the Council had set on foot its legal procedure, this private correspondence would assume a legal character and the limits of the Treaties would be exceeded.

The SECRETARY-GENERAL thought there was a misunderstanding. At present, the Committee of Three was competent to collect information of any kind and from any source without limitation. A case had occurred in which the Committee of Three had made use of this competence in order to ask petitioners for further information. The possibility therefore existed, and it was for the Committee of Three to decide whether or not to make use of it, either by applying to the Government concerned or otherwise.

M. TITULESCO said that, if the right which M. Dandurand requested already existed, no amendment was necessary. If the right did not exist, his request constituted an innovation. The request would be equivalent to asking for a right of investigation within a State before legal action had been set on foot.

M. BRIAND said he was certain that M. Dandurand would realise the particularly delicate nature of the problem. Looking at the question in its true light, there appeared to be two parties to the case: on the one side, there was the State and, on the other side, individuals or groups of individuals who were petitioners against the State. It was inadmissible that the League of Nations should become a tribunal before which a subject might plead against his Government.

Reference had been made to information. How far should this information go? Was there not a risk of the Committees of Three becoming a kind of examining magistrate? If, as the Secretary-General had just recalled, the members of a Committee of Three might collect complementary information at their discretion, they were in that case as private individuals. If, when the information was collected, one of the members of the Committee or of the Council desired to take up the position of an accuser, he would have to go before the Council, and it was precisely the object of the present rules to make the members of the Council realise the formidable responsibility which they thus incurred and to induce them to act only with full respect for the consequences.

It was essential that difficulties which might be bitterly regretted should not arise owing to the fact that there had been no definition of what was understood by the collection of information. If the members of the Council desired to obtain further data, they might do so personally and on their own responsibility. To confer upon a Committee of Three the right to obtain such information, in other words, to make enquiries, was a serious decision. The Committee would be falling back upon the dilemma with which it had been confronted on the previous day when called upon to decide between two methods — namely, the present system or the appointment of a permanent committee of investigation. No one had presented any proposal for the creation of such a committee. He would further add that the explanations given by the Secretary-General were calculated to remove any possible apprehension.

M. DANDURAND replied that the explanations had given him every satisfaction and that he would not insist upon his proposal.

M. BRIAND said that in so delicate a matter, when the procedure resulted in a controversy between the Government and the petitioner, the members of the Committee of Three acted wisely in bringing the matter before the Council. In such circumstances, the intervention of the Council *in pleno* was necessary.

The PRESIDENT thought that in such a case it was advisable to trust to the wisdom of the Council and that it was impossible to fix absolutely strict rules. The formula proposed by M. Dandurand involved the risk of encouraging those who might not show proof of the necessary discretion. In such a case the right of enquiry involved the risk of transforming a judge into a public agitator and the best method was to rely on the wisdom of the Committee of Three and the Council. The members of the Committee of Three, moreover, were not final judges in the case and there was always the possibility of resort to the Council. No limit could be fixed to the action of the Council. The position was otherwise as regarded the Committee of Three, but that could not be defined in a formula. Experience showed that in different cases the Committees of Three had acted differently.

*Section 8 was approved.*

#### 9. FREQUENCY OF MEETINGS OF THE COMMITTEES OF THREE.

M. PROCOPÉ, after paying tribute to the conscientious work which had been done by the members of the Committees of Three, said that, subject to a reservation which he had formulated on the previous day and without entering upon a discussion of principle, he accepted the summary under discussion. As regarded Section 9, he thought that the majority of those who had been members of the Committee of Three were of opinion that it might often be difficult for the members of such a Committee to form an opinion on a question submitted for their examination. It was true that the Minorities Section of the Secretariat and its distinguished directors thoroughly prepared the necessary materials in a manner which was worthy of all praise. He nevertheless thought that more than one member of a Committee of Three had

wished that the Committee itself might have had more time at its disposal to study the details contained in the documents presented.

That disadvantage might, however, easily be remedied by adopting the following procedure. Before the members of the Council who formed part of the Committee of Three undertook in the Committee a final examination of the question submitted, an examination which would be better undertaken towards the end of each session of the Council, their assistants might meet, for example, on the first day of the session of the Council, or even some days before the opening of the session, an arrangement which might easily be made, in view of the fact that the delegations usually arrived at Geneva some days before the session began. The assistants of the members of the Committee would be instructed to examine the material collected relating to the question submitted and, after having consulted the competent officials of the Secretariat and obtained from them, if necessary, supplementary information, to draft in common a preliminary report. As the members of the Committee would probably delegate for this duty their legal advisers, this preliminary study would have all the greater value.

In the preliminary report, which might be made orally or in writing according to the nature of the question, the various alternatives might be taken into consideration. In the opinion of the assistants of the members of the Committee the question might, with regard to a point defined by them, require supplementary information. Or a legal question might have to be elucidated either with the help of the Legal Section of the Secretariat or otherwise. Or, again, on the basis of the preliminary study of the question thus made, the affair might be regarded as sufficiently elucidated and ripe for settlement by the Committee of Three. On the basis of this preliminary report, the members of the Committee would then proceed to examine the question and frame their opinion. It seemed to him that this procedure would ensure a thorough examination of the question by the Committee of Three.

To sum up, the system would be as follows :

(a) The assistants, preferably the legal advisers, of the members of the Committee of Three would submit the question to a preliminary examination and make a preliminary report upon it :

(b) On the basis of this report, the members of the Committee would study the question and formulate their opinions.

M. PROCOPE did not think it necessary to take a special decision on the subject. He had merely wished to draw attention to the possibility of adopting this method of work. Even without a resolution of the Council, the Committees of Three could adopt it, if they thought it practical to do so, in regard to the cases submitted to them for examination.

M. TITULESCO observed that only the Members of the Council could be members of the Committees of Three.

The PRESIDENT said that in seventy cases out of a hundred the questions which arose were very simple and might be settled without the assistance of legal experts. Moreover, it often happened that the members of the Committee of Three were not accompanied by a legal expert and in that case the members in question would be excluded from the previous meeting of experts. In the majority of cases the questions to be settled were not legal, and perhaps the presence of lawyers would involve the risk of complicating the discussions. It would be better not to fix a rule, and not even to give advice in the matter, but to leave the whole question to the discretion of the members of the Committees of Three.

M. PROCOPE, while bowing to the experience of the President, pointed out, nevertheless, that in several cases it might be useful to divide up the work of the Committees of Three as he had just indicated ; at the same time, he would repeat that he had not suggested that the Council Committee should take a decision on the matter, but that it would be sufficient, he thought, to draw the attention of the members of the Committees of Three to this possibility.

*Section 9 was adopted.*

10. COMMUNICATIONS CONCERNING THE ACTION TAKEN ON PETITIONS BY COMMITTEES OF THREE.

Dr. VON SCHUBERT reminded the Committee that on the previous day he had said that he could accept this proposal of the Rapporteurs. It would, however, be useful to lay down that the letter addressed to the other Members of the Council should in each case be accompanied by the relevant documents.

The PRESIDENT replied that the despatch of these documents would be impossible. Mention might be made in the report that these documents would be held within the Secretariat at the disposal of the Members of the Council.

*This suggestion was approved by the Rapporteurs and was adopted.*

The PRESIDENT added that it was evident, but not perhaps necessary to say in the text, that each member might always bring the question before the Council.

M. QUIÑONES DE LEÓN and M. ZALESKI thought this was obvious.

M. PROCOPÉ wondered whether it would not be practicable, when communication was made to the other Members of the Council, to invite them to submit their observations within a fixed period on the opinion expressed by the Committee of Three ; in other words, to indicate whether they intended to bring the matter before the Council. In the absence of any observations on the part of the other Members of the Council, communications in conformity with the opinion of the Committee of Three would be addressed to the State concerned. The time-limit should be as short as possible, for example, from two to four weeks.

The PRESIDENT thought that, unless it was essential to do so, no time-limit should be fixed. Experience showed that in practice no such necessity arose.

M. DANDURAND added that, in his own personal case, the period contemplated was too short.

*Section 10 was approved.*

11. PUBLICATION OF THE RESULT OF THE EXAMINATION OF A QUESTION  
BY A COMMITTEE OF THREE.

M. DANDURAND thought that the recommendations formulated by the Rapporteurs were excellent and that it would be well if effect could be given to them. It would be useful, in the general interest of peace, if the parties concerned were kept informed of the decisions of the Committees of Three. It could not, of course, be stipulated that this rule should be applied in all cases. It was undoubtedly an excellent thing, however, that public opinion should be enlightened.

The PRESIDENT asked M. Adatci in what way the contemplated publication would be made.

M. ADATCI replied that, according to the present procedure, publication was made in the *Official Journal*. The necessary details might be added in the last paragraph of this section of the summary.

*The Committee agreed.*

12. REGULAR ANNUAL PUBLICATIONS CONCERNING THE WORK OF THE LEAGUE  
IN CONNECTION WITH THE PROTECTION OF MINORITIES.

Dr. VON SCHUBERT noted that the publications in question would be merely statistical and would not contain any indications of the object or sources of the petitions, so that the public would have no information as to the nature of the petitions.

M. ADATCI explained that the Committee of Three had very closely examined this aspect of the question. It had seemed to it that in so delicate a matter it was impossible to go further than the suggestions contained in Section 12.

M. PROCOPÉ asked whether there might not be added to the statistics mentioned by the Rapporteurs two columns, one giving the number of questions the examination of which had been concluded during the year, and the other the number of questions which had been submitted to the Council for examination.

The PRESIDENT was in favour of suppressing this section of the summary. If the League of Nations, dealing with such questions, merely published figures, the public would believe that something was being hidden, whereas, on the contrary, the present Committee had already voted in favour of publicity for the decisions of the Committees of Three. That decision was more important than the statistics referred to in Section 12. It would always be open to those who liked statistics to calculate for themselves the various decisions taken by the Committees of Three.

Dr. VON SCHUBERT said he did not see what danger there was in mentioning the subject and source of the petitions. Was it not, on the contrary, desirable for the petitioners to be able to realise that all the petitions had been examined?

M. BRIAND urged the necessity of not losing sight of this question of publicity in the interests of the minorities themselves. It was better for them to obtain certain advantages from their Government than to see their petitions published in an official document. The best result to be hoped for from the intervention of a Committee of Three was that it might obtain from the goodwill of the Government the satisfaction asked for by the minorities making the petition. If satisfaction were thus obtained, publication might in certain cases re-open old quarrels and change the attitude of the Government. Further, at the opening of the Assembly every year, the President recalled the efforts made by the Council in various fields of the League's work. He was not prevented from making any reference to the assistance given to minorities in his general observations on that occasion.

M. ADATCI said that his colleague, M. Quiñones de León, and he himself had thought it well to suggest the publication of these statistics, which would consist only of figures. They were both prepared to accept the supplementary lists proposed by M. Procopé. The Rapporteurs would abandon the suggestion contained in Section 12, if such a course were necessary in order to secure unanimity within the Committee. The Rapporteurs, however, would regret that necessity.

M. QUIÑONES DE LEÓN added that the only object of the statistics contemplated was to inform the public as to the activities of the Council. To give more detailed information as to petitions and their authors would involve bringing the problem into the political sphere, a result which would not be in the interest of the minorities, as M. Briand had already pointed out.

M. PROCOPÉ recalled that the League of Nations had sometimes been accused of not dealing with minorities questions. The publications of the proposed statistics would afford striking proof of the work done by the Secretariat and by the Committees of Three in this respect.

Sir George GRAHAME supported the proposal of the two Rapporteurs and the amendment proposed by M. Procopé.

The SECRETARY-GENERAL asked M. Procopé to withdraw the second part of his amendment as the number of questions which had come before the Council would be known.

M. PROCOPÉ complied with the request of the Secretary-General.

*Section 12 was adopted with the amendment suggested by M. Procopé.*



M. ADATCI read the passage of his summary concerning the proposals to increase the number of members of the Minorities Committees. The Rapporteurs had taken no decision in regard to these proposals and would merely draw the attention of the Council to them.

The PRESIDENT pointed out that up to the moment no one had ever proposed that the practice according to which Minorities Committees were composed of three members should be amended.

Dr. VON SCHUBERT thought it would nevertheless be worth contemplating an enlargement of the Committees of Three in important cases. The decision could be left to the discretion of the President.

The PRESIDENT said that this procedure had been followed in regard to certain cases. It should be laid down that in case of necessity the Minorities Committees could be increased by two members.

M. QUIÑONES DE LEÓN took the view that the Council was always free to act as it thought best, and that it was not necessary to draw up any regulations on this point.

The PRESIDENT also thought that the regulations in question were not strictly of a legal nature. They were rules of procedure drawn up by the Council the object of which was to make it possible for it to carry out its duties in the best possible manner. This could be explained in the report. If the opposite view were adopted, it should be understood that the right to increase the number of members of the Minorities Committees could always be used by the President and by the Council.

M. ADATCI read the last part of his summary concerning the question whether, when the examination of a question had been completed by the Committee of Three, the Secretary-General should, or should not, inform the petitioner that no Member of the Council had drawn the Council's attention to the matter in regard to which the petition had been made.

M. DANDURAND, in spite of the views of the Rapporteur, wondered whether it would not be useful to leave the matter in the hands of the Secretariat and thus make it possible to give satisfaction to nine-tenths of the petitioners, who were quite ignorant of what happened as a result of their petition. Under the present procedure, had the Secretary-General the necessary discretion permitting him to forward the decisions of the Committees of Three to the petitioners?

The SECRETARY-GENERAL replied that when a petitioner made an enquiry regarding his petition he replied to him, but he did not give any information to a petitioner on his own initiative unless he was asked for it. Requests of this nature were very rare.

M. ZALESKI pointed out that in actual practice petitioners were always aware of the action taken on their petition, because in most cases they obtained at least a certain degree of satisfaction from their Government.

M. DANDURAND explained that he was referring to cases which were perhaps numerous, and in regard to which representations had been made to him to the effect that petitioners were entirely ignorant of the action taken as a result of their petitions.

The PRESIDENT said that the Secretariat had always acted with much prudence in the matter. It frequently happened that a Government, as a result of the petition, took action which was favourable to the petitioner, but that Government did not wish it to appear that its hand had been forced. If it were definitely stated that the satisfaction obtained had been the result of the petition, the risk would be incurred either of causing the petitioners to increase their demands or else of alienating the Governments concerned. It frequently happened that what appeared to be a guarantee sometimes became the reverse.

Dr. VON SCHUBERT asked whether it was understood that, when a petitioner wished for information, his desire could be met.

The PRESIDENT said that it should be laid down that the Secretary-General should reply to such requests for information.

M. ZALESKI had no objection to this suggestion.

6. Question of holding a further Meeting of the Committee.

The PRESIDENT consulted the Committee as to whether it considered its task completed or whether it thought it necessary to hold another meeting before the meeting of the Council.

Dr. VON SCHUBERT would refer to the observations he had made at the beginning of the meeting. He had taken part in the discussion on the points of procedure. Agreement had been reached except in regard to one question, and he must reserve the right of the German representative to raise the matter once more before the Council. Further, as he had already pointed out, there were other questions of principle in regard to which a continuation of the discussion by the present Committee would be necessary.

M. BRIAND did not understand what would be the object of another meeting in view of the fact that it would be impossible to re-open a general discussion on new proposals which had not been made.

Dr. VON SCHUBERT, without wishing to discuss the question from the point of view of principle, pointed out that the present Committee had only discussed a part of the work referred to it by the Council. He thought that it would therefore be necessary to examine the other questions in the present Committee. He must, moreover, reserve the right of the German representative to re-open the discussion on the conclusions of the report, which related to Section 7, since the discussion on this point had been cut short by the question being put to the vote. Further, the Committee had not yet discussed the manner in which its report would be forwarded to the Council and without further discussion the present report would be incomprehensible.

M. ADATCI, on behalf of the Committee of Three, thanked the Council Committee for having taken the report as a basis of discussion. The members of the Committee of Three were glad that it had been possible to achieve results in regard to an essential part of their report. At the same time, their main desire was that the report should be officially presented to the Council by the unanimous vote of the members of the present Committee. They wondered whether, out of love for the League of Nations and in the real interest of the minorities themselves, a supreme sacrifice could not be made on both sides, in order to make a final presentation of the report to the Council. Apart from any theoretical questions, would it not be an act of political wisdom to reach unanimous agreement on practical proposals? He felt sure that he was voicing the views of his colleagues on the Committee of Three in saying that he was ready to attend a new meeting on the Council Committee at which a unanimous result might be obtained.

M. TITULESCO said that the report of the Committee of Three was the result of instructions which it had received from the Council at a public meeting. Its first duty was therefore to submit the whole document officially to the body which could be regarded as having given instructions to the Committee of Three. The present Committee was a Committee sitting in private with a view to preparing, if that were possible, for a unanimous vote, or to finding an agreed solution on the report and its conclusions. The second step to be taken would therefore consist in unanimously presenting to the Council, with the reservations on the Section to which Dr. von Schubert had referred, the concrete result of the discussions of the present Committee. The Council would remain free publicly to adopt the report and the practical conclusions reached by the present Committee, with the reservations made by those who did not accept the report as a whole, and the conclusions submitted by M. Titulesco himself.

M. ADATCI, while noting that M. Titulesco had put the problem clearly, regretted profoundly that a number of reservations should be added to the proposals which the Committee would make to the Council. He warmly desired that no reservations should be made. He urged all members to put aside theoretical questions and to maintain a united front.

M. BRIAND agreed that it would be useful to achieve a solution which would result in the unanimous adoption by the Council, without discussion and without any reserve, of the proposals of the Council Committee. Was this possible? Personally, M. Briand was ready to undertake not to speak when sitting on the Council, but he must be assured beforehand that all his colleagues would also abstain, otherwise there was a risk that a fresh general discussion would begin. If a further meeting of the present Committee, such as that asked for by Dr. von Schubert, would make it possible to obtain an agreement in the direction anticipated by M. Adatci, M. Briand would have no objection to this further meeting, but there must be complete agreement on that occasion.

M. ADATCI did not think it impossible to find a compromise, making it possible to obtain unanimity. His colleagues and himself were ready to continue negotiations in private.

*The Committee decided to hold a further meeting on Tuesday morning, June 11th.*

#### **7. Question of the Publication of the Minutes of the Committee.**

M. DANDURAND was under the impression that the Minutes of the Council Committee would not be published. Nevertheless, it would be useful for them to be laid before the Council as this would make it possible perhaps to shorten, if not to do away with, the discussion.

The PRESIDENT observed that it was the Council's right to receive the Minutes of the Committee.

#### **8. Question of publishing the Report of the Committee of Three**

As the result of an observation of M. Quiñones de León in regard to the publicity to be given to the report prepared in London by the Committee of Three, Dr. VON SCHUBERT said it would be preferable to adjourn the question of publicity until after the discussion at the next meeting.

M. QUIÑONES DE LEÓN agreed. It should be understood that the report of the Committee of Three would not be officially made public until after the meeting of the Council.

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### **FOURTH MEETING.**

*Held at Madrid on Tuesday, June 11th, 1929, at 11 a.m.*

*President : M. SCIALOJA (Italy).*

*Present : All the representatives of the Members of the Council, and the Secretary-General.*

#### **9. Protection of Minorities : Examination of the Statement and Draft Resolution submitted by M. Adatci.<sup>1</sup>**

Dr. STRESEMANN said he much regretted that he had not up to the moment been able to take part in the work of the Council Committee. Important questions, however, had compelled

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<sup>1</sup> See Appendix 2, page 153.

him to remain in Germany, and he had had to keep himself informed of the discussions which had taken place in the Committee by means of personal information and by reading the Minutes of the previous meetings.

It was in these Minutes that he had found the letter sent by their colleague, Sir Austen Chamberlain, to the Committee. He desired to make certain observations in regard to that letter.

When Sir Austen Chamberlain had left the Council, the acting Chairman, M. Scialoja, and M. Briand had expressed the regret they felt at the loss thereby incurred by the League. Those who had co-operated with Sir Austen Chamberlain were well aware how valuable and fruitful that co-operation had been for the work done at Geneva under the auspices of the League.

After four years' contact with Sir Austen Chamberlain, he was well able to appreciate the devotion and sympathy which Sir Austen had for the work of the League. He was well aware how firmly he attacked the various problems which arose, though in some instances the chances of success were not always very great. He warmly appreciated the frankness with which Sir Austen had always given his opinion, when he thought that to do so would facilitate a solution of these problems.

For all these reasons he would fully associate himself with all that the President and M. Briand had said, and would also associate himself with the regrets expressed on the occasion of Sir Austen Chamberlain's departure.

As far as the question of minorities was concerned, there were two aspects which must be distinguished. In the first place, the procedure must be considered and, secondly, the attitude of principle to be adopted by the Council towards the work which the League had already accomplished in this field.

He did not wish to recall in detail the German views on this question. Dr. von Schubert had already done so. He appreciated the important progress which had already been made in so far as procedure was concerned. There were, however, certain points to which he would like to return and which deserved the attention of the Council. Among them there was, in particular, the question of the exclusion of certain members of the Council from the Committees of Three. This was entirely contrary to the idea of equality which should underlie all work performed by the League.

The second question to which he wished to refer concerned the Permanent Committee on Minorities. As Dr. von Schubert had already stated, this question had given rise, in some quarters, to an interpretation which was quite erroneous. In making that suggestion the German representative had never meant that a supervisory body should be established. He had never meant to interfere with the authority of any country, or to propose that any kind of organisation should have the power to interfere with the sovereignty of a country. He had never desired to establish an executive organisation in regard to minorities. What had been contemplated was a body whose only duty would be to follow closely the situation and the development of the protection of minorities, without having any right of investigation into the affairs of the various countries concerned. He would revert to this question before the Council in order to dissipate any misunderstandings as to the intentions underlying the German proposal.

Turning now to the present discussion, he was compelled to his great regret to note that, as far as points of principle were concerned, no agreement existed between the members of the Committee. There were divergencies of view regarding the extent of the obligation falling on the League to guarantee the protection of minorities. It was a question of defining that guarantee and its extent; it was a question of discovering what attitude the League should take in regard to the report of M. Tittoni. Having before them the London report and the various memoranda — more especially those coming from the States belonging to the Little Entente — his colleagues must frankly own that disagreement existed.

It was necessary to reply to the following important question: What action should the Council Committee now take? Was there any possibility of solving the minorities question? In his view, there were several solutions. In the first place the Committee might contemplate adjourning its final decision. In reading the Minutes, Dr. Stresemann had discovered that M. Dandurand had said that he had only received the London report in Madrid with the result that he had not been able to get into touch with his Government. Other members of the Council had also found themselves in a difficult situation in this respect.

There was an important point to which no reference had yet been made. It was as follows : Other States not represented on the Council of the League held views on this question. Dr. Stresemann had read in the Minutes that during the discussion M. Titulesco had said that he spoke for States not represented on the Council as well as for his own State. It was therefore to be expected that those countries which were interested in the problem of minorities would raise the matter at the next session of the Assembly and give their views. If he were to put himself in the position of those States, he would note that a number of difficulties would arise if they were not given an opportunity of expressing verbally their views on the matter.

It was also to be wondered whether during the discussions in the Assembly important suggestions would not be made to the Council with a view to facilitating a solution of the problem. It could not be considered that the adjournment of this question would serve no useful purpose, on the ground that the Council would find itself in September in exactly the same situation as has been the case in the month of June, for it would be possible for other suggestions to be made in the interval. If, however, it were maintained that the Council would be no further advanced in September than it was at present, the question arose whether it should not ask for an opinion from the Permanent Court of International Justice at The Hague, in view of the respect entertained by the whole world for that Court. This procedure would have the following advantage : The Council would not be compelled to show public opinion that its members disagreed, for such a disagreement would certainly not increase the prestige of the League in the eyes of the world.

He would sum up his observations by saying that, while the Council had certainly achieved a number of improvements as far as procedure was concerned, it was still necessary to return to a number of points of principle which had given rise to erroneous interpretations.

There were other points to which he would return during the discussion in the Council, but it must be realised that, in view of the great divergencies of view which existed, it was probable that no agreement would be reached. As far as he was concerned, he wished to say quite clearly and definitely that in no case could he accept the London report because, in regard to certain essential principles, it was entirely contrary to what he had had in view when he had raised the question of minorities before the Council. It was probable, however, that members might come closer together in the interval if the Council adjourned the question until the next session. New suggestions might be made, which might make the solution easier.

If the Council decided not to adjourn the question, he would propose that the Permanent Court of International Justice should be asked to give its opinion.

Finally, there was the following third point : Would it be better to enforce part of the decisions before receiving an opinion from the Court, or would it be better to await the arrival of that opinion in order to put the decision as a whole into operation? This was a question for the Council to decide.

M. ADATCI, as Rapporteur, had listened with the greatest attention to the statement made by the representative of Germany. He would not explain in detail the legal point of view, which the Committee of Three had thought good to set forth in its report. The report itself was very complete. It was only necessary to read the pages devoted exclusively to the legal aspects of the problem to realise that this was the case.

As far as he was concerned, he thought himself in agreement with the two other members of the Committee of Three, who had held long meetings in London, when he said that there was no one single word which could be removed from their report ; neither was there a single word which could be added. Their opinion had been formed as the result of profound study carried out in a spirit of impartiality and sincerity and based on every authentic document concerning the question and on the views of persons competent in the matter. The Committee of Three still maintained its belief that the principles which it had laid down were good. Consequently, he thought it his duty to state that it was impossible for the Committee of Three to change its point of view.

He would add that if Sir Austen Chamberlain, in regard to whom Dr. Stresemann had spoken touching words in praise of his loyalty and statesmanlike conscience, were present at the Committee, he would say exactly what M. Adatci had just said.

M. BRIAND noted with regret that the supplementary meeting which the Committee had decided to hold at its last sitting, instead of enabling the Committee to achieve that unanimity which the Rapporteur, M. Adatci, had contemplated, appeared to have rendered more remote the goal which his colleagues had, a little innocently perhaps, believed to be almost within reach.

He had listened with great interest to the words of the representative of Germany. He had found the views of Dr. Stresemann — which did not astonish him — to be entirely consistent with his previous declarations. Dr. Stresemann again affirmed a doctrine which already on many occasions he had very eloquently put forward. Personally, however, he thought that, since that doctrine had first been put forward, certain steps in advance had been made towards achieving a practical result in the solution of a complex and delicate problem.

He would venture to remind the Committee how the problem had come before it, a problem upon which no one since the League came into existence had dared rashly to lay hands until December 1928. It was true that the League had not waited till that time to execute a duty which it had assumed when it undertook to guarantee the protection of minorities as established by the Treaties. It had created a system which it believed would reconcile its obligations with the principle of sovereignty of States, which lay at the root of the constitution of the League of Nations. The reconciliation of these elements was difficult, as must be frankly recognised. Nevertheless, the system adopted had made it possible to realise, within the limits thus fixed, certain advantages for the benefit of the minorities.

A question of principle, however, had arisen ; the very foundations of the system had been called in question. In March last a very extensive discussion had taken place — a discussion which had been of great interest and, he would not deny it, even useful. Was it not necessary to the life of the League of Nations that, even in dealing with the most delicate questions, the members of the Council should meet together in a friendly spirit before the public, which followed the work of the League and appreciated it?

The present discussion had been as full as could be desired. Dr. Stresemann had supported his thesis with much force, as was his custom. M. Briand had himself endeavoured to express his own point of view, and had tried to attenuate anything in which he did not in this instance see eye to eye with his colleague, since such disagreement was naturally disagreeable to him personally as a convinced advocate of the gospel of Locarno. Other members of the Council had spoken. The problem had been considered in all its aspects, and the Council had finally instructed three of its members — Sir Austen Chamberlain, M. Quiñones de León and M. Adatci (M. Adatci was specially competent in the matter, since he was the customary Rapporteur for these questions and was familiar with them) — to make a report based on the discussion which had taken place. The Council had asked the Committee to work in the interval between the two sessions of the Council in order that it might present a report in June.

The Committee thus constituted had met in London. It had worked very conscientiously and had obtained information from all possible sources. It had prepared a report which might be said, in a sense, to be the last contribution made to the work of the Council by Sir Austen Chamberlain. It had given M. Briand pleasure to hear the eloquent words with which Dr. Stresemann had appreciated the qualities of that work. He was sure that Dr. Stresemann would not in justice refuse to recognise that the work done as a whole had been extremely minute, detailed and conscientious.

Dr. STRESEMANN reminded the Committee that Dr. von Schubert had said the same thing.

M. BRIAND said he quite recognised the fact. There might be divergent opinions on the guiding principles of the report, but it was impossible not to recognise that, basing their work on the March discussion, the three Rapporteurs had endeavoured to follow with the utmost loyalty the lines which had been laid down for them.

At the end of the report, which contained questions of principle, legal questions and historical questions, there were proposals, or rather suggestions, for improving the present system.

Such was the work which had been submitted to the Committee at its first meeting. As the result of an intervention of M. Dandurand, who regretted that he had not had sufficient time to study the report — a perfectly legitimate objection, in fact — M. Briand himself

had proposed that, before embarking upon a discussion, it might be useful, since the question of adjournment had been raised — and since the adjournment could be justified by a somewhat novel situation within the Council — to decide first of all whether the matter should be adjourned or not. The Committee had replied in the negative. M. Dandurand had stated that he did not intend to ask formally for an adjournment. Other members of the Council Committee had said the same thing and the Committee had therefore begun its examination of the substance of the question and had taken as a basis of discussion the report of the Committee of Three Rapporteurs, it being understood, moreover, that this did not prejudice the convictions of its members and that any reservations which might be made should be included in the Minutes of the Committee.

M. Briand thought that he had given a fairly accurate account of what had actually occurred.

The adjournment had been rejected and the general discussion had been started. Opinions had been divided as at the last session of the Council. Finally, it had been decided that the Rapporteur should be invited to transform the suggestions at the end of the report into draft resolutions and to present them in a concise report, which would enable the Committee to take a decision in the customary way.

At the following meeting M. Adatci, who had worked with his colleague M. Quiñones de León, had submitted a small supplementary report, of which the Committee had considered the various points. Some of those points had been discussed, but ultimately the proposals had been adopted. The work appeared to be finished. At that point M. Adatci, with his usual and most commendable anxiety to establish that atmosphere of cordiality and unanimity which lent so much force to the Council's resolutions in the eyes of the public, had asked that the Committee should hold one more meeting and make one last effort to reach a compromise so that the divergencies of opinion that had arisen might not have to be brought to light at a public meeting. It was urged that it would be deplorable for any further dispute to arise, and it was thought that this might be avoided, since a certain number of improvements had been agreed upon, and since it was understood that the London report — which had been submitted and could not be ignored — together with the reservations made by several members of the Committee, should be included among the documents.

Dr. Stresemann, who had not been present at the discussions and was not perhaps acquainted with them in every detail, had now broken entirely fresh ground. He seemed to think that the best thing would be to postpone the problem until the next session. If that had been done at the Committee's first meeting, when it was asked what action it intended to take, he (M. Briand) would not have had any serious objection, though after all it would be a pity to leave problems of this kind unsettled. In the existing circumstances, however, after the discussions that had taken place, a postponement could not but impair the general tranquillity and the prestige of the League. The Committee might reflect on that point.

Reference to the Permanent Court of International Justice was another matter. Since the Council had now been at work for some years, would it not give the impression that it had been fumbling in the dark without any clear idea of its duties? Surely the public would say: "Have they gone all these years without even realising what their obligations are?" He thought that *amour-propre* should play no part in the examination of questions, and he himself, when he realised that he had made a mistake, was quite willing to admit it. Nevertheless, if the whole institution, the procedure laid down by the Council during successive sessions, were at stake, if the confidence which had been placed in that procedure by all those who had sent petitions to the League were to be shaken, the decision was a very serious one.

Moreover, it must be clearly realised that the Committee was not facing the problem itself; it stood before a very definite dilemma. If the Committee could not reach a unanimous decision as regards the adoption of its resolutions, which nevertheless constituted a definite step forward — it being understood, too, that reservations might be made — what would be the result? The Committee would have to appear before the Council saying that it had failed to reach unanimity; in other words, the *status quo* would be maintained. He begged his colleagues to bear that eventuality very carefully in mind.

It would be the first time that the Council — acting, it would seem, somewhat lightly and hastily — had set aside the result of the work of a Committee which it had itself appointed and which had done work of recognised value.

He himself considered that the proposals made to the Committee constituted a definite progress. At first, indeed, they had been criticised by some of his colleagues, representing States which had contracted obligations towards minorities, not because they were hostile to progress but because they were reluctant to compromise the future. M. Briand considered that the resolutions adopted constituted an achievement of which the Committee must take note. Otherwise, it would have to confess its failure. The system in force hitherto would remain in force. He asked Dr. Stresemann to think over that consequence and to make, as suggested by M. Adatci, an attempt to reach a compromise which would not publicly disclose the fundamental difficulties discussed by the Committee, and would confirm a result that was satisfactory to the minorities themselves, whose cause Dr. Stresemann had so enthusiastically espoused.

Dr. STRESEMANN said he did not wish any misunderstanding to remain with regard to his opinion on the report which had been submitted by the Committee of Three and the true value of which he, like M. Adatci, appreciated at its full value.

He quite realised that this report had been framed as the result of a minute study of the problem and on the basis of a considerable number of documents. He was also aware that no doubt was possible as to the loyalty and conscientiousness with which the members of the Committee of Three had drafted their report. Dr. von Schubert at the previous meeting had frankly recognised these facts.

Dr. Stresemann only desired to say that he could not share the views embodied in the report. M. Briand had just said that it was necessary for the Council to obtain unanimity. He would point out, in this connection, that in many cases he had shown proof of his desire for conciliation and had bowed before this necessity. He would remind the Committee of a discussion which had taken place in a very important question, in the course of which M. Briand had supported, more eloquently than he could do, a thesis opposed to his own. He was referring to the question of the Saar. He had been exposed to violent attacks in Germany owing to the fact that he had bowed to the opinion of the majority in order to secure unanimity. It had been represented that he ought to have defended the thesis of his Government. He would remind the Committee of this fact.

He imagined that the report would be submitted to the Council, together with the Minutes and the documents which had served as a basis for the work of the Committee of Three. It was clear that these documents would show that there had been disagreement within the Committee. If his colleagues on the Council did not refer to these disagreements, there were others who would do so, as in this question there were a large number of interested parties which would certainly not show the same reserve and the same courtesy as his colleagues were accustomed to do. The divergences of view within the Committee would be thus more clearly emphasised. For that reason he would ask and he would put the question seriously to the Committee, how such an inconvenience could be avoided. He thought that such differences of opinion did not contribute to increase the authority and prestige of the Council in public opinion. In these circumstances, might not an adjournment contribute to clear up the situation? This would not be the first time that the Council had taken such a decision. He would remind the Committee of the discussions which had taken place on an important and familiar question which had been finally adjourned. During the adjournment the position had been considerably improved, and a solution might shortly be expected.

He would venture, in reference to the arguments which had been urged against an appeal to the Permanent Court of International Justice, to point out that here also there were precedents. He would refer only to the question whether the Council should take a decision unanimously or by a simple majority to submit to the Court a request for an opinion. In Germany the Government often appealed to the Supreme Court of the Reich upon questions of the interpretation of the Constitution, and he was not aware that there resulted any diminution of its authority for that reason. If in a particular case the Council appealed to this high authority, this did not imply that the opinion of the Court would necessarily be hostile to the previous decisions of the Council. Appeal to the Court would in any case have the great advantage of at once restoring unanimity within the Council, as the respect which the latter had for this high international institution was such that no one would dare to oppose the acceptance of an opinion issued by the Court.



He would finally venture to ask how the report would be presented to the Council. Was it already drawn up? The Committee had met to examine the solutions submitted in the report and to avoid differences of opinion and disputes within the Council.

M. DANDURAND pointed out that the Canadian resolution had preceded the German proposals. The only object of the Canadian proposals was an improvement in procedure. Although the Canadian suggestions had not been accepted in the form proposed, their object had nevertheless been, in effect, achieved.

The intention of the Canadian proposals was to give to the Committees of Three greater facilities for obtaining information from all possible sources. The discussion which had taken place at the last meeting had thrown light on this point, and note had been taken of a declaration made by the Secretary-General to the effect that legally the Committee of Three had full liberty to obtain such information.

The second point in the Canadian resolution dealt with the necessity for obtaining wider publicity. He noted that in the report submitted to the Committee such publicity was contemplated and that fuller information would be given; the persons concerned would thus know exactly what had happened.

In those circumstances, he did not hesitate to accept the conclusions at which the Committee had arrived during the three day's discussion.

Dr. Stresemann had placed three possible solutions before the Committee :

1. He had proposed an adjournment to the month of September ;
2. He had suggested an appeal to the Permanent Court of International Justice;
3. He had raised the point whether the Committee should study the conditions under which it might be able to accept what might prove to be improvements in procedure without being compelled to take a final decision in regard to the questions of principle.

He hoped that the representative of Germany would agree to the last solution and that it would be possible to insert in the report to be submitted to the Council a formula which would give Dr. Stresemann satisfaction. In that way it would be impossible to conclude that he was bound by principles which he had not accepted. The adoption of the conclusions or amendments proposed by the Committee of Three would in no way prevent the Council from receiving a formal request to consult the Permanent Court of International Justice on one or more points. Between the present date and that of the next session of the Assembly other proposals tending to improve the situation might be received.

He owned that, in the suggestions which the Committee had received from various sources, he had found some that appeared to him to be excellent. More particularly, he would draw the attention of his colleagues to a study made by Dr. Studer, of Swiss nationality, and approved by the Inter-Parliamentary Union, in which it was suggested that, to solve questions arising between a minority and its Government, a Conciliation Committee should be appointed. The minorities could in that way put forward their claims, without either side being bound to accept the recommendations of that organisation. He thought that this system had great advantages. In any case it would very probably enable Governments and minorities to settle nine-tenths of the questions submitted to the Council. This was an important suggestion which he thought ought to retain the attention of the countries subject to Minorities Treaties.

Dr. STRESEMANN had at the outset referred to the text of the report to be sent to the Council. M. Dandurand has also referred to it. He would be glad if the Rapporteur would lay the final text before the Council.

M. ADATCI said that the document distributed to the members of the Council (document C.C.M.4) was merely a preliminary draft report.

He desired to make known the views of his colleagues of Great Britain and Spain with whom he had been in constant contact.

It would be regrettable purely and simply to note the powerlessness of the Council. The discussions which had taken place during the previous days had shown that progress had been made towards practical improvements. Unless he were mistaken, the Committee had unanimously agreed to contemplate the execution of these improvements as soon as possible for such action would be to the advantage of the minorities. His two colleagues and himself wondered whether it would not be possible to achieve this object by drawing up a draft resolution which would provide solely for practical improvements, while leaving other considerations on one side. By that means the Council would be able to discover a way out of the *cul-de-sac* in which it found itself. A number of amendments could therefore be made in the provisional text.

M. TITULESCO said that the members had listened to a very interesting discussion. It was obvious that they were not unanimous even on the principles in the report. Nevertheless, they were unanimous regarding the practical conclusions of the London report. He would point out that these practical conclusions would constitute fresh burdens for States which had signed minorities treaties. They were not opposed to these obligations, subject to his previous declaration; they did not, however, desire that this question of minorities should always remain open. Unhappily for the Council, the representative of Germany, with his distinguished authority, had put the question in a form which might give rise to future discussions.

Replying to the suggestion made by M. Dandurand, M. Titulesco noted that the Canadian representative asked the countries possessing minorities to take action, as a result of the discussions in the Council, by doing of their own accord certain things for the protection of minorities. A certain pressure, however, would have to be exercised.

It was clear from a perusal of the Minutes and of the draft resolution that the Council was divided into two camps which were not equal in number. Up to the moment, in fact, there were only two voices raised against the principles of the London report.

If this statement were contested and in order to clear up the situation, the President might ask each member whether he accepted the report and its conclusions or the conclusions only. In that way, if the statement were contested, it would be easy to ascertain how many members were in favour of the report and how many against it. It was necessary to avoid giving the impression that there was within the Council a large number of members who were against the report, which was not the case. Further, he would point out that the principles and considerations of the London report only noted the situation as it was and as it had always been interpreted by the League since its inception.

M. BRIAND thought that in the present state of affairs the Committee ought not to attempt any heroic efforts, but to content itself with doing some modest practical work, that being all that was in its power, since it was tied by the necessity for unanimity.

His colleagues were agreed on one point — that the minorities must be protected. As regards the system to be followed, however, they were not agreed.

There was one system in operation — that of Committees of Three. Under that system, he would point out, the minorities were sure that all their petitions would be considered. In no case had a Committee of the Council rejected a petition without considering it and without asking for information from the countries concerned.

The systems that were suggested in place of the existing system had not always the merit of clearness and precision, and, indeed, it was doubtful whether they would even be applicable in practice. M. Dandurand had recommended to the notice of countries which had minorities the suggestions contained in a Swiss publication. They were ingenious suggestions, he was quite prepared to admit, but extremely vague. In that publication the countries concerned were advised to set up a body for purposes of conciliation. On the other hand, the sovereignty of a State was characterised by the fact that its justice was equal for all citizens, no distinction being drawn between different persons or different classes of person. To take a concrete example; in the case of a petitioner who complained that the school was two kilometres from his house and that that was too far for his child to go, would the State be bound to set the conciliation machinery in motion? Was such a thing conceivable? In any case, in actual practice the complainant would doubtless have already applied to his Government ten times.

beginning by writing to the local authorities, who would have forwarded the application for departmental examination and action.

Questions of that kind arose in connection with every one of the suggestions. The Canadian proposal claimed that the Committee of Three should have the right to obtain "information" from all sources. If the term "information" were intended to mean requests for information that — as the Secretary-General had already pointed out — was exactly what the Committees already did. If it meant the right to carry out enquiries, what form should they take? Should it cover the right to make investigations on the spot and to examine witnesses? All these points must be accurately defined if the public was to know the exact nature of the suggestions regarding the protection of minorities.

If, as the German representative recommended, the Council were to apply to the Permanent Court of International Justice, what should it ask? The Committee had found that there was no difference of opinion on the question of principle. All his colleagues thought that minorities ought to be protected. As regards the administrative measures to be followed to ensure such protection, should they not be determined by the Council rather than by the Court of Justice, whose competence only covered questions of a legal nature? The Court of Justice could surely do no more than confirm the two principles which the Committee itself had formulated — namely, that minorities ought to be protected and that the principle of State sovereignty must be maintained; the Court would have to leave it to the Council to find the necessary compromise between these two principles.

He desired to repeat that, in his opinion, the resolutions adopted constituted a definite step forward and that the minorities would benefit by them. The discussion on this subject had fortunately revealed to the Committee the goodwill of the countries which had contracted obligations towards minorities. He would therefore like all the members of the Council to agree upon that practical step, while going no further than it was possible for them to do.

The PRESIDENT said that before closing the meeting he wished to point out that part of the work of the Committee had obtained the approval of all the members. The fate of another part was obscure and not easy to understand. It was in regard to this part that there was disagreement. It was obscure even for those who proposed it. They suggested three solutions, which proved that they did not themselves see a direct method of obtaining a result. He did not wish to give his own view on these three solutions, but he thought that two of them at least would place the Council in an embarrassing position and cause it to exceed its powers. The Council should remember that, in so far as the question of minorities was concerned, it had duties to fulfill which it could not abandon or hand over to any other form of authority. The Council had accepted the stipulations of the Treaties concerning the guarantee for the protection of minorities. It could have refused to accept them and it had not done so. Consequently, it must abide by those Treaties and carry out the duty which it had assumed. To go beyond the limits of its power would be to fail, and this would be very serious, for it might prove to be the end of the League. If, on the other hand, the Council worked within these limits and showed that it was making every effort to carry out its duty in the best way possible, it would be doing what the League of Nations was called upon to do.

The proposals of the Committee of Three had been adopted unanimously after some small changes had been made in them which had themselves been approved unanimously. It was those proposals which would have to be submitted to the Council. The remainder of the report should not be submitted. Did that mean that it had been useless? Not in the least. The discussion had made it possible to discover very important problems of international law and the Committee had even gone so far as to discuss the institution of private arbitration commissions. He could quite understand the proposal made by M. Studer because he was a Swiss. He might think that all States were federated States. It was obvious, however, that no representative of a homogeneous State could imagine the establishment of such an institution. Further, no treaty had gone so far as to make any such suggestion.

In conclusion, he thought that a very sober report could be submitted to the Council. The Rapporteur would mention the conclusions without referring to the discussions which had preceded them. The text of the proposals made would obviously also be submitted to the Council and consequently, it would be fully informed of the Committee's work. He did not think, however, that it could be called upon to discuss proposals which had not yet even been made.

He did not know for what reason the Committee should postpone the question to the month of September. It was ready at the moment. There was nothing to prevent a member from making fresh proposals at a future date, when the question was riper, but for the moment he desired the following principle to be unanimously adopted : that the Rapporteur should be instructed to draw up a report comprising only that part of the Committee's work which had received the assent of all members.

M. TITULESCO understood that the proposal was merely to delete from the preliminary statement proposed by M. Adatci, by which the conclusions of the London report were put to the vote, the references to the debates which had taken place in Committee.

*The proposal of the President was adopted.*

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### FIFTH MEETING.

*Held at Madrid on Tuesday, June 11th, 1929, at 6.30 p.m.*

*President : M. SCIALOJA (Italy).*

**Present :** All the representatives of the Members of the Council, and the Secretary-General.

**10. Protection of Minorities : Examination of the New Draft Report and Resolution submitted by the Committee of Three.**

At the request of the President, M. ADATCI, Rapporteur, read the following new draft report and resolution :

“ By its resolution of March 7th, 1929, the Council instructed its Rapporteur and the representatives of Great Britain and Spain to submit a report for its June session. This document was distributed to the members of the Council on May 18th (document C.C.M.1).

“ In the same resolution the Council decided to sit in Committee before the opening of its June session in order to make a first examination of the Report. It met for that purpose on June 6th, 7th, 8th and 11th.

“ As the outcome of its discussions, the members of the Council, sitting in Committee, reached agreement on a number of provisions. These provisions are contained in the following draft resolution, which the Rapporteur has the honour to submit for the Council's approval :

“ ‘ The Council :

“ ‘ I. Decides to add to the provisions contained in its previous resolutions regarding the procedure for the examination of petitions from minorities the following provisions :

“ ‘ 1. *Receivability of Petitions.*

“ ‘ When the Secretary-General declares a petition non-receivable, he will inform the petitioner and, if necessary, will communicate to him the Council resolution of September 5th, 1923, laying down the conditions of receivability of minorities petitions.

“ ‘ 2. *Composition of Minorities Committees.*

“ ‘ The President of the Council may, if he deems it opportune, invite four members of the Council to examine minorities petitions, instead of two, as laid down in the Council resolution of October 25th, 1920.

“ 3. *Frequency of the Meetings of the Minorities Committees.*

“ The Council considers that it would be desirable for Minorities Committees to take into account the possibility of holding meetings in the intervals between sessions of the Council, whenever they think it expedient for the examination of individual petitions.

“ 4. *Communications concerning the Action taken on Petitions by the Minorities Committees.*

“ (i) When the members of a Minorities Committee have finished the examination of a question, without asking that it be placed on the Council's agenda, they will communicate the result of their examination by letter to the other Members of the Council for their information. The Secretary-General will keep the relevant documents at the disposal of the Members of the Council.

“ (ii) The Secretary-General will distribute once a year, for the information of all the Members of the Council, a document reproducing the letters addressed during the year, as described above, by the various Minorities Committees to the Members of the Council.

“ 5. *Publication of the Result of the Examination of a Question by a Minorities Committee.*

“ The Minorities Committees should consider carefully the possibility of publishing, with the consent of the Government concerned, the result of the examination of the questions submitted to them. The Council earnestly hopes that the Government will, whenever possible, give their consent to such publication. The information might be published in the *Official Journal*, and might consist of the letter from the Minorities Committee informing the other Members of the Council, or any other text that seemed expedient.

6. *Regular Annual Publications concerning the Work of the League in connection with the Protection of Minorities.*

“ The Secretary-General will publish annually in the *Official Journal* of the League statistics of: (1) the number of petitions received by the Secretariat during the year; (2) the number of petitions declared to be non-receivable; (3) the number of petitions declared to be receivable and referred to Committees of Three; (4) the number of Committees and the number of meetings held by them to consider these petitions; (5) the number of petitions whose examination by a Committee of Three has been finished in the course of the year.

“ II. The present resolution will be communicated to the States which have accepted stipulations for the protection of minorities.

“ III. The report prepared by the Japanese Representative as Rapporteur, with the assistance of the British and Spanish representatives (document C.C.M.1), including the annexes thereto,<sup>1</sup> together with the Minutes of the meetings of the Council sitting in Committee for the examination of this question and those of the present meeting of the Council, will be communicated to all the Members of the League.”

M. DANDURAND wished to add to the last sentence of the resolution, which was as follows: “ Decides that the report . . . , together with the Minutes . . . , will be communicated to all the Members of the League ”, the two following words: “ and published ”.

<sup>1</sup> Observations of the Governments of Austria, Bulgaria, China, Czechoslovakia, Estonia, Germany, Greece, Hungary, Latvia, Lithuania, the Netherlands, Poland, Roumania, the Kingdom of the Serbs, Croats and Slovenes, and Switzerland, and also the list of communications from associations and organisations.

The SECRETARY-GENERAL reminded M. Dandurand that, in any case, according to the ordinary procedure, the documents would be published in the *Official Journal*, copies of which would be communicated to the Members of the League.

M. DANDURAND thought that there would be no objection to adding the words "and published".

The PRESIDENT and M. ADATCI thought it superfluous to make this addition.

M. DANDURAND found these words in the previous text of the draft resolution and considered them to be of use, for they would make it quite clear that, as soon as the Council had been seized of the Minutes of the private meetings of the Committee and the accompanying documents, the Minutes of the meetings of the Committee would be published.

M. BRIAND proposed to substitute in the last paragraph of the report for the phrase: "The Council sitting in Committee have agreed . . .", the following: "The Members of the Council sitting in Committee have agreed . . .".

*The amendment proposed by M. Briand was adopted.*

Dr. STRESEMANN said that he would once again explain the point of view which he intended to present at the meeting of the Council, basing his statement on the discussions which had taken place that morning and on the report which had been communicated to him at the beginning of the afternoon. He had received a new report and he was not able to state his opinion upon all parts of it. In the belief that the Committee was preparing the way for the discussion which would take place in the Council, he desired to state the view which he intended to express during that discussion.

As he had ventured to say that morning, he intended to renew at the meeting of the Council the German request that the resolution adopted by the Council in 1925 concerning the composition of the Committee of Three should be amended. The arguments which he would present in support of that motion were well known to his colleagues, although unfortunately they had not been endorsed by the Committee. Further, without explaining the problem once again in detail, he would study generally the situation which resulted from the partial agreement achieved by the Committee. He would express his regret that the Committee had not been able to agree on the principles embodied in the German proposals. In particular, he would speak of the impossibility of defining to the satisfaction of all the members of the Committee the scope of the general guarantee embodied in the first paragraph of Article 12 of the Minorities Treaties. That was the reason why no decision had been taken on the measures of organisation which should be adopted by the Council to ensure this general guarantee.

He would state at the meeting of the Council that he could not consider the German proposals as having been finally rejected. It was perhaps desirable to allow for the fact that the Powers which were not represented on the Council but which took a special interest in the question of minorities might express their views on the subject in the Assembly and that, in consequence, the views of the Members of the League not represented on the Council might be brought more closely into accord.

If this hope were not realised, it would still be possible to remedy this divergence of opinion by asking the Permanent Court of International Justice at The Hague for an advisory opinion on the interpretation of this point in the Minorities Treaties.

Reserving for a later stage a final solution of the problem, he was happy to note that a whole series of special amendments which had been suggested in the German proposals had been successfully made in the procedure.

He had desired to express his view in all frankness so that no doubt might subsist as to the position which he would take up in the Council if it were possible for him to approve the various points covered by the report. Though he had not summarised in a concrete proposal the suggestions which he had made that morning, and though he would not formulate any such proposal for submission to the Council, he considered it all the more important to explain to the Council the point of view of the German Government on the question of principle, and he would ask his colleagues to take note of the opinions which he had expressed.

M. BRIAND said that he would have been happy if it had been possible not to resume in the Council a discussion on the substance of the problem which had given rise to a somewhat serious disagreement between Dr. Stresemann and the majority of his colleagues.

If Dr. Stresemann took up the question again in the Council, it seemed to M. Briand that it would be necessary to have a general debate. So far as his country was concerned, he could not agree to be placed in the position of appearing to oppose the progress suggested by the representative of Germany. Dr. Stresemann had assumed the position of a defender of the minorities and that circumstance made it appear that the members of the Committee who were not of his opinion were their persecutors. M. Briand would be obliged, in these circumstances, to make a general declaration in order to explain his own point of view.

He would pay a tribute to the loyalty of Dr. Stresemann, who had taken care to announce the position which he would take up at the meeting of the Council. The position of the representative of France would be identical with that which he had defined at the morning meeting. He would be compelled, however, to emphasise his declaration to the full extent compatible with the atmosphere of courtesy and calm which should always characterise the meetings of the League.

Meanwhile, he felt bound to add an observation. The Council, sitting as a Committee on Minorities, had been presented with general principles rather than definite and concrete counter-proposals.

As regarded the consultation of the Permanent Court of International Justice contemplated by Dr. Stresemann, he would confirm what he had said at the morning meeting.

He hoped that his colleague, Dr. Stresemann, would endeavour to understand his point of view and not prolong, after the very long and delicate discussions which had taken place in the Council Committee regarding the problem of minorities, a debate which could not fail to be a source of irritation if it were constantly brought to the attention of the public.

M. DANDURAND felt he might add an argument to those advanced by M. Briand. If it were understood that the Minutes of the meetings of the Council Committee would immediately be published, it seemed to him that, at the meeting in which the Council would examine the decisions of the Committee, Dr. Stresemann might be content with referring the public to those Minutes, since they very accurately and in great detail explained the attitude of the representative of Germany. This was an additional reason in favour of the addition he had proposed.

He was himself in the same position as Dr. Stresemann. Personally, he did not feel called upon to make once again in the Council the declaration which he had made in the Council Committee and which would appear in the Minutes.

M. TITULESCO referred to the declaration which he had made at the third meeting and which he maintained in its entirety.

M. ZALESKI understood that the representative of Germany reserved the right not to accept the report which had just been read when it was submitted to the Council. He would like to know whether this was the case.

Dr. STRESEMANN said that his colleague M. Briand had already expressed that morning a desire that the Council should be unanimous in its decisions. That afternoon M. Briand had gone even further and had desired the Council to abandon all discussion. He himself, however, wished again to examine the situation of the Powers which could not approve all the points contained in the London report.

If the Committee accepted the new report now submitted by the Rapporteur — and he was disposed to do so after having carefully read again the last sentence in page 4 under No. 3 — M. Briand would understand that some might wish to see recorded in the discussions of the Council points which they would have liked to find in the report and which had been set aside during the discussions. He had noted with keen regret that the proposal of the German representative, to which he had drawn attention, had been rejected by the Committee without any discussion.

He considered that, if a proposal carefully weighed and presented by a member of the Council was discussed in the Council, that member had a right to expect that the contrary

arguments would at least be set forth in the debate. For that reason, he felt bound to declare that he intended in this special case to inform the public that the representative of Germany had defended this thesis and again to submit the arguments which might be urged in its support.

On the other hand, he had no intention of submitting a draft resolution at the meeting of the Council. In a certain sense, however, the discussions of the Committee were parliamentary discussions between the representatives of States. If he consented to accept a report, which as a whole did not give him satisfaction, he must at least be able, in conformity with established custom, to state that he accepted it, though there were questions which he would like to have seen settled in another way, and to make a clear declaration in the sense which he had already defined at the morning meeting to the effect that, in his opinion, further amendment was not finally and forever excluded.

The Committee was not in a position, as he had ventured to state, to deprive the Powers which had not been present at its discussions of the right to express their opinion on these matters. His colleague, M. Briand, might rest assured that, after the statement which would be made to the Council by the representative of Germany, he would have no need to use his eloquence in support of his arguments. Moreover, as regarded the procedure of the Council, he did not think that any discussion could be regarded as a sin against the holy spirit of the League of Nations.

As he had already stated, he intended to approve the report. He thought, however, that good faith required him to declare that he would explain his adherence, summarising with a view to the future the wishes of the German Government and leaving open the possibility of again submitting its views.

M. DANDURAND said he would like to know what would be done by the Committee with his proposal to insert the two words "and published".

M. ADATCI said he still thought that this addition was unnecessary as such publication was already the usual practice. In order, however, to satisfy the representative of Canada, he accepted the addition. He had consulted his two colleagues on the Committee of Three on the subject.

The PRESIDENT observed that anything which was useless was to some extent dangerous.

M. ZALESKI thought he was entitled to take up a similar position to that of Dr. Stresemann. He associated himself entirely with the declaration which M. Titulesco had made at the previous meeting of the Committee. In other words, he regarded the conclusions of the report, as originally submitted by the Committee of Three to the Committee of the Council, as indissolubly bound up with the principles embodied in the first part of the report. These conclusions and principles constituted, in the opinion of his Government, an indivisible whole.

M. TITULESCO wished to be sure that the resolution at present before the Committee of the Council did not in any way invalidate the resolution of the Council of March 6th, 1929.

M. ADATCI assured M. Titulesco that such was the case.

He wondered, after having reflected upon the amendment proposed by M. Dandurand, whether it would not be wiser and more explicit to make the proposed amendment in the following terms: "and published in accordance with practice".

The SECRETARY-GENERAL also thought that, as such publication was customary, the addition of the words "in accordance with practice" was not only advisable but necessary.

*The amendment proposed by M. Dandurand was adopted by the Committee of the Council with the amendment suggested by M. Adatci, in the following form: "and published in accordance with practice".*

M. DANDURAND wondered whether it would be possible to refer to this discussion and to the discussions of the previous meetings of the Committee of the Council, as though they had taken place within the Council.



The SECRETARY-GENERAL said that this would be so. As soon as the members of the Committee had sent their corrections and the Minutes had been drafted in their final form they would be placed at the disposal of each member of the Council. This would doubtless be done by Thursday. The Minutes would, of course, eventually be printed.

M. ZALESKI asked his colleagues whether they had any objection to adopting the following slight amendment: in Section 2 of the draft resolution it was stated "the President of the Council may, if he deems it opportune, invite four members of the Council . . ." Might not the following text be substituted: "the President of the Council may, in exceptional cases invite four members . . ."

M. ADATCI thought that the word "opportune" was sufficiently comprehensive to meet the exceptional cases which M. Zaleski desired to cover. He did not, however, see any objection to accepting the proposed amendment.

*The amendment proposed by M. Zaleski was adopted.*

The PRESIDENT noted that all the members of the Council Committee were agreed that the document thus amended should be submitted to the Council.

*The draft report and resolution were adopted, subject to the above amendments.*

M. ADATCI thought that, when the Council had formally adopted the draft report and resolution, the new rules and improvements there embodied would come immediately into force. He would ask his colleagues for their views on this subject.

*The Committee decided that the draft resolution would come into force as soon as it had been adopted as a resolution of the Council.*

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## Appendix I.

C.C.M.3.

### SUMMARY OF THE CONCLUSIONS OF THE REPORT OF THE COMMITTEE INSTITUTED BY THE COUNCIL RESOLUTION OF MARCH 7TH, 1929.

The Committee of Three, consisting of the representatives of Japan (Rapporteur), Great Britain and Spain, has the honour to communicate hereunder to the members of the Committee of the Council the conclusions that may be drawn from its report, dated May 18th, 1929.

#### *1. Conditions for the Acceptance of Petitions.*

When a petition reaches the Secretariat, the Secretary-General decides whether it satisfies the five following conditions of the acceptance of petitions laid down by the Council on September 5th, 1923:

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

*2. Possible Revision of the Decision regarding Acceptance.*

If the Secretary-General's decision on this point is disputed by the Government concerned the question of acceptance is submitted to the judgment of the President of the Council. If the Government concerned so requests, the question is referred to the Council itself.

*3. Communication with the Petitioners regarding Acceptance or Otherwise.*

Under the present system, no communication regarding the acceptance or otherwise of the petition is made to the petitioners.

According to the conclusions of the Committee's report, when a petition is declared to be unacceptable, the Secretary-General will so inform the petitioner, and will, if necessary, communicate the text of the conditions of acceptance.

*4. Communication with the Government concerned.*

When a petition has been declared to be acceptable, it is communicated by the Secretary-General to the Government concerned for any observations the latter may desire to make, except in special or extremely urgent cases or when the petition emanates from the Government of a State Member of the League. In that case, the petition is communicated direct to the Members of the Council, and at the same time to the Government concerned.

*5. Communication of Petitions to the Members of the Council.*

Petitions are communicated to the Members of the Council for information. They are accompanied by the observations, if any, of the Government concerned.

*6. Communication to the Members of the League and Publication of the Petition and the Observations, if any, of the Government concerned.*

This may take place at the request of the Government concerned or in pursuance of a Council resolution.

Any State Member of the League may, at its request, be furnished by the Secretariat both with the petitions and with the observations which are communicated to the Members of the Council themselves. Once such a request has been made, it need never be repeated, as the applicant State will then regularly receive the petitions and observations under consideration.

*7. Composition of the Committee of Three.*

Petitions declared to be acceptable are examined by a committee consisting of the Acting President of the Council and two other Members of the Council selected by him. By its resolution of June 10th, 1925, the Council decided :

" I. If the Acting President of the Council is :

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

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

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

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

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

*(8) Examination of Petitions by the Committees of Three.*

The object of this examination is to ascertain whether there is any need for one or more Members of the Council to call the Council's attention to an infringement or threatened infringement of any of the provisions laid down for the protection of minorities. During this examination, every member of the Committee remains completely free ; regardless of the opinion of his colleagues, he retains his right to call the Council's attention to any fact, as provided in the treaties.

*(9) Frequency of Meetings of the Committees of Three.*

Under the present system, these meetings generally coincide with the sessions of the Council. The members of a Committee of Three are at liberty to decide to hold a meeting in the interval between Council sessions, if at any time they consider it desirable to do so for the purpose of examining any particular petition.

The Committee considers that there is every advantage in the present procedure, which since the meetings coincide with the Council sessions, enables the Members of the Council to attend the Committees of Three in person. The Committee thinks it well, however, that the Committees of Three should bear in mind the possibility of holding meetings in the intervals between Council sessions.

*(10) Communications concerning the Action taken on Petitions by the Committees of Three.*

Under the present system, unless the question is to be placed on the Council's agenda, no communication of this kind is made.

According to the Committee's conclusions, when the members of the Committee of Three have ended the examination of a question without asking that it be placed on the Council's agenda they will communicate the result of their examination by letter to the other Members of the Council for their information.

According to the Committee's conclusions, the Secretary-General will also distribute once a year to all the Members of the Council, for information, a document reproducing the letters addressed during the year, as described above, by the various Minorities Committees to the Members of the Council.

*(11) Publication of the Result of the Examination of a Question by a Committee of Three.*

Under the present system, a Committee of Three may, with the consent of the Government concerned, publish the result of its examination.

The Committee has noted this possibility, and according to its conclusions, every Committee of Three should bear it carefully in mind.

The Committee earnestly hopes that the Governments concerned will, whenever possible, give their consent to such publication. The document published might be either the above-mentioned letter from the Committee of Three informing the other Members of the Council, or any other text that might seem suitable.

*(12) Regular Annual Publications concerning the Work of the League in connection with the Protection of Minorities.*

Under the present system, only the discussions and decisions of the Council and Assembly in connection with minorities are made public.

According to the Committee's conclusions, this measure of publicity should be supplemented as follows :

The Secretary-General will publish annually, in the *Official Journal* of the League, statistics of : (1) the number of petitions received by the Secretariat during the year ; (2) the number of petitions declared to be unacceptable ; (3) the number of petitions declared to be acceptable and referred to Committees of Three ; (4) the number of Committees and the number of meetings held by them to consider the petitions in question.

\* \* \*

Apart from the foregoing conclusions, the Committee prefers not to object to a certain enlargement of the Minorities Committees — which at present consist of the three members — should this be generally desired. It expresses the opinion, however, that, the smaller these Committees, the greater will be the prospect of satisfactory results from the informal exchanges of views with the Governments concerned.

This is a point to which the Committee merely draws the Council's attention.

The Committee has adopted the same attitude in regard to the point whether, once the examination of a question by the Committee of Three is at an end, the Secretary-General should inform the petitioner that no Member of the Council has brought the matter which forms the subject of the petition to the Council's notice. The Committee's reason for not making any recommendation on this point is that, in most cases, the fact of the petitioner's receiving a communication stating that the question raised has not been placed on the Council's agenda might produce the false impression that nothing has been done ; whereas, as has been shown above, the Members of the Council delegated to examine a petition frequently, without needing to bring the question to the Council's notice, prevail upon the Government concerned to take measures favourable to the members of the minorities.

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## Appendix 2.

C.C.M.4.

### STATEMENT AND DRAFT RESOLUTION BY HIS EXCELLENCY M. ADATCI.

The Rapporteur desires to communicate to the Members of the Council in Committee the following statement, together with a draft resolution designed to facilitate the discussion which will take place at the meeting arranged for the morning of the 11th inst.

\* \* \*

By its resolution of March 7th, the Council instructed its Rapporteur and the representatives of Great Britain and Spain to submit a report to it for its June session. This document was distributed to the Members of the Council on May 18th (document C.C.M.1.).

In the same resolution, the Council decided to sit in Committee before the opening of its June session in order to make a first examination of the report. It met for that purpose on June 6th ; the report was read, and the Members of the Council in Committee proceeded to a general exchange of views. The Members of the Council thereafter agreed to ask the Rapporteur and his two colleagues to draw up the conclusions of their report. These conclusions were examined on June 8th by the Council in Committee, and were revised and approved by it. The document containing the text as revised by the Committee of the Council has been distributed (document C.C.M.3(1)).

This text contains, in addition to an account of the present procedure of the Council for an examination of minorities petitions, a number of proposals designed to improve that procedure in various respects. It would, I think, be very desirable for the Council to take a formal resolution adopting these proposals.

Before submitting a draft resolution to that effect I would say that, although I earnestly hope that the Council will unanimously accept this text, I fully realise that such unanimity will not mean that all the members of the Council accept the whole of the report which I have had the honour to prepare with the assistance of the representatives of Great Britain and Spain.

As one of the authors of the report, I was particularly glad to hear several Members of the Council declare themselves prepared to adopt it as a whole ; but I find, also, that some of my colleagues are only prepared to adopt a resolution containing the proposed additions to the present procedure. The views of my several colleagues have been set forth in the Minutes of the Council in Committee. I hope that their wishes may be met if, together with the resolution which the Council, as I also hope, will adopt unanimously, we publish the report submitted to the Council and also the Minutes of the Council Committee by which the report was discussed.

I think that, if the statements made by my colleagues on the Council in Committee are duly noted, and if those statements, as suggested above, are published together with the Council's resolution, the Members of the Council may unanimously accept the following draft resolution :

" The Council :

" Having taken note of the report which it requested the representatives of Great Britain and Spain to prepare in co-operation with the representative of Japan, the Rapporteur for minorities questions ;

" Having taken note of the statements contained in the Minutes of the Council sitting in Committee for a first examination of that report ;

" Decides to add to the provisions contained in its previous resolutions regarding the procedure for the examination of petitions from minorities the following provisions :

*" 1. Conditions for the Acceptance of Petitions.*

" When the Secretary-General declares a petition unacceptable, he will inform the petitioner and, if necessary, will communicate to him the Council resolution of September 5th, 1923, laying down the conditions for the acceptance of petitions from minorities.

*" 2. Composition of Minorities Committees.*

" The President of the Council may, when he thinks fit, invite four Members of the Council instead of two to examine petitions from minorities as provided for by the Council resolution of October 25th, 1920.

*" 3. Frequency of the Meetings of the Minorities Committees.*

" The Council considers that it would be desirable for Minorities Committees to take into account the possibility of holding meetings in the intervals between sessions of the Council, whenever they think it desirable for the examination of individual petitions.

*4. Communications concerning the Action taken on Petitions by the Committee of Three,*

" (a) When the members of the Committee of Three have terminated the examination of a question, without asking that it be placed on the Council's agenda they will communicate the result of their examination by letter to the other Members of the Council for their information. The Secretary-General will keep the relevant documents at the disposal of the Members of the Council.

" (b) The Secretary-General will distribute once a year to all the Members of the Council for their information a document reproducing the letters addressed during the year, as described above by the various Minorities Committees to the Members of the Council.

5. *Publication of the Result of the Examination of a Question by a Committee of Three.*

“ The Minorities Committees should bear carefully in mind the possibility of publishing, with the consent of the Government concerned, the result of the examination of the questions submitted to them. The Council earnestly hopes that the Governments will, whenever possible, give their consent to such publications. Publication might be effected through the *Official Journal*, and the documents published might be the above-mentioned letter from the Minorities Committee informing the other Members of the Council, or any other text that might seem suitable.

“ 6. *Regular Annual Publications concerning the Work of the League in connection with the Protection of Minorities.*

“ The Secretary-General will publish annually in the *Official Journal* of the League statistics of : (1) the number of petitions received by the Secretariat during the year ; (2) the number of petitions declared to be non-receivable ; (3) the number of petitions declared to be receivable and referred to Committees of Three ; (4) the number of Committees and the number of meetings held by them to consider the petitions in question ; (5) the number of petitions the examination of which by a Committee of Three has been terminated in the course of the year.

“ The Council decides to communicate the present resolution to the States which have accepted provisions or made declarations with a view to the protection of minorities. ”

Annex.

REPORT OF THE COMMITTEE INSTITUTED BY THE COUNCIL RESOLUTION  
OF MARCH 7th, 1929.

(Document C.C.M.1.)

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## INTRODUCTION.

The representative of Japan, as Rapporteur, and the representatives of Great Britain and Spain, appointed by the Council to co-operate in the preparation of the present report, held a first meeting on March 8th, 1929, at Geneva. They met again in London from April 29th to May 4th.

The Committee has received a certain number of suggestions contained in memoranda sent to it by the Governments of the following countries: Austria, Bulgaria, China, Czechoslovakia, Estonia, Germany, Greece, Hungary, Latvia, Lithuania, Netherlands, Poland, Roumania, Kingdom of the Serbs, Croats and Slovenes, Switzerland.

It takes this opportunity of thanking these Governments for the help they have thus given it in performing a very difficult task.

The Committee has also taken note of various communications from a certain number of associations and organisations: it desires to thank these also for the suggestions they have made.

In the sub-annexes to the present report will be found copies of the communications received from the Governments (Sub-Annex I), together with a list of those emanating from various associations and organisations (Sub-Annex II).

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### Part I.

#### I. INTERNATIONAL INSTRUMENTS CONTAINING CLAUSES PLACED UNDER THE GUARANTEE OF THE LEAGUE OF NATIONS.

The international instruments at present in force containing stipulations for the protection of minorities placed under the guarantee of the League of Nations may be classified as follows:

##### 1. "Minorities" Treaties signed at Paris during the Peace Conference.

(1) Treaty between the Principal Allied and Associated Powers and Poland, signed at Versailles on June 28th, 1919.

(2) Treaty between the Principal Allied and Associated Powers and the Kingdom of the Serbs, Croats and Slovenes, signed at St. Germain-en-Laye on September 10th, 1919.

(3) Treaty between the Principal Allied and Associated Powers and Czechoslovakia, signed at St. Germain-en-Laye on September 10th, 1919.

(4) Treaty between the Principal Allied and Associated Powers and Roumania, signed at Paris on December 9th, 1919.

(5) Treaty between the Principal Allied and Associated Powers and Greece, signed at Sèvres on August 10th, 1920.

##### 2. Special Chapters inserted in the General Treaties of Peace:

(1) Treaty of Peace with Austria, signed at St. Germain-en-Laye on September 10th, 1919 (Part III, Section V, Articles 62 to 69).

(2) Treaty of Peace with Bulgaria, signed at Neuilly-sur-Seine on November 27th, 1919 (Part III, Section IV, Articles 49 to 57).

(3) Treaty of Peace with Hungary, signed at Trianon on June 4th, 1920 (Part III, Section VI, Articles 54 to 60).

(4) Treaty of Peace with Turkey, signed at Lausanne on July 24th, 1923 (Part I, Section III, Articles 37 to 45).



3. *Special Chapters inserted in other Treaties.*

- (1) Germano-Polish Convention on Upper Silesia, dated May 15th, 1922 (Part III).
- (2) Convention concerning the Memel Territory, dated May 8th, 1924 (Article II, and Articles 26 and 27 of the Statute annexed to the Convention).

4. *Declarations made before the Council of the League of Nations.*

- (1) Declaration by Albania, dated October 2nd, 1921.
- (2) Declaration by Estonia, dated September 17th, 1923.
- (3) Declaration by Finland (in respect of the Aland Islands), dated June 27th, 1921.
- (4) Declaration by Latvia, dated July 7th, 1923.
- (5) Declaration by Lithuania, dated May 12th, 1922.

## II. ORIGIN AND PURPOSE OF THE MINORITIES TREATIES.

The origin and purpose of these Treaties is clearly and authoritatively explained in the letter addressed by M. Clemenceau on June 24th, 1919, to M. Paderewski, when he communicated to him in its final form the text of the Polish Treaty.<sup>1</sup> The relevant passages of the text of that letter are as follow :

“ In formally communicating to you the final decision of the Principal Allied and Associated Powers in this matter, I should desire to take this opportunity of explaining in a more formal manner than has hitherto been done the considerations by which the Principal Allied and Associated Powers have been guided in dealing with the question.

“ 1. In the first place, I would point out that this Treaty does not constitute any fresh departure. It has for long been the established procedure of the public law of Europe that, when a State is created, or even when large accessions of territory are made to an established State, the joint and formal recognition by the Great Powers should be accompanied by the requirement that such State should, in the form of a binding international convention, undertake to comply with certain principles of government. This principle, for which there are numerous other precedents, received the most explicit sanction when, at the last great assembly of European Powers — the Congress of Berlin — the sovereignty and independence of Serbia, Montenegro, and Roumania were recognised.

.....

“ 2. The Principal Allied and Associated Powers are of opinion that they would be false to the responsibility which rests upon them if on this occasion they departed from what has become an established tradition. In this connection, I must also recall to your consideration the fact that it is to the endeavours and sacrifices of the Powers in whose name I am addressing you that the Polish nation owes the recovery of its independence. It is by their decision that Polish sovereignty is being re-established over the territories in question and that the inhabitants of these territories are being incorporated in the Polish nation. It is on the support which the resources of these Powers will afford to the League of Nations that, for the future, Poland will to a large extent depend for the secure possession of these territories. There rests, therefore, upon these Powers an obligation, which they cannot evade, to secure in the most permanent and solemn form guarantees for certain essential rights which will afford to the inhabitants the necessary protection whatever changes may take place in the internal constitution of the Polish State.

“ It is in accordance with this obligation that Clause 93 was inserted in the Treaty of Peace with Germany. This clause relates only to Poland, but a similar clause applies the same principles to Czechoslovakia, and other clauses have been inserted in the Treaty

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<sup>1</sup> Minutes of the third meeting of the second session of the Council of the League of Nations, held in London on February 12th, 1920, page 57.

of Peace with Austria and will be inserted in those with Hungary and with Bulgaria, under which similar obligations will be undertaken by other States which under those Treaties receive large accessions of territory.

"The consideration of these facts will be sufficient to show that, by the requirement addressed to Poland at the time when it receives in the most solemn manner the joint recognition of the re-establishment of its sovereignty and independence and when large accessions of territory are being assigned to it, no doubt is thrown upon the sincerity of the desire of the Polish Government and the Polish nation to maintain the general principles of justice and liberty. Any such doubt would be far from the intention of the Principal Allied and Associated Powers.

"3. It is indeed true that the new Treaty differs in form from earlier Conventions dealing with similar matters. The change of form is a necessary consequence and an essential part of the new system of international relations which is now being built up by the establishment of the League of Nations. Under the older system the guarantee for the execution of similar provisions was vested in the Great Powers. Experience has shown that this was in practice ineffective, and it was also open to the criticism that it might give to the Great Powers, either individually or in combination, a right to interfere in the internal constitution of the States affected which could be used for political purposes. Under the new system, the guarantee is entrusted to the League of Nations. The clauses dealing with this guarantee have been carefully drafted so as to make it clear that Poland will not be in any way under the tutelage of those Powers who are signatories to the Treaty.

"I should desire, moreover, to point out to you that provision has been inserted in the Treaty by which disputes arising out of its provisions may be brought before the Court of the League of Nations. In this way differences which might arise will be removed from the political sphere and placed in the hands of a judicial court, and it is hoped that thereby an impartial decision will be facilitated, while at the same time any danger of political interference by the Powers in the internal affairs of Poland will be avoided. . . ."

Further information is given in a speech by President Wilson on May 31st, 1919, at a plenary session of the Peace Conference :<sup>1</sup>

"We are trying to make a peaceful settlement, that is to say, to eliminate those elements of disturbance, so far as possible, which may interfere with the peace of the world, and we are trying to make an equitable distribution of territories according to the race, the ethnographical character of the people inhabiting those territories.

"And back of that lies this fundamentally important fact that, when the decisions are made, the Allied and Associated Powers guarantee to maintain them. It is perfectly evident, upon a moment's reflection, that the chief burden of their maintenance will all upon the greater Powers. The chief burden of the war fell upon the greater Powers, and if it had not been for their action, their military action, we would not be here to settle these questions. And, therefore, we must not close our eyes to the fact that, in the last analysis, the military and naval strength of the Great Powers will be the final guarantee of the peace of the world.

"In those circumstances, is it unreasonable and unjust that, not as dictators but as friends, the Great Powers should say to their associates : ' We cannot afford to guarantee territorial settlements which we do not believe to be right, and we cannot agree to leave elements of disturbance unremoved, which we believe will disturb the peace of the world ' ?

"Take the rights of minorities. Nothing, I venture to say, is more likely to disturb the peace of the world than the treatment which might in certain circumstances be meted out to minorities. And, therefore, if the Great Powers are to guarantee the peace of the world in any sense, is it unjust that they should be satisfied that the proper and necessary guarantee has been given? . . . ."

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<sup>1</sup> "A History of the Peace Conference of Paris", edited by H. W. V. Temperley, Vol. V., page 130.

*Covenant of the League of Nations.*

It was in the discussion on the Covenant of the League of Nations that the first proposals were made for dealing with this question. In one of the earlier drafts prepared by President Wilson, he had inserted a clause as follows :

“ The League of Nations shall require all new States to bind themselves as a condition precedent to their recognition as independent or autonomous States to accord to all racial or national minorities within their several jurisdictions exactly the same treatment and security, both in law and in fact, that is accorded the racial or national majority of their people.”<sup>1</sup>

Here, it will be seen, we have clearly laid down the principle on which the Minorities Treaties were eventually to be based. In a later draft, also emanating from President Wilson, an additional article is proposed :

“ Recognising religious persecution and intolerance as fertile sources of war, the Powers signatory hereto agree, and the League of Nations shall exact from all new States and all States seeking admission to it, the promise that they will make no law prohibiting or interfering with the free exercise of religion, and that they will in no way discriminate, either in law or in fact, against those who practice any particular creed, religion or belief whose practices are not inconsistent with public order or public morals.”<sup>2</sup>

These articles were not included in the agreed draft brought forward by the American and British delegations (the Hurst-Miller draft), which is the basis of the Covenant. At a later stage, a new clause was proposed by Lord Robert Cecil :

“ Recognising religious persecution and intolerance as fertile sources of war, the High Contracting Parties agree that political unrest arising therefrom is a matter of concern to the League and authorise the Executive Council, wherever it is of opinion that the peace of the world is threatened by the illiberal action of the Government of any State towards the adherents of any particular creed, religion or belief, to make such representations or take such other steps as will put an end to the evil in question.”<sup>3</sup>

This clause was at first supported by President Wilson and was the subject of discussion in the Commission and in a Sub-Committee, but was eventually rejected by a very large majority. It is to be noted that, in the final division, neither the British nor the American delegation voted for its inclusion. These proposals are of some importance in connection with similar proposals which have been made at a later period. They show that, in the original drafting of the Covenant full consideration had been given to the suggestion that the principle of religious toleration and racial equality should be included in the Covenant of the League itself, but that on further consideration this was found impossible, or at any rate undesirable.

If, however, all provisions of this nature were to be excluded from the text of the Covenant, the natural course would be, following the precedent of 1878, to include such provision as might appear desirable in the treaties by which the new States were constituted, and by which their territories were determined. But, although the question was discussed by the Commissions dealing with these questions, this procedure was not, in fact, adopted, and the matter was left to be dealt with at a later stage. This decision was to have an importance which probably at the time was scarcely realised. Under what may be called the more normal procedure, such provisions as it might seem necessary to require regarding the protection of minorities would have been inserted in the main Treaties of Peace containing the territorial settlement ; these clauses would have followed immediately after the territorial clauses, in the same place as those dealing with the right of option, and in this case the

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<sup>1</sup> “ The Drafting of the Covenant ”, by David Hunter Miller, Vol. II, page 91.

<sup>2</sup> *Ibid.*, Vol. II, page 105.

<sup>3</sup> *Ibid.*, Vol. II, page 555.

immediate and necessary relationship of the obligations imposed with the transference of territory would have been obvious and unmistakable.

It was not until May 1919 that the work of drafting the provisions to be embodied in the Minorities Treaties was definitely taken in hand. The first of these Treaties to be drafted was the Treaty with Poland, which thus became the occasion on which the principles at issue were discussed. From the beginning it was intended that the Treaties for the different States concerned should be as nearly as possible identical; the Polish Treaty was the pattern to which the others — including the analogous provisions in the Treaties of St Germain, Neuilly, Trianon and Lausanne — afterwards conformed.

It must at once be placed on record that it was no part of the purpose of the authors of the Treaties to set out principles of government which should be of universal obligation. They never considered or professed to consider the general principle of religious toleration as applicable to all States of the world, nor did they lay down any general principles of universal application for the government of alien peoples who might be included within the territory or the colonial dominions of all States. Anything of the kind would have been quite outside the scope and powers of the Peace Conference; if anything of this kind had been done, it could only have been in connection with the drafting of the Covenant of the League of Nations, and as we have seen, it was there deliberately rejected. What the Conference had to deal with was a number of problems which were purely local, which arose only in certain specified districts of Europe, but which at the same time, in view of the political conditions of the moment, were serious, urgent and could not be neglected.

#### *Sanctions for the Treaties.*

The most important innovation in these Treaties as compared with the similar obligations imposed in the past is to be found in the guarantee of the League of Nations. Practical experience had shown that the older system was both unsuitable and ineffective. The reason for this was that the obligations of, for instance, the Kingdom of Roumania were undertaken to those States which were signatories to the Treaty of Berlin. This had two results. In the first place, it would give to any individual one of these States, if it so desired, the right to intervene in a hostile spirit in the international affairs of the Kingdom. At the same time, no provision had been made for impartial consideration of the complex points which might easily arise as to whether in fact the provisions of the Treaty were being observed. Experiences under the previous treaty arrangements proved that it was necessary to make provision for the impartial determination as to whether or not there had been violation of the treaties. For the first time, this was rendered possible by the institution of the League of Nations and the proposed establishment of the Court of International Justice.

Secondly, if it were the case that a violation of the Treaties had been established, it was most unsatisfactory that the right and obligation to enforce compliance should be left in the hands of individual States. Ultimately, under the older system there was no provision for the enforcement of contractual obligations except acts of force culminating in war, a fact which on the one hand went far to render the stipulations ineffective and on the other involved the grave danger that one of the contracting parties might be tempted to use the rights under these clauses, as might well have been done, with the ultimate object of securing political advantages for itself.

Here, again, it was natural to turn for assistance to the League of Nations so that, if the violation of the Treaty had been fully established, the responsibility for compelling compliance should be transferred from the individual State to the League, a body which would have no private and special interests to serve.

The chief question was whether the right to appeal for protection to the Council of the League and to the Court of International Justice should be confined to States, or whether it would be open to minorities themselves, as corporate entities or to individuals belonging to minorities, to appear before and invoke the jurisdiction of the Permanent Court. Certain delegations proposed a draft which, while leaving the final determination on this point to the Court of International Justice itself, would in effect have left it open to the Court to allow minorities or individuals to appear before it as principals in the case. Other delegations proposed a draft which made it clear that it was only States Members of the Council which could appeal to the jurisdiction of the Court. The difference was fundamental. The decision

was given in favour of the restrictive right, since, in a previous discussion of the general principle involved, the view had been taken that nothing should be done which could give the appearance of making a minority organisation politically independent of the State or of giving such a minority political rights distinct from those of the majority.

Another point of debate was whether any Member of the League of Nations should have the right to bring to the attention of the Council of the League any non-observance of the Treaties, or whether this right should be confined to those Members of the League which are represented on the Council. Here again, the decision was taken in favour of the more restrictive view.

In determining the part to be assigned to the League of Nations in the administration of these Treaties, the authors of the treaties were hampered in their proposals by the fact that the League of Nations was not itself at that time in existence and could not therefore be consulted. It would, moreover, clearly have been improper to have laid down any binding rules as to the procedure which the League itself might think it well to adopt; it had always to be remembered that, though the signatory States could agree to ask the League of Nations to undertake the guarantee, they could not require or compel it to do so. It would, when the time came, be quite open to the League either to refuse to accept the guarantee or to make the acceptance conditional on certain alterations in the provisions of the treaty.

The principles on which this part of the treaty is drafted are, however, clearly indicated. The basis of the whole action is that is limited to treaty obligations. The sole duty of the League is to watch over the execution of these treaty obligations. The organ of the League appointed by the Treaties for this purpose is the Council but the Council can only act when one of its members takes the initiative on its own responsibility and invokes the Council's aid as guarantor on the ground that there has been a violation or that there is danger of violation of one or more clauses of the Treaty. It is therefore for the individual States Members of the Council to watch the execution of the Treaties and to take the initial step, if necessary. Without the express consent of the parties to the treaty, the League can neither relieve the Members of the Council of this responsibility nor extend or transfer it to any other body.

### III. ANALYSIS OF THE TREATIES.

The engagements contained in the Treaties may be grouped under two headings, the first comprising undertakings which are to some extent common to the different countries which have accepted the regime of protection of minorities by the League; the second, special engagements concerning minorities whose situation is more or less unique.

The Minorities Treaties contain identical provisions concerning the League's guarantee, and these provisions will be specially examined in one of the following chapters.

#### I. UNDERTAKINGS COMMON TO ALL CASES.

In the first place, the Minorities Treaties contain stipulations regarding the acquisition of nationality. These stipulations provide, in principle, that the nationality of the newly created or enlarged country shall be acquired: (a) by persons habitually resident in the transferred territory or possessing rights of citizenship there when the Treaty comes into force; (b) by persons born in the territory of parents domiciled there at the time of their birth, even if they are not themselves habitually resident there at the coming into force of the treaty.

The Treaties also provide that nationality shall be *ipso facto* acquired by any person born in the territory of the State, if he cannot prove another nationality. The Treaties further contain certain stipulations concerning the right of option.

The States which have signed the Minorities Treaties have undertaken to grant all their inhabitants full and complete protection of life and liberty, and recognise that they are entitled to the free exercise, whether in public or in private, of any creed, religion or belief whose practices are not inconsistent with public order or public morals.

As regards the right to equality of treatment, the Minorities Treaties lay down the following general principles: (a) equality of all nationals of the country before the law; (b) equality of civil and political rights; and (c) equality of treatment and security in law and in fact.

Moreover, the Treaties expressly stipulate that differences of race, language or religion shall not prejudice any national of the country as regards admission to public employments, functions and honours, or to the exercise of professions and industries. It is also provided that nationals belonging to minorities shall have an equal right to establish, manage and control, at their own expense, charitable, religious or social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

As regards the use of the minority language, States which have signed the Treaties have undertaken to place no restriction in the way of the free use by any national of the country of any language, in private intercourse, in commerce, in religion, in the Press or in publications of any kind, or at public meetings. Those States have also agreed to grant adequate facilities to enable their nationals whose mother-tongue is not the official language to use their own language, either orally or in writing, before the Courts. They have further agreed, in towns and districts where a considerable proportion of nationals of the country whose mother-tongue is not the official language of the country is resident, to make provision for adequate facilities for ensuring that, in the primary schools (the Czechoslovak Treaty refers to "instruction" in general), instruction shall be given to the children of such nationals through the medium of their own language, it being understood that this provision does not prevent the teaching of the official language being made obligatory in those schools.

The Treaties finally provide that, in towns or districts where there is a considerable proportion of nationals of the country belonging to racial, religious or linguistic minorities, these minorities will be assured an equitable share in the enjoyment and application of sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious or charitable purposes.

## 2. SPECIAL UNDERTAKINGS.

In addition to these general engagements, the Minorities Treaties establish a number of special rights in favour of certain minorities, viz., the Jewish minority (Greece, Poland and Roumania), the Valachs of Pindus (Greece), the non-Greek monastic communities of Mount Athos (Greece), the Moslem minorities in Albania, Greece and the Kingdom of the Serbs, Croats and Slovenes, the Czecklers and Saxons in Transylvania (Roumania), and the people of the Ruthene territory south of the Carpathians (Czechoslovakia).

## IV. STIPULATIONS OTHER THAN THE MINORITIES TREATIES AND CLAUSES RELATING TO THE PROTECTION OF MINORITIES, CONTAINED IN CERTAIN TREATIES OF PEACE.

In addition to the stipulations contained either in certain Treaties of Peace or in the Minorities Treaties, various countries have accepted, for the protection of minorities, provisions placed under the guarantee of the League of Nations.

In December 1920, the First Assembly recommended the Baltic and Caucasian States and Albania, in the event of their being admitted to the League, to take the necessary measures to enforce the principles of the Minorities Treaties. The Assembly also requested those States to arrange with the Council the details required to carry this object into effect.

In accordance with the recommendation of the Assembly, the Governments of Albania, Estonia, Latvia, and Lithuania, which were admitted as Members of the League in 1920 and 1921, made declaration before the Council concerning the protection of minorities in their respective countries. Finland, after undertaking, as explained hereafter, by its declaration of June 27th, 1921, to afford certain guarantees to the population of the Aland Islands for the preservation of their language, culture, and local Swedish traditions, furnished the Council that same year with information regarding the position of other racial, religious, and linguistic minorities in Finland, and the guarantees afforded them under the constitution and laws of the country. The Council took note of this information by a resolution dated October 2nd, 1921, which was communicated to the Assembly for its information.

*Albania.* — The Declaration made by the Albanian representative at the session on October 2nd, 1921, which was ratified by the Albanian Government on February 17th, 1922, contains provisions similar to those embodied in the Minorities Treaties. Like the provisions of the Minorities Treaties, they were placed by a resolution of the Council, under the guarantee of the League of Nations "so far as they affected persons belonging to racial, religious or linguistic minorities".

*Lithuania.* — The Declaration made by the Lithuanian representative on May 12th, 1922, contains similar provisions, and the Council resolution placing them under the guarantee of the League of Nations under the same conditions as the provisions of the Minorities Treaties came into force on December 11th, 1923.

As regards the Memel Territory, the Lithuanian Government undertook, under the Paris Convention of May 8th, 1921, to apply this Declaration to the minorities in the Memel Territory, with the exception of the paragraph relating to the use of the minority languages in the Courts. The reason for this exception was that, under Article 27 of the Statute of the Memel Territory, annexed to the Convention, both the Lithuanian and German language were recognised as the official languages of the Territory.

*Latvia.* — Under the Declaration made on July 7th, 1923, by the Latvian representative as a result of the negotiations between his Government and the Council, the latter has the right to take up the question anew and to re-open the negotiations if the situation of the minorities in Latvia does not appear to it to correspond to the general principles laid down in the various so-called Minorities Treaties. The Latvian Government can, on its side, also demand that the negotiations should be re-opened. It further agrees to the provision that those petitions which may be addressed to the League of Nations concerning the situation of persons belonging to minorities and which are recognised as being admissible should be transmitted to it, and that these petitions, together with such observations as the Latvian Government may desire to present, should be communicated for information to the Members of the Council. The Latvian Government also accepted in principle the obligation to furnish the Council with any information which it may desire, should one of its Members bring before it any question relating to the situation of persons belonging to minorities in Latvia. In case of a difference of opinion on questions of law or of fact concerning the declaration made on July 7th, 1923, by its representative, the Latvian Government and the Council have the right to ask for the question to be referred to the Permanent Court of International Justice for an advisory opinion.

*Estonia.* — On September 17th, 1923, Estonia assumed similar obligations in regard to the protection of minorities.

Apart from the obligations thus assumed by various countries upon their admission to the League of Nations, the latter gave its guarantee in respect of the enforcement of certain provisions adopted in consequence of the cession or division of various territories. Cases in point are the Aland Islands, the sovereignty over which was assigned to Finland in 1921; the Memel Territory, which was placed under the sovereignty of Lithuania in 1922; and Upper Silesia, in regard to which the Germano-Polish Convention of May 15th, 1922, contains provisions for the protection of minorities, guaranteed by the League of Nations.

*Finland (The Aland Islands).* — By her Declaration of June 27th, 1921, Finland undertook, in regard to the Aland Islands, to insert in the near future in the Law for the autonomy of the Aland Islands of May 7th, 1920, certain guarantees to ensure the preservation of the Swedish language, culture and local traditions. The Council was to see that the guarantees provided were duly observed. Finland was to transmit to the Council, together with its own observations, any complaints or claims by the Aland Landsting in regard to the application of these guarantees, and the Council could, in case the question was of a legal nature, consult the Permanent Court of International Justice.

*Upper Silesia.* — As regards Upper Silesia, the third part of the Germano-Polish Convention signed at Geneva on May 5th, 1922, contains, in its first division, a synoptic table reproducing on one side Articles 1, 2, 7, 8, 9 (paragraphs 1 and 2), 10, 11 and 12 of the Polish Minorities Treaty of June 28th, 1919, which Poland undertook to apply in the Polish part of

the plebiscite territory; on the other side are shown the same provisions, which Germany accepted for a transitional period of fifteen years in the German part of this territory. The provisions relating to the League of Nations guarantee (Article 72) are the same as those contained in Minorities Treaties; it is laid down that the general procedure for the examination of petitions is applicable to petitions relative to the situation of minorities in Upper Silesia, coming from persons not members of a minority. A special procedure is, in fact, provided, as will be shown later, for petitions coming from persons belonging to a minority.

Under division II of the same part of the Convention, Germany and Poland agree, without prejudice to the provisions of division I, for a period of fifteen years, upon more detailed stipulations concerning civil and political rights, religion, education, the official language of the Administration and the language employed in the Courts of Law.

Finally, division III of the third part of the Convention contains a stipulation not embodied in any Minorities Treaty, conferring upon persons belonging to a minority the right to submit petitions to the Council of the League of Nations. Explicit provisions indeed establish a right of petition to the Council and to a local Minorities Office. We will not enter here into the details of these provisions, which were agreed upon between the two contracting parties. We would merely emphasise that the two parties judged it expedient to adopt special provisions giving to persons belonging to the minorities a right of petition to the Council, after having included in their Convention the stipulations of the Minorities Treaties regarding the League of Nations guarantee and the exercise of this guarantee, because such a right was not conferred under any of the Minorities Treaties.

This special procedure for the protection of minorities in Upper Silesia must not be confused with the general procedure of the Council for the protection of minorities in the countries which have accepted stipulations to this effect. The three following chapters of the present report refer solely to this general procedure.

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## Part II.

### I. THE COUNCIL'S AGREEMENT TO THE PLACING OF THE TREATY STIPULATIONS CONCERNING THE PROTECTION OF MINORITIES UNDER THE GUARANTEE OF THE LEAGUE OF NATIONS: THE NATURE AND LIMITS OF THIS GUARANTEE.

As we pointed out above the clauses relating to the protection of minorities contained in certain Treaties of Peace and the Minorities Treaties were negotiated independently of the League of Nations. Once the necessary ratifications had been obtained, the stipulations concerning the protection of minorities were submitted to the Council, which had to decide whether it would or would not accept the mission entrusted to it. In each case the Council accepts this mission by a formal decision, under which the stipulations relating to the protection of minorities "so far as they affect persons belonging to racial, linguistic or religious minorities" are placed under the guarantee of the League of Nations.

The stipulations of the Treaty concluded between the United States of America, the British Empire, France, Italy and Japan of the one part, and Poland of the other part, were the first to be placed, by the Council's resolution of February 13th, 1920, under the guarantee of the League of Nations. These stipulations were examined "in conjunction with the covering letter" addressed to M. Paderewski by the President of the Peace Conference on June 24th, 1919, and, as a result of its examination, the Council decided that the League of Nations could agree to give its guarantee. Subsequently, by various resolutions worded in the same way as that which it had adopted with regard to the stipulations of the Polish Minorities Treaty, the Council placed under the guarantee of the League of Nations the stipulations of the Treaties concerning Minorities in Austria (October 27th, 1920), Bulgaria (October 27th,



1920), Czechoslovakia (November 29th, 1920), Kingdom of the Serbs, Croats and Slovenes (November 29th, 1920), Hungary (August 30th, 1921), Roumania (August 30th, 1921), Greece (September 26th, 1924), and Turkey (September 26th, 1924).

After deciding to place under the guarantee of the League of Nations the stipulations relative to the protection of minorities in Poland, and before adopting similar resolutions with regard to the stipulations of other Treaties, the Council thought it advisable, in October 1920, "to determine the nature and the limits of the guarantees with regard to the protection of minorities provided for by the different Treaties". The Rapporteur on this question was the Italian representative, M. Tittoni. He submitted a report which was adopted by the Council and from which the following passage may be reproduced :

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

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

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

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

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

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

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

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

## II. MEASURES TAKEN TO FACILITATE THE EXERCISE OF THE GUARANTEE.

### (a) INSTITUTION AND DEVELOPMENT OF THE PROCEDURE FOR THE EXAMINATION OF PETITIONS.

After examining, at its meeting of October 22nd, 1920, the report submitted by M. Tittoni the Council gave its attention to the institution of a procedure for the examination of minorities petitions. The representative of the British Empire, Lord Balfour, pointed out in the course of this meeting that the procedure instituted by the Treaties for the Protection of Minorities by the Council laid a thankless and difficult task upon the Members of the Council. "If", he said, "it were necessary to protect a minority, one of the Members of the Council would have to take upon itself the duty of accusing the State which had not fulfilled its undertakings", and Lord Balfour asked "if the Council had not a legal right to refuse to accept the guarantee for the protection of minorities and if it could not consequently make

reservations with regard to the procedure to be followed by the Council in providing for their protection". As we have seen above, the Council had already at that date agreed to place under the guarantee of the League of Nations the stipulations of the Polish Minorities Treaty. The general opinion was that the Council could, in theory, refuse to guarantee the rights of minorities, but that in practice this was impossible. To quote the words of the Minutes of this meeting: "As the Treaties had been accepted by the parties concerned with the utmost difficulty, it was necessary to avoid further reducing their authority".

The next day, October 23rd, 1920, M. Hymans, representative of Belgium, said that he had been much impressed by the observations made at the previous meeting by Lord Balfour on the invidious position of a Member of the Council charging another Power with an infraction of the Minorities Treaties. M. Hymans wondered whether a procedure could not be devised, such that no Member of the Council need take action unless there was a strong movement of public opinion in favour of dealing with the matter. He suggested that the Council should at its discretion submit any petitions to a Committee of three of its members. The Council decided to adopt this proposal as a rule of procedure, and the legal advisers were asked to find a formula whereby this procedure might be reconciled with the text of the Treaties. The resolution approved by the Council on October 25th, 1920, for insertion in its Rules of Procedure reads as follows:

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

This resolution therefore constituted a rule of procedure of the Council, under which the latter made it a practice to give its Members an opportunity of examining the relevant documents with a view to assisting them in the performance of their rights and duties. M. Tittoni having asked whether, if this procedure were adopted, it would not interfere with the right of any one Member of the Council to take the initiative if he so desired, Lord Balfour pointed out that "if left untouched the principles defined in the Treaties".

With regard to the communication of petitions to the States concerned, M. Tittoni's report of October 22nd, 1920, pointed out that for some time the procedure had been adopted of forwarding immediately to all the Members of the League any document forwarded for the information of the members of the Council, and the result was that the State interested, if it was a Member of the League, was informed at the same time as the Council of the subject of the petition. "This information", added M. Tittoni, "which might give the State concerned an opportunity of submitting to the Members of the Council such remarks as it might consider desirable did not, however, partake of the nature of a request of the League for information with regard to the subject of the petition, nor yet did it imply with regard to the State concerned the obligation of furnishing evidence in its defence."

The Governments of two States signatories of Minorities Treaties, Poland and Czechoslovakia, protested in 1921 against the automatic communication of minorities petitions to the Council and all the Members of the League.

In the letter which he sent to the Secretary-General on June 3rd, 1921, the Polish representative said:

"This procedure, although doubtless based on a justifiable desire to afford to those who believe themselves injured an opportunity of stating their case, possesses one very great disadvantage: it lays before the Members of the League one-sided information, which is often unreliable or biased, while the State concerned — i.e., the State against whom the petition is directed — has no opportunity of stating its case at the same time as its opponents. The possibility of subsequently refuting the accusations made against them afforded to the States concerned does not always compensate for the injury suffered from this procedure."

As a result of conversations with the representatives of Poland and Czechoslovakia, these representatives declared that they recommended the following draft resolution, which was adopted by the Council on June 27th, 1921 :

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

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

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

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

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

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

The procedure under this resolution has been accepted by all the States signatories of stipulations for the protection of minorities.

The resolutions adopted subsequently in 1923 and 1925 were aimed either at clearing up certain points or introducing certain modifications in this procedure which experience showed to be desirable, or at regularising certain usages which had grown up.

In 1923, as a result of notes submitted by the Polish and Czechoslovak Governments, the Council defined the conditions for the receivability of petitions — *i.e.*, the conditions they must fulfil to be subject to the procedure established by the resolutions of 1920 and 1921. On this point, it adopted the following resolution :

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

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

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

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

“ (d) Must abstain from violent language ;

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

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

The Council further admitted the possibility of extending the period of two months fixed for observations by the Government concerned on the petitions, if this Government so requested.

Lastly, the Council decided to restrict to the Members of the Council the communication of petitions and of observations by the Government concerned, adding, however, that "communications might be made to other Members of the League or to the general public at the request of the State concerned, or by virtue of a resolution to this effect passed by the Council after the matter had been duly submitted to it". As explained above, the Government concerned had, since the Council resolution of June 1921, been informed of the petition direct, and no longer, as previously, by the indirect means of a communication to all the Members of the League. Furthermore, the Members of the Council alone having the right, according to the treaties, of drawing the Council's attention to an infraction or danger of infraction of the obligations concerning the protection of minorities, the distribution of petitions could be confined to the Members of the Council if the latter considered that the advantages of such restriction outweighed the disadvantages. The Council therefore considered that co-operation with the Governments which had accepted stipulations for the protection of minorities would be easier if the petitions, which always contain or imply a criticism of the action of these Governments, and which might even sometimes appear to be submitted for the purpose of hostile propaganda, were not widely circulated. (Minutes of the Council's meeting of September 5th, 1923.)

At its meeting on September 25th, 1923, the Sixth Committee of the Assembly also considered this question. On this Committee's proposal, the Assembly adopted the following resolution on September 26th :

" Under the resolution of the Council dated September 5th, 1923, the communication of minorities petitions shall be restricted to the Members of the Council. However, by virtue of paragraph 5 of the Assembly resolution dated September 21st, 1922, any Government Member of the League can make a request to the Secretariat for petitions (with the observations of the Government concerned) which have been communicated to the Council, to be communicated also to that Government."

In order to facilitate the procedure of examining petitions by the Committees of three members, and in order to give both the minorities and the States concerned the assurance that this examination would be carried out with all the necessary impartiality, the Council in 1925 adopted a resolution with regard to the composition of the Committee of Three. The Brazilian representative, in his report of June 10th, 1925, explained the meaning of this resolution as follows :

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

" In practice, the Acting President of the Council, when appointing two of his colleagues in accordance with the resolution of October 25th, 1920, has usually been guided by the following principle, which I consider should always be applied — namely, the Government to be entrusted with the duty laid down in the resolution of October 25th, 1920, should not be a Government of a State neighbouring that of which the persons belonging to the minority in question are subjects, nor the Government of a State the majority of whose subjects belong from the ethnical point of view to the same people

as the minority in question. It goes without saying that the Government against whom the minorities petition is directed, if represented on the Council, should not be included in the three members appointed to consider the matter."

Having in 1920 instituted a procedure not provided for in the Treaties, for obtaining information, and then in 1921 having ensured the co-operation of the States concerned so as to increase the effectiveness of this procedure, the Council desired in 1925 to give formal confirmation to certain usages which had grown up. The Council therefore decided :

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

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

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

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

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

Such are the various decisions which have built up the present system of the examination of petitions by Committees of three members of the Council. The method of work of these Committees is dealt with in another part of the present report.

#### (b) MINORITIES SECTION OF THE SECRETARIAT.

1. *Its creation and development.* — It was clear from the outset that the work undertaken by the League of Nations in regard to the protection of minorities required the creation of a special department of the Secretariat. In 1920, in the memorandum which he submitted to the Fourth Committee of the First Assembly on the personnel and organisation of the Secretariat, the Secretary-General explained the composition and organisation of the " Administrative Commissions and Minorities Section ". This Section, the original organisation of which has always been retained, consists of two departments under a single head, but entirely independent of each other — the Department of Administrative Commissions and the Department of Minorities, which latter deals with questions relating to the protection of minorities by the League.

At first the Minorities Department consisted of two members of section in addition to the Director and the auxiliary personnel. Since then this department has been gradually enlarged.<sup>1</sup>

<sup>1</sup> The Minorities Department now comprises six Members of Section, two members of the Intermediate Class and three secretary-shorthand-typists. The following table shows the increases in the financial requirements of the Minorities Department :

	Swiss francs
1921 . . . . .	175,000
1922 . . . . .	200,000
1923 . . . . .	413,000
1924 . . . . .	333,394
1925 . . . . .	330,481
1926 . . . . .	329,107
1927 . . . . .	352,739
1928 . . . . .	356,817
1929 . . . . .	333,718

(These figures apply to the Section as a whole, but the Administrative Commission's Department has not been enlarged, so that the increases in the budget estimates are accounted for by the expansion of the Minorities Department.)

At the various sessions of the Assembly, the discussions in the Fourth Committee on the budget of the Administrative Commissions and Minorities Section have afforded the Director of the Section an opportunity of explaining in detail the duties and functions of the Minorities Department. As a result of the information so provided, the Fourth Committee and the Assembly have always unanimously taken the view that the credits allocated to that department represented the minimum which would enable it to carry out its work.

2. *Sources of information.* — In view of the nature of the Minorities Department's duties, its means of obtaining information must be as extensive and comprehensive as possible, not only as regards the actual situation of the various minorities, but in general as regards political, social, economic and cultural developments in the different countries which have given undertakings to protect minorities. Indeed, minority problems cannot properly be understood if they are considered apart from the political life of each country as a whole. Moreover, there are special juridical, social, economic and other aspects of these questions which become intelligible, only when regarded as part of the public life of the nation.

The importance of this aspect of the Minorities Department's work cannot be over-estimated, and all the members of the Council who have had occasion to sit on the Committees of Three have realised how difficult and sometimes impossible their task would have been had they not been able, through the Minorities Section, to procure information bearing in many cases upon details of the practical administration of the State concerned. Indeed, the question as to the means of rendering the information service of the Minorities Department as comprehensive and efficient as possible has been and still is one of the chief pre-occupations of the directing organs of the Secretariat.

One of the Department's primary sources of information consists in the petitions and the observations of the Governments concerned, which it has to study. The information contained in the archives of the Department in the form of petitions and observations thereon by Governments is already considerable, and is still growing.

Apart from this source of information, however, which is the direct outcome of its own work, the Section has availed itself of other means of keeping itself regularly and constantly informed.

In the first place, a Press information service for minorities questions has been established in the Section itself, independently of the general Press information service of the Secretariat. This service regularly receives some twenty newspapers from the various countries which have given undertakings to protect minorities, including, besides those representing the interests of the minorities, newspapers which may more or less be regarded as semi-official Government organs. These newspapers are read by the various members of the Section, and one official prepares a weekly bulletin containing a summary of all articles of direct or indirect interest from the point of view of the protection of minorities. This bulletin is distributed to all the members of the department, and summaries of the articles it contains are filed in the archives of the Section. All the members of the department are thus able to follow the Press opinions in the various countries which have given undertakings to protect minorities, and may thus consult for any question the particular file containing cuttings on that question. This special Press information service has been in operation since February 1923, and the Press archives thus formed are already of considerable value.

The journeys undertaken by the Director of the Section and the members of the department in the countries subject to obligations regarding the protection of minorities constitute another means of obtaining information, to which the greatest importance has always been attached.

The character of these journeys must be made clear if their importance from the point of view of information is to be fully understood. They are not at all in the nature of enquiries, nor have they ever been taken in pursuance of a Council resolution. In all cases it was the Government concerned which first asked the Secretary-General to send to its country either the Director of the Section or a member of the Minorities Department.

Generally speaking, these journeys are of value in two ways. On the one hand, they enable the Section and the representatives of Governments, particularly the authorities and officials most directly connected with minorities questions, to keep in close touch with one another. The department has thus been able to give practical effect to the view expressed by the Assembly in its resolution of September 21st, 1922, " that in ordinary circumstances the League can best promote good relations between the various signatory Governments and

persons belonging to . . . minorities . . . by benevolent and informal communications with those Governments". These relations with Governments have also greatly facilitated the work of the Committees of Three when, as often happens, they are engaged in informal negotiations with Governments with a view to solving questions submitted to them for examination.

On the other hand, these journeys have often enabled the Minorities Section to grasp the real nature and importance of minorities' grievances. Moreover, the Governments which ask for these journeys to be undertaken always grant reasonable facilities to enable the representatives of the minorities to meet the League's official.

The Minorities Section also obtains information through the visits which it regularly receives from official or unofficial representatives of Governments, from petitioners or persons belonging to minorities, and from persons interested in the problem of the protection of minorities by the League. The door of the Section is always open to those who express a wish to communicate information or an opinion on the situation of individual minorities or on the general question of minorities. These interviews as a whole constitute an invaluable source of information for the Department.

Lastly, the composition of the Secretariat itself is, upon occasion, the means of obtaining useful information. Certain factors in some particular minority problem, certain aspects of the political life of the country, may become much clearer as a result of personal interviews with nationals of the country than through any other means of information; and the Secretariat through its international character and its periodical contacts both with international associations and with prominent persons from all countries, constitutes a particularly valuable source of direct information on the various questions that may arise. The officials of the Minorities Section can thus often obtain help from their colleagues on the Secretariat.

### III. DISCUSSIONS AT THE ASSEMBLY.

Although, as M. Tittoni said in his report of October 22nd, 1920, "the Council and the Permanent Court of International Justice are the two organs of the League charged with the practical execution of the (League's) guarantee", the Assembly has examined the question of the protection of minorities on various occasions during the public discussion of the annual report to the Assembly on the work of the Council during the year.

We will not attempt here to summarise these discussions on the protection of minorities, which have taken place sometimes at plenary meetings and sometimes in committee. We need only say that, despite certain criticisms, the States Members of the League have, on the whole, recognised that the Council has constantly acted in accordance with the provisions relating to the protection of minorities.

Nor will we examine the various proposals made to the Assembly. The Council resolution of March 7th, 1929, inviting the Governments to offer suggestions for the preparation of the present report has given those wishing to do so an opportunity of taking up again and where necessary making more explicit various proposals which had been submitted to the Assembly in past years. These proposals will be examined in another chapter of the present report.

We will therefore confine ourselves to recapitulating the decisions reached by the Assembly.

In 1921, the Assembly referred to its First Committee the following proposal by Professor Gilbert Murray, delegate of South Africa:

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

The Committee, after taking cognisance of the resolution adopted by the Council on October 25th, 1920, regarding the examination of petitions by Committees of Three, noted the fact that, so far, no petition from a minority had been brought before the Council by those committees. It was of opinion, however, that the procedure provided for by the resolution



was capable of giving satisfactory results and that in a general way it met the desire expressed in Professor Gilbert Murray's motion. Professor Murray stated that he shared this opinion and withdrew his proposal. The Committee expressed its appreciation of the manner in which the Council, by its resolution of October 25th, 1920, had anticipated and solved the questions, raised by Professor Murray's motion. The Commission then expressed its satisfaction at the steps taken by Professor Murray in the matter, which had made it possible for the Assembly to take note of the action already taken by the Council. The First Committee's report was adopted on October 4th, 1921.

The next Assembly referred two proposals to its Sixth Committee. The first, by Professor Gilbert Murray, delegate of South Africa, asked that a Committee of the Assembly should report on the chapter dealing with minorities questions in the annual report on the work of the Council, in order that the Assembly might have an opportunity of expressing its considered view on these questions. The second proposal, submitted by M. Walters, delegate of Latvia, extended the scope of the previous proposal by also asking the Committee of the Assembly to report on the general questions arising out of the protection of minorities for all the Members of the League of Nations. M. Walters added in his proposal that this report should enable the Assembly to express its considered view of these questions and to lay down the main lines for the general protection of minorities in the States Members of the League of Nations.

After exhaustive discussions, in which a large number of delegates, took part, the Sixth Committee unanimously adopted the following declarations, which the Assembly approved in its resolution of September 21st, 1922 :

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

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

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

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

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



In 1923 the Fourth Committee decided, also on the motion of Professor Gilbert Murray, delegate of South Africa, to refer to its Sixth Committee the question of the procedure to be followed in dealing with the protection of minorities, mentioned in the relevant chapter of the Supplementary Report on the work of the Council. This chapter set forth the procedure for the examination of petitions, as indicated in the decisions taken by the Council in 1920, 1921, and 1923, which have been analysed above.

In its report to the Assembly, the Sixth Committee explained that it had not discussed the various clauses of the Council resolution of September 5th, 1923, but had confined itself to the consideration of one specific point — namely, the clause according to which the communication to the Members of the League of minorities petitions and observations (should there be any) by the Government concerned, in accordance with the resolution dated June 27th, 1921, shall be restricted to the Members of the Council.

On this matter the Committee recalled the above-mentioned resolution, adopted by the Third Assembly on September 21st, 1922, and cited paragraph 5 of that resolution, relating to information collected by the Secretariat, which, according to the second sentence of that paragraph, "might be placed at the disposal of the States Members of the League of Nations if they so desired". The Committee unanimously agreed that this resolution was applicable to the minorities petitions which, under the terms of the Council resolution of September 5th, 1923, should be communicated to the Members of the Council.

On the proposal of its Sixth Committee, therefore, the Assembly adopted the following resolution :

" Under the resolution of the Council dated September 5th, 1923, the communication of minorities petitions shall be restricted to the Members of the Council. However, by virtue of paragraph 5 of the Assembly resolution, dated September 21st, 1922, any Government Member of the League can make a request to the Secretariat for petitions (with the observations of the Government concerned) which have been communicated to the Council to be communicated also to that Government."

In 1925, the Sixth Assembly referred to its Sixth Committee the following proposal submitted by M. Galvanauskas, delegate of Lithuania :

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

During the discussion of this proposal by the Sixth Committee the question also arose of the procedure followed by the Council and the Secretariat for dealing with concrete questions relating to the protection of minorities. The Committee discussed paragraph VI of Chapter 7 of the annual Supplementary Report submitted to the Assembly. The Sixth Committee's report mentions that several speakers paid a tribute to the work accomplished by the Council in the execution of its delicate duties and emphasised the merits of the procedure at present in force. The report adds that some suggestions were made that this procedure might be improved, but it was pointed out that, whatever was done, the provisions of the Minorities Treaties must be respected. At the end of the discussion, it was proposed that the Committee should recommend the Assembly to give its formal approval to the above-mentioned part of the report, and this proposal was favourably received by various speakers.

On the proposal of its Sixth Committee, therefore, the Assembly, on September 22nd 1925, adopted a resolution whereby it approved that part of the report on the work of the Council, the work of the Secretariat, and the measures taken to execute the decisions of the Assembly which dealt with the procedure followed with regard to the protection of minorities. The resolution added that, the Lithuanian representative having withdrawn his proposal, the Assembly requested the Secretary-General to communicate to the Council the discussion which had taken place in the Sixth Committee.

At its meeting on December 9th, 1925, the Council took note of the Assembly, resolutions and the representative of Brazil, the Rapporteur for minorities questions, then made a personal declaration to the Council.

Since then the minorities questions has been raised on several occasion at the Assembly but has not been the subject of any report or special resolution.

#### IV. APPLICATION OF THE PROCEDURE FOR THE EXAMINATION OF PETITIONS.

The establishment of the procedure for the examination of minorities petitions is dealt with in one of the previous chapters. The object of the present chapter is to show how this procedure is at present applied.

Generally speaking, the Secretariat acts on the fundamental principle laid down in Tittoni's report adopted by the Council on October 20th, 1920, that petitions from minorities are in the nature of information pure and simple. In accordance with this principle and with the intention underlying the establishment of the procedure, care has always been taken to avoid making its application a kind of *procédure contradictoire* or judicial procedure in which the petitioner and the Government concerned appear as two parties to be heard by the League of Nations. The Council has established for minorities petitions a *sui generis* procedure adapted to the nature of the right of petition established by M. Tittoni's report. The object of this procedure is, not to enable the Council as it were to settle a lawsuit between two parties, but to ensure that reliable information as to the manner in which the signatory States to the Minorities Treaties are carrying those treaties into effect is laid before the Members of the Council. This information is then carefully considered by a Committee of Three and is used where necessary as a basis to enable the Members of the Council to exercise their right to draw the Council's attention to cases of infraction or danger of infraction of the treaties if they think it desirable.

It is in this light that the present procedure and its application should be considered. Any comparison between it and ordinary judicial procedure under the internal law of individual States might give rise to misunderstanding and lead to erroneous conclusions. The respective aims of the two procedures being different, they cannot be expected to be subject to the same guarantees or the same formalities.

In order to show as clearly as possible how the procedure in respect of minorities petitions is applied at the present time, we will consider in turn the following points :

- (a) Acceptance of Petitions.
- (b) Communication to the Government concerned for any Observations.
- (c) Communication to the Members of the Council.
- (d) Examination by the Committees of Three.
- (e) Replies to Petitioners.

##### (a) ACCEPTANCE OF PETITIONS.

When a petition from a minority is received by the Secretariat, it is submitted to a preliminary examination by the Minorities Section to ascertain what decision should be taken by the Secretary-General regarding its acceptance. The object of this examination is to decide, without examining the case on its merits, whether the petition fulfils the five conditions of acceptance laid down in the Council resolution of September 5th, 1923.

This work is of a very delicate nature. Not only must each petition be examined with scrupulous care, but in many cases the interpretation to be placed on the conditions governing acceptance and upon the relevant terms of the Minorities Treaty must also be considered. The fact that, in the procedure as established, petitions are not regarded as actual requests but as sources of information pure and simple means that the conditions governing acceptance must be given a very broad interpretation.

These conditions relate to :

- (1) The origin of the petition : " Petitions must not emanate from an anonymous or unauthenticated source " ;
- (2) Form : " Petitions must not be worded in violent language " ;

(3) Contents : Petitions : (a) must have in view the protection of minorities in accordance with the Treaties ; (b) must not request the severance of political relations between the minority in question and the State of which it forms a part ; (c) must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

As regards the origin of petitions, it should first be observed that, in order to be accepted, they need not necessarily emanate from the minority concerned. Petitions from persons or organisations which not only did not belong to the minority concerned but did not even belong to the country referred to in the petition have often been declared acceptable, provided the source was not anonymous or unauthenticated. As to the question under what circumstances the source may be regarded as anonymous or unauthenticated, it is very difficult to lay down precise rules, and the Secretary-General uses his own discretion, taking into account the circumstances of the case. In principle, any signed petition is regarded as emanating from an authenticated source. In certain cases, petitions sent by telegram have also been regarded as acceptable before being confirmed by letter.

As regards the form of petitions, the rule laid down by the Council on this point is also given a very broad interpretation. Petitions containing abusive language or terms incompatible with the dignity of the Governments concerned are alone rejected as not fulfilling this condition of acceptability. The Secretary-General takes into account the fact that petitions may come from persons belonging to populations of primitive culture, in which case obviously their wording cannot be judged according to the strictest standards. Moreover, the Governments concerned very rarely question the acceptability of petitions on the ground that their form was not in accordance with the Council's rules.

As regards the three conditions relating to the contents of petitions, the Secretary-General has merely to carry out a cursory examination of the facts and information submitted by the petitioner. He cannot verify any of the facts or even undertake to examine the substance of the question raised in the petition. In principle, when the statement of facts in a petition is *prima facie* in accordance with the three conditions required, it is declared acceptable.

If a petition is declared unacceptable, no action is taken in regard to it. The petitioner is not informed of the decision, for the reason already indicated, that he is regarded not as an applicant but purely and simply as a source of information for the Members of the Council. For this reason, a petition is regarded as unacceptable only if it obviously does not fulfil one of the conditions laid down by the Council. On the other hand, when the Secretary-General declares a petition acceptable, it is always open to the Government concerned to dispute the justice of this decision. If it does so, the question is referred to the President of the Council, who may request two of his colleagues to examine it with him. Again, the Government concerned, if not satisfied with the President's decision may ask for the question of the acceptability of the petition to be placed on the Council's agenda. So far, only one case has occurred where the Government concerned has not accepted the President's decision and has asked for the question of the acceptability of a petition to be placed on the Council's agenda.

It is difficult to lay down a precise line of demarcation between petitions of minorities in the strict sense of the term and communications of other kinds sent to the League on the subject of the protection of minorities : nevertheless it is estimated that the total number of petitions received by the League Secretariat since September 1921 is about three hundred.<sup>1</sup> Of these petitions, some hundred and fifty have been declared unacceptable, and the rest have been submitted to the procedure of examination laid down by the Council.

#### (b) COMMUNICATION OF PETITIONS TO THE GOVERNMENT CONCERNED.

Petitions declared acceptable by the Secretary-General are communicated to the Government concerned for any observations it may desire to make. A very wide latitude is allowed in the matter of the time-limits — laid down by the Rules of Procedure—*i.e.*, three weeks within which the Government concerned should inform the Secretary-General whether

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<sup>1</sup> Not including the petitions addressed to the Council in accordance with the procedure stipulated in the Convention relating to Upper Silesia (*cf.* pages 164 and 165 of the present document).

it does or does not intend to present observations, and two months within which these observations must be sent.

In practice, if the Government concerned does not inform the Secretary-General within three weeks that it does not intend to send any observations, it is assumed that it will do so, and the petition is not sent to the Members of the Council before the expiration of the period of two months. Moreover, when any Government considers it necessary to ask for an extension of the period of two months, the extension has invariably been authorised by the President of the Council.

The petition is not communicated in advance to the Government concerned in "exceptional and extremely urgent cases" or when a petition comes from the Government of a country Member of the League of Nations. In such cases, the petition is communicated simultaneously to the Members of the Council and to the Government concerned. The Secretary-General is only required, before communicating the petition, to inform the representative of the State concerned accredited to the League of Nations. The Council has not laid down any rule defining what constitutes the "exceptional and extremely urgent" character of a petition. The Secretary-General uses his own discretion in such cases.

#### (c) COMMUNICATION OF PETITIONS TO MEMBERS OF THE COUNCIL.

Petitions are communicated to Members of the Council for information, either together with the observations of the Government concerned, as soon as the Secretariat receives them, or immediately upon the Government concerned announcing that it does not propose to submit observations. This communication of petitions to Members of the Council, which, as explained in a previous chapter, was instituted by M. Tittoni's report adopted by the Council on October 20th, 1920, does not constitute a juridical act, since the Council only becomes competent to examine the question if one of its Members draws its attention to the infraction or danger of infraction of the Minorities Treaty to which the petition refers. The petitions are thus communicated purely for information and are not sent to the Council as a body but to each of its Members individually. For that reason, documents containing petitions with the observations of the Government concerned are regarded, not as documents communicated to the Council, but as documents communicated to the *Members of the Council*.

Petitions and the observations of the Government concerned may be communicated to the Members of the League or to the public at the request of the Government concerned or in virtue of a resolution taken by the Council to that effect. Moreover, any Government of a State Member of the League may submit a request to the Secretariat that petitions and the observations of the Government concerned which are communicated to the Members of the Council should be communicated to it also. In response to a request, certain Members of the League are sent regularly either all petitions communicated to the Members of the Council or only those relating to certain countries or certain minorities, as they desire.

#### (d) EXAMINATION OF PETITIONS BY THE COMMITTEES OF THREE.

As soon as a petition, accompanied by the observations of the Government concerned, is communicated to the Members of the Council, the Minorities Section approaches the President of the Council with a view to the setting up of the Committee of Three which is to examine the petition. When the three members of this Committee have been appointed, the Minorities Section prepares for their use a memorandum containing a summary of the petition and of the observations of the Government concerned. This memorandum, which is wholly impartial, is intended to facilitate the Committee's work by presenting as clearly as possible the various points raised by the petition and coming within the scope of the protection of minorities provided for by the treaty (very often the points raised in petitions do not come within that scope), together with the observations on each point by the Government concerned. The Secretariat, in order to afford the members of the Committee of Three all the assistance they may desire, then takes steps to collect the fullest possible information on the facts of the case and to study the points of law raised in the petition.

The meetings of the various Minorities Committees which are in existence simultaneously are generally held during sessions of the Council, though they are also held between those sessions, as it is not always easy to find time during Council sessions for the examination — sometimes a very detailed and lengthy procedure — of the question raised. These questions are nearly always of a delicate nature and require the most thorough preparation both by the Secretariat and by the Members of the Council. Any of the Members of the Council may, if necessary, be required to sit on the Committees of Three.

The examination of a petition by a Minorities Committee is not, of course, confined to the actual meeting of the Committee. Each member of the Committee must proceed to examine the petition without delay as soon as the document concerning it has been communicated to the Members of the Council. Naturally, the Secretariat must begin its work as soon as possible, even before the Members of the Council have been communicated with. The discussion, even at the first meeting of the three members of the Committee, is thus — except perhaps in very urgent cases — based on a considerable amount of preparatory work.

The Committees meet privately, no formal Minutes being taken, and each is free to adopt its own procedure. As a rule, the Director of the Minorities Section makes a verbal statement at the beginning of the meeting on the points which, in his opinion, require special consideration. Often, at their request, he offers the members of the Committee suggestions as to the possible courses which may be taken in each case.

Lastly, the Section has to see that the Committee's resolutions are carried into effect. All communications, whether verbal or written, between the Committees and the Governments concerned are effected through the intermediary of the Minorities Section. Quite often the Committees ask the Secretariat to prepare for them special memoranda enabling them to obtain a more accurate idea of the situation or arrive at a decision as to the interpretation of certain clauses of a treaty or legislative or administrative provisions of the State concerned.

Generally speaking, the object of the examination of a petition by the three Members of the Council appointed for the purpose is to consider whether one or more Members of the Council should exercise their right to bring the question to the Council's notice. This right may also be exercised by any individual member of the Committee, whatever view his colleagues may take. When once the question has been brought before the Council, it is dealt with in accordance with the normal procedure, that is to say, the Council considers it on the basis of a report submitted to it by its Rapporteur for minorities questions.

In most cases, the members of the Committees of Three have found that, although the circumstances do not in their opinion justify the placing of the question on the Council's agenda, they do not permit of its being dropped altogether. The members of the Committee may consider, for example, that the information at their disposal does not enable them to decide whether there has or has not been an infraction or danger of infraction of the treaty; or they may feel that they could obtain favourable consideration of the minorities' wishes by approaching the Government concerned in informal and friendly manner. The Committee then, acting through the Minorities Section, enters into informal negotiations with that Government with a view either to obtaining further information or to securing a satisfactory settlement of the matter. The elasticity of this system enables the various Committees to adapt their methods to the special circumstances of each case. A system of genuine and friendly co-operation has thus grown up between the League, acting through the Committees of Three, and the Governments concerned, with a view to the equitable and satisfactory settlement of such cases. This explains, too, why far fewer questions are submitted to the Council by the Minorities Committees than are the subject of informal negotiations between these Committees and the Governments concerned.

The policy of the Committees of Three of settling the various questions submitted to them by direct and informal negotiations with Governments is based on a consideration which all who have had occasion to sit on those Committees will doubtless recognise as wholly justifiable, namely, that, for the purpose of settling the majority of the questions raised in petitions, informal and friendly negotiations between a Committee of Three and the Government concerned constitute a much more effective method than public discussion by the Council. Nevertheless, despite the very natural tendency to settle some questions by direct negotiation, these Committees have never hesitated to refer to the Council questions which, in their opinion, required to be considered by that body, or questions for the settlement

of which they considered action by the Council more likely to be successful than unofficial action on their own part. It may be of interest here to mention that, since September 1921, the various Committees of Three which have examined the petitions declared acceptable have held 190 meetings.

When a question is placed on the Council's agenda, the documentary information on the subject automatically becomes public. The petitioner may then note the observations submitted by the Government concerned and the Council's discussions, as the examination of the case always takes place in public. When the question is not submitted to the Council, either because the Committee of Three regards the Government's explanation as satisfactory or because a settlement has been reached by informal action on the part of the Committee, the documents remain confidential and no communication is made to the petitioner, or to the Council, or to the public. In some cases the Committee has decided, with the consent of the Government concerned, to make the documents public. In other cases it has suggested to the Government that its observations should be sent to the petitioner, or — as has most frequently happened — it has authorised the Secretary General to make this communication. At first the Committees of Three sometimes sent negative reports to the Council — *i.e.*, report informing it that the Committee had not considered it necessary to bring the question submitted to it to the Council's notice. This method of procedure was applied in three or four cases, but was eventually abandoned, and the Committee of Three now merely informs the representative of the State concerned that it has concluded its examination of the question.

It should again be observed that the fact that a question has been referred to a Committee of Three does not affect the right of any other Member of the Council not a member of the Committee to bring the question to the Council's notice if it thinks fit. All the Members of the Council receive the document containing the petition and the Government's observations, and they may, if they so desire, ascertain through the Secretariat the result of the Committee's examination of the petition and submit observations to the Committee, either officially or unofficially. The Minorities Section also communicates to all Members of the Council, some weeks before the opening of each session, a list of minorities questions which will be examined by the Committees of Three during the session. In comparing these lists, the Members of the Council may easily ascertain which are the petitions no longer under examination by the various Committees and which have been made the subject of informal negotiations between the Committees and the Governments concerned without having been brought to the notice of the Council itself.

The proceedings of the Committees of Three and the conclusions they reach are thus — except when a question is placed on the Council's agenda — not divulged either to the petitioner or to the public. The Members of the Council not represented on a Committee may, however, ascertain the action taken by the Committee in regard to any petition referred to it.

#### (e) REPLIES TO PETITIONERS.

As a rule, the Secretariat merely acknowledges receipt of the petitions it receives. If the petition is considered acceptable, the acknowledgment of receipt does not mention the fact. If the petitioner writes to the Secretariat to ask what action has been taken in regard to the petition, the Secretariat's reply states that the petition has been dealt with in accordance with the procedure prescribed by the Council, but does not specify whether it has been judged acceptable or not. As a rule, a mere acknowledgment of receipt is sent when petitions are found unacceptable.

When, however, there is reason to believe that the petitioner is unaware of the conditions of acceptance prescribed by the Council, the Secretariat usually draws the petitioner's attention to this point and communicates the actual text of the conditions. Nevertheless, it is always very careful to ensure that the information so given can never be construed as advice to the parties concerned on the manner of submitting their petitions.

As already indicated the observations of the Government concerned are not communicated to petitioners unless the Committee of Three so decides, with the consent of the Government concerned.

As regards the work and the resolutions of the Committees of Three, little need be added here to what has already been said above. When the question is closed without reference to

the Council, no communication is made to the petitioner, and if the latter asks for information as to the result of the consideration of the petition by the Committee, he is informed, as a rule, that no Member of the Council has so far, acting in virtue of the Minorities Treaties, drawn the Council's attention to the subject of the petition.

Further, so far as the procedure of the Committee of Three is concerned, it is immaterial whether a petition comes from the minority concerned or from a third party not directly interested in the question, as the informative character of the petition remains unaffected, whether the petition comes from persons belonging to the minority itself or not.

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### Part III.

#### I. GENERAL CONSIDERATIONS.

The foregoing account of the origins and development of the work of the League in relation to the protection of minorities brings out certain general principles of great importance.

In the first place, it is clear that the system which was devised for guaranteeing the stipulations of the treaties and for making that guarantee effective was planned with a view to avoiding one great difficulty which had been felt in connection with the parallel clauses of the Treaty of Berlin of 1878. The obligations relating to the treatment of minorities undertaken by certain States by the terms of that Treaty were undertaken to the individual States signatory of the Treaty. Accordingly, any question concerning the execution of those obligations was the concern of the individual States in question. The result was inevitably that any action taken by the States in question for the benefit of the minorities was likely, in fact, to be based or, at best, was certain to be generally believed to be based, not simply on their desire to see that the rights of the minority were properly safeguarded, but on considerations arising from their individual political interests. The authors of the Minorities Treaties found in the creation of the League the means of escaping from this difficulty, and the system which they devised was intended to ensure that, in the future, action taken in defence of the rights of minorities should, both in fact and in public opinion, be taken without reference to the special interests of any individual Powers. At the same time, they secured the not less essential result that the loyalty of the minorities to the State of which they form a part should not be exposed to the special temptations arising from a faculty of direct intervention given to a neighbouring State with which they might have special affinities of race or of sentiment. The purpose of the Treaties was to ensure that the minorities should, for the future, enjoy conditions which would enable them, without loss of their religious or cultural heritage, to bring to the State of which they now form a part, that loyal co-operation on which the Assembly laid stress in its resolutions of 1922. In the view of the Committee, it is of great importance that nothing should be done to impair these principles.

In the second place, both the authors of the Treaties, and the Council in developing its procedure, have been at pains to avoid creating a situation which would place the Government of any State having undertaken obligations, and any minority or member of a minority within that State, in a position analogous to that of parties opposed to one another in legal or arbitral proceedings.

The authors of the Treaties deliberately rejected any proposal which could give countenance to the conception of any minority forming a separate corporation within the State. If the Council decided that petitions relating to the treatment of minorities, whether received from members of a minority or not, should, under certain conditions, be communicated to its members, it made it clear that it regarded these petitions solely as sources of information, and that the only parties to any action which might arise therefrom would be the Government concerned and the Governments of individual Members of the Council or the Council itself. Here, again, we have a principle which is not only clearly a part of the system as laid down in the Treaties, but whose maintenance is essential to their satisfactory working on behalf of the Governments and the minorities concerned.



Thirdly, the history of the Council's action in relation to the protection of minorities shows that the system which it has developed is based, in a way which was not specifically foreseen in the Treaties themselves, on collaboration between the Council and the countries concerned. The latter have agreed to a system under which, in practice, they freely communicate either to the Council in the form of observations on petitions, or to the Committee of Three in reply to particular enquiries, whatever information is judged by those bodies to be necessary. On a number of occasions, different countries have spontaneously communicated to the Council detailed statements regarding the action they have taken in execution of specific stipulations of the Minorities Treaties. The Committee think it desirable to underline the importance of this collaboration, and to express the hope that it may be not only maintained but extended. They feel that this free communication of information, on its own initiative, by the State concerned is in the interests, not only of the Council, but of the State itself, whose efforts are thus better understood and appreciated by the Members of the Council. It is in the same spirit that the Committee put forward at a later stage in this report a suggestion regarding the publicity which might be given, with the concurrence of the country concerned, to conclusions reached by the Committees of Three.

## II. CONCLUSIONS AND RECOMMENDATIONS.

The Committee has made a careful examination of the various suggestions it has received. It has not thought it necessary to mention them all in the ensuing considerations. Some of the suggestions were outside its terms of reference or were clearly in contradiction with the general principles on which the League's activities in connection with the protection of minorities are based.

The Committee desires to submit the following considerations and conclusions :

The proposals made may be classified under the following headings :

- (a) Proposals of a general character.
- (b) Transmission of petitions.
- (c) Relations with petitioners.
- (d) Composition and operation of the Committees dealing with petitions.
- (e) Information and publicity.

### (a) PROPOSALS OF A GENERAL CHARACTER.

These proposals relate, firstly, to the constitution of a permanent commission for supervising the situation of minorities, and, secondly, to the rôle of the Permanent Court of International Justice in regard to the application of the Minorities Treaties.

The Committee realised the importance of these proposals. It examined them in detail, both in the light of the Treaties and in that of the League's work and of the records of its activities in the sphere of the protection of minorities.

As regards the first suggestion mentioned above, it should be observed that the Treaties contain no provisions permitting the Council to exercise constant supervision with regard to the situation of minorities—*i.e.*, a supervision capable of being exercised apart from cases in which a member of the Council has drawn the latter's attention to an infraction, or danger of infraction, of the Treaties. It is by the latter that the functions of the Council are specified. Modifications in the Treaties require the assent of the Council (acting by a majority) and the Council can take action when an infraction of the treaty stipulations (or danger thereof) is brought to its notice by one of its members. It is through the working of these provisions that the operation of the guarantee of the League of Nations under which the minority clauses are placed is ensured. Any supervision outside the examination of cases of infraction, or danger of infraction, which might be brought to the Council's notice in conformity with the treaties would be outside the scope of the latter, and it could not be instituted without the consent of the parties to the treaties. The suggestion in question would, moreover, modify to such an extent the conception on which the treaties are based that the Committee does not feel able to make a recommendation to this effect.



As regards the rôle of the Permanent Court of International Justice, the Committee can only refer to the stipulations of the Minorities Treaties and the right which they give any Member of the Council to refer to the Court disputes which may arise between it and the State concerned in regard to any question of law or fact concerning the stipulations relative to the protection of minorities. The Committee recalls the fact that on September 21st, 1922, the Assembly adopted the following resolution in this connection :

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

#### (b) TRANSMISSION OF PETITIONS.

The proposal has been made that petitions should be addressed to the Government concerned, with a request that they should be forwarded to the Secretariat within a specified period, if the Government does not desire to reply to the petitioner direct. Furthermore, if the Government does not succeed in giving satisfaction to the petitioners, the latter should, after receiving a reply, give their reasons for maintaining their petition and may at the same time ask the Government concerned to forward all the correspondence exchanged to the Secretariat within a specified period after the receipt of their final rejoinder. The Government would have to comply with this request and notify the petitioners of the fact, at the same time communicating to them any supplementary observations it may think fit to add to the dossier.

The Committee does not feel able to recommend the adoption of this proposal. As recalled above, a petition addressed to the League of Nations by persons whether belonging to a minority or not, is a source of information and nothing more. But the procedure proposed, having to some extent the character of a debate before a tribunal, is not compatible with the Treaties. The Committee thinks, moreover, that such a procedure would make it more difficult to remedy the grievances of minorities, since it would diminish the possibility of friendly negotiations between the Government concerned and the Committee of Three. The Committee has reason to believe that the proposed change would not be welcomed either by the Governments or by the minorities themselves.

#### (c) RELATIONS WITH THE PETITIONERS.

It has been indicated above that the Secretary-General, when he has reason to believe that the petitioner is not aware of the conditions of receivability fixed by the Council, draws his attention to this point and in some cases communicates to him the text of these conditions. The Committee recommends that a further step should be taken in this direction ; it considers that every time a petition is declared irreceivable the petitioner should be notified. The Secretary-General would continue the present practice of attaching to this communication, whenever it seems advisable to do so, the text of the conditions of receivability.

Furthermore, the Committee thinks there would be no grave objection, after examination of a petition by the Members of the Council appointed for this purpose had been concluded, to the Secretary-General's informing the petitioner that no Member of the Council had drawn the latter's attention to the question dealt with in the petition. The Committee makes no recommendation on this point, however. The fact that in the majority of cases the petitioner would receive a communication informing him that the question raised had not been placed on the Council's agenda might create the erroneous impression that nothing had been done ; but, as has been explained above, the Members of the Council appointed to examine the petition often obtain from the Government concerned the adoption of measures favourable to the persons belonging to the minorities, without there being any need of drawing the Council's attention to the question.

(d) COMPOSITION AND OPERATION OF THE COMMITTEES DEALING WITH PETITIONS.

Various suggestions have been made regarding the composition of the committees appointed to examine petitions. The Committee does not desire to recommend any modifications in this respect. Originally, the Committees of Three were set up in order to give the Members of the Council, the minorities and the States concerned, the assurance that any petition judged receivable would be submitted to a special and conscientious examination. Now, not only does this examination permit the Members of the Council to decide whether they will bring a question before the Council in conformity with the treaties, but, as explained above, the Committee often endeavours, by means of unofficial negotiations with the State concerned, to induce the latter to take appropriate measures to deal with the situation. This practice, which has added to the original duties of the three members of the Committee, has been generally recognised; it has been explained to the Assembly, and met with the approval of that body, and it has been concurred in by the States having minorities. This practice has grown up as an addition to the original system to which the resolutions of October 25th, 1920, and September 5th, 1923, referred. It has enabled the Committees to obtain the friendly co-operation of the States concerned, in dealing with the questions under examination. In these circumstances, the Committee does not feel able to put forward any proposals liable to compromise the useful work which is thus being done in the best interest of the minorities. It is, moreover, the general practice of the League of Nations not to sanction essential modifications in its procedure without previously ascertaining that the States concerned have no objection. Apart from these reasons, there would be no practical advantage in enlarging the Committee. It is true that the Council had only eight Members when the Committee of Three was instituted, and it might therefore be argued that a committee of five members would maintain the original proportion now that the Council has fourteen Members. Despite this argument, the Committee sees no advantage in increasing to five the number of members of the Committee of Three. The Committee would not, however, desire to pronounce definitely against such an enlargement of the Committee of Three if there were a general feeling in favour of it, and provided, of course, that the Governments concerned had no objection. But it believes that the smaller this Committee is the greater will be the chance of the unofficial discussions with the Governments concerned leading to satisfactory results.

In particular, the Committee cannot recommend that the petitions should be referred to a committee consisting of all the Members of the Council. In practice, it would be impossible to distinguish between the Council itself and a committee thus composed. It could not be maintained that a step taken by such a committee would not be a step taken by the Council. The examination of a petition by a committee consisting of all the Members of the Council would therefore be equivalent to examination by the Council itself — and this without a Member of the Council having drawn the latter's attention, in conformity with the Treaties to an infraction or danger of infraction. The States bound by stipulations for the protection of minorities would be justified in regarding such a measure as a departure from the system accepted by them in virtue of the Treaties.

With this question is bound up that of the participation in the proceedings of a Committee of Three of States which have or might be thought to have a special interest in the question dealt with in the petition submitted to the Committee. It has been explained above that the purpose of the Treaties is to prevent the direct intervention of any particular State for the protection of minorities, and to substitute an international guarantee for the guarantee of the Great Powers provided for in the previous treaties, there being a risk that a particular State would only intervene when its own interests led it to do so. Moreover, any member of the Council who does not belong to a Committee of Three retains right given to him by the treaties to draw the Council's attention to any case of infraction or danger of infraction of the provisions relative to the protection of minorities. Not only does he receive a copy of all the receivable petitions and of the observations of the Governments concerned, but he can inform himself through the Secretariat of the treatment of the petition in the Committee of Three, and, if necessary, submit his observations to the Committee either formally or informally.

The Committee also feels unable to recommend the admission to the Committees of Three, even in an " advisory capacity ", of a representative of the State of which the persons belonging to the minority affected are nationals, or of the State the majority of whose population belongs to the same race as the persons forming part of the said minority. The representation of

these two States in the Committee would give the proceedings the character of a debate before a tribunal, which would be incompatible with their nature and their purpose. This purpose is, as we have already said, to enable the Members of the Council to determine whether a minority question should be brought before the Council and also, in certain cases, to give the Committee an opportunity of inducing the State concerned, by means of unofficial representations, to take measures favourable to the minorities.

It has also been suggested that the Committees of Three might be helped by an advisory commission to which they might, if necessary, refer certain questions. This suggestion does not appear acceptable for the following reasons :

Experience has shown that the Secretariat of the League of Nations is able to obtain and supply to the Committees of Three the information which they may require on various points, and also to provide them with all necessary assistance. Moreover, apart from the fact that it would be difficult to say what are the qualifications of an expert in the matter of minorities, the Committee has serious doubts whether an advisory commission such as that proposed would be compatible with the spirit of the Minorities Treaties. An opinion given by this commission would, in practice, considerably reduce the responsibility of a State drawing the Council's attention to an infraction. But this responsibility is and should remain full and entire. The State assuming it must act on its own convictions and must not simply base itself on the conclusions of a group of experts.

The Committee therefore recommends the maintenance of the present practice as regards the examination of petitions. It considers that the meetings of the Committees of Three should normally take place during the sessions of the Council so as to permit of the personal attendance of the members of the Council. Meetings might, however, also be held, as is at present the case, in the interval between the Council's sessions ; and the members of a Committee of Three may take a decision to this effect whenever they think it advisable for the examination of a particular petition.

#### (e) INFORMATION AND PUBLICITY.

Various suggestions have been made on this subject. Before considering them, the Committee desires to say that no innovation as regards the present procedure ought either to go beyond the scope of the treaties or be likely to hinder the success of the very useful work done by the Committees of Three when they endeavour to remedy particular situations by means of unofficial negotiations with the Governments concerned. Accordingly, the Committee feels unable to recommend that the Committees of Three should sit in public or should publish Minutes. It does however, desire to propose that each Committee, at the conclusion of its work, should address to the other Members of the Council, for their individual information, a letter communicating the results of their proceedings. This communication would be consistent with the provisions of the Council's resolution of October 25th, 1920, which provides that the examination of a petition by a Committee of Three is done with a view to assisting Members of the Council in the exercise of their rights and duties as regards the protection of minorities. The Committee further recommends that the Secretary-General should circulate once a year to all the Members of the Council, for their individual information, a document containing all the communications thus made.

As regards the information of the public, the Committee recalls that, in its resolution of September 5th, 1923, the Council stipulated that " the communication of petitions and of observations (should there be any) by the Government concerned may be made to other Members of the League or to the general public at the request of the State concerned or by virtue of a resolution to this effect passed by the Council after the matter has been duly submitted to it ". The Committee further proposes that the Council should instruct the Secretary-General to publish each year statistics of the number of petitions received by the Secretariat, indicating the number of petitions declared irreceivable, the number of petitions declared receivable, the number of Committees of Three set up to examine the latter, and the number of meetings held by these committees.

The Committee desires to add that it attaches great importance to the question of publicity ; but emphasises that the success of the negotiations undertaken by the Committees of Three in the best interests of the persons belonging to the minorities seems to it still more important. It is in order to safeguard these negotiations that the Committee does not

recommend a more detailed publication by the Secretary-General than that proposed above. It desires to point out, however, that the results of an examination of a petition by a Committee of Three may always be published with the consent of the representative of the State concerned; and the Committee sincerely hopes that the States in question will, to an increasing degree, find it possible to consent to such publication. The consent in question would, for example, permit of the publication of the letter of the Committee of Three intended for the information of the other Members of the Council, or of any other text which might appear suitable.

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Such are the conclusions to which their investigations have led the members of the Committee. They venture to hope that these conclusions will meet with their colleagues' approval. They are convinced that the adoption of the suggestions which they submit would constitute a positive contribution to perfecting the system set up by the Council in order to give effect to the guarantee which it has undertaken. The Committee feels that these proposals are in the interests both of the States concerned and of the minorities, and that they are inspired by the spirit of progressive co-operation which constitutes the true foundation of the League's work.

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#### Sub-Annex 1.

### MEMORANDA FORWARDED BY GOVERNMENTS.

#### I.

#### LETTER FROM THE AUSTRIAN FEDERAL GOVERNMENT TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

[*Translation.*]

Vienna, April 9th, 1929.

By your letter of March 18th, 1929 (C.L.42.1929.I), you were good enough to forward to me the Minutes of the speeches delivered at the fifty-fourth session of the Council of the League of Nations on the question of the protection of minorities, together with the text of the resolution on the subject adopted by the Council on March 7th last.

Under the terms of this resolution, a Committee of Three was instructed to submit to the Council at its next session a report on the proposals of the representatives of Canada and Germany on the subject of minorities, taking into account the different points raised by various Members of the Council during the discussion. The resolution provided, further, that States which have accepted the provisions for the protection of minorities and also any other State Member of the League of Nations may submit observations to the Committee on the subject.

Not only is Austria one of the States which have entered into conventional undertakings in the matter of the protection of minorities, but the Federal Government — I venture to refer to my speech in the Assembly on September 8th last — regards the intolerance arising from exaggerated nationalism as one of the most fertile and dangerous sources of the political unrest which exists all over the world. Accordingly, the settlement of minority questions on reasonable lines calculated to allay passion constitutes one of the primary conditions for the maintenance of world peace, and the Austrian Government desires to take advantage of the invitation extended by the Council of the League of Nations to bring its views more fully before the Committee of Three and of the Council itself.

The Federal Government desires, first, to express its deep satisfaction at certain declarations made by members of the Council, more particularly by the representatives of

France, Great Britain and Germany, concerning the principles governing the protection of minorities in general and the League's guarantee. These declarations and their reception by the Council encourage the Federal Government to believe that the more important views on this question are beginning to take definite shape, and this must undoubtedly be of the greatest importance in the future development of minority law and the League's attitude towards the problem.

There appeared to the Federal Government to be general agreement at the debates on two main theses, which in their turn imply certain other principles.

1. It was agreed that the Minorities Treaties were not to be regarded as purely ephemeral measures designed simply to reduce the existing tension pending the inevitable absorption of the minorities by the majorities, but that they must be deemed to constitute permanent institutions for the *lasting* maintenance of the minorities, their object being to guarantee the latter the conditions necessary for their existence and thus eliminate an element of political uncertainty which threatens to disturb international relations and world peace.

This thesis, in the Federal Government's view, implies a corollary.

If it were agreed that the Minorities Treaties are merely ephemeral measures, it might be claimed that the legal provisions embodied in those Treaties are based simply on the territorial stipulations of the Peace Treaties and have been adapted to the conditions of specific States for a transitional period.

If, however, the permanent character of these Treaties is recognised, the moral basis of their substantive provisions must incontestably lie in a general recognition that certain duties towards its minorities devolve on every civilised State, that these rules are consequently universal in character, and that they must be enforced irrespective of the provisions of existing treaties.

2. It has been generally emphasised that the application of the provisions of the Minorities Treaties must always be bound up with the performance of the loyal duties devolving upon the minorities *vis-à-vis* the States to which they belong.

This thesis would appear to imply — and this, in the Federal Government's view, is a most important point of the minority problem — that the claiming of minority rights is not *ipso facto* inconsistent with loyalty to the State. This necessarily implies, further, in the Federal Government's view, an admission of the following fundamental ideas :

(a) A minority which fights against absorption by a majority and clings with all its strength to its racial origins is not thereby guilty of disloyalty to the State to which it belongs. Minority rights, as such, are simply part of and not inconsistent with the so-called right of self-determination of peoples ; they constitute a form of compensation offered to the minority by reason of the fact that the latter could not be granted or has not been granted the right of self-determination

(b) A State which accords its minorities the rights necessary for their development is not merely fulfilling a duty under treaty provisions or a general rule of international law ; it is not renouncing all idea of what it may perhaps consider a justifiable aspiration that the minority may disappear, but is following a procedure which is actually in its own interest. To quote the words of M. Briand, before the Council of the League of Nations :

“ It is in no way to the interest of a country that any element of its population which has its own value and its own characteristics should disappear, and a great country which realises its own strength does not endeavour to bring about any such disappearance. It does not try to reduce its population to a uniform level. On the contrary, the strength of a country consists in assimilating various elements of its population without letting them lose their own characteristics and qualities. It is in this way that a country develops and acquires its full strength which enables it to expand. ”

Minority protection cannot be better defined than in the words of that great statesman :

“ The real problem is, while ensuring that the minorities shall preserve their language, culture, religion and traditions, to keep them as a kind of small family within the larger family, not with the object of weakening the larger family, but with the object of

harmonising all its constituent elements with those of the country as a whole. The process at which we should aim is not the disappearance of the minorities, but a kind of assimilation which will tend to the greatness of the nation as a whole without in any way diminishing the importance of the smaller family. That is how I understand the problem of minorities."

Nothing, in the Federal Government's view, could better allay the passions still roused by minority questions, nothing could serve better to consolidate internal and international peace, than the universal acceptance of M. Briand's words and the observance of the principles to which he gave utterance. Experience, alas, proves that we still have far to travel. The dangers arising from a false conception of the true character of minority law, however, are only too obvious. Clearly, a minority which instinctively and of necessity endeavours to perpetuate and preserve its own peculiar features, and is thereby considered, if not an enemy, at all events suspect to the State to which it belongs, is perforce placed, from the outset, in a false position *vis-à-vis* its Government. Clearly, a majority which considers it its duty, with the State's assistance, to suppress the minority resents resistance by the latter as an act of disloyalty, resents all outside assistance which the minority receives as an attack on the sovereignty of the State. The passions aroused by a false conception of the principles of minority law extend their pernicious effects to all branches of public life. To quote only one example, can there be any doubt that the violent excitement aroused, even outside the circles immediately concerned, by the land reforms in various States is due primarily to the fact that ideas extraneous to the purely social principles of these reforms but originating in minority policy have forced their way in, that the land reform has in certain cases been carried out with the ulterior motive of weakening the minorities by striking at their economic resources, and that these reforms have at all events been resented as measures designed with thus ulterior motive ?

(c) But in order to estimate the League's rôle in this particular sphere, it is essential to arrive at a proper conception of minority protection. Once it is admitted that the equitable treatment of minorities is not a charge imposed on certain States but a duty devolving on every civilised State — a duty which assumes an international character only in so far as it tends to preserve peace, and is placed, in the case of certain States, under an international guarantee — it is impossible to maintain that the League of Nations should restrict its action in this particular sphere to pronouncing judgment, like a court, when individual complaints are laid before it, as to whether conventional undertakings have or have not been violated, and whether some remedy is due. The view must prevail, on the contrary, that it is the League's duty to assist the respective Governments in their task by framing and adopting adequate uniform rules for the treatment of minorities, thus exerting itself in this, as in so many other domains — even if for the time being only within the scope of the Minorities Treaties — to promote international co-operation.

The Federal Government trusts that the Committee of Three, when framing its report, and the Council, when adopting its resolutions in the matter, will bear in mind the principles concerning minority protection enunciated at the fifty-second session of the Council by the representatives of France, Great Britain and Germany, together with the corollaries which, in the Federal Government's view, ensue therefrom. The Federal Government is firmly persuaded that general acceptance of those principles is the first step in any sincere attempt to settle minority problems, the object of such efforts being to establish minority rules and to incorporate them, in virtue of their acceptance by all civilised States, in the body of international law. The acceptance of these principles, the Federal Government is convinced, would also lead, even under the existing conventional regime, to a far more liberal interpretation of the relevant provisions than is at present adopted by certain Governments in the treatment of minorities.

On this last matter, the Federal Government ventures to direct the special attention of the Committee of Three and the Council to a certain class of restrictions which are still imposed on minorities in some cases, and which, in its view, should be abolished without delay.

Under the Minorities Treaties, ethnical minorities are guaranteed the free use of their own language in their private and public relations. It would obviously be incompatible with the spirit of this provision not to interpret it as implying a guarantee that the minorities shall be entitled to preserve their national characteristics and to develop the sources from which they are derived. Practically all the members of the Council, and more particularly the

representatives of France, Great Britain and Germany, to whom reference has already been made, expressed the view, in different terms, in their speeches on March 6th last, that one of the principal objects of the Minorities Treaties was to safeguard the cultural liberty of the minorities.

The right to cultural liberty, however, is inseparable from that of maintaining cultural relations with all peoples. It is only natural that the minorities should claim the right to maintain a cultural community of ideas with their co-nationals, that is, with the branches of their race which in another State constitute the majority of the population; this right they regard as an essential part of their cultural liberty and even of their rights as human beings. Unfortunately, the peoples forming the ethnical majority in a minority State, and even the Governments, frequently hold the view that the stressing of common cultural bonds, whether in the form of individual or cultural works, is incompatible with the duties of loyalty devolving on the minority *vis-à-vis* the State. Cases have occurred of a minority being forbidden to exchange literary productions in the form of books, newspapers or other printed matter with a foreigner of their own race, irrespective of the contents of such productions. Cultural liberty is further impeded by the practice of preventing the members of minorities from attending schools of all kinds and grades in a particular foreign country.

The Federal Government can only explain such restrictions as being due to an erroneous conception of the nature of minority rights. They are attributable no doubt to the mistaken view that the cultivation of national characteristics constitutes in itself an act of disloyalty *vis-à-vis* the State, and that the maintenance of cultural relations with foreign cultural circles already implies the beginning of an attack upon the integrity of the State—a contention already shown to be entirely false. Surely the example of other States must serve to prove the error of this view. Surely the relations between Great Britain and the United States, between Spain and Portugal and the South American Republics, between the French, Italian and German-speaking races of Switzerland and France, Italy and Germany, bear witness to the possibility of an intense cultural community of ideas, irrespective of the fact of varying nationality.

Here, in particular, the general acceptance of a proper conception of the nature of minority rights would have a most excellent effect on the practice of the States. The Federal Government would ask the Committee of Three, accordingly, to devote special attention to this point. It would urge the Committee to avail itself of its powers under point 4 of the Council resolution of March 7th and to invite the Governments concerned to forward their views on the subject.

The Federal Government desires to point out, lastly, that international intellectual co-operation constitutes one of the most remarkable and valuable parts of the League's work. The League has at its disposal a Committee and other bodies which regularly devote their full energy and extensive knowledge of this particular question. A means of widespread international co-operation already exists in the naturalities of blood and language extending beyond the frontiers of the States, and the Federal Government suggests that the Committee on Intellectual Co-operation should examine the question of how far these bonds might be made use of in the interests of general international co-operation.

The Federal Government is aware that the proposals which will form the subject of the future report of the Committee of Three refer in the main to the procedure to be employed by the League of Nations in the exercise of the powers conferred on it by the treaties in the matter of minority questions. In deliberately confining itself in these observations chiefly to questions of principle, the Federal Government has taken into consideration the fact that a clear definition of the principles governing minority protection is of the first importance for the minorities, and of the further fact that the procedure and the details of that procedure—as Dr. Stresemann pointed out in his speech to the Assembly—must naturally reflect the League's attitude in regard to principles.

As regards the questions of procedure raised, the Federal Government, having had as yet very little experience, desires to confine itself to the following remarks, which are determined by its standpoint in the matter of principle.

The Federal Government suggests, first that the League of Nations should not in practice limit its action in the matter of minority questions to cases in which individual complaints are laid before it.

The Federal Government refers to the third proposal of the German representative on the Council, a proposal which it thinks should be adopted and which it strongly supports.



As regards the League's treatment of individual complaints, the Federal Government shares the view that such complaints should be, not the rule, but the exception. It would obviously be quite wrong, however, to attempt to reduce the number by restricting the right to submit petitions, or by treating the complaints in such a way as to weaken confidence in the efficacy of appeal to the League. Any reduction in the number of complaints can, on the contrary, only ensue from a general acceptance and the application to all minorities alike of equitable principles concerning minority protection.

The Federal Government thinks that the procedure for the treatment of such complaints might usefully be amended in conformity with the following principles :

The closest possible co-operation between the Council and the Government of the State to which the petitioning minority belongs. This principle is based on the conviction that a satisfactory solution of every individual case is of extreme importance, not only to the Government concerned, but also to the community of nations represented by the Council.

The greatest possible publicity in regard to every stage of the procedure. This is the means best calculated to strengthen faith in the efficacy of the League's guarantee.

The participation of all the Members of the Council at decisive stages of the proceedings. The Federal Government is of opinion that the principle of excluding Members of the Council of the same race as the petitioner is inconsistent with an ample recognition of the fact that the equitable treatment of minorities is a matter of general interest. This restriction should be abolished.

The above recommendations would be satisfactorily met by accepting the proposals which the Canadian representative, with the generous desire to improve the lot of minorities, has submitted to the Council. The Federal Government accordingly supports those proposals.

The Federal Government urges, lastly, that the League's action in regard to the protection of minorities should be made as far-reaching as possible, and declares its readiness in advance to adhere, in so far as its adhesion may be necessary, to any resolutions that the Council may adopt on the subject. It thinks that the Council should attach special importance to this declaration, as proceeding from the Government of a State which has assumed unilateral conventional undertakings in the matter of minorities. The Federal Government trusts that the work of the Committee of Three and the Council will prove entirely successful, and is convinced that such success must be assured if that work is carried out in the spirit of conciliation and understanding which constitutes an essential condition for all international co-operation and is thus one of the fundamental principles of the League.

(Signed) SEIPEL,  
Federal Chancellor.

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2.

MEMORANDUM BY THE BULGARIAN GOVERNMENT, COMMUNICATED IN A LETTER  
DATED APRIL 10TH, 1929.

[Translation.]

Sofia, March 10th, 1929.

In virtue of the resolution adopted by the Council of the League of Nations on March 7th last relating to the protection of minorities, the Bulgarian Government considers it its duty to submit to the Committee which has been instructed to present a report on this subject the following observations :



## I.

The Bulgarian Government notes with satisfaction that all the members of the Council of the League of Nations who took part in the discussions at the March session recognised that the rights of minorities constituted a constant obligation arising out of stipulations of a permanent character.

It greets with equal satisfaction the statements by the representatives of Great Britain, France and Germany to the effect that the observance of the treaties on the protection of minorities is a sacred duty of the League of Nations.

The Bulgarian Government is also very pleased to note that in these discussions nobody maintained or suggested to the League Council that it was the aim of the Treaties of Peace to destroy through assimilation the distinctive characteristics of the minorities in any country. On the contrary, speakers emphasised that it was in the interests of the countries themselves that their minorities should preserve their ethnic and cultural physiognomy, while remaining loyally attached to the State to which they belong.

The Bulgarian Government fully shares the opinion that the system of minorities' protection should involve as a corollary a loyal attitude of the minorities towards the State of which they are a part. Similarly, the raising of any question relating to the protection of minorities must in no circumstances seek to disturb the unity of the State to which the minorities concerned belong or undermine the State's security.

It is understood, of course, that the legal efforts of a minority, either within the country or through an appeal to the League of Nations or other international institution, with a view to obtaining the enforcement of its rights must never be regarded as acts of disloyalty towards the State to which it belongs.

M. Zaleski very rightly said, in his speech in the Council on March 6th last : " The defence of the legitimate interests of minorities is an act of justice ".

To these general statements the Bulgarian Government would add its profound conviction that a conscientious respect for the rights of minorities, and a political and juridical treatment of these minorities identical with the treatment applying to the majority, will not only involve no risk to the unity of the state but will greatly contribute towards its internal consolidation and towards establishing an atmosphere favourable to the development of peaceful relations and mutual trust between neighbouring States.

The Bulgarian Government is of opinion that these general principles constitute the framework within which the League of Nations should discharge its duties as regards the protection of minorities. These same principles call for a careful, permanent and effective protection of all minorities which are prevented from themselves asserting their rights. The procedure to be adopted for this purpose should be sufficiently elastic and wide to enable the League Council to embrace the many and complex aspects of the problem of the protection of minorities, as it arises in practice.

## II.

From this point of view, the problem of Bulgarian minorities presents certain special features which are deserving of mention and which make this problem one of vital importance to Bulgaria.

There are Bulgarian minorities living in homogeneous and autochthonous masses in all the States which are neighbours of Bulgaria. It is no exaggeration to say that more than one-quarter of the whole Bulgarian race is under foreign rule. In all these countries the Bulgarian minorities, except for a few isolated cases, are deprived of schools and churches in the Bulgarian tongue. The countries to which they now belong have appropriated their former schools and churches. The treatment of these minorities is inspired by mistrust and very frequently by hostility. They are forbidden any cultural communion with Bulgaria and are practically all subject to a system of compulsory assimilation or expatriation.

As a consequence of this regime, Bulgaria has had to receive a large number of refugees, exceeding, even since the war, two hundred thousand. These refugees, together with the three hundred thousand refugees who came from the same parts before the war and who are now settled in Bulgaria, represent a contingent of about half-a million Bulgarian immigrants out of a total population of five million Bulgarians living in Bulgaria.

These people are now Bulgaria's own flesh and blood, and share in the political and social life of the country on a footing of equality with other citizens. At the same time, they remain organically attached to their former homes, where they have in most cases left behind members of their families. They are attached by feelings of profound human solidarity to the populations of the areas they have left, and their hearts beat in sympathy with the fate of their kith and kin. Owing to the very difficult conditions in which the Bulgarian minorities live, the whole of this immigrant contingent is in a state of anxious tension, which presents a formidable obstacle to the growth of calmer feelings in Bulgaria. No Government measures can remove or modify this situation, which is deeply rooted in history and psychology. The only way of calming this population is by a loyal recognition of these minorities and by the enforcement of the rights conferred upon them.

On the other hand, this attitude of mind and its manifestations create an atmosphere of suspicion and mistrust in the relations of Bulgaria with her neighbour States. The loyal endeavours of the Bulgarian Government to dispel this distrust by its acts are not always successful and this affects the relations of Bulgaria with her neighbours. The real pacification of the Balkans and the co-operation of the Balkan peoples in the work of peace, therefore, depend to a large extent upon a satisfactory solution of the minority problem.

The question of minorities is made even more pressing for Bulgaria by the problem of refugees. Thanks to the generous assistance of the League of Nations, Bulgaria was enabled to contract a loan for the settlement of refugees, and in order to ensure a peaceful existence for these unfortunate persons she took upon herself heavy financial burdens. The work of settlement is now approaching its end, but if Bulgaria is condemned to receive fresh refugees, owing to the difficulties with which the Bulgarian minorities are faced, the problem of their settlement will far overtax her economic capacity and financial resources. The problem will become insoluble. And yet fresh refugees continue to arrive in Bulgaria from time to time.

The Bulgarian Government is of opinion that enough has been said to show the vital importance to Bulgaria of organising the effective protection of minorities. Peace and order in Bulgaria, friendly relations with neighbouring States and her financial and economic consolidation are very closely bound up with the minorities system.

### III.

In these circumstances, the Bulgarian Government welcomes with relief any steps to facilitate more effective intervention by the League of Nations in the examination and solution of questions relating to the protection of minorities. Without wishing to disparage the real value of direct agreements between the States concerned, the Bulgarian Government is of opinion that intervention by the League remains for the present the most appropriate guarantee of the rights of minorities. The mere possibility that this intervention may be made more effective is calculated to encourage direct agreements between States.

The Bulgarian Government therefore supports the suggestions of M. Dandurand, the delegate for Canada, and those of Dr. Stresemann, German Minister for Foreign Affairs, as contained in their speeches in the Council on March 6th last. The Government considers it unnecessary to repeat these suggestions or to argue in their favour, as the two distinguished delegates furnished all the arguments required. It would energetically support any other proposals which might add to the means of investigation and thus enable the Council to determine rapidly the real situation of any minority and to ensure its protection.

The Bulgarian Government ventures to draw the Committee's attention to the case in which the very existence of a minority is disputed. There is a tendency in some quarters to interpret the expression "racial, linguistic or religious minority" in an arbitrary fashion which may even deny the existence of a minority. It is therefore necessary that the Council of the League of Nations should by some strictly impartial means succeed in establishing a criterion which would allow this question to be settled. That criterion must include a number of essential conditions whose existence must be established in any concrete case. These conditions are :

1. A study of the scientific and statistical sources in regard to the nationality, race and language of the population concerned, which study must embrace the period preceding that at which the population was incorporated by annexation within another State.

2. The presence in the territory of a neighbouring State of a homogeneous population which has emigrated from the territory of the State disputing the existence of this minority within its frontiers.

3. The existence of a special regime in certain recently annexed parts of the State which are now peopled by the minority in question.

4. The conclusion of treaties under which the State concerned has recognised the existence of minorities in its present territory.

5. International instruments which, on the basis of the principle of nationality have traced the frontiers of one of the States.

6. Any means of investigation calculated to establish in some impartial way the national consciousness of a population whose ethnical character is disputed.

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In submitting its observations, the Bulgarian Government, far from desiring to injure its neighbours or to engage in controversial discussion with them, is sure that, within the modest limits of its ability, it is helping to promote peaceful relations and mutual trust between Bulgaria and her neighbours. It is also profoundly convinced that a more effective protection of minorities can alone bring about the moral pacification of peoples and contribute to the maintenance of peace, which is the supreme aim and essential duty of the League of Nations.

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3.

NOTE FROM THE CHINESE GOVERNMENT.

[*Translation.*]

Paris, April 12th, 1929.

In reply to the circular letter dated March 18th, 1929, No. 42.1929.I, the Chinese delegation accredited to the League of Nations has the honour to communicate to the Secretary-General of the League of Nations its Government's observations regarding the protection of minorities.

Under the Minorities Treaties concluded up to the present, only a limited number of signatory States are bound to ensure to some extent the protection of minorities. Such protection must, however, from every point of view, be essentially international and worldwide, and the laws of every country must provide for effective and equal protection for all its citizens without distinction of language, race or religion. The National Government of the Chinese Republic therefore considers that the protection of minorities and their inalienable rights should be rendered universally effective by substituting for the special Minorities Treaties an international convention for the protection of minorities concluded under the auspices of the League of Nations.

4.

OBSERVATIONS SUBMITTED BY THE CZECHOSLOVAK, GREEK, POLISH, ROUMANIAN, SERB-CROAT-SLOVENE GOVERNMENTS<sup>1</sup> TO THE COMMITTEE APPOINTED BY THE COUNCIL OF THE LEAGUE OF NATIONS ON MARCH 7TH, 1929, TO EXAMINE THE PROPOSALS CONCERNING THE MINORITIES SYSTEM LAID BEFORE IT BY THE REPRESENTATIVES OF CANADA AND GERMANY.

I.

[*Translation.*]

*Origin and Intention of the Minorities Treaties.*

1. In the first place, it is necessary to recall the circumstances, the conditions and the spirit in which Czechoslovakia, Greece, Poland, Roumania and the Kingdom of the Serbs, Croats and Slovenes accepted the provisions for the protection of minorities.

2. These provisions appear in the special Treaties concluded by these States with the Principal Allied and Associated Powers after the great war, in which they had fought by the side of those Powers in the common cause of the liberty and equality of peoples.

The conclusion of these Treaties was insistently demanded by the Principal Allied and Associated Powers.

The States which accepted the stipulations for the protection of minorities were, of course, prepared to grant these minorities complete equality of treatment with their other nationals but they were — quite legitimately — reluctant to conclude the treaties demanded because they considered it inconsistent with the principle of equality that they should be asked to assume treaty obligations which were not also accepted by the other Powers and because they felt that such a step would be prejudicial to the establishment of internal tranquillity, a primary condition for the consolidation of the situation created by the Treaties of Peace.

In order to allay the apprehensions and overcome the opposition of these countries, it was represented to them that they would find compensation for the conclusion of such Treaties in the guarantee of their territorial integrity, which would be given them by all the Allied and Associated Powers, and more especially by the great Powers.

This promise was stated in express terms by President Wilson at a plenary meeting of the Peace Conference on May 31st, 1919 (see *Proceedings of the Conference*, Part III, page 207) He said :

“ We are trying to make a peaceful settlement, that is to say, to eliminate those elements of disturbance, so far as possible, which may interfere with the peace of the world, and we are trying to make an equitable distribution of territories according to the race, the ethnographical character of the people, inhabiting those territories.

“ And back of that lies this fundamentally important fact that, when the decisions are made, the Allied and Associated Powers guarantee to maintain them. It is perfectly evident, upon a moment's reflection, that the chief burden of the war will fall upon the greater Powers . . . Take the rights of minorities. Nothing, I venture to say, is more likely to disturb the peace of the world than the treatment which might in certain circumstances be meted out to minorities. And therefore, if the great Powers are to guarantee the peace of the world in any sense, is it unjust that they should be satisfied that the proper and necessary guarantee has been given? ”

As is known, the promised guarantee has, in fact, not yet been furnished. The States which accepted the rules for the protection of minorities have consequently found themselves in a position different from that which they were entitled to expect: they have not been released from a single one of their obligations, but they have so far received nothing by way of compensation.

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<sup>1</sup> These five Governments have submitted identical memoranda.

In these circumstances, the very least that they can demand is that their obligations, exceptional as they are, should be construed in the most restricted sense, and should not be in any way extended — even indirectly — in their application.

3. Another advantage was offered to the State required to conclude Minorities Treaties. In a letter to the first signatory of one of these treaties, the President of the Peace Conference pointed out that one of the main objects of the system of these Treaties was to avoid in future the interference of one country in the domestic affairs of another country, with the dangers which history had shown to attend on such a policy.

Accordingly, the Treaties placed the protection of the minorities under the guarantee of the League of Nations and conferred on the Members of the Council, acting on their individual responsibility, the sole right to set in motion the power of control which was vested exclusively in the Council.

This procedure — which at the same time ensures the fullest respect for the rights of minorities — was more especially designed to safeguard the political independence of the States concerned.

It offers the latter an essential guarantee which cannot be in any way diminished, even indirectly, without increasing their obligations and consequently disturbing the balance originally established between the advantages and burdens which the minorities system involves for them.

In view of this situation, it is all the more essential to adhere strictly both to the letter and to the spirit of the clause in these treaties.

4. The general considerations outlined above explain and justify in advance the following observations.

## II.

### *Necessity for the Consent of the States concerned to any Modifications of the Present Procedure.*

5. In order to give effect to the guarantee of the League, the Council has, since 1920, by a series of resolutions, adopted a set of Rules of Procedure which are based on the legitimate aim of protecting the minorities, but which none the less exceed the obligations laid down in the Treaties.

These rules could not therefore be introduced without the assent — at least the tacit assent — of the countries concerned.

In other words, no modification of the procedure at present in use would be possible unless it had been accepted by those countries.

6. This conclusion, which was already perfectly clear, has been placed beyond doubt by the report of the Jurists' Committee, adopted by the Council on March 6th, 1929, together with the explanations given by the President in reply to the Lithuanian Government's representative during the discussion on the minorities question.

The Committee of Jurists pointed out that the rules for the execution of the Minorities Treaties fall into two categories. Those in the first category are general, and, as they refer to the working of the League, were instituted by the Council on its own responsibility. Those in the other category require the States concerned to take action not provided for in the treaties and, generally speaking, all rules affecting the legal situation established by those treaties require the assent of the States in question.

7. Under these circumstances, we cannot accept the proposals of the representatives of Canada and Germany, for the reasons stated below.

## III.

### *Uselessness or Danger of the Reforms advocated.*

8. There will be nothing gained by enlarging the Committees at present constituted within the Council for the examination of petitions, and indeed they have already resulted in weakening the individual responsibility of the Members of the Council.

That this is so hardly requires proof, if it is now proposed to increase these Committees, say, from three to five members. It is not clear what practical advantage would result from such an increase: on the contrary, it would only delay the despatch of business, since it would restrict the number of Committees which could be formed.

The difficulty would be even greater if it were proposed, as the representative of Canada desires, that all the members of the Council or their deputies should sit on these Committees: the Committees would be all the more unwieldy, and their efficiency would be immensely reduced.

It has indeed been argued that with this method all the Members of the Council would be able to keep themselves informed, as is necessary for them if they are to exercise their individual right under the Treaties of bringing questions before the Council.

But it is incorrect that the Members of the Council not belonging to a Committee of Three are not at present able to keep themselves fully informed about a question submitted to a Committee: the petitions and any observations from the Government concerned are communicated to all the Members of the Council; the latter know which of their colleagues are serving on the Committee of Three on any particular case, and can follow its examination of that case. Lastly, the Minorities Section of the Secretariat is entirely at their disposal to provide them with any information that they may desire.

This was indeed expressly pointed out in the supplementary report of the Council to the sixth ordinary session of the Assembly (paragraph VI, Chapter 7), which was approved by the latter:

“ All the Members of the Council receive the document for the examination of which the Minorities Committee is set up, and can, if they take a special interest in the matter, inform themselves through the Secretariat of the treatment of the petition in the Committee, and, if necessary, submit to the Committee their own observations, either formally or informally.”

In these circumstances, it is impossible to believe that a Member of the Council has ever been prevented by lack of information from exercising his right of action under the Treaties.

9. Nor would it serve any useful purpose to lay down a new rule providing for the Committee of Three to be convened in urgent cases in the intervals between sessions of the Council; for this is already done in practice.

Though it is true that the different Minorities Committees which are simultaneously in being usually hold their meeting during the Council's sessions, they have on more than one occasion met in the intervals between sessions. The questions laid before them sometimes involve very detailed and prolonged discussion. They are nearly always of a very delicate character, and call for extremely conscientious preparation both by the Secretariat and by the members of the Committee. Their examination requires a considerable time: this is not always available to the members of the Committee during the Council's sessions, and it therefore happens sometimes that they have to meet between the sessions.

10. The representative of Germany has given his opinion that it is necessary to modify the Council resolution of June 10th, 1925, providing that the Committees of Three should not include the representative of the State of which the persons belonging to the minority in question are subjects, nor of a State adjacent to the last-named State, nor again, of a State the majority of whose subjects belong, from the ethnical point of view, to the same people as the minority in question. He holds that it is inadmissible in principle to deny to Governments which are thought worthy to be Members of the Council confidence in their impartiality; and that in many cases the participation of the Members of the Council at present excluded would contribute essentially to help the Council in the discharge of its high mission of removing politically dangerous misgivings and establishing peaceful relations between those concerned.

There would, however, be a very great danger in deviating from the rule now in force on this point. The resolution of June 10th, 1925, merely confirmed a situation which had arisen in practice as a natural and necessary consequence of the regime of minorities. It has been already observed (No. 3) that one of the chief justifications for this system is the necessity of avoiding even the semblance of interference by one Power in the internal affairs of another Power. The States with minorities regard this as a safeguard for their independence.

The exclusion from the Committee of Three of representatives of countries linked by special ties of affinity and community of interests with the minority in question is not only attributable to the very natural desire to secure the utmost possible impartiality in the work of these Committees. It is justifiable and becomes necessary, when it is applied to the representative of a neighbour of the country concerned, or to the representative of a State possessing racial affinities with the minority in question, owing to the no less legitimate desire of safeguarding the country concerned from political influences such as might weaken its authority or endanger those relations of harmony and good understanding which ought to exist — in the interest both of internal tranquillity and of the cause of peace in general — between itself and its minorities.

A State which is a neighbour of certain minorities, or ethnically linked to them, has already the power, if it is a Member of the Council, of arraigning before the Council the country to which those minorities belong. That is a power of some importance. At least it cannot make use of that right conferred upon it by the treaties without directly and publicly assuming the responsibility which the exercise of that right involves.

The present position would, however, be singularly aggravated if the 1925 resolution were abandoned and it were left open to a State in the position described above to set itself up as the protector of minorities in a foreign country without its action being subject to any public control or acknowledged responsibility.

11. The same remarks apply to the proposal for giving greater publicity to the procedure.

It is asserted that, when a case is investigated by the Committee of Three and is then not laid before the Council, there is no publicity, and that the minorities, not being apprised of the reasons for the rejection of their petitions, suspect the League's impartiality, imagine that justice has not been done to them, and consequently experience a feeling of disillusionment which in the long run may be dangerous to peace.

The assertions require closer examination, for they are not entirely in accordance with the facts. It is a great exaggeration to say that minority cases which do not get as far as the Council receive no publicity. The truth of the matter is that the petitioner is not directly informed either of the substance of the observations made by the Government concerned or of the reasons for the rejection of the petition by the Committee of Three, and that he cannot obtain such information from the Secretariat of the League.

This is, however, a necessary state of affairs, for otherwise the whole basis of the minority system would be destroyed. Under the treaties, the petitioner is not a party to litigation between himself and the Government concerned. His petition is merely a source of information for the Members of the Council to enable them to exercise the right conferred upon them by the treaties. This is the fundamental idea of the whole procedure, and it is essential in order that national sovereignties may be respected.

But although the petitioner is not entitled to be directly informed of his Government's attitude or of the action taken on his petition by the Committee of Three, it is quite inaccurate to say that he cannot in fact obtain information as to the treatment of his case by the League. The procedure is not wrapped in mystery, as is frequently alleged.

The petitions and observations of the Government concerned are automatically communicated to all the Members of the Council, that is to say, to fourteen Governments (Council resolution dated September 5th, 1923); they may also be communicated to any Members of the League which so request (Assembly resolution of September 26th, 1923); they may be made public at the request of the Government concerned, or in virtue of a resolution to that effect passed by the Council after the matter has been laid before it in due form (Council resolution of September 5th, 1923); as stated above (No. 8), the Members of the Council can, on application to the Minorities Section of the Secretariat, obtain any desired information relating to the investigation of a minority case, and any one of them may, by exercising its right to lay the matter before the Council, make all the documents in the case accessible to the public; although ordinarily the Committee of Three makes no report to the Council if it considers the petition to be without foundation, it may, if it thinks fit, report to the Council on the negative issue of its investigation; this has several times been done; and although these reports are not published in the *Official Journal* of the League, they are not kept secret.

Accordingly, it is impossible to take seriously the assertion that the minorities are seething with a discontent dangerous to peace because they are kept in ignorance of the action taken

by the League in cases affecting them : it lies in their power to obtain information if they genuinely desire it.

In point of fact, as a general rule, the minorities have no reason for discontent, for they are quite well aware that, if they have any genuine grievances to urge, there is no instance of their failing to receive from the League the protection to which the treaties entitle them.

That the action of the Committees of Three has rarely given rise to intervention in the Council constitutes the strongest proof that the present system of procedure is not open to criticism.

At present, a great number of petitions relating to minorities come from various sources abroad — either from certain associations or from private persons — and they are by no means always concerned with the protection of minorities. Many of them have no other object than propaganda against States. Any publicity given to petitions of this kind would favour, indirectly and through the League, the aims of these petitioners, who, while making a pretext of the protection of minorities, constitute themselves the advocates of those minorities and thereby seek to stimulate an agitation and to create a feeling of uncertainty in the public mind with regard to the existing political situation.

This is the essential reason why the States which have minorities would regard an extension of publicity as a real danger to their security and to that good understanding between nations upon which, as Article 11 of the Covenant puts it, peace depends. The effect would be, as was rightly pointed out during the recent discussions in the Council, to kindle passions, whereas the League's duty is to appease them : and to arouse public opinion in certain countries, thus imperilling the petitioners and making it more difficult to settle disputes and dispose of grievances.

If misunderstandings sometimes occur between minorities and their Governments, and if dissatisfaction is to be found in certain minorities, these problems will not be removed by greater publicity. The greatest possible publicity would only aggravate them, by nourishing propaganda and agitation. It would afford unexpected encouragement to those minorities that mistakenly think themselves injured, and would enable them to achieve political aims incompatible with the treaties and with the maintenance of peace. The most obvious result would be an extraordinary increase in the number of petitions : the League would quickly be flooded with them, and would lose credit through its inability to investigate them as promptly as could be desired.

For misunderstandings and dissatisfaction there is only one remedy, and that is to state very plainly that the League has never tolerated, and will never tolerate, any violation of the rights of minorities, and that no grievance, if genuine, can fail of redress at its hands.

12. At the same time, it is impossible to point out too often to the minorities, and especially to persons who are anxious about their situation, that if their rights are sacred, their obligations are equally so. The first duty of minorities is to be loyal and faithful to the State of which they form a part. They cannot expect their rights to be respected unless they themselves respect their obligations. If they ask the League to redress their alleged wrongs, they must come before the League with *clean hands* : that is to say, they must be able to show that they have genuinely given proof of loyalty and fidelity to their Governments.

The Czechoslovak, (Greek, Polish, Roumanian and Serb-Croat-Slovene) Government feel particularly well justified in offering the foregoing observations, inasmuch as, in regard to the existing procedure, the States which have signed the Minorities Treaties have undeniably exceeded their obligations under these Treaties.

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LETTER FROM THE ESTONIAN GOVERNMENT TO THE SECRETARY-GENERAL  
OF THE LEAGUE OF NATIONS.

[ *Translation.* ]

Tallinn, April 11th, 1929.

With reference to your Circular Letter No. 42.1929.I, in which you drew my attention to the resolution adopted on March 7th, 1929, by the Council of the League of Nations in regard to the problem of the protection of minorities, I have the honour to forward to you the following observations which my Government desires to make on this subject.

At the instance of the German and Canadian representatives, the Council, at its session in March last, began a general discussion on the actual principle of the protection of minorities and the procedure which should be followed. As was rightly stated by a number of delegates, the great importance of the minorities problem must be universally recognised. The Estonian Government has therefore followed with deep interest the discussions on this matter in the Council, and although it is not a party to any Minorities Treaty, it considers it desirable to refer to the particular aspect which this problem assumes in Estonia.

Owing to the very liberal manner in which the protection of minorities was dealt with on the foundation of the Republic, this problem has never caused any difficulty in Estonia. As was shown during the negotiations between the Estonian Government and the Council of the League of Nations between 1920 and 1923, the Estonian Constitution affords the minorities in this country the most effective guarantees for protecting their rights, guarantees which are more extensive under this law than they would be under the Minorities Treaties. This point was fully recognised in the Council's resolution of September 17th, 1923, which marks the successful issue of these negotiations and which, together with the declaration made on the same date on behalf of the Estonian Government by M. C. R. Pusta, constitutes the official basis for the relations between Estonia and the League of Nations as regards the protection of minorities.

It should be added that the general status of minorities in Estonia has since then been largely improved with the adoption by the Estonian Parliament on February 12th, 1925, of the Law on the Cultural Autonomy of Minorities, which was passed in execution of the provisions of paragraph 21 of the Constitution and came into force on March 3rd, 1925. (The text of this law was published at the request of the Estonian Government in the *Official Journal* of the League of Nations, No. 6, June 1925, pages 788 *et seq.*)

During the discussions in the Council on the problem of the protection of minorities, a clear distinction was drawn between the question of principle and that of the procedure to be adopted in regard to any petitions or complaints by minorities. The special Committee set up by the Council's resolution will therefore have to consider both aspects of this problem.

As regards the question of principle, the Estonian Government, in view of the liberal policy freely adopted by Estonia on the foundation of the State, could not contemplate accepting obligations which would prejudice the arrangements made in 1923 unless the intention is to frame a general statute for the protection of minorities.

In regard to the procedure for minority petitions, the Estonian Government is unable, in view of the small number of cases which it has had to deal with in practice, to give at present any definite opinion as to the value of the procedure in force. It considers, however, that this procedure is, generally speaking, satisfactory and that there is at present no urgent need to alter it in essential points.

Such are the general observations which my Government has thought it desirable to forward to you at this moment. In view of the special importance of the question, it reserves the right to submit more detailed observations if the results of the work of the special Committee call for such a step.

(Signed) J. LATTIK,  
*Minister.*

6.

**OBSERVATIONS OF THE GERMAN GOVERNMENT REGARDING THE GUARANTEE ASSUMED BY THE LEAGUE OF NATIONS IN RESPECT OF THE PROVISIONS FOR THE PROTECTION OF MINORITIES, COMMUNICATED BY A LETTER DATED APRIL 12TH, 1929.**

[ *Translation.* ]

The German Government's conception of the duties incumbent upon the League of Nations in virtue of the guarantee it has assumed in respect of the provisions for the protection of minorities has already been stated by the German representative at the March session of the Council of the League. These statements were prompted by the view that the moment had come in the development of the work of the League when it would be useful to look back upon the manner in which the problem of minorities had so far been treated in order to decide, on the basis of the experience gained, whether those organs of the League whose duty it is to carry out this task are moving in the right direction, or whether it is advisable to take fresh decisions in regard to certain aspects of the problem.

From this point of view, the German representative has subjected the procedure hitherto followed by the League and its results to a critical examination and has arrived at the following conclusions :

First, a careful study should be made of the existing possibilities for an improvement of the procedure applied to minorities petitions. In particular, the participation of certain nations in the preliminary examination of these petitions should be considered instead of their exclusion as hitherto. Further, it is necessary to examine in what way the League of Nations can accomplish its duties as a guarantor outside the sphere of petitions. Finally, it is of importance that the fundamental question as to the meaning and extent of the League's guarantee should be definitely determined.

The purpose of the following observations is to explain and amplify the statements made by the German representative in support of his proposals, taking into account the other declarations made at the March session. The last-named question must be taken as the starting-point for these considerations since it is fundamental and the examination of all the other points must necessarily be based upon it.

I.

In his statements, the German representative has already emphasised those factors in the previous history of the Minorities Treaties which clearly show what the conception of the object and scope of the provisions for the protection of minorities was at the time when the 1919 Minorities Treaties were concluded. Further, it was shown that the first fundamental resolutions of the Council of the League, by which it assumed the duties entrusted to it and organised their execution, were fully in accord with the intentions of the original authors of the provisions in all essential points. The conclusions which can be deduced from these proceedings may be briefly stated as follows :

The preservation of the racial characteristics of minorities, as well as their cultural, linguistic and religious liberties, must be assured to them. Responsibility for this guarantee is incumbent, in the first place, upon the countries to which the minorities belong. They must recognise the safeguarding of these minority rights as a fundamental law, the effect of which cannot be restricted by any other laws, regulations or official measures of any kind whatever. This fundamental law has, moreover, been given an international character. Its observation has been placed under the guarantee of the highest international organisation, the League of Nations. It is general and unrestricted. It implies, in the first place, constant supervision over the treatment of the minorities in the various signatory States and, further, intervention in cases of concrete infraction of the provisions regarding the protection of minorities. The whole system thus defined constitutes an important and permanent corollary to the fact that, by the 1919 Treaties of Peace, numerous populations were detached from their national communities and placed under the sovereignty of another State. This system does not therefore constitute

merely a transitional regime, which must ultimately lead to the disappearance of the ethnical and cultural characteristics of the minorities and to their being merged with the majority of the population of the country. On the contrary, the maintenance of this system is the permanent foundation on which the faithful execution by the minorities of all their civic duties towards the State to which they belong must be based. Therefore, the interest shown by the Members of the League in the strict observance of the provisions relating to the protection of minorities — which is not only their right but also their duty — can and must not be regarded as an unwarranted interference in the internal affairs of another State, and still less as an incitement to subversive movements against the State.

The German Government is of opinion that it would be extremely desirable that, in its future resolutions, the Council should explicitly confirm the principles here set down, and should make them the starting-point and basis of these resolutions. Such confirmation would not only define the purpose of the contemplated reforms, and the spirit in which they should be applied, but would also serve to dispel the doubts which have arisen and, in particular, to create among the minorities themselves a feeling of calm and of confidence in the guarantee of the League of Nations. The various statements made during the preliminary examination of this question at the March session of the Council on the principles involved in the League's guarantee justify the hope that there will be no difficulty in arriving at an agreement on the manner in which the above principle should be formulated.

## II.

The first question that arises from these general considerations is how the League of Nations should discharge its obligation to exercise a general supervision over the position of minorities. At present, there are no rules concerning such a general and permanent supervision. Rules have only been established for dealing with concrete cases of infraction of the provisions relating to the protection of minorities.

The procedure adopted for isolated cases does not, however, adequately provide for permanent supervision over the position of minorities in the various countries. If the League's action is restricted to this procedure as hitherto, it will never have more than a very imperfect idea of the effect given in practice to the Minorities Treaties and Declarations. On the one hand, the League of Nations would be informed only of the cases in which a minority thinks it has grounds for complaining of the methods of applying the minorities provisions adopted by the country to which it belongs, while it would not hear of the cases where these provisions fulfil their purpose. On the other hand, it is conceivable that, for some reason or other, certain minorities, although having cause to complain of the non-observance of the minorities provisions by the country in which they live, would not submit their complaint to the Council.

Apart from cases in which action has been taken on alleged violations of the minorities provisions, the League of Nations has repeatedly considered the application of the provisions concerning the protection of minorities. On certain occasions, the idea has been clearly expressed that a general and permanent supervision should be provided for.

The most important document on this subject is the report submitted by the Italian delegate to the tenth session of the Council, which was unanimously approved by the latter on October 22nd, 1920. In it it is stated that the League of Nations "must ascertain that the provisions for the protection of minorities are *always* observed". The attitude adopted by the Council when examining questions concerning the Greco-Bulgarian minorities in 1925 was based on this idea. At that time, the Council had before it two identical proposals, submitted by the Bulgarian and Greek delegates, for the regulation of the question as to how the treaty obligations assumed by Greece and Bulgaria towards the minorities living in their territories could be safeguarded in accordance with uniform principles. These proposals were adopted by the Council and embodied in a Protocol. Subsequently, however, following upon a debate in the National Assembly, Greece rejected the Protocol concerning the minorities living in her territory. At its meeting on March 14th, 1925, the Council adopted a report submitted by the British delegate, in which the Greek Government was solemnly invited to inform the Council as to what it had done up to that time in order to execute the stipulations of the Minorities Treaty, to declare what the programme for its future action was in this respect, and in particular what measures it proposed to take to safeguard the rights guaranteed by treaty to the Slav minority in Greece in regard to that minority's needs in the matter of education and public worship. The Council

of the League of Nations therefore clearly and unmistakably exercised its right to watch over the position of minorities, even outside the sphere of petitions.

Mention should also be made of the resolution adopted by the Council on June 9th, 1928, on the Polish delegate's report in connection with the dispute which had arisen between Greece and Albania on the question of minorities. At that time, the Albanian Government had submitted to the Council, under Article 11 of the Covenant, the problem of the treatment of the Albanian minority by the Greek Government, and the question had arisen whether this procedure was admissible, although the Minorities Treaties provide for a special procedure for appeals to the Council which is accessible only to Members of the Council itself. It is true that it is stated in the resolution that the procedure under Article 11 cannot be accepted as the normal procedure for submitting to the Council questions concerning minorities: the resolution, however, recognises the right of Members of the Council in grave cases to bring even minorities questions before the Council under Article 11 of the Covenant, provided that the conditions laid down in this article are present. This fact proves at least that the League of Nations attaches to minorities problems an importance which considerably exceeds that of mere petitions.

Certain countries which are bound by Minorities Treaties or Declarations have spontaneously felt it incumbent upon them to report to the Council on the manner in which minorities are treated in their territories. For instance, the Estonian Government forwarded to the League of Nations the text of an Estonian law on the cultural autonomy of minorities (*Official Journal*, 1925, page 788); the Hungarian Government submitted the text of several laws and regulations concerning minorities in Hungary (*Official Journal*, 1925, page 1034); and the Roumanian Government forwarded a detailed memorandum (*Official Journal*, 1923, page 1065) regarding the treatment of minorities in Roumania.

Discussions took place on the same subject at the Assembly of the League of Nations in 1920, 1922, 1925 and 1928. On these occasions, in particular during the Third Assembly, held in 1922, the idea of a permanent supervision over the position of minorities was mooted. The Finnish delegation on the Sixth Committee proposed that a special commission be set up to make a thorough investigation of the question of national minorities and to report thereon to the Fourth Assembly. The Finnish proposal was at that time adjourned for purely budgetary reasons.

There is a text, however, in which the idea that the League of Nations should keep a constant watch over the position of minorities is particularly clearly set forth. This text is to be found in the Assembly resolution dated September 21st, 1922. Under No. V, in connection with the duties incumbent upon the Secretary-General, the following passage occurs:

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

As regards the effect given to this resolution, the report on the work of the Council and of the Secretariat submitted to the Fourth Assembly of the League contains the following phrase:

“ The Section has undertaken investigations regarding the problem of minorities in various countries and certain members of the Section have been to several of the countries concerned in order to get into touch unofficially with the Governments.”

The instances quoted show that the League of Nations has already on previous occasions discussed the question of minorities' protection from the point of view of the general guarantee incumbent upon it, apart from individual concrete cases. The idea of general supervision by the League of the position of minorities is not, therefore, entirely new. The reform suggested is merely that the supervision hitherto exercised by the League without any special system should, in the light of the experience acquired during the first ten years of the League's existence, be organised according to certain definite rules.

The necessity of proceeding systematically in this matter is proved by the fact that the practice hitherto followed, which left it to chance whether a minorities question should for any given reason be submitted for discussion by the League on the basis of fundamental principles, has proved inadequate. Under the present system, the Members of the League and even the Members of the Council are unable — merely from what they learn of the League's work — to form a true and complete picture of the situation of the minorities placed under the guarantee of the League. The discussions of the League can only afford very inadequate information on the various subsidiary aspects of the problem. Under these circumstances, it would not be surprising if certain States wondered whether they really could assume responsibility for the operation of the general guarantee incumbent upon the League. Such a guarantee, indeed, presupposes a carefully organised, constant supervision by the League over the whole minorities problem, uninfluenced by any chance circumstances. Such a business-like treatment of the problem in its general aspect would, moreover, make the discussion of the minority problem politically less delicate and, at the same time, of greater value, since it would be independent of considerations of detail. Discussions could be conducted on the broadest possible basis with full knowledge of the situation of the minorities as a whole, and would thus be free from the risk of controversies on individual concrete cases.

There are several conceivable methods of exercising such a permanent supervision. In this respect, the method — adopted by the Assembly resolution of September 21st, 1922 — of simply entrusting this duty to the Secretariat would not appear to be satisfactory. This observation does not, of course, in any way imply a criticism of the manner in which the Minorities Section of the Secretariat has discharged its duties. The reason of this inadequacy must rather be sought in the fact that, in accordance with its constitutional statutes, the Secretariat is a purely executive body, and cannot, on its own authority, take any initiative or decision. The constant supervision of the minorities situation is a task which by its very nature requires a special organ which should, within certain limits, be capable of taking independent action.

In theory, the Council might very well adopt the course of keeping itself continuously informed of the position of the problem through one or several Rapporteurs. In practice, however, this method would hardly be satisfactory, since keeping a permanent watch over the minorities' situation would require constant investigations which one or several Rapporteurs to the Council could hardly be expected to undertake. The only satisfactory solution would be to entrust the work to a special organisation of the League which would concern itself permanently and exclusively with minorities problems. This duty might conceivably be entrusted to the bodies responsible for examining petitions, but this proposal too is open to objections. The Committees of Three, which up to the present have been responsible for examining petitions, would not appear entirely suitable, if for no other reason, because their composition is constantly changing and they are thus unable to acquire the experience necessary for forming a judgment at any time on a complex set of problems. But even if, in accordance with the Canadian proposals, the Committee of Three were to be replaced by another enlarged body, it would probably nevertheless be advisable to separate the two spheres of activity which are essentially different and to entrust them to two different bodies.

Under these circumstances, the solution which obviously suggests itself is the setting up of a special permanent committee for minorities questions, such as the committees already existing to deal with economic communications and other questions. This solution would have the advantage of creating a body which, removed from the influence of existing disputes, would be able to survey the whole minorities problem from a higher point of view. Discussion by such a committee would at the outset to some extent clear away divergences of opinion on questions of principle before they were referred to the highest political instances of the League. A permanent minorities committee might, by availing itself of all sources of information at its disposal and in particular of information furnished by the States concerned, collect the fullest possible material on the position of the minorities question at any given time and subject it to a critical analysis. It might then, at fixed intervals, communicate to the constitutional authorities of the League any observations and suggestions compatible with the Treaties and Declarations in force which it might desire to make.

The German Government is well aware that, before this suggestion can be put into practice, it must be most carefully examined. The question might also be considered whether it would

not be advisable to establish, in the first place, a committee instructed to make a comprehensive survey of the whole minorities problem as it has developed on the basis of the Treaties and Declarations in force since 1919 up to the present day, and to submit the result of its work to the Council. The Council would thereby obtain a complete and true picture of the existing situation, which might serve as a guide in the framing of subsequent resolutions.

### III.

In his statements regarding the examination of minorities petitions, the German representative mentioned the shortcomings which the present procedure of the Committee of Three had revealed. His suggestions with a view to the removal of these shortcomings may be summarised as follows :

Communication of the results of the work of the Committee of Three to the individual Members of the Council in order that they may decide whether they desire to proceed with the matter or not.

Greater publicity to be given to the whole procedure by annexing lists of all petitions received and dealt with by the Committees to the annual report submitted to the Assembly on the work of the Council ; in this indirect way, the minorities would at least be informed of the action taken in regard to their petitions.

Recognition of the Committees' right to obtain from the minorities supplementary information for the purpose of ascertaining the facts.

Reinforcement of the Committees of Three according to the importance of the particular case.

Abolition of the present practice of excluding the representatives of certain nations from membership of the Committees.

The German Government has noted with pleasure that the motives underlying these suggestions are the same as those which inspired the Canadian representative's proposals. If, in accordance with M. Dandurand's proposal, the petitions and appeals of minorities are submitted for consideration not only by a Committee of Three but by the Council itself sitting as a " Committee of the Whole ", all the Members of the Council will be in possession of full information, so that each of them will be able to decide upon his own responsibility whether he desires to take up the matter and to submit it officially to the Council, supposing it proves impossible to find a satisfactory solution in the course of this preliminary procedure. Thus — as is indeed essential — the preliminary examination will not prejudice the right of each individual Member of the Council to bring a minority question before the Council, but will, on the contrary, facilitate the exercise of this right. It will also *ipso facto* comply with the request of the German representative that the Committee should include those States whose nationals are of the same race as the petitioning minority. Further, examination of petitions by the Council sitting as a Committee would obviate certain disadvantages arising from the fact that a special committee is appointed for each individual petition. Not only will the President of the Council welcome the lightening of his responsibilities by the fact that the composition of the competent preliminary committee will no longer be left to his discretion, but it will be possible, by means of the Committee of the whole Council, to create a tradition and continuity of practice. This constitutes an important guarantee of the uniform treatment of minority questions, which in itself will have a calming effect. It will also be easier to consider from a wider and more general point of view the various complaints emanating from minorities in the same district and frequently connected with each other like links in a chain. The Canadian representative rightly laid stress on the possibility of so constituting the Committee of the whole Council that it would consist of members who have specialised in minority questions. The advantage of such an arrangement would be that it would allow of a purely objective treatment of minority complaints quite independent of the political conditions of the moment. Finally, the Canadian proposal would enable the Committee of the Council, or any Sub-Committee which it might appoint, to hear the authors of petitions together with the representatives of their Government, without thereby introducing a formal procedure in which both sides are heard. This would satisfy one of the most important wishes

of the minorities. It would then only be necessary to inform the minorities in some suitable form of the result of the examination of their petitions and, in the interests of greater publicity of procedure, to provide for a periodical report to all the Members of the League on the work of the Council in minority questions ; this report might perhaps be issued before each annual Assembly.

The Canadian proposal will not, of course, prevent the individual Members of the Council from deciding in the last resort what action should be taken in regard to the proposals by the Committee of the Council or as to what individual steps the various Powers represented on the Council might think it necessary to take as a result of the Committee's work. This decision, however — and this is the real purpose of the preliminary examination — will be made very much easier if the necessary preliminaries have already been carried out by experts in these questions.

The second fundamental idea in the Canadian proposal is also both expedient and worthy of recommendation. It provides for the participation of the minority States in the preliminary procedure in such a way that all petitions must in principle be sent through the Government of the State concerned, and not forwarded to the League of Nations until all legal methods within the country have been exhausted. The special advantage of such a procedure is that the Committee of the Council would not need to deal with the matter until the facts had been well established. The Canadian proposal itself provides that in all urgent cases the minorities may address their petitions direct to the League of Nations. For the rest, M. Dandurand has already pointed out that this second fundamental idea in his proposal is linked up with suggestions submitted in 1921 and 1923 by the Polish and Czechoslovak Governments.

If in the discussion of details it should be found that a reform of the preliminary procedure as proposed by M. Dandurand raises certain difficulties, other means must be sought to remedy the shortcomings pointed out by the German representative, some of them recognised by other Members at the March session. In any case, the present system cannot be maintained under which Members of the Council who are not represented on the Committee of Three learn nothing of the results of the preliminary examination, the minorities themselves remain in ignorance of the action taken in regard to their petitions, and the preliminary examination is denied all publicity. It also seems to the German Government undesirable that, even in the most important cases, only three Members of the Council should participate in the preliminary examination of complaints, and that precisely those Members should be excluded who are the most immediately concerned. The German Government is firmly convinced that these shortcomings can be removed in a manner to satisfy, not only the interests of the minorities, but also the interests of the States to which the minorities belong. These mutual interests will best be safeguarded by establishing for the preliminary examination of petitions a body which is capable of settling these matters as far as possible without appeal to the Council itself or to the Permanent Court of International Justice, by arriving, during this preliminary stage, at a solution based upon the loyal co-operation of all concerned.

#### IV.

During the preliminary discussion of the Canadian and German proposals at the March session, it was pointed out that the States bound by the Minorities Treaties and Declarations were not in a position to enter into fresh engagements going beyond these Treaties and Declarations. The German Government would like to emphasise that the German proposals had from the beginning no other purpose than to seek to reform the work of the League of Nations in this sphere within the limits of the treaty obligations now in force.

In judging whether the Canadian and German proposals come within the framework of existing treaty law, some help may be derived from the report of the Committee of Jurists adopted by the Council on March 6th, 1929, concerning the participation of Lithuania in the discussion of the minorities problem. This report distinguishes between two classes of Council decisions in this matter—first, decisions regulating the procedure by which the Council exercises the powers conferred upon it ; and, secondly, decisions imposing upon the States concerned the duty of taking certain measures which are not provided for in the Treaties and Declarations. If, on the basis of this report, we examine the decisions of the Council on which is based the present minority procedure, we find that the assent of the States in question is



only required in a single case, viz., in the case of the resolution of June 27th, 1921, which required the States concerned to make within a specified time-limit certain declarations regarding the minority petitions communicated to them.

The legal basis of the procedure to be followed by the Council in the treatment of petitions is as follows : according to the Minorities Treaties and Declarations, any infraction or danger of the Council by one of its Members, but this does not prevent the minority itself or a State Member of the League not on the Council from drawing the attention of the League to an infraction or danger of infraction. The Council from the very beginning rightly recognised that, in view of the general guarantee of the League of Nations, it was impossible simply to ignore complaints or requests of this kind from minorities or from States not represented on the Council. It therefore laid down rules for the treatment of these complaints and petitions, which are only of an informatory nature. In establishing these rules, the Council acted on the principle that it was desirable to introduce an unofficial preliminary procedure before officially submitting the case to the Council, so that the Council Members might be in a position to decide on the basis of the information contained in these petitions, whether they wished to bring the matter before the Council or not. These rules were established in the resolutions of October 22nd, 1920 ; October 25th, 1920 ; September 5th, 1923, and June 10th, 1925, without it having been thought necessary to obtain the consent of the minority States. It is undoubtedly both logical and expedient that the different Powers represented on the Council should not separately collect the information required for the exercise of their rights and duties, but that such information should, as far as possible, be obtained collectively and in accordance with some regular procedure. The establishment of such procedure, therefore, does not signify any transgression of the legal limits laid down in existing provisions.

If the resolution of June 27th, 1921, requires the consent of the States concerned, it must be remembered that this provision for the intervention of these States in the preliminary procedure is in their own interest. Some of these States had pointed out that it was desirable that the Members of the Council should not receive their information exclusively from the petitions of the minorities, but that the Governments of these minorities should be given an opportunity to submit their observations and comments. It would have been quite possible to give States the opportunity to make these observations and comments without imposing upon them any obligation to do so. The obligatory form was obviously chosen at that time because it was thereby possible in the interests of the States themselves to create a procedure which was strictly regulated in all its details.

With regard to the German proposals now under discussion, the question whether, from the legal point of view, they require, before being put into effect, the consent of the States bound by the Minorities Treaties and Declarations can only arise if effect is given to them in the form provided for in the Canadian proposals. But even in this case it is possible to imagine a form of wording which would make the formal consent of those States unnecessary. In view, however, of the fact that, as already mentioned, the intervention in the preliminary procedure of the States concerned is in the last resort in their own interest, the German Government is inclined to think that the introduction of really suitable reforms will not be hindered by purely formal considerations, and that it should not be difficult to arrive at an agreement.

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7.

**OBSERVATIONS OF THE HUNGARIAN GOVERNMENT, COMMUNICATED BY A LETTER  
DATED APRIL 12TH, 1929.**

[ *Translation.* ]

The President of the Hungarian Delegation to the Peace Conference expressed himself as follows in a note to the Conference, dated Neuilly, February 12th, 1920, concerning the importance of the establishment of the protection of minorities from the Hungarian point of view :



“ The guarantee concerning the protection of Hungarian minorities entrusted to the League of Nations constitutes for us the most important part of the treaty about to be concluded, and *only our trust in the effective realisation of this guarantee can make us sign the Treaty of Peace.*”

The Treaty of Trianon dismembered Hungary, not only depriving that State of two-thirds of its total former population, but bringing under foreign dominion a population of purely Hungarian race and language numbering 3,330,000 persons, or 42 per cent of Hungary's present population. The protection of minorities, which constituted the chief inducement to sign the Treaty of Trianon, has thus retained its full importance for Hungary since the date of signature.

When one considers the enormous number of persons who had been united for over a thousand years to the Hungarian stock, only to be separated by the Treaty of Peace—against their will, and without even a plebiscite for the alien populations around them—it is no exaggeration to say that no race exists on earth for which the protection of minorities is of more vital importance than for the Hungarian people.

But apart from any one particular race, there are certainly few duties devolving upon the League of Nations which assume the same importance from the point of view of internal peace, and the moral pacification on which peace depends, as the responsibility of protecting minorities.

This was the intention of those who planned the new territorial order in Eastern Europe, where the international protection of populations brought recently under the sway of recently created States or States awarded with extensive territories was already the practice in the nineteenth century. What took place at the close of the great world war was simply a development of this traditional system and the substitution for the Concert of the great European Powers of the newly created League of Nations, with the status of an international Power, exercising supervision in the matter. This change in the supervisory organ is the keystone of the new system.

The reasons which justify the protection of minorities, both from the historical point of view and from that of the circle of States to which it was applied, the principles on which it is based, and its direct and close connection with important territorial changes, are set forth at length in the now famous letter dated June 24th, 1919, from the President of the Peace Conference to the Polish President. It would be superfluous to quote this letter in detail.

Let it suffice to recall that the Council of the League, in the person of whose Members—permanent and temporary alike—this duty of protection is vested in the last resort, is entrusted, in virtue of this mandate, owing to the close connection between the protection of minorities and the new territorial order in Eastern Europe, with one of the gravest responsibilities in the eyes of history.

It has to be admitted, unfortunately, that the extent of the material rights guaranteed to the minorities by the so-called Minorities Treaties, and by the declarations subsequently made with the same object, is not great. That question, however, is not under consideration and cannot be discussed at the moment.

The most distressing feature of the case is that only too often there is a tendency to curtail these minority rights still further by an interpretation which might with justice be qualified as abusively restrictive. This feature is found in the matter of the protection of minorities not only in regard to material rights but also in regard to procedure.

A further but no less regrettable impression prevails among the minorities that there has been a general falling-off in the ideal of minority protection now that it is no longer a question of imposing obligations but rather of enforcing them. This feeling is shared by several States Members of the League.

The disappointment experienced by certain minorities as the result of the inadequate protection afforded is now such that they have latterly completely renounced the practice of submitting requests for protection to the League. Discouragement, and not any improvement in their lot, is the real explanation of this attitude.

The minority provisions were guaranteed by the Council of the League, solemnly and individually in the case of each treaty. The meaning of this guarantee is analysed in a Council resolution of October 22nd, 1920, known by the name of M. Tittoni, the Rapporteur; the resolution, which forms the basis of the whole of the present minority procedure, reads as follows:

" It may be advisable at the outset to define clearly the exact meaning of the term 'Guarantee of the League of Nations'. It seems clear that this stipulation means, above all, that the provisions for the protection of minorities are inviolable . . . Secondly, this stipulation means that the League must ascertain that the provisions for the protection of minorities are always observed."

The League's guarantee concerning the efficacy of minority protection is thus intended to be the live factor in the whole institution.

Again, the efficacy of minority protection is determined primarily by the spirit in which it is exercised. The Hungarian Government, in submitting its observations, desires to stress this elementary truth. The present remark, moreover, does not in any way affect the importance of the revision of the procedure, which is now in the foreground and has aroused general interest. The importance attached to procedure is explained by the conviction that the defects of the present system are also the cause of the inadequacy of the protection now accorded. There is every reason to complain, first, that such procedure as does exist consists simply of a few rules for the treatment of petitions submitted to the League, while no system exists whereby the League, or rather Members of the Council, might "ascertain that the provisions for the protection of minorities are always observed". The Council resolution, however, from which these words are quoted, defines this imperative duty of the Council in no uncertain terms. It is this point, together with the question, already alluded to, of the spirit in which protection should be afforded, that the Hungarian Government would wish to urge upon those now dealing with the revision of the present minority procedure.

Those who are opposed to the protection of minorities have discovered that the procedure is not laid down in the Minorities Treaties and Declarations, and have argued that every procedure, before it can be binding on them, must be accepted by the States with minority obligations. An absolute right of acceptance or refusal would obviously imply for such States a right to veto no matter what procedure. Proceeding on these lines, they would soon succeed, by means of apparently flawless syllogisms, in putting a stop in actual practice to the exercise of all minority protection. Such an interpretation is clearly erroneous, not to say tendentious. The true position is this: rules of procedure for minority questions are simply means for the accomplishment of the duties already clearly laid down in the Minorities Treaties and Declarations both for States Members of the Council and for States subject to minority obligations. It should be possible for these various rules to be properly established by all the States Members of the Council whose duty it is to supervise the actual according of protection. From a legal standpoint, therefore, the consent of the minority States is not necessary for the setting up of procedure. Apart from the Council resolution of June 27th, 1921, the consent of the minority States has never been asked when establishing rules of procedure in minority questions. The distinction between rules implying on the part of the States concerned the performance of acts not laid down in the Minorities Treaties and Declarations and rules not implying the performance of such acts — a distinction to be found in the jurists' opinion submitted to the Council on March 6th last — does not do away with the grave risk that all forms of minority protection may be wrecked by a question or procedure through the agency of those who are opposed to protection itself. Such a result can never have been intended by the authors of the Minorities Treaties. Moreover, it would be illogical to claim that the Council can decide on procedure without the assistance of the minority States, under Article 4, paragraph 5 of the Covenant, and to insist, on the other hand, on the individual consent of such States to that procedure. The League should consider it a point of honour not to allow grammatical interpretations contrary to the whole spirit of the institution to gain the upper hand and drive out the live guarantee designed to secure effectual protection.

Accordingly, one cannot but appreciate the reasons quoted by Sir Austen Chamberlain when, alluding to the origin of the Committee of Three at the meeting of the Council on March 6th last, he spoke as follows:

"The Treaties contemplate that it should be the friendly right of any State Member of the Council to draw the attention of the Council to what it might consider to be an infraction of any of the Minorities Treaties. That was an invidious, a thankless task to impose upon the individual States Members of the Council . . . so invidious that individual States Members of the Council might be unwilling to discharge it, and that, if we relied upon such

individual initiative and on that alone, we might fail to watch over the Treaties as it was intended that we should do.

“ The Council therefore . . . made the arrangement which is embodied in the examination of these petitions and complaints by the Committee of Three — that is to say, instead of leaving it to each individual State Member of the Council to satisfy itself whether or not a condition had arisen which necessitated it individually to draw the attention of the Council to the matter, three Members of the Council, chosen from time to time among our ranks, would undertake the duty of examining each petition, and if those Members thought that it was necessary to bring a matter before the Council, they would jointly call the attention of the Council to it. By this means, the dangers, the difficulties and the invidiousness of the individual intervention of a particular State would be avoided.”

This principle, which really explains the origin of the Committee of Three, is perfectly right, for it is in keeping with the guarantee for the efficacy of the Council's supervision and consequently in keeping with the spirit of the provisions of the Minorities Treaties in general. It is significant that, on October 25th, 1920, when the Council adopted a resolution setting up the Committee of Three, no one thought it necessary to apply to the States with minority obligations for their consent to the establishment of such a procedure.

The Committee of Three is an established fact. It may be asked, however, whether the present organisation and procedure of that Committee could not be still further improved in the light of nearly ten years' practical experience. For the moment, this is perhaps the most important question for the Council to consider.

As regards the present procedure, the Hungarian Government is of opinion that its chief defect lies in the notorious inadequacy of the information put before the Committee of Three and the impossibility of its being adequately informed. This defect is due to an exaggerated interpretation of the idea that, in no circumstances and at no stage of the proceedings, shall the minorities be given the status of parties to the case. But even if the minorities could not enjoy that status — which is very doubtful — it does not follow that the petitioners could no longer furnish information during the remaining course of the procedure, after having of necessity done so when submitting their petition.

In the past, the inadequate or, rather, unilateral information placed before the Council has had the most serious consequences, consequences on which the Hungarian Government does not desire to dwell for the moment.

The suggestion that the Committee of Three can, and indeed should, apply to the petitioners for information concerning the points of fact and of law contained in the reply to the petition of a minority State is one of the most moderate in its implications.

The Hungarian Government considers it essential, if any procedure is to fulfil its serious purpose, that the minority State's reply to a petition should be notified to the petitioners and that *information derived from both sides in the form of statements and replies* should be regularly submitted in writing, or, if necessary, by means of personal explanation, to the Committee of Three (or their substitutes) and indeed at every stage of the proceedings.

A point very closely connected with this reform is the need for *greater publicity in regard to the proceedings*. A certain degree of publicity would be introduced by means of the information derived from both parties in the form of statements and replies, for this would preclude the repetition of what is at present the usual position, under which the petitioners themselves remain in ignorance of the fate of their petition, unless by chance a Member of the Council is found to bring the matter before the Council. It is essential, further, that Members of the Council not represented on the Committee of Three should have more direct information and that the Assembly of the League and the public in general should be given full details. These objects could best be attained, in the Hungarian Government's view, by the following means: the Secretariat would publish periodically all minority petitions addressed to the League, and the Committee of Three would submit a report to the Council on all the petitions with which it has dealt, and not only on petitions which it refers for consideration to the Council; further, these reports would be published at intervals in the *Official Journal*, and the Secretariat would present to the Assembly an annual abridged report showing the nature and the contents of the minority petitions deposited during the course of the year, together with the action taken thereon.

The Hungarian Government considers it essential also to examine the question of the *conversion of the Committee of Three into a Committee including representatives of all the Members of the Council*. At present, one of the most important proceedings, the elucidation of points of fact and of law on which the petitions are based, takes place in the presence of three Members of the Council to the exclusion of all the others, whereas the duty of safeguarding the protection of minorities devolves upon all the Members of the Council without distinction. It would be fairer, in the Hungarian Government's view, if all the Members of the Council were represented at this important act. It would be a more conscientious way of performing their duty of supervision. A less comprehensive reform, though still on the same lines, might be to retain the Committee of Three, but to allow all the other Members of the Council to sit on that Committee — hitherto known as the Committee of Three — should they so desire. The Hungarian Government would prefer the complete reform of the Committee of Three on the lines of the first suggestion.

Bound up with this same idea is the suggestion that a *Permanent Minorities Commission should be created*, consisting of persons of recognised authority and competence. This Permanent Commission would act as a committee of experts and would be prepared, as such, to assist both the Committee of Three (possibly in its revised form) and the Council. The objections raised against this scheme do not seem serious. It has been argued, for instance, that such a body is not provided for under the Covenant or the special treaties and could not be set up outside the treaty provisions, like other committees of experts at the Council's disposal, unless provided for under the Covenant or the treaties, because those other committees deal, it is said, with general questions affecting all the States, whereas the protection of minorities affects only certain States which cannot be forced to accept the administration of a committee of experts. The Hungarian Government considers that the reform has much to recommend it from several points of view. The protection of minorities requires specialised knowledge and the exercise of constant supervision; moreover, it demands a more considerable sacrifice of time. The existence of a Permanent Minorities Commission would further help to expedite matters and would place a body of experts at the Council's disposal should it be necessary to send commissions of experts to visit the locality, either to decide whether any given case should be brought before the Council or to verify the facts or suggest possible solutions when the case has already been submitted to the Council.

The Hungarian Government would also welcome some revision of the existing procedure, with a view to facilitating access to the Permanent Court of International Justice whenever a question of law is involved, as already recommended in the Assembly resolution of September 21st, 1922.

The Hungarian Government reserves the right to supplement these observations, as soon as the draft amendments to the procedure have assumed a more concrete form. It has decided in the meantime to refrain from submitting too many observations, in order to facilitate the proper adjustment of the most urgent and necessary reforms.

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8.

LETTER FROM THE LATVIAN GOVERNMENT TO THE SECRETARY-GENERAL  
OF THE LEAGUE OF NATIONS.

[ Translation. ]

Riga, April 11th, 1929.

You were good enough to forward to us, together with Circular Letter No. 42, dated March 18th, 1929, a copy of the resolution adopted by the Council of the League of Nations at its meeting on March 7th regarding the protection of minorities: you informed us at the same time that any observations which the Latvian Government might desire to submit in accordance with paragraph 3 of the Council resolution of March 7th should reach the Secretariat before April 15th.

In thanking you for this communication, I have the honour to request you to lay before the Committee constituted by the Council resolution the following observations which the Latvian Government desires to submit regarding the question of the protection of minorities raised during the last session of the Council.

The Latvian Government is of opinion that the procedure at present in force for the protection of minorities, although capable of some future development, has proved both elastic and effective enough in practice to render considerable services. Any proposals for the modification of the present system — which has proved its value in practice, and been accepted by Latvia through her Declaration of July 7th, 1923 — should therefore be approached with the utmost caution.

The Latvian Government does not see any necessity for introducing modifications in the system at present adopted either from the point of view of substance or of procedure. Nevertheless, it will follow with the greatest interest the work of the Committee of Three as well as any decision that the Council of the League of Nations may ultimately take in regard to this problem: it reserves the right, however, to state its point of view should the Council consider the possibility of modifying the *status quo* in regard to the protection of minorities.

(Signed) A. BALODIS.

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9.

LETTER FROM THE LITHUANIAN GOVERNMENT TO THE SECRETARY-GENERAL  
OF THE LEAGUE OF NATIONS.

[ Translation. ]

Kovno, April 12th, 1929.

You were good enough to forward to the Lithuanian Government the resolution adopted by the Council of the League of Nations concerning the protection of minorities, together with the Minutes of the Council's proceedings. The Government, after hearing the report of its delegate, M. Zaunius, has made an exhaustive examination of the documents in question. It now desires to make the following statement:

1. The agenda of the session of the Council held from March 5th to 12th last included a question concerning the protection of minorities and proposals for the amendment of the procedure hitherto followed in minority questions. The Lithuanian Government made a Declaration before the Council of the League of Nations on May 12th, 1922, voluntarily assuming certain obligations in regard to the ethnical and other minorities in Lithuania. It desires to point out that the minorities rights were recognised and embodied in the Lithuanian legislation before the institution of the League system, so that, in making its Declaration before the Council of the League, the Lithuanian Government was simply converting its national legislation into an international undertaking. No procedure was established, however, for intervention by the Council or for the relations of the Council with the Government of the Republic. The principle adopted was that any intervention by the Council should be appropriate to the circumstances or, in other words, that no definite rule should be laid down.

2. A considerable proportion of the Members of the League have assumed obligations *vis-à-vis* the different minorities and these obligations have been placed under the League's guarantee. Action by the Council would thus hardly be possible unless a uniform procedure is adopted for all the countries. Moreover, it is often difficult, and indeed impossible, to establish a procedure which does not touch the substance of the question, so that no procedure can be separated from the substantive law.

3. In contractual law — and international law is generally contractual — changes cannot be introduced in international agreements without the explicit and formal consent of the contracting parties. *A fortiori*, modifications cannot be introduced into spontaneous and voluntary declarations, since such declarations do not, after all, constitute contractual undertakings, but represent a solemn statement of internal and foreign policy rather than

an international obligation. The Lithuanian Government naturally regards such spontaneous and unilateral undertakings as no less binding upon it than international acts, but their legal character is entirely different. The essential point to be emphasised is that the Lithuanian Government, and the Lithuanian Government alone, has power to modify the Declaration made by it on May 12th, 1922.

4. The Lithuanian Government accordingly felt it its duty to co-operate with the Council in the safeguarding of minority rights. As this question is of fundamental importance to Lithuania, the Government sent its representative to the Council of the League to defend Lithuanian interests. Had it kept silent when minority questions were under discussion, it would have felt morally, if not legally, bound to accept any decisions passed by the Council in regard to minorities, since Lithuania is entitled, under Article 4 of the Covenant, to intervene in the solution of a question especially affecting her interests. By abstaining from the exercise of its right, the Government would have appeared to be proclaiming itself uninterested in the question, and would have been bound to accept any solutions adopted in its absence. The Government learnt, to its amazement, that the Council had refused to allow the Lithuanian delegate to sit as a member of the Council during the discussion of this matter.

The Lithuanian Government deeply regrets that it cannot consent to co-operate with the Council in the manner suggested in the resolution of March 7th, 1929, under the terms of which the Government is invited to submit observations, if it so desires, before April 15th, 1929. The Government considers that it is not its views but its consent which is required in framing minority rules, and that such consent must be signified in the manner laid down in the League Covenant. On March 7th, 1929, the Council, it is true, adopted the jurists' report recognising the need for the consent of the States bound by minorities obligations and recommending separate negotiations between the Council and such States when the Council's decision had been taken. Such a procedure is, in the Lithuanian Government's view, essentially contrary to the terms of the Covenant. If the findings of the report were accepted, the Council might become a contracting party; in other words, the Council is regarded as a party under international law. The Covenant, however, assigns the Council an entirely different status. It admits of no opposition between the Council and Members of the League not represented on that body. In the first place, the Council of the League is not a party in terms of law, for, if it were a party under international law, it would constitute a super-State; hence, in any international contractual undertaking, the Council can never take action against a Member in virtue of a resolution adopted by the Council itself. In all other questions affecting Members of the League, the latter *ipso facto* acquire the status of temporary Members of the Council. Accordingly, the composition of the Council is never rigid. In theory, the Council might become bigger than the Assembly, since, in virtue of Articles 4 and 17 of the Covenant, the status of Members of the Council may be acquired not only by Members of the League but also by non-Member States.

In the circumstances, the Lithuanian Government regrets that it is unable to submit its observations to the Council in conformity with the terms of the resolution adopted on March 7th: the Lithuanian Government's consent is necessary for any modification of the rights of minorities in Lithuania and such consent can only be legally given at the Council table.

(Signed) PROFESSOR A. VOLDEMARAS,  
President of the Council,  
Minister for Foreign Affairs.

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10.

MEMORANDUM FROM THE NETHERLANDS GOVERNMENT, COMMUNICATED BY A  
LETTER DATED APRIL 10TH, 1929.

[ Translation. ]

Her Majesty's Government has noted with deep interest the discussions which took place in the Council on the protection of minorities and the suggestions put forward during the debates in relation to certain modifications to be introduced into the procedure concerning the protection

of minorities. Profiting by the experience acquired while the Netherlands were represented on the Council, Her Majesty's Government desires to submit certain observations on the subject to Members of the Council.

The Canadian representative's suggestion that the Committees of Three should be replaced by a Committee of the Council consisting of all the representatives on the Council or their substitutes is, in the Netherlands Government's opinion, deserving of every attention.

Her Majesty's Government suggests that, if this procedure were adopted, it might be well to provide that members of the Committee representing States of which the persons belonging to the minority in question are nationals and members representing States the majority of whose population belongs ethnically to the same people as the persons forming part of the said minority should be given only a consultative status. The Netherlands Government fears that, unless some such provision is introduced, the proposed reform would not in practice achieve the desired result.

If this question could be satisfactorily settled, the institution of the Committee of the Council as proposed might be regarded as an improvement on the present situation. Her Majesty's Government, however, is aware that this solution is also open to objection.

It is unlikely that a Committee of the Council could examine a large number of minority petitions with the necessary care. The files concerning minority questions are generally fairly voluminous; the questions raised are often very complex. The Committee of the Council would not be a permanent body composed of persons with a special knowledge of minority questions, but would vary in composition, so that it is doubtful whether all the members would be able to devote the time necessary for a thorough examination of the questions which they are called upon to decide. The institution of a number of smaller Committees, each dealing with only one or with a limited number of questions, would appear from this standpoint to have much to recommend it. Not only would members of these smaller Committees have a greater feeling of individual responsibility; they would also be able to devote more time to the examination of each question.

Her Majesty's Government suggests that, in the circumstances, it might be possible to amend the existing situation while still retaining the system of Committees of Three. At the last Assembly, the Netherlands delegation put forward a suggestion that the number of meetings should be increased, and that the Committees should be convened more frequently, between the sessions of the Council. These meetings might, if necessary, take place immediately before or after a session of the Council. At present, the Committees generally meet at the same time as the Council, when all the members are overburdened with work. The result is that representatives on the Council are frequently obliged at the last minute to send to sit on the Committee another member of their delegation who has not been able to make an exhaustive study of the question under consideration. In the event of meetings of the Committees not coinciding with the sessions of the Council, representatives on the Council would, it is true, often be prevented from attending in person. At the same time, their substitutes might be appointed before hand and would thus be better able to prepare for the work with which they have to deal.

There is another method by which, while still retaining the system of Committees of Three, the drawbacks of this system could be remedied. In putting forward this suggestion, Her Majesty's Government is following a proposal made at the last session of the Council, to the effect that certain Members of the Council should not be precluded from discussing a petition. It might be provided that, in the case of a State Member of the League, the majority of whose population belongs from the ethnical standpoint to the same people as the persons forming part of the minority which submitted the complaint, a representative of that State and also a representative of the State to which the persons of the minority in question belong shall be invited to be present in an advisory capacity at meetings of the Committee of Three.

The Committee of Three, or the Council itself, when dealing with the petition, might be authorised, if necessary, to invite the petitioners to appear in person before the Committee, or the Council, in order to furnish supplementary information. It would always be necessary, however, to bear in mind the principle at the basis of the existing Treaties—namely, that the minorities are not official organs, free to act on a footing of equality with the Government.

As regards publicity, the Netherlands Government considers that extreme caution should be observed. If it were provided that the discussions on every petition shall be made public, there would be the danger of raising questions of prestige and making it more difficult for a



State against which a petition has been submitted to grant concessions to minorities. Moreover, if the Government of the foreign State specially interested in the minority is present at the debates on the petition, the arguments hitherto submitted in favour of greater publicity will cease to apply to a very great extent. Accordingly, the complaints so often formulated by minorities in regard to lack of publicity might be met by providing, first, that the petitioner shall be briefly informed of the result of the examination of the petition, and secondly, that every Committee of Three shall submit to the Council a concise report, of which the Council would take note, embodying the positive or negative result of the Committee's proceedings. In this way, a summary of all that has been done in the matter by the League of Nations would in future appear both in the Council Minutes and in the annual report submitted by the Secretary-General to the Assembly which have hitherto contained hardly any mention of the protection of minorities. Moreover, the fact of publicity might possibly have the happy effect of preventing certain persons who at present have nothing to lose by submitting frivolous and unjustified complaints from doing so in future.

Her Majesty's Government sees no objection to the suggestion put forward by the Canadian representative, on the lines of a Polish memorandum, that petitions should be addressed in future not to the Secretary-General but to the Government concerned. Such a rule should, of course, be accompanied by certain guarantees, as already provided for in Senator Dandurand's resolution.

In conclusion, Her Majesty's Government would not wish to pass over in silence an observation made in the Council by the German representative, who directed attention to the Council's duty of ensuring that provisions under the guarantee of the League of Nations relating to the protection of minorities are constantly applied. It is perhaps doubtful whether, in dealing with minority questions only when petitions are submitted, the Council is completely fulfilling the obligations which it assumed in regard to the protection of minorities.

Her Majesty's Government trusts that this most important question will be examined with all the attention it deserves. Even in the event of divergence of opinion which might make it impossible to arrive at an agreement in the near future, marked progress will still have been made if the present study results on the modification, on the lines indicated above of the present procedure in regard to petitions.

The Hague, April 10th, 1929.

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11.

LETTER FROM THE SWISS FEDERAL GOVERNMENT TO THE SECRETARY-GENERAL  
OF THE LEAGUE OF NATIONS.

[ Translation. ]

Berne, March 27th, 1929.

With reference to our letter of March 22nd acknowledging receipt of your communication of March 18th, we have the honour to inform you that the Federal Government has followed with deep interest the discussion which took place at the last session of the Council regarding the protection of minorities. It feels that this question is of the highest importance from the point of view of that peace and goodwill which it is the essential duty of the League to promote throughout the world, and that the League might fail in its duty if it neglected to take steps to overcome, by a procedure offering every guarantee of impartiality, the difficulties which may arise between minorities and the State to which these minorities politically belong. It has therefore been glad to note the particular care with which the Council has once more approached this serious problem and the Council's obvious anxiety to discover a solution that will lead to the desired result.

The Federal Council, and with it the Swiss nation, would rejoice if the League could succeed in dispelling the apprehension which obviously exists in the public mind in some countries and to which verbal expression was again recently given by certain members of the Council. The essential point would be to afford any minorities who feel that they are injured



the possibility of submitting their complaints for impartial consideration, without, by so doing, weakening their obligations of loyalty to the State of which they form an integral part.

The Federal Council would not desire to pronounce in favour of any particular system. The main consideration should be to reach an agreement on general rules. When once this agreement has been reached, a satisfactory form of procedure could doubtless be discovered without great difficulty, by the goodwill of all. We are inclined to believe that the proposals of the Canadian representative, M. Dandurand, would form a useful basis of discussion at this stage. They would certainly be an improvement on the present situation, even though—as has already been pointed out in the Council—they may require amplification in one or two respects. In particular, it would seem opportune to ascertain under what conditions the Permanent Court of International Justice might be asked to give an opinion. We think it would be well if disputes connected with the rights and duties of minorities could be assured of a definite solution after all attempts at conciliation—which are, in our opinion, of fundamental importance—have failed. It would be desirable carefully to examine this side of the problem. Such an enquiry would be in keeping with the resolution adopted by the Third Assembly of the League of Nations concerning the protection of minorities, Point 2 of which was worded as follows :

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

If the Federal Council has ventured to submit these few short comments, it is because the problem of co-operation between majorities and minorities on a footing of absolute juridical and political equality is one to which the Swiss nation attaches the very highest importance and to which the Swiss authorities daily have to devote their attention.

We would request you to be good enough to bring the above to the knowledge of the Rapporteur to the Council and his two colleagues.

(Signed) MOTTA,  
Federal Political Department.

## Sub-Annex II.

### LIST OF COMMUNICATIONS FROM ASSOCIATIONS AND ORGANISATIONS.

1. Letter dated March 1st, 1929, addressed to Sir Austen Chamberlain by the “ Joint Foreign Committee of the Jewish Board of British Jews and the Anglo-Jewish Association ”.
2. Letter, with annex, dated April 5th, 1929, addressed to His Excellency M. Adatci by the “ Comité exécutif de l'Union des Sociétés de bienfaisance Dobroudja ”.
3. Letter dated April 8th, 1929, addressed to His Excellency M. Adatci by the “ Comité national des Organisations des émigrés macédoniens en Bulgarie ”.
4. Letter dated April 9th, 1929, addressed to His Excellency M. Adatci by the “ Union des Bulgares bessarabiens en Bulgarie ”.
5. Documentation addressed to the members of the Committee by the “ Union des Associations pour la Société des Nations ”.
6. Documentation forwarded by the “ Union parlementaire ”.
7. Memorandum communicated by the “ Conseil pour les droits de minorités juives ”.
8. Memorandum with annex and resolution, forwarded by the “ Ligue internationale des femmes pour la paix et la liberté ”.
9. Letter from the “ Alliance Israélite universelle ”.
10. Letter from the “ Hilfsverein der Deutschen Juden ”, Berlin.
11. Memorandum, with annex, from the “ Comité exécutif des Congrès des nationalités européennes ”.

**Appendix.**

**LIST OF CHANGES TO BE MADE IN THE REPORT OF THE COMMITTEE  
INSTITUTED BY THE COUNCIL RESOLUTION OF MARCH 7TH, 1929.**

C.C.M. 2 (1).

**NOTE BY THE SECRETARY-GENERAL OF THE LEAGUE.**

The following changes should be made in document C.C.M.1. :

I. No. 4, which appears at the bottom of page 43 under the heading "Declarations made before the Council of the League of Nations", will read as follows :

4. *General Declarations made before the Council of the League of Nations :*

- " (1) Declaration by Albania, dated October 2nd, 1921.
- " (2) Declaration by Estonia, dated September 17th, 1923.
- " (3) Declaration by Latvia, dated July 7th, 1923.
- " (4) Declaration by Lithuania, dated May 12th, 1922.

5. *Special Declaration made before the Council of the League of Nations :*

" (1) Declaration by Finland (in respect of the Aland Islands), dated June 27th, 1921."

II. The first sentence of the third paragraph of Chapter IV (page 48), beginning "In accordance with" and ending "countries", will be incorporated in the second paragraph. The third paragraph will begin "Finland, after undertaking", etc.

III. In the last paragraph on page 48, the words "the Aland Islands, the sovereignty over which was assigned to Finland in 1921" will be omitted.

IV. In the first paragraph on page 49 the words "in regard to the Aland Islands" will be omitted, and the words "It should further be added that" will be inserted at the beginning of the paragraph. Further, this paragraph will be placed after those relating to Upper Silesia.

**11. QUESTION OF THE REPRESENTATION OF THE LITHUANIAN GOVERNMENT  
AT THE DISCUSSION OF THE QUESTION OF MINORITIES.**

**EXTRACT FROM THE MINUTES OF THE FIFTY-FOURTH SESSION OF THE COUNCIL—  
MEETING HELD ON MARCH 4TH, 1929.**

M. Zaunius, representative of Lithuania, came to the Council table.

The PRESIDENT read the following telegram dated February 27th, 1929, from the Lithuanian Government to the Secretary-General, together with the Secretary-General's reply, dated March 1st, 1929 :<sup>1</sup>

<sup>1</sup> Document C. 98. 1929. V.

*Telegram from the Lithuanian Government.*

"Item 12 of the agenda of the March Council session contains two questions of interest to Lithuania who has herself contracted minorities engagements and has minorities interests concerning Lithuanians. In conformity with Article 4 of the Covenant, Lithuania will be represented at the Council by M. Zaunius, Secretary-General of the Ministry for Foreign Affairs. — VOLDEMARAS."

*Reply from the Secretary-General.*

"I have the honour to acknowledge receipt of your telegram of February 27th informing me that Lithuania will be represented at the Council by M. Zaunius when item 12 of the agenda of the coming Council session is discussed. I shall submit your communication to the Council at its first meeting on March 4th. — DRUMMOND, *Secretary-General.*"

The President did not think it possible immediately to settle the question whether Lithuania had the right to sit on the Council during the examination of the question of the protection of minorities. He proposed that a small Committee, composed of three jurists, should be appointed to examine this legal question. It seemed probable that, in addition to Lithuania, other countries might make a similar request, and for that reason it was better for an enquiry to be made and a decision taken which would apply in all similar cases.

*The President's proposal was adopted.*

M. ZAUNIUS, representative of Lithuania, thanked the President for the proposal he had made to submit to a Committee of Jurists the question whether Lithuania had the right to be represented on the Council during the discussion of the item concerning the protection of minorities. He would naturally offer no opposition to this proposal, though it was clear from the telegram sent by the Prime Minister that, in the view of the Lithuanian Government, it had the right and even the duty to send, in virtue of Article 4 of the Covenant, a representative to the Council.

He desired merely to know whether the Lithuanian representative would be given an opportunity of explaining the views of his Government to the proposed Committee of Jurists.

The PRESIDENT thought that it would be possible for the representative of Lithuania to submit any explanations he desired to the Committee of Jurists.

M. TITULESCO thought that the proposal to submit the Lithuanian Government's request to a Committee of Jurists for examination was merely of theoretical interest and referred only to the application of paragraph 5 of Article 4 of the Covenant.

As there was no question of making any change in the rules at present in force with regard to minorities, and as no change of this kind could be made without the consent of the parties signatory to the Minorities Treaties, the theoretical study which had been proposed could only be of practical use from the point of view of the composition of the Council, if the latter considered it advisable to discuss such changes.

The PRESIDENT confirmed that it was a theoretical study that would be undertaken.

M. Zaunius withdrew.

On the proposal of the PRESIDENT, the Council appointed M. BOTELLA, Sir Cecil HURST, M. ITO, and M. PILOTTI to be members of the Committee of Jurists.

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MEETING HELD ON MARCH 6TH, 1929.

M. Zaunius, representative of Lithuania, came to the Council table.

The following report of the Committee of Jurists was read :<sup>1</sup>

“ The Agenda of the Fifty-fourth Session of the Council includes the following items :

“ (a) Procedure applicable to minorities petitions : Proposals of the representative of Canada (document C.51(1).1929.I).

“ (b) The guarantee by the League of Nations of the provisions concerning the protection of minorities. Item inserted on the request of the representative of Germany.

“ It is in connection with these points that the request for an opinion was addressed to the Committee by the Council in its resolution of March 4th, 1929. The Minutes of the meeting at which the Council took this resolution state that the question to be decided is whether Lithuania has the right to be represented on the Council on this occasion . . . The same Minutes continue : ‘ It seems probable that, in addition to Lithuania, other countries may make a similar request, and for that reason it is better for an enquiry to be made and a decision taken which will apply in all similar cases.’

\* \* \*

“ The Committee decided, in the first place, to examine the principles governing the question, and on this matter its findings are as follows :

“ The rules for the execution of the Minorities Treaties and Declarations may be divided into two classes. Some are established by the Council on its own authority. Others require the concurrence of the States concerned.

“ 1. The first class includes decisions taken by the Council to determine the procedure whereby it exercises the powers conferred upon it by the Treaties and Declarations : to determine the competence of the Secretary-General of the League of Nations in the question ; and to determine the conditions for the receivability of petitions.

“ These decisions are of a general character, and relate to the working of League machinery, in a given sphere. They cannot therefore be regarded as raising a question ‘ specially affecting ’ a Member of the League within the meaning of Article 4, paragraph 5, of the Covenant. Hence, in so far as these decisions are concerned, the Council is under no obligation to invite States subject to minority obligations<sup>2</sup> to be represented.

“ 2. The second class of rules includes those which involve the performance by the States concerned of acts not covered by the Minorities Treaties and Declarations and, generally speaking, all rules affecting the legal situation as sanctioned by these Treaties and Declarations. These rules require the agreement of the Council and of the States concerned.

“ This was the case with the Council’s resolution of June 27th, 1921, which deals with the procedure to be adopted in regard to petitions concerning the protection of minorities received ‘ from petitioners other than Members of the League of Nations ’. This resolution lays down, in particular, that these petitions shall be communicated to the States concerned and that the latter shall be bound to inform the Secretary-General within a given time whether it intends to make any observations on the subject. If so, that State is given another time-limit for submitting such observations. The resolution of June 27th, 1921, expressly states that it shall be communicated to those States which have accepted the provisions relating to the protection

<sup>1</sup> Document C.98.1929.V.

<sup>2</sup> It is understood that the special interests mentioned in Article 4, paragraph 5, may be invoked when the Council is called upon to take a decision in connection with a specific petition, since in this case it is a question not of adopting rules for the execution of Minorities Treaties and Declarations but of applying these Treaties and Declarations to a particular case.

of minorities and that they shall be asked to say whether they wish the same procedure to be made applicable to them. In point of fact, the States concerned responded to this invitation by giving their consent.

" On that occasion, therefore, the Council, as normally composed, gave its decision,<sup>1</sup> and, once its decision was taken, the Council submitted it for acceptance to the States bound by minority obligations. This method is in conformity with the provisions which are contained in the Minorities Treaties and Declarations and relate to the amendment of those instruments.

" Proceeding to the two questions on which it has been consulted, the Committee notes that the text of the proposal mentioned above under (b) is not yet known. Accordingly, the Committee can only pronounce in respect of the proposal by the representative of Canada mentioned under (a).

" The Committee is of opinion that in some respects this proposal is not covered by the Treaties and Minorities Declarations. It aims, for example, at compelling the Governments concerned to forward certain communications at the request of the petitioner, and establishes new rules for the examination of petitions by the Council.

" The Committee must therefore conclude that this proposal involves rules which require agreement between the Council and the States concerned. There would be two parties to such an agreement — the Council and the State bound by minority obligations. For the purpose of reaching its own decision the Council will act without enlarging its normal composition; the States bound by minorities obligations will not be represented. Once its decision has been taken, the Council will communicate it to these States for their acceptance.

(Signed) Massimo PILOTTI.  
C. BOTELLA.  
N. ITO.  
Cecil J. B. HURST."

M. TITULESCO said that he had not had the time to do more than make a rapid examination of the report. He realised, however, the importance of the work which had been done. He would make certain observations, and, if account were taken of them, he would not oppose the adoption of the report.

In the first place, when the jurists' report referred to decisions as coming within the first class, and mentioned " the conditions for the receivability of petitions ", this expression should be understood in the light of the report of Senator Tittoni, dated October 20th, 1920, by the terms of which a petition was to be regarded as a mere source of information, which could not have the effect of legally submitting the matter to the Council and of inducing its intervention. The report also emphasised the fact that there could be no " plaintiffs " in the question.

Secondly, the resolution of June 27th, 1921, had only been quoted in the jurists' report as an example. It was clearly understood that any changes in the procedure already laid down, apart from the Treaties, by the Council in the interests of minorities and introduced as a result of other Council resolutions — a procedure which could not operate without the consent of the States possessing minorities — fell within the second class, for they implied " the performance by the States concerned of acts not covered by the Minorities Treaties and Declarations and, generally speaking, all rules affecting the legal situation as sanctioned by these Treaties and Declarations ".

In the third place, he did not think it would be advisable to lay down the rigid rule that, when the consent of the signatory States was necessary " for the purpose of reaching its own decision, the Council will act without enlarging its normal composition. The States bound by minorities obligations will not be represented. Once its decision has been taken, the Council will communicate it to those States for their acceptance." The case might indeed arise in which States would have important observations to make which, if made in time, might assist the Council in reaching a decision. It might also be that the procedure proposed would make the acceptance of the States concerned more difficult to obtain.

<sup>1</sup> Unlike the other States concerned Poland and Czechoslovakia were in this case represented on the Council, but only because they had submitted proposals to the Council. The latter discussed these proposals and the two States straightaway expressed their agreement.

He thought, therefore, that the Council should keep its freedom of action. In any case, while not opposing the adoption of the jurists' report, he wished to state that it could in no way constitute a precedent to be used against States possessing minorities obligations.

M. ZALESKI fully associated himself with the observations of M. Titulesco.

M. ZAUNIUS said that he had read with great interest the report of the Committee of Jurists, which the Council had appointed to examine the question whether Lithuania could legally send a representative to sit on the Council, under the terms of Article 4 of the Covenant when the questions concerning minorities, in which the Lithuanian Government was particularly interested, were under discussion.

He had been glad of the opportunity of explaining the point of view of his Government to the jurists, and he thanked that Committee for having listened to him. Nevertheless, he must point out that he would have been particularly glad if, instead of being heard by the Committee, he had had an opportunity of taking part in its work. Perhaps, had such a procedure been followed, a report might have been drawn up which would have been unanimously accepted. Unfortunately, that was not the case. He was compelled to make certain observations on the report which led him to the conclusion that it would be difficult for him to accept it.

The report mentioned two classes of questions. In regard to one of them it was maintained that the Council could act alone, without the consent of the States concerned. M. Zaunius thought that the difficulty lay in the definition of that class of questions. He could not support the definition of that class given by the Committee, for he thought it lacking in precision. The report also mentioned decisions of a general character as belonging to the class of decisions which the Council could take alone.

The fact that the decisions were general in character could not be a reason for allowing the Council to take them alone. On the contrary, the fact that a number of States might be affected by a particular decision did not make that decision of the Council less important for the States concerned. Account should also be taken of the fact that the general decisions might have quite a different effect according to the State to which they were applied.

The report was based on the view that the Council asked the States to take part in its discussions when it thought that there was something of particular interest to them. He regretted that he was unable to support this view, which could not be justified by the terms of the Covenant. Article 4, paragraph 5, merely stated that the State concerned was asked to sit on the Council when it discussed a question of particular interest to that State. The Covenant of the League of Nations did not make the participation of that State in the work of the Council dependent on any conditions except the condition that it was specially interested in the matter. The Covenant was also careful to refrain, and this was intentional, from subordinating the participation of the State in the work of the Council to recognition by the other States on the Council of the legitimate nature of its interest. It was clear that the State itself was the only fully qualified judge of its interests, when the question of those interests arose. This was incontestably true.

Consequently, in the case of Article 4, paragraph 5, of the Covenant it would be difficult, unless there were express stipulations to the contrary, to depart from this rule and to grant to any other State, or even to the Council of the League, the right to judge whether a particular State was, or was not, actually interested in a question.

The part to be played by the Council in the case of Article 4, paragraph 5, was not, therefore, to justify the admission, or the non-admission, of the State concerned to sit on the Council when the Council discussed questions of particular interest to it. It was the Council's duty merely to take note of the statement made to it by a State to the effect that it was specially interested in a particular question. Such a statement was all that was required to establish that State's right to become a Member of the Council when that question was discussed.

Moreover, it might perhaps be argued that, in all the Treaties or Declarations concerning minorities, the interested States had accepted a clause authorising the Council to settle the procedure which it considered appropriate and effective for the discussion of minorities questions. M. Zaunius wished therefore to point out that any contradiction between the point of view of his Government and the clause of the minorities declarations to which he had just referred

was only apparent, for it would be absolutely wrong to interpret this clause as giving the Council a free hand to establish the procedure which it thought advisable, without giving the interested countries the opportunity of helping to settle that procedure or even of knowing what that procedure was. It was under the auspices of the Covenant that the declarations protecting minorities had been made, and the reference to the " Council of the League of Nations " in the Minorities Treaties should also be read in the light of Article 4 of the Covenant which established the right of the interested countries to be represented on the Council.

This interpretation of the minorities obligations was, he thought, also admitted in the jurists' report, for they agreed that any change of procedure to be adopted must necessarily be decided upon with the help of the States which might be affected by that change.

He had one final observation to make. He willingly agreed that there were questions in regard to which the Council could take no decision binding upon other States without their consent. The jurists' Committee had agreed that this was the case. Unhappily, however, it drew a conclusion which certainly came as a surprise to him. The Committee said that certain questions — even questions on the agenda of this session of the Council — were, so to speak, beyond its competence. To deal with them, the consent of States not ordinarily Members of the Council would have to be obtained. However, to M. Zaunius' great astonishment, the Council decided not to ask those States to be represented but to settle the questions in their absence, and later to submit its decision for their approval.

He wished to emphasise the fact that this point should be very closely examined, for such a procedure, in his view, would merely lead to the creation of an unfortunate situation, both for the Council and for the State affected by its decision. He thought that, having regard to the stipulations of the Covenant, such a position might create difficulties for a State which received an ultimatum calling upon it to accept or refuse a particular situation. This would be particularly unfortunate for a State desirous of co-operating with the League of Nations.

He wished to point out another difficulty. Obviously, the position of a State was very different, according as to whether it was faced by a decision in which it had taken no part, or whether it was faced by a decision to which it had been able to contribute.

He had no further observations to make on the report of the jurists. He regretted not to be able to agree with the previous representative's arguments or with his conclusions. He asked the Council not to accept the report and stated that his Government reserved the right to reopen the question at an appropriate moment before the competent institutions.

The PRESIDENT agreed with the first two proposals of M. Titulesco. He thought, however, that, in view of the fact that the Council's decision would be of great importance for the future, the third point could be more clearly defined. When the question arose of calling upon the representative of a particular Power to sit on the Council, it was not for the purpose of obtaining explanations from him. Explanations could be obtained from anyone, even from outside persons. To sit on the Council meant to take part in its discussions, to vote, and to possess the same powers as all the other Members of the Council. The fact, therefore, that a State might be called upon to furnish the necessary information did not as a consequence imply that it had the right to sit on the Council in accordance with Article 4, paragraph 5, of the Covenant. He thought that, in the last part of his proposal, M. Titulesco had moved from one idea to the other.

M. TITULESCO pointed out that his proposals were elastic.

The PRESIDENT doubted whether anything elastic really provided a sure foundation. He thought that this difference should be emphasised, for he had considerable doubts about the elasticity. He would not exclude it. On the contrary, he would make it still more elastic when it was a question of hearing the views of a Power. He would limit it, however, to the provisions of the Covenant (which the Council could not amend), when it was a question of calling upon the representative of a Power to sit on the Council with the right to vote, in accordance with the terms of Article 4.

He thought that the opinion submitted by the jurists corresponded to the stipulations of Article 4. That article pointed out that a State must have a special interest in a question in order to be represented. He drew particular attention to the word " special ", for every Power possessed a general interest in all that the Council discussed. The Council represented

the general interests of all Powers, even those who were not on the Council. This was no reason, however, why all States should be allowed to sit on the Council.

He thought, therefore, that, though the Council could, if necessary, hear the views of Powers which had a particular interest at stake, the Council as normally constituted was nevertheless entitled to deal with the matter.

M. TITULESCO said that it was not because the President had stated that his third observation contained an elastic proposal that he desired once more to address the Council, although in his view a certain amount of elasticity was essential for those who wished to cover great distances without fatigue. He thought, however, that the observations of the President were covered by the formula he had himself proposed. He had maintained that the Council must remain the master of its own decisions. He took the view that the formula proposed by the jurists was too rigid, in the sense that it pointed out that the decision must, in the first instance, be taken by the Council and that it must then be submitted to the signatory States for acceptance. This was perhaps a possible view, but it was too rigid.

But there was another alternative — namely, that the signatory States should at once be called upon to give their views, because these might often be of great use to the Council and would thus make the acceptance of its decision the easier. With that subtlety of mind for which he could never express too much admiration, the President maintained that this was indeed the case, but that it was possible for a representative to sit on the Council in a double capacity, either with the right to vote or merely with the right to make his views known. This proved that there were three possible ways of interpreting the elastic formula which M. Titulesco had moved: (1) a simple decision to be communicated to the States concerned for their acceptance; (2) an appeal to the States concerned, granting them the right to vote; (3) an appeal to the States concerned with the mere right to express their views.

The reason why he had made his observations was in order not to prejudice the question as far as the future was concerned in any direction whatever. He thought, therefore, that the Council could accept the report of the jurists; but, as far as he was concerned, he could accept it subject only to the observations which he had made. His conclusion was that a precedent could not be created to the prejudice of States possessing minorities obligations.

Sir Austen CHAMBERLAIN said that there was one observation made by the honourable representative of Lithuania on which he would like to make a brief comment. If he rightly understood him, M. Zaunius had propounded the claim that any country which declared itself an interested party was sole judge of its interest, and that the Council was obliged, by reason of its having made that claim, at once to admit it to sit and deliberate as a Member of the Council for that purpose. Sir Austen felt that this was a claim which would be destructive of the authority of the Council and, indeed, of its capacity for work, and he wished at least to express his own opinion that it was not only the right but the duty of the Council to reserve to itself the determination in each case of whether there was that particular interest on the part of any State which would give that State a right to sit and deliberate on that question as a Member of the Council.

M. ZAUNIUS said that the representative of Great Britain had fully understood the views which he had put forward. It was not by mere chance that the formula announcing the despatch of a Lithuanian representative had been strictly in conformity with the terms of the Covenant when it stated that that person would represent Lithuania on the Council. It was quite understood that that representation should be within the limits of Article 4, as established or interpreted by the competent organs of the League.

Lithuania might have one opinion—the one, in fact, which he had just expressed—but that opinion need not necessarily be shared by all States Members of the League. It might be of advantage to draw up a final ruling on the point under discussion. As far as Lithuania was concerned, it appeared neither dangerous nor destructive from the point of view of the League and of the Council to accept the Lithuanian view. This was a very delicate question, for it concerned fixing the limits of the competence of the Assembly and of the Council. It could not, however, be maintained that the Assembly had been unable to do any useful work. Further, as was invariably the case in the Covenant, it was not the strict application of rules but the co-operation of States which achieved results. Even if the rule which he had just explained



to the Council had been accepted—a fact which he doubted after having listened to the observations of the representative of Great Britain—he did not think that it would have led in practice to an unfortunate result. On the contrary, the final conclusion of the jurists seemed to him to show that it was much more dangerous to admit that the decision of the Council might not bind other States. He thought that there was one argument contained in the last paragraph of the conclusions of the jurists which was strongly in favour of the theory he had put forward.

The PRESIDENT said that the Council was asked to decide upon the report of the Committee of Jurists with the explanations which he had given after hearing the observations made to the Council.

*The report of the jurists was adopted.*

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12. INSERTION ON THE COUNCIL AGENDA OF A PETITION FROM THIRTY-FOUR PERSONS, OF RUSSIAN ORIGIN, LIVING IN LITHUANIA, CONCERNING THE CONFISCATION OF THEIR LANDS UNDER THE LITHUANIAN AGRARIAN REFORM LAW OF FEBRUARY 15TH, 1922.

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EXTRACT FROM THE MINUTES OF THE FIFTY-SIXTH SESSION OF THE COUNCIL—MEETING HELD ON SEPTEMBER 6TH, 1929.

M. Voldemaras, representative of Lithuania, came to the Council table.

M. VOLDEMARAS. — . . . . . There was, however, another aspect of the question which could not be estimated in money—namely, the legal aspect. M. Voldemaras had come before the Council with the definite object of defending the law, for, if law were to be paramount in all international relations, its preferred place was to be found at the Council table. It was because he was convinced that questions of law would always receive consideration at the Council table that M. Voldemaras ventured to recall the circumstances of the case.

The Council or Members of the League had received a request signed by thirty-four persons of Russian origin who alleged that, as a minority in Lithuania, their national rights had been injured by the agrarian reform which had been brought about in Lithuania as a result of the law passed by the Constituent Assembly in 1922.

The Committee presided over by the Finnish representative, M. Procopé, had had this request before it and had asked the Lithuanian Government for information. Before communicating that information, the Lithuanian Government had thought that it was entitled to examine the nature of its obligations to the Council and had reached the conclusion that the request made to it was not in order.

On December 15th, 1920, the League Assembly had passed a resolution which was as follows :

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

This was the basis upon which the Lithuanian Government's undertaking had been contracted.

Later, Article 9 of the declaration contained in the report adopted by the Council on May 12th, 1922, laid down the following provision :

“ Any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction or 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 circumstances.”

M. Voldemaras laid particular stress on the words “ in the circumstances ”. They signified that no obligation had been entered into as to procedure. The Members of the Council were entitled to bring the question before the Council. It was for the Council to decide as to the procedure which should be adopted in each case. That right had been exercised in similar questions in connection with claims made by private persons who alleged that one or another of their rights had been injured. In 1926, for instance, the Council had been called upon to decide on the question of procedure. The Rapporteur had been the distinguished President of the present Assembly, M. Guerrero. A Committee of Jurists had been set up, and, after studying the question, had advanced the following opinion :

“ No denunciation or complaint coming from public or private persons not invested with the peculiar responsibility imposed upon States and Governments by the exercise of sovereignty can be laid before the Council.”

Later, the report of the jurists had recommended the diplomatic procedure to be adopted — namely, that the Lithuanian Government should be approached, that the question should be studied, an opinion formed and the matter brought before the Council or abandoned.

The report by the jurists had been adopted by the Council, and Lithuania had believed herself entitled to ask that it should be applied in this concrete case—that was to say, she had desired, as in other matters, that no private plaintiffs should appear before the Council, but that any accusation should be formulated by a Member of the Council on its own responsibility. It was only in this manner that the Lithuanian Government could be required to reply to such a charge.

The Council was now confronted with a private complaint upon which no member of the Council had expressed his personal opinion. In the report submitted by the representatives of the three Powers which had asked that the question should be placed on the agenda, it was stated that those three Powers were obliged to base their request solely on the complaint itself, as they had no other sources of information.

As M. Voldemaras had just indicated, the question, considered from the material point of view, was quite insignificant, but everybody realised that in small questions it was easier to defend the law as such.

The Lithuanian Government believed that a regulation which consisted in disregarding rules was not sufficient. It was for that reason that, in the previous year, when general questions relating to minorities had been raised in the Council, the Lithuanian Government had been the first to offer its co-operation, and had informed the Council of its willingness to take part in the discussion of questions which interested it keenly, since it had contracted certain minority engagements.

The Council had chosen another road. It was therefore not the fault of the Lithuanian Government if it observed the formal engagements into which it had entered with the Council, without considering modifications in which it had taken no part.

One further point to emphasise was the fact that these engagements, as had been recognised by the Committee of Jurists, were unilateral engagements, not only as regards their contents, but also in form. They did not constitute an international treaty, but formed a declaration which had been read before the Council and of which the Council had taken note. In the declaration itself, however, to which the Council had given its assent, provision had been made for an interpretation which was intended to result in rules which would be generally valid.

Nobody, therefore, could justifiably feel resentment if the Lithuanian Government demanded that its engagements should be applied in the form in which they had been contracted ; whereas in the annual report the question was presented as arising from a Council resolution dated October 25th, 1920—a resolution taken without the consent of Lithuania, which was not then a Member of the League, and which that country had not been requested to execute when it was admitted to the League.

That was why in this question—otherwise a matter of no interest—the legal aspect stood out very clearly.

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EXTRACT FROM THE MINUTES OF THE FIFTY-EIGHTH SESSION OF THE COUNCIL—MEETING  
HELD ON JANUARY 15TH, 1930.

M. Zaunius, representative of Lithuania, came to the Council table.

M. ADATCI made the following statement :<sup>1</sup>

The Council has received my report (Annex) on this question, dated December 27th, 1929, containing a number of comments on the various points of procedure raised by M. Voldemaras on behalf of the Lithuanian Government at the Council session on September 1929.

In view of this latest communication from the Lithuanian Government,<sup>2</sup> I see no point in the Council's discussing my report of December 27th, 1929, which should, I think, simply be appended to the Minutes of the present meeting.

M. PROCOPÉ said that, as Chairman of the Committee of Three which had examined the question, he desired first to express to the representative of Japan, who had acted as Rapporteur, his high appreciation of the report communicated to the Council. That report dealt with the question in a thorough, clear and well-informed manner, and approved the procedure adopted by the Committee of Three.

Mr. DALTON associated himself with what had been said by the representative of Finland. He also desired to compliment the Rapporteur upon the very clear and careful way in which he had set out the details of a complicated case, which had been before the Council for some considerable time.

M. GRANDI associated himself . . . with the declarations of the representative of Finland.

*The conclusions of the Rapporteur's statement were approved.*

M. Zaunius withdrew.

Annex.

EXTRACT FROM THE REPORT BY THE REPRESENTATIVE OF JAPAN.<sup>3</sup>

II.

Before entering upon the raised questions in the petition before us, I consider it essential to submit to the Council some considerations as to the points of procedure raised by M. Voldemaras in his statement on September 6th, 1929. M. Voldemaras himself emphasised this aspect of the question, and I am convinced that the Council will agree that it deserves the most careful examination.

<sup>1</sup> Document C.75.1930.I.

<sup>2</sup> See *Official Journal*, February 1930, page 185 (Annex 1195a to the Minutes of the Fifty-eighth Session of the Council).

<sup>3</sup> Annex 1195 to the Minutes of the Fifty-eighth Session of the Council.

A. With reference to the request for information made by the Committee to the Lithuanian Government, M. Voldemaras stated that, after examining the nature of its obligations to the Council, his Government " had reached the conclusion that the request was not in order".

1. It is first necessary to clear up any misunderstanding which might be caused by M. Voldemaras' reference to the stipulation in Article 9 of the Lithuanian Declaration of May 12th, 1922, for the Protection of Minorities to the effect that :

" Any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or 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 circumstances."

M. Voldemaras interprets the words " in the circumstances " as signifying that " no obligation has been entered into (by the Lithuanian Government) as to procedure " and that " it is for the Council to decide as to the procedure which should be adopted in each case ". All possibility of misunderstanding disappears, however, if a clear distinction is made between the general procedure, laid down by the Council for dealing with petitions with a view to facilitating the discharge of its duties under the Minorities Treaties and Declarations, and the special procedure, which the Council may consider most suitable for the settlement of any given question submitted to it. It is only necessary to read the passage from the Lithuanian Declaration quoted above, to which M. Voldemaras refers, to realise that the question here at issue is not the general procedure, but only the measures the Council may decide to take for the solution of any given question submitted to it. On the other hand, the point raised by M. Voldemaras concerning the request for information regarding a petition manifestly relates to the general procedure, whose object is, as stated, to assist the Council and its members in exercising their rights and also in discharging their obligations in regard to the protection of minorities. I feel therefore justified in stating that M. Voldemaras' reference to Article 9 of the Lithuanian Declaration is not based on a correct interpretation of its provisions.

2. It appears from M. Voldemaras' statement that the reason why the Lithuanian Government regards the request for information as out of order is that it desires to confine itself to the positive engagements which it had contracted with the Council " without considering modifications in which it had taken no part ". M. Voldemaras no doubt intended to imply by these words that the Lithuanian Government does not consider itself bound by the various resolutions of the Council and the Assembly relating to procedure. It is important that I should make myself perfectly clear on this point.

In accordance with the existing procedure, the Secretary-General forwards every petition declared to be " receivable " to the Government concerned for " any observations it may wish to make ". Moreover, during the examination of a question by a Minorities Committee it often happens that the latter unofficially asks the Government concerned, either for additional information, when it has already submitted its observations, or for its observations when — as in this case — it has not yet done so. It is true that M. Voldemaras only referred in his statements to the Committee's request for information and not to the forwarding of the petition to his Government for observations. I should therefore be justified, strictly speaking, in confining my remarks to the definite point of the Committee's request for information ; but, as the forwarding of the petition for observations has also been objected to by the Lithuanian Government, I think it better to deal with this point also.

(a) The forwarding of the petition to the Government concerned does not, strictly speaking, constitute a request for information, but is rather designed to furnish the Government with an opportunity of submitting its observations for communication to the Members of the Council, together with the petition. It is, however, understood that the Government concerned is free to reply that it does not intend to make any observations, in which case the petition alone is submitted to the Members of the Council. This communication takes place in virtue of the resolution of January 27th, 1921, the last paragraph of which lays down that the States concerned shall be informed of the decision taken and asked whether they wish the procedure laid down in that resolution to be applied to them. As Lithuania had not, at that time, given any undertakings regarding the protection of minorities, she had no opportunity of giving

her *express* consent to this procedure, but the belief that she had *tacitly* accepted it is all the more justified as, since the coming into force of the Lithuanian Declaration concerning the Protection of Minorities (December 11th, 1923), several petitions have been forwarded to the Lithuanian Government, under this resolution, and the Lithuanian Government has not only raised no objections to this procedure being applied to itself, but has submitted observations which have been examined by the respective Committees and by the Council.

(b) But, as stated above, it is the request for information made by the Committee that examined the question under the terms of the resolution of October 25th, 1920, which, in M. Voldemaras' opinion, is not in order.

In the first place, M. Voldemaras contests the view that the resolution of October 25th, 1920, setting up the Minorities Committees, can be applied to Lithuania on the ground that it is a resolution taken "without the consent of Lithuania, which was not then a Member of the League, and which that country was not requested to accept when it was admitted to the League". I would remind the Council that, in March 1929, a Committee of Jurists, which it appointed on a proposal by the Lithuanian Government, investigated the distinction to be drawn between rules of procedure regarding minorities which could be framed independently by the Council, and rules which could only be applied with the concurrence of the interested Governments. In its report to the Council, which the latter adopted on March 6th, 1929, this Committee defines these two categories of rules as follows :

"The first class includes decisions taken by the Council to determine the procedure whereby it exercises the powers conferred upon it by the Treaties and Declarations ; to determine the competence of the Secretary-General of the League of Nations in the question ; and to determine the conditions for the receivability of petitions . . . The second class of rules includes those which involve the performance by the States concerned of acts not covered by the Minorities Treaties and Declarations and, generally speaking, all rules affecting the legal situation as sanctioned by these Treaties and Declarations. These rules require the agreement of the Council and of the States concerned."

The mere reading of the resolution of October 25th, 1920, suffices to show, beyond dispute, that it must be included in the first of the two categories established by the jurists. Indeed, it would be difficult to find a rule which fitted more perfectly into the first of the three formulae employed by the jurists to define this category. I will read it word for word :

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

(c) But let us go further and examine, not the Minorities Committees as created by the 1920 resolution, but the actual steps whereby the Committee which examined the petition before us requested the Lithuanian Government for certain information. I can quite understand the Lithuanian Government taking the view that, whatever opinion may be held regarding the legitimacy of appointing committees to study petitions without the concurrence of the interested Governments, these Committees are not entitled to call on the Governments for information, unless their consent to the use of this procedure has first been obtained. I need hardly remind my colleagues that these relations between committees and interested Governments are a feature of those unofficial activities which the committees have developed side by side with their strictly official duties ; I would particularly emphasise the importance of this work from the point of view of the protection of minorities. Such activities which pre-suppose friendly collaboration with the Governments concerned would not, indeed, be conceivable without the tacit or express agreement of the latter. Moreover, if the Council had made any special rule in regard to action of this sort, which is not the case, such a rule would certainly come within the second category established by the jurists — namely, that of rules which the Council is not entitled to make without the concurrence of the interested Governments.

But Lithuania, like all the other States which have entered into engagements for the protection of minorities, gave its tacit consent to this work of the committees when it agreed to co-operate with them (as it has done on several occasions) and later it gave its express and positive consent on September 22nd, 1925, by voting in favour of a draft resolution submitted to the Assembly by the Sixth Committee, the first paragraph of which reads as follows :

“ The Assembly *approves* that part of the report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly, dealing with the procedure followed with regard to the protection of minorities (Paragraph VI of Chapter 7 of the Supplementary Report).”

Paragraph VI of Chapter 7 of the Supplementary Report gives detailed information regarding the unofficial work of the Minorities Committees. I will read you the following passage :

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

It should, moreover, be observed that the resolution was proposed by the Sixth Committee of the Assembly after an exhaustive debate on minority procedure, following on a proposal of the Lithuanian Government, and that, in this debate, the Lithuanian representative (M. Galvanauskas) took a particularly active part.

In my opinion, we may conclude from these considerations that the request for information made by the Committee was in accordance with the existing procedure, to which the Council continues to attach the highest importance and which we are all entitled to regard as having received the *tacit* and *express* approval of the Lithuanian Government.

B. In his speech on September 6th, M. Voldemaras argued that the Lithuanian Government was only obliged to reply if a Member of the Council made an accusation on his own responsibility. He then pointed out that, in the present case, the Council was dealing with a private complaint upon which no Member of the Council had expressed his personal opinion. In so far as this argument merely states that questions affecting the protection of minorities can only be submitted to the Council on the initiative of one of its Members, I am sure that no Member of the Council would hesitate to express his concurrence. It would be well, however, to be clear on certain points of detail :

1. In the first place, M. Voldemaras invokes in support of his argument the report of a Committee of Jurists adopted by the Council on September 20th, 1926. This report refers to the application of the Memel Convention, and it is perfectly clear from its wording that the procedure to be applied in the case of that Convention cannot be confused with the procedure applicable to minority questions. The report says :

“ It should be pointed out that the procedure laid down in Article 17 of the 1924 Convention (Memel) concerning infractions of that Convention should not be confused with the procedure outlined in Article 11 concerning the protection of minorities. As regards the protection of minorities, the Members of the Council have an analogous, but not a similar, right. They may draw the attention of the Council, not only to any infraction, but also to ‘any danger of infraction’, and in this case it is a question, not merely of an infraction of definite provisions in the Convention, but of infractions or danger of infractions of undertakings placed under the general guarantee of the League of Nations itself.”

2. The word "accusation" was employed several times by M. Voldemaras in his speech of September 6th to describe the action which one or more Members of the Council must take before it can examine a minority question. The use of the word "accusation" may, in my opinion, give rise to misunderstandings which it is in the interests of us all to dissipate. As we are here concerned with Lithuania, I will read the following passage from Article 9 of the Lithuanian Declaration, which is incidentally identical with that of the corresponding articles in the other Treaties and Declarations :

" Any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or danger of infraction, of any of these stipulations, and the Council may thereupon take such action, etc. . . . "

Are the words "bring to the attention of the Council" to be understood as meaning that a Member of the Council who desires to exercise this right must lodge a formal "accusation" with the Council against the interested Government? Personally, I do not think so, and I can assure the Council that, in practice, such an interpretation has not hitherto been adopted. I am fortunately able to invoke the precedent of a Minorities Committee which sat under the Chairmanship of Dr. Beneš and included the representatives of Spain and Great Britain. These three Members of the Council did, in fact, in a note dated Rome, December 11th, 1924, ask that a question relating to the position of the Polish minority in Lithuania should be placed on the agenda of the Council "so as to facilitate an exchange of views with the Lithuanian Government on these questions". It is clear that these three Members of the Council considered that there was, in the case submitted to them, danger of an infraction of the Lithuanian Declaration concerning the Protection of Minorities, and that it was on those grounds that they asked that the question should be placed on the agenda of the Council. Nevertheless, although the terms employed were so different from those which would have been necessary in an "accusation", the Lithuanian Government raised not the slightest objection to this procedure, and gave every facility for the "exchange of views" desired by the Committee.

(3) M. Voldemaras has stated that, in the present case, the Council is confronted with a private complaint upon which no Member of the Council has expressed his personal opinion. I doubt if M. Voldemaras, when he made this statement, had sufficiently considered the note signed at Madrid on June 14th, 1929, by the representatives of Finland, Great Britain and Italy. I find in this note the following passage, which seems to me to express a very definite opinion on the petition :

" On account of the attitude taken up by the Lithuanian Government the Members of the Committee have been obliged to base their study of the question solely on statements made in the petition. The petitioners consider themselves unfairly treated in comparison with other Lithuanian citizens, on account of their Russian origin. *This might involve a danger of an infringement* of the provisions contained in Article 5 of the Lithuanian Declaration concerning the Protection of Minorities, whereby, etc. . . . "

C. The last point raised by M. Voldemaras with regard to procedure refers to the unilateral character of the engagements entered into by Lithuania with regard to the protection of minorities. "They did not constitute an international treaty", said M. Voldemaras, "but formed a declaration which had been read before the Council and of which the Council had taken note". Without considering, at this moment, how far the minority engagements entered into by Lithuania were unilateral or bilateral, it seems to me incontestable that they constitute international obligations for Lithuania. Indeed, Article 9, paragraph 1, of the Lithuanian Declaration expressly states that the stipulations contained therein do, in so far as they affect persons belonging to a minority, constitute obligations of international interest to be placed under the guarantee of the League of Nations — as was effected by a resolution adopted by the Council on December 11th, 1923. Again in a letter dated December 11th, 1923 from M. Galvanauskas, the representative of Lithuania, to the President of the Council — informing him of the resolution of the Lithuanian Sejm to the effect that the Declaration for the Protection of Minorities need not be ratified by Parliament — it was expressly stated that the Lithuanian Government desired to renew its engagement to the Council to abide strictly by the terms of the Declaration.

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APPENDIX.

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

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

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

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

M. URRUTIA read the following report and draft resolution :<sup>1</sup>

I.

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

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

<sup>1</sup> Document C.468.1928.I.

<sup>2</sup> The petition and the Polish Government’s observations thereon were communicated to the Members of the Council in document C.402.1928.I.



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

## II.

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

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

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

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

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

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

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

### III.

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

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

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

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

*The draft resolutions were adopted.*

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2. EXTRACT FROM THE MINUTES OF THE FIFTY-FIFTH SESSION OF THE COUNCIL —  
MEETING HELD ON JUNE 12TH, 1929.

M. ADATCI read the following report and draft resolution :<sup>1</sup>

At the meeting on March 9th last,<sup>2</sup> I had the honour to inform the Council . . . that the German and Polish Governments had agreed to engage in direct negotiations for the purpose of settling a certain number of points of interpretation also relating to the Geneva Convention of May 15th, 1922. The representatives of the two Governments and the Rapporteur had, in fact, for some time been discussing the possibility of making certain arrangements in regard to the procedure applicable to petitions from Upper Silesia. It seemed advisable to consider the possibility of improving and accelerating the local procedure laid down by Article 149 and also of lightening — without departing from the provisions of the Geneva Convention — the unduly heavy burden that had hitherto frequently been laid upon the Council by the application of Article 147.

“ These negotiations took place at Paris. They began on March 25th last and continued until April 6th. The German Government was represented by Dr. Noebel, of the Ministry for Foreign Affairs, assisted by M. Gürich, Baron von Grünau and M. van Husen. The Polish Government was represented by M. Sokal, Minister Plenipotentiary, Permanent Delegate of Poland accredited to the League of Nations, assisted by M. Morawski and M. Gwiazdowski. M. Calonder, President of the Mixed Commission for Upper Silesia, assisted by M. Huber, Secretary-General of the Commission, also took part in the conversations, and the Secretariat of the League of Nations attended. I had the honour to preside over the negotiations, and was myself assisted by M. Sato, Minister Plenipotentiary, Director of the Imperial Japanese Bureau accredited to the League of Nations. The negotiations, which proceeded from the outset in a most satisfactory atmosphere of cordiality, ended on April 6th with the conclusion of certain agreements which were signed by the delegates of the Polish Government and the delegates of the German Government, subject to the subsequent approval of their respective Governments. I would ask the Council to take note of the terms of these agreements.<sup>3</sup> In my view, they are to be regarded as a tentative effort to find practical solutions in connection with the application of certain clauses of the German-Polish Convention relating to Upper Silesia, the delegates of the two Governments having accepted these agreements with reservations as to their respective attitudes on certain legal points. The agreements relate principally to the procedure for the application of Articles 147, 149 and following. That is to say, they concern the right of petition and remedies, the form in which petitions are to be transmitted, proceedings before the Mixed Commission, time-limits, etc.

“ I must now inform the Council that M. von Schubert and M. Sokal have sent me letters<sup>4</sup> dated, respectively, May 18th and May 11th last, officially informing that the Paris agreements have been approved by the Berlin and Warsaw Governments.

“ I have accordingly the honour to announce to the Council the happy issue of these conversations. I regard the outcome as satisfactory. Proceedings in connection with petitions and appeals made under Articles 147 and 149 will undoubtedly be made easier in the future. The Council will no longer be called upon to pronounce on the substance of certain questions which are not really important enough to justify a direct appeal under Article 147. These questions will, in the first place, be submitted to the local procedure, which now becomes more efficient and more practical.

“ Such is the immediate outcome of the German-Polish conversations, of which I give the Council a brief account : I am quite sure that these arrangements will help to facilitate relations between the minorities of Upper Silesia and the competent authorities, to render

<sup>1</sup> Document C.272.1929.I.

<sup>2</sup> See *Official Journal*, April 1929, page 554.

<sup>3</sup> See page 233.

<sup>4</sup> See *Official Journal*, July 1929, page 1106 (Annex 1135a to the Minutes of the Fifty-fifth Session of the Council.)

the procedure more effective and rapid and to promote mutual trust and confidence on both sides, without which the Convention in force would hardly be adequate to settle the various questions involved.

"I must specially mention the statement made by M. Calonder in the course of the negotiations regarding the need for a spirit of close and friendly co-operation on both sides in examining and settling questions relating to minorities in Upper Silesia. The fact that this statement by the President of the Mixed Commission, which had its effect on the agreements themselves, was most favourably received both by the Polish and by the German delegation is a particularly significant circumstance to which I would draw the Council's attention.

"In communicating the above to the Council, I am fulfilling a two-fold duty: I am informing the members of the Council of the satisfactory outcome of the negotiations, and at the same time asking for their approval, which is essential to enable the texts in question to enter fully into force.

"I have therefore the honour to propose to the Council the adoption of the following resolution:

" 'The Council gives its approval, where that approval is required, to the Paris Agreement relating to the application of certain provisions of the Convention dated May 15th, 1922, regarding Upper Silesia, as set forth in the documents attached to the present report.' "

Sir George GRAHAME said that the issue of the German-Polish conversations appeared, as M. Adatci had pointed out, to be most satisfactory. He thought that the Council should offer its congratulations to M. Adatci for his laudable and successful efforts.

M. ZALESKI associated himself with the observations of Sir George Grahame, and very sincerely thanked M. Adatci for his important work.

Dr. VON SCHUBERT also associated himself with the observations of Sir George Grahame and M. Zaleski, and thanked M. Adatci, in the name of the German Government, for the trouble he had taken in the matter and for the work he had done.

M. ADATCI said that the remarks of his three colleagues were a great encouragement to him. There were still important questions to be settled, notably in connection with enrolments in minorities' schools.

*The draft resolution was adopted.*

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#### Annex.

#### GERMAN-POLISH CONVERSATIONS CONCERNING THE APPLICATION OF CERTAIN CLAUSES OF THE CONVENTION OF MAY 15TH, 1922, RELATING TO UPPER SILESIA (PARIS AGREEMENTS OF APRIL 6TH, 1929).

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The delegates of the German Government and the delegates of the Polish Government met at Paris from March 25th to April 6th, 1929, under the Chairmanship of His Excellency M. Adatci, representative of Japan on the Council of the League of Nations, acting in his capacity of Rapporteur on minorities questions, and with the assistance of M. Calonder, President of the Mixed Commission for Upper Silesia, and of the Secretariat of the League, to consider certain points connected with the application of the German-Polish Convention of May 15th, 1922, relating to Upper Silesia.

## RIGHT OF PETITION AND REMEDIES.

At the issue of their deliberations, the delegates of the German Government and the delegates of the Polish Government came to an agreement upon the arrangements and provisions set out below.

These arrangements are to be regarded as an attempt to find practical solutions, and they have been accepted by the delegates of the two Governments with reservations as to their respective attitudes on certain legal questions.

### A. PROCEDURE FOR THE APPLICATION OF ARTICLES 149 AND FOLLOWING.

#### 1. *Time-limits.*

(a) The Minorities Offices are bound to adhere strictly to the maximum period of forty-five days laid down in Article 39 of the Rules of Procedure for the transmission of petitions to the President of the Mixed Commission.

(b) The Minorities Offices are bound to submit the observations referred to in Article 152 of the Geneva Convention at the same time as they forward the petitions.

(c) In particular cases affected by the foregoing paragraphs, the President of the Mixed Commission may apply the provisions of Article 37 of the Rules of Procedure.

(d) The Minorities Offices are bound to furnish, within the period specified by the President of the Mixed Commission, such additional information as he may require.

(e) The Minorities Offices are bound to adhere strictly to the time-limits laid down by the President of the Mixed Commission, or, where necessary, to apply for such extension as circumstances may dictate.

(f) Should the time-limits laid down not be adhered to, the President of the Mixed Commission shall be entitled to take such steps as he may think fit to hasten the procedure and arrive at a solution. He might, for example, in particularly urgent cases, begin the proceedings, open the oral debates, and establish the presumptive truth of the facts alleged by the Minorities Offices or by the petitioners.

(g) The Minorities Offices are bound to adhere to the time-limit of twenty days laid down for them to state whether the opinion of the President of the Mixed Commission is accepted by the competent administrative authorities.

#### 2. *Forwarding of Petitions.*

The Minorities Offices are bound to forward every petition to the President of the Mixed Commission if they cannot succeed in satisfying the petitioners; it will, however, be open to them in every case to raise the question of competence.

#### 3. *Proceedings before the Mixed Commission.*

(a) It is desirable that proceedings conducted in writing should be shortened as much as circumstances allow in each case. In this matter the provisions of Article 37 of the Rules of Procedure may be applied.

(b) The President of the Mixed Commission states that he desires to reach a final settlement of every case laid before him under Article 149 within six months of the date on which the petition was lodged with the Minorities Office.

#### 4. *Co-operation.*

On this point the President of the Mixed Commission made the following statement:

“ In our discussions on local procedure, we have endeavoured to make that procedure under Articles 149 and following more efficient and more expeditious, and, in particular, to eliminate certain delays and obstacles in the work of the Minorities Offices. We may entertain the hope that the procedure upon which we have agreed will effect a valuable saving of time in the settlement of cases in which applications may be made under Articles 149 and following.

" Apart from these improvements in procedure, however, I must emphasise the need for friendly co-operation based on a desire for justice, conciliation and pacification. This moral factor is far more important than any technical point of procedure. Throughout every stage of the proceedings — before the competent national authorities, before the Minorities Offices, and in the Mixed Commission — the dominant idea must always be to reach a friendly settlement of the case wherever possible, by conscientiously and equitably applying the provisions of the Convention. I would refer to the general statement on the principles of co-operation which I had the honour to make in my speech on February 18th, 1929, when Secretary of State, M. Morawski, became a member of the Mixed Commission.

" As regards, more especially, the task of the President and the Polish and German members of the Mixed Commission, I should like to repeat here the actual words I used on that occasion :

" ' The principle of settling cases on a friendly basis wherever possible must also be applied by the Mixed Commission to the cases with which it has to deal. When other authorities have failed to bring about an amicable settlement, the Mixed Commission must make one more effort to secure a compromise. An equitable arrangement is always preferable to an opinion given by the President with the possibility of an appeal to the Council of the League of Nations ; and it is preferable not merely for the sake of reaching a compromise, but also because it enables a practical solution suited to the circumstances of the case to be reached without delay. Cases in which the President is forced to give an opinion should be the rarest exceptions. That is the view that I have always taken of my duties ; but if the President of the Mixed Commission is to be able to bring about amicable settlements, it is absolutely essential that the members of the Commission should personally intervene and use their good offices with the authorities of their respective countries. Indeed, this kind of co-operation is an essential part of the work of a Mixed Commission. It is further necessary that the competent authorities, as well as the petitioner, should make an effort to come to an equitable arrangement within a brief period.'

" I am sure that the Polish and German delegates will join with me in asking their Governments and authorities to give me their effective support in my efforts at conciliation."

M. SOKAL, on behalf of the Polish delegation, and Dr. NOEBEL, on behalf of the German delegation, expressed their complete agreement with the ideas of the President of the Mixed Commission.

#### 5. *Appeal to the Council.*

When an appeal is made to the Council under Article 149, the Rapporteur may, before the opening of the Council session, enter upon an examination of the substance of the question raised by the appeal with a view to the preparation of his report.

#### B. PROCEDURE FOR THE APPLICATION OF ARTICLE 147.

(1) Urgent petitions will still be subject to the procedure laid down in the Council resolution of September 8th, 1928 (Chapter III, third paragraph).

(2) Petitions which are not urgent, as soon as they reach the Secretariat, will be communicated by the Secretary-General to the Government concerned for any observations it may desire to make. They will be placed on the provisional agenda of the Council under the conditions laid down in the same resolution of September 8th, 1928 (Chapter III, third paragraph).

These petitions, together with the observations of the Government concerned, will be sent to the Rapporteur for examination. If the Rapporteur, assisted by the Secretary-General, concludes that the subject of the petition is not sufficiently important to justify its examination by the Council under Article 147 of the Convention and, further, that the case in question may be dealt with under Article 149, he will merely propose that the Council should not examine the substance of the petition. This proposal will be mentioned in the provisional agenda.

When the Council, on adopting its agenda, approves the Rapporteur's proposal, the petition in question will be removed and will not be placed upon the final agenda.

Petitions so removed will be submitted to the local procedure provided for under Articles 149 *et seq.* of the Geneva Convention, and for that purpose the Secretary-General will send them in triplicate to the Government concerned, which will forward them as rapidly as possible to the competent Minorities Office. The period of forty-five days referred to in Article 39 of the Rules of Procedure of the Mixed Commission will take effect from the date when the petitioner submits to the Minorities Office evidence that the conditions provided for in Article 150, Section 1, have been fulfilled, unless such evidence is furnished by the petitioner at an earlier date.

(3) The procedure laid down in (2) above will not be applicable to petitions in any of the cases referred to below under (a), first paragraph, and (b), first paragraph. These petitions will simply be set aside by the Secretary-General, with the approval of the Rapporteur, and will not be placed on the provisional agenda of the Council.

(a) Petitions relating to questions which are being dealt with under the local procedure provided for in Articles 149 *et seq.* of the Geneva Convention, while such procedure is pending.

If, however, any considerable delays occur in regard to the periods prescribed for this procedure, the petitions in question may be submitted directly to the Council under Article 147. The Council will then take a decision in regard to them.

(b) Petitions relating to questions regarding which the President of the Mixed Commission has approached the official agent of the Government concerned in accordance with Article 585 of the Geneva Convention.

In such cases petitions cannot be sent directly to the Council under Article 147, until a decision on them has been taken by the administrative authorities; or, if no such decision has been taken, until the expiration of a period of four months from the date when the President of the Mixed Commission applies to the Government agent in question. The fixing of this period of four months cannot, however, be taken to imply an obligation on the part of the Government concerned to give effect to the action taken by the President of the Mixed Commission.

(4) As Article 149 of the Geneva Convention only makes provision for petitions relating to the application and interpretation of the provisions of the third part of that Convention by administrative authorities who receive instructions through the proper official channel, petitions regarding matters not covered by that article may be sent direct to the Council under Article 147, subject to the provisions laid down in paragraph (3) (b).

Whenever the Council of the League is asked to give a decision on the substance of a petition from a minority in German or Polish Upper Silesia, the Rapporteur may, with a view to the preparation of his report, begin to examine the substance of the question raised in the petition even before the opening of the session of the Council.

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#### MEETING HELD ON JUNE 13TH, 1929.

The PRESIDENT, speaking as Rapporteur for minorities questions, said that at the public meeting on the previous day, the Council had adopted a report which he had submitted to it dealing with certain arrangements relating to the procedure to be applied to petitions from minorities in Upper Silesia. These arrangements had been concluded in the course of conversations between representatives of Germany and Poland which had taken place in Paris under his chairmanship.

He desired to inform his colleagues that certain points connected with the questions which had formed the subject of public conversation had also been dealt with in two letters addressed to him by M. Sokal, on behalf of the Polish delegation, and by Dr. Noebel, on behalf of the German delegation. Those letters were dated May 11th and 18th, 1929, respectively.

The two Governments in those letters had declared that the proposals which the Rapporteur might submit to the Council under paragraph 2, sub-paragraph 2, of the document, embodying the arrangements for dealing with unimportant questions brought before the Council under Article 147 of the Convention of Geneva, would not give rise to any objections on the part of the representatives of the two Governments.

Further, the two Governments had declared that they would facilitate as far as possible the task of the Rapporteur, if he should think it necessary either to procure supplementary information from the Governments or to question the petitioners. It was understood that, in the latter case, the German and Polish Governments would undertake respectively to forward to the petitioners the questions which the Rapporteur would formulate in writing, and would send to the Rapporteur the replies of the petitioners, which could be made either verbally or in writing at their discretion.

The German and Polish Governments had also declared that they would continue to carry out, as rapidly and completely as possible, the recommendations and wishes of the Council of the League of Nations concerning the questions affecting minorities in German and Polish Upper Silesia respectively. He was glad to be able to give this supplementary information to the Council.

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## PART III.

### RESOLUTIONS AND REPORTS ADOPTED BY THE ASSEMBLY.

A.163.1921.

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

*Adopted by the Assembly on October 4th, 1921.*

Chairman : M. V. SCIALOJA.

General Rapporteur : M. Herluf ZAHLE.

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

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

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

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

This resolution was worded as follows :

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

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

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

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

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

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

For the discussions, see Records of the Second Ordinary Session of the Assembly.  
Plenary Meetings, pages 184, 209-211, 835-837.  
Minutes of the First Committee, page 82.

A.83.1922.I.

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

*Adopted by the Assembly on September 21st, 1922.*

President : M. le Jonkheer LOUDON.

Rapporteur : M. MOTTA.

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

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

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

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

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

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

These draft resolutions run as follows :

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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For the discussions, see Records of the Third Ordinary Session of the Assembly.  
Plenary Meetings, pages 37-38, 42-43, 48, 60-61, 77-78, 92, 96, 99-100, 102, 170, 186.  
Minutes of the Sixth Committee, pages 11-12, 13-15, 17-21, 23-26, 27-30.

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3. REPORT SUBMITTED TO THE ASSEMBLY AT ITS FOURTH ORDINARY SESSION  
BY THE SIXTH COMMITTEE. /

*Rapporteur* : Professor Gilbert MURRAY (South Africa).

At its meeting on September 22nd, 1923, the Assembly adopted a resolution which I had submitted to it and which was worded as follows :

“ The Assembly refers to the Sixth Committee, for consideration, the question of the procedure in dealing with the protection of minorities mentioned in paragraph IV of Chapter 8 of the Supplementary Report on the work of the Council and the Secretariat.”

The Sixth Committee considered this question at its meeting on September 25th. The Committee was good enough to invite me to be present on that occasion. I drew the Committee's attention to the proposals concerning the procedure to be followed in matters regarding the protection of minorities, which are contained in the Notes addressed to the League of Nations by the Polish and Czechoslovak Governments ; these Notes are mentioned in the Supplementary Report on the work of the Council and of the Secretariat.

At its meeting on September 5th, 1923, the Council, after having considered these proposals, defined various points and modified to some extent the method of procedure in force until now.

An interesting discussion took place in the Sixth Committee, in which the representatives of Poland, Roumania, Bulgaria, Latvia, Estonia and Hungary took part, as did also the Chairman, M. Hymans, who, in his capacity as a member of the Council, was good enough to furnish certain information regarding the scope of the resolution of the Council.

The Committee did not discuss the various clauses of the Council resolution of September 5th, but confined itself to the consideration of one particular point, namely, the clause of the resolution according to which the communication to the Members of the League of minorities petitions and observations (should there be any) by the Government concerned, in conformity with the resolution dated June 27th, 1921, shall be restricted to the Members of the Council.

In this connection the Committee desired to recall the resolution adopted by the Third Assembly on September 21st, 1922, paragraph 5, which is worded as follows :

“ The Secretariat, which has the duty of collecting information concerning the manner in which the Minorities Treaties are carried out, should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to the racial, linguistic, or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire.”

The Committee unanimously agreed that this resolution was applicable to the minorities petitions which, under the terms of the Council resolution of September 5th, 1923, shall be communicated to the Members of the Council. The Committee therefore decided to recommend to the Assembly to adopt the following resolution :

“ Under the Resolution of the Council, dated September 5th, 1923, the communication of minorities petitions shall be restricted to the Members of the Council. However, by virtue of paragraph 5 of the Assembly resolution, dated September 21st, 1922, any Government Member of the League can make a request to the Secretariat for petitions (with the observations of the Government concerned) which have been communicated to the Council to be communicated also to that Government.”<sup>1</sup>

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For the discussions, see Records of the Fourth Ordinary Session of the Assembly.  
Plenary Meetings (*Official Journal*, Special Supplement No. 13), pages 39, 43, 45, 67, 93.  
Minutes of the Sixth Committee (*Official Journal*, Special Supplement, No. 19)  
pages 11, 23-24.

<sup>1</sup> This resolution was adopted by the Assembly at its meeting on September 26th, 1923.

A.88.1925.I.

4. REPORT AND RESOLUTION SUBMITTED TO THE ASSEMBLY AT ITS SIXTH ORDINARY SESSION BY THE SIXTH COMMITTEE.

*Rapporteur* : Count VAN LYNDEN VAN SANDENBURG (Netherlands).

The Assembly, by its decision of September 15th, referred to the Sixth Committee the following proposal submitted on September 14th, 1925, by M. Galvanauskas, Lithuanian delegate :

“ The Lithuanian delegation proposes that the Sixth Assembly of the League should set up a special Committee to prepare a draft general Convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to minorities.”

The Sixth Committee fully discussed this very important question at its meeting on September 16th, many delegates taking part in the discussion. On the one hand, the attention of the Committee was drawn to the fact that the Treaties and Declarations for the protection of minorities of race, language or religion are only the concern of certain States, while other States are exempt from such obligations, and this would not be in conformity with the principle of equality between States. On the other hand, several delegates pointed out that this way of looking at the question was not correct, since the special position of States bound by certain Treaties or Declarations was the result of special circumstances prevailing in those States.

During the discussion, the question also arose of the procedure followed by the Council and the Secretariat for dealing with concrete questions relating to the protection of minorities. In this connection, the Committee discussed paragraph VI of Chapter 7 of the Supplementary Report to the Assembly on the Work of the Council, on the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly. Several speakers paid a tribute to the work accomplished by the Council in the execution of its delicate duties and emphasised the merits of the procedure at present in force ; some suggestions were made that this procedure might be improved, but it was pointed out that, whatever was done, the provisions of the Minorities Treaties must be respected.

At the end of the discussion, it was proposed that the Committee should recommend the Assembly to give its formal approval to the above-mentioned part of the report, and this proposal was favourably received by various speakers.

M. Beneš, the Czechoslovak representative, proposed that, in view of the difference of opinion mentioned above, the Committee might unanimously recommend that the Assembly should refer the discussions of the Committee on the Lithuanian proposal to the Council of the League.

In view of this proposal, M. Galvanauskas, Lithuanian representative, stated that he withdrew his proposal. In order to bring M. Beneš' proposal into line with the situation thus created, Viscount Cecil, representative of the British Empire, proposed that the Committee should adopt the following resolution :

“ The Committee approves that part of the Council's report which relates to minorities and, the Lithuanian representative having withdrawn his proposal, the Committee communicates to the Council the debate which has taken place in this connection.”

Viscount Cecil's proposal was approved by the Committee.

The Sixth Committee has decided to submit the following draft resolution to the Assembly for approval :

“ The Assembly takes note of the Sixth Committee's report with regard to the protection of minorities and adopts the following resolution :

“ The Assembly approves that part of the Report on the Work of the Council, the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly, dealing with the procedure followed with regard to the protection of minorities (paragraph VI of Chapter 7 of the Supplementary Report). The Lithuanian representative having withdrawn the proposal submitted by him on September 14th, 1925, the Assembly requests the Secretary-General to communicate to the Council the discussion which has taken place in the Sixth Committee in this connection.”<sup>1</sup>

For the discussions, see Records of the Sixth Ordinary Session of the Assembly. Plenary Meetings (*Official Journal*, Special Supplement No. 33), pages 73, 77, 87, 105-107.  
Minutes of the Sixth Committee (*Official Journal*, Special Supplement No. 39), pages 15-21, 21-22, 41-42.

A. 66. 1930. I.

5. REPORT SUBMITTED TO THE ASSEMBLY AT ITS ELEVENTH ORDINARY SESSION BY THE SIXTH COMMITTEE ADOPTED BY THE ASSEMBLY ON SEPTEMBER 30TH, 1930.

*Rapporteur* : M. MOTTA (Switzerland).

In consequence of the resolution adopted by the Assembly on the motion of the German delegation, the Sixth Committee has devoted three of its meetings to the question of minorities. A large number of delegates spoke during the discussion. I should like, first of all, to emphasise the high level of the debates maintained by all the speakers in expressing their views, and to state that the discussion of such an essentially delicate subject was conducted throughout with the utmost friendliness and courtesy on all sides.

The discussion brought to light very marked differences of opinion, both on questions of principle and on questions of procedure. I do not think there is any need now to go into these differences in detail ; they can be clearly seen in the speeches recorded in the Committee's Minutes.

One of these differences concerns the general question whether the Assembly — and consequently the Sixth Committee — is competent to discuss the guarantee that the League has assumed on behalf of minorities in the so-called Minority Treaties. Some members maintained that the Assembly is competent because it is the supreme organ of the League, while others observed that the Minority Treaties have entrusted the question exclusively to the Council. All the delegates agreed, however, that the question of minorities could be discussed by the Assembly in virtue of Article 3, paragraph 3, of the Covenant of the League.

Without dwelling too long on the differences of opinion, I shall try to select from the debate a few general ideas on which I gained the impression that we were all agreed.

All the delegates laid stress upon the capital importance of the minorities problem. All agreed that it is one of the problems which may affect the peace of the world. All emphasised the fact that the problem is worldwide and concerns the whole of mankind. All the delegations look upon respect for religion, language and culture as sacred. Unanimity on this point is a fact of fundamental importance.

All the speakers without exception, referred to the procedure introduced by a unanimous vote of the Council at its Madrid session on June 13th, 1929. Opinions differ as to whether the Council has authority to alter that procedure without the consent of all the States which are bound by the Minority Treaties. It was observed that this question is perhaps more

<sup>1</sup> This resolution was adopted by the Assembly on September 22nd, 1925.

theoretical than really practical. Despite certain criticisms, nobody maintained that the Madrid procedure, which was an improvement on the former procedure, should be altered at the present juncture. It was generally recognised that the time that has elapsed since its adoption was not long enough to allow of a final judgment based on experience. Nobody disputed that the Council should continue to take all the action that was possible under the procedure in force.

In the course of the debate, I had occasion to point out that the duties of Rapporteur to the Council on minority questions have always been entrusted to representatives of non-European countries — Brazil, Colombia and now Japan. We were unanimous in our appreciation of the valuable services that those countries have rendered, and are rendering, in this matter to the cause of a good understanding among the European peoples.

The view that the system of protection should be generalised and extended to all minorities, whether protected by special treaties or not, was emphasised by a number of speakers. It is not for me, as Rapporteur, to express an opinion, because on this point the views and feelings of different members of the Committee are clearly divided. There did, however, appear to be unanimity on one point — namely, that the existence of the Minority Treaties, and the fact that the League has to ensure, and does ensure, their application, are contributing to the development of a new spirit. This spirit, despite the absence of any legal engagement, has permeated, in a moral sense, both States which have undertaken treaty obligations and those which have not.

All the speakers, even though upholding different views, expressed the opinion that the solution of the minorities problem was to be found in constant co-operation and mutual confidence between the majorities and minorities in each country. It is most satisfactory to note the statements made on this subject by several distinguished speakers of eminent authority. The discussion in the Sixth Committee would have been of real value, even if this had been its only result. The main idea brought out by the debates was co-operation between majorities and minorities. Majorities must be just and generous, and minorities must be loyal. Governments must constantly endeavour to smooth the way for mutual understanding and confidence and for co-operation between the majority and the minority.

The discussion in the Sixth Committee also touched upon the objects for which the Minority Treaties were intended. It would be unwise to dwell too much at present on this aspect of the question. These objects are many, but it will suffice to observe — and this is a point on which there can be no serious divergence of opinion — that one of the chief aims was undoubtedly to remove the obstacles raised during the course of history and as a result of the world war, which prevent majorities and minorities from working together. Such co-operation is one of the conditions of prosperity for individual countries, and of lasting peace for the world as a whole.

These, in brief, are the general ideas which have emerged from the discussion of the Sixth Committee, and which should be set down as its most important results.

I have the honour to propose that the Assembly be asked to take note of this report.

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For the discussions, see Records of the Eleventh Ordinary Session of the Assembly :

Fifth Plenary Meeting (September 12th, 1930).  
Eighth Plenary Meeting (September 13th, 1930).  
Eleventh Plenary Meeting (September 16th, 1930).  
Thirteenth Plenary Meeting (September 16th, 1930).  
Eighteenth Plenary Meeting (September 30th, 1930)

Minutes of the Sixth Committee.

Second Meeting (September 19th, 1930).  
Third Meeting (September 20th, 1930).  
Fourth Meeting (September 22nd, 1930).  
Sixth Meeting (September 24th, 1930).

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**APPENDIX.**

**DISCUSSIONS AT THE OTHER SESSIONS OF THE ASSEMBLY.**

**Fifth Session :**

Plenary Meetings (*Official Journal*, Special Supplement No. 23), pages 35, 36, 37, 87-88, 97-98.

**Eighth Session :**

Plenary Meetings (*Official Journal*, Special Supplement No. 54), page 67.

**Ninth Session :**

Plenary Meetings (*Official Journal*, Special Supplement No. 64), pages 37-38, 58, 65, 67-68, 68-69, 82-83, 91, 92, 178.

**Tenth Session :**

Plenary Meetings (*Official Journal*, Special Supplement No. 75), pages 36, 43-44, 64, 69-70, 74, 82, 87, 98, 104, 109, 112.

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